



Australian Capital Territory

Revenue Legislation Amendment Act 2016

A2016-47

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Australian Capital Territory

Revenue Legislation Amendment Act 2016

A2016-47

An Act to amend legislation about revenue, and for other purposes

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 2016*.

2 Commencement

This Act commences on 1 September 2016.

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

3 Legislation amended

This Act amends the following legislation:

- [Duties Act 1999](#)
- [Rates Act 2004](#)
- [Taxation Administration Act 1999](#).

4 Legislation repealed

All instruments under the [Duties Act 1999](#), section 252A are repealed.

Part 2 Duties Act 1999

5 Payment of duty—‘off the plan’ purchase agreements Section 16A (1) (b)

substitute

(b) the purchaser’s interest under the agreement is transferred;

6 Section 16A (1) (c)

substitute

(c) 1 year has passed since the date of the agreement;

7 Section 16A (4)

substitute

(4) In this section:

‘off the plan’ purchase agreement means an agreement for the sale or transfer of dutiable property that is, or includes, land where a residence is to be erected or developed before completion of the sale or transfer.

8 Declaration of affordable house and land packages Section 16B

omit

9 What is the *dutiable value* of dutiable property? Section 20 (2)

omit

10 Section 20 (3)

omit

Also, the

substitute

The

11 Section 20 (7), definition of *declared affordable house and land package*

omit

**12 Declaration of recognised stock exchanges
Section 252A**

omit

13 Dictionary, definition of *recognised stock exchange*

omit

Part 3 Rates Act 2004

14 Meaning of *unimproved value* Section 6 (1)

omit 1st mention of
the relevant date
substitute
a date (the *base date*),

15 Section 6 (1) (b) and (c)

omit
the relevant date
substitute
the base date

16 Section 6 (1), note

omit

17 Section 6 (2)

omit
the relevant date
substitute
a date

18 Sections 9 and 10

substitute

9 First determination of unimproved value

- (1) This section applies to a parcel of land that becomes rateable in a financial year (the *first financial year*).

- (2) The commissioner must determine the unimproved value of the parcel of land for the first financial year as at 1 January in the immediately preceding financial year.
- (3) If the determination for the first financial year is not made in that year, the commissioner must also determine the unimproved value of the parcel for each subsequent financial year.

Example

A parcel of land became rateable on 28 September 2009. However, the first determination of the unimproved value of the parcel of land was not made until 2016. The first determination of the unimproved value of the parcel of land is for the unimproved value as at 1 January 2009 and applies to the parcel for the financial year beginning on 1 July 2009.

The commissioner must redetermine the unimproved value of the parcel of land for each of the financial years from 2010 to 2016.

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).

10 Annual redeterminations

- (1) This section applies to a parcel of land that is rateable on 1 January in a year.
- (2) The commissioner must, as soon as practicable after 1 January, redetermine the unimproved value of the parcel of land as at that date for the financial year immediately following that date.

**19 Redetermination—error
Section 11 (1)**

omit

a particular date

substitute

1 January in a particular year (the *redetermination date*)

20 Section 11 (2)

omit

that date

substitute

the redetermination date

21 Section 11 (3), except example and note

substitute

- (3) The redetermination applies to the parcel of land for the financial year immediately following the redetermination date.

**22 Redetermination—change of circumstances
Section 11A (5) (a)**

substitute

- (a) beginning on 1 July in the calendar year when the redetermination is made; and

**23 Application by owner of eligible parcel of land
Section 31 (1), except notes**

substitute

- (1) The owner of an eligible parcel of land may apply to the commissioner for the parcel to be dealt with under this division if—
- (a) the owner intends—
- (i) to develop the land partly for residential purposes and partly for commercial purposes; and
 - (ii) to apply for subdivision of the developed land under the [Unit Titles Act](#); and
- (b) when the application is made—
- (i) the parcel of land is entirely undeveloped; or

- (ii) the owner—
 - (A) has development approval to undertake commercial and residential development on the parcel; and
 - (B) intends to start the development within 2 years after the application is made.

24 New section 31 (3) (aa)

insert

- (aa) a copy of the development approval; and

**25 End of application of div 5.2
New section 36 (1) (aa)**

insert

- (aa) if, 2 years after the qualifying development application for the parcel is made, development has not started, or has started but has not materially affected the ability to use the parcel for the purposes permitted by the lease—the 1st day after the end of the 2-year period;

26 Section 36 (3)

omit

subsection (3)

substitute

subsection (2)

27 Dictionary, definition of *relevant date*

omit

Part 4 Taxation Administration Act 1999

28 Increase in penalty tax for concealment Section 34 (c)

substitute

- (c) hinders or obstructs an authorised officer exercising functions under division 9.2, or an authorised valuer exercising functions under division 9.2A, for the purposes of determining the taxpayer's liability; or

29 Orders to comply with requirements Section 71 (4)

omit

serve a copy of the order on

substitute

give a copy of the order to

30 Powers of entry and inspection Section 83 (1) (c)

omit

tax officer

substitute

authorised officer

31 Section 83 (4), new definition of *identity card*

insert

identity card means—

- (a) an identity card issued under section 80 (1); or
- (b) an identity card approved under section 80 (2), together with a notice issued under section 79 (3) (b).

32 New division 9.2A*insert***Division 9.2A Authorised valuers****90A Definitions—div 9.2A**

In this division:

at premises includes in or on the premises.

occupier, of premises, includes—

- (a) a person believed on reasonable grounds to be an occupier of the premises; and
- (b) a person apparently in charge of the premises.

90B Appointment of authorised valuers

The commissioner may appoint a person as an authorised valuer for this Act.

Note 1 For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see [Legislation Act](#), s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

90C Authorised valuers—functions

An authorised valuer has the following functions:

- (a) to conduct a valuation for the purposes of 1 or more of the following Acts:
 - (i) the [Duties Act 1999](#);
 - (ii) the [Lands Acquisition Act 1994](#);
 - (iii) the [Planning and Development Act 2007](#);
 - (iv) the [Rates Act 2004](#);

- (b) to exercise any other function given to the valuer under this Act or another territory law.

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see [Legislation Act](#), s 196 and dict, pt 1, def *entity*).

90D Authorised valuers—identity cards

- (1) The commissioner must give an authorised valuer an identity card stating the person's name and that the person is an authorised valuer.
- (2) The identity card must show—
- (a) a recent photograph of the person; and
 - (b) the card's date of issue and expiry; and
 - (c) anything else prescribed by regulation.

Note If a form is approved under s 139C for the identity card, the form must be used.

- (3) A person commits an offence if—
- (a) the person stops being an authorised valuer; and
 - (b) the person does not return the person's identity card to the commissioner as soon as practicable after the day the person stops being an authorised valuer.

Maximum penalty: 1 penalty unit.

- (4) Subsection (3) does not apply to a person if the person's identity card has been—
- (a) lost or stolen; or
 - (b) destroyed by someone else.

Note The defendant has an evidential burden in relation to the matters mentioned in s (4) (see [Criminal Code](#), s 58).

- (5) An offence against this section is a strict liability offence.

90E Power to enter premises

- (1) An authorised valuer may, at any reasonable time, enter premises for the purpose of conducting a valuation under any of the following Acts:
 - (a) the *Duties Act 1999*;
 - (b) the *Lands Acquisition Act 1994*;
 - (c) the *Planning and Development Act 2007*;
 - (d) the *Rates Act 2004*.
- (2) However, subsection (1) does not authorise entry into a part of the premises used only for residential or private business purposes.
- (3) An authorised valuer may, without the consent of the occupier of premises, enter land and any common property to ask for consent to enter the premises.
- (4) To remove any doubt, an authorised officer may enter premises under subsection (1) without payment of an entry fee or other charge.
- (5) In this section:

common property includes common property under the *Community Title Act 2001* and the *Unit Titles Act 2001*.

part of the premises used only for residential or private business purposes—

- (a) includes—
 - (i) the inside of a residential building; and
 - (ii) the inside of a building used to conduct a private business; but
- (b) does not include the front yard, back yard or side yards of premises on which a residential building or a building used to conduct a private business are located.

90F Production of identity card

An authorised valuer must not remain at premises entered under this division if the valuer does not produce the valuer's identity card when asked by the occupier.

90G Consent to entry

- (1) When seeking the consent of an occupier of premises to enter the premises under section 90E (3) (Power to enter premises), an authorised valuer must—
 - (a) produce the valuer's identity card; and
 - (b) tell the occupier—
 - (i) the purpose of the entry; and
 - (ii) that consent may be refused.
- (2) If the occupier consents, the authorised valuer must ask the occupier to sign a written acknowledgment (an *acknowledgement of consent*)—
 - (a) that the occupier was told—
 - (i) the purpose of the entry; and
 - (ii) that consent may be refused; and
 - (b) that the occupier consented to the entry; and
 - (c) stating the time and date consent was given.
- (3) If the occupier signs an acknowledgment of consent, the authorised officer must immediately give a copy to the occupier.
- (4) A court must find that an occupier did not consent to entry to premises by the authorised valuer under this division if—
 - (a) the question arises in a proceeding in the court whether the occupier consented to the entry; and
 - (b) an acknowledgment of consent is not produced in evidence; and

- (c) it is not proved that the occupier consented to the entry.

90H General powers on entry to premises

- (1) An authorised valuer who enters premises under this division may do 1 or more of the following in relation to the premises or anything at the premises:
- (a) inspect or examine;
 - (b) take measurements;
 - (c) take photographs, films, or audio, video or other recordings;
 - (d) require the occupier, or anyone at the premises, to produce documents or anything else that the occupier or person at the premises has, or has access to, that are reasonably needed to exercise a function under this division;
 - (e) require the occupier, or anyone at the premises, to give the authorised valuer copies of documents produced under paragraph (d) that are reasonably needed to exercise a function under this division;
 - (f) require the occupier, or anyone at the premises, to give the authorised valuer reasonable assistance to exercise a function under this division.
- (2) A person must take reasonable steps to comply with a requirement under subsection (1) (d), (e) or (f).

Maximum penalty: 50 penalty units.

33 Dictionary, new definitions

insert

at premises, for division 9.2A (Authorised valuers)—see section 90A.

authorised valuer means an authorised valuer appointed under section 90B.

34 Dictionary, definition of *identity card*

omit

35 Dictionary, new definition of *occupier*

insert

occupier, of premises, for division 9.2A (Authorised valuers)—see section 90A.

36 Dictionary, definition of *tax officer*, new paragraph (a) (ia)

insert

(ia) an authorised valuer; or

37 Further amendments, mentions of *served on*

omit

served on

substitute

given to

in

- section 45
- sections 54 and 55
- section 82
- section 100
- section 102
- section 107, definition of ***internally reviewable decision***
- section 117

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 8 June 2016.

2 Notification

Notified under the [Legislation Act](#) on 22 August 2016.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Revenue Legislation Amendment Bill 2016, which was passed by the Legislative Assembly on 4 August 2016.

Clerk of the Legislative Assembly

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