

1991
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Chief Minister)

**Rates and Land Tax (Amendment) Bill
1991**

**A BILL
FOR**

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

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

Short title

- 5 1. This Act may be cited as the *Rates and Land Tax (Amendment) Act 1991*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on 1 July 1991.

10 **Principal Act**

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

Insertion

4. After section 4 of the Principal Act the following section is inserted:

Act binds Crown

"4A. This Act binds the Crown."

5 Automatic revaluations

5. Section 8 of the Principal Act is amended—

- (a) by omitting from subsection (1) "1988" and substituting "1991";
and
- 10 (b) by omitting from subsection (1A) "the third calendar year after"
and substituting "the calendar year next following".

Application of determination or re-determination to rates

6. Section 11 of the Principal Act is amended—

- (a) by omitting from subsection (2) "next succeeding the calendar
year"; and
- 15 (b) by omitting from subsection (2) "third calendar year" and
substituting "calendar year next".

Payment of rates

7. Section 15 of the Principal Act is amended—

- (a) by omitting subsection (4);
- 20 (b) by inserting in paragraph (5) (a) "and any arrears of rates in
respect of previous years have been paid in full" after "a year";
- (c) by inserting in subsection (5AA) "or (5A) (c)" after "(5) (a)";
- (d) by omitting "and" from paragraph (5A) (a); and
- 25 (e) by omitting paragraph (5A) (b) and substituting the following
paragraphs:
 - 30 "(b) the amount of each instalment, disregarding any
remainder, is a whole dollar amount calculated by
dividing the total amount of rates payable under a notice
of assessment referred to in section 14 by the number of
instalments ascertained in accordance with paragraph (a);
and
 - (c) the amount of the first instalment shall include the sum of
each remainder, if any, ascertained in respect of each
instalment in accordance with paragraph (b)."

Insertion

8. After section 21 of the Principal Act the following section is inserted:

Charge of rates and land tax on rateable land

5 "21A. (1) Rates and land tax payable in respect of a parcel of rateable land together with an amount equal to the aggregate of—

- (a) costs and expenses reasonably incurred by the Territory in attempting to recover such rates or land tax; and
- 10 (b) interest payable in respect of such rates, land tax, costs and expenses;

shall, except where this Act otherwise expressly provides, be a charge upon the estate or interest held by the owner of that land taking priority over all sales, conveyances, transfers, mortgages, charges, liens and encumbrances in respect of that land.

15 "(2) A charge referred to in subsection (1) shall not have effect against a *bona fide* purchaser for value who at the time of purchase had no notice of any liability under the charge after obtaining a certificate from the Commissioner as to the amount (if any) due in respect of unpaid rates, land tax, interest, costs and expenses."

20 **Recovery of rates**

9. Section 22 of the Principal Act is amended—

- (a) by omitting from subparagraph (4) (a) (i) "and";
- (b) by adding at the end of paragraph (4) (a) the following subparagraph:

25 "(iii) the amount of unpaid costs and expenses payable under subsection (4AA); and";
- (c) by omitting from paragraph (4) (b) all the words after "the rates or" and substituting "an amount referred to in paragraph (a), or any part of such amount, remains unpaid."; and
- 30 (d) by inserting the following subsection after subsection (4):

35 "(4AA) Where an amount by way of unpaid rates or interest is payable under this section, the person who is liable to pay that amount is also liable to pay to the Territory an amount equal to the costs and expenses reasonably incurred by the Territory in attempting to recover the first-mentioned amount."

Joint owners, lessees and licensee

10. Section 24 of the Principal Act is amended by adding at the end the following subsection:

5 “(2) Where a parcel of rateable land is jointly owned and 1 or more of the joint owners is exempt from liability for the payment of rates or land tax, or both, under this Act by virtue of being—

- (a) the Commonwealth; or
 - (b) an authority established by or under a law of the Commonwealth that has the effect, or purports to have the effect, of exempting the
- 10 authority from such liability;

each of the other joint owners shall be liable for the aggregate of—

- (c) the amount of unpaid rates or land tax, or both;
- (d) the amount of unpaid costs and expenses payable in respect of rates or land tax, or both, under subsection 22 (4AA); and
- 15 (e) the amount of accumulated unpaid interest;

in respect of that land.”

Transitional

20 11. (1) A determination, including a re-determination, under section 7 and a re-determination under section 8 of the former Act that would, but for this subsection, have ceased to apply in respect of rates on 30 June 1992 shall be taken to have ceased to apply immediately before the commencement date.

25 (2) Where, before the commencement date, a person became liable for an amount in respect of rates or land tax, or both, (including interest) under the provisions of the former Act and immediately before the commencement date—

- (a) that liability had not been discharged; and
- (b) no proceedings had been instituted in respect of that liability;

30 on and after the commencement date proceedings may be instituted for the recovery of such rates and land tax (including interest, costs and expenses) as if that liability had arisen under the provisions of the amended Act.

(3) In this section—

“amended Act” means the former Act as amended by this Act;

“commencement date” means 1 July 1991;

35 “former Act” means the Principal Act as in force immediately before the commencement date.

NOTE

1. No. 6, 1926 as amended by Nos. 5, 12 and 17, 1929; No. 5, 1930; No. 5, 1931; No. 4, 1933; Nos. 1 and 27, 1937; Nos. 25 and 35, 1938; No. 5, 1950; No. 21, 1959; No. 5, 1967; No. 47, 1970; No. 38, 1971; No. 29, 1974; No. 12, 1975; No. 69, 1976; Nos. 1, 21 and 44, 1977; No. 29, 1979; No. 35, 1981; Nos. 9 and 12, 1983; No. 27, 1984; No. 52, 1985; Nos. 2 and 89, 1986; No. 63, 1988; Nos. 21 and 38, 1989; Act No. 10, 1989; Nos. 3 and 24, 1990.