

Taxation Administration (Owner Occupier Duty) COVID-19 Exemption Scheme Determination 2020*

Disallowable instrument DI2020–205

made under the

***Taxation Administration Act 1999*, s 137E (COVID-19 exemption scheme)**

1 Name of instrument

This instrument is the *Taxation Administration (Owner Occupier Duty) COVID-19 Exemption Scheme Determination 2020*.

2 Commencement

This instrument is taken to have commenced on 4 June 2020.

3 Definitions

In this instrument:

Act means the *Taxation Administration Act 1999*.

Crown lease—see the *Land Titles Act 1925*, dictionary.

declared land sublease—see the *Planning and Development Act 2007*, section 312C.

dutiable value—see the *Duties Act 1999*, section 20.

home means a building (affixed to land) that—

- (a) may lawfully be used as a place of residence; and
- (b) is, in the Commissioner’s opinion, a suitable building for use as a place of residence.

Note *Commissioner* means the Commissioner for ACT Revenue.

land rent lease—see the *Land Rent Act 2008*, Dictionary.

transferee—see the *Duties Act 1999*, dictionary.

unit—see the *Unit Titles Act 2001*, section 9.

units plan—see the *Unit Titles Act 2001*, dictionary.

*Name amended under Legislation Act, s 60

vacant land means land in the ACT, which has a Crown lease or a declared land sublease, that—

- (a) does not have a home built, in full or in part, on it; and
- (b) was not owned under a land rent lease by a transferee for an eligible transaction.

4 Meaning of *eligible property*

In this instrument:

eligible property means—

- (a) vacant land with a Crown lease or a declared land sublease that permits development of a single home only; or
- (b) a unit in a units plan.

5 Meaning of *eligible transaction*

(1) In this instrument:

eligible transaction means a transfer with a transaction date on or after 4 June 2020 and on or before 30 June 2021 that meets the following requirements:

- (a) at least 1 transferee will occupy the eligible property as the transferee's principal place of residence—
 - (i) beginning within 1 year after the residence start date; and
 - (ii) for the duration of the residence period.
- (2) If it becomes apparent that a transaction is not an eligible transaction, a transferee must give the Commissioner written notice of that fact within 14 days after the first of the following events:
 - (a) the end of any period allowed for compliance with a requirement of the transaction; or
 - (b) the date that the transferee first becomes aware that the transaction is not eligible.

Example—transaction not an eligible transaction

The transaction ceases to be eligible because no transferee can occupy the eligible property as a principal place of residence.

occupy, in relation to a principal place of residence, does not include occupation—

- (a) of a transient, temporary or passing nature; or
- (b) for a purpose other than as a place of residence.

off the plan agreement means an agreement for the sale of a unit in a units plan before the units plan is registered.

principal place of residence means the home a person primarily occupies on an ongoing and permanent basis as the person's settled or usual home.

registered—for an off the plan agreement, means registered with the registrar-general under the *Land Titles Act 1925* or the *Land Titles (Unit Titles) Act 1970*.

residence period means—

- (a) a continuous period of at least 1 year; or
- (b) a shorter period (including no period) determined by the Commissioner, if:
 - (i) the shorter period is requested, in writing, for a transferee not later than 18 months after the residence start date; and
 - (ii) the Commissioner is satisfied that the transferee is unable to occupy the eligible property because of an unforeseen circumstance.

residence start date means—

- (a) for vacant land—the date that a certificate of occupancy has been issued under the *Building Act 2004* for a home on the land that will be a person’s principal place of residence; or
- (b) for a unit—the date of completion of the off the plan agreement; or
- (c) a later date determined by the Commissioner, if:
 - (i) a later date is requested, in writing, for a transferee not later than 18 months after the applicable residence start date under section 5 (3)(a) or (b); and
 - (ii) the Commissioner is satisfied that the transferee is unable to begin occupying the eligible property because of an unforeseen circumstance.

Example—unforeseen circumstance

A health-related issue.

transaction date, of an eligible transaction, means the date that liability for duty arises under the *Duties Act 1999*, section 11.

transfer means—

- (a) for vacant land:
 - (i) a transfer of eligible property; or
 - (ii) an agreement for the sale or transfer of eligible property; or
 - (iii) a grant of eligible property;
- (b) for a unit—execution of an off the plan agreement.

6 Determination

- (1) For the purposes of section 137E of the Act, I determine that the amount of duty under the *Duties Act 1999* exempt from payment on an eligible transaction under this instrument is—
- (a) for vacant land—the amount of duty payable on the eligible transaction; and
 - (b) for a unit—the amount specified in column 3 of table 1 opposite the dutiable value of the unit specified in column 2 of table 1.

Table 1 Units

column 1 item	column 2 dutiable value	column 3 exemption amount
1	less than or equal to \$500 000	the amount of duty payable on the eligible transaction
2	more than \$500 000 but less than or equal to \$750 000	\$11 400

7 Expiry

This instrument expires on 30 June 2021.

8 Human Rights Act 2004

In my opinion, as the Minister, this instrument is consistent with human rights. This instrument is non-prejudicial; it does not limit existing rights.

Andrew Barr MLA
Treasurer

30 June 2020