

# Duties (Pensioner Duty Deferral Scheme) Determination 2024

Disallowable instrument DI2024–180

made under the

*Duties Act 1999*, s 75AG (Duty deferral schemes—determination)

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## 1 Name of instrument

This instrument is the *Duties (Pensioner Duty Deferral Scheme) Determination 2024*.

## 2 Commencement

This instrument commences on 1 July 2024.

## 3 Definitions

In this instrument:

*Act* means the *Duties Act 1999*.

*Commissioner*—see the Act, dictionary.

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

*declared land sublease*—see the *Planning Act 2023*, dictionary.

*eligible property* means—

- (a) a home; or
- (b) vacant land.

*home* means a building (affixed to land in the ACT) or a unit in a units plan 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.

*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.

**pensioner** means a person who meets the requirements under section 5 (1) (a) in this instrument as a transferee of an eligible transaction.

**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 by the registrar-general under the *Land Titles Act 1925* or the *Land Titles (Unit Titles) Act 1970*.

**transfer** means—

- (a) a transfer of eligible property; or
- (b) an agreement for the sale or transfer of eligible property (including an off the plan agreement); or
- (c) a grant of eligible property.

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

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

**unit**—see the *Unit Titles Act 2001*, dictionary.

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

**vacant land** means land in the ACT, which has a Crown lease or a declared land sublease that does not have a home built, in full or in part, on it.

## **4 Meaning of *eligible transaction***

- (1) In this instrument:

**eligible transaction** means a transfer with a transaction date on or after 1 July 2024 that meets the following requirements:

- (a) on the transaction date, at least 1 transferee—
  - (i) received a Services Australia age pension or Department of Veterans' Affairs age pension equivalent; or
  - (ii) received a Services Australia disability support pension and was 50 years of age or older; or
  - (iii) held a Department of Veterans' Affairs Gold Card, and had held it for a continuous period of at least 1 year immediately prior to the transaction date; and
- (b) at least 1 transferee, who is a pensioner or their domestic partner (if any), will occupy the eligible property, as the transferee's principal place of residence, within 1 year of the residence start date 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 an eligible transaction.

**Example—transaction not an eligible transaction**

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

## **5 Meaning of *residence period* and *residence start date***

- (1) In this instrument:

*residence period* means a continuous period of at least 1 year.

*residence start date* means—

- (a) for a home—the date of completion of the eligible transaction; or
  - (b) 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.
- (2) The Commissioner may determine a shorter residence period (including no period), if—
- (a) the shorter period is requested, in writing, for a pensioner not later than 18 months after the residence start date; and
  - (b) the Commissioner is satisfied that the pensioner is unable to occupy the eligible property for a continuous period of 1 year because of an unforeseen circumstance.

**Example—unforeseen circumstance**

A health-related issue.

- (3) The Commissioner may determine a later residence date, if—

- (a) the later date is requested, in writing, for a pensioner not later than 18 months after the applicable residence start date under subsection 5 (1); and
- (b) 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.

## **6 Determination—Pensioner Duty Deferral Scheme**

For the purposes of section 75AG of the Act, I determine a scheme for the deferred payment of duty by a pensioner and their domestic partner (if any) on an eligible transaction, subject to the conditions specified in section 8.

## **7 Conditions of Duty Deferral**

- (1) An application for the deferred payment of duty must be made in accordance with section 75AH of the Act.
- (2) Interest at the market rate component determined under section 26 of the *Taxation Administration Act 1999* is payable on the deferred duty, calculated from the date the duty becomes payable until the amount deferred is paid in full.
- (3) The deferred duty that is payable, and any accrued interest, must be paid on:
  - (a) the transfer of the eligible property to any other person; or
  - (b) the transfer of the pensioner's interest or their domestic partner's interest (if any) in the eligible property to:
    - (i) any other transferee;
    - (ii) the administrator or executor of the estate of the pensioner; or
    - (iii) any other person.
- (4) For the purposes of section 7 (3) (b) (ii), 'transfer' includes a transfer by transmission application.

## **8 Revocation**

This instrument revokes *Duties (Pensioner Duty Deferral Scheme) Determination 2023 (No 2)*, DI2023-281.

Andrew Barr MLA  
Treasurer  
21 June 2024