

AUSTRALIAN CAPITAL TERRITORY

TAXATION (ADMINISTRATION) ACT 1987

STAMP DUTY (INTERESTS IN LAND) DETERMINATION NO. 23 OF 1993

EXPLANATORY STATEMENT

This instrument sets the rate of stamp duty payable upon the transfer or agreement for transfer of an estate in fee simple, a Crown lease or a transfer or an agreement for transfer of a Crown lease, and a lease (not being a Crown lease) or a transfer, assignment or an agreement for a transfer or assignment of a lease (not being a Crown lease).

Paragraph 99(1)(b) of the Taxation (Administration) Act 1987 provides for the determination of the rate at which, or the method by which, an amount of tax, duty, or licence fee, payable under a relevant tax law, is to be calculated.

This instrument provides consistency in the valuation basis used for stamp duty purposes in respect of leases and Crown leases. Previously Crown leases were assessed on the basis of the capital sum that might be offered whereas leases (other than Crown leases) were assessed on the basis of the consideration given. Leases and Crown leases will now be assessed on the same basis, that is, the greater of the consideration given or agreed to be given or the capital sum that might be expected to be offered in respect of the lease or Crown lease.

This instrument removes any uncertainty when determining the capital value to be used in respect of valuing a Crown lease for stamp duty purposes. Previously the capital value of a Crown lease was determined by assuming that nominal rent was paid and that the lessee was not obliged to carry out any capital works on or near the Crown lease. The meaning of the term "near the Crown lease" had caused some uncertainty and has been replaced by the more clearer term "or elsewhere".

This instrument also introduces an impost of normal conveyancing rates of stamp duty on leases under section 17(1)(c) of the *Stamp Duties and Taxes Act 1987* (the Act) where the term of the lease is fifteen years or more or the aggregate term of the lease, with options to renew, amounts to fifteen years or more.