

**1998**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**RATES AND LAND TAX (AMENDMENT) BILL 1998**

**EXPLANATORY MEMORANDUM**

**Circulated by the authority of the Chief Minister and Treasurer**

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## **Rates and Land Tax (Amendment) Bill 1998**

### **Summary**

The Rates and Land Tax (Amendment) Bill 1998 puts in place measures to strengthen the continued effective administration of the ACT's rating and land taxing systems and to strengthen the compliance provisions of the Act and reduce revenue loss through tax evasion

These changes are administrative in nature The new provisions

- allow the Commissioner to delegate any or all of her or his powers or functions under this Act,
- provide broader inquiry and inspection powers,
- provide for the appointment of 'authorised officers' to exercise these inspection powers,
- provide the right of appeal against a decision that a residential property is 'rented' and liable for land tax,
- provide relief from land tax for residential rental properties which are not tenanted for a period of ninety-one days or more continuously in any two succeeding quarters, and
- provide for differential charging to residential and non-residential components of multi-purpose leases during development

### **Financial Implications**

ACT Revenue Office Inspectors were responsible for undeclared land tax revenue of \$526,000 (1,192 cases) being assessed in 1997/98 The broader inquiry and inspection powers provided by the Bill will assist the Inspectors to pursue the Revenue Office's compliance program

The delegation of the Commissioner's powers are designed to protect the rates and land tax revenue base, estimated at \$131.53m for 1998/99

## **Details of the Rates and Land Tax (Amendment) Bill 1998**

### **Title**

Clause 1 - provides for the short title of this Act to be the *Rates and Land Tax (Amendment) Act 1998*

### **Commencement**

Clause 2 - provides for sections 1, 2 and 3 of this Act to commence on the day on which it is notified in the *Gazette* and for the remaining provisions to commence on 1 January 1999

### **Principal Act**

Clause 3 - states that in this Act, "Principal Act" means the *Rates and Land Tax Act 1926*

### **Insertion**

Clause 4 - inserts subsection 12A into Part III of the Principal Act. This Part deals with the imposition, payment and enforcement of rates and this insertion links its application to Part IVA of the Principal Act which is introduced by this Bill. Part IVA deals with land which is being developed for both residential and non-residential uses with the intention of conversion to unit title upon completion of the development.

### **Interpretation**

Clause 5 - amends section 22AAB of the Principal Act by omitting subsection (3) and substituting the following subsection:

Subsection 22AAB(3) states that a parcel of land or a dwelling that is leased for residential purposes and that is rented at any time during a quarter shall be taken to be rented on the prescribed day of the succeeding quarter unless

- (c) the owner gives written notice to the Commissioner in the first mentioned quarter that the parcel or dwelling will not be rented at any time in the succeeding quarter
- (d) the owner gives written notice to the Commissioner in the succeeding quarter that the parcel or dwelling has not been, and will not be, rented at any time during that quarter, or
- (e) a residential parcel or dwelling is not rented during a continuous period of at least ninety-one days in any two succeeding quarters

### **Insertion**

Clause 6 - inserts subsection 22AAB into Part IV of the Principal Act. This Part deals with the imposition, payment and enforcement of land tax and details offences and objection and review provisions in relation to land tax. This insertion links the operation of this Part of the Principal Act to Part IVA of the Act which is introduced

by this Bill Part IVA deals with land which is being developed for both residential and non-residential uses with the intention of conversion to unit title upon completion of the development

### **Imposition**

Clause 7 - amends section 22A of the Principal Act by omitting subsections (2), (3) and (4) and replacing those subsections with

Subsection 22A (2) sets out the rates of land tax to be imposed on liable land

Subsection 22A (3) states that section 22A of the Principal Act, which deals with the imposition of land tax, applies subject to the operation of section 24A which relates to parcels of land which have been sub-divided by the registration of a units plan under the *Unit Titles Act 1970*. This provides for land tax to be charged in respect of units on the same basis as for other properties

This amendment removes the “surcharge” that was imposed on unpaid land tax charges. These unpaid charges will now attract normal penalty interest charges

### **Power to obtain further information**

Clause 8 - repeals section 22BC of the Principal Act and substitutes the following section

Section 22BC (1) empowers the Commissioner to require a person, by notice in writing

- (a) to provide (in written or oral form) to the Commissioner information specified in the notice within the time specified in the notice,
- (b) to produce to the Commissioner documents specified in the notice within the time specified in the notice, and
- (c) to attend to give evidence before the Commissioner at the place, date and time specified in the notice

Section 22BC (2) allows the Commissioner, where a person attends before the Commissioner to give evidence, to require the person, prior to giving evidence or at any time while the person is giving evidence, to

- (a) give evidence on oath, and
- (b) administer an oath to the person

Section 22BC (3) allows the Commissioner to, in a notice given under subsection (1), or by another notice in writing, require a person to provide a statutory declaration verifying any information given, or required to be given, under this section

Section 22BC (4) specifies that where a notice is given under this section for the purpose of ascertaining the liability for rates or land tax, under this Act, of the person to whom the notice is given, the notice shall specify that it is given for that purpose

Section 22BC (5) states that a person shall not, without a reasonable excuse, fail to comply with the requirements of a notice, given to the person under paragraph (1)(a) or (b) of this subsection, within the time specified in the notice, or such longer period that the Commissioner may allow

**Penalty**

- (a) in the case of a natural person - 50 penalty units or imprisonment for 6 months, or both, or
  - (b) in the case of a body corporate - 250 penalty units
- A penalty unit equals \$100 (section 33A *Interpretation Act 1967*)

Section 22BC (6) states that it is a defence to a prosecution under subsection (5) for a person to show that the documents specified in the notice were not in the custody or control of the person at the time the notice was received

Section 22BC (7) states that a person shall not, without a reasonable excuse, fail to comply with the requirements of a notice, given to a person under paragraph (1)(c) of this subsection

**Penalty**

50 penalty units or imprisonment for 6 months, or both

Section 22BC (8) provides that a person shall not, to enable the person or another person to avoid complying with a notice given, or likely to be given, under this section

- (a) destroy or deface any document, or
- (b) remove any document or cause or allow any document to be removed from the possession or custody of the person or any other person

**Penalty**

- (a) in the case of a natural person - 50 penalty units or imprisonment for 6 months, or both, or
- (b) in the case of a body corporate - 250 penalty units

Section 22BC (9) states that a person must, unless there is a reasonable excuse, take an oath if required to do so under subsection (2)

**Penalty**

50 penalty units or imprisonment for 6 months, or both

**Insertion**

Clause 9 - inserts the following new Division after Division 1 of Part IV of the Principal Act

## ***Division 1A - Power to enter business premises etc.***

### **Interpretation**

Section 22ED defines the following terms used in this Division

- 'authorised officer' means a person authorised under section 22EE(1) for the purposes of this Division,
- 'business premises' means premises not used exclusively for residential purposes,
- 'hours of business' means between the hours of 9 00am and 5 00pm on days other than Saturdays, Sundays or public holidays,
- 'identity card' means an identity card issued under section 22EF, and
- 'occupier' in relation to premises means a person who appears to be the occupier of the premises and a person who is, or appears to be, in charge of the premises

### **Authorised officers**

Subsection 22EE (1) designates the Commissioner, and any public employee appointed by the Commissioner, as an authorised officer for the purposes of this Division

Subsection 22EE (2) permits the Commissioner, by signed instrument, to appoint a public employee to be an authorised officer for the purposes of this Division

### **Identity cards**

Section 22EF requires that an authorised officer be issued with an identity card, in a form approved by the Commissioner which

- (a) identifies the person by name and photograph, and
- (b) states that the person is an authorised officer for the purposes of this Division

### **Power of entry**

Subsection 22EG (1) permits an authorised officer, in accordance with this section, to enter business premises or premises the officer reasonably believes to be business premises and use such assistance of other persons as is reasonably necessary for the purposes of this section

Subsection 22EG (2) permits entry during business hours or at any other time the occupier of the premises is present on the premises

Subsection 22EG (3) requires an authorised officer who enters premises to, upon request, show his or her identity card to the occupier of the premises

Subsection 22EG (4) permits an authorised officer who enters premises under this section, for the purposes of this Part or Part IVA, in relation to land tax, of the Act, to

- (a) make notes, copies or photograph any such document, thing or record that relates, or appears to relate, to any liability, or potential liability, for land tax,
- (b) inspect the premises, which includes any building, structure container or vehicle located on the premises,

(c) require the occupier of the premises to give such assistance as is necessary to enable the authorised officer to exercise his or her powers under this section, and  
(d) remain on the premises for as long as is reasonable to perform any or all of the functions provided for in paragraphs (a),(b), and (c)

Subsection 22EG (5) permits an authorised officer exercising his or her powers under paragraph (4)(c) to require the occupier to

- (a) produce any document or thing that is located on the premises, or in any building, structure, container or vehicle located on the premises, which relates, or appears to relate, to a parcel of rateable land,
- (b) produce in readable form any record stored on computer, microfilm or other device located on the premises if the record relates, or appears to relate, to a parcel of rateable land, or
- (c) answer questions or provide information concerning any parcel of rateable land

#### **Protection where officer acts in good faith**

Subsection 22EH (1) states that in any civil or criminal action against an authorised officer resulting from that officer exercising powers under section 22EG it is a defence to prove that the officer acted reasonably and in good faith

Subsection 22EH (2) states that subsection (1) shall not, by implication, affect any other defence

Subsection 22EH (3) provides that for the purposes of subsection (1) the term 'authorised officer' shall include any person assisting an officer authorised under section 22EG

#### **Failure to provide information**

Clause 10 - amends section 22GB of the Principal Act to specify that section 22GB relates to Part IV of the Act (land tax)

#### **False or misleading statements**

Clause 11 - limits application of section 22GC to Part IV of the Principal Act (land tax)

#### **Insertion**

Clause 12 inserts the following sections in Division 3 of Part IV of the Principal Act after section 22GD

### **Offences in relation to authorised officers**

Subsection 22GDA (1) states that a person shall not, without reasonable excuse, obstruct an authorised officer exercising a power under section 22EG

#### **Penalty**

- (a) in the case of a natural person - 50 penalty units or imprisonment for 6 months, or both, or
- (b) in the case of a body corporate - 250 penalty units

Subsection 22GDA (2) states that a person shall not, without reasonable excuse, fail to comply with a requirement made by an authorised officer under paragraph 22EG(4)(c) or subsection 22EG(5)

#### **Penalty**

- (a) in the case of a natural person - 50 penalty units, or
- (b) in the case of a body corporate - 250 penalty units

Subsection 22GDA (3) makes it an offence to impersonate an authorised officer

**Penalty** 50 penalty units or imprisonment for 6 months, or both

Subsection 22GDA (4) states that in this section the term 'authorised officer' has the same meaning as in subsection 22EH(1)

### **Offences in relation to identity cards**

Subsection 22GDB (1) states that a person shall not, without reasonable excuse, fail to surrender their identity card to the Commissioner if that person ceases to be an authorised officer or if the Commissioner issues a written demand for the surrender of the identity card

**Penalty** 1 penalty unit

Subsection 22GDB (2) states that in this section the term 'identity card' has the same meaning as in Division 1A

### **Objections**

Clause 13 - amends section 22GE of the Principal Act by

- (a) inserting after subsection (1) subsection (1A) which provides that if a person who owns a parcel of residential land, is assessed for land tax in respect of that parcel of land, and claims that on the relevant prescribed date the parcel of land was not rented, may, within 60 days, lodge a written objection with the Commissioner to that assessment,
- (b) omitting from paragraph (3)(b) the word "or", and



(c) inserting after paragraph (3)(b) paragraph (3)(ba) which allows the Commissioner, if satisfied that the parcel of land was not rented, to withdraw the assessment and refund any land tax paid

#### **Insertion**

Clause 14 - inserts the following new Part after section 22GI of the Principal Act

### **PART IVA - CERTAIN PARCELS OF LAND INTENDED TO BE SUBDIVIDED UNDER THE UNIT TITLES ACT**

#### **Interpretation**

Section 22GJ defines the following terms used in this Part

- 'determination' includes a re-determination and a determination affirmed or varied by a decision of the Administrative Appeals Tribunal,
- 'determine' also includes re-determine,
- 'eligible parcel of land' means a parcel of land, the lease of which permits development for both residential and non-residential purposes,
- 'qualifying parcel of land' or 'qualifying parcel' means a parcel of land to which this Part applies because of section 22GO,
- 'Unit Titles Act' means the *Unit Titles Act 1970*, and
- 'variation' in relation to a lease includes amendment and surrender and re-grant

#### **Application by owner of eligible parcel of land**

Subsection 22GK (1) states that the owner of an eligible parcel of land, who intends to develop the land for both residential and non-residential purposes and apply for subdivision under the Unit Titles Act upon completion of the development, may apply to the Commissioner, as set out in this section, for the parcel of land to be dealt with under this Part

Subsection 22GK (2) states that the application shall be in writing, be in accordance with any prescribed form, identify the parcel of land, specify the parts which are to be used for non-residential and residential purposes, and be accompanied by any prescribed fee, any draft or approved plans and a copy of the lease of the parcel of land

Subsection 22GK (3) allows the Commissioner, by notice in writing, to require an applicant to provide further information or additional documents relating to the application as the Commissioner may reasonably require to carry out his/her functions under this Part of the Act

Subsection 22GK (4) requires an applicant to comply with a notice given under subsection (3) within 14 days after receiving the notice, or such longer period allowed by the Commissioner

Subsection 22GK (5) provides that an application shall lapse if an applicant fails to comply with a notice given by the Commissioner under subsection (3) where the Commissioner has given written notice to the applicant that the application has lapsed because of that non-compliance

**Determination of percentages of non-residential and residential components of intended development**

Subsection 22GL (1) requires the Commissioner, where an application and relevant information and documents, if applicable, under subsections 22GK (2) and (3), to determine the percentages of the intended development that is to be used for non-residential and residential purposes. These percentages are to be determined in accordance with subsections 22GL (2) and (3)

Subsection 22GL (2) states that the Commissioner shall determine the percentage of the intended development to be used for non-residential purposes to be

- (a) the percentage of the intended development that consists of the parts specified in the application as being for non-residential purposes unless paragraph (b) applies or
- (b) if the Commissioner reasonably believes that the development specified in the application would contravene the lease of the parcel of land or that the application specifications were not made in good faith, such percentage that appears to be capable of being developed, in accordance with the lease, for non-residential purposes

Subsection 22GL (3) states that the Commissioner shall determine the percentage of the intended development to be used for residential purposes to be 100% less the percentage determined for non-residential purposes

Subsection 22GL (4) states that where an application has been made in respect of an eligible parcel of land in accordance with subsection 22GK (whether or not a determination has been made in respect of that application) and subsequently

- (a) a variation of the lease alters the maximum development for non-residential purposes permitted by the lease, or
- (b) the information provided with the application under paragraph 22GK (2)(c) no longer reflects the owner's intentions as to development of the parcel of land, the owner shall, unless a notice of the kind referred to in paragraph 22GO (2)(f) or subsection 22GO (3) (notice that this Part ceases to apply to a parcel of land) has been given
- (c) advise the Commissioner, in writing, of details and date of the lease variation or details of the owner's changed intentions, and
- (d) if the Commissioner (whether or not notice has been given under paragraph (c)) gives the owner written notice requiring information or documents, which the Commissioner reasonably believes relate to the lease variation or change of intention, the owner shall provide that information or those documents within 14 days of receiving the notice or within such longer period allowed by the Commissioner

Subsection 22GL (5) states that subsection (4), requiring advice to the Commissioner where a lease variation or a change in the owner's intentions have occurred, ceases to apply if a notice has been given in accordance with paragraph 22GO (2)(f) or subsection 22GO (3) (notice that this Part ceases to apply to parcel of land)

Subsection 22GL (6) states that a person who does not, without reasonable excuse, give written advice as required by paragraph (4)(c) is guilty of an offence

**Penalty**

- (a) in the case of a natural person - 50 penalty units,
- (b) in the case of a body corporate - 250 penalty units

Subsection 22GL (7) states that a person who does not, without reasonable excuse, provide information or documents required in accordance with paragraph (4)(d) is guilty of an offence

**Penalty**

- (a) in the case of a natural person - 50 penalty units or imprisonment for 6 months, or both,
- (b) in the case of a body corporate - 250 penalty units

Subsection 22GL (8) states that the Commissioner may re-determine the percentages to be used for non-residential and residential purposes in respect of the intended development of the parcel of land (determinations under paragraphs 22GL (1)(c) and (d)), if such re-determination is warranted by further information or documents received by the Commissioner

Subsection 22GL (9) requires the Commissioner to give notice in writing to the owner of a parcel of land of any determination or re-determination under this section in respect of the parcel of land

**Imposition and assessment of rates - certain parcels of land in City Area**

Subsection 22GM (1) states that this section applies to a parcel of land if it is a qualifying parcel of land in the City Area and has an average unimproved value greater than \$19,000

Subsection 22GM (2) states that in respect of the imposition of rates on a parcel of land to which this section applies the following subsection is substituted for subsection 13 (3)

'(3) rates are imposed on each parcel of rateable land in the City Area that has an average unimproved value greater than \$19,000 in accordance with the following formula

$$\$240 + [(UV - \$19,000) \times \{ \{NRP \times 1.1657\} + \{RP \times 1.1144\} \}]$$

where -

**NRP** is the percentage of the development or intended development that is to be used for non-residential purposes, being the percentage specified in a determination, or the latest determination, under section 22GL,

**RP** is the percentage, as so specified, of the intended development that is to be used for residential purposes, and

**UV** is the unimproved value of the parcel of land (as determined under Part II) '

Subsection 22GM (3) states that section 14 (Assessment of rates), in accordance with subsection 22GM (4), applies in relation to

(a) an assessment of rates payable in respect of a parcel of land for the period commencing on the date that, in accordance with section 22GO, this Part commenced to apply to the parcel of land, and

(b) such further assessments of rates, while this Part continues to apply, as are required by section 14 as provided under subsection (4) of this section, ie rates assessments for further rating periods while this Part continues to apply to the parcel of land

Subsection 22GM (4) states that for the purposes of subsection (3), section 14 (Assessment of rates) has effect as if the following subsections were substituted for subsection (1)

'(1) The Commissioner shall have assessments prepared of the amounts of rates payable for each parcel of land to which section 22GM applies. Assessments will be prepared for each period specified in subsection (1AA). Written assessments of the amounts of rates payable will be given to the owner of each parcel of land in respect of each period

(1AA) The applicable periods are -

(a) the period commencing on the day that Part IVA commenced to apply to the parcel of land and ends on the last day of the rating year in which that day occurs or on the day that Part IVA ceases to apply to the parcel of land, if that occurs before the end of the rating year, and

(b) if on 1 July of any subsequent rating year, Part IVA applies to the parcel of land, that year or the part of the year that Part IVA applies to the parcel of land '

#### **Imposition and assessment of land tax**

Subsection 22GN (1) states that this section applies to a parcel of land if it is a qualifying parcel of land and is liable for land tax under Part IV

Subsection 22GN (2) states that in respect of the imposition of land tax on a parcel of land to which this section applies section 22A (Imposition of land tax) has effect as if

(a) subsection (1) were omitted and the following subsection substituted

'(1) land tax as specified in subsection (2) is imposed for a quarter in respect of each parcel of rateable land that is not exempt from land tax and to which section 22GN applies '

(b) after subsection (3) the following subsection were inserted

'(3A) The average unimproved value of a parcel of rateable land to which this section applies, despite the definition in subsection 4 (1), shall be ascertained by use of the following formula

$$UV \times NRP$$

where -

**NRP** is the percentage of the development or intended development that is to be used for non-residential purposes, being the percentage specified in a determination, or the latest determination, under section 22GL, and

**UV** is the unimproved value of the parcel of land (as determined under Part II) '

Subsection 22GN (3) states that section 22C (Assessment of land tax), in accordance with subsection 22GN (4), applies in relation to

(a) an assessment of land tax payable in respect of the parcel of land for the period commencing on the date that, in accordance with section 22GO, this Part commenced to apply to the parcel of land, and

(b) such further assessments of land tax, while this Part continues to apply, as are required by section 22C as provided under subsection (4) of this section, ie land tax assessments for further assessment periods while this Part continues to apply to the parcel of land

Subsection 22GN (4) states that for the purposes of subsection (3), section 22C (Assessment of land tax) has effect as if the following subsections were substituted for subsection (1)

‘(1) The Commissioner shall have assessments prepared of the amounts of land tax payable for each parcel of land to which section 22GN applies. Assessments will be prepared for each period specified in subsection (1AA). Written assessments of the amounts of land tax payable and the due date for payment of the tax will be given to the owner of each parcel of land in respect of each period

(1AA) The applicable periods are -

(a) the period commencing on the day that Part IVA commenced to apply to the parcel of land and ends on the last day in the quarter in which that day occurs or on the day that Part IVA ceases to apply to the parcel of land, if that occurs before the end of the quarter and

(b) if on the first day of any subsequent quarter, Part IVA applies to the parcel of land, that quarter or the part of the quarter that Part IVA applies to the parcel of land ’

**When this Part commences, and ceases, to apply to a parcel of land**

Subsection 22GO (1) states that if the Commissioner makes a determination under section 22GL in respect of a parcel of land, this Part applies to the parcel of land. This Part shall apply to the parcel from the first day on which the current lease of the land permitted development for residential and non-residential purposes

Subsection 22GO (2) states that this Part ceases to apply to a parcel of land on whichever of the following days first occurs

(a) if subdivision of the land under the Unit Titles Act - the day on which subdivision occurs,

(b) if within 30 days commencing on the day on which a certificate of occupancy is issued under section 53 of the *Building Act 1972*, or within such longer period as the Commissioner allows, the owner does not apply for subdivision of the land under the Unit Titles Act - the first day after the 30 day period or such longer period allowed by the Commissioner,

(c) if the land is not subdivided under the Unit Titles Act within 12 months commencing on the day on which the application under paragraph(b) was lodged (or the first such application if there is more than 1) or such longer period as the Commissioner allows - the first day after the 12 month period or such longer period allowed by the Commissioner

- (d) if the terms of the lease are changed and development of the land partly for residential purposes and partly for non-residential purposes ceases to be permitted - the day on which the change to the lease occurs,
- (e) if development of the land for subdivision under the Unit Titles Act is abandoned - the day on which it is abandoned, and
- (f) if the application under section 22GK is withdrawn by notice in writing to the Commissioner or if the Commissioner gives notice to the applicant, in accordance with subsection 22GK (5), that the application is to be treated as withdrawn - the day on which the notice is given

Subsection 22GO (3) states that after an application has been made under section 22GK in respect of an eligible parcel of land (regardless of whether a determination has been made in relation to the application, or not) and a circumstance as described in paragraph 2(a), (b), (c), (d) or (e) occurs in relation to the land, the owner of the land shall, within 14 days of the change in circumstance, advise the Commissioner in writing of the change. The advice should identify the owner of the land and detail the change in circumstance and the date on which it took place.

Subsection 22GO (4) states that a person who, without reasonable excuse, contravenes subsection (3) is guilty of an offence.

**Penalty**

- (a) in the case of a natural person - 50 penalty units,
- (b) in the case of a body corporate - 250 penalty units

**Transfer of lease**

Subsection 22GP (1) states that this section, section 22GP, applies where the lease of a qualifying parcel of land, in respect of which an application has been made under section 22GK, is transferred by the lessee (called the 'transferor' in this section) to another person (called the 'transferee' in this section). It is immaterial whether the Commissioner has made a determination in respect to the application under section 22GK.

Subsection 22GP (2) requires the transferor to give written notice to the Commissioner which identifies the land, states the name and address of the transferee, states that the transfer has occurred and specifies the date of transfer. This notice must be provided within 14 days of the transfer of the lease.

Subsection 22GP (3) states that a person who, without reasonable excuse, does not comply with subsection (2) is guilty of an offence.

**Penalty**

- (a) in the case of a natural person - 50 penalty units,
- (b) in the case of a body corporate - 250 penalty units

Subsection 22GP (4) allows the Commissioner, by notice in writing, to require

- (a) the transferor,
- (b) the transferee, or

(c) any person whom the Commissioner reasonably believes to be holding such information or documents on behalf of the transferor or the transferee, to provide such information or documents, described in the notice, that the Commissioner reasonably requires to perform his or her functions in relation to the land under this Part

Subsection 22GP (5) states that a person who is given a notice under subsection (4) shall comply with the notice within 14 days of receiving it, or such longer period that the Commissioner may allow

Subsection 22GP (6) states that a person who, without reasonable excuse, does not comply with subsection (5) is guilty of an offence

**Penalty**

- (a) in the case of a natural person - 50 penalty units or imprisonment for 6 months, or both,
- (b) in the case of a body corporate - 250 penalty units

Subsection 22GP (7) states that this section (relating to the transfer of lease) ceases to apply where a notice under either paragraph 22GO (2)(f) or subsection 22GO (3) is given in relation to the parcel of land

**Re-assessment - completion of development**

Subsection 22GQ (1) provides if

- (a) the Commissioner has prepared an assessment of rates in respect of a parcel of land for a period (under section 22GM),
  - (b) before the end of that period the land ceases to be a qualifying parcel because it is subdivided under the Unit Titles Act, and
  - (c) the Commissioner is satisfied that the percentages of the development that are to be used for residential and non-residential purposes differ from those percentages determined in relation to the development under paragraphs 22GL (1)(c) and (d) and used as the basis of that assessment of rates,
- the Commissioner shall -
- (d) re-determine those percentages of the development that are to be used for residential and non-residential purposes under paragraphs 22GL (1)(c) and (d), and
  - (e) reassess, in accordance with section 22GM using the re-determined percentages, the amount of rates payable during the whole of the period that the land was a qualifying parcel of land

Subsection 22 GQ (2) provides if

- (a) the Commissioner has prepared an assessment of land tax in respect of a parcel of land for a period (under section 22GN),
- (b) before the end of that period the land ceases to be a qualifying parcel because it is subdivided under the Unit Titles Act, and
- (c) the Commissioner is satisfied that the percentages of the development that are to be used for residential and non-residential purposes differ from those percentages determined in relation to the development under paragraphs 22GL (1)(c) and (d) and used as the basis of that assessment of land tax,

the Commissioner shall -

- (d) re-determine those percentages of the development that are to be used for residential and non-residential purposes under paragraphs 22GL (1)(c) and (d), and
- (e) reassess, in accordance with section 22GN using the re-determined percentages, the amount of land tax payable during the whole of the period that the land was a qualifying parcel of land

#### **Re-assessment - non-completion of the development**

Subsection 22GR (1) provides if

- (a) the Commissioner has prepared an assessment of rates (called the 'previous rates assessment' in this subsection) in respect of a parcel of land for a period (under section 22GM),
- (b) before the end of that period the land ceases to be a qualifying parcel -
  - (i) because of a circumstance specified in paragraph 22GO (2)(b),(c) or (f), or
  - (ii) the Commissioner is satisfied that the land has ceased to be a qualifying parcel because of a circumstance specified in paragraph 22GO (2)(d) or (e),the Commissioner shall reassess, in accordance with section 14 and on the basis that the parcel is not, and never was, a qualifying parcel, the amount of rates payable in respect of the parcel of land for the period during which the parcel was a qualifying parcel This period includes
- (c) the period for which the previous rates assessment was prepared, and
- (d) if there has been more than 1 such assessment the periods for which all such assessments were prepared

Subsection 22GR (2) provides if

- (a) the Commissioner has prepared an assessment of land tax (called the 'previous land tax assessment' in this subsection) in respect of a parcel of land for a period (under section 22GN),
- (b) before the end of that period the land ceases to be a qualifying parcel -
  - (i) because of a circumstance specified in paragraph 22GO (2)(b),(c) or (f), or
  - (ii) the Commissioner is satisfied that the land has ceased to be a qualifying parcel because of a circumstance specified in paragraph 22GO (2)(d) or (e),the Commissioner shall reassess, in accordance with section 22C and on the basis that the parcel is not, and never was, a qualifying parcel, the amount of land tax payable in respect of the parcel of land for the period during which the parcel was a qualifying parcel This period includes
- (c) the period for which the previous land tax assessment was prepared, and
- (d) if there has been more than 1 such assessment the periods for which all such assessments were prepared

#### **Assessment under this Part in respect of a period replaces previous assessment in respect of that period**

Subsection 22GS (1) states that where an assessment of rates has been prepared under this Part for a parcel of land (called the 'new rates assessment' in this subsection) and an assessment of rates had previously been prepared (whether under this Part or under Part III) for the same parcel of land (called the 'previous rates assessment' in this subsection) for the same period the new rates assessment applies for that period



Subsection 22GS (2) states that where an assessment of land tax has been prepared under this Part for a parcel of land (called the 'new land tax assessment' in this subsection) and an assessment of land tax had previously been prepared (whether under this Part or Part IV) for the same parcel of land (called the 'previous land tax assessment' in this subsection) for the same period the new land tax assessment applies for that period

#### **Refund or credit for certain excess payments**

Subsection 22GT (1) states that where an assessment of rates prepared under this Part in respect of a parcel of land reduces the amount of rates payable for a particular period, and an amount of rates has been paid for that period in respect of that land, the Commissioner will make a refund, or give a credit, to the owner for any amount paid which exceeds the assessment of rates payable

Subsection 22GT (2) states that where an assessment of land tax prepared under this Part in respect of a parcel of land reduces the amount of land tax payable for a particular period, and an amount of land tax has been paid for that period in respect of that land, the Commissioner will make a refund, or give a credit, to the owner for any amount paid which exceeds the assessment of land tax payable

#### **Assessment of rates or land tax**

Subsection 22GU (1) states that subject to any express provision of this Part, section 14 (Assessment of rates) applies to rates assessments made under this Part as though the assessments had been made under section 14

Subsection 22GU (2) states that subject to any express provision of this Part, section 22C (Assessment of land tax) applies to land tax assessments made under this Part as though the assessments had been made under section 22C

#### **Objections**

Subsection 22GV (1) states that an owner of a parcel of land who is dissatisfied with a determination of the percentages of the intended development intended for residential and non-residential use under paragraphs 22GL(1)(c) and (d) may, unless paragraph 22GI (2)(a) applies to that determination (the percentage was specified in the owner's application), give notice of objection to that determination in accordance with subsection (2)

Subsection 22GV (2) states that a notice of objection shall made in writing to the Commissioner within 60 days of receiving the determination, or such longer period as the Commissioner may allow, and state the grounds of the objection

Subsection 22GV (3) requires the Commissioner to consider an objection given under subsection (2) and

(a) if satisfied that the percentages were correctly determined - confirm the determination, or

(b) if not satisfied that the percentages were correctly determined - redetermine the percentages

#### **Review of determination or decision**

Section 22GW provides that an application may be made to the Administrative Appeals Tribunal for a review of a decision of the Commissioner in respect of an objection under subsection 22GV (3)

#### **Offence - false or misleading statements**

Subsection 22GX (1) states that a person shall not wilfully make a false or misleading statement to the Commissioner or an authorised person in relation to a matter arising under this Part

#### **Penalty**

- (a) in the case of a natural person - 50 penalty points or imprisonment for 6 months, or both,
- (b) in the case of a body corporate - 250 penalty units

Subsection 22GX (2) defines the following terms used in this section

- 'authorised person' means, in relation to a matter, a person duly authorised by the Commissioner in respect of that matter,  
'false or misleading statement' means a statement, made in writing, orally, by means of a data processing device or in any other way, that is, by reason of anything that is contained in or omitted from the statement or provided with or in relation to the statement, false or misleading in a material particular

#### **Insertion**

Clause 15 - inserts the following new section after section 22H of the Principal Act

#### **Delegation**

Section 22HA allows the Commissioner, by signed instrument, to delegate to a public employee any of her or his powers or functions, other than the power to delegate, under this Act