

2007

**The Legislative Assembly for
Australian Capital Territory**

**Revenue Legislation (Housing Affordability Initiatives)
Amendment Bill 2007**

Explanatory Statement

**Circulated by authority of
Treasurer
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Revenue Legislation (Housing Affordability Initiatives) Amendment Bill 2007

Summary

This Bill amends the *Taxation Administration Act 1999*, the *Duties Act 1999*, the *Rates Act 2004* and the *Land Tax Act 2004*.

Overview

The purpose of these amendments is to introduce the taxation framework to support three initiatives that form part of the ACT Government's Housing Affordability Action Plan. The measures introduced by these amendments augment existing grants and concession schemes targeted to benefit those most in need when entering the housing market.

The Bill amends the *Duties Act 1999* to allow eligible households to defer duty payments for up to five years and pay the duty and interest in instalments over the following five years. The eligibility criteria for this deferment option are based upon those that apply for Home Buyer Concession Scheme recipients and First Home Owner Grant recipients, in order to ensure that this assistance is provided to those households most in need. Provision is made for the setting of administrative thresholds such as the minimum amount of duty that can be deferred, and the rate of interest to be applied to the debt.

The mechanism by which this is achieved is through providing an option for these people to enter into a payment arrangement with the Commissioner for ACT Revenue (the commissioner), under the *Taxation Administration Act 1999*. The amount of duty deferred becomes a debt to the territory, secured as a first charge against their interest in the property, in much the same way as is currently the case for rates and for land tax. The debt will attract interest as determined by the Minister from time to time. Eligible people wanting to take up this scheme will enter into a time payment arrangement that allows, but does not require, them to make payments during the first five years, after which a regular payment will be required. A person may make voluntary repayments at any time during that period over and above the required instalments.

The second of the three initiatives dealt with in this Bill is that of tax treatment for those people taking up an ACT Government House and Land Package and choosing to defer payment for the land until the house is built and a Certificate of Occupancy has been issued. It is intended to operate in much the same way as the current arrangements for 'off the plan' purchases, in that duty does not become payable until a specified period after the first of a number of events occurs. Those events include the transfer of the person's interest in the property, the issuing of a Certificate of Occupancy, or a period of two years has elapsed since entering into the arrangement. The amendments provide a mechanism by which, generally, duty does not become payable until such time as the Certificate of Occupancy has been issued. In line with current requirements under relevant land planning legislation, however, the maximum time between entering into such an arrangement and paying the duty is two years.

The final element addressed by the Bill ensures that treatment for taxation purposes of a determined set of entities that are recognised by Government as being engaged in ‘community housing’ activities consistent with the aims of the Housing Affordability package, is consistent with treatment afforded Housing ACT.



Details of the Revenue Legislation (Housing Affordability Initiatives) Amendment Bill 2007

Part One

Clause 1 - Name of Act

This Act is the *Revenue Legislation (Housing Affordability Initiatives) Amendment Act 2007*.

Clause 2 – Commencement

This Act commences on the day after its notification.

Part Two

Clause 3 – Legislation amended - part 2.

This Part amends the Duties Act 1999.

Clause 4 – Payment of duty—‘off the plan’ purchase agreements

Section 16A (1) (c)

This differentiates between off the plan purchases, and the new *declared affordable house and land package* for the purposes of determining the trigger for payment of the duty.

Clause 5 – Substitution in Section 16A (4)

This clause introduces into existing deferred payment provisions of the Act, the ability for the Minister to define the concept of a declared affordable house and land package. Agreements to transfer land subject to one of these packages is then included within the definition of an off the plan purchase.

Clause 6 – New section 16B

This clause provides the mechanism by which the Minister may declare a house and land package to be a declared affordable house and land package, by disallowable instrument.

Clause 7 – What is the dutiable value of dutiable property? New section 20 (1A))

This clause provides a test by which the dutiable value of the transfer of a declared affordable house and land package is determined. The intent is such that the purchaser is not disadvantaged by any rise in the value of the land that might occur between entering into the house and land package arrangement and the time at which the duty becomes payable. For example, it may be possible that if the purchase price for the land is \$100,000, but by the time a house is built and a corresponding Certificate of Occupancy has been issued, which could be up to two years, the underlying value of the land may have increased to \$120,000. The purchaser will be

asked to pay duty at that time, based on the lower of those two values (in this example \$100,000). Similarly, were there to occur a fall in the value of that block of land, then duty would be payable on the reduced value of the block.

Clause 8 – Section 20 (3)

This clause acts with the previous clause to insert the definition of a declared affordable house and land package into the section of the Duties Act that deals with the dutiable value of property.

Clause 9 – New section 73A

This clause provides for an exemption from duty on the transfer of certain residential property to entities that for the purposes of this part, have been declared by the Minister to be providers of community housing. In order to qualify for the exemption, the transferee, or grantee must be so declared, and the purpose for which the property is being purchased must be for the provision of community housing as defined in this section.

Clause 10 – New part 2.6A - Deferred payments—first home buyers

This clause provides the basis for a scheme whereby eligible purchasers of eligible properties who choose to defer payment of their duty liability on that purchase may enter into an agreement with the Commissioner for ACT Revenue that requires no payment for a period of up to five years, and at the expiry of that time requires them to pay by instalment the outstanding duty and interest that has accrued on that amount.

75AA Definitions—pt 2.6A, inserts some definitions for the purposes of that scheme that determine the characteristics of the people that may be eligible to apply for a deferral of duty, and the type of property to which it might apply.

75AB Application to defer payment of duty, provides for how and when a person must apply to defer payment of their duty liability, and allows for a form to be approved for that purpose.

75AC Approval to defer payment of duty, requires the commissioner to accept the application of an eligible applicant in relation to an eligible property, on the condition that they enter into a ‘deferral arrangement’, which includes an agreement for the payment of the duty and interest over time.

75AD Conditions of deferral arrangement, sets out the conditions that might be applied to a deferral arrangement and that those conditions are to be set by disallowable instrument.

75AE Unpaid duty and interest a debt and charge on property. This section secures the unpaid duty as a first charge on the applicant’s interest in the property.

Clause 11 – Substitution in Section 233 (1) (a) (ii)

This clause allows for the documents relating to a transaction subject to a duty deferral arrangement to be stamped, even though the duty might not have been paid at that point in time.

Clause 12 – Dictionary – new definitions

This clause inserts references for definitions of the various concepts introduced in the Bill.

Part Three

Clause 13 – Legislation amended – part 3.

This Part amends the Land Tax Act 2004.

Clause 14 – Land exempted from s 9

This section ensures that entities declared by the Minister for the purposes of community housing duty exemptions in the Duties Act 1999, are not subject to land tax on properties that they own.

Part Four

Clause 15 – Legislation amended – part 4.

This Part amends the Rates Act 2004.

Clause 16 – Section 8 (2), meaning of rateable land, new definitions

This section ensures that entities declared by the Minister for the purposes of community housing duty exemptions in the Duties Act 1999, are liable for rates on the properties that they own.

