

AUSTRALIAN CAPITAL TERRITORY
RATES (AMENDMENT) ORDINANCE (NO 2) 1983

EXPLANATORY STATEMENT

No. 12 of 1983

The purpose of the proposed Rates (Amendment) Ordinance (No. 2) 1983 is to correct certain difficulties associated with the Rates Ordinance 1926 (the principal Ordinance).

The principal Ordinance provides in section 15 that rates in respect of a parcel of land are payable to the Commonwealth by the owner of the parcel. The rates are calculated in accordance with section 13 of the principal Ordinance which, so far as is relevant, provides for rates to be imposed at a specified percentage of the unimproved value of a parcel. The principal Ordinance also provides for the Minister periodically to determine and re-determine the unimproved values of parcels of rateable land in the Territory as at relevant dates either fixed by the Ordinance or specified by notice in the Gazette. The relevant date as at which the unimproved value of a parcel of land is to be determined or re-determined, occurs prior to the date on which the determination or re-determination is actually made ("the prescribed date"). To ensure that unimproved values are kept reasonably current it has been the practice to re-determine them at 3 yearly intervals. The last such re-determination was made on 6 March 1980 in respect of unimproved values as at 1 January 1979.

The selection of unimproved value as the basis of rating liability provides a means of distributing the rates burden. If distortions occur in the general pattern of unimproved values, inequities can result.

Experience has shown that the relevant provisions of the principal Ordinance can, in fact, operate to produce distortions of the kind which result in inequities. This arises mainly from the time lag between the relevant date and the prescribed date which is often considerable. In consequence, the circumstances affecting the unimproved value of the land on the relevant date have frequently changed by the time the valuation is actually made.

The principal Ordinance provides that the owner of a parcel of land which becomes rateable after a section 8(1) notice is published in the Gazette, is liable to pay rates on the basis of an unimproved value determined as at the date specified in the notice. Other ratepayers, however, are liable to pay rates on the basis of an unimproved value determined or re-determined as at the date specified in the previous section 8(1) notice. This anomaly persists until the first day of July that follows the most recent publication of the section 8(1) notice. For example, the lessees of parcels which became rateable between 6 March 1980 and 30 June 1980 have to pay rates for that period on the basis of unimproved values as at 1 January 1979 whereas the lessees of parcels which became rateable before 6 March 1980 were paying rates for the period on the basis of unimproved values as at 1 January 1976.

Section 10 of the principal Ordinance allows, amongst other things, a re-determination of unimproved value of a parcel where there had been a change of circumstances since the most recent determination or re-determination. However, it is not possible to re-determine a value pursuant to that section in a case where a change of circumstances has occurred after the most recent "relevant date" but before the most recent determination or re-determination. A further difficulty arises from the fact that a re-determination pursuant to this section must be made as at a date subsequent to the change of circumstances. As this date will always be subsequent to the date as at which the value of other parcels has been determined or re-determined, inequities in the rating burden arise.

The proposed Rates (Amendment) Ordinance (No. 2) 1983 (the amending Ordinance) is designed to overcome the abovementioned difficulties. Details of the amending Ordinance are as follows:

- . Section 1 cites the title of the proposed Ordinance as the Rates (Amendment) Ordinance (No. 2) 1983.
- . Section 2 defines the "Principal Ordinance" as the Rates Ordinance 1926.
- . Section 3 amends section 5 of the principal Ordinance to insert a new paragraph 1(aa) which provides that the unimproved value of a parcel is to be reached on the assumption that the circumstances that existed on the prescribed date also existed on the relevant date. The proposed section also amends section 5 by omitting existing sub-section (3) and by inserting a new sub-section (3) which defines "the prescribed date". In relation to a determination under sections 7 and 9 of the principal Ordinance, the prescribed date will be the date of commencement of the Rates Ordinance 1970 or the date on which the parcel became rateable, whichever is the later. In relation to a re-determination under section 8 of the principal Ordinance, the prescribed date will be the date of publication of a notice under section 8(1). In relation to a re-determination under section 10, the prescribed date will be the date of a notice under section 10(1). The new sub-section (3) also contains a definition of "the relevant date" being the date as at which a determination or re-determination is to be made.
- . Section 4 repeals section 9 of the principal Ordinance and substitutes a new section 9 which provides that where a parcel of land becomes rateable on or after the day on which a section 8(1) notice is published in the Gazette and before the first day of July next succeeding that date, the Minister shall determine the unimproved value of the parcel as if the parcel had become rateable before the date of publication of the notice and shall also determine the unimproved value of the parcel as at the date specified in

the section 8(1) notice. The section also provides that where a parcel of land becomes rateable on or after the first day of July next succeeding the publication in the Gazette of a section 8(1) notice and before the date of publication of the next succeeding section 8(1) notice, the Minister shall determine the unimproved value of the parcel as at the date specified in the first notice. The effect of these changes will be to ensure that the rating liability of an owner of a parcel of land which becomes rateable after the date on which a section 8(1) notice was last published in the Gazette is assessed on the same basis as the liability of all other ratepayers.

Section 5 amends section 10 of the principal Ordinance to provide that, where a change of circumstances has arisen since the date as at which the unimproved value of a parcel of land was most recently determined or re-determined but was not taken into account in the determination or re-determination, the Minister may re-determine the unimproved value of the parcel as at the date as at which the value was most recently determined or re-determined.

Section 6 amends section 11 of the principal Ordinance. The amendments are a consequence of the repeal of existing section 9 and the substitution of new section 9.

Ord. 8/83