

## AUSTRALIAN CAPITAL TERRITORY

### AMENDMENT OF THE LAND RENT AND RATES (DEFERMENT AND REMISSION) ORDINANCE 1981

ORDINANCE NO.5 of 1981

#### EXPLANATORY STATEMENT

The purpose of the Ordinance is to vary and simplify the provisions of the Land Rent and Rates (Deferment and Remission) Ordinance 1970 which have not been fully effective in allowing the Department to give relief to certain classes of ratepayers.

Sections 1, 2 and 3 introduce the Ordinance.

The principal Ordinance is made clearer by division into 6 parts. Section 4 adds the first heading.

Section 5 in repealing and replacing the definitions of terms employed in the principal Ordinance, makes no substantive alterations, but takes account of amendments to the Social Services Act 1947 and the Repatriation Act 1920 since 1970 and replaces 'Magistrate' (of the Court of Petty Sessions) with 'Tribunal' (Administrative Appeals). Otherwise, section 5 reflects the restructuring of the principal Ordinance.

Section 6 amends section 8A of the principal Ordinance (relating to the effect of deferment on a rates determination) in consequence of the amendment of section 21B of the principal Ordinance (applicants will no longer lodge a formal 'declaration', but an 'application'). The effect of section 8A is not altered.

Section 7 transfers jurisdiction for review from a Magistrate of the Court to the Administrative Appeals Tribunal. At the same time it removes the statutory provision for instalment arrangements upon revocation of a determination. Arrangement of instalments is a normal administrative practice, which section 10(3) of the principal Ordinance has tended to hinder rather than help. Section 10(3), (5) and (6) of the principal Ordinance are therefore simplified at the same time.

Section 8 repeals sections 11 to 14 (inclusive) of the principal Ordinance which relate to existing review procedures, in consequence of the transfer of review jurisdiction to the Administrative Appeals Tribunal. The existing procedure for revocation of a determination by the Minister appearing in sections 12, 13 and 14 of the principal Ordinance is retained (appropriately amended) in a new section 11.

Section 9 repeals section 19(1) of the principal Ordinance (providing the Minister with power to require the furnishing of information) which is relocated in section 21K of the principal Ordinance as amended, in substantially the same form.

Section 10 amends section 20 of the principal Ordinance consequentially, ie, reference to the new section 11 replaces reference to sections 12 and 13 of the principal Ordinance (repealed by section 8).

Section 11 replaces the section 21B of the principal Ordinance (relating to the rebate of rates for pensioners) with 3 new sections (21A, 21B and 21BA) of substantially the same effect.

The new section 21A is a definition provision for interpretation of these new sections. It expands the operation of this part of the principal Ordinance to allow rebates to spouses and de facto spouses of pensioners and deceased pensioners.

The new section 21B corresponds to the procedural provision of the repealed section 21B and section 21BA confers the discharge of rate liability, previously provided by the section 21B.

The new section 21B does not require that a notice in writing of rates payable be given, but speaks more appropriately of liability imposed under an Ordinance.

For administrative practicability, the eligibility date is set at 1 July of each rating year.

Sections 11 and 12 provide a new definition of parcel of land which will ensure that rebate benefit is available only to those for whom it is intended.

Section 13 amends section 21C of the principal Ordinance only to the extent of bringing its provision into line with the new section 21B. The rebate proposed in cases of hardship is unchanged.

Section 14 repeals section 21D (which appears instead, verbatim, as section 2A in the principal Ordinance as amended) and replaces it with a new section 21D providing for review where:

- i. no declaration is made;
- ii. a declaration is considered by the applicant to be unsatisfactory.

The new section 21DA gathers together the interpretation provisions (hitherto found in section 2 of the principal Ordinance) which specifically relate to this part of the Ordinance, without substantial alteration.

Section 15 deletes reference in the principal Ordinance to the Minister's delegate: section 25(3A)(a) of the Administrative Appeals Tribunal Act takes account of delegates. The definition of 'Tribunal' is also deleted, as this appears in section 2 of the principal Ordinance, as amended.

Section 16 corrects an error in cross-reference.

Section 17 relocates section 19(1) of the principal Ordinance at section 21K. The provision has more general application to the Ordinance than section 19(1) which is confined to applications for a determination for deferment.

Section 18 makes 2 minor formal amendments (paragraphs (a) and (b)) and omits prescribed form 3 (declaration as to pensioner status) which no longer is a requirement of section 21B of the principal Ordinance (as amended).

Section 19, which is to be read in conjunction with the Schedule at the end of the Ordinance brings the principal Ordinance into line with current drafting forms.

Section 20 allows the new procedures to apply to the rating year commencing on 1 July 1979: the earliest that is reasonable from an administrative point of view.

Ord. No. 3/81