

2003

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

RATES AND LAND TAX AMENDMENT BILL 2003

EXPLANATORY STATEMENT

Circulated by the authority of the Treasurer

Ted Quinlan MLA

Rates and Land Tax Amendment Bill 2003

Summary

In 2002, ACT Treasury undertook a review of the ACT Rating System (Rates Review 2002). The aim of the review was to provide an alternative method of assessing rates for residential parcels of land in accordance with the Government's election commitment.

The *Rates and Land Tax Amendment Bill 2003* amends the *Rates and Land Tax Act 1926* to implement the new rating system.

Overview

1. Effective from 1 July 2003, this Bill amends the *Rates and Land Tax Act 1926* to:
 - (a) limit the increase in rates for "long term" residents to the actual percentage CPI increase;
 - (b) defer the impact of increases in the Average Unimproved Value (AUV) of the parcel of land until the parcel of land is sold; and
 - (c) provide for a phased implementation of the new rating system to avoid disadvantaging "new" owners who purchase a parcel of land prior to 1 July 2003.

Details of the Bill are attached.



Details of the Rates and Land Tax Amendment Bill 2003

Part 1 Preliminary

Clause 1 Name of Act

This Act is the *Rates and Land Tax Amendment Act 2003*.

Clause 2 Commencement

This Act commences on 1 July 2003.

Part 2 Rates and Land Tax Act 1926

Clause 3 Act amended

This Act amends the *Rates and Land Tax Act 1926* (the principal Act).

Clauses 4 Inserts new sections 12B and 12C, Meaning of CPI percentage increase and People taken to be “long-term” owners of land

Section 12B defines “CPI percentage increase” for the purpose of the Act as the number appearing for Canberra in the Consumer Price Index (All Groups Index) published by the Australian Statistician.

“Long-term” owner is defined in the dictionary – see clause 13. Section 12C expands the definition to ensure that certain classes of people do not lose the certainty of a CPI increase just because of a technical or forced change in the legal ownership of a parcel of land.

This will ensure that the increase in the annual rates bill for “long-term” owners will be the actual CPI and will ensure that the average unimproved value (AUV) impact on annual rates is deferred until the parcel of land is sold.

Section 12C (1) (a) ensures that parcels of land held by the Commissioner for Housing will maintain its CPI status in perpetuity after the parcel of land itself has gained that status. The Commissioner for Housing (ACT Housing) has ownership of over 11,000 dwelling units. All the properties are rateable. Many of the properties were transferred to the Commissioner under the *Housing Assistance Act 1987*. Prior to self-government, leases had not been granted for these transferred properties. Since then, ACT Housing has sought and obtained leases for most of these properties.

Section 12C (1) (b) provides for a continuation of the “long-term” owners rates on a parcel of land where, following the unit titling of a parcel of land, the previous owners of the previous whole parcel of land receive units in the unit title equal to their entitlement in the previous whole parcel of land.

Section 12C (1) (c) ensures that the rate paying domestic partner of a ratepayer who dies does not lose his or her rate paying status when the parcel of land is transferred from joint names to the single name of the surviving partner of the domestic relationship.

Section 12C (1) (d) provides that, where a parcel of land of a dead person is transferred to an executor or trustee for purposes of administering a deceased estate the rate paying status of the parcel of land will remain unaffected.

Section 12C (1) (e) specifies that, on the transfer of a parcel of land to a trustee in bankruptcy or a receiver as a result of the bankruptcy or insolvency of the “long-term” owner, the parcel of land will retain its “long-term” status.

Section 12C (1) (f) specifies that, where a transfer to the domestic partner of the interest in a parcel of land being the principle place of residence of the partners of the domestic relationship then the parcel of land will retain its current status.

Section 12 (1) (g) specifies that the rate paying status of a parcel of land transferred as a result of a forced transfer arising out of or under any *Family Law Act 1975 (Cwth)* (including financial agreements) or *Domestic Relationships Act 1994* proceedings will remain unaffected.

Clause 5 Imposition of rates, Replaces existing section 13

The new section 13 provides for rates to increase by the CPI amount for all “long-term” owners. The rates will be calculated by applying the previous year’s rates plus CPI.

For a “new” owner of residential land, where the AUV of the land does not exceed \$19 000 the rates will be \$300. Where the AUV of the land exceeds \$19 000 the rates will be an amount calculated using the current formula based on AUV.

If the land is rural, is owned by a “new” owner and the AUV does exceed \$19 000 the rates will be an amount calculated using the current formula based on AUV.

For a “holder of a new lease” of residential land this section makes provision for the following:

- (i) where the AUV does not exceed \$19 000, for the year when the lease is granted rates will be \$300.
- (ii) where the AUV of the residential land exceeds \$19 000, for the year when the lease is granted rates will be an amount calculated using the current formula based on AUV.
- (iii) for the year after the year when the lease is granted the increase will be the last year’s projected full year’s rates plus CPI.

For a “holder of a new lease” of rural land the section provides that:

- (i) where the AUV does exceed \$19 000, for the year when the lease is granted rates will be an amount calculated using the current formula based on AUV.
- (ii) for the year after the year when the lease is granted the increase will be the last year’s projected full year’s rates plus CPI.

For commercial land new section 13 provides:

- (i) where the AUV does not exceed \$19 000 rates will be \$300.
- (ii) where the AUV of the commercial land exceeds \$19 000 the rates will be an amount calculated using the current formula based on AUV.

Clause 6 Inserts new section 13B, Imposition—rating system 2003-2004

It precludes the operation of new section 13 for residential and rural property during the 2003-04 year.

For all owners of residential and rural land, the rates for the rating year 2003-04 will be actual rates for 2002-03 plus actual CPI (which is 3.2%).

Section 13B provides that section 13B expires on 1 July 2004 and the effect of this expiry will be that when the new rating system commences on 1 July 2004 all residential and rural owners of parcels of land who purchased a parcel of land between 1 July 2003 and 30 June 2004 will be treated as “new” owners for the rating year commencing 1 July 2004.

Clause 7 Omits, in section 22A (3) Imposition of land tax, the words “section 24A (Unit subdivisions)” and substitutes the words “section 24C (Unit subdivisions—land tax)”

This is made necessary by the changes to section 24A, affected by this bill, to simplify and separate the treatment of units for the purposes of rates and land tax.

Clause 8 Omits, in section 22DA (3) (b) Multiple dwellings, the words “section 24A” and substitutes the words “section 24A (Unit subdivisions)”

This is made necessary by the changes to section 24A, affected by this bill, to simplify and separate the treatment of units for the purposes of rates and land tax.

Clause 9 Replaces existing section 24A With three new sections: 24A Unit subdivisions, 24B Unit subdivision—rates and 24C Unit subdivisions — land tax

New section 24A provides that a parcel of land subdivided by the registration of a units plan will continue to be treated as a single parcel of land.

New section 24B provides a mechanism for allowing section 13 to operate fully for owners of units in a unit subdivision. Whilst the parcel of land upon which the unit subdivision is situated will continue to be a single parcel of land, each unit within the unit subdivision will be deemed to be a discrete parcel of land for ratings purposes.

The AUV of a unit will be worked out using the current formula based on the AUV of the whole parcel of land. This AUV for an individual unit in a unit subdivision will be used in place of the AUV in applying the current formula for determining the rates for “new” owners.

This section is necessary to ensure an equitable distribution of the rates burden under the new rating system, otherwise all units within a unit subdivision would always be subject only to a CPI increase as the body corporate would remain the owner of the parcel of land irrespective of any change in the ownership of individual units within the unit subdivision.

New section 24C ensures that the legislative changes necessary to give effect to the new rating system, in themselves, will have no impact on land tax applicable to unit subdivisions. Unit subdivisions subject to land tax will remain liable for land tax in accordance with the pre-existing provisions for the imposition of land tax under the principal Act.

**Clause 10 Inserts new section 25A Unit subdivisions—rating system
2003-2004**

This section provides for the rating system for the 2003-04 rating year and brings the rating provisions related to unit subdivision into line with the rating provisions for residential and rural land under new section 13B.

Clause 11 Inserts new sections 40 to 42

New section 40, Regulations may provide for transitional matters, enables regulations to be made to allow for any unforeseen transitional difficulties arising as a result of the change between the current rating system and the new rating system.

New section 41, Modification of pts 3 and 5, provides regulations to allow part 3 and part 5 to be modified to provide for anything that is not addressed.

New section 42, Expiry after 1 year, provides for the expiry of sections 40 and 41 1 year after the commencement of section 42.