



AUSTRALIAN CAPITAL TERRITORY

## Rates and Land Tax (Amendment) Act 1999

No. 3 of 1999

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No. 3 of 1999

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## **An Act to amend the *Rates and Land Tax Act 1926***

*[Notified in ACT Gazette S8: 1 March 1999]*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

**1. Short title**

This Act may be cited as the *Rates and Land Tax (Amendment) Act 1999*.

**2. Commencement**

(1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on 1 January 1999.

**3. Principal Act**

In this Act, “Principal Act” means the *Rates and Land Tax Act 1926*.<sup>1</sup>

**4. Insertion**

Before section 13 of the Principal Act the following section is inserted in Division 1 of Part III:

**“12A. Application**

This Part has effect subject to Part IVA.”.

**5. Interpretation**

Section 22AAB of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

“(3) For the purposes of this Part, a parcel of land or a dwelling that is—

- (a) leased for residential purposes; and
- (b) rented at any time in a quarter;

shall be taken to be rented on the prescribed date in the succeeding quarter unless—

- (c) the owner gives notice in writing to the Commissioner before the commencement of the succeeding quarter that the parcel of land or dwelling will not be rented at any time in that quarter;
- (d) the owner gives notice in writing to the Commissioner during the succeeding quarter that the parcel of land or dwelling has not been, and will not be, rented at any time in that quarter; or
- (e) the owner gives notice in writing to the Commissioner that the parcel of land or dwelling is not rented during a continuous period of at least 91 days that—
  - (i) begins in the first-mentioned quarter after the prescribed date in that quarter; and
  - (ii) ends in the succeeding quarter.”.

**6. Insertion**

After section 22AAB of the Principal Act the following section is inserted:

**“22AAC. Application**

This Part has effect subject to Part IVA.”.

**7. Imposition**

Section 22A of the Principal Act is amended by omitting subsections (2), (3) and (4) and substituting the following subsections:

“(2) For the purposes of subsection (1), the appropriate rate is the percentage rate per annum that is applicable to a portion of the average unimproved value of a parcel of land in accordance with the following table:

Average unimproved value of parcel	Applicable rate
So much as does not exceed \$100,000	1.0%

So much as exceeds \$100,000 but does not exceed \$200,000	1.25%
So much as exceeds \$200,000	1.5%

“(3) This section has effect subject to section 24A.”.

## **8. Substitution**

Section 22BC of the Principal Act is repealed and the following section substituted:

### **“22BC. Power to obtain further information**

“(1) For a purpose relating to the administration or enforcement of this Part, the Commissioner may, by notice in writing, require a person—

- (a) to provide (orally or in writing) to the Commissioner, within the period specified in the notice, the information described in the notice;
- (b) to produce to the Commissioner, within the period specified in the notice, the documents described in the notice; or
- (c) to attend and give evidence before the Commissioner at a place, and on a date and at a time, specified in the notice.

“(2) Where a person attends before the Commissioner in accordance with paragraph (1) (c), the Commissioner may, before the person commences to give evidence or at any time while the person is giving evidence—

- (a) require the person to give evidence on oath; and
- (b) administer an oath to the person.

“(3) The Commissioner may, in a notice under subsection (1) or by another notice in writing, require a person to verify by means of a statutory declaration, within the period specified in the notice, any information given, or required to be given, under this section.

“(4) Where a notice under this section is given for the purpose of ascertaining the liability under this Part of the person to whom it is given to pay land tax, the notice shall specify that it is given for that purpose.

“(5) A person shall not, without reasonable excuse, fail to comply with a notice given to the person under paragraph (1) (a) or (b) within the period specified in the notice for compliance or within such longer period as the Commissioner may allow.

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.

“(6) It is a defence to a prosecution under subsection (5) for failure to comply with a notice given to a person under paragraph (1) (b) to show that, when the person received the notice, no documents described in the notice were in the possession, custody or control of the person.

“(7) A person shall not, without reasonable excuse, fail to comply with a notice given to the person under paragraph (1) (c).

Penalty: 50 penalty units or imprisonment for 6 months, or both.

“(8) A person shall not, for the purpose of enabling the person or another person to avoid compliance with a notice that has been given, or that the person believes is 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, custody or control of the person or another person.

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.

“(9) A person shall not, without reasonable excuse, fail to take an oath when required under subsection (2) to do so.

Penalty for contravention of subsection (9): 50 penalty units or imprisonment for 6 months, or both.”.

## **9. Insertion**

After Division 1 of Part IV of the Principal Act the following Division is inserted:

### ***“Division 1A—Power to enter business premises***

#### **“22ED. Interpretation**

In this Division, unless the contrary intention appears—

‘authorised officer’ means a person who, under subsection 22EE (1), is an authorised officer for the purposes of this Division;

‘business premises’ means premises other than premises used exclusively for residential purposes;

‘hours of business’ means the hours beginning at 9.00 am and ending at 5.00 pm on a day that is not a Saturday, Sunday or public holiday;

‘identity card’ means an identity card issued under section 22EF;

‘occupier’, in relation to premises, includes—

- (a) a person who appears to be the occupier of the premises; and
- (b) a person who is, or appears to be, in charge of the premises.

**“22EE. Authorised officers**

“(1) Each of the following persons is an authorised officer for the purposes of this Division:

- (a) the Commissioner;
- (b) a person who holds an appointment under subsection (2).

“(2) The Commissioner may, by signed instrument, appoint a public employee to be an authorised officer for the purposes of this Division.

**“22EF. Identity cards**

An authorised officer shall be issued with an identity card, in a form approved by the Commissioner, that—

- (a) contains the person’s name and a photograph of the person’s face; and
- (b) states that the person is an authorised officer for the purposes of this Division.

**“22EG. Power of entry**

“(1) An authorised officer may, in accordance with this section—

- (a) enter premises that are, or that the authorised officer reasonably believes to be, business premises; and
- (b) for the purposes of this section, use such assistance of other persons as is reasonably necessary.

“(2) An entry under subsection (1) may be made—

- (a) during business hours; or
- (b) at any other time if the occupier of the premises is then present on the premises.

“(3) An authorised officer who enters premises under this section shall, on request, show his or her identity card to the occupier of the premises.

“(4) An authorised officer who enters premises under this section may, for the purposes of this Part or, to the extent that it relates to land tax, Part IVA—

- (a) make notes or copies, and take photographs, of any document, thing or record that relates, or appears to relate, to any liability, or potential liability, under this Part;
- (b) inspect the premises, including any building, structure, container or vehicle located on the premises;
- (c) require the occupier of the premises to give the authorised officer 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 reasonably necessary to exercise all or any of the powers stated in paragraphs (a), (b) and (c).

“(5) In particular, an authorised officer exercising his or her powers under paragraph (4) (c) may 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, and that relates, or appears to relate, to any parcel of rateable land;
- (b) produce, in a readable form, any record stored by means of a computer, microfilm or other device located on the premises, where the record relates, or appears to relate, to any parcel of rateable land; or
- (c) answer questions, or otherwise provide information, concerning any parcel of rateable land.

**“22EGA. Restriction on power of entry to partly residential premises**

“(1) Section 22EG shall be taken not to authorise an authorised officer—

- (a) to enter business premises used partly for residential purposes; or
- (b) to exercise any powers under that section while on such premises;

unless the authorised officer does so—

- (c) with the consent of the occupier of the premises; or
- (d) in accordance with a warrant issued under subsection (2).

“(2) Subject to this section, on the application of an authorised officer supported by an affidavit or sworn evidence, a magistrate may issue a warrant authorising the authorised officer, with such assistance of other



persons as is reasonably necessary, to enter specified premises (being business premises used partly for residential purposes) and exercise all or any of the powers specified in section 22EG.

“(3) A magistrate may, when issuing a warrant, direct that the warrant shall apply subject to such conditions or limitations as he or she thinks fit to specify, and where the magistrate so directs—

- (a) the warrant shall set out those conditions or limitations; and
- (b) the warrant shall apply accordingly.

“(4) A magistrate shall only issue a warrant if he or she is satisfied that—

- (a) it is just and proper to do so; and
- (b) the exercise of the powers conferred by the warrant is reasonably necessary for the due administration of this Act.

“(5) Where any power (including entry to premises) is exercised in accordance with a warrant, section 22EG applies, subject to any conditions or limitations set out in the warrant, in relation to the exercise of the power.

**“22EH. Protection where authorised officer acts reasonably and in good faith**

“(1) In any proceedings (whether civil or criminal) against an authorised officer or any other person in respect of any action taken, or purported to be taken, under section 22EG by an authorised officer, it is a defence to prove that, in taking the action, the authorised officer acted reasonably and in good faith.

“(2) Subsection (1) shall not be taken as affecting, by implication, the availability of any other defence.

“(3) In subsection (1)—

‘authorised officer’ includes a person assisting an authorised officer under section 22EG.”.

**10. Failure to provide information**

Section 22GB of the Principal Act is amended—

- (a) by omitting from paragraph (a) “Act” (twice occurring) and substituting “Part”;
- (b) by omitting from subparagraph (b) (i) “required” and substituting “required for the purposes of this Part or in relation to a matter arising under this Part”;

- (c) by omitting from subparagraph (b) (ii) “person” and substituting “person for the purposes of this Part or in relation to a matter arising under this Part”; and
- (d) by omitting from subparagraph (b) (iii) “required” and substituting “required for the purposes of this Part or in relation to a matter arising under this Part”.

#### **11. False or misleading statements**

Section 22GC of the Principal Act is amended by omitting from paragraphs (a) and (b) “particular” and substituting “particular, if the statement is made for the purposes of this Part or in relation to a matter arising under this Part”.

#### **12. Insertion**

After section 22GD of the Principal Act the following sections are inserted in Division 3 of Part IV:

##### **“22GDA. Offences in relation to authorised officers**

“(1) A person shall not, without reasonable excuse, obstruct an authorised officer in the exercise of a power under section 22EG.

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.

“(2) A person shall not, without reasonable excuse, fail to comply with a requirement made of the person 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;
- (b) in the case of a body corporate—250 penalty units.

“(3) A person who is not an authorised officer shall not wilfully claim to be an authorised officer.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

“(4) In this section—

‘authorised officer’ has the same meaning as in subsection 22EH (1).

**“22GDB. Offences in relation to identity cards**

“(1) A person shall not, without reasonable excuse, fail to surrender forthwith to the Commissioner an identity card that is in the person’s possession or custody or under the person’s control if—

- (a) the person ceases to be an authorised officer; or
- (b) the Commissioner gives the person a demand in writing to surrender the card to the Commissioner.

Penalty: 1 penalty unit.

“(2) In this section—

‘identity card’ has the same meaning as in Division 1A.”.

**13. Objections**

Section 22GE of the Principal Act is amended—

(a) by inserting after subsection (1) the following subsection:

“(1A) If a person—

- (a) is given, under section 22C, a notice of assessment of land tax in respect of the parcel of land; and
- (b) claims that, on the relevant prescribed date, the parcel of land was not rented;

the person may lodge with the Commissioner an objection in writing to the assessment within 60 days of the date of service of the notice on the person, or within such longer period as the Commissioner may allow.”;

(b) by omitting from paragraph (3) (b) “or”; and

(c) by inserting after paragraph (3) (b) the following paragraph:

“(ba) (in the case of a decision in respect of an objection under subsection (1A)) if satisfied that, on the relevant prescribed date, the parcel of land was not rented—withdraw the notice of assessment and refund to the owner any land tax paid; or”.

**14. Insertion**

After section 22GI of the Principal Act the following Part is inserted:

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

**“22GJ. Interpretation**

In this Part, unless the contrary intention appears—

‘determination’ includes—

- (a) a re-determination; and
- (b) a determination as affirmed, varied, or made in substitution for a previous determination, by the Administrative Appeals Tribunal;

‘determine’ includes re-determine;

‘eligible parcel of land’ means a parcel of rateable land in respect of which the lease of the parcel of land permits development of the parcel of land for residential purposes and for non-residential purposes;

‘qualifying parcel of land’ or ‘qualifying parcel’ means a parcel of land to which this Part applies by virtue of section 22GO;

‘Unit Titles Act’ means the *Unit Titles Act 1970*;

‘variation’, in relation to a lease, includes—

- (a) amendment; and
- (b) surrender and re-grant.

**“22GK. Application by owner of eligible parcel of land**

“(1) The owner of an eligible parcel of land who intends—

- (a) to develop the land partly for residential purposes and partly for non-residential purposes; and
- (b) to apply for subdivision, under the Unit Titles Act, of the land as so developed;

may apply to the Commissioner, in accordance with this section, for the parcel of land to be dealt with under this Part.

“(2) The application shall—

- (a) be in writing and, if the Commissioner approves a form for the purposes of this section, in accordance with the form;

- (b) sufficiently identify the parcel of land;
- (c) specify, in relation to the intended development—
  - (i) the parts that are to be used for non-residential purposes; and
  - (ii) the parts that are to be used for residential purposes;
- (d) be accompanied by—
  - (i) the prescribed fee (if any);
  - (ii) any draft or approved plans relating to the intended development; and
  - (iii) a copy of the lease of the parcel of land; and
- (e) be signed—
  - (i) where the owner is a natural person—by the owner or by a person authorised to sign on behalf of the owner; or
  - (ii) where the owner is a body corporate—on behalf of the owner by a director, the chief executive or secretary of the body corporate.

“(3) The Commissioner may, by notice in writing, require the applicant to provide—

- (a) such further information; or
- (b) such additional documents;

being information or documents described in the notice, as the Commissioner reasonably requires for the performance of any of his or her functions, in relation to the parcel of land, under this Part.

“(4) An applicant to whom a notice under subsection (3) is given shall comply with the notice within 14 days after receiving it, or within such longer period as the Commissioner may allow.

“(5) The application shall be taken to have lapsed if—

- (a) the applicant fails to comply with a notice in accordance with subsection (4); and
- (b) the Commissioner gives notice in writing to the applicant that the application has lapsed because of that non-compliance.

“22GL. **Determination of percentages of non-residential and residential components of intended development**

“(1) Where the Commissioner has received—

- (a) an application in accordance with subsection 22GK (2) in relation to an eligible parcel of land; and
- (b) if applicable—any information or documents required by notice under subsection 22GK (3) to be provided in relation to the application;

the Commissioner shall determine the following percentages:

- (c) in accordance with subsection (2)—the percentage of the intended development that is to be used for non-residential purposes;
- (d) in accordance with subsection (3)—the percentage of the intended development that is to be used for residential purposes.

“(2) The Commissioner shall determine the percentage of the intended development that is to be used for non-residential purposes to be—

- (a) unless paragraph (b) applies—the percentage of the intended development that consists of the parts specified in the application as parts that are to be used for non-residential purposes; or
- (b) if the Commissioner believes, on reasonable grounds—
  - (i) that, in the event of development in accordance with the specification in the application, the development would contravene the lease of the parcel of land; or
  - (ii) that that specification was not made in good faith;

such percentage of the intended development as appears to the Commissioner, on the information and material in the Commissioner’s possession, to consist of the parts capable of being developed, in accordance with the lease, for non-residential purposes.

“(3) The Commissioner shall determine the percentage of the intended development that is to be used for residential purposes to be 100% less the percentage determined under subsection (2) in relation to the intended development.

“(4) Where, after an application has been made under section 22GK in relation to an eligible parcel of land (whether or not a determination has been made in relation to the application)—

- (a) a variation of the lease alters the maximum development for non-residential purposes permitted by the lease of the parcel of land; or
- (b) the information provided under paragraph 22GK (2) (c) ceases to reflect the owner’s intention;

the owner of the parcel of land shall, subject to subsection (5)—

- (c) forthwith give notice in writing to the Commissioner setting out the details and date of the variation or details of the owner's change of intention, as the case may be; and
- (d) if the Commissioner (whether or not notice has been given under paragraph (c)), by notice in writing, requires the owner to provide to the Commissioner any information or documents described in the notice, being information or documents that the Commissioner reasonably believes to relate to such a variation or change of intention—comply with the notice within 14 days after receiving it, or within such longer period as the Commissioner may allow.

“(5) Subsection (4) ceases to apply to the owner of a parcel of land if a notice of a kind referred to in paragraph 22GO (2) (f) or subsection 22GO (3) is given in relation to the parcel of land.

“(6) A person who, without reasonable excuse, contravenes 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.

“(7) A person who, without reasonable excuse, contravenes 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.

“(8) The Commissioner may re-determine, under paragraphs (1) (c) and (d), the percentages referred to in those subsections respectively if such re-determination is warranted by further information or documents received by him or her in respect of the parcel of land.

“(9) The Commissioner shall give notice in writing to the owner of a parcel of land of a determination or re-determination under this section in respect of the parcel of land.

**“22GM. Imposition and assessment of rates—certain parcels of land in City Area**

“(1) This section applies to a parcel of land if—

- (a) it is a qualifying parcel of land in the City Area; and

(b) it has an average unimproved value greater than \$19,000.

“(2) In its application to the imposition of rates in respect of a parcel of land to which this section applies, section 13 has effect as if subsection (3) of that section were omitted and the following subsection substituted:

‘(3) Rates are imposed in respect of 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:

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

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 of 2 or more determinations, under section 22GL;

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

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

“(3) Section 14, as in effect under subsection (4) of this section, applies in relation to—

(a) an assessment of rates payable in respect of a parcel of land for the period commencing on the date on which, under section 22GO, this Part shall be taken to have commenced to apply to the parcel of land; and

(b) while this Part continues so to apply—such further assessments of rates so payable as are required by section 14 as in effect under subsection (4) of this section.

“(4) For the purposes of subsection (3), section 14 has effect as if subsection (1) were omitted and the following subsections substituted:

‘(1) The Commissioner shall cause to be prepared assessments of the amounts of rates payable in respect of each parcel of land to which section 22GM applies for each period specified in subsection (1AA), and shall, in each case, cause to be given to the owner of the parcel notice in writing of the assessment prepared in respect of the parcel.

‘(1AA) The applicable periods are—



- (a) the period commencing on the day on which, under section 22GO, Part IVA is taken to have commenced to apply to the parcel of land, and ending on the expiration of—
  - (i) the year in which that day occurs; or
  - (ii) if, under subsection 22GO (2), Part IVA ceases to apply to the relevant parcel of land before the end of that year—the last day on which it so applied; and
- (b) if, on 1 July in any subsequent year, Part IVA applies to the relevant parcel of land—
  - (i) that year; or
  - (ii) if, under subsection 22GO (2), that Part ceases to apply to the relevant parcel of land before the end of that year—the part of that year during which that Part so applied.’.

**“22GN. Imposition and assessment of land tax**

“(1) This section applies to a parcel of land if it is—

- (a) a qualifying parcel of land; and
- (b) a parcel of land in respect of which land tax is imposed under Part IV.

“(2) In its application to the imposition of land tax in respect of a parcel of land to which this section applies, section 22A has effect as if—

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

‘(1) Land tax at the appropriate rate referred to in subsection (2) is imposed for a quarter in respect of each parcel of rateable land—

- (a) that is not exempt from land tax; and
- (b) to which section 22GN applies.’; and

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

‘(3A) Despite the definition of “average unimproved value” in subsection 4 (1), the average unimproved value of a parcel of rateable land to which this section applies shall be taken to be the value ascertained in accordance with 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 of 2 or more determinations, under section 22GL;

UV is the unimproved value of the parcel of land (as determined under Part II).’.

“(3) Section 22C, as in effect under subsection (4) of this section, 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 on which, under section 22GO, this Part is taken to have commenced to apply to the parcel of land; and
- (b) while this Part continues so to apply—such further assessments of land tax so payable as are required by section 22C as in effect under subsection (4) of this section.

“(4) For the purposes of subsection (3), section 22C has effect as if subsection (1) were omitted and the following subsections substituted:

‘(1) The Commissioner shall cause to be prepared assessments of the amount of land tax payable for each period specified in subsection (1AA) in respect of each parcel of land to which section 22GN applies and shall, in each case, cause to be given to the owner of the parcel notice in writing of the assessment prepared in respect of the parcel and of the due date for the payment of the tax.

‘(1AA) For the purposes of subsection (1), the following periods are specified:

- (a) the period commencing on the day on which, under section 22GO, Part IVA is taken to have commenced to apply to the parcel of land, and ending on the expiration of—
  - (i) the quarter in which that day occurs; or
  - (ii) if, under section 22GO, that Part ceases to apply to the relevant parcel of land before the end of that quarter—the last day on which it so applied;
- (b) if, on the first day of any subsequent quarter, Part IVA applies to the relevant parcel of land—
  - (i) that quarter; or
  - (ii) if, under subsection 22GO (2), that Part ceases to apply to the relevant parcel of land before the end of that

quarter—the part of that quarter during which that Part so applied.’.

**“22GO. When this Part commences, and ceases, to apply to a parcel of land**

“(1) If the Commissioner makes a determination under section 22GL in respect of a parcel of land, this Part applies to the parcel of land, and shall be taken to have commenced so to apply on the first day on which, under the current lease of the land, development of the land was permitted for residential purposes and for non-residential purposes.

“(2) This Part ceases to apply to a parcel of land on whichever of the following days first occurs:

- (a) if the land is subdivided under the Unit Titles Act—the day on which the subdivision occurs;
- (b) if the owner of the land does not apply under Part III of the Unit Titles Act, within the period of 30 days commencing on the day on which a certificate of occupancy is issued under section 53 of the *Building Act 1972* in respect of the relevant development, or within such longer period as the Commissioner may allow, for approval of proposals for the subdivision of the land under the Unit Titles Act—the first day after the end of the first-mentioned period or that longer period (as the case requires);
- (c) if the land is not subdivided under the Unit Titles Act within the period of 12 months commencing on the day on which the application (or, if there is more than 1 such application, the first such application) referred to in paragraph (b) was lodged, or within such longer period as the Commissioner may allow—the first day after the end of the first-mentioned period or that longer period (as the case requires);
- (d) if a change occurs in the terms of the lease, such that the development of the land partly for residential purposes and partly for non-residential purposes ceases to be permitted—the day on which the change occurs;
- (e) if development of the land for subdivision under the Unit Titles Act is abandoned—the day on which it is abandoned;
- (f) if—
  - (i) the application lodged under section 22GK in relation to the parcel of land is withdrawn by notice in writing to the Commissioner; or

- (ii) the Commissioner gives notice to the applicant, under subsection 22GK (5), that the application is to be treated as withdrawn;

the day on which any such notice is given.

“(3) Where, after an application has been made under section 22GK in relation to an eligible parcel of land (whether or not a determination has been made in relation to the application), a circumstance of a kind specified in paragraph (2) (a), (b), (c), (d) or (e) occurs in relation to the land, the owner of the land shall, within 14 days after the occurrence, give notice in writing to the Commissioner of the occurrence, being a notice that—

- (a) identifies the owner and the land; and
- (b) specifies the relevant circumstance and the date of its occurrence.

“(4) 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.

**“22GP. Transfer of lease**

“(1) This section applies where, after an application has been made under section 22GK in relation to a qualifying parcel of land (whether or not the Commissioner has made a determination in relation to the land), the lessee (in this section called the ‘transferor’) of the lease of the land transfers the lease to another person (in this section called the ‘transferee’).

“(2) The transferor shall, within 14 days after the day on which he or she transfers the lease, give notice in writing to the Commissioner that—

- (a) identifies the land;
- (b) states the name and address of the transferee;
- (c) contains a statement that the transfer has occurred; and
- (d) specifies the date of the transfer.

“(3) A person who, without reasonable excuse, contravenes 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.

“(4) The Commissioner may, by notice in writing to any of the following persons, namely:

- (a) the transferor;
- (b) the transferee;
- (c) any person whom the Commissioner believes, on reasonable grounds, to be holding such information or documents on behalf of the transferor or the transferee;

require the person to provide such information or documents, being information or documents described in the notice, as the Commissioner reasonably requires for the purpose of performing the Commissioner’s functions under this Part, in relation to the land.

“(5) A person to whom a notice is given under subsection (4) shall comply with the notice within 14 days after receiving it, or within such longer period as the Commissioner may allow.

“(6) A person who, without reasonable excuse, contravenes 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.

“(7) This section ceases to apply in relation to a parcel of land if a notice of a kind mentioned in paragraph 22GO (2) (f) or subsection 22GO (3) is given in relation to the parcel of land.

**“22GQ. Re-assessment—completion of development**

“(1) If—

- (a) the Commissioner has, under section 22GM, prepared an assessment of the amount of rates payable in respect of a parcel of land for a period;
- (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 are different from those percentages determined in relation to the development under paragraphs 22GL (1) (c) and (d) respectively and used in making that assessment of rates;

the Commissioner shall—

- (d) re-determine those percentages under paragraphs 22GL (1) (c) and (d) respectively; and
- (e) reassess, consistently with the re-determination and in accordance with section 22GM, the amount of the rates payable in respect of the parcel of land for the whole of the period during which the land was a qualifying parcel.

“(2) If—

- (a) the Commissioner has, under section 22GN, prepared an assessment of the amount of land tax payable in respect of a parcel of land for a period;
- (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 are different from those percentages determined in relation to the development under paragraphs 22GL (1) (c) and (d) respectively and used in making that assessment of land tax;

the Commissioner shall—

- (d) re-determine those percentages under paragraphs 22GL (1) (c) and (d) respectively; and
- (e) reassess, consistently with the re-determination and in accordance with section 22GN, the amount of the land tax payable in respect of the parcel of land for the whole of the period during which the land was a qualifying parcel.

“22GR. **Re-assessment—non-completion of the development**

“(1) If—

- (a) the Commissioner has, under section 22GM, prepared an assessment of rates (in this subsection called the ‘previous rates assessment’) in respect of a parcel of land for a period; and
- (b) before the end of that period—
  - (i) the land ceases to be a qualifying parcel because of the occurrence of a circumstance of a kind 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 the occurrence of a

circumstance of a kind 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 has been, a qualifying parcel, the amount of the rates payable in respect of the parcel of land for the period during which the land was a qualifying parcel in respect of—

- (c) the period for which the previous rates assessment was prepared; or
- (d) if there has been more than 1 such assessment—the period equal to both or all of the periods for which such assessments were prepared.

“(2) If—

- (a) the Commissioner has, under section 22GN, prepared an assessment of land tax (in this subsection called the ‘previous land tax assessment’) in respect of a parcel of land for a period; and
- (b) before the end of that period—
  - (i) the land ceases to be a qualifying parcel because of the occurrence of a circumstance of a kind 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 the occurrence of a circumstance of a kind 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 has been, a qualifying parcel, the amount of the land tax payable in respect of the parcel of land for the period during which the land was a qualifying parcel in respect of—

- (c) the period for which the previous land tax assessment was prepared; or
- (d) if there has been more than 1 such assessment—the period equal to both or all of the periods for which such assessments were prepared.

**“22GS. Assessment under this Part in respect of a period replaces previous assessment in respect of that period**

“(1) To the extent that—

- (a) an assessment of rates prepared under this Part in respect of a parcel of land (in this subsection called the ‘new rates assessment’); and

- (b) an assessment of rates previously prepared (whether under this Part or under Part III) in respect of the land (in this subsection called the ‘previous rates assessment’);

would, apart from this subsection, both apply for a particular period, the new rates assessment applies, instead of the previous rates assessment, for that period.

“(2) To the extent that—

- (a) an assessment of land tax prepared under this Part in respect of a parcel of land (in this subsection called the ‘new land tax assessment’); and
- (b) an assessment of land tax previously prepared (whether under this Part or under Part IV) in respect of the land (in this subsection called the ‘previous land tax assessment’);

would, apart from this subsection, both apply for a particular period, the new land tax assessment applies, instead of the previous land tax assessment, for that period.

**“22GT. Refund or credit for certain excess payments**

“(1) Where—

- (a) 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
- (b) an amount of rates has been paid for that period in respect of the land;

the Commissioner shall make a refund, or give a credit, to the owner of the parcel of land in respect of any amount by which the amount so paid exceeds the amount payable under that assessment for that period.

“(2) Where—

- (a) 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
- (b) an amount of land tax has been paid for that period in respect of the parcel of land;

the Commissioner shall make a refund, or give a credit, to the owner of the parcel of land in respect of any amount by which the amount so paid exceeds the amount payable under that assessment for that period.



**“22GU. Assessment of rates or of land tax**

“(1) Subject to any express provision of this Part, section 14 applies to an assessment of rates prepared under this Part as though the assessment had been prepared under that section.

“(2) Subject to any express provision of this Part, section 22C applies to an assessment of land tax prepared under this Part as though the assessment had been prepared under that section.

**“22GV. Objections**

“(1) An owner of a parcel of land who is dissatisfied with a determination under paragraphs 22GL (1) (c) and (d) of percentages in relation to the land may, unless paragraph 22GL (2) (a) applies in relation to the determination under paragraph 22GL (1) (c), give notice of objection in accordance with subsection (2).

“(2) A notice by a person objecting to a determination shall—

- (a) be given in writing to the Commissioner within 60 days after the person received notice of the determination, or within such longer period as the Commissioner may allow; and
- (b) state the grounds of the objection.

“(3) The Commissioner shall consider an objection given in accordance with subsection (2), and shall—

- (a) if satisfied that the percentages were correctly determined—confirm the determination; or
- (b) if not so satisfied—re-determine the percentages.

**“22GW. Review of determination or decision**

Application may be made to the Administrative Appeals Tribunal for review of a decision by the Commissioner under subsection 22GV (3).

**“22GX. Offence—false or misleading statement**

“(1) A person shall not, in relation to a matter arising under this Part, wilfully make a false or misleading statement to the Commissioner or an authorised person.

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.

“(2) In this section—

‘authorised person’, in relation to a matter, means a person duly authorised by the Commissioner in respect of that matter;

‘false or misleading statement’ means a statement (whether made in writing, orally, by means of a data processing device or in any other way) that is, by reason of anything—

- (a) contained in the statement;
- (b) provided with or in relation to the statement; or
- (c) omitted from the statement;

false or misleading in a material particular.”.

#### **15. Insertion**

After section 22H of the Principal Act the following section is inserted:

##### **“22HA. Delegation**

The Commissioner may, by signed instrument, delegate to a public employee a power or function conferred on the Commissioner by any other section of this Act.”.

### **NOTES**

#### **Principal Act**

1. Reprinted as at 31 January 1998. See also Act No. 13, 1998.

#### **Penalty units**

See section 33AA of the *Interpretation Act 1967*.

*[Presentation speech made in Assembly on 19 November 1998]*