



AUSTRALIAN CAPITAL TERRITORY

Rates and Land Rent (Relief) (Amendment) Act 1991

No. 22 of 1991

An Act to amend the *Land Rent and Rates (Deferment and Remission) Act 1970*

[Notified in ACT Gazette S 36: 10 May 1991]

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

Short title

1. This Act may be cited as the *Rates and Land Rent (Relief) (Amendment) Act 1991*.

Principal Act

2. In this Act, “Principal Act” means the *Land Rent and Rates (Deferment and Remission) Act 1970*.¹

PART I—AMENDMENTS OF PRINCIPAL ACT**Long title**

3. The title of the Principal Act is repealed and the following title substituted:

“An Act to provide for relief from liability for rates and land rent, and for related purposes”.

Substitution

4. Section 1 of the Principal Act is repealed and the following section substituted:

Short title

“1. This Act may be cited as the *Rates and Land Rent (Relief) Act 1970*.”.

Interpretation

5. Section 2 of the Principal Act is amended—

- (a) by omitting the definitions of “member of the Forces” and “pensioner”; and
- (b) by inserting the following definitions:

“ ‘Commissioner’ means—

- (a) in relation to a rebate of land rates—the Commissioner for Australian Capital Territory Revenue; and
- (b) in relation to a rebate of sewerage rates or water rates—the Chief Executive Officer of the Australian Capital Territory Electricity and Water Authority;

‘pensioner’ means—

- (a) a person to whom, or in respect of whom, a pension or benefit under Part IV, V or VI of the *Social Security Act 1947* of the Commonwealth is being paid;

- (b) a person to whom, or in respect of whom, a pension or benefit referred to in paragraph (a) would be payable but for the fact that a sheltered employment allowance under Part XIV of the *Social Security Act 1947* of the Commonwealth is being paid to, or in respect of, the person;
- (c) a person to whom a service pension, a wife's service pension or a carer's service pension under the *Veterans' Entitlements Act 1986* of the Commonwealth is being paid; or
- (d) a person to whom a pension under Part II of the *Veterans' Entitlements Act 1986* of the Commonwealth is being paid and to whom—
 - (i) section 22, 23, 24 or subsection 30 (1) of that Act applies; or
 - (ii) section 27 of that Act applies by virtue of a war-caused injury or war-caused disease of a kind specified in item 1, 2, 3, 4, 5 or 6 in the table in subsection (1) of that section;but does not include—
- (e) a prescribed person within the meaning of section 69 of the *Social Security Act 1947* of the Commonwealth; or
- (f) a prescribed person within the meaning of section 82 of the *Veterans' Entitlements Act 1986* of the Commonwealth.”.

Interpretation

6. Section 21A of the Principal Act is amended—

- (a) by omitting the definitions of “entitled person” and “special Repatriation pensioner”;
- (b) by inserting the following definitions:
 - “ ‘eligible person’ means—
 - (a) a pensioner;
 - (b) a non-pensioner who is the spouse of a special rate pensioner and is not separated from the pensioner;or

- (c) a non-pensioner who was the spouse of a special rate pensioner until the pensioner's death, was not separated from the pensioner immediately before the death and who has not subsequently become the spouse of another person;

'rates' means land rates, sewerage rates or water rates;

'rebate' means a rebate under this Part;

'special rate pensioner' means a pensioner to whom a pension under Part II of the *Veterans' Entitlements Act 1986* of the Commonwealth is being paid and to whom section 24 of that Act applies;"; and

- (c) by adding at the end the following subsections:

“(2) A reference in this Part to an eligible person's liability for rates in respect of a parcel of land shall—

- (a) where the person is the sole owner of the land—be read as a reference to the amount of the rates payable by the person in respect of the land; and
- (b) where the person is a joint owner of the land—be read as a reference to so much of the amount of rates payable by the joint owners in respect of the land as is proportional to the value of the person's interest in the land.

“(3) A reference in subsection (2) to an amount of rates payable shall be read as a reference to the amount that would be payable but for the operation of this Part.

“(4) Where payment of part of an amount of land rates has been deferred under section 21G, a reference in subsection (2) to an amount of rates payable shall, in relation to those rates, be read as a reference to the amount so payable after the deferral.”.

Substitution

7. Sections 21B and 21BA of the Principal Act are repealed and the following sections substituted:

Rebate

“21B. (1) An eligible person who owns the parcel of land that is the person's principal place of residence in a rating year is, subject to this Part, entitled to a rebate in the person's liability for rates in that year in respect of the parcel of land.

“(2) The amount of the rebate shall be calculated in accordance with the formula—

$$\frac{\mathbf{RL}}{2} \times \frac{\mathbf{D}}{365}$$

where—

RL is the amount of the person’s liability for rates in that year in respect of the parcel of land; and

D is the number of days in the year on which, as an eligible person, the person occupied the parcel of land as the person’s principal place of residence.

“(3) A person is not entitled to a rebate unless the person has applied in accordance with subsection (4).

“(4) An application for a rebate—

(a) shall be in writing signed by the applicant;

(b) shall contain or be accompanied by—

(i) a statement of the particulars relied upon in support of the application; and

(ii) a statement signed by the applicant authorising a person or body chosen from time to time by the Commissioner to disclose relevant information about the applicant to the Commissioner for the purpose of determining the applicant’s entitlement to a rebate; and

(c) be lodged with the Commissioner.

“(5) A person is not entitled to a rebate in the person’s liability for rates in a rating year that occurred before the rating year in which the person applies for a rebate.

“(6) Nothing in this section shall be taken to affect the operation of section 24 of the *Rates and Land Tax Act 1926*, section 27 of the *Sewerage Rates Act 1968* or section 32 of the *Water Rates Act 1959*.

Notice of change in circumstances

“21BA. (1) A person who has applied for a rebate under section 21B shall notify the Commissioner in writing if—

(a) the person ceases to be—

(i) an eligible person; or

(ii) the owner or a joint owner of the person's principal place of residence; or

(b) in the case of a tenant in common—there is a change in the extent of the person's interest in his or her principal place of residence.

“(2) The notice shall be given to the Commissioner not later than 30 days after the date of the relevant event.

“(3) A person who contravenes subsection (1) without reasonable excuse is guilty of an offence punishable, on conviction, by a fine not exceeding \$500.

“(4) Nothing in this section shall be taken to apply in relation to the transfer of an estate or interest in land of which notice has been given to the Commissioner in accordance with section 23 of the *Rates and Land Tax Act 1926*.

Adjustment of liability for rates

“21BAA. (1) Where the Commissioner believes on reasonable grounds that a person's entitlement to a rebate under section 21B has altered or ceased, or will alter or cease, the Commissioner shall—

- (a) calculate the amount of the person's adjusted liability for rates; and
- (b) give the person notice in writing of the decision setting out—
 - (i) particulars of the amount of the adjusted liability;
 - (ii) the reasons for the decision; and
 - (iii) the date or dates on which any unpaid rates, or instalments of unpaid rates, are due for payment under the relevant Act.

“(2) The notice shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Tribunal for a review of the decision.

“(3) The validity of a decision referred to in subsection (1) shall not be taken to have been affected by a failure to comply with subsection (2).

“(4) Application may be made to the Tribunal for a review of a decision referred to in subsection (1).

Cessation and resumption of entitlement

“21BAB. (1) Where—

- (a) a person ceases to be an eligible person; and

- (b) more than 14 days later the person becomes an eligible person again;

the person is not entitled to a rebate in respect of the person's liability for rates accruing after the person so becomes an eligible person again, unless the person applies for the rebate in accordance with subsection 21B (4).

“(2) Where—

- (a) an eligible person ceases to be the owner or a joint owner of the person's principal place of residence; and
- (b) more than 14 days later the person again becomes the owner or a joint owner of a parcel of land that is the person's principal place of residence;

the person is not entitled to a rebate in the person's liability for rates, in respect of the residence referred to in paragraph (b), accruing after the person becomes the owner or a joint owner of that residence, unless the person applies for the rebate in accordance with subsection 21B (4).”.

Schedule 1

8. Schedule 1 to the Principal Act is amended by omitting from Forms 1 and 2 “Minister of State for Territories and Local Government” and substituting “Minister”.

PART II—MISCELLANEOUS

Application

9. (1) Part III of the Principal Act, as amended by this Act, does not apply in relation to rates payable in a rating year before the rating year commencing on 1 July 1990.

(2) A person who—

- (a) on 30 June 1990, was entitled to a rebate under Part III of the Principal Act, as then in force; and
- (b) on 1 July 1990, was an eligible person within the meaning of section 21A of the Principal Act, as amended by this Act;

shall be taken to have applied on 1 July 1990 for a rebate under Part III of the Principal Act, as amended by this Act.

Consequential amendment of Dog Control Act

10. Section 5 of the *Dog Control Act 1975* is amended by omitting “*Land Rent and Rates (Deferment and Remission) Act 1970-1973*” from the definition of “pensioner” in subsection 5 (1) and substituting “*Rates and Land Rent (Relief) Act 1970*”.

Consequential amendments of Real Property Act

11. Each of the following provisions of the *Real Property Act 1925* is amended by omitting “*Land Rent and Rates (Deferment) Act 1970*” and substituting “*Rates and Land Rent (Relief) Act 1970*”:

Subsections 14 (3), 48 (1B) and 50A (1), paragraphs 94 (7) (a), 100A (1) (a) and (c) and 100A (3) (a), subsection 108A (1), sections 108B, 108C and 108D and subsection 170 (3A).

NOTE

1. Ordinance No. 5, 1970 as amended by No. 27, 1973; Nos. 10 and 70, 1976; No. 46, 1978; No. 5, 1981; Nos. 52 and 53, 1984; Nos. 31 and 89, 1986; No. 31, 1988; Nos. 21 and 38, 1989.

[Presentation speech made in Assembly on 18 April 1991]

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