



Australian Capital Territory

Rates Act 2004

A2004-3

Republication No 18

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About this republication

The republished law

This is a republication of the *Rates Act 2004* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 7 July 2010. It also includes any amendment, repeal or expiry affecting the republished law to 7 July 2010.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Rates Act 2004

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Australian Capital Territory

Rates Act 2004

An Act about rates, and for other purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Rates Act 2004*.

Note This Act is a **tax law** under the Taxation Administration Act. As a tax law, this Act is subject to provisions of the Taxation Administration Act about the administration and enforcement of tax laws generally.

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (**signpost definitions**) to other words and expressions defined elsewhere.

For example, the signpost definition '**land tax**—see the *Land Tax Act 2004*, dictionary.' means that the term 'land tax' is defined in that dictionary and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

Part 2 Unimproved value of rateable land

6 Meaning of *unimproved value*

- (1) The *unimproved value* of a parcel of land held under a lease from the Commonwealth is the capital amount that might be expected to have been offered on the relevant date for the lease of the parcel, assuming that—
- (a) the only improvements on or to the parcel were the improvements (if any) by way of clearing, filling, grading, draining, levelling or excavating—
 - (i) if the Territory or Commonwealth had, before the parcel became rateable as a separate parcel, granted a development lease of land that included the parcel—made by the lessee under that lease or by the Territory or Commonwealth, or the cost of which was met by that lessee or by the Territory or Commonwealth; or
 - (ii) in any other case—made by the Territory or Commonwealth or the cost of which was met by the Territory or Commonwealth; and
 - (b) the circumstances that existed on the prescribed date also existed on the relevant date; and
 - (c) on the relevant date, the lease had an unexpired term of 99 years; and
 - (d) a nominal rent was payable under the lease for the 99 year term.

Note **Relevant date** is defined in the dictionary.

- (2) The *unimproved value* of a parcel of land held in fee simple is the capital amount that might be expected to have been offered for the parcel at a genuine sale on the relevant date on the reasonable terms and conditions that a genuine seller would require, assuming that no improvements had been made on or to the parcel.
- (3) In this section:
- prescribed date*, for a parcel of land, means—
- (a) for a determination of the unimproved value of the parcel—the date the parcel became rateable; or
 - (b) for an annual redetermination of the unimproved value of the parcel—the date the redetermination applies; or
 - (c) for a redetermination of the unimproved value of the parcel under section 11 (Redetermination—error) or section 11A (Redetermination—change of circumstances)—the date the redetermination begins to apply to the parcel.

7 Unimproved value of land developed under development lease

- (1) This section applies to a parcel of land on or to which an improvement mentioned in section 6 (1) (a) is made by a lessee under a development lease mentioned in section 6 (1) (a) (i).
- (2) For the determination of the unimproved value of the parcel, the improvement is taken to have been made only to the extent that the Territory or Commonwealth normally makes improvements of the same kind on or to a comparable parcel of land.

8 Meaning of *rateable land*

- (1) All land in the ACT, including Commonwealth land, is *rateable land*, except—
- (a) commons, public parks and public reserves not held under lease or licence; and
 - (b) sites of cemeteries, public hospitals, benevolent institutions and buildings used exclusively for public charitable purposes; and
 - (c) sites of churches and other buildings used exclusively for public worship; and
 - (d) sites of buildings used for free public libraries; and
 - (e) land leased from the Commonwealth that is occupied by, or used in connection with, a school; and
 - (f) Commonwealth land that is not leased and is unoccupied (other than land that, immediately before becoming unoccupied, was occupied by a lessee of the Territory or Commonwealth on a weekly or fortnightly tenancy).

- (2) In this section:

benevolent institution does not include an entity declared under the *Duties Act 1999*, section 73A (Transfers etc to entities for community housing).

community housing—see the *Duties Act 1999*, section 73A (4).

public charitable purposes does not include community housing purposes.

school means a non-government school under the *Education Act 2004*, and includes a playground belonging to, or used in relation to, the school.

9 First determination of unimproved value

- (1) This section applies if a parcel of land becomes rateable on or after a relevant date (the *1st relevant date*).
- (2) The commissioner must—
 - (a) determine the unimproved value of the parcel of land as at the 1st relevant date; and
 - (b) if necessary, redetermine the unimproved value of the parcel as at each relevant date after the first relevant date when it was not determined.
- (3) A determination under subsection (2) (a) applies to a parcel of land for the period—
 - (a) beginning on 1 July in the calendar year in which the relevant date falls; and
 - (b) ending on 30 June in the next calendar year.
- (4) A redetermination under subsection (2) (b) for a parcel of land applies to the parcel for the period—
 - (a) beginning on 1 July in the calendar year in which the relevant date as at which the redetermination is made falls; and
 - (b) ending on 30 June in the next calendar year.

10 Annual redeterminations

- (1) As soon as practicable after each 1 January, the commissioner must redetermine the unimproved value, as at that date, of each parcel of land rateable on that date.
- (2) An annual redetermination of the unimproved value of a parcel of land applies to the parcel for the period—
 - (a) beginning on 1 July in the calendar year in which the relevant date when the redetermination is made falls; and

(b) ending on 30 June in the next calendar year.

11 Redetermination—error

- (1) This section applies if an error was made in relation to a determination of the unimproved value of a parcel of land as at a particular date.
- (2) The commissioner may redetermine the unimproved value of the parcel as at that date.
- (3) The redetermination applies to the parcel for the period—
 - (a) beginning on 1 July in the calendar year in which the relevant date when the redetermination is made falls; and
 - (b) ending on 30 June in the next calendar year.

Example

A clerical error was made in relation to the determination of Branko’s parcel of land as at 1 January 2009, resulting in the unimproved value of the land being incorrectly determined as \$220 000. The unimproved value of parcel was correctly determined as at 1 January 2007 as \$230 000 and 1 January 2008 as \$240 000.

The average unimproved value of the land for the year beginning 1 July 2009 was calculated as—

$$(\$230\,000 + \$240\,000 + \$220\,000)/3 = \$230\,000$$

After the clerical error was corrected, the unimproved value of the parcel was correctly redetermined as at 1 January 2009 as \$250 000.

The average unimproved value of the land was recalculated as (the *recalculated AUV*)—

$$(\$230\,000 + \$240\,000 + \$250\,000)/3 = \$240\,000$$

The recalculated AUV applies for the period starting on 1 July 2009 and ending on 30 June 2010.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(4) In this section:

error, in relation to a determination, includes—

- (a) an error in making a valuation on which the determination is based; and
- (b) the duplication of an error in relation to an earlier determination.

11A Redetermination—change of circumstances

- (1) This section applies if a change of circumstances happens in relation to a parcel of land that affects the unimproved value of the land.
- (2) The commissioner may redetermine the unimproved value of the parcel as at a date if the unimproved value as at that date is used in calculating the average unimproved value of the land for the year in which the change of circumstances happens.
- (3) The commissioner may also redetermine the unimproved value of the parcel as at a later date if a determination of the unimproved value as at that date did not take the change of circumstances into account.
- (4) A redetermination under subsection (2) applies to the parcel for the period—
 - (a) beginning on the day the change of circumstances happened; and
 - (b) ending on 30 June in the next calendar year.

- (5) A redetermination under subsection (3) applies to the parcel for the period—
- (a) beginning on 1 July in the calendar year in which the relevant date when the redetermination is made falls; and
 - (b) ending on 30 June in the next calendar year.

Example—s (4)

On 1 September 2009, Mungo obtained development approval for an authorised use of Mungo’s parcel of land (the *change of circumstances*) that increases the unimproved value of the parcel. Before the change of circumstances, the commissioner determined the unimproved value of the land as at 1 January 2007 as \$260 000, 1 January 2008 as \$280 000 and 1 January 2009 as \$300 000.

The average unimproved value (the *original AUV*) of the land for the year beginning 1 July 2009 was calculated as—

$$(\$260\,000 + \$280\,000 + \$300\,000)/3 = \$280\,000$$

After the change of circumstances, the commissioner redetermined the unimproved value of the land as at 1 January 2007 as \$320 000, 1 January 2008 as \$340 000 and 1 January 2009 as \$360 000.

The average unimproved value (the *recalculated AUV*) of the land was recalculated as:

$$(\$320\,000 + \$340\,000 + \$360\,000)/3 = \$340\,000$$

The original AUV applies for the period starting on 1 July 2009 and ending on 31 August 2009, and the recalculated AUV applies for the period starting on 1 September 2009 and ending on 30 June 2010.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

12 Recording, notification and publication of determinations

- (1) The commissioner must record particulars of each determination of the unimproved value of a parcel of land.
- (2) The commissioner must give written notice of the amount determined as the unimproved value of a parcel to the owner.

- (3) As soon as practicable after each annual redetermination under section 10 of the unimproved values of parcels of rateable land, the commissioner must arrange for the unimproved values to be available to the public.

Example

To make the unimproved values available to the public, the commissioner might make copies of a schedule of the unimproved values available at ACT government shopfronts.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Part 3 Imposition and payment of rates

13 Pt 3 subject to pt 5

This part is subject to part 5 (Unit subdivisions).

14 Imposition of rates

- (1) Rates of the fixed charge are imposed for a parcel of rateable land that has an average unimproved value of the threshold amount or less.
- (2) Rates are imposed for a parcel of rateable land that has an average unimproved value of more than the threshold amount in accordance with the following formula:

$$FC + ((AUV - TA) \times P)$$

- (3) In this section:

AUV means the average unimproved value of the parcel.

FC (or fixed charge) means the fixed charge determined under the Taxation Administration Act, section 139 for the parcel.

P means the percentage rate determined under the Taxation Administration Act, section 139 for the parcel.

TA (or threshold amount) means the threshold amount determined under the Taxation Administration Act, section 139 for the parcel.

Note Different fixed charges, amounts, or percentage rates may be determined for residential, commercial or rural land (see Legislation Act, s 48).

15 Rates for part of year

- (1) This section applies to a parcel of land if the parcel starts or stops being rateable in a year.

- (2) In working out the rates payable for the parcel for the year, the amount of rates payable is the amount worked out in accordance with the following formula:

$$\text{rates otherwise payable for year} \times \frac{\text{rateable days}}{\text{days in year}}$$

- (3) However, if a parcel of rateable land is held under a lease from the Commonwealth for only part of the year, the amount of rates payable for the year is the amount worked out in accordance with the following formula:

$$\text{rates otherwise payable for year} \times \frac{\text{days lease in force}}{\text{days in year}}$$

- (4) In this section:

days lease in force means the number of days in the year when the lease is in force, and includes any days when an owner continues to occupy the parcel of land after the ending of the lease.

rateable days means the number of days in the year that the parcel of land was a rateable parcel.

16 Owner to pay rates

- (1) Rates imposed for a parcel of land are payable to the commissioner by the owner of the parcel.
- (2) The person who is the owner of a parcel of land is liable to pay to the commissioner the whole or any part of rates payable for the parcel that have not been paid whether the amount became payable before or after the person became the owner.

17 When are rates payable?

- (1) The assessment notice for the rates payable for a year for a parcel of land must state a date for payment of the rates (the *payment date*).

- (2) The payment date must not be a date earlier than 4 weeks after the date of the notice.
- (3) The rates are payable on the payment date.

18 How may rates be paid?

- (1) Rates payable for a year for a parcel of land must be paid by the owner—
 - (a) if the amount payable is for a year and any arrears of rates in relation to previous years have been paid in full—by paying, on or before the payment date, the amount of the rates less the discount rate; or
 - (b) if the amount payable is for part of a year—by paying the amount of the rates on or before the payment date; or
 - (c) by paying the rates in instalments in accordance with section 19; or
 - (d) by paying amounts so that the total amount paid by the person on or before a date in the year is not less than the total amount that the person would have paid on that date if the person were paying the rates in instalments in accordance with section 19.
- (2) If the amount payable under a notice of assessment is for a period of longer than a year, subsection (1) (a) applies only to the payment of that part of the amount payable that is for a year.

- (3) In this section:

discount rate means the discount rate determined under the Taxation Administration Act, section 139.

19 Payment of rates by instalments

- (1) For payment of rates in instalments—
 - (a) the amount of each instalment must be a whole dollar amount worked out by dividing the total amount of the rates payable by 4 and adding the amount of any remainder to the amount worked out for the 1st instalment; and
 - (b) the date when an instalment is due for payment is not less than 3 months after the date when any previous instalment is due for payment.
- (2) The Taxation Administration Act, section 52 (4) (which deals with failure to pay an instalment when due) does not apply to the payment of rates in instalments.

Part 4 Enforcement

20 Non-application of provisions of Taxation Administration Act

The Taxation Administration Act, section 25 (Interest in relation to tax defaults), division 5.2 (Penalty tax) and section 110 (Interest payable on amounts to be paid by taxpayer) do not apply to unpaid overdue rates.

21 Interest payable on overdue rates

- (1) Interest on an amount of unpaid overdue rates is worked out—
 - (a) for each calendar month when the amount remains unpaid; and
 - (b) on the 1st day of that month; and
 - (c) at the interest rate applying to that day; and
 - (d) on the total amount of overdue rates that are unpaid on a day when the interest is worked out.

Note The Minister may determine an interest rate for this section under the Taxation Administration Act, s 139.

- (2) For subsection (1) (a), if an amount remains unpaid for part of a calendar month, interest is payable for the whole month.

Example

Fred's rates are due on 15 August. He doesn't pay it until 5 October. Fred has to pay interest worked out for the overdue period from 16 August to 5 October. Because of the operation of s (2), Fred has to pay interest for the period from 16 August to 15 October. Interest for the month from 16 August to 15 September is at the rate applying on 16 August, which is the 1st day of the 1st month that the amount remains unpaid (see s (1)). Interest for the month from 16 September to 15 October is at the rate applying on 16 September, which is the 1st day of the 2nd month that the amount remains unpaid (see s (1)).

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

22 Charge of rates on land

- (1) Rates payable in relation to a parcel of land are a charge on the interest held by the owner of the parcel.
- (2) The charge takes priority over a sale, conveyance, transfer, mortgage, charge, lien or encumbrance in relation to the parcel.
- (3) The charge does not have effect against an honest purchaser of the parcel of land for value if—
 - (a) the purchaser had obtained a certificate under section 76 (Certificate of rates and other charges) in relation to the parcel before the purchase; and
 - (b) at the time of purchase, the purchaser did not have notice of liability under the charge.

23 Notice of rates in arrears

- (1) If rates payable for a parcel of land have been in arrears for at least 1 year, the commissioner may give the owner of the parcel written notice that the rates are in arrears.
- (2) At any time after giving notice, the commissioner may declare, in writing, that the rates for the parcel of land are in arrears.
- (3) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

24 Unoccupied land—letting for unpaid rates

- (1) This section applies if—
 - (a) a declaration is made under section 23 in relation to an unoccupied parcel of land; and
 - (b) the rates payable for the parcel are not paid within 30 days after the day the declaration is notified.
- (2) The commissioner may—

- (a) take possession of the parcel; and
 - (b) hold the parcel against anyone; and
 - (c) lease the parcel for not longer than 7 years.
- (3) If the commissioner takes possession of the parcel, the commissioner must keep accounts of—
- (a) rent and other amounts received by the commissioner in relation to the parcel; and
 - (b) the expenses of the lease; and
 - (c) the rates and land tax payable for the land.
- (4) If rent and other amounts are received by the commissioner under this section—
- (a) the rent and other amounts must be applied against—
 - (i) the expenses of the lease necessarily incurred by the commissioner; and
 - (ii) the rates payable for the land; and
 - (iii) the land tax payable for the land; and
 - (iv) any other expenses incurred by the commissioner in relation to the parcel; and
 - (b) any remaining rent and other amounts received belongs to anyone who, at the time it is received, would have been entitled to receive it if the parcel had not been in the commissioner's possession.
- (5) In this section:
- expenses*, of a lease, includes expenses incidental to the lease and the collection of rent under the lease.

25 Entitlement to possession of land held by commissioner

- (1) This section does not apply to a parcel of land sold under section 26.
- (2) A person who, apart from section 24, would be entitled to the parcel may, within 16 years after the day the commissioner takes possession of the parcel—
 - (a) inspect the accounts kept under section 24; and
 - (b) ask the commissioner to put the person in possession of the parcel.
- (3) On request under subsection (2), the commissioner must put the person in possession of the parcel—
 - (a) if rates, land tax or both are payable for the parcel—on payment by the person of the amount payable; and
 - (b) if the parcel is subject to a lease made by the commissioner under section 24—subject to the lease.
- (4) If no-one is put in possession of the parcel under this section within 16 years after the day the commissioner takes possession of the parcel—
 - (a) the parcel vests absolutely in the Commonwealth; and
 - (b) rent and any other amounts received by the commissioner in relation to the land vest in the Territory.

26 Sale of land for nonpayment of rates

- (1) This section applies if—
 - (a) a parcel of land is held by the owner under a lease from the Commonwealth for a term of years; and
 - (b) the commissioner has complied with section 23 (Notice of rates in arrears) in relation to the parcel; and

- (c) rates payable for the parcel are in arrears for at least 1 year after the day of notification under section 23 in relation to the parcel.
- (2) The commissioner may apply to a court of competent jurisdiction for an order for the sale of all or part of the parcel.

Example

The commissioner has given notice and made a declaration under section 23 in relation to a parcel of land held under lease from the Commonwealth. If the parcel is unoccupied, the commissioner may take action under section 24 to lease the parcel or, if the rates are in arrears for at least 1 year after the day of notification of the declaration, make an application under this section for an order for sale. The option to lease would not be available if the property were occupied.

Note 1 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Note 2 A single application form may be approved for this section and the *Land Tax Act 2004*, s 24 (see Legislation Act, s 255 (7)).

- (3) In the application, the commissioner may ask that the proceeds of the sale also be applied in paying the total amount of any rates, land rent or land tax in arrears for 1 or more related parcels of land stated in the application.
- (4) If the court is satisfied that this section applies to the parcel, the court must—
 - (a) order the sale by public auction of the parcel, or as much of the parcel as will be sufficient to pay the total of the following:
 - (i) the total amount of rates in arrears for the parcel at the time the court makes the order;
 - (ii) the total amount of any land tax in arrears for the parcel at the time the court makes the order;
 - (iii) costs and expenses in relation to the declaration, application and sale in relation to the parcel;

- (iv) if the commissioner has made a request mentioned in subsection (3) in the application in relation to another parcel of land and the court is satisfied that the parcel is a related parcel of land—the total amount of any rates, land rent or land tax in arrears for the other parcel, at the time the court makes the order; and
 - (b) order that the proceeds be paid into court; and
 - (c) order that the title to the parcel be transferred to the purchaser free from mortgages and other encumbrances.
- (5) The proceeds of the sale are to be applied in the following order:
 - (a) first, the commissioner is entitled to be paid the total of the amounts mentioned in subsection (4) (a) (i) to (iii);
 - (b) second, a person who was a mortgagee of the parcel before the sale is entitled to be paid the amount owing to the person under the mortgage (or, if that amount is more than the amount of any remaining proceeds, the remaining proceeds);
 - (c) third, subject to subsection (9), the commissioner is entitled to be paid the total of amounts to which subsection (4) (a) (iv) applies (or, if that amount is more than the amount of any remaining proceeds, the remaining proceeds);
 - (d) finally, subject to subsection (10), the person who was the owner of the parcel before the sale is entitled to be paid any balance.
- (6) The commissioner must be paid out of court any amounts to which the commissioner is entitled under subsection (5) without a court order.
- (7) If a person who was the owner or mortgagee of the parcel before the sale hands over to the court the certificate or other title to the parcel, the person must be paid out of court any amount to which the person is entitled under subsection (5) without a court order.

- (8) If there were 2 or more mortgagees of the parcel before the sale, the court may make the orders about their respective entitlements that the court considers just.
- (9) On application by a person who has an interest in the land otherwise than as owner or mortgagee, the court may order that the person is entitled to be paid the value of the person's interest (as decided by the court) in priority to the commissioner's entitlement under subsection (5) (c).
- (10) On application by any other interested person, the court may order payment out of court of all or part of any balance to a person other than the person who was the owner before the sale if the court considers it just to do so.
- (11) Any sale of the parcel or a part of the parcel under this section must be abandoned if the owner pays—
 - (a) the total rates in arrears for the parcel at the time of the payment; and
 - (b) the total of any land tax in arrears for the parcel at the time of the payment; and
 - (c) the costs and expenses incurred up to the time of payment in relation to the declaration, application and sale in relation to the parcel; and
 - (d) the costs and expenses reasonably incurred in relation to the abandonment of the sale; and
 - (e) if the commissioner has made a request under subsection (3) in the application in relation to 1 or more related parcels of land—the total amount of any rates or land tax in arrears for the related parcel or parcels at the time of the payment.

Example for par (d)

advising the public that an auction has been cancelled

- (12) In this section:

related—a parcel of land is a *related* parcel of land in relation to another parcel of land if—

- (a) the parcels have the same owner; and
- (b) the commissioner has complied with section 23 in relation to them.

27 Application may relate to more than 1 parcel

- (1) The commissioner may make a single application under section 26 in relation to more than 1 parcel of land even if—
 - (a) the parcels belong to different owners; or
 - (b) the notices under section 23 (Notice of rates in arrears) for the parcels were given at different times.
- (2) If the commissioner makes an application in relation to 2 or more parcels of land, the following provisions apply:
 - (a) if the parcels or 2 or more of them have the same owner—the court may, on application by the commissioner, make a single order under section 26 in relation to all of those parcels;
 - (b) the court may make the orders about apportionment of rates and land tax, and any other amounts payable, that the court considers just;
 - (c) if the court makes an order under paragraph (a)—the court may, on application by the commissioner, also make any consequential or ancillary orders that the court considers appropriate.

Note The application may include an application under the *Land Tax Act 2004*, s 24 in relation to the parcel (see Legislation Act, s 49).

Part 5 Unit subdivisions

Division 5.1 Application of Act to unit subdivisions

28 Unit subdivisions

- (1) For this Act, if a parcel of land is a unit subdivision, the land making up the parcel is taken to continue to be a single parcel of land.

Example

A determination of the unimproved value of a parcel of land that is a unit subdivision is a determination of the unimproved value of the parcel.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) However, in the application of this Act to a unit subdivision—
- (a) a reference to a parcel of land in relation to the assessment or payment of rates is a reference to a unit; and
 - (b) a reference to the owner is—
 - (i) in relation to the assessment or payment of rates—a reference to the unit owner; and
 - (ii) in relation to a notice of transfer—a reference to the unit owner; and
 - (iii) in relation to any other notice—a reference to the owners corporation.

29 Unit subdivisions—rates

- (1) This section applies to a parcel of land that is a unit subdivision.
- (2) If rates imposed for the parcel for the year when the units plan is registered are not paid before registration of the units plan, they are

payable by the person who was the owner of the parcel on the day before the day when the units plan was registered.

- (3) On and after 1 July after the day when the units plan is registered or, if it is registered on 1 July, on and after that 1 July—
- (a) the rates imposed for the parcel are payable by the unit owners; and
 - (b) the amount payable by each unit owner is the amount worked out under subsection (5); and
 - (c) no rates for the parcel are payable by the owners corporation.
- (4) Rates are imposed on a unit that is part of a unit subdivision as if a reference to a parcel of land were a reference to the unit.
- (5) In working out the rates payable for the unit, the average unimproved value of the unit is the amount worked out in accordance with the following formula:

$$\frac{UE}{TUE} \times AUV$$

- (6) In subsection (5):

AUV means the average unimproved value of the parcel.

TUE means the unit entitlement of all the units in the units plan.

UE means the unit entitlement of the unit.

Division 5.2 Certain proposed unit subdivisions

30 Definitions for div 5.2

In this division:

eligible parcel of land means a parcel of rateable land for which the lease of the parcel allows development of the parcel for residential and commercial purposes.

qualifying development application, for an eligible parcel of land, means an application under section 31 (2) for the parcel.

qualifying development determination, for an eligible parcel of land, means a determination under section 32 for the parcel.

qualifying parcel of land means a parcel of land to which this division applies because of section 35.

variation, of a lease, includes—

- (a) amendment of the lease; and
- (b) surrender and regrant of the lease.

31 Application by owner of eligible parcel of land

- (1) The owner of an eligible parcel of land may apply to the commissioner for the parcel to be dealt with under this division if the owner intends—
 - (a) to develop the land partly for residential purposes and partly for commercial purposes; and
 - (b) to apply for subdivision of the developed land under the Unit Titles Act.

Note 1 If a form is approved under the Taxation Administration Act, s 139C for the application, the form must be used.

Note 2 A fee may be determined under s 78 for this section.

- (2) The application must—
 - (a) be in writing and signed by the owner of the parcel of land; and
 - (b) identify the parcel of land; and
 - (c) specify, in relation to the intended development—
 - (i) the parts that are intended to be used for residential purposes; and

- (ii) the parts that are intended to be used for commercial purposes.
- (3) The application must be accompanied by—
 - (a) any draft or approved plans relating to the intended development; and
 - (b) a copy of the lease of the parcel of land.

32 Determination of percentages of residential and commercial parts of development

- (1) This section applies if the commissioner has received—
 - (a) a qualifying development application for an eligible parcel of land; and
 - (b) any information and documents requested by the commissioner in relation to the application.
- (2) The commissioner must determine—
 - (a) the percentage of the intended development that is to be used for commercial purposes; and
 - (b) the percentage of the intended development that is to be used for residential purposes.
- (3) The commissioner must determine the percentage of the intended development that is to be used for commercial purposes to be—
 - (a) the percentage of the total development of the parts identified in the application as parts intended to be used for commercial purposes; or
 - (b) the percentage of the intended development that the commissioner considers can be developed for commercial purposes in accordance with the lease, if the commissioner believes, on reasonable grounds—

- (i) that the development in accordance with the percentage identified from the application would contravene the lease of the parcel; or
 - (ii) that the percentage was not identified honestly.
- (4) The commissioner must determine the percentage of the intended development that is to be used for residential purposes to be 100% less the percentage determined to be used for commercial purposes.
- (5) The commissioner may redetermine a percentage determined under this section if the commissioner considers it justified because of further information or documents received by the commissioner in relation to the parcel.
- (6) The commissioner must give written notice to the owner of the parcel of a determination under this section in relation to the parcel.

33 Variation of lease or change of intention

- (1) This section applies if, after a qualifying development application has been made for an eligible parcel of land—
 - (a) a variation of the lease changes the maximum development for commercial purposes permitted by the lease of the parcel; or
 - (b) the applicant's intention changes about—
 - (i) the parts of the intended development to be used for residential purposes; and
 - (ii) the parts of the intended development to be used for commercial purposes.
- (2) Within 2 weeks after the day the variation or change of intention happens, the applicant must give written notice of the variation or change to the commissioner.

Note If a form is approved under the Taxation Administration Act, s 139C for the notice, the form must be used.

- (3) The commissioner may, in writing, ask the applicant to give the commissioner any information or documents that the commissioner reasonably needs about the variation or change of intention.
- (4) The applicant must comply with a request within 2 weeks after the day the applicant receives it or, if the commissioner allows a longer period, the longer period.
- (5) The applicant commits an offence if the applicant contravenes subsection (2).

Maximum penalty: 50 penalty units.

- (6) An offence against subsection (5) is a strict liability offence.
- (7) Subsection (2) does not apply to the applicant if a notice of a kind mentioned in section 36 (2) or section 37 (2) has been given for the parcel by the applicant.

34 Imposition of rates—qualifying parcels of land

- (1) This section applies to a parcel of land if—
 - (a) it is a qualifying parcel of land; and
 - (b) it has an average unimproved value more than the threshold amount.
- (2) In its application to the imposition of rates to the parcel of land, section 14 has effect as if subsections (3) and (4) of this section were substituted for section 14 (2) and (3).
- (3) Rates are imposed for a parcel of land to which section 34 applies in accordance with the following formula:

$$[(FCC \times CP) + (FCR \times RP)] + [(AUV - TA) \times (\{CP \times PC\} + \{RP \times PR\})]$$

- (4) In this section:

AUV means the average unimproved value of the parcel.

CP means the percentage, as determined under section 32, of the intended development that is to be used for commercial purposes.

FCC means the fixed charge determined under the Taxation Administration Act, section 139 for the parcel as commercial land.

FCR means the fixed charge determined under the Taxation Administration Act, section 139 for the parcel as residential land.

PC means the percentage rate determined under the Taxation Administration Act, section 139 for a parcel of commercial land.

PR means the percentage rate determined under the Taxation Administration Act, section 139 for a parcel of residential land.

RP means the percentage, as determined under section 32, of the intended development that is to be used for residential purposes

TA or *threshold amount* means the threshold amount determined under the Taxation Administration Act, section 139 for the parcel.

35 When div 5.2 applies to parcel of land

If the commissioner makes a qualifying development determination for a parcel of land—

- (a) this division applies to the parcel; and
- (b) this division is taken to have begun to apply to the parcel on the 1st day when, under the current lease of the land, the parcel became an eligible parcel of land.

36 End of application of div 5.2

- (1) This division stops applying to a parcel of land on the happening of any of the following days:
 - (a) if the parcel is subdivided under the Unit Titles Act—the day after the end of the financial year when the subdivision happens;

- (b) if the owner of the land does not apply under the Unit Titles Act, part 3 within 30 days beginning on the day when a certificate of occupancy under the *Building Act 2004* is issued for the development, or within any longer period that the commissioner allows, for the subdivision of the land under the Unit Titles Act—the 1st day after the end of the 30 day period or the longer period;
 - (c) if the land is not subdivided under the Unit Titles Act within 1 year beginning on the day the application (or, if there is more than 1 application, the 1st application) mentioned in paragraph (b) was made, or within any longer period that the commissioner allows—the 1st day after the end of the 1 year period or the longer period;
 - (d) if there is a variation of the lease, so that the development of the land partly for residential and partly for commercial purposes is no longer permitted—the day the change happens;
 - (e) if development of the land for subdivision under the Unit Titles Act is abandoned—the day it is abandoned.
- (2) This division also stops applying to a parcel of land if—
- (a) the qualifying development application for the parcel of land is withdrawn by the applicant by written notice to the commissioner; or
 - (b) the commissioner gives notice to the applicant that the application is to be treated as withdrawn.
- (3) For subsection (3), this division stops applying to the parcel on the day the notice is given.

37 Notice of end of application of div 5.2

- (1) This section applies if, after a qualifying development application is made for a parcel of land, a circumstance of a kind mentioned in section 36 (1) happens in relation to the parcel.

- (2) Within 2 weeks after the day the circumstance happens, the owner of the land must give the commissioner written notice of the circumstance.
- (3) The notice must—
 - (a) identify the owner and the parcel; and
 - (b) state the circumstance and the date it happened.
- (4) A person commits an offence if—
 - (a) the person is the owner of a parcel of land; and
 - (b) a circumstance mentioned in section 36 (1) happens in relation to the parcel; and
 - (c) the person fails to give notice under subsection (2).

Maximum penalty: 50 penalty units.

- (5) An offence against subsection (4) is a strict liability offence.
- (6) This section applies whether or not a qualifying development determination has been made in relation to the parcel.

38 Transfer of lease

- (1) This section applies if—
 - (a) a qualifying development application has been made for a qualifying parcel of land, whether or not a qualifying development determination has been made for the parcel; and
 - (b) the lessee (the *transferor*) of the lease of the land transfers the lease to someone else (the *transferee*).
- (2) Within 2 weeks after the day when the transferor transfers the lease, the transferor must give the commissioner written notice of the transfer that complies with subsection (3).
- (3) The notice must—

- (a) identify the land; and
 - (b) state the name and address of the transferee; and
 - (c) state that the lease of the land has been transferred; and
 - (d) state the date of the transfer.
- (4) The transferor commits an offence if the transferor contravenes subsection (2).
- Maximum penalty: 50 penalty units.
- (5) An offence against subsection (4) is a strict liability offence.
- (6) Subsection (2) does not apply to the transferor if a notice of a kind mentioned in section 36 (2) or 37 (2) is given for the parcel by the applicant.

39 Reassessment—completion of development

- (1) This section applies if—
- (a) the commissioner has prepared an assessment of rates payable in relation to a qualifying parcel of land for a period; and
 - (b) before the end of the period the land stops being 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 commercial purposes are different from the percentages determined by a qualifying development determination for the parcel.
- (2) The commissioner must—
- (a) redetermine the percentages under section 32 (5); and
 - (b) reassess the amount of rates payable for the parcel for the whole period when the land was a qualifying parcel.

40 Reassessment—noncompletion of development

- (1) This section applies if—
 - (a) the commissioner has made an assessment of rates (the *previous rates assessment*) for a qualifying parcel of land for a period; and
 - (b) before the end of the period—
 - (i) the parcel stops being a qualifying parcel because of the happening of a circumstance mentioned in section 36 (1) (b) or (c) or the giving of a notice under section 36 (2); or
 - (ii) the commissioner is satisfied that the parcel has stopped being a qualifying parcel because of a circumstance mentioned in section 36 (1) (d) or (e).
- (2) The commissioner must reassess the amount of rates payable for the parcel for the period when the parcel was a qualifying parcel for—
 - (a) the period when the previous rates assessment was made; or
 - (b) if there has been more than 1 assessment—the period equal to both or all of the periods for which assessments were made.
- (3) The reassessment must be on the basis that the parcel is not, and was never, a qualifying parcel.

Part 6 Exemptions, remissions and certain interest payments

41 Exemption from rates

- (1) The Minister may, in writing, exempt the owner of a parcel of land from payment of rates owing for any period in relation to the parcel of land, or from payment of a stated part of the rates.

- (2) An exemption is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

- (3) The Minister may make guidelines for the exercise of a function under this section.

- (4) Guidelines are a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

42 Remission of rates

- (1) The Minister may remit the rates, or a part of the rates, payable for a parcel of land if the Minister is satisfied that it is fair and reasonable in the circumstances.

- (2) The Minister may make guidelines for the exercise of a function under this section.

- (3) Guidelines are a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

43 Remission of interest

- (1) The commissioner may remit all or part of an amount of interest payable by a person in relation to rates if the commissioner is satisfied that it is fair and reasonable having regard to—
 - (a) any circumstances that contributed to the delay in payment of the rates; or
 - (b) any other relevant matter.
- (2) The Minister may make guidelines for the exercise of a function under this section.
- (3) Guidelines are a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (4) In this section:

rates includes an amount for which a person is indebted to the Territory because of a determination under division 7.2 (Deferral of rates).

44 Interest on refund

- (1) This section applies if the commissioner is satisfied that—
 - (a) an assessment of rates payable for a parcel of land has been wrongly made because of an administrative error; and
 - (b) because of the error, a person has overpaid rates for the parcel.
- (2) The commissioner may pay interest to the owner of the parcel—
 - (a) at the market rate component determined under the Taxation Administration Act, section 26; and
 - (b) worked out from the date when the overpayment was made or a later date the commissioner considers appropriate.

Part 7 **Deferral and rebates**

Division 7.1 **Interpretation for pt 7**

45 **Definitions for pt 7**

deferral determination means a determination under section 46 (Determination for deferral of rates on application) or section 47 (Determination for deferral of rates without application), and includes a deferral determination as amended under section 50.

domestic relationship—see the *Domestic Relationships Act 1994*, section 3.

eligible person means—

- (a) a pensioner; or
- (b) a non-pensioner who is the partner of a special rate pensioner and is not separated from the pensioner; or
- (c) a non-pensioner who—
 - (i) was the partner of a special rate pensioner until the pensioner's death; and
 - (ii) was not separated from the pensioner immediately before the death; and
 - (iii) has not subsequently formed a partnership with someone else; or
- (d) a special disability trust.

owner, of a parcel of land—

- (a) means—
 - (i) for a parcel held under a lease—the lessee (or, if 2 or more people are lessees, each lessee); or

- (ii) for a parcel held under a lease in trust for the beneficiary of a special disability trust—the special disability trust; or
 - (iii) for a parcel of land held in fee simple—the person in whom the fee simple is vested (or, if it is vested in 2 or more people, each person in whom it is vested); and
- (b) for division 7.3 (Rebate of rates), includes someone who—
- (i) has a life interest, or an interest for a term of years, in the parcel under a will or court order; and
 - (ii) is liable under the will or court order for rates for the parcel.

partner—a person's **partner** is either of the following:

- (a) the person's spouse or civil partner;
- (b) someone with whom the person has a domestic relationship.

partnership means the partnership between 2 partners.

pensioner means—

- (a) a person to, or for whom, a pension, allowance or benefit is being paid under the *Social Security Act 1991* (Cwlth) and who has been given a pensioner concession card under that Act; or
- (b) a service pensioner within the meaning of the *Veterans' Entitlements Act 1986* (Cwlth); or
- (c) a person who has been given a card or other written authority by the Commonwealth that evidences the person's eligibility under the *Veterans' Entitlements Act 1986* (Cwlth) or the *Military Rehabilitation and Compensation Act 2004* (Cwlth) to be given treatment for all injuries suffered, and all diseases contracted, by the person; or

- (d) a person who is (or was) in a partnership who would be eligible as a pensioner mentioned in paragraph (a) because of that partnership if the person's partner were (or had been) the person's partner within the meaning of the *Social Security Act 1991* (Cwlth), section 4; or
- (e) a person who is (or was) in a partnership who would be eligible as a pensioner mentioned in paragraph (b) because of that partnership if the person's partner were (or had been) the person's partner within the meaning of the *Veterans' Entitlements Act 1986* (Cwlth), section 5E; or
- (f) a person who—
 - (i) was in a partnership until the death of the person's partner; and
 - (ii) would be eligible under the *Veterans' Entitlements Act 1986* (Cwlth), section 86 to be given treatment mentioned in paragraph (c) because of the partner's death if the person were the partner's dependant within the meaning of that Act, section 11; or
- (g) a person who—
 - (i) was in a partnership until the death of the person's partner; and
 - (ii) would be eligible under the *Military Rehabilitation and Compensation Act 2004* (Cwlth), section 284 (1) to be given treatment mentioned in paragraph (c) because of the partner's death if the person were the partner's wholly dependant partner within the meaning of that Act, section 5.

Note for par (d), (e), (f) and (g)

This Act, def **partner** and def **partnership** apply to spouses and civil partners, but also extend to unmarried partners (irrespective of their sex) in **domestic relationships** within the meaning of the *Domestic Relationships Act 1994*, s 3. From 1 July 2009, the *Military Rehabilitation and*

Compensation Act 2004 (Cwlth), s 5, def **partner** and def **wholly dependent partner**, the *Social Security Act 1991* (Cwlth), s 4, def **partner** and the *Veterans' Entitlements Act 1986* (Cwlth), s 5E, def **partner** and s 11, def **dependant** apply to partners (or former partners) irrespective of their sex.

rebate means a rebate under division 7.3.

special disability trust—see the *Social Security Act 1991* (Cwlth), section 1209L.

special rate pensioner means a pensioner—

- (a) who is being paid a pension under the *Veterans' Entitlements Act 1986* (Cwlth), part 2 and to whom that Act, section 24 applies; or
- (b) who—
 - (i) is being paid a special rate disability pension under the *Military Rehabilitation and Compensation Act 2004* (Cwlth), chapter 4, part 6; or
 - (ii) is eligible, under that Act, section 199, to make a choice under that Act, chapter 4, part 6.

Division 7.2 Deferral of rates

46 Determination for deferral of rates on application

- (1) The owner of a parcel of land may apply to the commissioner for a determination deferring payment of rates payable for the parcel.

Note If a form is approved under the Taxation Administration Act, s 139C for the application, the form must be used.

- (2) The commissioner must make the determination if satisfied—
 - (a) that the owner is a pensioner or, if there are 2 or more owners, each owner is a pensioner; or
 - (b) that the owner is a special disability trust; or

- (c) if the owner, or each owner, is not a pensioner—that payment of the total amount of rates payable or to become payable is likely to cause substantial hardship to the owner or each owner; or
 - (d) that the owners are a pensioner and his or her partner who is not a pensioner; or
 - (e) for an application made by a pensioner who is a joint owner—that no other owner of the parcel can reasonably contribute to the payment of rates for the parcel.
- (3) The determination may do either or both of the following:
- (a) defer the obligation of the owner or an owner to pay all or part of the total amount of rates payable for the parcel as at the date of the determination;
 - (b) defer the obligation of the owner or an owner to pay all or part of each amount of rates to become payable for the parcel while the determination is in force.
- (4) If the commissioner makes a determination, the commissioner must give a copy of the determination to the person to whom it relates.
- Note* For how documents may be served, see the Legislation Act, pt 19.5.
- (5) However, the commissioner may make a determination only if—
- (a) the lease under which the parcel is held permits the parcel to be used only for residential purposes; and
 - (b) each applicant ordinarily lives on the parcel.
- (6) Despite subsection (5), the commissioner may make a determination in relation to 1 or more joint owners of a parcel (but not by all the joint owners) even if each owner does not ordinarily live on the parcel, if—
- (a) the applicant is an owner who ordinarily lives on the parcel; and

- (b) the commissioner is satisfied that it is appropriate to make the determination.
- (7) To remove any doubt, the owner of a parcel of land who has received a rebate for rates under division 7.3 may make an application under this section.
- (8) In subsection (5), the reference to an applicant is, if the applicant is a special disability trust, a reference to the trust beneficiary.

47 Determination for deferral of rates without application

- (1) The commissioner may, at any time on the commissioner's own initiative, make a determination deferring payment of rates payable by the owner or an owner for a parcel of land if the commissioner is satisfied that there are exceptional circumstances justifying the deferral.
- (2) The determination may do either or both of the following:
 - (a) defer the obligation of the owner or an owner to pay all or part of the total amount of rates payable for the parcel as at the date of the determination;
 - (b) defer the obligation of the owner or an owner to pay all or part of each amount of rates to become payable for the parcel while the determination is in force.
- (3) If the commissioner makes a determination, the commissioner must give a copy of the determination to the person to whom it relates.

Note For how documents may be served, see the Legislation Act, pt 19.5.
- (4) However, the commissioner may make the determination only if—
 - (a) the lease under which the parcel is held permits the parcel to be used only for residential purposes; and
 - (b) if the owner does not ordinarily live on the parcel—

- (i) the owner is living elsewhere because of the exceptional circumstances; and
 - (ii) the owner has not entered into a tenancy agreement in relation to the parcel.
- (5) If the owner of the parcel of land is a special disability trust—
 - (a) a reference to the owner (first and second occurring) in subsection (4) (b) is taken to be a reference to the trust beneficiary; and
 - (b) a reference to the owner in subsection (4) (b) (ii) is taken to be a reference to the trust.
- (6) In this section:
 - tenancy agreement*, in relation to a parcel of land—
 - (a) means an agreement under which a person grants to someone else for value a right of occupation of the parcel of land, or any part of it (including any building on it), for use as a residence—
 - (i) whether or not the right of occupation is exclusive; and
 - (ii) whether the agreement is express or implied; and
 - (iii) whether the agreement is in writing, is oral, or is partly in writing and partly oral; but
 - (b) does not include an agreement giving a right of occupation only as a boarder or lodger.
- (7) To remove any doubt, the commissioner may make a determination under this section in relation to a parcel of land even though the owner of the parcel has received a rebate for rates under division 7.3.

48 Effect of deferral determination

- (1) If a deferral determination defers a person's obligation to pay all or part of the total amount of rates payable for a parcel of land as at the date of the determination—
 - (a) the person's obligation to pay the rates is reduced in accordance with the determination; and
 - (b) the person becomes indebted to the Territory for the amount by which the obligation is reduced.
- (2) If a deferral determination defers a person's obligation to pay all or part of each amount of rates to become payable while the determination is in force—
 - (a) immediately after each amount of rates becomes payable, the person's obligation to pay the amount of rates is reduced in accordance with the determination; and
 - (b) the person becomes indebted to the Territory for the amount by which the obligation is reduced.
- (3) A person who becomes indebted to the Territory for an amount under this section must pay interest on the amount at the market rate component determined under the Taxation Administration Act, section 26.
- (4) Interest is payable on the amount from the date of deferral of the obligation to pay the amount until the earlier of—
 - (a) the day the amount is paid; and
 - (b) the day the deferral determination is revoked.
- (5) For subsection (4), the date of deferral of the obligation to pay an amount is—
 - (a) for an amount payable at the date of the deferral determination—that date; or

- (b) for an amount deferred after the date of the determination—the date when, if the determination had not been made, interest would begin to be payable on the amount under section 21 (Interest payable on overdue rates).

49 Deferred amount not recoverable if determination in force

If a person is indebted to the Territory for an amount because of a deferral determination, the amount is not recoverable by the Territory while the determination is in force.

50 Amendment of deferral determination

- (1) The commissioner may, at any time, amend a deferral determination.
- (2) The commissioner may increase an amount deferred if the commissioner is satisfied that the amendment is necessary to avoid substantial hardship to the person whose obligation is deferred under the determination.
- (3) The commissioner may reduce an amount deferred if the commissioner is satisfied that the amendment is not likely to cause substantial hardship to the person whose obligation is deferred under the determination.

51 Revocation of deferral determination—payment of debt and on request

The commissioner must revoke a deferral determination in relation to a person if—

- (a) the amount for which the person is indebted to the Territory because of the determination is paid to the commissioner to discharge the debt; or
- (b) if the determination was made under section 46 (Determination for deferral of rates on application)—the person asks the commissioner in writing to revoke the determination.

52 Additional grounds for revocation of deferral determination

- (1) Each of the following circumstances is a ground for revocation of a deferral determination made under section 46 (Determination for deferral of rates on application) in relation to a parcel of land:
- (a) if each person to whom the determination relates was a pensioner when the determination was made—each person stops being a pensioner;
 - (b) if the determination relates to 2 or more people, each of whom was a pensioner when the determination was made—
 - (i) 1 or more, but not all of them, stops being a pensioner; and
 - (ii) the revocation of the determination is not likely to cause substantial hardship to them;
 - (c) if each person to whom the determination relates was not a pensioner when the determination was made—the revocation of the determination is not likely to cause substantial hardship to a person to whom the determination relates;
 - (d) a person to whom the determination relates fails to comply with a request under section 58 (Information about deferral determination);
 - (e) each person to whom the determination relates who ordinarily lived on the parcel when the application for the determination was made has stopped ordinarily living on the parcel;
 - (f) each person to whom the determination relates has stopped being an owner of the parcel.

- (2) Each of the following circumstances is a ground for revocation of a deferral determination made under section 47 (Determination for deferral of rates without application) in relation to a parcel of land:
- (a) each person to whom the determination relates has stopped being an owner of the parcel;
 - (b) the owner has entered into a tenancy agreement in relation to the parcel;
 - (c) the circumstances in relation to which the determination was made no longer exist or have changed.
- (3) In this section:
- tenancy agreement*, in relation to a parcel of land—see section 47 (6).

53 Notice of proposed revocation on additional grounds

- (1) If the commissioner considers that a ground mentioned in section 52 exists for revocation of a deferral determination, the commissioner may give written notice to the person to whom the determination relates of his or her intention to revoke the determination.

Note For how documents may be served, see Legislation Act, pt 19.5.

- (2) The notice must state the ground for revocation.
- (3) However, if a deferral determination relates to 2 or more people as owners (whether jointly or as tenants in common) of a parcel of land and 1 of them dies, the commissioner must not give notice only on the ground mentioned in section 52 (1) (e) or (f) or (2) (a).

54 Revocation of deferral determination on grounds

- (1) The commissioner may revoke a deferral determination on a ground mentioned in section 52 if notice has been given under section 53 in relation to the ground.

- (2) However, the commissioner must not revoke a determination made under section 46—
- (a) within the time when a person may object to the decision that the ground exists; or
 - (b) if the person has objected to the decision, until—
 - (i) the objection is decided; and
 - (ii) either—
 - (A) the period for applying under the *ACT Civil and Administrative Tribunal Act 2008* for review of the decision has ended and no application has been made; or
 - (B) an application has been made and the ACAT has completed the review.

55 Recovery of deferred amounts

- (1) This section applies if the commissioner revokes a deferral determination.
- (2) The amount to which a person is indebted to the Territory because of the determination is payable by the person to the Territory on the day immediately after the day the determination is revoked.

Note An amount owing under a law is recoverable as a debt in a court of competent jurisdiction (see Legislation Act, s 177).

- (3) However, if the commissioner declares that the amount may be paid in stated instalments, the amount of each instalment is payable to the Territory on the day stated in the declaration.

Note A declaration may be included in the revocation (see Legislation Act, s 49 (Single instrument may exercise several powers or satisfy several requirements)).

- (4) Despite subsection (3), if the person to whom the determination relates stops being an owner of the parcel of land to which the determination relates (other than because of the person's death) any balance of an amount to be paid in instalments is payable on the day immediately after the day the person stops being an owner.

56 Interest payable after revocation of deferral determination

- (1) Interest is payable on an unpaid amount payable under section 55.
- (2) Interest on the unpaid amount is worked out in the same way as interest on overdue rates is worked out under section 21.
- (3) The Taxation Administration Act, section 25 (Interest in relation to tax defaults) does not apply to the unpaid amount.

57 Memorandum of discharge

- (1) This section applies if a deferral determination is registered under the *Land Titles Act 1925*.
- (2) The commissioner must give the registrar-general a memorandum of discharge if—
 - (a) all amounts to which a person is indebted to the Territory because of the determination are paid to the Territory; or
 - (b) the commissioner is satisfied that it is justified in the circumstances.
- (3) If the registrar-general is given a memorandum of discharge, the registrar-general must register the memorandum.

58 Information about deferral determination

- (1) If a deferral determination is in force in relation to a person for a parcel of land, the commissioner may ask the person for information about the parcel or the means and income of the person.
- (2) The person must give the commissioner the information asked for.

59 Notice of revocation

If the commissioner revokes a deferral determination, the commissioner must give the person to whom the determination relates a copy of the revocation.

Note For how documents may be served, see Legislation Act, pt 19.5.

Division 7.3 Rebate of rates

60 Meaning of *liability for rates* for div 7.3

- (1) A reference in this division to an eligible person's *liability for rates* for a parcel of land for a year is—
- (a) for a person who is the sole owner of the parcel—a reference to the amount of rates payable by the person for the parcel for the year; and
 - (b) for a person who is a joint owner of the parcel—a reference to the part of the rates payable by the owners for the parcel for the year—
 - (i) if the parcel is held by the owners as tenants in common—that is proportional to the person's interest in the land; and
 - (ii) if the parcel is held by the owners as joint tenants—that would be proportional to the person's interest in the land if the joint tenants were tenants in common in equal shares.

- (2) However, if an eligible person is a joint owner of a parcel of land and 1 or more of the other joint owners cannot reasonably contribute to the payment of rates for the parcel for the year, a reference in this division to the person's *liability for rates* for the parcel for the year is taken to be—
- (a) if no other joint owner can reasonably contribute to the payment of the rates—a reference to the rates payable for the land; or
 - (b) if the rates are to be paid by 2 or more of the joint owners—a reference to so much of the rates payable by the person for the parcel as would be payable if the joint owners paying the rates—
 - (i) were the sole owners of the land as tenants in common in equal shares; and
 - (ii) the value of their interests in the land were increased proportionately.
- (3) A reference in subsection (2) to *rates payable* is a reference to rates payable apart from this division.

61 Application for rebate

- (1) A person may apply to the commissioner for a rebate under this division.
- (2) The application must—
- (a) be in writing signed by the applicant; and
 - (b) include a statement of particulars in support; and

- (c) include a statement signed by the applicant authorising any entity chosen by the commissioner to disclose relevant information about the applicant to the commissioner for the purpose of deciding the application.

Note If a form is approved under the Taxation Administration Act, s 139C for the application, the form must be used.

- (3) The commissioner may ask the applicant for additional information or documents that the commissioner reasonably needs to decide the application.
- (4) The applicant must give the commissioner the information or documents asked for.

62 No entitlement for past years

A person is not entitled to a rebate under this division for rates for any year before the year when the person applies for the rebate.

63 Rebate of rates—uncapped

- (1) This section applies to a person if the person has been an eligible person continuously, and has been an owner of the same parcel of land, since 30 June 1997.
- (2) This section also applies to a person if—
- (a) the person has been an eligible person continuously since 30 June 1997; and
 - (b) the person has changed his or her principal place of residence since 30 June 1997; and
 - (c) each principal place of residence of the person since 30 June 1997 has been a parcel of land owned by the person (an *eligible place of residence*); and
 - (d) no period since 30 June 1997 between the person's occupation of an eligible place of residence and the next is longer than 6 months or any longer period approved by the commissioner.

- (3) The person is, on application to the commissioner under section 61, entitled to a rebate of the person's liability for rates for a parcel of land for a year if—
- (a) this section applies to the person in the year; and
 - (b) the parcel is the person's principal place of residence for all or part of the year.
- (4) The commissioner may approve a longer period for subsection (2) (d) if satisfied that it is justified in the circumstances.
- (5) The amount of rebate is the amount worked out using the formula:

$$\frac{RL}{2} \times \frac{D}{\text{days in year}}$$

- (6) In this section:

D means the number of days in the year when the parcel is the person's principal place of residence.

rates, for the year, includes any rates deferred under a deferral determination.

RL means the amount of the person's liability for rates for the parcel for the year.

64 Rebate of rates—capped

- (1) This section applies to a person if—
- (a) the person is an eligible person; but
 - (b) section 63 does not apply to the person.
- (2) The person is entitled, on application to the commissioner under section 61, to a rebate of the person's liability for rates for a parcel of land for a year if—
- (a) this section applies to the person in the year; and

- (b) the parcel is the person's principal place of residence for all or part of the year.
- (3) The amount of rebate is the lesser of—
 - (a) the rebate cap; and
 - (b) the amount worked out using the formula:

$$\frac{RL}{2} \times \frac{D}{\text{days in year}}$$

- (4) If the person is a joint owner of the parcel, the reference to the **rebate cap** in subsection (3) (a) is a reference to the part of the rebate cap—
 - (a) if the parcel is held by the owners as tenants in common—that is proportional to the person's interest in the land; and
 - (b) if the parcel is held by the owners as joint tenants—that would be proportional to the person's interest in the land if the joint tenants were tenants in common in equal shares.
- (5) In subsection (2), if the person is a special disability trust, the condition in subsection (2) (b) will be satisfied if the parcel is the trust beneficiary's principal place of residence for all or part of the year.
- (6) In this section:

D means the number of days in the year when the parcel is the person's principal place of residence.

rates, for the year, includes any rates deferred under a deferral determination.

rebate cap means the rebate cap determined under the Taxation Administration Act, section 139.

RL means the amount of the person's liability for rates for the parcel for the year.

65 Rebates and deferred liability

- (1) This section applies if—
 - (a) a person's liability for part of the person's rates for a parcel of land for a year has been deferred under a deferral determination; and
 - (b) the person has applied for, and is entitled to, a rebate for the parcel for the year.
- (2) The rebate applies to reduce the amount of the person's liability for rates for the year, other than the person's deferred liability.
- (3) Any remaining rebate applies to reduce the person's deferred liability.

66 Joint and several liability for rates

This division does not affect the operation of the Taxation Administration Act, section 50 (Joint and several liability).

67 Change in circumstances

- (1) This section applies to a person who has applied for a rebate if any of the following circumstances happens:
 - (a) the person stops being an eligible person;
 - (b) the person stops being the owner or a joint owner of the person's principal place of residence;
 - (c) for a tenant in common—there is a change in the extent of the person's interest in the person's principal place of residence;
 - (d) the person changes his or her principal place of residence.
- (2) This section also applies to a special disability trust if—
 - (a) the trust stops being the owner of the trust beneficiary's principal place of residence; or

- (b) the trust beneficiary's principal place of residence changes.
- (3) Within 30 days after the day the circumstance happens, the person must give written notice of it to the commissioner.
- (4) The person commits an offence if the person contravenes subsection (3).
Maximum penalty: 5 penalty units.
- (5) An offence against this section is a strict liability offence.
- (6) Subsection (1) (b) or (c) does not apply to the person in relation to the transfer of an interest in land if notice of the transfer has been given to the commissioner under section 75 by the person.

68 Adjustment of liability for rates

- (1) This section applies if the commissioner believes on reasonable grounds that a person's entitlement to a rebate has changed or ended, or will change or end.
- (2) The commissioner must—
 - (a) decide an amount for the person's adjusted liability for rates; and
 - (b) give the person written notice of the decision, setting out—
 - (i) the amount of the person's adjusted liability; and
 - (ii) the date or dates when any unpaid rates (including instalments of rates) are payable.

Note For how documents may be served, see Legislation Act, pt 19.5.

- (3) A person may request a decision under this section.
- (4) If on request by a person for a decision, the commissioner decides that the person's entitlement has not changed or ended, the commissioner must give the person written notice of the decision.

69 Break in entitlement

(1) If a person—

- (a) stops being an eligible person; and
- (b) more than 14 days later, becomes an eligible person again;

the person is entitled to a rebate for rates for which the person became liable after the day when the person again becomes an eligible person only if the person applies for the rebate under section 61.

(2) If a person—

- (a) stops being the owner or a joint owner of the person's principal place of residence; and
- (b) more than 14 days later, 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 entitled to a rebate for rates for the parcel mentioned in paragraph (b) for which the person became liable after the day when the person becomes the owner or a joint owner of that parcel only if the person applies for the rebate under section 61.

Part 8 Miscellaneous

69A Imposition of levies

Schedule 1 deals with the imposition of levies and the application of this Act in relation to levies imposed under the schedule.

70 Objections

The following decisions are prescribed for the Taxation Administration Act, section 100 (Objection):

- (a) a decision under section 44 to refuse to pay interest on an overpayment or to pay interest other than from the date when the overpayment was made;
- (b) a decision under section 46—
 - (i) refusing to make a deferral determination; or
 - (ii) determining a period of deferral other than the period applied for; or
 - (iii) making a determination for the deferral of an amount other than the amount applied for;
- (c) a decision under section 47 to make a deferral determination;
- (d) a decision under section 50 amending a deferral determination;
- (e) a decision under section 53 that a ground for revocation of a deferral determination made under section 46 exists.

Note Assessments are made under the Taxation Administration Act and objections may be made under that Act, s 100 (1) (a). For example, if a person is given an assessment for rates for a parcel of land and the person is dissatisfied with the assessment because rates were not payable for the parcel, the person may object under that paragraph.

71 Objections relating to valuations—general

- (1) This section applies to an objection to an assessment if the objection relates to the valuation on which the assessment is based.
- (2) The objection must be made within 60 days after the day the commissioner gives notice under section 12. (2) of the amount determined as the unimproved value of the parcel.
- (3) The Taxation Administration Act, section 103 (Objections lodged out of time) does not apply to the objection.

72 Objections relating to valuations—unit owners

For a unit subdivision, if an objection to an assessment relates to the valuation on which the assessment is based, the Taxation Administration Act, section 100 (1) (Objection)—

- (a) applies to the owners corporation as if the assessment were served on the owners corporation; and
- (b) does not apply to a unit owner.

73 Review by ACAT

- (1) This section applies to a determination by the commissioner of an objection to a decision mentioned in section 70.
- (2) The determination is prescribed for the Taxation Administration Act, section 107A (Meaning of *reviewable decision* etc—div 10.2).

Note Applications for review by the ACAT may be made in relation to a determination by the commissioner of a decision on an objection to an assessment.

74 Working out amounts with fractions for Act

- (1) If an amount worked out under this Act contains a fraction of a cent, the amount must be rounded to the nearest cent, with $\frac{1}{2}$ a cent being disregarded.

- (2) However, if the amount is a part of the average unimproved value of a parcel of land, any fraction of a dollar in the amount worked out must be disregarded.
- (3) The Taxation Administration Act, section 123 (Adjustments of amounts) does not apply in working out an amount under this Act.

75 Notice of transfer

- (1) If the owner or lessee of rateable land transfers his or her interest in the land, the transferor and transferee must each give the commissioner written notice of the transfer that complies with subsection (2) within 30 days after the day of transfer.
- (2) The notice must state the following:
 - (a) the name, home address, and address for service of documents, of the person giving the notice;
 - (b) the distinguishing number or name given to the division, block or section to describe the land under the *Districts Act 2002*;
 - (c) if the land or lease is registered under the *Land Titles Act 1925*—particulars of the entry in the register;
 - (d) the value of the consideration for the transfer;
 - (e) the date of any agreement to make the transfer and the date when the instruments to effect the transfer were executed;
 - (f) any other particulars prescribed under the regulations.

Note If a form is approved under the Taxation Administration Act, s 139C for the notice, the form must be used.

- (3) A person commits an offence if the person contravenes subsection (1).

Maximum penalty: 5 penalty units.

- (4) An offence against this section is a strict liability offence.

76 Certificate of rates and other charges

- (1) A person may apply to the commissioner for a certificate of—
- (a) the rates assessed to be payable under this Act for a parcel of land for the current year; and
 - (b) the rates and other amounts immediately payable to the commissioner under this Act in relation to the parcel.

Note 1 A fee may be determined under s 78 for this provision.

Note 2 If a form is approved under the Taxation Administration Act, s 139C for an application, the form must be used.

Note 3 A single application form may be approved for this section and the *Land Rent Act 2008*, s 31 and the *Land Tax Act 2004*, s 41 (see Legislation Act s 255 (7)).

- (2) The commissioner must give the applicant the certificate.
- (3) The certificate is conclusive proof for an honest buyer for value of the matters certified.

Note The certificate may include a certificate of amounts payable under the *Land Tax Act 2004* in relation to the parcel (see Legislation Act, s 49).

- (4) For this section, rates and other amounts are taken to be payable immediately even though any necessary time after service of a notice has not ended.

77 Statement of amounts payable and payments made

- (1) A person may apply to the commissioner for a statement of—
- (a) the amounts that became payable to the commissioner under this Act in relation to a parcel of land in a stated year; and

- (b) the payments received by the commissioner in the year for amounts that became payable under this Act in relation to the parcel.

Note 1 A fee may be determined under s 78 for this provision.

Note 2 If a form is approved under the Taxation Administration Act, s 139C for an application, the form must be used.

Note 3 A single application form may be approved for this section and the *Land Tax Act 2004*, s 42 (see Legislation Act, s 255 (7)).

- (2) The commissioner must give the applicant the statement.

Note The statement may include a statement of land tax payable and received under the *Land Tax Act 2004* in relation to the parcel (see Legislation Act, s 49).

78 Determination of fees

- (1) The Minister may, in writing, determine fees for this Act.

Note The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3)

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

79 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Schedule 1 Levies

(see s 69A)

Part 1.1 Imposition of levies

1.1 Fire and emergency services levy

- (1) Fire and emergency services levy of the fixed charge is imposed for a parcel of rateable land that is residential or rural land.
- (2) Fire and emergency services levy is imposed for a parcel of rateable land that is commercial land that has an average unimproved value of more than the threshold amount worked out as follows:

$$((AUV - TA) \times P)$$

- (3) In this section:

AUV means the average unimproved value of the parcel.

FC (or *fixed charge*) means the fixed charge determined under the Taxation Administration Act, section 139 for the parcel.

P means the percentage rate determined under the Taxation Administration Act, section 139 for the parcel.

TA (or *threshold amount*) means the threshold amount determined under the Taxation Administration Act, section 139 for the parcel.

Note Different fixed charges, amounts, or percentage rates, may be determined for residential, commercial or rural land (see Legislation Act, s 48).

1.2 City centre marketing and improvements levy

- (1) City centre marketing and improvements levy is imposed for a parcel of rateable land that is commercial land in a collection area, worked out as follows:

$$AUV \times P$$

(2) The Minister may determine an area as a *collection area* for this section.

(3) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(4) In this section:

AUV means the average unimproved value of the parcel.

P means the percentage rate determined under the Taxation Administration Act, section 139 for the parcel.

Note Different percentage rates may be determined for different collection areas or part of a collection area (see Legislation Act, s 48).

Part 1.2 Application of Act etc

2.1 Application of certain provisions—levies generally

- (1) This section applies to the following provisions (the *applied provisions*):
 - (a) section 15 (Rates for part of year);
 - (b) section 16 (Owner to pay rates);
 - (c) section 17 (When are rates payable?);
 - (d) part 4 (Enforcement);
 - (e) section 28 (Unit subdivisions);
 - (f) section 29 (Unit subdivisions—rates);
 - (g) section 39 (Reassessment—completion of development);
 - (h) section 40 (Reassessment—noncompletion of development);
 - (i) part 6 (Exemptions, remissions and certain interest payments);
 - (j) section 76 (Certificate of rates and other charges);
 - (k) any other provision prescribed by regulation.
- (2) The applied provisions have effect as if—
 - (a) a reference to rates included a reference to a levy imposed under this schedule; and
 - (b) any other necessary changes were made; and
 - (c) any changes prescribed by regulation were made.
- (3) Sections 15, 16 and 17, as applied by this section, are subject to part 5 (Unit subdivisions).

2.1A Application of further provisions—fire and emergency services levy

- (1) This section applies to the following provisions (the *applied provisions*):
 - (a) section 18 (How may rates be paid?);
 - (b) section 19 (Payment of rates by instalments);
 - (c) part 7 (Deferral and rebates) (other than section 63 (Rebate of rates—uncapped) and section 64 (Rebate of rates—capped));
 - (d) any other provision prescribed by regulation.
- (2) The applied provisions have effect as if—
 - (a) a reference to rates included a reference to the fire and emergency services levy imposed under section 1.1; and
 - (b) any other necessary changes were made; and
 - (c) any changes prescribed by regulation were made.
- (3) Sections 18 and 19, as applied by this section, are subject to part 5 (Unit subdivisions).

2.2 References in other instruments

A reference to *rates* in an instrument, other than a statutory instrument under this Act or the Taxation Administration Act, includes a reference to a levy imposed under this schedule.

Part 1.3 Other provisions about levies

3.1 Certain proposed subdivisions—imposition of fire and emergency services levy

- (1) This section applies to a parcel of land that is a qualifying parcel of land for division 5.2 (Certain proposed unit subdivisions).
- (2) In its application to the imposition of fire and emergency services levy to the parcel of land, section 1.1 has effect as if subsections (3) and (4) of this section were substituted for section 1.1 (1), (2) and (3).
- (3) Fire and emergency services levy is imposed for a parcel of land to which schedule 1, section 3.1 applies, worked out as follows:

$$[CP \times (AUV - TA) \times P] + [FC \times RP]$$

- (4) In this section:

AUV means the average unimproved value of the parcel.

CP means the percentage, as determined under section 32, of the intended development that is to be used for commercial purposes.

FC (or *fixed charge*) means the fixed charge determined under the Taxation Administration Act, section 139 for the parcel.

P means the percentage rate determined under the Taxation Administration Act, section 139 for a parcel of commercial land.

RP means the percentage, as determined under section 32, of the intended development that is to be used for residential purposes.

TA (or *threshold amount*) means the threshold amount determined under the Taxation Administration Act, section 139 for the parcel.

Note Different fixed charges, amounts, or percentage rates, may be determined for residential, commercial or rural land (see Legislation Act, s 48).

3.1A Certain proposed subdivisions—imposition of city centre marketing and improvements levy

- (1) This section applies to a parcel of land that is a qualifying parcel of land for division 5.2 (Certain proposed unit subdivisions).
- (2) In its application to the imposition of city centre marketing and improvements levy to the parcel of land, section 1.2 has effect as if subsections (3) and (4) of this section were substituted for section 1.2 (1) and (4).
- (3) City centre marketing and improvements levy is imposed for a qualifying parcel of land for division 5.2 (Certain proposed unit subdivisions), worked out as follows:

$$(AUV \times CP) \times P$$

- (4) In this section:

AUV means the average unimproved value of the parcel.

CP means the percentage, as determined under section 32, of the intended development that is to be used for commercial purposes.

P means the percentage rate determined under the Taxation Administration Act, section 139 for the parcel.

Note Different percentage rates may be determined for different collection areas or part of a collection area (see Legislation Act, s 48).

3.2 Rebate of levy

- (1) This section applies to an eligible person.
- (2) The person is entitled, on application to the commissioner under section 61, to a rebate of the person's liability for levy for a parcel of land for a year if—
 - (a) this section applies to the person in the year; and
 - (b) the parcel is the person's principal place of residence for all or part of the year.

- (3) The amount of rebate is worked out as follows:

$$\frac{LL}{2} \times \frac{D}{\text{days in year}}$$

- (4) Division 7.3 (Rebate of rates) has effect as if it included this section.

Example

the definition of *eligible person* for pt 7 will apply to this section

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (5) In this section:

D means the number of days in the year when the parcel is the person's principal place of residence.

levy, for the year, means levy imposed under this schedule for the year, and includes any levy deferred under a deferral determination.

LL means the amount of the person's liability for levy for the parcel for the year.

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACAT
- calendar month
- calendar year
- civil partner
- commissioner for revenue
- contravene
- financial year
- function
- home address
- person
- public employee
- registrar-general
- under.

annual redetermination, of a parcel of land, means a redetermination of the unimproved value of the parcel under section 10.

assessment notice, in relation to rates, means a notice of assessment under the Taxation Administration Act, section 14 in relation to the rates.

average unimproved value, of a parcel of land for a particular year, means the following:

- (a) if the parcel has not been rateable previously—the unimproved value of the parcel;

- (b) if the parcel has been rateable for less than 3 years—the average unimproved value of the parcel over those years;
- (c) in any other case—the average unimproved value of the parcel over the 3 years immediately before the particular year.

commercial land means rateable land that is not residential land or rural land.

commissioner means the commissioner for revenue.

Commonwealth land means land that is the property of the Commonwealth.

deferral determination, for part 7 (Deferral and rebates)—see section 45.

determination, of the unimproved value of a parcel of land, includes redetermination of the unimproved value.

development lease, of land, means a lease for the development of the land by the lessee, or at the lessee's expense, by clearing, filling, grading, draining, levelling or excavating the land to make it suitable for subdivision into parcels of land to be leased.

domestic relationship, for part 7 (Deferral and rebates)—see section 45.

eligible parcel of land, for division 5.2 (Certain proposed unit subdivisions)—see section 30.

eligible person, for part 7 (Deferral and rebates)—see section 45.

land tax—see the *Land Tax Act 2004*, dictionary.

lease means a lease from the Commonwealth or the Territory, and includes an agreement with the Commonwealth or the Territory—

- (a) for a lease of a parcel of land; or
- (b) for the tenancy or occupation of a parcel of land.

liability for rates, for division 7.3 (Rebate of rates)—see section 60.

owner, of a parcel of land, means—

- (a) except for part 7—
 - (i) the registered proprietor of an interest in the parcel (other than an interest in a lease granted by a person other than the Territory or the Commonwealth); or
 - (ii) if the registered proprietor has sold the interest to another person (the *new owner*) and the new owner is in possession of the parcel but not yet registered as the proprietor—the new owner; or
 - (iii) a mortgagee in possession of the parcel; or
 - (iv) a person holding the parcel of land under a sublease from the Territory, if the Territory holds the parcel under lease from the Commonwealth; and
- (b) for part 7 (Deferral and rebates)—see section 45.

owners corporation—see the Unit Titles Act, dictionary.

parcel includes a part of a parcel of land that is separately held by an occupier, tenant, lessee or owner.

partner, for part 7 (Deferral and rebates)—see section 45.

partnership, for part 7 (Deferral and rebates)—see section 45.

pensioner, for part 7 (Deferral and rebates)—see section 45.

payment date—see section 17.

primary production means—

- (a) production resulting directly from—
 - (i) cultivation of land; or
 - (ii) keeping animals for their sale, their bodily produce or natural increase; or
 - (iii) fishing operations; or

- (iv) forest operations; and
- (b) the manufacture of dairy produce by the person who produced the raw material used in that manufacture.

qualifying development application, for division 5.2 (Certain proposed unit subdivisions)—see section 30.

qualifying development determination, for division 5.2 (Certain proposed unit subdivisions)—see section 30.

qualifying parcel of land, for division 5.2 (Certain proposed unit subdivisions)—see section 30.

rateable land—see section 8.

rates includes the total of—

- (a) costs and expenses reasonably incurred by the commissioner in attempting to recover the rates; and
- (b) interest payable in relation to the rates.

rebate, for part 7 (Deferral and rebates)—see section 45.

relevant date, for a parcel of land, means a date when a determination of the unimproved value of the parcel is or is to be made.

residential land means rateable land—

- (a) leased for residential purposes only; or
- (b) leased for residential purposes and other purposes but used for residential purposes only.

rural land means rateable land—

- (a) leased for the purpose of primary production only; or
- (b) leased for the purpose of primary production and other purposes but used mainly for primary production.

special rate pensioner, for part 7 (Deferral and rebates)—see section 45.

Taxation Administration Act means the *Taxation Administration Act 1999*.

unimproved value—see section 6.

unit means a unit under the Unit Titles Act, section 9.

unit entitlement—see the Unit Titles Act, section 8.

unit owner means—

- (a) the registered proprietor of the lease of a unit; or
- (b) if the registered proprietor has sold the interest to another person (the **new owner**) and the new owner is in possession of the unit but not yet registered as the proprietor—the new owner.

units plan means a units plan under the *Unit Titles Act 2001*, section 7.

unit subdivision means a parcel of land subdivided by registration of a units plan.

Unit Titles Act means the *Unit Titles Act 2001*.

variation, of a lease—for division 5.2 (Certain proposed unit subdivisions) see section 30.

year means a financial year.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

| | |
|---|---|
| am = amended | ord = ordinance |
| amdt = amendment | orig = original |
| ch = chapter | par = paragraph/subparagraph |
| def = definition | pres = present |
| dict = dictionary | prev = previous |
| disallowed = disallowed by the Legislative Assembly | (prev...) = previously |
| div = division | pt = part |
| exp = expires/expired | r = rule/subrule |
| Gaz = gazette | renum = renumbered |
| hdg = heading | reloc = relocated |
| IA = Interpretation Act 1967 | R[X] = Republication No |
| ins = inserted/added | RI = reissue |
| LA = Legislation Act 2001 | s = section/subsection |
| LR = legislation register | sch = schedule |
| LRA = Legislation (Republication) Act 1996 | sdiv = subdivision |
| mod = modified/modification | sub = substituted |
| o = order | SL = Subordinate Law |
| om = omitted/repealed | <u>underlining</u> = whole or part not commenced or to be expired |

Endnotes

3 Legislation history

3 Legislation history

Rates Act 2004 A2004-3

notified LR 18 February 2004
s 1, s 2 commenced 18 February 2004 (LA s 75 (1))
remainder commenced 1 July 2004 (s 2)

as amended by

Revenue Legislation Amendment Act 2004 A2004-36 pt 2

notified LR 30 June 2004
s 1, s 2 commenced 30 June 2004 (LA s 75 (1))
pt 2 commenced 1 July 2004 (s 2)

Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.48

notified LR 12 May 2005
s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))
sch 3 pt 3.48 commenced 2 June 2005 (s 2 (1))

Rates Amendment Act 2005 A2005-23

notified LR 11 May 2005
s 1, s 2 commenced 11 May 2005 (LA s 75 (1))
remainder commenced 1 July 2005 (s 2)

Revenue Legislation Amendment Act 2005 A2005-29 pt 5

notified LR 28 June 2005
s 1, s 2 commenced 28 June 2005 (LA s 75 (1))
pt 5 commenced 29 June 2005 (s 2 (2))

Revenue Legislation Amendment Act 2006 A2006-19 pt 5

notified LR 17 May 2006
s 1, s 2 commenced 17 May 2006 (LA s 75 (1))
pt 5 commenced 18 May 2006 (s 2 (3))

Civil Unions Act 2006 A2006-22 sch 1 pt 1.26

notified LR 19 May 2006
s 1, s 2 commenced 19 May 2006 (LA s 75 (1))
sch 1 pt 1.26 never commenced

Note Act repealed by disallowance 14 June 2006 (see Cwlth Gaz 2006 No S93)

Rates Amendment Act 2006 A2006-29

notified LR 15 June 2006
s 1, s 2 commenced 15 June 2006 (LA s 75 (1))
remainder commenced 1 July 2006 (s 2)

Rates Amendment Act 2007 A2007-2

notified LR 20 March 2007
s 1, s 2 commenced 20 March 2007 (LA s 75 (1))
remainder commenced 1 July 2007 (s 2 and CN2007-4)

Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.83

notified LR 22 March 2007
s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))
sch 3 pt 3.83 commenced 12 April 2007 (s 2 (1))

Revenue Legislation Amendment Act 2007 A2007-21 pt 5

notified LR 19 June 2007
s 1, s 2 commenced 19 June 2007 (LA s 75 (1))
pt 5 commenced 20 June 2007 (s 2)

Revenue Legislation (Housing Affordability Initiatives) Amendment Act 2007 A2007-29 pt 4

notified LR 2 October 2007
s 1, s 2 commenced 2 October 2007 (LA s 75 (1))
pt 4 commenced 3 October 2007 (s 2)

Civil Partnerships Act 2008 A2008-14 sch 1 pt 1.22

notified LR 15 May 2008
s 1, s 2 commenced 15 May 2008 (LA s 75 (1))
sch 1 pt 1.22 commenced 19 May 2008 (s 2 and CN2008-8)

Land Rent Act 2008 A2008-16 sch 1 pt 1.3

notified LR 30 June 2008
s 1, s 2 commenced 30 June 2008 (LA s 75 (1))
sch 1 pt 1.3 commenced 1 July 2008 (s 2 and CN2008-10)

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.88

notified LR 4 September 2008
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
sch 1 pt 1.88 commenced 2 February 2009 (s 2 (1) and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

Endnotes

4 Amendment history

Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.63

notified LR 1 September 2009

s 1, s 2 commenced 1 September 2009 (LA s 75 (1))

sch 3 pt 3.63 commenced 22 September 2009 (s 2)

Statute Law Amendment Act 2009 (No 2) A2009-49 sch 3 pt 3.60

notified LR 26 November 2009

s 1, s 2 commenced 26 November 2009 (LA s 75 (1))

sch 3 pt 3.60 commenced 17 December 2009 (s 2)

Rates and Land Tax Legislation Amendment Act 2009 A2009-52 pt 4

notified LR 18 December 2009

s 1, s 2 commenced 18 December 2009 (LA s 75 (1))

pt 4 commenced 1 January 2010 (s 2)

Revenue Legislation Amendment Act 2010 (No 2) A2010-20 pt 4

notified LR 6 July 2010

s 1, s 2 commenced 6 July 2010 (LA s 75 (1))

pt 4 commenced 7 July 2010 (s 2)

4 Amendment history

Commencement

s 2 om LA s 89 (4)

Dictionary

s 3 am A2009-52 s 10

Meaning of *unimproved value*

s 6 am A2009-52 s 11

Meaning of *rateable land*

s 8 am A2005-20 amdt 3.336; A2007-29 s 16

First determination of *unimproved value*

s 9 am A2009-52 s 12, s 13

Annual redeterminations

s 10 am A2009-52 s 14

Redetermination—error

s 11 sub A2009-52 s 15

Redetermination—change of circumstances

s 11A ins A2009-52 s 15

Recording, notification and publication of determinations

s 12 hdg sub A2004-36 s 4
 s 12 am A2004-36 s 5

Imposition of rates

s 14 sub A2005-23 s 4

Rates for part of year

s 15 am A2006-29 s 4

Sale of land for nonpayment of rates

s 26 sub A2006-19 s 29
 am A2008-16 amdt 1.12, amdt 1.13

Application may relate to more than 1 parcel

s 27 am A2006-19 s 30

Unit subdivisions—rates

s 29 am A2006-29 s 5, s 6

Imposition of rates—qualifying parcels of land

s 34 am A2007-21 s 13, s 14

Interest on refund

s 44 am A2005-29 s 29

Definitions for pt 7

s 45 def **deferral determination** sub A2006-19 s 31
 def **domestic relationship** om A2006-22 amdt 1.108
 (A2006-22 rep before commenced by disallowance (see
 Cwlth Gaz 2006 No S93))
 sub A2007-3 amdt 3.437
 def **eligible person** am A2010-20 s 10
 def **owner** am A2010-20 s 11; pars renum R18 LA
 def **partner** sub A2006-22 amdt 1.109 (A2006-22 rep before
 commenced by disallowance (see Cwlth Gaz 2006 No S93))
 am A2008-14 amdt 1.78
 def **pensioner** am A2006-22 amdt 1.110, amdt 1.111
 (A2006-22 rep before commenced by disallowance (see
 Cwlth Gaz 2006 No S93)); A2007-3 amdt 3.438; A2008-14
 amdt 1.79; A2009-20 amdts 3.172-3.174
 def **personal relationship** ins A2006-22 amdt 1.112
 (A2006-22 rep before commenced by disallowance (see
 Cwlth Gaz 2006 No S93))
 def **special disability trust** ins A2010-20 s 12
 def **special rate pensioner** sub A2009-20 amdt 3.175

Determination for deferral of rates on application

s 46 sub A2006-19 s 32
 am A2010-20 s 13, s 14; pars renum R18 LA

Endnotes

4 Amendment history

Determination for deferral of rates without application

s 47 sub A2006-19 s 32
am A2010-20 s 15; ss renum R18 LA

Revocation of deferral determination—payment of debt and on request

s 51 am A2006-19 s 33

Additional grounds for revocation of deferral determination

s 52 am A2006-19 ss 34-36

Notice of proposed revocation on additional grounds

s 53 am A2006-19 s 37

Revocation of deferral determination on grounds

s 54 am A2006-19 s 38; A2008-37 amdt 1.421

Rebate of rates—capped

s 64 am A2010-20 s 16; ss renum R18 LA

Change in circumstances

s 67 am A2010-20 s 17; ss renum R18 LA

Imposition of levies

s 69A ins A2006-29 s 7

Objections

s 70 am A2006-19 s 39

Review by ACAT

s 73 sub A2008-37 amdt 1.422

Notice of transfer

s 75 am A2009-49 amdt 3.147

Certificate of rates and other charges

s 76 am A2008-16 amdt 1.14

Transitional

pt 9 hdg exp 1 July 2005 (s 100)

Definitions for pt 9

s 80 exp 1 July 2005 (s 100)

Annual redetermination for 1991

s 81 exp 1 July 2005 (s 100)

Determinations for 1995 and 1996

s 82 exp 1 July 2005 (s 100)

Unimproved values for 1995 and 1996

s 83 exp 1 July 2005 (s 100)

Determinations of unimproved value

s 84 exp 1 July 2005 (s 100)

Assessments

s 85 exp 1 July 2005 (s 100)

Rates payable under repealed Rates Act

s 86 exp 1 July 2005 (s 100)

Land to which repealed Rates Act, pt 4A applied

s 87 exp 1 July 2005 (s 100)

Application under repealed Rates Act, pt 4A

s 88 exp 1 July 2005 (s 100)

Right to object if no objection lodged

s 89 exp 1 July 2005 (s 100)

Objections lodged under repealed Rates Act

s 90 exp 1 July 2005 (s 100)

Applications for review if no application lodged

s 91 exp 1 July 2005 (s 100)

Application for review if application lodged

s 92 exp 1 July 2005 (s 100)

Notice of rates in arrears

s 93 exp 1 July 2005 (s 100)

Determination for deferral of rates

s 94 exp 1 July 2005 (s 100)

Application for deferral determination

s 95 exp 1 July 2005 (s 100)

Rebate of rates

s 96 exp 1 July 2005 (s 100)

Application for determination for rebate of rates

s 97 exp 1 July 2005 (s 100)

Statements under s 77

s 98 exp 1 July 2005 (s 100)

Modification of pt 9's operation

s 99 exp 1 July 2005 (s 100)

Expiry of pt 9

s 100 exp 1 July 2005 (s 100)

Consequential amendments and repeals

pt 10 hdg om LA s 89 (3)

Legislation amended or repealed—sch 1

s 101 om LA s 89 (3)

Endnotes

4 Amendment history

Levies

sch 1 om LA s 89 (3)
ins A2006-29 s 8

City centre marketing and improvements levy

sch 1 s 1.2 ins A2007-2 s 4

Application of certain provisions—levies generally

sch 1 s 2.1 sub A2007-2 s 5
pars renum R14 LA

Application of further provisions—fire and emergency services levy

sch 1 s 2.1A ins A2007-2 s 5

Certain proposed subdivisions—imposition of fire and emergency services levy

sch 1 s 3.1 hdg sub A2007-2 s 6
sch 1 s 3.1 am A2007-2 s 7

Certain proposed subdivisions—imposition of city centre marketing and improvements levy

sch 1 s 3.1A ins A2007-2 s 8

Dictionary

dict am A2008-14 amdt 1.80; A2008-37 amdt 1.423; A2009-49
amdt 3.148
def **domestic relationship** om A2006-22 amdt 1.113
(A2006-22 rep before commenced by disallowance (see
Cwlth Gaz 2006 No S93))
def **owner** am A2009-52 s 16; pars renum R17 LA
def **personal relationship** ins A2006-22 amdt 1.114
(A2006-22 rep before commenced by disallowance (see
Cwlth Gaz 2006 No S93))
def **unit owner** sub A2009-52 s 17
def **units plan** sub A2005-20 amdt 3.337

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

| Republication No and date | Effective | Last amendment made by | Republication for |
|---------------------------|-------------------------------|------------------------|------------------------------------|
| R1 1 July 2004 | 1 July 2004– 1 June 2005 | A2004-36 | new Act and amendments by A2004-36 |
| R2 2 June 2005 | 2 June 2005– 28 June 2005 | <u>A2005-23</u> | amendments by A2005-20 |
| R3 29 June 2005 | 29 June 2005– 30 June 2005 | A2005-29 | amendments by A2005-29 |
| R4 1 July 2005 | 1 July 2005– 1 July 2005 | A2005-29 | amendments by A2005-23 |
| R5 2 July 2005 | 2 July 2005– 17 May 2006 | A2005-29 | commenced expiry |
| R6 18 May 2006 | 18 May 2006– 30 June 2006 | A2006-19 | amendments by A2006-19 |
| R7 1 July 2006 | 1 July 2006– 11 Apr 2007 | A2006-29 | amendments by A2006-29 |
| R8 12 Apr 2007 | 12 Apr 2007– 19 June 2007 | A2007-3 | amendments by A2007-3 |
| R9 20 June 2007 | 20 June 2007– 30 June 2007 | A2007-21 | amendments by A2007-21 |
| R10 1 July 2007 | 1 July 2007– 2 Oct 2007 | A2007-21 | amendments by A2007-2 |
| R11* 3 Oct 2007 | 3 Oct 2007– 18 May 2008 | A2007-29 | amendments by A2007-29 |

Endnotes

5 Earlier republications

| Republication No and date | Effective | Last amendment made by | Republication for |
|--------------------------------------|------------------------------|---------------------------------------|------------------------------|
| R12 19 May 2008 | 19 May 2008– 30 June 2008 | A2008-14 | amendments by A2008-14 |
| R13 1 July 2008 | 1 July 2008– 1 Feb 2009 | A2008-16 | amendments by A2008-16 |
| R14 2 Feb 2009 | 2 Feb 2009– 21 Sept 2009 | A2008-37 | amendments by A2008-37 |
| R15 22 Sept 2009 | 22 Sept 2009– 16 Dec 2009 | A2009-20 | amendments by A2009-20 |
| R16 17 Dec 2009 | 17 Dec 2009– 31 Dec 2009 | A2009-49 | amendments by A2009-49 |
| R17 1 Jan 2010 | 1 Jan 2010– 6 July 2010 | A2009-52 | amendments by A2009-52 |

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