



Australian Capital Territory

Revenue Legislation (Housing Affordability Initiatives) Amendment Act 2007

A2007-29

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Australian Capital Territory

Revenue Legislation (Housing Affordability Initiatives) Amendment Act 2007

A2007-29

An Act to amend the *Duties Act 1999*, the *Land Tax Act 2004* and the *Rates Act 2004*

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

J2007-252

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1 Preliminary

1 Name of Act

This Act is the *Revenue Legislation (Housing Affordability Initiatives) Amendment Act 2007*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Part 2 Duties Act 1999

3 Legislation amended—pt 2

This part amends the *Duties Act 1999*.

4 Payment of duty—‘off the plan’ purchase agreements Section 16A (1) (c)

substitute

- (c) the following period, beginning on the date of the agreement, ends:
- (i) for a purchase agreement for a declared affordable house and land package—2 years;
 - (ii) for any other ‘off the plan’ purchase agreement—1 year;

5 Section 16A (4)

substitute

- (4) In this section:

declared affordable house and land package means a house and land package declared under section 16B.

‘off the plan’ purchase agreement means—

- (a) an agreement for the sale or transfer of dutiable property that is, or includes, land where a residence is to be erected or developed before completion of the sale or transfer; or
- (b) a purchase agreement for a declared affordable house and land package.

6 New section 16B

insert

16B Declaration of affordable house and land packages

- (1) The Minister may declare a house and land package that is, or is to be, offered for purchase to be an affordable house and land package.
- (2) A declaration is a disallowable instrument.

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

**7 What is the *dutiable value* of dutiable property?
New section 20 (1A)**

insert

- (1A) However, the *dutiable value* of a dutiable transaction that is a purchase agreement for a declared affordable house and land package, is the lesser of—
 - (a) the value of the land component of the package on the date of the agreement; and
 - (b) the value of the land component of the package on the date the liability for duty arises under section 16A (1).

8 New section 20 (3)

insert

- (3) In this section:

declared affordable house and land package means a house and land package declared under section 16B.

9 New section 73A

insert

73A Transfers etc to entities for community housing

- (1) No duty is chargeable under this chapter on a dutiable transaction that is a transfer or grant of a residential lease if—
 - (a) the transfer or grant is to an entity declared by the Minister; and
 - (b) the commissioner is satisfied that the property the subject of the transfer or grant is to be used for community housing.
- (2) A declaration is a disallowable instrument.

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

- (3) The Minister may declare an entity only if satisfied that the entity is a provider of community housing in the ACT.
- (4) In this section:

community housing means housing provided for—

- (a) people on low and moderate incomes or with special needs; or
- (b) nonprofit community organisations.

residential lease means a lease granted for residential purposes only.

10 New part 2.6A

insert

Part 2.6A Deferred payments—home buyers

75AA Definitions—pt 2.6A

In this part:

deferral arrangement—see section 75AC (2).

eligible person means a person who—

- (a) is an eligible home buyer under the home buyer concession scheme; or
- (b) is eligible for a first home owner grant under the *First Home Owner Grant Act 2000*.

eligible property means a residential lease the value of which is not more than the upper property value threshold under the home buyer concession scheme.

home buyer concession scheme means the home buyer concession scheme under the *Taxation Administration Act 1999*.

residential lease means a lease granted for residential purposes only.

75AB Application to defer payment of duty

- (1) An eligible person may apply to the commissioner to defer payment of duty payable by the person on a dutiable transaction that is—
 - (a) the transfer of an eligible property; or

(b) an agreement for the sale or transfer of an eligible property.

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

- (2) The application must be made before the duty is payable.
- (3) If there is more than 1 transferee or purchaser of the property, each transferee or purchaser—
 - (a) must be an eligible person; and
 - (b) must sign the application.
- (4) An applicant must provide the commissioner with any information the commissioner reasonably requires to decide the application.

75AC Approval to defer payment of duty

- (1) The commissioner must, on receipt of an application under section 75AB, approve the deferral of payment of duty payable by the applicant if—
 - (a) the applicant is an eligible person; and
 - (b) the duty is, or would be, payable on—
 - (i) the transfer of an eligible property; or
 - (ii) an agreement for the sale or transfer of an eligible property.
- (2) However, an approval under subsection (1) is subject to the person entering into an arrangement with the commissioner under the *Taxation Administration Act 1999*, section 52 (Arrangements for payment of tax) about payment of the amount of deferred duty and interest (a *deferral arrangement*).

75AD Conditions of deferral arrangement

- (1) The conditions of a deferral arrangement include the following:
 - (a) that payment, or the first instalment of payment, of the duty may be deferred for not more than 5 years after the day of the dutiable transaction;
 - (b) that the duty, and any accrued interest, must be paid not later than 10 years after the day of the dutiable transaction;
 - (c) that the amount of duty deferred must be at least—
 - (i) \$500; or
 - (ii) if a greater amount is declared under subsection (2) (b)—the amount declared;
 - (d) any other condition determined under subsection (2).
- (2) The Minister may determine other conditions, consistent with subsection (1) (a) to (c), to which a deferral arrangement is subject, including conditions to fix—
 - (a) the rate of interest charged on the amount payable under the arrangement; and
 - (b) an amount for subsection (1) (c) (ii).
- (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) This section does not limit the *Taxation Administration Act 1999*, section 52 but any arrangement under that section about deferred payment of duty under this part must not be inconsistent with conditions under subsection (1).

75AE Unpaid duty and interest a debt and charge on property

- (1) The amount payable under a deferral arrangement is a debt owing to the Territory.
- (2) The liability of a person under a deferral arrangement is a first charge on the person's interest in the property to which the deferred payment of duty relates.

**11 Meaning of *stamp* etc
Section 233 (1) (a) (ii)**

substitute

- (ii) the duty payable is subject to a deferral arrangement under section 75AC (Approval to defer payment of duty);
or
- (iii) duty is not payable; or

12 Dictionary, new definitions

insert

deferral arrangement, for part 2.6A—see section 75AC (2).

eligible person, for part 2.6A—see section 75AA.

eligible property, for part 2.6A—see section 75AA.

home buyer concession scheme, for part 2.6A—see section 75AA.

residential lease, for part 2.6A—see section 75AA.

Part 3 Land Tax Act 2004

13 Legislation amended—pt 3

This part amends the *Land Tax Act 2004*.

14 Land exempted from s 9 generally New section 10 (1) (ca)

insert

- (ca) a parcel of land owned or leased by an entity declared under the *Duties Act 1999*, section 73A (Transfers etc to entities for community housing);

Part 4 Rates Act 2004

15 Legislation amended—pt 4

This part amends the *Rates Act 2004*.

16 Meaning of *rateable land* Section 8 (2), new definitions

insert

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.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 7 June 2007.

2 Notification

Notified under the Legislation Act on 2 October 2007.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Revenue Legislation (Housing Affordability Initiatives) Amendment Bill 2007, which was passed by the Legislative Assembly on 25 September 2007.

Clerk of the Legislative Assembly

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