

2007

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Revenue Legislation (Housing Affordability Initiatives) Amendment Bill 2007

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Revenue Legislation (Housing Affordability Initiatives) Amendment Bill 2007

A Bill for

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

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

5 **2 Commencement**

6 This Act commences on the day after its notification day.

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

1 Part 2 Duties Act 1999

2 3 Legislation amended—pt 2

3 This part amends the *Duties Act 1999*.

4 4 Payment of duty—‘off the plan’ purchase agreements 5 Section 16A (1) (c)

6 *substitute*

7 (c) the following period, beginning on the date of the agreement,
8 ends:

9 (i) for a purchase agreement for a declared affordable house
10 and land package—2 years;

11 (ii) for any other ‘off the plan’ purchase agreement—1 year;

12 5 Section 16A (4)

13 *substitute*

14 (4) In this section:

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

17 ***‘off the plan’ purchase agreement*** means—

18 (a) an agreement for the sale or transfer of dutiable property that
19 is, or includes, land where a residence is to be erected or
20 developed before completion of the sale or transfer; or

21 (b) a purchase agreement for a declared affordable house and land
22 package.

1 **6 New section 16B**

2 *insert*

3 **16B Declaration of affordable house and land packages**

4 (1) The Minister may declare a house and land package that is, or is to
5 be, offered for purchase to be an affordable house and land package.

6 (2) A declaration is a disallowable instrument.

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

9 **7 What is the *dutiable value* of dutiable property?**
10 **New section 20 (1A)**

11 *insert*

12 (1A) However, the *dutiable value* of a dutiable transaction that is a
13 purchase agreement for a declared affordable house and land
14 package, is the lesser of—

15 (a) the value of the land component of the package on the date of
16 the agreement; and

17 (b) the value of the land component of the package on the date the
18 liability for duty arises under section 16A (1).

19 **8 New section 20 (3)**

20 *insert*

21 (3) In this section:

22 *declared affordable house and land package* means a house and
23 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.

1 **10 New part 2.6A**

2 *insert*

3 **Part 2.6A Deferred payments—home**
4 **buyers**

5 **75AA Definitions—pt 2.6A**

6 In this part:

7 *deferral arrangement*—see section 75AC (2).

8 *eligible person* means a person who—

9 (a) is an eligible home buyer under the home buyer concession
10 scheme; or

11 (b) is eligible for a first home owner grant under the *First Home*
12 *Owner Grant Act 2000*.

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

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

18 *residential lease* means a lease granted for residential purposes
19 only.

20 **75AB Application to defer payment of duty**

21 (1) An eligible person may apply to the commissioner to defer payment
22 of duty payable by the person on a dutiable transaction that is—

23 (a) the transfer of an eligible property; or

- 1 (b) an agreement for the sale or transfer of an eligible property.
- 2 *Note* If a form is approved under the Taxation Administration Act, s 139C for
3 this provision, the form must be used.
- 4 (2) The application must be made before the duty is payable.
- 5 (3) If there is more than 1 transferee or purchaser of the property, each
6 transferee or purchaser—
- 7 (a) must be an eligible person; and
- 8 (b) must sign the application.
- 9 (4) An applicant must provide the commissioner with any information
10 the commissioner reasonably requires to decide the application.

11 **75AC Approval to defer payment of duty**

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

1 **75AD Conditions of deferral arrangement**

- 2 (1) The conditions of a deferral arrangement include the following:
- 3 (a) that payment, or the first instalment of payment, of the duty
4 may be deferred for not more than 5 years after the day of the
5 dutiabale transaction;
- 6 (b) that the duty, and any accrued interest, must be paid not later
7 than 10 years after the day of the dutiabale transaction;
- 8 (c) that the amount of duty deferred must be at least—
- 9 (i) \$500; or
- 10 (ii) if a greater amount is declared under subsection (2) (b)—
11 the amount declared;
- 12 (d) any other condition determined under subsection (2).
- 13 (2) The Minister may determine other conditions, consistent with
14 subsection (1) (a) to (c), to which a deferral arrangement is subject,
15 including conditions to fix—
- 16 (a) the rate of interest charged on the amount payable under the
17 arrangement; and
- 18 (b) an amount for subsection (1) (c) (ii).
- 19 (3) A determination is a disallowable instrument.
- 20 *Note* A disallowable instrument must be notified, and presented to the
21 Legislative Assembly, under the Legislation Act.
- 22 (4) This section does not limit the *Taxation Administration Act 1999*,
23 section 52 but any arrangement under that section about deferred
24 payment of duty under this part must not be inconsistent with
25 conditions under subsection (1).

1 **75AE Unpaid duty and interest a debt and charge on property**

2 (1) The amount payable under a deferral arrangement is a debt owing to
3 the Territory.

4 (2) The liability of a person under a deferral arrangement is a first
5 charge on the person's interest in the property to which the deferred
6 payment of duty relates.

7 **11 Meaning of *stamp* etc**
8 **Section 233 (1) (a) (ii)**

9 *substitute*

10 (ii) the duty payable is subject to a deferral arrangement
11 under section 75AC (Approval to defer payment of duty);
12 or

13 (iii) duty is not payable; or

14 **12 Dictionary, new definitions**

15 *insert*

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

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

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

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

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

1 **Part 3 Land Tax Act 2004**

2 **13 Legislation amended—pt 3**

3 This part amends the *Land Tax Act 2004*.

4 **14 Land exempted from s 9 generally**
5 **New section 10 (1) (ca)**

6 *insert*

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

1 Part 4 Rates Act 2004

2 15 Legislation amended—pt 4

3 This part amends the *Rates Act 2004*.

4 16 Meaning of *rateable land* 5 Section 8 (2), new definitions

6 *insert*

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

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

11 *public charitable purposes* does not include community housing
12 purposes.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2007.

2 Notification

Notified under the Legislation Act on 2007.

3 Republications of amended laws

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

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