Australian Capital Territory

Taxation Administration (Owner Occupier Duty) COVID-19 Exemption Scheme Determination 2020\*

**Disallowable instrument DI2020–205**

made under the

*Taxation Administration Act 1999*, s 137E (COVID-19 exemption scheme)

**1 Name of instrument**

This instrument is the *Taxation Administration (Owner Occupier Duty) COVID-19 Exemption Scheme Determination 2020*.

**2 Commencement**

This instrument is taken to have commenced on 4 June 2020.

**3 Definitions**

In this instrument:

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

***Crown lease***—see the *Land Titles Act 1925*, dictionary.

***declared land sublease*—**see the *Planning and Development Act 2007*, section 312C.

***dutiable value****—*see the *Duties Act 1999*, section 20.

***home*** means a building (affixed to land) that—

(a) may lawfully be used as a place of residence; and

(b) is, in the Commissioner’s opinion, a suitable building for use as a place of residence.

*Note* ***Commissioner***means the Commissioner for ACT Revenue.

***land rent lease***—see the *Land Rent Act 2008, Dictionary.*

***transferee***—see the *Duties Act 1999*, dictionary.

***unit***—see the *Unit Titles Act 2001*, section 9.

***units plan***—see the *Unit Titles Act 2001*, dictionary.

***vacant land*** means land in the ACT, which has a Crown lease or a declared land sublease, that—

(a) does not have a home built, in full or in part, on it; and

(b) was not owned under a land rent lease by a transferee for an eligible transaction.

**4 Meaning of *eligible property***

In this instrument:

***eligible property*** means—

(a) vacant land with a Crown lease or a declared land sublease that permits development of a single home only; or

(b) a unit in a units plan.

**5 Meaning of *eligible transaction***

(1) In this instrument:

***eligible transaction*** means a transfer with a transaction date on or after 4 June 2020 and on or before 30 June 2021 that meets the following requirements:

(a) at least 1 transferee will occupy the eligible property as the transferee’s principal place of residence—

(i) beginning within 1 year after the residence start date; and

(ii) for the duration of the residence period.

(2) If it becomes apparent that a transaction is not an eligible transaction, a transferee must give the Commissioner written notice of that fact within 14 days after the first of the following events:

(a) the end of any period allowed for compliance with a requirement of the transaction; or

(b) the date that the transferee first becomes aware that the transaction is not eligible.

**Example—transaction not an eligible transaction**

The transaction ceases to be eligible because no transferee can occupy the eligible property as a principal place of residence.

***occupy***, in relation to a principal place of residence, does not include occupation—

(a) of a transient, temporary or passing nature; or

(b) for a purpose other than as a place of residence.

***off the plan agreement*** means an agreement for the sale of a unit in a units plan before the units plan is registered.

***principal place of residence*** means the home a person primarily occupies on an ongoing and permanent basis as the person’s settled or usual home.

***registered***—for an off the plan agreement,means registered with the registrar‑general under the *Land Titles Act 1925* or the *Land Titles (Unit Titles) Act 1970.*

***residence period*** means—

(a) a continuous period of at least 1 year; or

(b) a shorter period (including no period) determined by the Commissioner, if:

(i) the shorter period is requested, in writing, for a transferee not later than 18 months after the residence start date; and

(ii) the Commissioner is satisfied that the transferee is unable to occupy the eligible property because of an unforeseen circumstance.

***residence start date*** means—

(a) for vacant land—the date that a certificate of occupancy has been issued under the *Building Act 2004* for a home on the land that will be a person’s principal place of residence; or

(b) for a unit—the date of completion of the off the plan agreement; or

(c) a later date determined by the Commissioner, if:

(i) a later date is requested, in writing, for a transferee not later than 18 months after the applicable residence start date under section 5 (3)(a) or (b); and

(ii) the Commissioner is satisfied that the transferee is unable to begin occupying the eligible property because of an unforeseen circumstance.

**Example—unforeseen circumstance**

A health-related issue.

***transaction date***, of an eligible transaction, means the date that liability for duty arises under the *Duties Act 1999*, section 11.

***transfer*** means—

(a) for vacant land:

(i) a transfer of eligible property; or

(ii) an agreement for the sale or transfer of eligible property; or

(iii) a grant of eligible property;

(b) for a unit—execution of an off the plan agreement.

**6 Determination**

(1) For the purposes of section 137E of the Act, I determine that the amount of duty under the *Duties Act 1999* exempt from payment on an eligible transaction under this instrument is—

(a) for vacant land—the amount of duty payable on the eligible transaction; and

(b) for a unit—the amount specified in column 3 of table 1 opposite the dutiable value of the unit specified in column 2 of table 1.

Table 1 Units

| column 1  item | column 2  dutiable value | column 3  exemption amount |
| --- | --- | --- |
| 1 | less than or equal to $500 000 | the amount of duty payable on the eligible transaction |
| 2 | more than $500 000 but less than or equal to $750 000 | $11 400 |

**7 Expiry**

This instrument expires on 30 June 2021.

**8 Human Rights Act 2004**

In my opinion, as the Minister, this instrument is consistent with human rights. This instrument is non‑prejudicial; it does not limit existing rights.

Andrew Barr MLA

Treasurer

30 June 2020