

Duties (Pensioner Duty Deferral Scheme) Determination 2026

Disallowable instrument DI2026–141

made under the

Duties Act 1999, s 75AG (Duty deferral schemes—determination)

1 Name of instrument

This instrument is the *Duties (Pensioner Duty Deferral Scheme) Determination 2026*.

2 Commencement

This instrument commences on 1 July 2026.

3 Definitions

In this instrument:

Act means the *Duties Act 1999*.

Commissioner—see the Act, dictionary.

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

declared land sublease—see the *Planning Act 2023*, dictionary.

eligible property means—

- (a) a home; or
- (b) vacant land.

home means a building (affixed to land in the ACT) or a unit in a units plan 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.

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

- (a) of a transient, temporary, unlawful 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.

own means the transferee will be the registered proprietor of the eligible property once it is registered.

pensioner means a person who meets the requirements under section 5 (1) (a) in this instrument as an eligible home buyer of an eligible transaction.

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 by the registrar-general under the *Land Titles Act 1925* or the *Land Titles (Unit Titles) Act 1970*.

required age means—

- (a) 18 years of age; or
- (b) a younger age determined by the Commissioner, if—
 - (i) the younger age is requested for an eligible home buyer; and
 - (ii) the Commissioner is satisfied that it is fair and reasonable in the circumstances to make the determination.

service pension means:

- (a) an age service pension; or
- (b) an invalidity service pension; or
- (c) a partner service pension;

under the *Veterans' Entitlements Act 1986* (Cwlth).

transfer means—

- (a) a transfer of eligible property; or
- (b) an agreement for the sale or transfer of eligible property (including an off the plan agreement); or
- (c) a grant of eligible property.

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

transferee—see the Act, dictionary. A transferee if more than one – means transferees.

unit—see the *Unit Titles Act 2001*, dictionary.

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 does not have a home built, in full or in part, on it.

4 Meaning of *eligible home buyer*

- (1) In this instrument:

eligible home buyer, for the eligible transaction, means an individual who is a transferee of the eligible property.
- (2) If there is more than one transferee, each transferee must be an individual.
- (3) A transferee is not an eligible home buyer if the transferee is:
 - (a) a corporation; or
 - (b) a trustee of a trust; or
 - (c) a partner in a partnership; or
 - (d) an agent for a person mentioned in paragraphs (a) to (c).
- (4) An individual is not an eligible home buyer if the individual acquires the eligible property other than in the individual's personal capacity.
- (5) An eligible home buyer must be the required age on the transaction date.

5 Meaning of *eligible transaction*

- (1) In this instrument:

eligible transaction means a transfer to an eligible home buyer with a transaction date on or after 1 July 2026 that meets the following requirements:

 - (a) on the transaction date, at least 1 eligible home buyer—
 - (i) received a Services Australia age pension or Department of Veterans' Affairs age pension equivalent; or
 - (ii) received a Services Australia disability support pension and was 50 years of age or older; or
 - (iii) held a Department of Veterans' Affairs Gold Card; or
 - (iv) received a service pension; and
 - (b) at least 1 eligible home buyer, who is a pensioner or their domestic partner (if any), will own and occupy the eligible property, as the eligible home buyer's principal place of residence, within 1 year of the residence start date 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 an eligible transaction.
- (3) If a person claims the exemption but the transaction is not an eligible transaction (including where the residence requirement is not complied with) then the person was never eligible for the exemption.

Example—transaction not an eligible transaction

A person claims the concession and intends to live in the property to meet the residence requirement. The person lives in the property for four months and then sells the property without the Commissioner approving a shorter residence period. The residence period was not met, so the transaction was not an eligible transaction. The person was never eligible for the concession and was liable to pay duty within 14 days of the transfer being registered with the registrar-general. A tax default will have occurred if duty was unpaid 15 days after the transfer was registered with penalty tax and interest applying.

Note An example is part of the instrument, 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).

6 Meaning of *residence period* and *residence start date*

(1) In this instrument:

residence period means a continuous period of at least 1 year.

residence start date means—

- (a) for a home—the date of completion of the eligible transaction; or
- (b) 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.

(2) The Commissioner may determine a shorter residence period (including no period), if—

- (a) the shorter period is requested, in writing, for a pensioner not later than 18 months after the residence start date; and
- (b) the Commissioner is satisfied that the pensioner is unable to occupy the eligible property for a continuous period of 1 year because of an unforeseen circumstance.

(3) The Commissioner may determine a later residence date, if—

- (a) the later date is requested, in writing, for a pensioner not later than 18 months after the applicable residence start date under; and
- (b) the Commissioner is satisfied that the pensioner is unable to begin occupying the eligible property because of an unforeseen circumstance.

7 Meaning of *unforeseen circumstance*

(1) In this instrument:

unforeseen circumstance means a circumstance or circumstances that could not have been foreseen by a reasonable person with the knowledge of the eligible home buyer on the transaction date.

Examples

1. The sudden onset of a new serious health-related issue that requires the eligible home buyer to relocate from the ACT or ACT region for treatment.
2. A natural disaster has damaged the eligible property, making it unfit for occupation, delaying the residence start date.

(2) In this section:

actual knowledge means knowledge subjectively in the mind of the eligible home buyer on the facts they actually knew in relation to the circumstances in issue.

constructive knowledge means actual knowledge of the circumstance which the eligible home buyer would have had if the eligible home buyer had:

- (a) made the inquiries that would ordinarily have been made by an honest and prudent person in the eligible home buyers' situation; or
- (b) made the inquiries that would ordinarily be made by an honest and prudent person with the eligible home buyers' actual knowledge in the eligible home buyers' situation.

knowledge means actual or constructive knowledge.

8 Determination—Pensioner Duty Deferral Scheme

For the purposes of section 75AG of the Act, I determine a scheme for the deferred payment of duty by a pensioner and their domestic partner (if any) on an eligible transaction, subject to the conditions specified in section 9.

9 Conditions of Duty Deferral

- (1) An application for the deferred payment of duty must be made in accordance with section 75AH of the Act.
- (2) Interest at the market rate component determined under section 26 of the *Taxation Administration Act 1999* is payable on the deferred duty, calculated from the date the duty becomes payable until the amount deferred is paid in full.
- (3) The deferred duty that is payable, and any accrued interest, must be paid on:
 - (a) the transfer of the eligible property to any other person; or
 - (b) the transfer of the pensioner's interest or their domestic partner's interest (if any) in the eligible property to:
 - (i) any other transferee;
 - (ii) the administrator or executor of the estate of the pensioner; or
 - (iii) any other person.
- (4) For the purposes of section 9 (3) (b) (ii), 'transfer' includes a transfer by transmission application.

9 Revocation

This instrument revokes *Duties (Pensioner Duty Deferral Scheme) Determination 2024*, DI2024-180.

Chris Steel MLA
Treasurer

24 June 2026