

# Taxation Administration (Amounts Payable—Pensioner Duty Concession Scheme) Determination 2026

## Disallowable instrument DI2026–159

made under the

*Taxation Administration Act 1999*, s 139 (Determination of amounts payable under tax laws)

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### 1 Name of instrument

This instrument is the *Taxation Administration (Amounts Payable—Pensioner Duty Concession 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.

**seal** means a stamp or other impression that the court puts on a document to indicate that the document has been issued by the court.

**sealed** for a court order means a document that bears the court seal.

**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).

**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) on the transaction date, all eligible home buyers and their domestic partners (if any) did not hold a legal or equitable interest in land, other than an interest—
  - (i) in the former property; or
  - (ii) in land that a person was required to and did relinquish prior to the transaction date under—
    - (A) an order of a court; or
    - (B) a financial agreement made under section 90B, section 90C, or section 90D of the *Family Law Act 1975* (Cwlth) that is binding on the person; or
    - (C) a part VIIIAB financial agreement made under section 90UB, section 90UC, or section 90UD of the

- Family Law Act 1975* (Cwlth) that is binding on the person; or
- (D) a domestic relationship agreement or termination agreement under the *Domestic Relationships Act 1994* to which the person is a party; or
- (iii) that a person acquires as an executor or trustee (but not a beneficiary) under a will; or
  - (iv) any legal or equitable interest in land held by an eligible home buyer's domestic partner, who is a spouse, if the Commissioner is satisfied—
    - (A) there has been a dissolution, annulment or irretrievable breakdown of the relationship; and
    - (B) the eligible home buyer is not cohabitating with the spouse and there is no likelihood of cohabitating being resumed; and
- (c) the former property is sold within 1 year before or after the registration date, except if the Commissioner is satisfied that the eligible home buyer is unable to sell the former property in this time because of an unforeseen circumstance; and
  - (d) the ownership of the eligible property is in the same name or names as the former property, except if—
    - (i) a person was required to relinquish an interest in the former property prior to the transaction date under—
      - (A) a sealed order of a court; or
      - (B) a financial agreement made under section 90B, section 90C, or section 90D of the *Family Law Act 1975* (Cwlth) that is binding on the person; or
      - (C) a part VIIIAB financial agreement made under section 90UB, section 90UC, or section 90UD of the *Family Law Act 1975* (Cwlth) that is binding on the person; or
      - (D) a domestic relationship agreement or termination agreement under the *Domestic Relationships Act 1994* to which the person is a party; or
    - (ii) an exemption is requested from this requirement for an eligible home buyer, and the Commissioner is satisfied that it is fair and reasonable to exempt the eligible home buyer, taking into account anomalous or unusual circumstances; and

**Example—anomalous or unusual circumstances**

The person is selling the former property that has a deceased partner on the title, while the eligible property will be purchased only in the name of the surviving partner.

- (e) 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 after the residence start date for the duration of the residence period; and
  - (f) all eligible home buyers acquire a legal and equitable interest in the eligible property; and
  - (g) no eligible home buyer has had an amount of duty determined under—
    - (i) an Over 60s Home Bonus Scheme under section 139 of the *Taxation Administration Act 1999*; or
    - (ii) a Pensioner Duty Concession Scheme under section 139 of the *Taxation Administration Act 1999*.
- (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 concession 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 concession.

**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).

- (4) In this section:
- former property***, of a person, means land in Australia that the person occupied as the person's principal place of residence—
- (a) immediately before the transaction date; or
  - (b) immediately before the land was sold within a 1-year period ending on the transaction date.

**Example—former property**

A person sold an ACT principal place of residence on 1 October 2025. After it was sold, the person rented another home in the ACT to live in. On 1 August 2026, the person purchased the eligible property.

The home that the person sold on 1 October 2025 is a former property for the purposes of this instrument even though the person was not in residence immediately before purchasing the eligible property.

The purchase of the eligible property is an eligible transaction because the person sold the former property within 1 year before or after purchasing the eligible property.

**registration date** means the date that the eligible transaction is registered on the land titles register.

**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.

## **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 start date, if—
- (a) the later date is requested, in writing, for a pensioner not later than 18 months after the applicable residence start date; 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; and
- (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 Application for Duty concession

- (1) A transferee may apply to the Commissioner for the duty concession for an eligible transaction under this instrument on the lodgement of the transfer of the eligible property with the registrar-general.
- (2) If an application is not made at the time specified in subsection (1), a transferee may apply to the Commissioner to extend the time by which an application for the duty concession may be lodged.
- (3) An application to extend the time to lodge the duty concession must—
  - (a) be in writing addressed to the Commissioner;
  - (b) specify—
    - (i) the name and address of the transferee; and
    - (ii) the grounds on which the extension is sought; and
  - (c) be made within 12 months of the date of lodgement of the transfer of the eligible property with the registrar-general.
- (4) The Commissioner may extend the time to make the application to lodge the duty concession as specified in subsection (1).
- (5) In this section:

***registrar-general*** means the registrar-general under the *Land Titles Act 1925*.

## 9 Determination

For the purposes of section 31 of the Act, I determine that the amount of duty payable on an eligible transaction under this instrument is nil.

## **10 Revocation**

This instrument revokes *Taxation Administration (Amounts Payable—Pensioner Duty Concession Scheme) Determination 2025*, DI2025-148.

Rachel Stephen-Smith MLA  
Minister for Finance

26 June 2026