

THE LEGISLATIVE ASSEMBLY OF THE AUSTRALIAN CAPITAL TERRITORY

RATES AND LAND RENT (RELIEF) (AMENDMENT) BILL 1991

EXPLANATORY MEMORANDUM

Circulated by the Authority of the Minister for Finance
and Urban Services

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RATES AND LAND RENT (RELIEF) (AMENDMENT) BILL 1991

Outline of Amendment

The Land Rent and Rates (Deferment and Remission) Act 1970 complements the Rates and Land Tax Act 1926, the Water Rates Act 1959 and the Sewerage Rates Act 1968, and provides relief from the payment of rates. Relief can occur by way of deferment and remission but the provisions which have the most impact on ACT residents are those which provide a rebate for eligible ACT pensioners.

The most significant amendments to the Act are those pertaining to the rates rebate scheme by:

- * Providing for pro-rata rebates of rates (general, water and sewerage);
- * Removing the requirement for an eligible person to make annual application for the rebate. An initial application is deemed inoperable only if an applicant becomes ineligible or where the level of rates rebate is affected by a change in circumstances.
- * Providing for the termination of a rebate once a person becomes ineligible.

Minor amendments to the Act are:

- * The introduction of a new title for the Act - THE RATES AND LAND RENT (RELIEF) ACT 1970 - to reflect its current application. The Act provides for rebate as well as deferment and remission of rates and land rent.
- * A revised definition of "pensioner" to include the current reference to persons in receipt of benefits under the Social

Security Act 1947 and the Veterans Entitlement Act 1986.

* Updated signature blocks on schedule 1 of the Act to read "Minister" instead of "Minister of State for Territories and Local Government".

* Provisions for amendments of other Acts as a consequence of the change in the title of the Principal Act from the "LAND RENT AND RATES (DEFERMENT AND REMISSION) ACT 1970" to the "RATES AND LAND RENT (RELIEF) ACT 1970".

Commencement

The amendments will come into effect from the date of notification in the Gazette.

Financial Implications

The measures to be introduced for part year rebate are expected to be revenue neutral. There is expected to be a saving associated with a reduction in the number of application forms processed.

The details of the proposed Bill are attached.

DETAILS OF RATES AND LAND RENT (RELIEF) (AMENDMENT) BILL 1991

Short Title

Clause 1 - provides for the short title of this Act to be the Rates and Land Rent (Relief) (Amendment) Act 1991.

Principal Act

Clause 2 - Refers to the Principal Act being amended, being the Land Rent and Rates (Deferment and Remission) Act 1970.

Long Title

Clause 3 - Provides for the long title of the Principal Act currently "An Act to provide for the Deferment and Remission of Land Rent and Rates" to be repealed and be replaced by "An Act to provide for relief from liability for rates and land rent, and for related purposes." The existing title is deficient in not recognising the rebate scheme provided by the Act.

Substitution

Clause 4 - Provides for the short title in Section 1 of the Principal Act to be repealed and be replaced by:

Short Title

"1. This Act may be cited as the Rates and Land Rent (Relief) Act 1970."

Interpretation

Sub-clause 5(a) - Provides for the definition of "member of the forces" and "pensioner" to be omitted from section 2. These definitions are not required due to the inclusion of a new definition of "pensioner".

Sub-clause 5(b) - amends the Act by inserting separate definitions of "Commissioner" for the purposes of rebates on general rates and for water and sewerage rates.

A new definition of "pensioner" is inserted to reflect updated references to persons in receipt of benefits under the Social Security Act 1947 and the Veterans' Entitlement Act 1986. The new definition deletes references to legislation under which pensions or benefits are no longer provided.

Sub-clause 6(a) - omits from section 21A definitions for "entitled person" and "special repatriation pensioner" which have become outdated references as a result of the new definition of special rate pensioner.

Sub-clause 6(b) - inserts the new definitions of "eligible person" and "special rate pensioner" to replace outdated definitions excluded by sub-clause 6(a) of this Bill. Definitions for "rates" and "rebate" are inserted for clarification purposes.

Sub-clause 6(c) - inserts at the end of subsection 21A(1) new subsections (2), (3) and (4). New subsections (2) and (3) clarify the liability for rates of an eligible person where he or she is the sole or joint owner of the property by basing such liability on the proportional value of the person's interest in the land.

New subsection (4) provides that where part of the rates are deferred under section 21G of the Act, the rebate for the eligible person is to be assessed having regard to the amount payable after the deferral. Section 21G is in Part V of the Act which provides relief in prescribed areas where unimproved land values of residential land contains a single private dwelling house which has been unduly affected by planning approvals in the surrounding properties.

Substitution

Clause 7 - provides for sections 21B and 21BA to be repealed and replaces them with new provisions regarding rebates for pensioners.

Sub-clause 21B(1) - provides for eligibility for rebates to be available where the eligible person owns the parcel of land and it is his or her principal place of residence.

Sub-clause 21B(2) - provides for the rebate to be calculated based on the number of days in that year the eligible person occupied the parcel of land as his or her principal place of residence.

Sub-clause 21B(3) and (4) - provides for a once only application for a rebate of an eligible person, removing the need to re-apply annually. Application is required to be lodged with the Commissioner authorising relevant information to be disclosed to the Commissioner for the purpose of establishing eligibility for a rebate.

Sub-clause 21B(5) - provides that a rebate cannot apply to a rating year before the rating year in which the application is made.

Sub-clause 21B(6) - reintroduces the existing section 21BA(3) and provides for the continual operation of various sections of the Rates and Land Tax Act 1926, the Sewerage Rates Act 1968 and the Water Rates Act 1959.

Notice of Change in Circumstances

Sub-clause 21BA provides for written notification to be provided

to the Commissioner within 30 days of a change in circumstances which affects a person's eligibility for rebate, namely

- where a person ceases to be an eligible person,
- where the property ceases to be used as the person's principal place of residence; or
- where there is a change in ownership or of a person's share of an interest in a property.

Failure to comply is an offence punishable on conviction by a fine not exceeding \$500.

A person who has fulfilled his or her obligations under section 23 of the Rates and Land Tax Act 1926 is not required under this new clause to provide a notice of change in circumstances.

Section 23 of the Rates and Land Tax Act 1926 deals with notification to the Commissioner of a transfer of an interest in a lease.

Adjustment of Liability of Rates

Sub-clause 21BAA - provides that where the Commissioner believes a persons circumstances have altered, the Commissioner shall calculate a person's liability for rates based on their revised circumstances and advise the person in writing including the amount of the adjusted liability, the reasons for the decision and the date or dates any unpaid rates are due for payment.

The notice shall also advise the person of their right to appeal to the Administrative Appeals Tribunal for a review of the decision. Failure to advise a person of their right to a review of the decision shall not impact on the initial decision. An application for a review of the decision is made to the Tribunal.

Cessation and Resumption of Entitlement

Sub-clause 21BAB - provides that a person who ceases to be eligible for a rebate for a period exceeding 14 days must on resuming eligibility status apply for the rebate in accordance with sub-clause 21B(4) of this Bill.

Schedule

Clause 8 provides for signature blocks on Schedule 1 of the Principal Act to be updated from "Minister of State for Territories and Local Government" to "Minister".

PART II - MISCELLANEOUS

Application

Sub-clause 9(1) provides that the new arrangements for rebate will not apply to rates liability in a rating year ending before 30 June 1990. The new arrangements are to operate prospectively. The amount of the rebate will be calculated in reference to a person's liability in a rating year that occurs after 30 June 1990. The requirement to notify of a change in circumstance will only apply prospectively.

Sub-clause 9(2) provides for all persons entitled to a rebate as of 30 June 1990 who were also eligible persons on 1 July 1990 to be considered as having applied for a rebate and therefore removes any need for them having to apply again unless their eligibility ceases or a change in circumstances warrants a different level of rebate.

Consequential Amendments

Clauses 10 and 11 provide for amendments of the DOG CONTROL ACT 1975 and the REAL PROPERTY ACT 1925 as a result of the change in the title of the Principal Act.