

# Taxation Administration (Rates—Fire and Emergency Services—Eligible Person Levy) Determination 2016 (No 1)

## Disallowable instrument DI2016–151

made under the

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

## EXPLANATORY STATEMENT

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1. This disallowable instrument commences on 1 July 2016.
2. Under section 139 of the *Taxation Administration Act 1999*, the Minister has the authority to authority to determine, by disallowable instrument, amounts and rates applicable for determining amounts for the *Rates Act 2004* (Rates Act).
3. The Fire and Emergency Services Levy (FESL) is charged on all rateable properties in the Territory, with the revenue helping to offset the cost of providing fire and emergency services in the ACT. The levy amount is determined by whether the parcel of land is residential, rural or commercial.
4. For a parcel of residential or rural land, the FESL applies as a fixed charge imposed under schedule 1, section 1.1 (1) of the Rates Act (the FESL FC). The amount of the FESL FC is determined by disallowable instrument under section 139 of the *Taxation Administration Act 1999*.
5. The Fire and Emergency Services Rebate (FES Rebate) is a rebate of the FESL available to a property owner who is an eligible pensioner, receiving a Centrelink or Department of Veterans' Affairs pension with entitlement to a Pensioner Concession Card or a War Veteran's pension.
6. The FES Rebate is limited to an eligible pensioner's principal place of residence.
7. Before 1 July 2016, the FES Rebate was worked out by a formula under schedule 1 of the Rates Act which provided the amount of the rebate as 50 per cent of an eligible person's liability for FESL.

8. As part of the 2016–17 Budget, the Government has decided to hold the FES Rebate at its 2015–16 level of \$98, taking effect on 1 July 2016.
9. The Rates (Pensioner Rebate) Amendment Bill 2016 (the Bill), presented to the Legislative Assembly on 7 June 2016, will amend schedule 1 of the Rates Act to allow the FES Rebate to be fixed at an amount determined by disallowable instrument under section 139 of the *Taxation Administration Act 1999*, rather than worked out by legislative formula.
10. As the changes to the FES Rebate were announced in the 2016–17 Budget with effect from 1 July 2016, and the Bill is yet to be debated by the Legislative Assembly, this instrument implements the required changes on 1 July 2016 by varying the FESL FC. This is an interim measure to ensure taxpayer confidence and certainty.
11. The changes allow the FES Rebate to better align with the general rates rebate under section 64 of the Rates Act, which is also subject to a cap determined by disallowable instrument.
12. Section 3 of the instrument provides the instrument applies to a pensioner eligible for the FES Rebate under schedule 1, section 3.2 of the Rates Act.
13. Section 4 of the instrument determines the amount of the FESL FC under schedule 1, section 1.1 (3) of the Rates Act, for an eligible person, to be \$308.
14. The determination of the FESL FC in this instrument is notwithstanding the *Taxation Administration (Rates—Fire and Emergency Services Levy) Determination 2016 (No 1)* DI2016-109, which determines the FESL FC at \$252.
15. As the formula under schedule 1, section 3.2 (5) would have resulted in a FES Rebate at \$126 (that is, 50 per cent of \$252), this instrument results in a FES Rebate for an eligible person of \$154 (that is, 50 per cent of \$308).
16. An eligible person would have a liability for FESL of \$154 after applying a rebate to the FESL FC determined by this instrument. This is the same liability that the eligible person would have had after applying a FES rebate of \$98 to a FESL FC of \$252 ( $\$252 - \$98 = \$154$ ).
17. On the commencement of the Bill, the 50 per cent formula for working out the FES Rebate in schedule 1 of the Rates Act will be replaced with a set amount to be determined by disallowable instrument under section 139 of the *Taxation Administration Act 1999*.
18. This instrument only has operative effect until the Bill commences. On the commencement of the Bill, a new determination of the FES Rebate will be made for the purposes of schedule 1 of the Rates Act (as amended by the Bill).

19. Under schedule 1, section 2.1A (1) (c) of the Rates Act, part 7 of the Act (other than sections 63 and 64) applies to the FESL as if a reference to ‘rates’ in those provisions includes a reference to the FESL.
20. This means, for example, the FES Rebate is proportional to an eligible person’s interest in land if the person is a joint owner of a parcel. The definition of *liability for rates* under section 60 of the Rates Act includes the definition for **LL** (liability for levy) under schedule 1, section 3.2 (3) and (5).

Authorised by the Treasurer  
Andrew Barr MLA