

# Taxation Administration (Rates—Fire and Emergency Services Rebate) Determination 2016 (No 1)

## Disallowable instrument DI2016–218

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 the commencement of the *Rates (Pensioner Rebate) Amendment Act 2016* (the Amendment Act), section 4.
2. Under section 139 of the *Taxation Administration Act 1999*, the Minister has the 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 Rebate (FES Rebate) is a rebate of the Fire and Emergency Services Levy (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.
4. The FES Rebate is limited to an eligible pensioner's principal place of residence.
5. Before 1 July 2016, the FES Rebate was worked out by a formula under schedule 1 of the Rates Act. The formula provided the amount of the rebate was 50 per cent of an eligible person's liability for FESL.
6. As part of the 2016–17 Budget, changes were made to the ACT's Concessions Program to improve equity and to ensure future growth is financially sustainable, while maintaining support for members of the community most in need of assistance.
7. One of the changes was the freezing of the FES Rebate at its 2016–17 level of \$98. The maintenance of the FES Rebate at this level will improve the sustainability of the rebate in future years.

8. The Amendment Act amends the Rates Act to substitute the 50 per cent formula for working out the FES Rebate with a fixed amount to be determined by disallowable instrument under section 139 of the *Taxation Administration Act 1999*. This allows 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.
9. This instrument determines the FESL rebate to be \$98 for the purposes of schedule 1, section 3.2 (5) of the Rates Act (inserted by the Amendment Act).
10. The amount of \$98 is unchanged from the effective amount of the rebate for FESL available in 2015–16, which was worked out as 50 per cent of the fixed charge of \$196 applicable to residential or rural land.
11. Under schedule 1, section 2.1A (1) (c) of the Rates Act (as amended by the Amendment Act), part 7 of the Rates 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.
12. 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) of the Rates Act (as amended by the Amendment Act).
13. The *Taxation Administration (Rates—Fire and Emergency Services—Eligible Person Levy) Determination 2016 (No 1)* DI2016-151, effective 1 July 2016, implemented an interim measure to ensure an effective FESL rebate cap of \$98 until the commencement of the Amendment Act.
14. DI2016-151 determined the FESL at \$308, resulting in an eligible person having a liability of \$154 after a rebate was applied (equivalent to a rebate of \$98 subtracted from the 2016–17 FESL of \$252).
15. DI2016-151 ceases to have operative effect on the commencement of the Amendment Act.
16. Neither the commencement of the Amendment Act, nor the expiry of DI2016-151, will affect the rights and liabilities of eligible people who were issued rates assessment notices between 1 July 2016 and the commencement of the Amendment Act.
17. People affected by DI2016-151 will continue to be liable for a FESL fixed charge of \$308. However, they will also continue to be entitled to a FES Rebate of \$154 under the Rates Act in force before the commencement of the Amendment Act, rather than the FES Rebate of \$98 as determined by this instrument.

18. This is provided for by section 84 (1) (c) of the *Legislation Act 2001*, which provides that '[t]he repeal or amendment of a law does not affect an existing right, privilege or liability acquired, accrued or incurred under the law'. **Law** is defined to mean 'an Act or statutory instrument' under section 82 of the Legislation Act. Further, the term **repeal** is defined in part 1 of the dictionary of the Legislation Act as to include 'for a statutory instrument—revoke the instrument (or part of it)'.

Authorised by the Treasurer  
Andrew Barr MLA