

2019

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

Revenue Legislation Amendment Bill 2019 (No.2)

EXPLANATORY STATEMENT

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REVENUE LEGISLATION AMENDMENT BILL 2019 (No.2)

Summary

The Revenue Legislation Amendment Bill 2019 ('the Bill') amends the following:

- *Duties Act 1999* (Duties Act);
- *Land Rent Act 2008* (Land Rent Act);
- *Land Tax Act 2004* (Land Tax Act);
- *Payroll Tax Act 2011* (Payroll Tax Act);
- *Rates Act 2004* (Rates Act); and
- *Taxation Administration Act 1999* (TAA).

Overview

The Bill amends various taxation legislation to improve the administration and operation of the ACT tax system for the benefit of both taxpayers and administrators. The amendments in the Bill make provision for:

- An amendment to extend the period of the unfit for occupation exemption of the Land Tax Act by a quarter after the land becomes fit for occupation.
- A number of minor and technical amendments to clarify and simplify the administration and operation of tax laws.

Land Tax Act

Unfit for occupation exemption

Properties that are not fit for occupation are exempt from land tax under Section 11I of the Land Tax Act. The exemption applies until a Certificate of Occupancy and Use (COU) is issued and the land is deemed fit for occupation. Land tax is payable from the quarter after a COU is issued if the property is not otherwise exempt on the first day of that quarter, such as if the property is occupied as a principal place of residence (PPR) on that date.

This Bill addresses an unintended consequence arising from the *Land Tax Amendment Act 2018*, which commenced on 1 July 2018. With that Act newly built properties became liable for land tax where the COU was granted in the quarter before an assessment date. While

these dwellings are fit for occupation, it may not be possible for them to be occupied prior to the assessment date due to unit titling or settlement.

The amendments in this Bill provide an exemption for an additional quarter after the COU is granted (unless the property is rented). This time would allow unit titling to be finalised and settlement of sales in the majority of cases, effectively providing a period of between three and six months (depending on when the COU is issued) of land tax exemption.

This amendment is consistent with administrative arrangements temporarily in place providing land tax relief to eligible taxpayers, and with other land tax exemptions that operate for the quarter following a relevant 'trigger' event.

Notification of change in land tax circumstances

From 1 July 2018, section 14 of the Land Tax Act requires an owner to tell the Commissioner for ACT Revenue (Commissioner) of a change in circumstance that would cause land tax or the foreign ownership surcharge to become payable for parcels of land that are: (a) leased for residential purposes; and (b) exempt from land tax or a foreign ownership surcharge.

Amendments in the Bill operate to clarify that relevant parties are to notify the Commissioner of a land tax or surcharge liability by 31 March 2020 if they have not already done so. Information about these amendments will be available on the ACT Revenue Office website following the commencement of the Bill.

Definitions – Dwelling

The Land Tax Act recognises that a parcel of land may comprise multiple dwellings. If these dwellings are rented, they will be subject to land tax to the proportion of the floor area rented.

'Dwelling' is defined in sections 15(5) and 27(7) of the Land Tax Act as meaning a dwelling within the meaning of the Planning and Development Regulation 2008, section 5.

The definition of dwelling is amended by the Bill to better align with the policy to impose land tax on rented dwellings and to exclude components not relevant to the calculation of rented floor living areas.

Definitions – Rent

The definition of ‘rent’ refers to valuable consideration for which a tenant is liable under a ‘residential tenancy agreement’ under the *Residential Tenancies Act 1997*, section 6. The Bill amends the definition of rent with reference to ‘tenancy agreement’ consistent with other tax laws.

Compassionate case exemption

Sections 12 and 13(3) of the Land Tax Act provide for the Commissioner to declare a parcel of land as exempt from land tax on compassionate grounds for a period of up to one year.

Other exemptions involving personal circumstances – death of an owner, loss of independence – allow for the period of exemption of up to two years. Extending the timeframe for the compassionate exemption up to two years would align with other exemptions and reduce administration for taxpayers who are subject to unfortunate personal circumstances.

Move in exemption

Amendments in the Bill clarify the operation of section 11C of the Land Tax Act with respect to the types of circumstances and parties eligible for the exemption – these being persons moving in to occupy a property as a PPR after they become an owner of the property, and owners who move in to occupy a property as a PPR after a rental ceases.

Duties Act

Duty deferral

Under Part 2.6A of the Duties Act deferral of duty is limited to eligible Home Buyer Concession Scheme (HBCS) and First Home Owner Grant (FHOG) applicants.

A general head of power for making duty deferral arrangements by statutory instrument is inserted to provide another mechanism by which to implement Government decisions for duty deferral arrangements.

Amendments in the Bill also change the definition of ‘eligible property’ for duty deferrals to reflect changes in HBCS property value thresholds as of 1 July 2019. The upper property value threshold under the HBCS is effectively redundant from 1 July 2019 but is still referenced as part of the eligibility criteria in the Duties Act for the purposes of a duty deferral.

Land Rent Act

Decision to not remit interest

Under Part 5 of the Land Rent Act, if the lessee of a land rent lease fails to pay an amount of land rent, the lessee is liable to pay interest until the amount is paid.

As with other tax laws, the Commissioner has the capacity to remit or refund interest associated with land rent – section 23(5). The Bill provides a review right to a taxpayer where a decision is made not to remit interest. This is consistent with the review rights available to taxpayers under other tax laws (for example, the TAA).

Land rent debt recovery powers

New powers enacted by the *Revenue Legislation Amendment Act 2019* provide for the Commissioner to directly inform a mortgagee of a tax debt and to collect tax debts from mortgagees in certain circumstances. Land rent debts were inadvertently excluded from these powers. Amendments in the Bill extend these powers to land rent debts.

Payroll Tax Act

The Bill removes a requirement under the Payroll Tax Act for grouping exclusion determinations to be made as notifiable instruments. In other Australian jurisdictions grouping exclusions are executed by the Commissioner (or equivalent) via an order in writing or by giving notice. This amendment aligns the ACT with other jurisdictions.

Rates Act

The Bill omits redundant eligibility criteria for a minimum property value threshold and maximum income to be determined by the Treasurer for rates deferral applicants in the ‘over 65s’ category. From 1 July 2019, these criteria were effectively removed with the specification of nil values in the Taxation Administration (Amounts Payable—Rates) Determination 2019 (No.1).

Taxation Administration Act

Garnishee

The TAA garnishee provisions (section 54) specify the amounts required to be paid to the Commissioner from third parties. If the money is available via garnishee the Commissioner is

required to take all the monies owing, or all the monies held, and does not have the discretion to take a lesser amount.

Section 54 is amended by the Bill to allow the Commissioner to have the ability to require a lesser amount of monies to be paid. This gives the Commissioner some flexibility to accept different payment arrangements.

Statutory charges

Section 56H of the TAA allows for tax payable in relation to a parcel of land to be a statutory charge on the interest held by the owner of the parcel. The Bill omits section 56H (8) to address a technical error. The provision states that the statutory charge ends on the earlier of the following: (a) the Commissioner applies under the Land Titles Act 1925 to remove the charge; (b) the sale or disposition of the parcel with the Commissioner's consent. However, this is not correct. A statutory charge on property only ceases when the tax payable has been paid. It is the registration of the charge on title that is removed when the registrar-general is notified of the tax being paid or the sale of the property.

Human rights

This Bill has human rights implications. Specifically, the amendments to the Land Rent Act (decision not to remit land rent interest and land rent debt recovery powers), and the TAA (collection from third parties) engages rights under the *Human Rights Act 2004* (HR Act).

Section 28 of the HR Act states that human rights may be subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society. In deciding whether a limit is reasonable, all relevant factors must be considered including:

- The nature of the right affected;
- The importance of the purpose of the limitation;
- The nature and extent of the limitation;
- The relationship between the limitation and its purpose;
- Any less restrictive means reasonably available to achieve the purpose the limitation seeks to achieve.

Land Rent Act – decision not to remit interest

The nature of the right affected. Section 21(1) of the HR Act provides that everyone has the right to have criminal charges, and rights and obligations recognised by law, decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

The nature and extent of the limitation. The Bill amends the Land Rent Act to allow for the internal review by the Commissioner of decisions to not remit interest payable for unpaid land rent. While this gives land rent payers a review right for interest by the Commissioner, the right has not been extended to the ACT Civil and Administrative Tribunal (ACAT).

The importance of the purpose of the limitation. The limitation is necessary for consistency with established law. Other taxation Acts limit the decision not to remit interest to a Commissioner-reviewable decision only. The ACAT has no jurisdiction to adjudicate on these decisions and has supported the limitation.

By amending the Land Rent Act, land rent payers will have the same rights of review for the remission of interest as other taxpayers under other tax lines (in the spirit of the human right of recognition and equality before the law – section 8(3)). Like other taxes, the substantive tax that is imposed is reviewable to ACAT, but not a decision not to remit interest accrued on unpaid taxes.

Interest plays an integral role in tax administration: it promotes equity amongst taxpayers by ensuring that those who meet their obligations are not disadvantaged in comparison with those who do not; encourages disclosure of tax defaults and payment of tax liabilities; and compensates Government for the opportunity cost of being denied the use of funds to which it is entitled.

The Commissioner may still remit or refund all or part of an amount of interest paid or payable by the lessee (section 23(5) of the Land Rent Act). Revenue Circular GEN009.3 outlines: as interest is imposed under legislation there is necessarily a high threshold on remitting interest to ensure equity amongst taxpayers who have paid liabilities on time. In practice, the Commissioner will remit interest only when the legislation produces an extraordinary and unintended consequence, such as where the ACT Revenue Office is at fault, or where the legislation has produced an unforeseen (or unexpected) outcome. The decision to remit interest is not taken lightly – it is exercised carefully to ensure that the

integrity of the Territory's tax system is maintained and that at the end of the day, the costs of non-compliant taxpayers is not borne, or absorbed by the otherwise law abiding citizens of the Territory.

The relationship between the limitation and its purpose. The limitation is necessary to be consistent with other tax laws.

Any less restrictive means. There are no less restrictive means available, that would not otherwise impact on the consistency of existing laws, or the integrity of the tax system.

Land rent – Mortgagee arrangements for land rent debt

The rights affected by these amendments (recognition and equality before the law – section 8(3), protection of family and children – section 11(1), privacy and reputation – section 12, fair trial – section 21(1)) are considered in the explanatory statement to the Revenue Legislation Amendment Bill 2019 in association with recent amendments for debt recovery powers under the TAA.

The extension of the notification and mortgagee debt recovery provisions to land rent debts does not raise any additional or separate rights under the HR Act that may be affected. As required under existing provisions, and in these amendments, the Commissioner will take all reasonable steps to make arrangements for the payment of tax debts before notice is given and the debt is recovered from a mortgagee (for example, automated arrears notices or reminders, issuing letters for payment, engaging the assistance of debt collectors, follow up phone calls, offering time payment arrangements).

TAA – Collection from third parties

The nature of the right affected. These amendments may affect a taxpayer's and/or a third party's right to:

- protection of family and children (section 11(1));
- privacy and reputation (section 12);
- fair trial (section 21(1)).

The nature and extent of the limitation.

Protection of family and children - Section 11(1) of the HR Act provides that 'family is the natural and basic group unit of society and is entitled to be protected by society'.

The debt recovery provisions of the TAA under section 54, state that the Commissioner may require another person instead of the taxpayer to pay tax that is payable but remains unpaid where that person is due to pay money to the taxpayer, or holds money for the taxpayer, or has authority to pay money to the taxpayer. While this person is referred to as the 'debtor' in section 54 they are not ultimately liable for the tax that is unpaid. This remains the taxpayer's burden. The third party debtor is only required to pay what money they hold, or that is due or authorised to be paid to the taxpayer. They are not required to pay more than what they have to, to satisfy the unpaid tax debt.

Rather than collecting from the taxpayer, section 54 enables the Commissioner to collect from a third party who is in receipt of, or who is about to receive available funds for the taxpayer. By collecting from the third party, the Commissioner is able to redirect the funds that are readily available in someone else's hands to satisfy a taxpayer's unpaid tax debt. For example, the third party may be a bank or financial institution.

It is currently stipulated under section 54(6) that the amount of money required to be paid to the Commissioner by the debtor is (a) if the money so held or due or authorised to be paid does not exceed the amount payable by the taxpayer to the Commissioner – all the money; or (b) if the money exceeds the amount so payable – sufficient money to pay the amount so payable.

The amendment to section 54(6) will enable the taking of a lesser amount of money by the Commissioner in recovering unpaid tax.

Debt recovery actions involving collection from third parties may affect a taxpayer's ability to manage their finances. This amendment will better support taxpayers' ability to manage their finances as the Commissioner will not be required to take all the monies when taking recovery action. In other words, the taxpayer may be left with some money, rather than no money. The collection of money from the third party does not affect their right to family as the money collected is not theirs – they merely hold it or are in receipt of it momentarily for the taxpayer.

Privacy and reputation – Section 12 of the HR Act states that everyone has the right not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily.

These rights may be impacted through debt recovery action involving third parties as notice is given of monies required to be paid for the taxpayer. However, this is an existing power exercisable by the Commissioner in recovery action. The amendments do not modify this power, they only alter the amount of the money that is to be stated in a notice that is given to a third party.

Fair trial – For section 21 of HR Act the right to a fair trial includes all proceedings in a court or tribunal and all stages of proceedings. It is concerned with procedural fairness, that is, the right of all parties in proceedings to be heard and respond to any allegations, and the requirement that the court be unbiased and independent. The nature of the right may be absolute in itself, in that it can never be justified to hold an unfair trial, but many of the principles that characterise a fair trial are not absolute.

The right to a fair hearing may be engaged through the recovery of debt from a third party rather than the taxpayer. The existence of an unpaid tax debt is not affected by these amendments and there are opportunities afforded to the taxpayer within existing legislation to address the debt prior to the commencement of any recovery action. Under section 54 the Commissioner must provide the taxpayer with a copy of the notice that is given to the third party debtor. Also, these amendments do not change the requirement that the Commissioner must give written notice to a third party debtor before the money is recovered from the third party.

The Bill amends the TAA to provide the Commissioner with an ability when collecting tax debts from third parties under section 54 of the TAA, to require a lesser amount of monies to be paid.

The ability to take a lesser amount is unfettered to allow for a broad consideration of any individual taxpayer circumstances that may arise, including the impact on the taxpayer and/or the debtors' families, or the collection of sums from alternative sources. In exercising the discretion, the Commissioner will be bound as a public authority under section 40B of the HR Act to act consistently with human rights.

The circumstances can vary from case to case and include but are not limited to the following: for example money may be available from more than one source and a choice is made to collect part sums from different sources; a taxpayer may make last minute

arrangements to pay the debt by instalments thereby removing the need to take all the available money from a third party debtor.

The importance of the purpose of the limitation. The protection of public revenue is an important public policy goal, as revenue is required to fund services provided by the ACT Government, such as transport, health and education. The debt recovery provisions of the TAA are integral to achieving this goal. The collection of tax from non-compliant taxpayers also promotes public confidence in the tax system. There is knowledge that every individual either pays their taxes or is subject to recovery action. This ensures all citizens are more likely to pay their taxes in full and on time.

The amended recovery provisions from third parties will only apply to persons who are in tax default.

The relationship between the limitation and its purpose. The limitation is necessary to achieve the purpose of revenue protection and preservation of the integrity of the tax system. It minimises the risk of non-compliance and revenue loss.

Any less restrictive means. It is not considered that there are any less restrictive means to achieve the purpose of these amendments.

Commencement

The amendments will commence on the day after the notification day, excluding Part 2 (Duties Act) and Part 6 (Rates Act) that commence on a day to be fixed by the Minister.

Details of the Revenue Legislation Amendment Bill 2019 (No.2)

Part 1 Preliminary

Clause 1 Name of Act

This clause provides the name of the Act is the *Revenue Legislation Amendment Act 2019 (No.2)*.

Clause 2 Commencement

This clause provides that the Act commences on the day after its notification day other than Part 2 (Duties Act) and Part 6 (Rates Act) that commence on a day fixed by the Minister.

Clause 3 Legislation amended

This clause provides the Act amends the legislation mentioned in Parts 2 to 7.

- *Duties Act 1999* (Duties Act);
- *Land Rent Act 2008* (Land Rent Act);
- *Land Tax Act 2004* (Land Tax Act);
- *Payroll Tax Act 2011* (Payroll Tax Act)
- *Rates Act 2004* (Rates Act); and
- *Taxation Administration Act 1999* (TAA).

Clause 4 Legislation repealed

The Duties (Amount Deferred) Determination 2007 (No 1) (DI2007-248) which provides for a minimum amount of duty deferred of \$1,000 is repealed by this Bill. This is because of the amendment at clause 9 of this Bill to insert the \$1,000 threshold in the duty deferral provisions of the Duties Act.

Part 2 Duties Act 1999

Clause 5 Part 2.6A heading

Clause 6 New division 2.6A.1 heading

Clause 5 revises the heading of the part to recognise the broader application of the part to new divisions 2.6A.1 and 2.6A.2. Clause 6 amends the heading of division 2.6A.1 to more specifically recognise its application to the First Home Owner Grant and home buyer concession schemes.

- Clause 7** **Definitions—pt 2.6A**
Section 75AA
- Clause 8** **New sections 75 and 75AA**

Clause 7 omits the definitions in Part 2.6A under section 75AA. This section is replaced by new sections 75 and 75A inserted under clause 8. New section 75 retains existing definitions for ‘deferral arrangement’, ‘eligible person’, and ‘home buyer concession scheme’ and inserts a new definition for ‘eligible property’ that references new section 75A.

New section 75A defines ‘eligible property’ to mean the property determined under the home buyer concession scheme as eligible property for the scheme, or in any other case, a residential lease with a value not more than \$750,000 or another amount determined by the Minister.

Currently the definition of ‘eligible property’ is tied to the upper property threshold of the home buyer concession scheme. This amendment removes that link and provides the Minister with the power to determine by disallowable instrument a property value threshold for duty deferrals that is not tied to the property thresholds used under the home buyer concession scheme.

- Clause 9** **Conditions of deferral arrangement**
Section 75AD (1) (c) (i)

This clause makes a technical amendment to the minimum threshold for an amount of duty to be deferred. The threshold was increased in 2007 to \$1,000 by disallowable instrument (Duties (Amount Deferred) Determination 2007 (No 1), DI2007-248 refers).

- Clause 10** **Section 75AD (4)**

Consequent to changes to Part 2.6 to insert new divisions 2.6A.1 and 2.6A.2, the reference in section 75AD (4) to ‘part’ is amended to ‘division’.

- Clause 11** **New division 2.6A.2**
Clause 12 **Certificate of Duty and other charges**
Section 244 (1) (a)
- Clause 13** **Dictionary, definition of *deferral arrangement***
Clause 14 **Dictionary, new definition of *duty deferral scheme***
Clause 15 **Dictionary, definitions of *eligible person* and *eligible property***
Clause 16 **Dictionary, new definition of *eligible transaction***
Clause 17 **Dictionary, definition of *home buyer concession scheme***

Clause 11 inserts a new division 2.6A.2 for other deferral schemes for transactions concerning dutiable property that may be determined by the Minister by disallowable instrument.

New section 75AF provides definitions for the operation of the new division.

New section 75AG states that the Minister in determining a scheme must identify those persons and transactions eligible for duty deferral. Further, a determination may be made about the way in which an eligible person applies for a duty deferral, and any conditions to which a deferral may be subject, including interest to be charged on amounts payable.

Supporting the scheme arrangements, new section 75AH provides that an eligible person may apply to the Commissioner for a duty deferral. The timing of an application is aligned with the time the instrument effecting the dutiable transaction is lodged with the Registrar-General of Titles. Applicants must provide the Commissioner with any information the Commissioner reasonably requires to decide the application.

Under new section 75AI the Commissioner must approve applications where the applicants are eligible persons and duty is, or would be, payable on an eligible transaction. Approvals are conditional on parties entering into a deferral arrangement under section 52 of the TAA.

New section 75AJ provides a minimum threshold value for duty to be deferred at \$1,000. This is consistent with the threshold provided under DI2017-248 (see also clause 9 above). The Minister may determine a greater amount, or any other condition required under the duty deferral by disallowable instrument.

As with other unpaid taxes and interest, section 75AK provides that the amounts payable under deferral arrangements are debts owing to the Territory and a first charge over a person's interest in the property to which the deferred payment of duty relates.

Clauses 12, 13, 14, 15, 16 and 17 provide consequential amendments to the insertion of new division 2.6A.2 and the definitions in the Dictionary.

Part 3 Land Rent Act 2008

**Clause 18 Land rent—charge on land
New section 24 (2A) to (2D)**

Clause 19 New section 24A

These clauses provide for debt recovery powers to directly inform a mortgagee of a land rent debt (new section 24 (2A) to (2D)) and to collect land rent debts from mortgagees (new section 24A) in certain circumstances. These powers and related conditions of operation are consistent with those provided for tax laws under sections 56H and 56HA of the TAA.

**Clause 20 Objections
New section 33 (c)**

**Clause 21 Review of decisions by ACAT
Section 34 (1)**

These clauses provide for internal review (by the Commissioner) of a decision under section

23 (5) of the Land Rent Act refusing to remit interest on an amount of unpaid land rent. The right of review is consistent with the rights of review for the refusal to remit interest on other unpaid taxes.

Part 4 Land Tax Act 2004

Clause 22 Section 7

Clause 33 Dictionary, definition of *residential tenancy agreement*

Clause 34 Dictionary, new definition of *tenancy agreement*

These clauses provide revised definitions for ‘rent’, ‘tenancy agreement’ and ‘tenant’. These changes align with the definition of tenancy agreement within the Rates Act and provide greater consistency in the operation of tax laws.

Clause 23 Land exempted from s 9 generally

Section 10 (1) (a) (iii)

Clause 24 New section 10 (1) (a) (iiia)

Clause 25 Section 11C

Clauses 23 and 24 are consequential amendments consequential to include under section 10 of the Land Tax Act a reference to the exemptions for owners moving into a principal place of residence (section 11C and new section 11CA).

Clause 25 substitutes the current moving into principal place of residence exemption with two sections to clarify the exemptions available when an owner is moving in to occupy a property as a principal place of residence as a new owner and when a rental ceases.

New section 11C (Moving into principal place of residence—new owner) provides an exemption from land tax where a person takes up occupation of a parcel of land as a principal place of residence within three months of becoming the owner. ‘Owner’ is defined within the Dictionary of the Land Tax Act.

The exemption will not apply if within that three months, the property is rented. However, an exception applies if the property is rented by the previous owner for not more than three months.

New section 11CA (Moving into principal place of residence—ending rental) provides an exemption where a new owner takes up occupation of a parcel of land as a principal place of residence within three months of ceasing to rent the property. The exemption applies for the first quarter after the rental ceases. The exemption will not apply if the property is rented.

**Clause 26 Exemption if land becomes unfit for occupation
Section 11I (2)**

This clause extends the period of the unfit for occupation exemption by an additional land tax quarter after a certificate of occupancy has been issued. This is to provide an appropriate amount of time to allow parties to settle, take possession and occupy the parcel.

The exemption will not apply if the parcel is rented.

**Clause 27 Decision on compassionate application
Section 13 (3)**

This clause amends section 13 (3) the Land Tax Act to extend the period for which an exemption may be granted for compassionate reasons from one year or less to two years or less.

**Clause 28 Commissioner to be told of change in circumstances
Section 14 (1)**

Clause 28 amends section 14 (1) of the Land Tax Act to provide that the section applies where land tax or a foreign ownership surcharge was not previously imposed in respect of a parcel of land, but the parcel becomes subject to land tax or the surcharge.

In this situation a relevant person must under existing section 14 (2) tell the Commissioner of a change in circumstances in relation to the parcel that would cause land tax or a foreign ownership surcharge to become payable for the parcel.

For example, residential land that was not previously liable for land tax or the foreign ownership surcharge prior to 1 July 2018 but becomes subject to land tax or the foreign ownership surcharge after 1 July 2018. An owner of such a parcel would be required under section 14 (2) to inform the Commissioner of the changed circumstances for their parcel.

Clause 29 Section 14 (2) (a)

Currently, section 14 (2) (a) requires an owner, or their agent or representative, to advise the Commissioner of a change in circumstances which might make the parcel of land subject to land tax or the foreign ownership surcharge.

This clause makes a minor amendment to clarify that the change is in relation to the parcel of land not the person. It does this by omitting the reference to 'person's' in section 14 (2) (a).

- Clause 30** **Multiple dwellings**
 Section 15 (5), definition of *dwelling*
- Clause 31** **Unit subdivisions—land tax**
 Section 27 (7), definition of *dwelling*

These clauses amend the definition of dwelling under sections 15 and 27 of the Land Tax Act which deal with the application of land tax where there are multiple dwellings or units on a parcel of land. They clarify that a dwelling means a room, or suite of rooms, used or capable of being used as a separate residence but does not include a garage, carport, garden, shed, veranda, pergola, patio or any other structure not used for living in.

Clause 32 **New part 8**

This clause provides for transitional arrangements for the notification of tax liabilities arising from amendments made under the *Land Tax Amendment Act 2018* (the Amendment Act).

New section 58 applies to parcels of land which, immediately before 1 July 2018 land tax or the foreign ownership surcharge was not imposed, but on 1 July 2018 land tax or the foreign ownership surcharge was imposed. In respect of these parcels, section 58 requires the owner of the parcel on 1 July 2018 to notify the Commissioner of land tax and foreign ownership surcharge liabilities by 31 March 2020.

New section 59 provides that interest and penalty tax is payable in the event an owner fails to notify the Commissioner by 31 March 2020. This treatment is consistent with that for failure to notify of a change in circumstances under section 19A of the Land Tax Act.

These transitional arrangements expire on 30 June 2021 (new section 60).

Part 5 **Payroll Tax Act 2011**

- Clause 35** **Exclusion of people from groups**
 Section 79 (1)
- Clause 36** **Section 79 (5)**
- Clause 37** **Section 79 (6) and (7)**

These clauses provide that exclusions of people from groups under the Payroll Tax Act may be determined or revoked by written notice from the Commissioner, rather than notification by notifiable instrument. This change will reduce administrative burden and support the privacy of taxpayer affairs.

As a transitional provision a determination in a notifiable instrument currently in force is taken to have been determined by written notice and may be revoked by written notice given to the person. The transitional provision will expire 2 years after it commences.

- Part 6 Rates Tax Act 2004**
- Clause 38 Determination for deferral of rates on application**
Section 46 (2) (f) (ii) and (iii)
- Clause 39 Additional grounds for revocation of deferral determination**
Section 52 (1) (g)
- Clause 40 Section 52 (3), definitions of *determined value* and *income threshold amount***

These clauses omit the requirement for a minimum unimproved value and maximum income to be determined by the Minister for applicants in the 'over 65' category for the purpose of rates deferral.

Sections 46 (2) (f), 52 (1) (g) and 52 (3) of the Rates Act provide arrangements relating to the determination of a deferral of rates for the 'over 65' category.

From 1 July 2018, criteria related to income and the unimproved value have effectively been inoperative with the Taxation Administration (Amounts Payable—Rates) Determination 2019 (No.1) specifying no income threshold and a minimum unimproved value of \$1.

Part 7 Taxation Administration Act 1999

- Clause 41 Collection of tax from third parties**
Section 54 (6)

This clause makes provision for the Commissioner to recover an amount of money from a third party debtor not exceeding the amount of unpaid tax (if the money due, held or authorised to be paid to the taxpayer is more than the unpaid tax), or the money due, held or authorised to be paid to the taxpayer by the debtor.

This will allow the Commissioner the flexibility to require the payment of less money by a third party in circumstances the Commissioner considers appropriate.

The amendment also recognises the ability to pay unpaid tax via instalment as provided under section 54 (4).

- Clause 42 Tax payable is charge on land**
Section 56H (2)
- Clause 43 Section 56H (8)**

These clauses omit section 56H (8) to address a technical error, recognising that a statutory charge on property only ceases when the tax payable has been paid.