

NORTHERN TERRITORY OF AUSTRALIA

DARWIN RATES AMENDMENT ACT 2014

Act No. 47 of 2014

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 47 of 2014

An Act to amend the *Darwin Rates Act*, and for related purposes

[Assented to 8 December 2014]
[Second reading 26 March 2014]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Darwin Rates Amendment Act 2014*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of Darwin Rates Act

3 Act amended

This Part amends the *Darwin Rates Act*.

4 Section 1 amended

Section 1

omit

Darwin

insert

Northern Territory

5 Section 4 replaced

Section 4

repeal, insert

4 Definitions

In this Act:

Aboriginal community living area, see section 3 of the *Local Government Act*.

Aboriginal community living area association, see section 3 of the *Local Government Act*.

allotment, see section 12(2).

assessed value, of an allotment, see section 14(2).

interest, in rateable land, includes a right to be granted a lease from the Crown of rateable land.

Land Trust means an Aboriginal Land Trust established under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

mining tenement, see section 3 of the *Local Government Act*.

occupier, of an allotment, means a person who, either jointly or alone, has actual physical possession of the allotment to the substantial exclusion of other persons.

prescribed area means an area of land that is not in a local government area and is prescribed by regulation as a prescribed area for this Act.

rate book means the rate book maintained under section 6.

rate notice, see section 15.

rateable land, see section 24.

ratepayer, for an allotment, means the person who must pay the rate for the allotment under Part III, Division 1A.

valuation-based charge, see section 13(2)(b).

4A Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 4A

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

6 Part II, Division 1 heading replaced

Part II, Division 1, heading

repeal, insert

Division 1 Rates under this Act**7 Sections 5 to 7 replaced**

Sections 5 to 7

repeal, insert

5 Rates in prescribed areas

The ratepayer for an allotment in a prescribed area must pay the rate levied in respect of the allotment in accordance with this Act.

Division 1A Rate book**6 Rate book**

- (1) The Minister must maintain a rate book.
- (2) The rate book must contain the following:
 - (a) a description of each allotment within each prescribed area;
 - (b) the name of the ratepayer for each allotment;
 - (c) the assessed value of each allotment, if relevant;
 - (d) any other information as the Minister sees fit or as prescribed by regulation.

7 Names of persons to be entered in or removed from rate book

The Minister must:

- (a) enter a person's name in the rate book as the ratepayer for an allotment if:
 - (i) the person is a person claiming to be the ratepayer for the allotment and requests the Minister to do so; or
 - (ii) the Minister is satisfied that the person is the ratepayer for the allotment; or
- (b) remove a person's name from the rate book as the ratepayer for an allotment if:
 - (i) the person requests the Minister to do so; and
 - (ii) the person has paid all rates for which the person is liable as the ratepayer for the allotment; and
 - (iii) the Minister has received notice of the name and address of the new ratepayer.

8 Sections 9 to 15 replaced

Sections 9 to 15

repeal, insert

9 Alteration of rate book

The Minister must serve notice of an alteration under section 8 on the ratepayer whose name appears in the rate book as the ratepayer for the relevant allotment.

10 Rates to be entered in book

- (1) The Minister must, within 21 days after declaring a rate:
 - (a) enter in the rate book the amount of the rate due in respect of each allotment and the name of the ratepayer for the allotment; and
 - (b) give public notice of the place at which, and the times when, the rate book may be inspected.
- (2) The Minister must ensure that the rate book is available for inspection at the place and during the times specified in the notice under subsection (1).

11 Fee to inspect rate book in certain circumstances

A person who wishes to inspect the entries in the rate book relating to an allotment must pay the fee for inspecting the rate book that the Minister determines, unless the person is:

- (a) the ratepayer for the allotment or an adjoining allotment; or
- (b) the agent of the ratepayer for the allotment or adjoining allotment who is authorised in writing by the ratepayer to do so.

Division 2 Declaration of rates**12 Allotments**

- (1) The Minister may divide a parcel of land that is rateable land into more than one allotment if:
 - (a) different parts of the parcel are occupied by different persons; or
 - (b) the allotments fall within different zones; or
 - (c) there is some other good reason for disaggregating the parcel into separate allotments.
- (2) An **allotment** is:
 - (a) if the Minister has divided a parcel of land that is rateable land into more than one allotment under subsection (1) – each part of the parcel as divided by the Minister; or
 - (b) otherwise – a parcel of land that is rateable land.
- (3) An allotment may be:
 - (a) a unit or lot created by registration of a plan under the *Real Property (Unit Titles) Act* or the *Unit Titles Act*, or
 - (b) a unit created by the registration of a unit title scheme under the *Unit Title Schemes Act*.
- (4) In this section:

zone means a zone constituted under the *Planning Act*.

13 Minister to declare rate

- (1) The Minister must, before 21 October in each financial year, declare a rate payable in respect of each allotment for the financial year.
- (2) The rate declared by the Minister in respect of an allotment may:
 - (a) be a fixed amount (a **fixed charge**); or
 - (b) be calculated as a proportion of the assessed value of the allotment (a **valuation-based charge**); or
 - (c) be a combination of:
 - (i) fixed charges; or
 - (ii) one or more fixed charges and a valuation-based charge; or
 - (d) differ from other rates in the prescribed area, depending on:
 - (i) where in the prescribed area the allotment is located; or
 - (ii) the class of allotment.

Example for subsection (2)(d)

If rateable land in a prescribed area is divided into small allotments (such as self-storage units or marina berths) because of a subdivision under the Unit Titles Act or the Unit Title Schemes Act, and the Minister considers it inequitable for the minimum charge that would otherwise be levied in respect of an allotment to be levied in respect of small allotments, the Minister may declare a different and lesser minimum charge for the small allotments.

- (3) If the rate is a valuation-based charge, the Minister may declare a minimum amount (the **minimum charge**) that may be levied as a rate in respect of an allotment.
- (4) If an allotment is divided into parts or units that are adapted for separate occupation or use, a minimum charge may consist of a fixed amount to be multiplied by the number of separate parts or units.

Example for subsection (4)

If an allotment consists of a block of flats in separate occupation, the minimum charge could consist of a fixed amount to be multiplied by the number of flats in the complex.

14 Basis of assessed value

- (1) If the rate declared in respect of an allotment in a prescribed area is a valuation-based charge, the Minister must also declare which of the following bases of calculation of the assessed value applies to the allotment:
- (a) the unimproved capital value of the allotment as it appears from the valuation roll;
 - (b) the improved capital value of the allotment as it appears from the valuation roll;
 - (c) the annual value of the allotment as it appears from the valuation roll.
- (2) In this section:

annual value, of an allotment, see section 8A of the *Valuation of Land Act*.

assessed value, of an allotment, means:

- (a) if the allotment is a mining tenement – 20 times the annual rent payable under the tenement; or
- (b) otherwise – the value of the allotment calculated on the basis of calculation declared by the Minister under subsection (1).

improved capital value, of an allotment, see section 8 of the *Valuation of Land Act*.

unimproved capital value, of an allotment, see section 9 of the *Valuation of Land Act*.

valuation roll, see section 4(1) of the *Valuation of Land Act*.

15 Minister to levy rate

- (1) The Minister must, not later than 2 months after declaring a rate under section 13(1), levy the rate in respect of an allotment by serving a notice requiring payment of the rate (a **rate notice**) on the ratepayer for the allotment.
- (2) The rate notice must set out:
- (a) the name of the ratepayer; and
 - (b) the description of the allotment; and

- (c) the amount payable (including any interest accrued or imposed up to the date of the notice); and
 - (d) the basis of calculation of the rate (including, if relevant, the assessed value of the allotment); and
 - (e) a description of the ways to make payment; and
 - (f) the due date for payment of the rate; and
 - (g) a short statement of the consequences of a failure to pay by the due date.
- (3) The rate notice must be served at least 30 days before the due date for payment of the rate, but failure to serve the rate notice at least 30 days before the due date for payment does not affect the validity of the rate notice.

9 Section 16 amended

- (1) Section 16
- omit*
- as owner or occupier
- insert*
- as the ratepayer for an allotment
- (2) Section 16(b) and (c)
- omit, insert*
- (b) that the person is not the ratepayer for the allotment; or
 - (c) that the allotment is not rateable land.
- (3) Section 16(a), at the end
- insert*
- or

10 Section 17 amended

Section 17

omit

he is the owner or occupier of the whole or a part of land which is rateable

insert

the person is the ratepayer for an allotment

11 Section 18 amended

Section 18

omit

in the prescribed form

12 Part III, Division 1 heading replaced

Part III, Division 1, heading

repeal, insert

Division 1 Rateable land**13 Sections 24 to 34 replaced**

Sections 24 to 34

repeal, insert

24 Rateable land

- (1) Subject to this section, all land in a prescribed area is **rateable land**.
- (2) Crown land in a prescribed area is not rateable land unless the land:
 - (a) is leased by a person other than the Crown; or
 - (b) is otherwise lawfully occupied by a person other than the Crown; or
 - (c) is an allotment mentioned in subsection (6).

- (3) Land in a prescribed area is not rateable land if it is land that is exempt from payment of rates under another Act.
- (4) Land of the Commonwealth in a prescribed area is not rateable land unless the Commonwealth agrees and, in that event, it is rateable land on conditions agreed by the Commonwealth.
- (5) The following land in a prescribed area is not rateable land:
 - (a) a public place consisting of:
 - (i) a park, garden or reserve; or
 - (ii) a playground or sports ground; or
 - (iii) a cemetery; or
 - (iv) a road;
 - (b) land belonging to a religious body consisting of:
 - (i) a church or other place of public worship; or
 - (ii) a place of residence for a minister of religion associated with a church or other place of public worship; or
 - (iii) a place of residence for the official head in the Territory of the religious body; or
 - (iv) an institution for religious teaching or training;
 - (c) a public hospital;
 - (d) land used for a non-commercial purpose by a public benevolent institution or a public charity;
 - (e) a kindergarten, Government school as defined in section 4(1) of the *Education Act*, non-Government school registered under the *Education Act*, or a university or other tertiary educational institution;
 - (f) land recognised by the Minister as a youth centre;
 - (g) a public library or public museum;
 - (h) the common property:
 - (i) in a units plan or building development plan registered under the *Real Property (Unit Titles) Act*; or
 - (ii) of a scheme formed under the *Unit Title Schemes Act*;

- (i) land owned by a Land Trust or an Aboriginal community living area association, except:
 - (i) land prescribed by regulation as rateable; or
 - (ii) land subject to a lease or a licence conferring a right of occupancy; or
 - (iii) land used for a commercial purpose by a person other than the Land Trust or association.

- (6) An allotment of Crown land is also rateable land if:
 - (a) a person has obtained the right to a lease of the allotment at auction but has not yet been granted a lease of the allotment; or
 - (b) a person:
 - (i) was a lessee of Crown land that included the allotment; and
 - (ii) surrendered the lease as to all or part of the land included in the lease; and
 - (iii) is entitled to be granted a new lease including the allotment; and
 - (iv) has not yet been granted the new lease; or
 - (c) a person:
 - (i) has applied for the grant of a lease from the Crown of Crown land that included the allotment; and
 - (ii) has been informed in writing that the Minister has approved the grant of the lease; and
 - (iii) has accepted an offer made on behalf of the Crown to be granted the lease; and
 - (iv) has not yet been granted the lease.

Division 1A Liability for Rates

27 Owner to pay rates

Subject to this Division, the ratepayer for an allotment is the registered owner of the allotment.

28 Rates payable by certain persons in certain circumstances

- (1) The ratepayer for an allotment of Crown land that is rateable land is:
 - (a) if there is a lease of the allotment – the lessee; or
 - (b) if there is not a lease of the allotment – one of the following persons, as applicable:
 - (i) the lawful occupier of the allotment;
 - (ii) a person mentioned in section 24(6);
 - (iii) a person to whom has been transferred, by a person mentioned in section 24(6), the person's rights under that section.
- (2) The lessee of an allotment that is owned by a local government council is the ratepayer for the allotment.
- (3) A person who carries out an industrial or commercial undertaking by or on behalf of the Territory on an allotment is the ratepayer for the allotment.
- (4) If an allotment of land would not otherwise be rateable land but is rateable land because of another Act in circumstances mentioned in that Act, the ratepayer for the allotment is:
 - (a) if the other Act provides that a person is liable to pay the rate, that person; or
 - (b) otherwise, the lessee of the allotment.
- (5) The following applies in relation to an allotment mentioned in section 24(5)(i):
 - (a) if the allotment is an allotment of a class mentioned in section 24(5)(i)(i) – the ratepayer is the person prescribed by regulation;
 - (b) if the allotment is of an allotment of a class mentioned in section 24(5)(i)(ii) – the ratepayer is the lessee or licensee;
 - (c) if the allotment is an allotment of a class mentioned in section 24(5)(i)(iii) – the ratepayer is the person using the allotment for the commercial purpose.
- (6) If an allotment is subject to a mining tenement, the holder of the tenement is the ratepayer for the allotment.

29 When Crown land held for less than financial year

If, under section 28(1), a person is a ratepayer for an allotment of Crown land that is rateable land but the person is such a ratepayer for less than the whole financial year in relation to which the rate is levied with respect to the allotment, the Minister must adjust the amount of the rate to be paid by the person accordingly.

30 Land held jointly or in common

- (1) If, for an allotment, there is more than one person who is a ratepayer under this Division, the ratepayers are jointly and severally liable for payment of the rate.
- (2) Unless an agreement between the ratepayers for an allotment provides otherwise, the ratepayer who pays the rate in respect of the allotment may sue for contribution from the others.

14 Section 36 amended

- (1) Section 36
omit
ratable
insert
an allotment of rateable
- (2) Section 36
omit
is deemed to accrue
insert
accrues

15 Sections 37 to 43 replaced

Sections 37 to 43

repeal, insert

37 Person liable for outstanding rates when acquiring allotment

- (1) A person who acquires an interest in an allotment is the ratepayer for:
 - (a) the current rate payable in respect of the allotment; and
 - (b) all arrears of rates owing in respect of the allotment; and
 - (c) all interest on the arrears of rates owing in respect of the allotment.
- (2) However, a person is not a ratepayer for arrears of rates owing in respect of an allotment, or interest on those arrears, if:
 - (a) the person purchased the allotment in good faith and for value; and
 - (b) the person received a written certificate issued by a person authorised by the Minister; and
 - (c) the certificate was issued not more than 7 days before the date on which the person purchased or entered into an agreement to purchase the allotment; and
 - (d) the certificate stated that no rates were owing in respect of the allotment on the day on which it was issued.

38 When rateability of land changes

If an allotment of land becomes rateable land, or ceases to be rateable land, during the financial year in relation to which a rate is levied, the Minister must adjust the amount to be paid accordingly.

Division 2 Time for payment of rates**39 Interest on overdue rates**

- (1) If a ratepayer does not pay the rate by the due date for payment set out in a rate notice, interest accrues on the amount of the unpaid rate at the interest rate fixed under subsection (3).
- (2) Interest is calculated on a daily basis on the amount in default (exclusive of interest) from the due date until the date of payment.

- (3) The Minister may fix an interest rate for this section.

40 Remission of interest

The Minister may remit all or part of the interest payable under section 39 if satisfied that exceptional circumstances justify the remission.

16 Part III, Division 3 replaced

Part III, Division 3

repeal, insert

Division 3 Methods of recovery of rates

43 Extended meaning of rate

In this Division:

rate includes, if a rate payable under this Act is overdue:

- (a) accrued interest on the rate; and
- (b) costs reasonably incurred in recovering, or attempting to recover, the rate.

44 Minister may sue for rates

The Minister may sue a ratepayer, by action in a court of competent jurisdiction, for the recovery of a rate that is due and unpaid.

45 Minister may require lawful occupier to pay rent in payment of rates in certain circumstances

- (1) This section applies if:
 - (a) a rate in respect of an allotment is due and unpaid; and
 - (b) a person is in lawful occupation of the allotment; and
 - (c) the person pays rent in relation to the allotment.
- (2) The Minister may serve a notice in writing on the lawful occupier to pay the rent to the Territory in payment of the rate that is due and unpaid, if the ratepayer for the allotment:
 - (a) resides outside the Territory; or
 - (b) is not known; or

- (c) has not been served with any process in legal proceedings for the recovery of the rate after reasonable efforts have been made to do so; or
 - (d) has become bankrupt; or
 - (e) has applied to take the benefit of a law for the relief of bankrupt or insolvent debtors; or
 - (f) has compounded with creditors or made an assignment of the ratepayer's remuneration for their benefit; or
 - (g) has died; or
 - (h) has had a verdict or judgment given against him or her by a court of competent jurisdiction for the amount of the rate and for 14 days has failed to pay the amount of that verdict or judgment.
- (3) The notice must state the amount of rent to be paid to the Territory.
- (4) A payment made to the Territory by the lawful occupier in accordance with the notice is a valid discharge to the occupier against any person claiming against the occupier for that rent.

46 Rights of Territory where failure to pay rent

- (1) If a lawful occupier who has been served with a notice under section 45 fails to pay the rent in accordance with the notice, the Territory may recover the amount stated in the notice, or the part of it that remains unpaid, as a debt due to the Territory by the occupier.
- (2) This section does not apply to a person who is in lawful occupation of an allotment for or on behalf of, or as an employee, agent or contractor of, the Territory or a local government council.

17 Sections 48 to 50 replaced

Sections 48 to 50

repeal, insert

48 Rates not a charge on land in certain circumstances

- (1) Section 47 does not apply to an allotment if:
- (a) the ratepayer for the allotment purchased the allotment in good faith and for value; and

-
- (b) the ratepayer received a written certificate issued by a person authorised by the Minister; and
 - (c) the certificate was issued not more than 7 days before the date on which the ratepayer purchased or entered into an agreement to purchase the allotment; and
 - (d) the certificate stated that no rates were owing in respect of the allotment on the day on which it was issued.
- (2) Section 47 does not apply to an allotment owned by a Land Trust or Aboriginal community living area association.

49 Payments to be applied to rates in order of rates becoming due

The Minister must apply money received towards the payment of rates due in the order in which the rates become due, despite a request to the contrary from the person paying the money.

50 Relationship between parties as to rates

- (1) Except as otherwise expressly provided, this Act does not affect any agreement or rule of law or equity regarding the liabilities of persons among themselves for any rate levied under this Act.
- (2) As between a tenant for life of rateable land and a person entitled to the land in remainder or reversion, a rate charged under this Act accrues from day to day and must be apportioned between them accordingly.

18 Section 51 amended

- (1) Section 51, heading

omit

rateable

insert

rateable

- (2) Sections 51(1) to (2A)

omit, insert

- (1) A person commits an offence if the person:
 - (a) disposes of an estate or interest in an allotment; and

-
- (b) fails to give the Minister, within 1 month after the disposition, notice in writing setting out the following:
- (i) a description of the allotment;
 - (ii) the name and address of the person who acquired the estate or interest.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if the person:
- (a) acquires an estate or interest in an allotment; and
 - (b) fails to give the Minister, within 1 month after the acquisition, notice in writing setting out the following:
 - (i) a description of the allotment;
 - (ii) the name and address of the person from whom the person acquired the estate or interest.

Maximum penalty: 20 penalty units.

- (2A) Strict liability applies to subsections (1)(b) and (2)(b).

19 Section 52 replaced

Section 52

repeal, insert

52 Misleading information

- (1) A person commits an offence if:
- (a) the person gives a notice under this Act or makes a request to the Minister under section 7; and
 - (b) the person knows the notice or request contains misleading information.

Maximum penalty: 200 penalty units.

- (2) Subsection (1) does not apply if the person, when giving the notice or request:
- (a) draws the misleading aspect of the notice or request to the attention of the person to whom it is given; and

(b) to the extent to which the person can reasonably do so – also gives the information necessary to remedy the misleading aspect of the notice or request.

(3) In this section:

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

20 Sections 55 to 57 replaced

Sections 55 to 57

repeal, insert

55 Continuing effect of notice served on ratepayer

A notice that is served under this Act on a ratepayer for an allotment is binding on any person claiming through, under, in trust for, or in succession to, that ratepayer, as though the notice had been served on the person.

21 Section 59 replaced

Section 59

repeal, insert

59 Proof that person owner or lessee

In proceedings under this Act, a certificate signed and sealed by the Registrar-General, certifying that a person is a registered owner or lessee of an allotment is proof, subject to evidence to the contrary, that the person is the registered owner or lessee of the allotment.

22 Section 61 replaced

Section 61

repeal, insert

61 Copy of entry in rate book evidence

In proceedings for the recovery of a rate in respect of an allotment, a copy of an entry in the rate book that is certified by a person authorised by the Minister and that shows the amount owing for rates levied in respect of the allotment is proof, subject to evidence to the contrary:

(a) of the amount owing in respect of the allotment; and

- (b) of compliance with this Act with respect to the declaration and levying of the rate.

23 Section 62 amended

- (1) Section 62

omit

shall not be

insert

is not

- (2) Section 62(a)

omit

the prescribed area

insert

a prescribed area; or

- (3) Section 62(c)

omit

the owner or occupier of any land in question

insert

a ratepayer for an allotment

24 Section 63 amended

Section 63

omit

all words from "regulations" to "giving effect to"

insert

regulations under

Part 3 Amendment of Darwin Rates Regulations

25 Regulations amended

This Part amends the *Darwin Rates Regulations*.

26 Regulation 1 amended

Regulation 1

omit

Darwin

insert

Northern Territory

27 Regulations 2 to 10 replaced

Regulations 2 to 10

repeal, insert

2 Prescribed areas

Each area of land described in the Schedule is a prescribed area for the Act.

28 Schedules 1 and 2 replaced

Schedules 1 and 2

repeal, insert

Schedule Prescribed areas

regulation 2

Prescribed Area A

The land within the boundaries of Area A for the *Northern Territory Rates Act* as shown on Compiled Plan CP 5468.

Note:

Compiled Plan CP 5468 may be inspected at the office of the Surveyor-General, 3rd Floor NAB House, 71 Smith Street, Darwin.

Part 4 Consequential amendments

29 Other laws amended

The Schedule amends the laws mentioned in it.

Part 5 Expiry of Act

30 Expiry

This Act expires on the day after it commences.

Schedule Other laws amended

section 29

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
<i>First Home Owner Grant Act</i>		
section 18(6), definition <i>urban area</i> , paragraph (b)	whole paragraph	(b) Prescribed Area A described in the Schedule to the <i>Northern Territory Rates Regulations</i> ; and
<i>Real Property (Unit Titles) Regulations</i>		
regulation 10(2)(b)(ii)	the land subject to the <i>Darwin</i>	a prescribed area under the <i>Northern Territory</i>
Schedule 1, Form 10, Note 2	the area subject to the <i>Darwin Rates Act</i> , the Minister administering the <i>Darwin</i> .	a prescribed area under the <i>Northern Territory Rates Act</i> , the Minister administering the <i>Northern Territory</i>
Schedule 1, Form 11, Note 1(b)	the area to which the <i>Darwin</i>	a prescribed area under the <i>Northern Territory</i>
<i>Unit Title Schemes Act</i>		
section 5, definition <i>affected local government authority</i> , paragraph (b)	the prescribed area for the <i>Darwin</i>	a prescribed area under the <i>Northern Territory</i>
section 106(1) and (2)	<i>Darwin</i>	<i>Northern Territory</i>
<i>Unit Titles Act</i>		
section 21E(2)(b)(ii)	an area to which the <i>Darwin Rates Act</i> applies	a prescribed area under the <i>Northern Territory Rates Act</i>
section 108	<i>Darwin</i>	<i>Northern Territory</i>