

NORTHERN TERRITORY OF AUSTRALIA

PROPERTY ACTIVATION ACT 2019

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Act No. 21 of 2019

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Table of provisions

<b>Part 1</b>	<b>Preliminary matters</b>	
1	Short title .....	1
2	Commencement .....	1
3	Definitions.....	1
4	Meaning of <i>activated</i> .....	2
5	Meaning of <i>leviable lot</i> .....	3
6	Meaning of <i>unoccupied</i> .....	3
7	Relationship with <i>Taxation Administration Act 2007</i> .....	4
8	Application of Act.....	4
9	Act binds Crown .....	4
<b>Part 2</b>	<b>Levy</b>	
10	Imposition of levy.....	4
11	Amount of levy .....	5
12	Payment of levy .....	5
13	Annual return.....	6
14	Return on transfer of lot.....	6
15	Return on cessation of lot.....	6
16	Overriding statutory charge .....	7
17	Opinion about proposal to activate .....	7
<b>Part 3</b>	<b>Administrative matters</b>	
18	Guidelines.....	7
19	Regulations.....	7
<b>Part 4</b>	<b>Transitional matters for Property Activation Act 2019</b>	
20	Initial return.....	8
21	Grace period.....	8
<b>Part 5</b>	<b>Taxation Administration Act 2007 amended</b>	
22	Act amended .....	8

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23	Section 3A amended (Taxation law).....	8
24	Repeal of Part.....	9



# NORTHERN TERRITORY OF AUSTRALIA

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Act No. 21 of 2019

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An Act to provide for a levy to encourage activation of certain property

[Assented to 21 June 2019]  
[Introduced 9 May 2019]

The Legislative Assembly of the Northern Territory enacts as follows:

## Part 1 Preliminary matters

### 1 Short title

This Act may be cited as the *Property Activation Act 2019*.

### 2 Commencement

This Act commences on 1 July 2019.

### 3 Definitions

In this Act:

**activated**, see section 4.

**building** means a building attached to land.

**guidelines** means the guidelines issued under section 18.

**leviable lot**, see section 5.

**levy** means a levy imposed under section 10.

**levy area**, see section 8(1).

**lot**, see section 4 of the *Land Title Act 2000*.

**owner**, of a lot, means the registered owner, as defined in section 4 of the *Land Title Act 2000*, of the lot.

**place of residence** means a building, or part of a building, that:

- (a) may lawfully be used as a place of residence; and
- (b) is, in the opinion of the Commissioner, suitable for use as a place of residence.

**return** means a return lodged under section 13, 14 or 15.

**return period** means:

- (a) if a person is the owner of a lot for a full financial year – the financial year; or
- (b) if a person is the owner of a lot for part of a financial year – that part of the financial year.

**suitable for occupation** means certified under the *Building Act 1993* as suitable for occupation.

**unoccupied**, see section 6.

**vacant land** means a lot that does not contain a building that is suitable for occupation.

*Note for section 3*

*The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.*

#### **4 Meaning of *activated***

- (1) A lot is **activated** if the lot:
  - (a) is kept so that it does not detract from the amenity of any other part of the levy area; and
  - (b) is maintained to an adequate standard.
- (2) The guidelines are relevant to determining whether a lot is activated.
- (3) Also, a lot is activated if the Commissioner gives an opinion supporting a proposal to activate under section 17(2) and the owner implements the proposal in accordance with the opinion.
- (4) In this section:

**amenity**, see section 3(1) of the *Planning Act 1999*.

## 5 Meaning of *leviable lot*

- (1) Each of the following is a *leviable lot*:
  - (a) vacant land;
  - (b) a lot that contains a building or part of a building, if the building or part of the building, at ground level:
    - (i) has public frontage; and
    - (ii) is suitable for occupation; and
    - (iii) is not a place of residence;
  - (c) a lot that is part of a building if the lot:
    - (i) is at ground level; and
    - (ii) has public frontage; and
    - (iii) is suitable for occupation; and
    - (iv) is not a place of residence.
- (2) A lot is not a leviable lot if it is common property within the meaning of the *Unit Titles Act 1975* or the *Unit Title Schemes Act 2009*.
- (3) In this section:

**public frontage** means any frontage to a street, road, lane, thoroughfare, footpath, passage or place ordinarily open to or used by the public.

## 6 Meaning of *unoccupied*

- (1) A lot is *unoccupied* if less than 50% of the occupiable area of the lot, determined in accordance with this section, is used and occupied for its intended purpose.
- (2) For a lot that contains a building or part of a building, the occupiable area of the lot is the total floor area of each building and each part of a building on the lot, at ground level, that is suitable for exclusive possession and not a place of residence.
- (3) For a lot that is part of a building, the occupiable area of the lot is the total floor area of the lot, at ground level, that is suitable for exclusive possession.
- (4) For subsection (1), it is immaterial whether any part of the occupiable area is the subject of a lease.

- (5) The Commissioner may determine that a lot is unoccupied if, in the opinion of the Commissioner, it is not actually used and occupied in accordance with subsection (1).

## **7 Relationship with *Taxation Administration Act 2007***

The relationship between this Act and the *Taxation Administration Act 2007* (the **TAA**) is stated in section 5 of the TAA.

*Note for section 7*

*Section 5 of the TAA provides that this Act (which is a taxation law as defined in the TAA) must be read together with the TAA as a single Act. Accordingly, Part 5 of the TAA imposes a liability to pay interest and penalty tax for a failure to pay a levy under this Act.*

## **8 Application of Act**

- (1) This Act applies only in relation to a lot within the area prescribed by regulation (the **levy area**).
- (2) This Act does not apply to land that is zoned PS (Public Open Space) under a planning scheme as defined in the *Planning Act 1999*.

## **9 Act binds Crown**

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

## **Part 2 Levy**

### **10 Imposition of levy**

- (1) A levy is imposed on vacant land for each day that the lot is not activated in a return period.
- (2) A levy is imposed on any other leviable lot for each day that the lot is unoccupied and not activated in a return period.
- (3) The owner of the lot when the levy is imposed is liable to pay the levy.

## 11 Amount of levy

- (1) The amount of levy payable by the owner of a lot for a day is the amount of dollars calculated using the following formula:

$$\frac{R \times UCV}{D}$$

where:

**R** means:

- (a) for vacant land – 0.02; or
- (b) for any other lot – 0.01.

**UCV** means the unimproved capital value of the lot within the meaning of the *Valuation of Land Act 1963*.

**D** means the number of days in the financial year.

*Note for subsection (1)*

*The levy is calculated on a daily basis to accommodate changes to the status of the lot or the UCV throughout the financial year.*

- (2) However, for a period of days that the levy is imposed, the amount of levy payable by the owner of a lot is nil for each day of the period if:
- (a) the lot is not vacant land; and
  - (b) the lot is not unoccupied immediately before and immediately after the period; and
  - (c) the number of days in a period or periods under this subsection total no more than 120 days in a return period.

*Note for subsection (2)*

*Subsection (2) is intended to accommodate fit outs and other arrangements made between periods of occupancy.*

## 12 Payment of levy

- (1) The levy is payable within 30 days after the end of each financial year.
- (2) However:
- (a) if an owner transfers a leviable lot, the levy is payable within 30 days after the transfer is registered; or

(b) if a leviable lot ceases to exist, the levy is payable within 30 days after that cessation.

(3) Liability to pay the levy is not affected by whether the Commissioner has made an assessment of the amount of levy that is payable.

### **13 Annual return**

(1) The owner of a lot, as at 30 June in a return period, must lodge a return for the return period if the lot was a leviable lot for any part of the return period.

(2) The owner must lodge the return with the Commissioner in the approved form within 30 days after 30 June in the return period.

(3) The owner must declare the following in relation to the lot for the return period:

(a) which type of leviable lot the lot is;

(b) if the lot is not vacant land – any period during which the lot was unoccupied;

(c) any period during which the lot was activated.

(4) The return must include all information necessary for the Commissioner to assess the owner's liability to pay the levy.

### **14 Return on transfer of lot**

(1) If a leviable lot is transferred, the person who was the owner of the lot immediately before the transfer was registered must lodge a return for a return period.

(2) The former owner must lodge the return with the Commissioner in the approved form within 30 days after the transfer is registered.

(3) The return must include the same information required for a return referred to in section 13.

### **15 Return on cessation of lot**

(1) If a leviable lot ceases to exist, the person who was the owner of the lot immediately before the cessation must lodge a return for a return period.

(2) The former owner must lodge the return with the Commissioner in the approved form within 30 days after the cessation.



- (3) The return must include the same information required for a return referred to in section 13.

#### **16 Overriding statutory charge**

- (1) If the levy is not paid by the due date, the levy becomes a charge on the lot.
- (2) However, the levy does not become a charge if the owner of the lot is not the person who is liable to pay the overdue levy.
- (3) The Commissioner may apply to the Registrar-General for registration of the charge as an overriding statutory charge within the meaning of the *Land Title Act 2000*.

#### **17 Opinion about proposal to activate**

- (1) The owner of a leviable lot may apply to the Commissioner for the Commissioner's opinion about a proposal to activate the lot.
- (2) After receiving any additional information that the Commissioner considers necessary, the Commissioner may consider the proposal and may give an opinion about whether the proposal would meet the requirements of activation for the purposes of this Act.

### **Part 3 Administrative matters**

#### **18 Guidelines**

- (1) The Commissioner may issue guidelines to assist an owner of a lot in understanding how a lot may be activated in accordance with this Act.
- (2) A guideline may be of general or specific application.
- (3) The Commissioner must publish guidelines in any manner the Commissioner considers appropriate.

#### **19 Regulations**

The Administrator may make regulations under this Act.

## **Part 4                    Transitional matters for Property Activation Act 2019**

### **20            Initial return**

- (1) The owner of a leviable lot as at 1 July 2019 must lodge a return with the Commissioner declaring, as at 1 July 2019:
  - (a) which type of leviable lot the lot is; and
  - (b) whether the lot is activated or unoccupied.
- (2) The owner must lodge the return with the Commissioner in the approved form by 31 July 2019.

### **21            Grace period**

- (1) Subsection (2) applies to vacant land, or an unoccupied leviable lot, that:
  - (a) is not activated on 1 July 2019; and
  - (b) is activated by 30 September 2019.
- (2) Despite anything else in this Act, the amount of levy payable by the owner of the lot is nil for any day that the levy is imposed before the day the lot is first activated.

## **Part 5                    Taxation Administration Act 2007 amended**

### **22            Act amended**

This Part amends the *Taxation Administration Act 2007*.

### **23            Section 3A amended (Taxation law)**

- (1) Section 3A(1)(c)

*omit*

*1978.*

*insert*

*1978;*

(2) After section 3A(1)(c)

*insert*

(d) the *Property Activation Act 2019*.

## **24 Repeal of Part**

This Part is repealed on the day after it commences.