

South Australia

Cost of Living Concessions Regulations 2009

under the *Cost of Living Concessions Act 1986*

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Legislative history

1—Short title

These regulations may be cited as the *Cost of Living Concessions Regulations 2009*.

3—Interpretation

- (1) In these regulations—

Act means the *Cost of Living Concessions Act 1986*;

CPI means the Consumer Price Index (All groups index for Adelaide) published by the Australian Bureau of Statistics;

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

low income earner, for a financial year, means a person of a class determined by the Minister, by notice published on a website determined by the Minister, to be low income earners for that financial year;

prescribed capacity—see subregulation (2);

prescribed card means—

- (a) a Pensioner Concession Card issued by the Commonwealth Government; or
- (ab) a Low Income Health Care Card issued by the Commonwealth Government; or
- (b) a TPI Gold Repatriation Health Card issued by the Commonwealth Government; or
- (c) a War Widows Gold Repatriation Health Card issued by the Commonwealth Government; or
- (d) a Gold Repatriation Health Card (EDA) issued by the Commonwealth Government; or

- (da) a Gold Repatriation Health Card issued by the Commonwealth Government to a person with 80 or more overall impairment points under the *Military Rehabilitation and Compensation Act 2004* of the Commonwealth; or

prescribed payments means—

- (a) any of the following payments under the *Social Security Act 1991* of the Commonwealth:
- (i) an Austudy payment;
 - (ii) a newstart allowance;
 - (iii) a parenting payment;
 - (iv) a partner allowance;
 - (v) a sickness allowance;
 - (vi) a special benefit;
 - (vii) a widow allowance;
 - (viii) a youth allowance; or
- (b) Abstudy payments from the Commonwealth Government; or
- (c) payments under the Community Development Employment Project established by the Commonwealth Government; or
- (d) payments under the New Enterprise Incentive Scheme established by the Commonwealth Government; or
- (e) a pension as a war widow under legislation of the United Kingdom or New Zealand;
- (f) farm household allowance payments under the *Farm Household Support Act 2014* of the Commonwealth;

residential park site agreement has the same meaning as in the *Residential Parks Act 2007*;

residential park tenancy agreement has the same meaning as in the *Residential Parks Act 2007*;

spouse—a person is the spouse of another if they are legally married;

water rates means—

- (a) rates under the *Irrigation Act 2009*; or
 - (b) rates under the *Renmark Irrigation Trust Act 2009*.
- (2) For the purposes of these regulations, a person will be taken to **occupy land as the person's principal place of residence in a prescribed capacity** only if the person occupies the land as the person's principal place of residence—
- (a) as sole or joint proprietor of an estate in freehold in possession; or
 - (b) as sole or joint proprietor of a Crown lease or Crown under lease; or
 - (c) as the purchaser of an estate in fee simple under an agreement for sale and purchase where the purchase price is payable in more than 2 instalments; or
 - (d) as the occupier under an agreement to occupy provided that—

- (i) no rent is payable; and
 - (ii) the tenure is for the life of the occupier and not subject to earlier determination except by the occupier; and
 - (iii) the occupier is liable for all rates and taxes; or
- (e) as—
- (i) joint proprietor with other persons who own; or
 - (ii) a shareholder in a body corporate that owns,
a block of home units or other group residential premises (the person to be regarded for the purposes of this paragraph as being the sole or joint proprietor of the home unit or residential premises he or she occupies); or
- (f) as a lessee or licensee of land other than Crown land under a lease or licence that extends for 5 or more years and under which the dwelling occupied by the person on that land remains the property of that person; or
- (g) as the occupier of a house or residential unit in an approved aged persons housing scheme; or
- (h) as the spouse or domestic partner of any of the persons referred to in paragraphs (a) to (g); or
- (i) as a beneficiary under an estate entitling the person to occupy the property in 1 of the capacities referred to in paragraphs (a) to (g).
- (3) In these regulations, if a monetary amount is followed by the word (indexed), the amount is, subject to subregulation (4), to be adjusted on 1 July of each year beginning on 1 July 2017, by multiplying the stated amount by a multiplier obtained by dividing the CPI for the December quarter of the immediately preceding year by the CPI for the December quarter of 2015 (with the amount so adjusted being rounded up to the nearest multiple of 10 cents).
- (4) If an amount to be remitted or paid in a financial year is, when adjusted in accordance with subregulation (3), less than the amount remitted or paid in the immediately preceding financial year, the amount to be remitted or paid will not be the amount as adjusted in accordance with subregulation (3), but will instead be an amount equal to the amount remitted or paid in the immediately preceding financial year.

3A—Prescribed classes of person (section 2(2) and (3))

- (1) For the purposes of section 2(2)(b)(ix) of the Act, the following classes of person are prescribed:
- (a) spouses and domestic partners of any of the persons referred to in subparagraphs (i) to (vii) of section 2(2)(b) of the Act;
 - (b) persons who are granted a right of occupancy under a residential park site agreement;
 - (c) spouses and domestic partners of persons who are granted a right of occupancy under a residential park site agreement.
- (2) For the purposes of section 2(3)(b)(ii) of the Act, persons who are granted a right of occupancy under a residential park tenancy agreement are prescribed.

4—Remission of water rates

- (1) Subject to subregulation (2), a ratepayer is entitled under the Act to a remission of water rates for land if—
 - (a) on the relevant date—
 - (i) the ratepayer holds a prescribed card or is in receipt of prescribed payments; and
 - (ii) the ratepayer occupies the land as the ratepayer's principal place of residence in a prescribed capacity; or
 - (b) on the relevant date—
 - (i) the spouse or domestic partner of the ratepayer holds a prescribed card or is in receipt of prescribed payments; and
 - (ii) the ratepayer and his or her spouse or domestic partner occupy the land as their principal place of residence in a prescribed capacity; or
 - (c) at the time of recovery of the rates—
 - (i) the ratepayer satisfies the Minister, by submitting to a means test determined by the Minister, that the ratepayer is suffering exceptional circumstances of hardship; and
 - (ii) the ratepayer occupies the land as the ratepayer's principal place of residence in a prescribed capacity.
- (2) A ratepayer who satisfies the conditions set out in subregulation (1)(a) or (b) on the date on which the rates are payable by the ratepayer but not on the date on which the ratepayer is billed with the rates must, in addition, have been entitled to a remission of water rates for the preceding rating period in respect of the same or different land.
- (3) If 2 or more persons own land jointly or as tenants in common, each of them who is entitled to a remission of water rates for the land is entitled to a proportion of the amount of the remission equal to the proportion of the person's interest in the land.
- (4) The amount of the remission of water rates for land for a financial year is 30% of the amount of the rates, subject to the prescribed minimum remission and the prescribed maximum remission for that year.
- (5) In this regulation—

prescribed maximum remission means—

 - (a) for the financial year commencing 1 July 2009—\$200;
 - (b) for the financial year commencing 1 July 2010—\$210;
 - (c) for the financial year commencing 1 July 2011—\$235;
 - (d) for the financial year commencing 1 July 2012—\$265;
 - (e) for any subsequent financial year—\$295 (indexed);

prescribed minimum remission means—

 - (a) for the financial year commencing 1 July 2009—\$95;
 - (b) for the financial year commencing 1 July 2010—\$100;

- (c) for the financial year commencing 1 July 2011—\$125;
- (d) for the financial year commencing 1 July 2012—\$155;
- (e) for any subsequent financial year—\$185 (indexed);

relevant date means—

- (a) the date on which the person is billed with the rates; or
- (b) the date on which the rates are payable by the person.

5—Eligible person (section 3(1))

The following classes of person are prescribed for the purposes of section 3(1) of the Act:

- (a) holders of a prescribed card;
- (b) holders of a Commonwealth Seniors Health Card issued by the Commonwealth Government;
- (c) persons in receipt of prescribed payments;
- (d) low income earners.

6—Concession eligibility requirements (section 3(2)(b))

- (1) For the purposes of section 3(2)(b) of the Act, the following eligibility requirements are prescribed:
 - (a) subject to subregulation (2), it is a requirement that the eligible person must have, before 31 October in that financial year, applied to the Minister in a manner and form determined by the Minister (and the application must have been accompanied by any documents or information required by the Minister in connection with the application);
 - (b) it is a requirement that the Minister has been provided with ADI account details which will allow the payment under section 3(2) of the Act for that financial year to be made to the person by electronic funds transfer;
 - (c) it is a requirement that no other eligible person has been given a payment under section 3(2) of the Act for that financial year in respect of the same residential premises;
 - (d) in the case of a person who is an eligible person for a financial year because he or she occupied residential premises as a tenant on 1 July of that financial year, it is (in addition to the requirements set out in the preceding paragraphs) a requirement that the person must not have, on that date, occupied the residential premises with another person whose annual income is \$3 000 or more unless—
 - (i) the other person was, on that date, the spouse, domestic partner or a dependent of the eligible person; or
 - (ii) the income of the other person consists only of prescribed payments.
- (2) The eligibility requirement set out in subregulation (1)(a) does not apply to an eligible person if the person received a payment under section 3(2) of the Act for the previous financial year in respect of the same residential premises.

7—Concession payment amounts (section 3(2))

The amount to be paid to an eligible person in respect of a financial year in accordance with section 3(2) of the Act is determined as follows:

- (a) in the case of an eligible person who, on 1 July of that financial year, occupied residential premises as an owner—
 - (i) where the eligible person was, on that date, of a class described in paragraph (b) of regulation 5—\$100 (indexed);
 - (ii) where the eligible person was, on that date, of a class described in paragraph (a), (c) or (d) of regulation 5—\$200 (indexed);
- (b) in the case of an eligible person who, on 1 July of that financial year, occupied residential premises as a tenant—\$100 (indexed).

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Formerly

Rates and Land Tax Remission Regulations 2009

Legislation revoked by principal regulations

The *Cost of Living Concessions Regulations 2009* revoked the following:

Rates and Land Tax Remission Regulations 2005

Principal regulations and variations

New entries appear in bold.

| Year | No | Reference | Commencement |
|-------------|-----------|---------------------------------------|-----------------------------------|
| 2009 | 24 | <i>Gazette 26.3.2009 p1157</i> | 1.7.2008: r 2 |
| 2009 | 187 | <i>Gazette 25.6.2009 p3012</i> | 1.7.2009: r 2 |
| 2010 | 170 | <i>Gazette 1.7.2010 p3369</i> | 1.7.2010: r 2 |
| 2011 | 174 | <i>Gazette 30.6.2011 p2884</i> | 1.7.2011: r 2 |
| 2013 | 255 | <i>Gazette 14.11.2013 p4233</i> | 1.7.2013 except r 7—1.7.2014: r 2 |
| 2015 | 49 | <i>Gazette 14.5.2015 p1773</i> | 1.7.2015: r 2 |
| 2016 | 44 | <i>Gazette 9.6.2016 p2058</i> | 1.7.2016: r 2 |
| 2017 | 74 | <i>Gazette 30.5.2017 p1995</i> | 1.7.2017: r 2 |

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

| Provision | How varied | Commencement |
|------------|--|-----------------|
| r 1 | varied by 44/2016 r 4 | 1.7.2016 |
| <i>r 2</i> | <i>omitted under Legislation Revision and Publication Act 2002</i> | <i>1.7.2009</i> |
| r 3 | | |
| r 3(1) | | |
| Act | varied by 44/2016 r 5(1) | 1.7.2016 |

| | | |
|---|---------------------------------------|-----------------|
| CPI | inserted by 74/2017 r 4(1) | 1.7.2017 |
| <i>approved aged persons housing scheme</i> | <i>deleted by 44/2016 r 5(2)</i> | <i>1.7.2016</i> |
| <i>council rates</i> | <i>deleted by 49/2015 r 4</i> | <i>1.7.2015</i> |
| <i>land tax</i> | <i>deleted by 44/2016 r 5(3)</i> | <i>1.7.2016</i> |
| low income earner | inserted by 44/2016 r 5(3) | 1.7.2016 |
| <i>Low Income Health Care Card</i> | <i>deleted by 44/2016 r 5(3)</i> | <i>1.7.2016</i> |
| prescribed card | varied by 255/2013 r 4(1) | 1.7.2013 |
| | varied by 44/2016 r 5(4) | 1.7.2016 |
| | (e) deleted by 74/2017 r 4(2) | 1.7.2017 |
| prescribed payments | varied by 44/2016 r 5(5) | 1.7.2016 |
| residential park site agreement | inserted by 44/2016 r 5(6) | 1.7.2016 |
| residential park tenancy agreement | inserted by 44/2016 r 5(6) | 1.7.2016 |
| <i>sewerage rates</i> | <i>deleted by 255/2013 r 4(2)</i> | <i>1.7.2013</i> |
| water rates | substituted by 255/2013 r 4(3) | 1.7.2013 |
| r 3(3) and (4) | inserted by 74/2017 r 4(3) | 1.7.2017 |
| r 3A | inserted by 44/2016 r 6 | 1.7.2016 |
| r 4 | | |
| r 4(1) | varied by 44/2016 r 7 | 1.7.2016 |
| r 4(4) | varied by 170/2010 r 4(1) | 1.7.2010 |
| | varied by 174/2011 r 4(1) | 1.7.2011 |
| | varied by 255/2013 r 5(1) | 1.7.2013 |
| r 4(5) | | |
| prescribed maximum remission | inserted by 170/2010 r 4(2) | 1.7.2010 |
| | varied by 174/2011 r 4(2), (3) | 1.7.2011 |
| | varied by 255/2013 r 5(2) | 1.7.2013 |
| | varied by 74/2017 r 5(1) | 1.7.2017 |
| prescribed minimum remission | inserted by 170/2010 r 4(2) | 1.7.2010 |
| | varied by 174/2011 r 4(4), (5) | 1.7.2011 |
| | varied by 255/2013 r 5(3) | 1.7.2013 |
| | varied by 74/2017 r 5(2) | 1.7.2017 |
| <i>r 5 before deletion by 255/2013</i> | | |
| <i>r 5(1)</i> | <i>varied by 187/2009 r 4(1), (2)</i> | <i>1.7.2009</i> |
| <i>r 5(4)</i> | <i>varied by 170/2010 r 5(1)</i> | <i>1.7.2010</i> |
| <i>r 5(5)</i> | | |

| | | |
|---------------------------------------|--|-----------------|
| <i>prescribed maximum remission</i> | <i>inserted by 170/2010 r 5(2)</i> | <i>1.7.2010</i> |
| r 5 | deleted by 255/2013 r 6 | 1.7.2013 |
| | inserted by 44/2016 r 8 | 1.7.2016 |
| <i>r 6 before deletion by 49/2015</i> | | |
| <i>r 6(1)</i> | <i>varied by 255/2013 r 7(1)</i> | <i>1.7.2014</i> |
| <i>r 6(1a)</i> | <i>inserted by 255/2013 r 7(2)</i> | <i>1.7.2014</i> |
| <i>r 6(4a)</i> | <i>inserted by 255/2013 r 7(3)</i> | <i>1.7.2014</i> |
| r 6 | deleted by 49/2015 r 5 | 1.7.2015 |
| | inserted by 44/2016 r 8 | 1.7.2016 |
| r 7 | substituted by 44/2016 r 8 | 1.7.2016 |
| | varied by 74/2017 r 6(1)—(3) | 1.7.2017 |
| <i>Sch 1</i> | <i>omitted under Legislation Revision and Publication Act 2002</i> | <i>1.7.2009</i> |

Transitional etc provisions associated with regulations or variations

Rates and Land Tax Remission Variation Regulations 2013 (No 255 of 2013), Sch 1

1—Transitional provision

The variation made to regulation 4(4) of the *Rates and Land Tax Remission Regulations 2009* by these regulations applies in relation to the 2013-2014 financial year and any subsequent financial year until a new percentage is prescribed.

Historical versions

1.7.2009
 1.7.2010
 1.7.2011
 1.7.2013
 1.7.2014
 1.7.2015
 1.7.2016