

South Australia

RATES AND LAND TAX REMISSION REGULATIONS, 1990

REGULATIONS UNDER THE RATES AND LAND TAX REMISSION ACT, 1986

Rates and Land Tax Remission Regulations, 1990

being

No. 44 of 1990: *Gaz.* 5 April 1990, p. 964¹

as varied by

No. 180 of 1990: *Gaz.* 6 September 1990, p. 790²

No. 24 of 1993: *Gaz.* 25 February 1993, p. 719³

No. 16 of 1997: *Gaz.* 20 February 1997, p. 999⁴

No. 120 of 2001: *Gaz.* 31 May 2001, p. 2105⁵

¹ Came into operation 1 January 1990: reg. 2.

² Came into operation 1 July 1990: reg. 2.

³ Came into operation 1 July 1993: reg. 2.

⁴ Came into operation 1 July 1997: reg. 2.

⁵ **Came into operation 1 July 2001: reg. 2.**

NOTE:

- *Asterisks indicate repeal or deletion of text.*
- *Entries appearing in bold type indicate the amendments incorporated since the last consolidation.*
- *For the legislative history of the regulations see Appendix.*

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SUMMARY OF PROVISIONS

1. Citation
2. Commencement
3. Interpretation
4. Criteria for entitlement to remission
5. Amount of remission

THE SCHEDULE

APPENDIX LEGISLATIVE HISTORY

Citation

1. These regulations may be cited as the *Rates and Land Tax Remission Regulations, 1990*.

Commencement

2. These regulations are to be taken to have come into operation on 1 January, 1990.

Interpretation

3. In these regulations—

"**the Act**" means the *Rates and Land Tax Remission Act, 1986*;

"**married couple**" includes two persons who are not married to each other if the relationship of putative spouse within the meaning of the *Family Relationships Act 1975* exists between them;

"**prescribed amount**" means—

- (a) in respect of a remission of rates under the *Waterworks Act 1932* or service rates for the provision of water under the *Local Government Act 1999*—\$80;
- (b) in respect of a remission of rates under the *Irrigation Act 1994* or the *Renmark Irrigation Trust Act 1936* or contributions payable to the Lyrup Village Association under Part 8 of the *Crown Lands Act 1929*—\$75;
- (c) in respect of a remission of rates under the *Sewerage Act 1929* or service rates, service charges, or other fees or charges, for the removal of sewage under the *Local Government Act 1999*—\$85;
- (d) in respect of a remission of land tax under the *Land Tax Act 1936*—\$150;
- (e) in respect of a remission of general or separate rates under the *Local Government Act 1999*—
 - (i) for a State Seniors Card ratepayer—\$100;
 - (ii) for any other ratepayer—\$190;

"**State Seniors Card ratepayer**" means a person who is entitled under regulation 4(2) to a remission of general and separate rates under the *Local Government Act 1999*;

"**water or sewerage rates**" means—

- (a) rates under the *Waterworks Act 1932*;
- (b) service rates for the provision of water under the *Local Government Act 1999*;
- (c) rates under the *Irrigation Act 1994*;
- (d) rates under the *Renmark Irrigation Trust Act 1936*;
- (e) contributions payable to the Lyrup Village Association under Part 8 of the *Crown Lands Act 1929*;

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- (f) rates under the *Sewerage Act 1929*;
- (g) service rates, service charges, or other fees or charges, for the removal of sewerage under the *Local Government Act 1999*.

Criteria for entitlement to remission

4. (1) A person is entitled to a remission of rates under the Act in respect of land constituting the person's principal place of residence if—

- (a) the person satisfies the conditions set out in the Schedule; or
- (b) the person—
 - (i) satisfies the Minister, by submitting to a means test determined by the Minister, that the person is at the time of recovery of the rates suffering exceptional circumstances of hardship; and
 - (ii) satisfies the conditions set out in Part B of the Schedule.

(2) Subject to subregulation (5), a person is also entitled to a remission of general and separate rates under the *Local Government Act 1999* in respect of land constituting the person's principal place of residence if, on the relevant date specified in Part C of the Schedule, the person—

- (a) is the holder of a current State Seniors Card issued by the State Government, or has the qualifications to hold such a card and has applied for the card but has yet to be issued with the card; and
- (b) occupies the land in any of the capacities set out in Part B of the Schedule; and
- (c) is not entitled to a remission of rates under the Act under subregulation (1).

(3) Subject to subregulation (4), where two or more persons own land jointly or as tenants in common, each of them who is entitled to a remission in respect of the land is entitled to a part of the remission set out in these regulations that is proportionate to his or her interest in the land.

(4) Subject to subregulation (5), where a married couple owns land solely, or jointly or as tenants in common with another person or persons, the two persons comprising the married couple are entitled to a remission, or a proportionate part of a remission, if—

- (a) the land is the principal place of residence of both of them; and
- (b) either one of them is entitled to a remission in respect of the land.

(5) If two people comprising a married couple live together and—

- (a) one of them would, apart from this subregulation, be entitled to a remission as a State Seniors Card ratepayer; and

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- (b) the other of them is not entitled to a remission on any ground and is working in paid employment at a rate of 20 hours per week or more,

neither of them is entitled to a remission of general or separate rates under the *Local Government Act 1999*.

Amount of remission

5. The amount of the remission to which a ratepayer is entitled for rates payable by the ratepayer in respect of land constituting his or her principal place of residence, calculated on an annual basis, is—

- (a) three-fifths of the amount of those rates or the prescribed amount, whichever is the lesser;

plus—

- (b) in the case of water or sewerage rates—\$10.

THE SCHEDULE**PART A**

The person must, on the relevant date specified in Part C, be—

- (a) the holder of a current Pensioner Concession Card issued by the Commonwealth Government; or
- (b) the holder of a current TPI Gold Repatriation Health Card issued by the Commonwealth Government; or
- (c) the holder of a current War Widows Gold Repatriation Health Card issued by the Commonwealth Government; or
- (d) the holder of a current Gold Repatriation Health Card (EDA) issued by the Commonwealth Government; or
- (e) in receipt of—
 - (i) an Austudy payment; or
 - (ii) a newstart allowance; or
 - (iii) a parenting payment; or
 - (iv) a partner allowance; or
 - (v) a sickness allowance; or
 - (vi) a special benefit; or
 - (vii) a widow allowance; or
 - (viii) a youth allowance,
 under the *Social Security Act 1991* of the Commonwealth; or
- (f) in receipt of an Abstudy payment from the Commonwealth Government; or
- (g) in receipt of payments under the Community Development Employment Project established by the Commonwealth Government; or
- (h) in receipt of payments under the New Enterprise Incentive Scheme established by the Commonwealth Government; or
- (i) in receipt of a pension as a war widow under legislation of the United Kingdom or New Zealand; or
- (j) the holder of a current State Concession Card issued by the part of the Department of Human Services known as Family and Youth Services, or has the qualifications to hold such a card and has applied for the card but has yet to be issued with the card.

PART B

(1) The person must, in relation to an application pursuant to regulation 4(1)(a), on the relevant date specified in Part C or, in relation to an application pursuant to regulation 4(1)(b), at the time of recovery of the rates, occupy the property for which remission is sought as the person's principal place of residence and in any of the following capacities:

- (a) as sole or joint proprietor of an estate in freehold in possession;
- (b) as sole or joint proprietor of a Crown lease or Crown under lease;
- (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 two instalments;

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(d) as the occupier under an agreement to occupy provided that:

- (i) no rent is payable;
- (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;

* * * * *

(f) 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);

(g) as a lessee of land other than Crown land under a lease that extends for five or more years and under which the dwelling occupied by the person on that land remains the property of that person;

(h) as the occupier of a house or residential unit in an approved aged persons housing scheme;

(i) as the spouse of any of the persons referred to in paragraphs (a) to (h);

(j) as a beneficiary under an estate entitling the person to occupy the property in one of the capacities referred to in paragraphs (a) to (h).

(2) For the purposes of subclause (1)—

"approved aged persons housing scheme" means a scheme, administered by an organisation or body approved by the Minister—

- (a) under which houses or residential units in a residential complex are made available for occupation predominantly by persons of or over a fixed qualifying age of at least 50 years;

and

- (b) under which the occupiers of houses or residential units in the scheme are entitled to continue in occupation of those houses or residential units for life, subject only to conditions providing or allowing for termination of that entitlement approved by the Minister.

PART C

The relevant date is—

(a) in relation to water or sewerage rates—

- (i) the date on which the person is billed with the rates;

or

- (ii) the date on which the rates are payable by the person;

(b) in relation to land tax under the *Land Tax Act, 1936*—

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- (i) for the purposes of the conditions set out in Part A—the date on which the person is billed with the tax;
 - (ii) for the purposes of the conditions set out in Part B—30 June of the financial year preceding the financial year for which the tax is imposed;
- (c) in relation to general and separate rates under the *Local Government Act 1999*, the due date for payment of the first or only rates account.

PART D

(1) This Part applies only in relation to rates referred to in paragraph (a) of Part C.

(2) A person who satisfies the conditions set out in Parts A and B on the date on which the rates are payable, but not on the other relevant date, must, in addition, have been entitled to a remission of rates under the Act in respect of rates of that kind for the preceding rating period.

APPENDIX

(entries in bold type indicate amendments incorporated since the last consolidation)

LEGISLATIVE HISTORY

Regulation 3	definitions of "married couple", "prescribed amount", "State Seniors Card ratepayer" and "water or sewerage rates" inserted by 120, 2001, reg. 3
Regulation 4:	substituted by 120, 2001, reg. 4
Regulation 5:	varied by 180, 1990, reg. 3; 16, 1997, reg. 3; substituted by 120, 2001, reg. 4
Schedule	
Part A:	substituted by 120, 2001, reg. 5(a)
Part B	
Subclause (1):	varied by 24, 1993, reg. 3(a); 120, 2001, reg. 5(b)
Subclause (1)(e):	revoked by 120, 2001, reg. 5(c)
Part C	
Paragraph (a):	varied by 180, 1990, reg. 4; 120, 2001, reg. 5(d)
Paragraph (c):	substituted by 24, 1993, reg. 3(b); varied by 120, 2001, reg. 5(e)
Part D	
Subclause (1):	substituted by 24, 1993, reg. 3(b)