

South Australia

## Rates and Land Tax Remission Regulations 1990

under the *Rates and Land Tax Remission Act 1986*

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### Contents

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Criteria for entitlement to remission
- 5 Amount of remission

### Schedule—Criteria for entitlement to remission

- 1 Ordinary conditions
- 2 Special conditions
- 3 Relevant date
- 4 Additional requirement for water and sewer rates

### Legislative history

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#### 1—Short title

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

#### 2—Commencement

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

#### 3—Interpretation

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*;
- (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*.

#### **4—Criteria for entitlement to remission**

- (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 clause 2 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 clause 3 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 clause 2 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
  - (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*.

### **5—Amount of remission**

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.

## **Schedule—Criteria for entitlement to remission**

### **1—Ordinary conditions**

The person must, on the relevant date specified in clause 3, 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.

## **2—Special conditions**

- (1) The person must, in relation to an application pursuant to regulation 4(1)(a), on the relevant date specified in clause 3 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;
  - (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;
  - (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.

### **3—Relevant date**

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*—
  - (i) for the purposes of the conditions set out in clause 1—the date on which the person is billed with the tax;
  - (ii) for the purposes of the conditions set out in clause 2—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.

### **4—Additional requirement for water and sewer rates**

- (1) This Part applies only in relation to rates referred to in paragraph (a) of clause 3.
- (2) A person who satisfies the conditions set out in clauses 1 and 2 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.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
1990	44	<i>Gazette 5.4.1990 p964</i>	1.1.1990: r 2
1990	180	<i>Gazette 6.9.1990 p790</i>	1.7.1990: r 2
1993	24	<i>Gazette 25.2.1993 p719</i>	1.7.1993: r 2
1997	16	<i>Gazette 20.2.1997 p999</i>	1.7.1997: r 2
2001	120	<i>Gazette 31.5.2001 p2105</i>	1.7.2001: r 2
2003	147	<i>Gazette 12.6.2003 p2500</i>	12.6.2003: r 2

### Provisions varied

New entries appear in bold.

Provision	How varied	Commencement
r 3		
married couple	inserted by 120/2001 r 3	1.7.2001
prescribed amount	inserted by 120/2001 r 3	1.7.2001
State Seniors Card ratepayer	inserted by 120/2001 r 3	1.7.2001
water or sewerage rates	inserted by 120/2001 r 3	1.7.2001
r 4	substituted by 120/2001 r 4	1.7.2001
r 4(1)	varied by 147/2003 Sch 1	12.6.2003
r 4(2)	varied by 147/2003 Sch 1	12.6.2003
r 5	varied by 180/1990 r 3	1.7.1990
	varied by 16/1997 r 3	1.7.1997
	substituted by 120/2001 r 4	1.7.2001
Sch	heading substituted by 147/2003 Sch 1	12.6.2003
cl 1	Pt A substituted by 120/2001 r 5(a)	1.7.2001
	Pt A redesignated as cl 1 by 147/2003 Sch 1	12.6.2003
cl 2	Pt B redesignated as cl 2 by 147/2003 Sch 1	12.6.2003
cl 2(1)	Pt B(1) varied by 24/1993 r 3(a)	1.7.1993
	Pt B(1) varied by 120/2001 r 5(b)	1.7.2001
	Pt B(1)(e) deleted by 120/2001 r 5(c)	1.7.2001
cl 3	Pt C varied by 180/1990 r 4	1.7.1990
	Pt C varied by 120/2001 r 5(d), (e)	1.7.2001

	Pt C varied by 24/1993 r 3(b)	1.7.1993
	Pt C redesignated as cl 3 by 147/2003 Sch 1	12.6.2003
cl 4	Pt D redesignated as cl 4 by 147/2003 Sch 1	12.6.2003
cl 4(1)	Pt D(1) substituted by 24/1993 r 3(b)	1.7.1993