

WESTERN AUSTRALIA

**TAXES AND CHARGES (LAND
SUBDIVISION) LEGISLATION
AMENDMENT ACT 1996**

(No. 12 of 1996)

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WESTERN AUSTRALIA

**TAXES AND CHARGES (LAND
SUBDIVISION) LEGISLATION
AMENDMENT ACT 1996**

No. 12 of 1996

**AN ACT to amend the *Land Tax Assessment Act 1976*,
the *Water Agencies (Powers) Act 1984*, the *Water
Boards Act 1904*, and the *Water Services Coordination
Act 1995*, and for related purposes.**

[Assented to 28 June 1996.]

The Parliament of Western Australia enacts as follows:

s. 1 No. 12] *Taxes and Charges (Land Subdivision)
Legislation Amendment Act 1996*

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Taxes and Charges (Land Subdivision) Legislation Amendment Act 1996*.

Commencement

2. This Act comes into operation on the day on which it receives the Royal Assent.

PART 2 — LAND TAX ASSESSMENT ACT 1976

Principal Act

3. In this Part the *Land Tax Assessment Act 1976** is referred to as the principal Act.

[* *Reprinted as approved on 1 December 1982.
For subsequent amendments see 1994 Index to
Legislation of Western Australia, Table 1, p. 115 and
Acts Nos. 84 of 1994 and 9 and 37 of 1995.*]

Application

4. The amendments made by this Part apply in relation to land tax for a period commencing on or after 1 July 1996 but do not apply in relation to land tax for a period commencing before that day.

Section 5 amended

5. Section 5 (1) of the principal Act is amended in the definition of “unimproved value” —

- (a) by deleting the semicolon at the end of paragraph (c) and substituting a comma; and
- (b) by inserting at the end of the definition the following —

“
except that if section 23A applies it means
the concessional unimproved value under
that section;
”.

Section 23A inserted

6. After section 23 of the principal Act the following section is inserted —

“

Concessional unimproved value for certain subdivided land

23A. (1) This section applies to the assessment of land tax for a year in relation to a new lot if —

- (a) it is not a habitable lot;
- (b) it was created to be used solely or principally for residential purposes;
- (c) its area is not more than 2 000 m² or, if its area is more than 2 000 m², it is to be used for a building or group of buildings that —
 - (i) is solely for residential purposes; and
 - (ii) contains a number of separate residential units;
- (d) since the subdivisional plan or diagram was approved by the Western Australian Planning Commission there has been no change of ownership of the lot as a result of an agreement for the sale of land; and
- (e) the owner gives to the Commissioner notice in accordance with subsection (2) that this section is to apply in relation to the lot,

except that this section only applies if the unimproved value of the lot would be reduced by applying it.

- (2) The notice is required to be —
- (a) made in writing, in a form approved by the Commissioner, giving details required by the Commissioner; and
 - (b) received by the Commissioner no later than 31 August in the current year.

(3) If this section applies, the new lot has a concessional unimproved value that equals the former value, ascertained under subsection (4), of all the land in the new lot.

- (4) The former value of a piece of land that —
- (a) was, as at midnight on the 30th June immediately preceding the previous year, wholly within a lot in respect of which there was an unimproved valuation then in force under the *Valuation of Land Act 1978*; and
 - (b) is the whole or part of the land in a new lot,

is the appropriate proportion of the amount that was the unimproved value of the lot referred to in paragraph (a) under the valuation referred to in that paragraph.

(5) The appropriate proportion is what the area of the piece of land is as a proportion of the area of the lot referred to in subsection (4) (a).

- (6) In this section —

“current year” means the year of assessment for which the Commissioner has been given notice under subsection (1) (e) that this section is to apply;

“**habitable lot**” means a lot that has on it a building that is used, or suitable to be used, for residential purposes;

“**lot**” does not include a lot depicted on a strata plan unless it is a lot in a survey-strata scheme;

“**new lot**” means a lot that was created by subdivision through a subdivisional plan or diagram approved by the Western Australian Planning Commission during the previous year;

“**previous year**” means the year of assessment before the current year;

“**subdivision**” refers to the creation of 2 or more lots.

”.

Section 54 amended

7. Section 54 (b) of the principal Act is amended by deleting “or application for a rebate” and substituting the following —

“

, application for a rebate, or notice under section 23A (1) (e)

”.

PART 3 — WATER AGENCIES (POWERS) ACT 1984

Principal Act

8. In this Part the *Water Agencies (Powers) Act 1984** is referred to as the principal Act.

[* *Act No. 3 of 1984 (previously Water Authority Act 1984).*
For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, p. 228 and Acts Nos. 84 of 1994 and 73 of 1995.]

Application

9. (1) The amendments made by section 10 apply only in relation to a charge in respect of a lot created through a subdivisional plan or diagram approved by the Western Australian Planning Commission after 30 June 1996.

(2) The amendments made by section 11 apply if the request to defer payment of an amount in respect of headworks is made after 30 June 1996, regardless of whether the requirement to pay the amount was imposed before or after this Act commenced.

Section 41GA inserted

10. After section 41G of the principal Act the following section is inserted —

“

Concession on certain charges after subdivision

41GA. (1) Where, through a subdivisional plan or diagram approved by the Western Australian Planning Commission, a lot is created by subdivision,

no water charge is payable to the Corporation in respect of the lot for the concession period if —

- (a) the lot is not serviced and is not a habitable lot;
- (b) it was created to be used solely or principally for residential purposes; and
- (c) its area is not more than 2 000 m² or, if its area is more than 2 000 m², it is to be used for a building or group of buildings that —
 - (i) is solely for residential purposes; and
 - (ii) contains a number of separate residential units.

(2) The concession period for the lot is the period from when the subdivisional plan or diagram is approved until —

- (a) the ownership of the lot changes as a result of an agreement for the sale of land;
- (b) the lot becomes serviced or becomes a habitable lot; or
- (c) one year passes after the approval.

(3) For the purposes of this section a lot is serviced if it has a connection to a water service.

(4) This section does not affect a water charge for any time after the concession period ends.

(5) In this section —

“concession period” has the meaning given by subsection (2);

“**habitable lot**” means a lot that has on it a building that is used, or suitable to be used, for residential purposes;

“**lot**” does not include a lot depicted on a strata plan unless it is a lot in a survey-strata scheme;

“**subdivision**” refers to the creation of 2 or more lots;

“**water charge**” means a charge under section 41 relating to the provision by the Corporation of a water service and does not include an amount required to be paid by way of a contribution to headworks or for extending a water service or providing a connection to it.

”.

Sections 67A and 67B inserted

11. After section 67 of the principal Act the following sections are inserted —

“

Deferring headworks payments for certain subdivisions

67A. (1) If, because of a requirement for water services as a result of a subdivision, a developer is required by the Corporation to pay any amount in respect of a particular lot as payment or an advance in respect of headworks and the developer requests in writing that the time for paying the amount be deferred in accordance with this section, the Corporation is required to agree in writing to defer payment of the amount as requested.

- (2) This section applies only if the lot —
- (a) is not serviced and is not a habitable lot;
 - (b) is created to be used solely or principally for residential purposes; and
 - (c) has an area of not more than 2 000 m² or, if its area is more than 2 000 m², is to be used for a building or group of buildings that —
 - (i) is solely for residential purposes; and
 - (ii) contains a number of separate residential units.
- (3) For the purposes of this section a lot is serviced if it has a connection to a water service.
- (4) If a mortgage is registered against land, payment of an amount in respect of the land can be deferred under this section only if the mortgagee consents in writing.
- (5) Payment is deferred under this section until —
- (a) the lot becomes serviced or becomes a habitable lot; or
 - (b) one year passes after the subdivisional plan or diagram is approved by the Western Australian Planning Commission,
- but payment may be made at an earlier time.
- (6) If full payment of the deferred amount is not made within one year after the subdivisional plan or diagram is approved by the Western Australian Planning Commission, interest calculated as referred

to in section 41L accrues on any amount remaining unpaid.

(7) Subsection (6) does not limit the ability of the Corporation to recover any amount outstanding under the agreement, and interest on the amount may be recovered as if it were a part of the amount.

(8) In an agreement that provides for deferment under this section, if the Corporation so requires, the developer is to agree to pay to the Corporation the amount, as determined by the Corporation, of any costs or disbursements payable by the Corporation that are attributable to the deferment or to making section 67B apply or cease to apply.

(9) If, with the consent of the Corporation, a lot is transferred while it is land to which section 67B applies, the transferor and transferee are jointly and severally liable for payment of the deferred amount but, subject to any agreement between them or any court order, the transferee may recover from the transferor as a debt due any amount paid by the transferee that the transferee became liable to pay under this subsection.

(10) In this section —

“agreement” means an agreement under this section to defer payment of an amount;

“deferred amount” includes any amount owing in respect of costs or disbursements agreed under this section to be paid and, where applicable, any interest payable under this section;

“developer” means a person who is the owner of land from which it is proposed to create 2 or more lots by subdivision;

“habitable lot” means a lot that has on it a building that is used, or suitable to be used, for residential purposes;

“lot” does not include a lot depicted on a strata plan unless it is a lot in a survey-strata scheme.

Transfer of land restricted until deferred amount paid

67B. (1) The Registrar cannot register or accept for registration an instrument to transfer land to which this section applies unless the Corporation consents in writing.

(2) This section applies to a lot in respect of which payment is deferred under section 67A if —

- (a) on the subdivisional plan or diagram approved by the Western Australian Planning Commission and deposited with the Registrar it is shown that this section is to apply to the lot; or
- (b) the Corporation delivers to the Registrar a memorial, in a form approved by the Registrar, to make this section apply to the lot.

(3) When a plan or diagram that makes this section apply is deposited with the Registrar —

- (a) the prescribed fee is payable for making this section apply; and
- (b) the Registrar is required to endorse or note the Register Book to show that this section applies.

(4) A plan or diagram that does not make this section apply cannot, after it is deposited with the Registrar, be altered to make this section apply.

(5) When a memorial that makes this section apply is delivered to the Registrar, the Registrar is required, on payment of the prescribed fee, to register the memorial and endorse or note the Register Book accordingly.

(6) When the deferred amount has been paid, the Corporation is required to provide a notice in writing directing that this section cease to apply to the land in respect of which the payment is made.

(7) The notice is to be in the form approved by the Registrar and is to be signed by a person authorized by the Corporation's chief executive officer.

(8) Upon delivery of the notice to the Registrar and payment of the prescribed fee, the Registrar is required to endorse or note the Register Book to indicate that this section has ceased to apply to the land, and this section ceases to apply accordingly.

(9) In this section —

“prescribed fee” means such fee as may be prescribed under the *Transfer of Land Act 1893*;

“Registrar” means the Registrar of Titles.

”.

PART 4 — WATER BOARDS ACT 1904

Principal Act

12. In this Part the *Water Boards Act 1904** is referred to as the principal Act.

[* *Reprinted as approved on 18 August 1971.*
For subsequent amendments see 1994 Index to
Legislation of Western Australia, Table 1, pp. 228-9
and Acts Nos. 14 and 73 of 1995.]

Application

13. (1) The amendments made by section 14 apply if the request to defer payment of an amount in respect of headworks is made after 30 June 1996, regardless of whether the requirement to pay the amount was imposed before or after this Act commenced.

(2) The amendments made by section 15 apply only in relation to a charge in respect of a lot created through a subdivisional plan or diagram approved by the Western Australian Planning Commission after 30 June 1996.

Section 62C and 62D inserted

14. After section 62B of the principal Act the following sections are inserted —

“

Deferring headworks payments for certain subdivisions

62C. (1) If, because of a demand for the supply of water as a result of a subdivision, a developer is required by the Water Board to pay any amount in respect of a particular lot as payment or an advance in

respect of headworks and the developer requests in writing that the time for paying the amount be deferred in accordance with this section, the Water Board is required to agree in writing to defer payment of the amount as requested.

(2) This section applies only if the lot —

- (a) is not serviced and is not a habitable lot;
- (b) is created to be used solely or principally for residential purposes; and
- (c) has an area of not more than 2 000 m² or, if its area is more than 2 000 m², is to be used for a building or group of buildings that —
 - (i) is solely for residential purposes; and
 - (ii) contains a number of separate residential units.

(3) For the purposes of this section a lot is serviced if it has a connection to the water supply.

(4) If a mortgage is registered against land, payment of an amount in respect of the land can be deferred under this section only if the mortgagee consents in writing.

(5) Payment is deferred under this section until —

- (a) the lot becomes serviced or becomes a habitable lot; or
- (b) one year passes after the subdivisional plan or diagram is approved by the Western Australian Planning Commission,

but payment may be made at an earlier time.

(6) If full payment of the deferred amount is not made within one year after the subdivisional plan or diagram is approved by the Western Australian Planning Commission, interest calculated as approved by the Minister accrues on any amount remaining unpaid.

(7) Subsection (6) does not limit the ability of the Water Board to recover any amount outstanding under the agreement, and interest on the amount may be recovered as if it were a part of the amount.

(8) In an agreement that provides for deferment under this section, if the Water Board so requires, the developer is to agree to pay to the Water Board the amount, as determined by the Water Board, of any costs or disbursements payable by the Water Board that are attributable to the deferment or to making section 62D apply or cease to apply.

(9) If, with the consent of the Water Board, a lot is transferred while it is land to which section 62D applies, the transferor and transferee are jointly and severally liable for payment of the deferred amount but, subject to any agreement between them or any court order, the transferee may recover from the transferor as a debt due any amount paid by the transferee that the transferee became liable to pay under this subsection.

(10) In this section —

“agreement” means an agreement under this section to defer payment of an amount;

“deferred amount” includes any amount owing in respect of costs or disbursements agreed under this section to be paid and, where applicable, any interest payable under this section;

“developer” means a person who is the owner of land from which it is proposed to create 2 or more lots by subdivision;

“habitable lot” means a lot that has on it a building that is used, or suitable to be used, for residential purposes;

“headworks” means all works necessary to provide and maintain water supply, not being reticulation works;

“lot” does not include a lot depicted on a strata plan unless it is a lot in a survey-strata scheme;

“reticulation” means the system of works necessary to provide water supply to particular land, being works connecting headworks to the point at which water supply is provided.

Transfer of land restricted until deferred amount paid

62D. (1) The Registrar cannot register or accept for registration an instrument to transfer land to which this section applies unless the Water Board consents in writing.

(2) This section applies to a lot in respect of which payment is deferred under section 62C if —

- (a) on the subdivisional plan or diagram approved by the Western Australian Planning Commission and deposited with the Registrar it is shown that this section is to apply to the lot; or

- (b) the Water Board delivers to the Registrar a memorial, in a form approved by the Registrar, to make this section apply to the lot.
- (3) When a plan or diagram that makes this section apply is deposited with the Registrar —
- (a) the prescribed fee is payable for making this section apply; and
 - (b) the Registrar is required to endorse or note the Register Book to show that this section applies.
- (4) A plan or diagram that does not make this section apply cannot, after it is deposited with the Registrar, be altered to make this section apply.
- (5) When a memorial that makes this section apply is delivered to the Registrar, the Registrar is required, on payment of the prescribed fee, to register the memorial and endorse or note the Register Book accordingly.
- (6) When the deferred amount has been paid, the Water Board is required to provide a notice in writing directing that this section cease to apply to the land in respect of which the payment is made.
- (7) The notice is to be in the form approved by the Registrar and is to be signed by a person authorized by the Water Board.
- (8) Upon delivery of the notice to the Registrar and payment of the prescribed fee, the Registrar is required to endorse or note the Register Book to indicate that this section has ceased to apply to the land, and this section ceases to apply accordingly.

(9) In this section —

“**prescribed fee**” means such fee as may be prescribed under the *Transfer of Land Act 1893*;

“**Registrar**” means the Registrar of Titles.

”.

Section 93B inserted

15. After section 93A of the principal Act the following section is inserted —

“

Concession on water rates after subdivision

93B. (1) Where, through a subdivisional plan or diagram approved by the Western Australian Planning Commission, a lot is created by subdivision, no basic water rate is payable to the Water Board in respect of the lot for the concession period if —

- (a) the lot is not serviced and is not a habitable lot;
- (b) it was created to be used solely or principally for residential purposes; and
- (c) its area is not more than 2 000 m² or, if its area is more than 2 000 m², it is to be used for a building or group of buildings that —
 - (i) is solely for residential purposes; and
 - (ii) contains a number of separate residential units.

(2) The concession period for the lot is the period from when the subdivisional plan or diagram is approved until —

- (a) the ownership of the lot changes as a result of an agreement for the sale of land;
- (b) the lot becomes serviced or becomes a habitable lot; or
- (c) one year passes after the approval.

(3) For the purposes of this section a lot is serviced if it has a connection to the water supply.

(4) This section does not affect a basic water rate for any time after the concession period ends.

(5) In this section —

“**concession period**” has the meaning given by subsection (2);

“**habitable lot**” means a lot that has on it a building that is used, or suitable to be used, for residential purposes;

“**lot**” does not include a lot depicted on a strata plan unless it is a lot in a survey-strata scheme;

“**subdivision**” refers to the creation of 2 or more lots.

”.

PART 5 — WATER SERVICES COORDINATION ACT 1995

***Water Services Coordination Act 1995, Schedule 2,
amended***

16. Schedule 2 to the *Water Services Coordination Act 1995** is amended in Part 1, under the heading “*Water Agencies (Powers) Act 1984*” —

(a) by inserting after “s. 41G” the following —

“ s. 41GA ”; and

(b) by inserting after “s. 67” the following —

“

s. 67A

s. 67B

”.

[* *Act No. 72 of 1995.*]

PART 6 — REVIEW

Review

17. (1) Each relevant Minister is to carry out a review of the operation and effectiveness of the amendments made by this Act as soon as is practicable after the expiration of 3 years from the commencement of this Act.

(2) The relevant Ministers are to prepare a joint report based on the review and, as soon as is practicable after the report is prepared, cause it to be laid before each House of Parliament.

(3) In this section —

“relevant Minister” means a Minister responsible for the administration of an Act amended by this Act or the Minister responsible for the administration of the *Town Planning and Development Act 1978*.