



Western Australia

# **Finance Legislation Amendment (Emergency Relief) Act 2022**



# Finance Legislation Amendment (Emergency Relief) Act 2022

## Contents

<b>Part 1 — Preliminary</b>		
1.	Short title	2
2.	Commencement	2
<b>Part 2 — <i>Taxation Administration Act 2003</i> amended</b>		
3.	Act amended	3
4.	Section 30 amended	3
5.	Section 127 amended	3
6.	Part 10 Division 7 inserted	3
<b>Division 7 — Emergency tax relief measures</b>		
	135. Tax relief measures	3
	135A. Treasurer may declare tax relief measure due to emergency	4
	135B. Amendment and revocation of tax relief declaration	6
	135C. Provisions about tax relief declarations and instruments of amendment or revocation	7
	135D. Procedural requirements for declared tax relief measure	7
	135E. Effect of tax relief declaration	7
	135F. Reassessments and refunds	10
7.	Section 138 inserted	10
	138. Transitional provision for <i>Finance Legislation Amendment (Emergency Relief) Act 2022</i>	10
8.	Glossary amended	11

**Contents**

---

**Part 3 — *First Home Owner Grant Act 2000* amended**

9.	Act amended	12
10.	Section 3 amended	12
11.	Section 37 amended	12
12.	Part 4 Division 5A inserted	12

**Division 5A — Emergency grant relief measures**

64A.	Grant relief measures	12
64B.	Treasurer may declare grant relief measure due to emergency	13
64C.	Amendment and revocation of grant relief declaration	15
64D.	Provisions about grant relief declarations and instruments of amendment or revocation	15
64E.	Procedural requirements for declared grant relief measure	16
64F.	Effect of grant relief declaration	16
13.	Part 5 inserted	18

**Part 5 — Transitional provisions**

71.	Transitional provision for <i>Finance Legislation Amendment (Emergency Relief) Act 2022</i>	18
-----	---	----



Western Australia

# **Finance Legislation Amendment (Emergency Relief) Act 2022**

---

**No. 1 of 2022**

---

***An Act to amend the *Taxation Administration Act 2003* and the *First Home Owner Grant Act 2000*.***

*[Assented to 21 February 2022]*

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

### **1. Short title**

This is the *Finance Legislation Amendment (Emergency Relief) Act 2022*.

### **2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

**Part 2 — *Taxation Administration Act 2003* amended**

**3. Act amended**

This Part amends the *Taxation Administration Act 2003*.

**4. Section 30 amended**

In section 30 delete “OSR” and insert:

Commissioner’s

**5. Section 127 amended**

In section 127(1) and (2) delete “OSR” and insert:

Commissioner’s

**6. Part 10 Division 7 inserted**

At the end of Part 10 insert:

**Division 7 — Emergency tax relief measures**

**135. Tax relief measures**

- (1) A *tax relief measure* is any of the following —
- (a) a waiver or partial waiver of tax;
  - (b) a reduction in a rate of tax;
  - (c) an exemption that applies to any matter or class of matters in relation to which tax is payable;
  - (d) a deferral of a requirement under the *Pay-roll Tax Assessment Act 2002* to lodge 1 or more returns.

- (2) Subsection (1) does not apply in relation to tax of the kind referred to in paragraph (c) of the definition of *tax* in the Glossary clause 1.

**135A. Treasurer may declare tax relief measure due to emergency**

- (1) The Treasurer may, by written instrument, declare 1 or more tax relief measures if —
  - (a) a declaration (an *emergency declaration*) of any of the following kinds has been made —
    - (i) an emergency situation declaration under the *Emergency Management Act 2005* section 50;
    - (ii) a state of emergency declaration under the *Emergency Management Act 2005* section 56;
    - (iii) a public health state of emergency declaration under the *Public Health Act 2016* section 167;
  - and
  - (b) the Treasurer considers that the tax relief measure or measures are necessary to provide relief to taxpayers for the purpose of alleviating the financial or economic effects of the emergency to which the emergency declaration relates.
- (2) An instrument made under subsection (1), as amended from time to time under section 135B, is a *tax relief declaration*.
- (3) A tax relief declaration must specify the emergency declaration (the *relevant emergency declaration*) in relation to which it is made.

- (4) A tax relief declaration must set out a description of each declared tax relief measure, including by specifying —
- (a) for a tax relief measure referred to in section 135(1)(a), (b) or (c) —
    - (i) the tax to which the measure applies; and
    - (ii) the period in relation to which that tax is payable or in which liability to pay that tax arises; and
    - (iii) the persons to whom the measure applies, which may be all taxpayers or taxpayers who meet specified eligibility conditions for the measure;
  - or
  - (b) for a tax relief measure referred to in section 135(1)(d) —
    - (i) the return or returns to which the measure applies; and
    - (ii) the period to which that return or those returns relate; and
    - (iii) the persons to whom the measure applies, which may be all persons required to lodge that return or those returns or persons who meet specified eligibility conditions for the measure.
- (5) The Treasurer cannot make a tax relief declaration more than 12 months after the day on which the relevant emergency declaration ceases to be in force.
- (6) A period specified under subsection (4)(a)(ii) or (b)(ii) —
- (a) must not be longer than 2 years; and

- (b) subject to subsection (1)(b) —
  - (i) is not limited by reference to when the tax relief declaration is made or the period (the ***emergency period***) for which the relevant emergency declaration is in force; and
  - (ii) without limiting subparagraph (i), may be a period that is wholly or partly before the emergency period.

**135B. Amendment and revocation of tax relief declaration**

- (1) The Treasurer may, by written instrument, amend a tax relief declaration.
- (2) A tax relief declaration cannot be amended under subsection (1) to add an additional tax relief measure, but can be amended under that subsection to replace a tax relief measure set out in the declaration with another tax relief measure that will have a substantially similar effect.
- (3) A tax relief declaration cannot be amended under subsection (1) to extend a period specified in the declaration under section 135A(4)(a)(ii) or (b)(ii) if the extension would result in the period being longer than 2 years.
- (4) An instrument amending a tax relief declaration may provide that an amendment of the declaration applies on and from a day that is earlier than the day on which the instrument comes into operation.
- (5) The Treasurer may, by written instrument, revoke a tax relief declaration if the Treasurer considers that the tax relief measure or measures set out in the declaration are no longer necessary for the purpose referred to in section 135A(1)(b).

**135C. Provisions about tax relief declarations and instruments of amendment or revocation**

- (1) Before making a tax relief declaration or an instrument amending or revoking a tax relief declaration, the Treasurer must consult the Minister.
- (2) A tax relief declaration, or an instrument amending or revoking a tax relief declaration, is subsidiary legislation for the purposes of the *Interpretation Act 1984*.

**135D. Procedural requirements for declared tax relief measure**

- (1) If a tax relief declaration is in operation, the Commissioner may approve any procedural requirements that the Commissioner considers are necessary to enable the proper administration of a tax relief measure set out in the declaration (for example, requirements relating to applications or the provision of information and evidence).
- (2) An approval under subsection (1) must be published on the Commissioner's website.

**135E. Effect of tax relief declaration**

- (1) In this section —  
*affected return*, in relation to a tax relief measure of a kind referred to in section 135(1)(d) that is set out in a tax relief declaration, means a return —
  - (a) to which the measure applies as specified in the declaration under section 135A(4)(b)(i); and
  - (b) that relates to the period specified in the declaration under section 135A(4)(b)(ii) or part of that period;

**s. 6**

---

***affected tax***, in relation to a tax relief measure of a kind referred to in section 135(1)(a), (b) or (c) that is set out in a tax relief declaration, means tax —

- (a) to which the measure applies as specified in the declaration under section 135A(4)(a)(i); and
- (b) that is payable in relation to the period specified in the declaration under section 135A(4)(a)(ii), or for which the liability to pay arises in that period, as the case requires;

***eligible person***, in relation to a tax relief measure set out in a tax relief declaration, means a person —

- (a) to whom the measure applies as specified in the declaration under section 135A(4)(a)(iii) or (b)(iii); and
- (b) who has complied with the procedural requirements (if any) approved for the tax relief measure under section 135D.

- (2) This section applies if a tax relief declaration setting out a tax relief measure is in operation.
- (3) Despite any provision of a taxation Act —
  - (a) the Commissioner must do everything necessary to give effect to the tax relief measure; and
  - (b) without limiting paragraph (a), the applicable provisions set out in the Table apply in relation to the tax relief measure.

**Table**

<b>Kind of tax relief measure</b>	<b>Provisions</b>
Waiver or partial waiver of tax	(a) The Commissioner must waive or partly waive the

<b>Kind of tax relief measure</b>	<b>Provisions</b>
	<p>payment of affected tax by an eligible person in accordance with the declaration (and may do so whether or not the eligible person has already paid the tax).</p> <p>(b) An eligible person's liability to pay the tax waived is extinguished by the waiver.</p> <p>(c) Part 5 Division 4 does not apply in relation to the waiver.</p>
Reduction in rate of tax	The rate of affected tax payable by an eligible person is, or is taken to have been, the reduced rate determined in accordance with the declaration.
Exemption that applies to any matter or class of matters in relation to which tax is payable	In determining the amount of affected tax payable by an eligible person, the exemption applies, or is taken to have applied, to the matter or class of matters in accordance with the declaration.
Deferral of requirement under the <i>Pay-roll Tax Assessment Act 2002</i> to lodge 1 or more returns	A requirement for an eligible person to lodge an affected return is deferred in accordance with the declaration.

- (4) The other provisions of this Act, and each other taxation Act, apply subject to the declaration and subsection (3) and, without limitation, all assessments, objections, review proceedings, recovery proceedings and enforcement proceedings must be made or conducted accordingly.

**135F. Reassessments and refunds**

- (1) Subject to section 17, the Commissioner must make any reassessment necessary as a result of the making or amendment of a tax relief declaration and the operation of section 135E.
- (2) The Commissioner must refund tax to a taxpayer if, as a result of a reassessment under subsection (1), it appears that an overpayment of tax has been made.
- (3) Part 5 Division 3 does not apply to a refund under subsection (2).

**7. Section 138 inserted**

At the end of Part 11 insert:

**138. Transitional provision for *Finance Legislation Amendment (Emergency Relief) Act 2022***

- (1) In this section —  
*commencement day* means the day on which the *Finance Legislation Amendment (Emergency Relief) Act 2022* Part 2 comes into operation.
- (2) A tax relief declaration can be made in relation to an emergency declaration (as defined in section 135A(1)) only if the emergency declaration —
  - (a) is made on or after commencement day; or

- (b) was made in the period beginning on 1 March 2020 and ending immediately before commencement day (whether or not the emergency declaration ceased to be in force before commencement day).

**8. Glossary amended**

- (1) In the Glossary clause 1 delete the definition of *OSR website*.
- (2) In the Glossary clause 1 insert in alphabetical order:

*Commissioner's website* means a website maintained by or on behalf of the Commissioner;

*tax relief declaration* has the meaning given in section 135A(2);

*tax relief measure* has the meaning given in section 135(1);

**Part 3 — *First Home Owner Grant Act 2000* amended**

**9. Act amended**

This Part amends the *First Home Owner Grant Act 2000*.

**10. Section 3 amended**

In section 3(1) insert in alphabetical order:

*Commissioner's website* means a website maintained by or on behalf of the Commissioner;

*grant relief declaration* has the meaning given in section 64B(2);

*grant relief measure* has the meaning given in section 64A(1);

**11. Section 37 amended**

In section 37(1)(a) after “owner” insert:

grant

**12. Part 4 Division 5A inserted**

After Part 4 Division 5 insert:

**Division 5A — Emergency grant relief measures**

**64A. Grant relief measures**

(1) A *grant relief measure* is —

- (a) an increase in a grant amount; or
- (b) an increase in a cap amount.

- (2) For the purposes of subsection (1)(a), a **grant amount** is an amount that, under section 19, is the amount of a first home owner grant in relation to a transaction unless the consideration for the transaction is less than that amount.

**64B. Treasurer may declare grant relief measure due to emergency**

- (1) The Treasurer may, by written instrument, declare 1 or more grant relief measures if —
- (a) a declaration (an **emergency declaration**) of any of the following kinds has been made —
    - (i) an emergency situation declaration under the *Emergency Management Act 2005* section 50;
    - (ii) a state of emergency declaration under the *Emergency Management Act 2005* section 56;
    - (iii) a public health state of emergency declaration under the *Public Health Act 2016* section 167;
- and
- (b) the Treasurer considers that the grant relief measure or measures are necessary to provide relief to persons eligible for the first home owner grant for the purpose of alleviating the financial or economic effects of the emergency to which the emergency declaration relates.
- (2) An instrument made under subsection (1), as amended from time to time under section 64C, is a **grant relief declaration**.

**s. 12**

---

- (3) A grant relief declaration must specify the emergency declaration (the *relevant emergency declaration*) in relation to which it is made.
- (4) A grant relief declaration must set out a description of each declared grant relief measure, including by specifying —
  - (a) the transactions to which the measure applies, which may be all transactions or transactions that meet specified eligibility conditions for the measure; and
  - (b) the period in which the commencement dates of those transactions occur; and
  - (c) the persons to whom the measure applies, which may be all persons or persons who meet specified eligibility conditions for the measure.
- (5) The Treasurer cannot make a grant relief declaration more than 12 months after the day on which the relevant emergency declaration ceases to be in force.
- (6) A period specified under subsection (4)(b) —
  - (a) must not be longer than 2 years; and
  - (b) subject to subsection (1)(b) —
    - (i) is not limited by reference to when the grant relief declaration is made; and
    - (ii) is not limited by reference to the period for which the relevant emergency declaration is in force, except that it must not be a period that is wholly before that period.

**64C. Amendment and revocation of grant relief declaration**

- (1) The Treasurer may, by written instrument, amend a grant relief declaration.
- (2) A grant relief declaration cannot be amended under subsection (1) to add an additional grant relief measure.
- (3) A grant relief declaration cannot be amended under subsection (1) to extend a period specified in the declaration under section 64B(4)(b) if the extension would result in the period being longer than 2 years.
- (4) An instrument amending a grant relief declaration may provide that an amendment of the declaration applies on and from a day that is earlier than the day on which the instrument comes into operation.
- (5) The Treasurer may, by written instrument, revoke a grant relief declaration if the Treasurer considers that the grant relief measure or measures set out in the declaration are no longer necessary for the purpose referred to in section 64B(1)(b).

**64D. Provisions about grant relief declarations and instruments of amendment or revocation**

- (1) Before making a grant relief declaration or an instrument amending or revoking a grant relief declaration, the Treasurer must consult the Minister.
- (2) A grant relief declaration, or an instrument amending or revoking a grant relief declaration, is subsidiary legislation for the purposes of the *Interpretation Act 1984*.

**64E. Procedural requirements for declared grant relief measure**

- (1) If a grant relief declaration is in operation, the Commissioner may approve any procedural requirements that the Commissioner considers are necessary to enable the proper administration of a grant relief measure set out in the declaration (for example, requirements relating to applications or the provision of information and evidence).
- (2) An approval under subsection (1) must be published on the Commissioner's website.

**64F. Effect of grant relief declaration**

- (1) In this section —  
*affected transaction*, in relation to a grant relief measure that is set out in a grant relief declaration, means a transaction —
  - (a) to which the measure applies as specified in the declaration under section 64B(4)(a); and
  - (b) the commencement date of which occurs in the period specified in the declaration under section 64B(4)(b);*eligible person*, in relation to a grant relief measure that is set out in a grant relief declaration, means a person —
  - (a) to whom the measure applies as specified in the declaration under section 64B(4)(c); and
  - (b) who has complied with the procedural requirements (if any) approved for the grant relief measure under section 64E.

- (2) This section applies if a grant relief declaration setting out a grant relief measure is in operation.
- (3) Despite any other provision of this Act, the Commissioner must do everything necessary to give effect to the grant relief measure, including authorising the payment of any amount or additional amount to which a person is entitled as a result of the measure.
- (4) Without limiting subsection (3) —
  - (a) if the grant relief measure is an increase in a grant amount — despite section 19, the amount of any first home owner grant payable in relation to an affected transaction on an application by an eligible person is, or is taken to have been, the amount determined in accordance with the increased grant amount set out in the declaration; and
  - (b) if the grant relief measure is an increase in a cap amount — despite section 14AD and any regulations made for the purposes of that section, the cap amount that applies in relation to an affected transaction on an application by an eligible person is, or is taken to have been, the increased cap amount set out in the declaration.
- (5) The other provisions of this Act apply subject to the declaration and subsections (3) and (4) and, without limitation, all decisions, payments, objections, review proceedings, repayment proceedings and enforcement proceedings must be made or conducted accordingly.

**13. Part 5 inserted**

After section 70 insert:

**Part 5 — Transitional provisions**

**71. Transitional provision for *Finance Legislation Amendment (Emergency Relief) Act 2022***

- (1) In this section —  
*commencement day* means the day on which the *Finance Legislation Amendment (Emergency Relief) Act 2022* Part 3 comes into operation.
- (2) A grant relief declaration can be made in relation to an emergency declaration (as defined in section 64B(1)) only if the emergency declaration is in force on commencement day or is made on or after commencement day.

=====