



Western Australia

# **Land Tax Assessment Amendment (Residential Construction Exemptions) Act 2024**

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Western Australia

# **Land Tax Assessment Amendment (Residential Construction Exemptions) Act 2024**

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**No. 9 of 2024**

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**An Act to amend the *Land Tax Assessment Act 2002*.**

[Assented to 26 March 2024]

The Parliament of Western Australia enacts as follows:

**s. 1**

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**1. Short title**

This is the *Land Tax Assessment Amendment (Residential Construction Exemptions) Act 2024*.

**2. Commencement**

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

**3. Act amended**

This Act amends the *Land Tax Assessment Act 2002*.

**4. Section 27 amended**

In section 27(1)(c) delete “private” and insert:

primary

**5. Section 27A amended**

In section 27A(1)(c) delete “private” and insert:

primary

**6. Section 28A amended**

- (1) In section 28A in the definition of *exemption period* after paragraph (b) insert:

- (c) in relation to section 28F — a period of 3 consecutive assessment years, or

4 consecutive assessment years if an extension is granted under section 28H;

- (d) in relation to section 28G — a period of 2 consecutive assessment years, or 3 consecutive assessment years if an extension is granted under section 28I;

- (2) In section 28A in the definition of *exemption provision* delete “27 or 27A;” and insert:

27, 27A, 28F or 28G;

**7. Section 28C amended**

- (1) In section 28C(1):

- (a) delete “27 or 27A” and insert:

27, 27A or 28G

- (b) delete “27(1)(f) or 27A(1)(j)” and insert:

27(1)(f), 27A(1)(j) or 28G(1)(k)

- (c) in paragraph (a) delete “27 or 27A” and insert:

27, 27A or 28G

- (2) In section 28C(3) delete “27(1)(f) or 27A(1)(j)” and insert:

27(1)(f), 27A(1)(j) or 28G(1)(k)

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**8. Section 28D amended**

In section 28D:

- (a) delete “25A or 27A” and insert:

25A, 27A, 28F or 28G

- (b) delete “2-year”;

- (c) delete “the first” and insert:

an assessment year other than the last

- (d) delete “2-year”;

- (e) delete “the second” and insert:

each subsequent assessment

Note: The heading to amended section 28D is to read:

**Application of multi-year private residential exemptions to  
property subdivided during exemption period**

**9. Part 3 Division 2 Subdivision 3 inserted**

At the end of Part 3 Division 2 insert:

**Subdivision 3 — Special provisions for construction or  
refurbishment of private residence: commencement in  
period from 1 July 2020 to 30 June 2023**

**28F. Construction or refurbishment of private residence:  
3 year exemption**

- (1) Private residential property (except property held in trust) owned by an individual is exempt for 3 consecutive assessment years if —



- (a) the commencement date for the construction or refurbishment of the private residence that forms part of the property is on or after 1 July 2020 and before 1 July 2023; and
  - (b) the commencement date for the construction or refurbishment is —
    - (i) in the first assessment year; or
    - (ii) in the previous financial year;and
  - (c) at midnight on 30 June immediately before the first assessment year, the individual owned the property; and
  - (d) in the case of the refurbishment of the private residence — at midnight on 30 June immediately before the first assessment year, the private residence was unoccupied, but only because the individual had ceased occupation, or had not taken up occupation, to enable the private residence to be refurbished; and
  - (e) the completion date for the construction or refurbishment is in the 3<sup>rd</sup> assessment year or a subsequent financial year (the **completion year**); and
  - (f) the individual is the first occupant of the private residence following its construction or refurbishment; and
  - (g) the individual uses the private residence as their primary residence before the end of the financial year immediately following the completion year.
- (2) However, the property is not exempt if —
- (a) the individual or any other person derived any income from the property in the period between

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- the beginning of the first assessment year and the time when the property was first occupied or reoccupied after its construction or refurbishment; or
- (b) any other private residential property owned by the individual is exempt for any of the 3 assessment years under any provision of this Division as a result of its use by the individual as their primary residence; or
  - (c) the property is sold or otherwise disposed of before subsection (1)(f) is complied with.
- (3) The individual may apply for the exemption in the approved form after the commencement date for the construction or refurbishment.
- (4) The Commissioner may require the individual to notify the Commissioner in the approved form of —
- (a) the completion date for the construction or refurbishment; and
  - (b) when the individual occupies the private residence.

**28G. Construction or refurbishment of 2<sup>nd</sup> private residence: 2 year exemption**

- (1) Private residential property is exempt for 2 consecutive assessment years if —
- (a) at midnight on 30 June immediately before the first assessment year, the owner owned that property and another private residential property that the owner had acquired before that property; and
  - (b) the property the owner acquired first is exempt for the first assessment year because of its use by an individual at midnight on 30 June in the

- previous financial year as the individual's primary residence; and
- (c) the property the owner acquired 2<sup>nd</sup> would have been exempt for the first assessment year if, at midnight on 30 June in the previous financial year, the individual had used that property as the individual's primary residence instead of the property acquired first; and
  - (d) the property acquired 2<sup>nd</sup> was acquired in the previous financial year; and
  - (e) the commencement date for the construction or refurbishment of the private residence that forms part of the property acquired 2<sup>nd</sup> (the **private residence**) is on or after 1 July 2020 and before 1 July 2023; and
  - (f) the commencement date for the construction or refurbishment of the private residence is —
    - (i) in the first assessment year; or
    - (ii) in the previous financial year;and
  - (g) in the case of the refurbishment of the private residence — at midnight on 30 June immediately before the first assessment year, the private residence was unoccupied, but only because the individual had not taken up occupation to enable the private residence to be refurbished; and
  - (h) the completion date for the construction or refurbishment of the private residence is in a financial year following the 2<sup>nd</sup> assessment year (the **completion year**); and
  - (i) the individual is the first occupant of the private residence following its construction or refurbishment; and

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- (j) the individual uses the private residence as their primary residence before the end of the financial year immediately following the completion year; and
  - (k) before the end of the financial year immediately following the completion year, the owner —
    - (i) has sold or otherwise disposed of the property acquired first; and
    - (ii) has delivered possession of that property to the new owner.
- (2) However, the property acquired 2<sup>nd</sup> is not exempt if —
- (a) while the owner owned both properties, the owner or any other person derived income from the property that was not being used as the individual's primary residence; or
  - (b) the property is sold or otherwise disposed of before subsection (1)(i) is complied with.
- (3) The owner may apply for the exemption in the approved form after the commencement date for the construction or refurbishment.
- (4) The Commissioner may require the owner to notify the Commissioner in the approved form of —
- (a) the completion date for the construction or refurbishment; and
  - (b) when the individual occupies the property acquired 2<sup>nd</sup>; and
  - (c) when the disposal and delivery of possession of the property acquired first occurs.

**28H. Extension of exemption under s. 28F**

- (1) In this section —
- completion*, in relation to the construction or refurbishment of a private residence, means completion to the point where the residence is ready for occupation;
- exceptional circumstances*, in relation to the construction or refurbishment of a private residence —
- (a) can include that a builder failed to commence or ceased work on the residence; but
  - (b) do not include a building materials or labour shortage.
- (2) The Commissioner may, in relation to particular private residential property, extend the exemption provided for in section 28F by 1 assessment year if satisfied that —
- (a) there has been a delay in the completion of the construction or refurbishment of the private residence that forms part of the property; and
  - (b) the delay is primarily due to exceptional circumstances beyond the control of the owner; and
  - (c) the delay could not reasonably have been avoided by the owner; and
  - (d) the property would be exempt under section 28F for the 3 consecutive assessment years and the assessment year immediately following if —
    - (i) section 28F(1) referred to 4 instead of 3 consecutive assessment years; and
    - (ii) section 28F(2)(b) referred to 4 instead of 3 assessment years.

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- (3) If the Commissioner grants the extension, section 28F has effect as if —
  - (a) section 28F(1) referred to 4 instead of 3 consecutive assessment years; and
  - (b) section 28F(2)(b) referred to 4 instead of 3 assessment years.
- (4) An owner of private residential property may apply for an extension of the exemption provided for in section 28F, but must do so before the end of the financial year immediately following the 3<sup>rd</sup> assessment year.

**28I. Extension of exemption under s. 28G**

- (1) In this section —

*completion*, in relation to the construction or refurbishment of a private residence, means completion to the point where the residence is ready for occupation;

*exceptional circumstances*, in relation to the construction or refurbishment of a private residence, can include —

  - (a) that a builder failed to commence or ceased work on the residence; and
  - (b) a building materials or labour shortage.
- (2) The Commissioner may, in relation to particular private residential property, extend the exemption provided for in section 28G by 1 assessment year if satisfied that —
  - (a) there has been a delay in the completion of the construction or refurbishment of the private residence that forms part of the property; and

- (b) the delay is primarily due to exceptional circumstances beyond the control of the owner; and
  - (c) the delay could not reasonably have been avoided by the owner; and
  - (d) the property would be exempt under section 28G for the 2 consecutive assessment years and the assessment year immediately following if section 28G(1) referred to 3 instead of 2 consecutive assessment years.
- (3) If the Commissioner grants the extension, section 28G has effect as if section 28G(1) referred to 3 instead of 2 consecutive assessment years.
- (4) An owner of private residential property may apply for an extension of the exemption provided for in section 28G, but must do so before the later of the following —
- (a) 30 June 2024;
  - (b) the end of the financial year immediately following the 2<sup>nd</sup> assessment year.

**28J. No double exemption**

- (1) This section applies in relation to private residential property if, in relation to the construction or refurbishment of the private residence that forms part of the property, the property would, but for this section, be exempt under section 28F or 28G and under 1 or more of sections 24, 24A, 25 and 25A in relation to the same construction or refurbishment (whether or not for the same assessment year or years).
- (2) The Commissioner must determine which section the property is exempt under, in which case the property is not exempt under the other section.

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- (3) The Commissioner need not comply with subsection (2) if satisfied that there would not be a change in the owner's liability to land tax.

**28K. Reassessment**

Despite the *Taxation Administration Act 2003* section 17(4), the Commissioner must make any reassessment necessary to give effect to this Subdivision.

**10. Section 42 amended**

In section 42(3)(a) delete "25A or 26B; or" and insert:

25A, 26B or 28F; or

**11. Glossary amended**

In the Glossary clause 1 in the definition of *private residential property* paragraph (d) delete "28 —" and insert:

28 and Part 3 Division 2 Subdivisions 2 and 3 —

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