

Western Australia

**Rates and Charges (Rebates and Deferments)  
Amendment Act 2005**

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As at 07 Jul 2005

No. 9 of 2005

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## **Rates and Charges (Rebates and Deferments) Amendment Act 2005**

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### CONTENTS

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1.	Short title	1
2.	Commencement	2
3.	The Act amended	2
4.	Section 3 amended	2
5.	Section 13 amended	2
6.	Section 17 amended	3
7.	Section 23 amended	3
8.	Section 24 amended	4
9.	Section 26 amended	4
10.	Section 28 amended	5
11.	Sections 29A and 29B inserted	5
	29A. Relevant interest — resident of retirement village	5
	29B. Relevant interest — owner-occupier of caravan or park home	6
12.	Section 31 amended	9
13.	Section 32 amended	10
14.	Section 33 amended	11
15.	Section 43 amended	11
16.	Transitional	12



Western Australia

## **Rates and Charges (Rebates and Deferments) Amendment Act 2005**

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**No. 9 of 2005**

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**An Act to amend the *Rates and Charges (Rebates and Deferments) Act 1992*, and for related purposes.**

[Assented to 7 July 2005]

The Parliament of Western Australia enacts as follows:

**1. Short title**

This is the *Rates and Charges (Rebates and Deferments) Amendment Act 2005*.

- (1) Subject to subsections (2) and (3), this Act comes into operation on the day on which it receives the Royal Assent.
- (2) If this Act receives the Royal Assent before or on 1 July 2005, sections 4(2), 11, 14(1) and (2) and 15 come into operation on 1 July 2005.
- (3) If this Act receives the Royal Assent after 1 July 2005, sections 4(2), 11, 14(1) and (2) and 15 are deemed to have come into operation on 1 July 2005.

### 3. The Act amended

The amendments in this Act are to the *Rates and Charges (Rebates and Deferments) Act 1992*\*.

[\* Reprinted as at 19 May 2000.

*For subsequent amendments see Western Australian Legislation Information Tables for 2004, Table 1, p. 379.]*

**4. Section 3 amended**

- (1) Section 3(1) is amended after the definition of “prescribed means test” by inserting the following definition —
- “
- “**procedural manual**” means the procedural manual issued under section 9(2);
- ”.
- (2) Section 3(1) is amended in the definition of “relevant interest” by inserting after “29” —
- “ , 29A or 29B ”.

**5. Section 13 amended**

Section 13(1) is amended by deleting “issued under section 9(2)”.

**6. Section 17 amended**

Section 17(2) is amended by deleting “subsection (1)(c)” and inserting instead —

“ subsection (1a) ”.

**7. Section 23 amended**

- (1) Section 23(1) is amended by deleting “production to the administrative authority of a relevant pensioner concession card” and inserting instead —

“  
sufficient evidence of eligibility being accepted by the  
administrative authority under section 26

”.

- (2) Section 23(2) is amended by deleting “production to the administrative authority of a State concession card” and inserting instead —

“  
sufficient evidence of eligibility being accepted by the  
administrative authority under section 26

”.

- (3) Section 23(3) is amended by deleting “production to the administrative authority of a State concession card” and inserting instead —

“  
sufficient evidence of eligibility being accepted by the  
administrative authority under section 26

”.

**s. 8**

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(4) Section 23(4) is amended as follows:

(a) by inserting after “a person” —

“

who is the holder of both a seniors’ card and a  
Commonwealth seniors health card

”;

(b) by deleting “production to the administrative authority  
of both a seniors’ card and a Commonwealth seniors  
health card” and inserting instead —

“

sufficient evidence of eligibility being accepted by the  
administrative authority under section 26

”.

**8. Section 24 amended**

Section 24 is amended after “production to the administrative  
authority of proof of the kind prescribed” by inserting —

“

and sufficient evidence of eligibility being accepted by  
the administrative authority under section 26

”.

**9. Section 26 amended**

Section 26(1) is amended as follows:

(a) by deleting “or” after paragraph (d);

(b) in paragraph (e) by deleting “applies.” and inserting  
instead —

“ applies; or ”;



(c) after paragraph (e) by inserting —

“

(f) evidence of eligibility in a form specified in the procedural manual, as sufficient evidence of the eligibility of a person.

”.

**10. Section 28 amended**

Section 28(1)(b) is amended by deleting “issued under section 9”.

**11. Sections 29A and 29B inserted**

After section 29 the following sections are inserted —

“

**29A. Relevant interest — resident of retirement village**

(1) In this section —

“**administering body**”, in relation to a retirement village, has the meaning given to that term in the *Retirement Villages Act 1992*;

“**residence contract**” has the meaning given to that term in the *Retirement Villages Act 1992*;

“**resident**”, in relation to a retirement village, has the meaning given to that term in the *Retirement Villages Act 1992*;

“**retirement village**” has the meaning given to that term in the *Retirement Villages Act 1992*.

(2) Where an eligible person who occupies land as a resident of a retirement village —

(a) has entered into a prescribed charge arrangement described in subsection (3) in relation to the land or is taken to have entered

**s. 11**

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into such an arrangement under subsection (5);  
and

- (b) is and remains liable to pay the prescribed charge as an amount payable under the prescribed charge arrangement,

that person has an interest in the land which is to be taken to be relevant for the purposes of this Act.

- (3) An eligible person enters into a prescribed charge arrangement for the purposes of this section if the person enters into a written contract, agreement, scheme, deed or other written arrangement with the administering body of a retirement village to pay, either directly or indirectly, a prescribed charge on land occupied by the person as a resident of the retirement village.
- (4) A prescribed charge arrangement may form part of a residence contract.
- (5) An eligible person is taken to have entered into a prescribed charge arrangement for the purposes of this section if the eligible person —
  - (a) was the spouse or de facto partner of a deceased eligible person who had entered into a prescribed charge arrangement; and
  - (b) was residing with the deceased eligible person at the time of his or her death.

**29B. Relevant interest — owner-occupier of caravan or park home**

- (1) In this section —  
“**caravan**” has the meaning given to that term in the *Caravan Parks and Camping Grounds Act 1995*;

**“caravan park”** has the meaning given to that term in the *Caravan Parks and Camping Grounds Act 1995*;

**“owner”**, in relation to land, has the meaning given to that term in the *Residential Tenancies Act 1987*;

**“park home”** has the meaning given to that term in the *Caravan Parks and Camping Grounds Act 1995*;

**“residential tenancy agreement”** has the meaning given to that term in the *Residential Tenancies Act 1987*;

**“site”** has the meaning given to that term in the *Caravan Parks and Camping Grounds Act 1995*.

- (2) Where an eligible person who occupies a site on land in a caravan park —
- (a) has entered into a prescribed charge arrangement described in subsection (3) in relation to the land or is taken to have entered into such an arrangement under subsection (4); and
  - (b) is and remains liable to pay the prescribed charge as an amount payable under the prescribed charge arrangement,
- that person has an interest in the land which is to be taken to be relevant for the purposes of this Act.
- (3) An eligible person enters into a prescribed charge arrangement for the purposes of this section if the person enters into a written contract, agreement, scheme, deed or other written arrangement with the owner of land in a caravan park to pay, either directly or indirectly, a prescribed charge on the land occupied by the person as an owner-occupier.

**s. 11**

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- (4) An eligible person is taken to have entered into a prescribed charge arrangement for the purposes of this section if the eligible person —
  - (a) was the spouse or de facto partner of a deceased eligible person who had entered into a prescribed charge arrangement; and
  - (b) was residing with the deceased eligible person at the time of his or her death.
- (5) An eligible person occupies a site as an owner-occupier for the purposes of this section if —
  - (a) the eligible person —
    - (i) is the owner of a caravan or park home situated on the site in a caravan park; and
    - (ii) has, under the terms of a written residential tenancy agreement and from the date on which an entitlement of that person is registered, an exclusive right to occupy that site for a term of 5 years or longer, or such other term as may be prescribed in place of that term;
  - or
  - (b) the eligible person —
    - (i) is the spouse or de facto partner of an eligible person referred to in paragraph (a), or was the spouse or de facto partner of a deceased person who was an eligible person referred to in paragraph (a) at the time of his or her death; and
    - (ii) resides with that person, or was residing with that deceased person at the time of his or her death.

”.

**12. Section 31 amended**

- (1) Section 31(3)(a) is deleted and the following paragraph is inserted instead —

“

- (a) where an order —

- (i) of a court of summary jurisdiction, made under the *Family Court Act 1997*;
- (ii) of the Family Court of Western Australia;
- (iii) made under the *Family Law Act 1975* of the Commonwealth; or
- (iv) made on appeal from a judgment, order or decision made under the *Family Court Act 1997* or the *Family Law Act 1975* of the Commonwealth,

makes provision in relation to a relevant prescribed charge, in a manner not inconsistent with that order;

”.

- (2) Section 31(3)(aa) and the “or” following are deleted and the following is inserted instead —

“

- (aa) where —

- (i) a financial agreement made under section 90B, 90C or 90D of the *Family Law Act 1975* of the Commonwealth;
- (ii) a financial agreement made under section 205ZN, 205ZO or 205ZP of the *Family Court Act 1997*; or

**s. 13**

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- (iii) an agreement made under legislation of another State or a Territory which provides for agreements with respect to financial matters in contemplation of, during or after a de facto relationship, makes provision in relation to a relevant prescribed charge, in a manner not inconsistent with that agreement; or

”.

**13. Section 32 amended**

- (1) Section 32(1)(a) is amended by deleting “the prescribed form” and inserting instead —

“ the form specified in the procedural manual ”.

- (2) After section 32(1a) the following subsections are inserted —

“

- (1b) An applicant under subsection (1) may, in the application, authorise the administrative authority to whom the application is made to give a copy of the application to another administrative authority specified in the application.
- (1c) If a copy of an application that includes an authorisation as mentioned in subsection (1b) is given to an administrative authority in accordance with the authorisation, the copy is to be taken to be an application under subsection (1) to that administrative authority for registration of an entitlement as regards land.

”.

- (3) Section 32(6) is amended by deleting “issued under section 9”.

**14. Section 33 amended**

- (1) Section 33(1) is amended by inserting after “on that land” —  
“  
on the basis that a person holds an estate in fee simple  
in possession in land or a relevant interest in land of a  
kind referred to in section 29,  
”.
- (2) After section 33(1) the following subsection is inserted —  
“  
(1a) Where as regards any land an entitlement is registered  
in relation to any kind of prescribed charge on that land  
on the basis that a person holds a relevant interest in  
land of a kind referred to in section 29A or 29B, the  
person whose entitlement it is, subject to this Act, is  
authorised in relation to a charge of that kind to pay a  
rebated amount for the charged period for which that  
charge was made and for all subsequent charged  
periods until the registration is amended or cancelled  
under section 37.  
”.
- (3) Section 33(5) is amended by deleting “issued under that  
section”.

**15. Section 43 amended**

- (1) Section 43(1) is amended by deleting “subsection (2)” and  
inserting instead —  
“ subsections (1a) and (2) ”.
- (2) After section 43(1) the following subsection is inserted —  
“  
(1a) In relation to any land, deferment of the payment of a  
prescribed charge must not be allowed if the  
entitlement of the person liable to pay the relevant

**s. 16**

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prescribed charge is as a person who holds a relevant interest of a kind referred to in section 29A or 29B.

”.

**16. Transitional**

If an eligible person who holds a relevant interest in land of a kind referred to in section 29A or 29B of the *Rates and Charges (Rebates and Deferments) Act 1992* registers an entitlement in respect of land under section 32 of that Act after 30 June 2005 and before 1 October 2005, section 40 of that Act applies to that person as if the entitlement had been registered at the commencement of the charged period.

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