

Western Australia

Revenue Laws Amendment Act 2006

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Revenue Laws Amendment Act 2006

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Western Australia

Revenue Laws Amendment Act 2006

No. 31 of 2006

An Act to amend the —

- *Stamp Act 1921*; and
- *Land Tax Act 2002*; and
- *Land Tax Assessment Act 2002*; and
- *Rates and Charges (Rebates and Deferments) Act 1992*.

[Assented to 4 July 2006]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Revenue Laws Amendment Act 2006*.

2. Commencement

- (1) Subject to this section, this Act comes into operation on the day on which it receives the Royal Assent.
- (2) Section 4 is deemed to have come into operation on 1 January 2004.
- (3) Sections 5(2) and 6 are deemed to have come into operation on 1 July 2004.
- (4) If this Act receives the Royal Assent before or on 1 July 2006, section 14, Part 3, Part 4 Division 2, section 29, Part 4 Division 4 and Part 5 come into operation on 1 July 2006.
- (5) If this Act receives the Royal Assent after 1 July 2006, section 14, Part 3, Part 4 Division 2, section 29, Part 4 Division 4 and Part 5 are deemed to have come into operation on 1 July 2006.
- (6) Section 16 —
 - (a) comes into operation on the day on which this Act receives the Royal Assent; or
 - (b) is deemed to have come into operation on 1 July 2006 if this Act receives the Royal Assent after that day.

Part 2 — *Stamp Act 1921* amended

3. The Act amended

The amendments in this Part are to the *Stamp Act 1921**.

[* *Reprint 15 as at 3 June 2005.*

*For subsequent amendments see Western Australian
Legislation Information Tables for 2005, Table 1, p. 428-9
and Acts Nos. 35, 36 and 38 of 2005.]*

4. Section 31B amended

Section 31B(8) is amended as follows:

- (a) in paragraph (f)(ii) by deleting “applies.” and inserting instead —
“ applies; or ”;
- (b) by inserting after paragraph (f) the following paragraph —
“
 - (g) the acquisition of beneficial ownership of property of a bankrupt under section 58 of the *Bankruptcy Act 1966* of the Commonwealth.”;
- (c) by inserting at the end of each of paragraphs (a), (b), (c) and (d) —
“ or ”.

5. Section 75AG amended

- (1) Section 75AG(8) is repealed.
- (2) Section 75AG(9) is amended by inserting after “an amount under section” —
“ 21 or ”.

6. Section 75AH inserted

After section 75AG the following section is inserted —

“

75AH. Further transfer to person who was first home owner

- (1) An expression used in this section that is defined in section 75AG, or given a meaning under that section, has the same meaning in this section as it has in that section.
- (2) Subject to subsection (6), this section applies when —
 - (a) duty was chargeable under section 75AG on an instrument of transfer of property referred to in the Second Schedule item 4(2) or (3) and executed on or after 1 July 2004 (the “**first instrument**”); and
 - (b) within 10 years of the execution of the first instrument, a transferee in relation to the first instrument —
 - (i) executes another instrument of transfer of property (the “**further instrument**”) which evidences the acquisition of a further interest in the property from a person excluded from the operation of section 16(1) of the FHOG Act; and
 - (ii) is liable to pay duty on the further instrument.
- (3) When this section applies —
 - (a) duty is chargeable on the further instrument at the rate at which it was chargeable on the first instrument, using the same thresholds that applied when duty was charged on the first instrument; and

- (b) irrespective of the value of the property at the time of the execution of the further instrument and the consideration paid in respect of the further instrument, the amount or value of the consideration on which duty is chargeable on the further instrument is the same as the higher of —
 - (i) the amount or value of the consideration on which duty was charged on the first instrument; or
 - (ii) the unencumbered value of the whole of the property at the time of execution of the first instrument;and
- (c) the assessment of the duty payable on the further instrument is to be made on the amount or value referred to in paragraph (b), but —
 - (i) the portion of duty assessed in relation to the transferee is to bear the same proportion to the whole of the duty assessed as the interest that would be held by the transferee after the execution and registration of the further instrument bears to the whole of the property; and
 - (ii) the further instrument is exempt from the remaining portion of the duty that would, but for this subparagraph, be payable;and
- (d) the amount of duty payable is to be reduced by the amount of the duty paid by the transferee on the first instrument and any other further instrument on which duty has been paid.

s. 7

- (4) Section 75AG(2), (3), (5), (6) and (7) applies, with necessary changes, in respect of an application under this section.
- (5) The application may only be made within the period ending 12 months after the execution of the further instrument.
- (6) If a transferee is required to repay an amount under section 21 or 51 of the FHOG Act in relation to the first instrument or a further instrument, or would be required to repay an amount if a first home owner grant had been paid to the transferee, duty on the further instrument is not, or is no longer, (as the case requires) chargeable under this section.
- (7) If any transferee in relation to the further instrument was not a transferee in relation to the first instrument, duty on the further instrument is not chargeable under this section.
- (8) Despite section 17 of the Administration Act, the Commissioner must make any reassessment necessary to give effect to this section.

”.

7. Section 85A inserted

After the heading to Part IIIE Division 2 the following section is inserted —

“

85A. Mortgage duty abolished from 1 July 2008

Despite anything to the contrary in this Part, mortgage duty is not chargeable —

- (a) on a mortgage first executed, or that first affects property in Western Australia, on or after 1 July 2008; or

- (b) in respect of an advance or further advance on or after 1 July 2008 secured under a mortgage first executed, or that first affects property in Western Australia, before that day.

”.

8. Section 86 amended

Section 86(2) is amended by deleting “other duty.” and inserting instead —

“ duty other than, subject to section 85A, mortgage duty. ”.

9. Part IVB Division 1A inserted

After the heading to Part IVB the following Division is inserted —

“

Division 1A — Abolition of duty

112. Hire of goods duty abolished from 1 January 2007

Despite anything to the contrary in this Part, duty is not chargeable on a hire of goods in respect of —

- (a) any hiring charges received by a commercial hire business on or after 1 January 2007; or
- (b) any hiring charges paid or payable by a hirer on or after 1 January 2007.

”.

10. Section 112J amended

After section 112J(2) the following subsection is inserted —

“

- (3) Subsection (1) does not apply to a commercial hire business in respect of hiring charges received in any month after December 2006.

”.

s. 11

11. Section 112L amended

After section 112L(4) the following subsection is inserted —

“

- (5) Nothing in this section requires a commercial hire business to —
 - (a) lodge a return in respect of a return period commencing after December 2006; or
 - (b) pay duty in respect of any hiring charges received on or after 1 January 2007.

”.

12. Section 112M amended

After section 112M(4) the following subsection is inserted —

“

- (5) Nothing in this section or section 112MA requires a hirer to —
 - (a) prepare or lodge a statement in respect of hiring charges paid or payable on or after 1 January 2007; or
 - (b) pay duty in respect of any hiring charges paid or payable on or after 1 January 2007.

”.

13. Section 122 inserted

After section 121 the following section is inserted —

“

122. Transitional provisions

Schedule 4 contains transitional provisions relating to amendments made to this Act.

”.

14. Second Schedule amended (mortgages)

- (1) The amendments in this section are to the Second Schedule.
- (2) Item 13(2) is amended as follows:
 - (a) by deleting “\$5 000” and inserting instead —
“ \$10 000 ”;
 - (b) by deleting “\$0.40” and inserting instead —
“ \$0.20 ”.
- (3) Item 13(2a) is amended as follows:
 - (a) by deleting “\$8 000” and inserting instead —
“ \$16 000 ”;
 - (b) by deleting “\$0.25” and inserting instead —
“ \$0.125 ”.
- (4) Item 13(2b) is amended as follows:
 - (a) by deleting “\$8 000” and inserting instead —
“ \$16 000 ”;
 - (b) by deleting “\$0.25” and inserting instead —
“ \$0.125 ”;
 - (c) by deleting “\$0.40” and inserting instead —
“ \$0.20 ”.
- (5) Item 13 is amended by inserting at the end of the item in the column headed “Duty payable” the following —
“
The duty payable under
item 13 is to be rounded
down to the nearest 5 cents.
”.

15. Second Schedule amended (settlements and gifts)

- (1) The amendments in this section are to the Second Schedule.

s. 16

- (2) Item 13(3)(b) is amended by deleting “Donor” and inserting instead —

“ Donee ”.

- (3) Item 17(b) is amended by deleting “Donor” and inserting instead —

“ Donee ”.

- (4) Item 19 is amended by deleting “The settlor or donor” and inserting instead —

“

The person on whom the
property is settled or the
donee.

”.

16. Schedule 4 inserted

After the Third Schedule the following Schedule is inserted —

“

Schedule 4 — Transitional provisions

[s. 122]

Division 1 — Provisions for *Revenue Laws Amendment Act 2006*

1. Application of old Part IVB

- (1) In subclause (2) —

“old Part IVB” has the same meaning as in section 94 of
the *Business Tax Review (Assessment) Act (No. 2) 2003*.

- (2) Despite section 94(7) of the *Business Tax Review (Assessment) Act (No. 2) 2003*, on 1 January 2007 the old Part IVB ceases to apply in relation to the conduct of a rental business on or after that date.

2. Applications under section 75AH

Despite section 75AH(5) (as inserted by section 6 of the *Revenue Laws Amendment Act 2006*), an application under section 75AH in respect of a further instrument executed on or after 1 July 2004 and before the day on which the *Revenue Laws Amendment Act 2006* receives the Royal Assent may be made within 12 months after the day on which that Act receives the Royal Assent.

3. Application of Act to certain mortgages and advances

Despite the amendments made by section 14 of the *Revenue Laws Amendment Act 2006*, item 13(2), (2a) and (2b) of the Second Schedule as in force immediately before 1 July 2006 continues to apply to and in relation to —

- (a) mortgages that were executed before 1 July 2006 or that first affected property in Western Australia before 1 July 2006; and
- (b) advances or further advances made before 1 July 2006 secured under such mortgages.

4. Application of Act to certain instruments referred to in the Second Schedule item 19

Despite the amendments made by sections 5(1) and 15 of the *Revenue Laws Amendment Act 2006*, section 75AG(8) and items 13(3)(b), 17(b) and 19 of the Second Schedule as in force immediately before the day on which the *Revenue Laws Amendment Act 2006* receives the Royal Assent continue to apply to and in relation to instruments referred to in the Second Schedule item 19 that were executed before that day.

”.

Part 3 — *Land Tax Act 2002* amended

17. The Act amended

The amendments in this Part are to the *Land Tax Act 2002**.

[* *Reprint 1 as at 4 November 2005.*]

18. Section 5 amended

Section 5 is amended as follows:

- (a) by deleting from the heading to Table 4 “and subsequent financial years”;
- (b) by inserting after Table 4 the following Table —

“

Table 5: Land tax rates for 2006/07 and subsequent financial years

Unimproved value of the land		Rate of land tax
Exceeding (\$)	Not exceeding (\$)	
0	150 000	Nil
150 000	390 000	0.15 cent for each \$1 in excess of \$150 000
390 000	875 000	\$360.00 + 0.45 cent for each \$1 in excess of \$390 000
875 000	2 000 000	\$2 542.50 + 1.62 cents for each \$1 in excess of \$875 000
2 000 000	5 000 000	\$20 767.50 + 2.30 cents for each \$1 in excess of \$2 000 000
5 000 000		\$89 767.50 + 2.50 cents for each \$1 in excess of \$5 000 000

”.

Part 4 — *Land Tax Assessment Act 2002* amended

Division 1 — Preliminary

19. The Act amended

The amendments in this Part are to the *Land Tax Assessment Act 2002**.

[* *Act No. 52 of 2002.*

For subsequent amendments see Western Australian Legislation Information Tables for 2005, Table 1, p. 245 and Act No. 38 of 2005.]

Division 2 — Exemptions relating to private residences

20. Section 24 amended

Section 24(2) is repealed and the following subsection is inserted instead —

“

(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 the beginning of the assessment year and the time when the property was first occupied; or
- (b) any other private residential property owned by the individual is exempt for the assessment year under another provision of this Division as a result of its use by the individual as his or her primary residence.

”.

21. Section 24A inserted

After section 24 the following section is inserted —

“

24A. Construction of private residence — exemption for 2 assessment years

- (1) Private residential property (except property held in trust) that is owned by an individual is exempt for 2 consecutive assessment years if —
 - (a) the commencement date for the construction of the private residence that forms part of the property is —
 - (i) in the first assessment year; or
 - (ii) in any previous financial year and part of the construction is carried out in the first assessment year;
 - and
 - (b) the completion date for the construction is in the second assessment year; and
 - (c) at midnight on 30 June immediately before the first assessment year, the individual owned the land on which the private residence is constructed; and
 - (d) the individual is the first occupant of the private residence; and
 - (e) the individual uses the private residence as his or her primary residence during the second assessment 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 the beginning of the first assessment year and the time when the property was first occupied; or

- (b) any other private residential property owned by the individual is exempt for either assessment year under another provision of this Division as a result of its use by the individual as his or her primary residence.
- (3) The individual may apply for the exemption in the approved form after the commencement date for the construction.
- (4) The individual must notify the Commissioner in the approved form of —
 - (a) the completion date for the construction; and
 - (b) when the individual occupies the private residence.
- (5) The Commissioner is to make any reassessment necessary to give effect to this section.

”.

22. Section 25A inserted

After section 25 the following section is inserted —

“

25A. Refurbishment of private residence — exemption for 2 assessment years

- (1) Private residential property (except property held in trust) that is owned by an individual is exempt for 2 consecutive assessment years if —
 - (a) the commencement date for the refurbishment of the private residence that forms part of the property is —
 - (i) in the first assessment year; or
 - (ii) in any previous financial year and part of the refurbishment is carried out in the first assessment year;

- and
- (b) the completion date for the refurbishment is in the second assessment year; and
 - (c) 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
 - (d) the individual is the first occupant of the private residence since the refurbishment; and
 - (e) the individual uses the private residence as his or her primary residence during the second assessment 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 the beginning of the first assessment year and the time when the property was reoccupied; or
 - (b) any other private residential property owned by the individual is exempt for either assessment year under another provision of this Division as a result of its use by the individual as his or her primary residence.
- (3) The individual may apply for the exemption in the approved form after the commencement date for the refurbishment.
- (4) The individual must notify the Commissioner in the approved form of —
- (a) the completion date for the refurbishment; and
 - (b) when the individual occupies the private residence.

- (5) The Commissioner is to make any reassessment necessary to give effect to this section.

”.

23. Section 27 replaced by sections 27 and 27A

Section 27 is repealed and the following sections are inserted instead —

“

27. Moving between 2 private residences

- (1) Private residential property (“**property A**”) is exempt for an assessment year if —
- (a) at midnight on 30 June in the previous financial year, the owner owned property A and another private residential property (“**property B**”); and
 - (b) property B is exempt for the 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) property A would have been exempt for the assessment year if, at midnight on 30 June in the previous financial year, the individual had used property A as the individual’s private residence instead of property B; and
 - (d) the property the owner acquired second was acquired in the previous financial year; and
 - (e) the individual used property A as the individual’s primary residence —
 - (i) in the previous financial year before using property B for that purpose; or
 - (ii) in the assessment year after using property B for that purpose;
- and

- (f) during the assessment year, the owner —
 - (i) sold or otherwise disposed of the property the owner acquired first; and
 - (ii) delivered possession of that property to the new owner.
- (2) However, property A is not exempt if, 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.
- (3) The owner must notify the Commissioner in the approved form of when the disposal and delivery of possession of the property acquired first occurs.
- (4) The Commissioner is to make any reassessment necessary to give effect to this section.

27A. Construction or refurbishment of second private residence — exemption for 2 assessment years

- (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 second 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 private residence instead of the property acquired first; and
- (d) the property acquired second 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 second —
 - (i) is in the first assessment year; or
 - (ii) is in the previous financial year and part of the construction or refurbishment is carried out in the first assessment year;
- and
- (f) the completion date for the construction or refurbishment of the private residence that forms part of the property acquired second is in the second assessment year; and
 - (g) in the case of the refurbishment of the private residence that forms part of the property acquired second — 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 individual is the first occupant of the private residence that forms part of the property acquired second since its construction or refurbishment; and
 - (i) the individual uses the private residence that forms part of the property acquired second as his or her primary residence during the second assessment year; and

- (j) by the end of the second assessment 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 second is not exempt if, 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.
- (3) The owner may apply for the exemption in the approved form after the commencement date for the construction or refurbishment.
- (4) The owner must 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 second; and
 - (c) when the disposal and delivery of possession of the property acquired first occurs.
- (5) The Commissioner is to make any reassessment necessary to give effect to this section.

”.

24. Section 42 amended

Section 42(3)(a) is amended by deleting “24 or 25; or” and inserting instead —

“ 24, 24A, 25 or 25A; or ”.

25. Section 47 inserted

After section 46 the following section is inserted —

“

47. Transitional provisions

Schedule 1 contains transitional provisions relating to amendments made to this Act.

”.

26. Schedule 1 inserted

Before the Glossary the following Schedule is inserted —

“

Schedule 1 — Transitional provisions

[s. 47]

Division 1 — Provision for *Revenue Laws Amendment Act 2006*

1. Application of sections 24A, 25A and 27A

Private residential property is exempt under section 24A, 25A or 27A (as inserted by Part 4 Division 2 of the *Revenue Laws Amendment Act 2006*) if the completion date for the construction or refurbishment of the private residence that forms part of the property is on or after 1 July 2006.

”.

27. Glossary amended

The Glossary is amended as follows:

- (a) in clause 1 by inserting in the appropriate alphabetical positions —

“

“building contract” —

- (a) means a contract under which a builder undertakes to construct or refurbish a private

residence from the inception of the building work to the completion of that work; and

- (b) if, for any reason, the work to be carried out under such a contract is not completed — includes any further contract under which the work is to be completed;

“commencement date”, for the construction or refurbishment of a private residence, means —

- (a) if the residence is to be constructed or refurbished under a building contract — the date when the contract is made; or
- (b) if the residence is to be constructed or refurbished by an owner-builder — the date when the building licence for the construction or refurbishment is issued under Part XV of the *Local Government (Miscellaneous Provisions) Act 1960*;

“completion date”, for the construction or refurbishment of a private residence, means the date when the construction or refurbishment is completed to the point where the residence is ready for occupation;

“owner-builder” means an owner of private residential property who constructs or refurbishes a private residence that forms part of that property without entering into a building contract;

”;

- (b) in clause 1 in the definition of “private residential property” in paragraph (d) by deleting “27” and inserting instead —
“ 24A, 27, 27A ”.

**Division 3 — Exemptions relating to disabled beneficiaries
and relatives**

28. Section 26 amended

- (1) Section 26 is amended by inserting before “Private” the subsection designation “(1)”.
- (2) At the end of section 26 the following subsection is inserted —
 - “(2) If —
 - (a) land was exempt under this section on 30 June in the financial year before the year referred to in paragraph (b); and
 - (b) on 30 June in the financial year before the assessment year —
 - (i) the trustee does not hold the land in trust for one or more disabled beneficiaries; or
 - (ii) there is not at least one disabled beneficiary using the property as his or her primary residence,the trustee must notify the Commissioner to that effect within 3 months after 30 June in the financial year before the assessment year.Penalty: \$5 000.

”.

29. Section 26A inserted

After section 26 the following section is inserted —

“

26A. Exemption for property in which disabled relative resides

- (1) In this section —

“disabled person” means a person who has a disability as defined in section 3 of the *Disability Services Act 1993* and has been independently assessed by an appropriate assessor as requiring full-time care.

- (2) Private residential property is exempt for an assessment year if —
- (a) at midnight on 30 June in the financial year before the assessment year —
 - (i) a disabled person uses the property as his or her primary residence; and
 - (ii) it is owned by one or more individuals, at least one of whom is related to the disabled person;
 - and
 - (b) no rent or other income is derived from the property by anyone in the assessment year.
- (3) For the purposes of subsection (2)(a)(ii) —
- (a) the following persons are related to a disabled person —
 - (i) a parent or grandparent of the disabled person;
 - (ii) a brother or sister of the disabled person;
 - and
 - (b) an illegitimate person is to be treated as the legitimate child of that person’s parents; and
 - (c) it is irrelevant whether a relationship is of the whole or half-blood, or whether it is a natural relationship or a relationship established under a written law.

- (4) The exemption may be allowed in advance if the owner of the property advises the Commissioner that no rent or other income is expected to be derived from the property by anyone in any assessment year.
- (5) If any rent or other income is derived from the property by anyone in an assessment year, the owner of the property must —
 - (a) notify the Commissioner to that effect within 3 months after the end of the assessment year; and
 - (b) give the Commissioner any particulars needed to make a reassessment.

Penalty: \$5 000.

- (6) If the Commissioner is notified, or otherwise becomes aware, that rent or income has been derived from the property in the assessment year, the Commissioner is to make a reassessment accordingly.
- (7) If —
 - (a) land was exempt under this section on 30 June in the financial year before the year referred to in paragraph (b); and
 - (b) on 30 June in the financial year before the assessment year there is not at least one disabled person related to an owner using the property as his or her primary residence,

the owner must notify the Commissioner to that effect within 3 months after 30 June in the financial year before the assessment year.

Penalty: \$5 000.

”.

Division 4 — Minor interests

30. Sections 45A and 45B inserted

After section 45 the following sections are inserted —

“

45A. Commissioner may determine that minor interest is to be disregarded

- (1) The Commissioner may determine that an interest in a lot or parcel of land as a joint owner (whenever created) is to be disregarded for the purposes of this Act.
- (2) The Commissioner can only make a determination under subsection (1) if —
 - (a) the interest is a minor interest in the lot or parcel of land; and
 - (b) the Commissioner is of the opinion that the purpose, or one of the purposes, of the creation of the interest was to reduce the amount of land tax payable for that, or any other, lot or parcel of land.
- (3) For the purposes of subsection (2)(b), the Commissioner may have regard to —
 - (a) the nature of any relationship between the owners of the lot or parcel of land; and
 - (b) the form and substance of any transaction giving rise to the interest, including the legal and economic obligations of the parties and the economic and commercial substance of the transaction; and
 - (c) the lack of consideration, or the amount or value and source of the consideration, for the transaction giving rise to the interest; and

- (d) whether any professional advice was received in relation to the transaction giving rise to the interest; and
 - (e) the way in which the transaction giving rise to the interest was entered into or carried out; and
 - (f) any other matter the Commissioner considers relevant.
- (4) On making a determination under subsection (1) in respect of a lot or parcel of land, the Commissioner must give to the owner of the lot or parcel of land a notice setting out the determination and the reasons for the determination.
- (5) In any review proceedings that relate to a determination under subsection (1) in respect of an interest in 5% or less of a lot or parcel of land, the onus of establishing that none of the purposes of the creation of the interest was to reduce the amount of land tax payable for that, or any other, lot or parcel lies on the taxpayer.

45B. Effect of determination under section 45A

If the Commissioner makes a determination under section 45A that an interest in a lot or parcel of land is an interest that is to be disregarded —

- (a) the owner of the interest is to be taken not to be an owner of the lot or parcel of land for the purposes of this Act; and
- (b) the land tax payable on the land is to be assessed, and is payable, as if the land were wholly owned by the owner of the land who does not have an interest in the land in respect of which such a determination has been made.

”.

**Part 5 — *Rates and Charges (Rebates and Deferments)*
Act 1992 amended**

31. The Act amended

The amendments in this Part 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 2005, Table 1, p. 380-1
and Act No. 34 of 2004.]*

32. Section 23 amended

After section 23(4) the following subsections are inserted —

“

- (5) A person is eligible to apply to the administrative authority to have their entitlement as regards any land registered, if a prescribed charge is payable on that land, on sufficient evidence of eligibility being accepted by the administrative authority under section 26, so long as —
 - (a) the person is related to a disabled person who occupies the land as his or her ordinary place of residence; and
 - (b) no owner of the land occupies the land and no rent or income is derived from the land by anyone.
- (6) For the purposes of subsection (5)(a) —
 - (a) the following persons are related to a disabled person —
 - (i) a parent or grandparent of the disabled person;

- (ii) a brother or sister of the disabled person;
 - and
 - (b) an illegitimate person is to be treated as the legitimate child of that person's parents; and
 - (c) it is irrelevant whether a relationship is of the whole or half-blood, or whether it is a natural relationship or a relationship established by a written law.
- (7) In this section —
- “**disabled person**” means a person who —
- (a) receives a disability support pension under the *Social Security Act 1991* of the Commonwealth; and
 - (b) has a disability as defined in section 3 of the *Disability Services Act 1993* and has been independently assessed by an appropriate assessor as requiring full-time care.

”.

33. Section 27 amended

- (1) Section 27(3) is amended by deleting “subsections (4) and (5)” and inserting instead —
“ subsections (4), (5) and (5a) ”.
- (2) After section 27(5) the following subsection is inserted —
“
 - (5a) Where land is taken under section 30(2) to be wholly occupied as an ordinary place of residence of a person, and that person is not the sole holder of an estate or interest in the land, the administrative authority must —”

s. 34

- (a) determine any entitlement, and any rebate allowable, as if that person were the sole holder of an estate or interest in the land; and
- (b) apportion the rebate on the basis set out in the procedural manual.

”.

34. Section 30 amended

At the end of section 30 the following subsection is inserted —

“

- (2) For the purposes of this Act, other than section 23(5)(b), land is to be taken to be wholly occupied as an ordinary place of residence of a person, despite the person not being resident there, if the person —
 - (a) is eligible under section 23(5) to apply to have their entitlement as regards the land registered; and
 - (b) is a registered person as regards that land on the basis of eligibility under section 23(5); and
 - (c) has not for the time being any other entitlement registered as regards that land.

”.

35. Section 32 amended

After section 32(4) the following subsection is inserted —

“

- (4a) Subsection (4) does not apply in relation to land registered for a person on the basis of eligibility under section 23(5).

”.

36. Section 35 amended

After section 35(2) the following subsection is inserted —

“

- (2a) Subsection (2) does not apply in relation to land registered for a person on the basis of eligibility under section 23(5).

”.

37. Section 43 amended

- (1) Section 43(1) is amended by inserting after “subsections (1a)” —

“ , (1b) ”.

- (2) After section 43(1a) the following subsection is inserted —

“

- (1b) In relation to any land, deferment of the payment of a prescribed charge must not be allowed if the person liable to pay the relevant prescribed charge is registered on the basis of eligibility under section 23(5).

”.

38. Section 53 inserted

After section 52 the following section is inserted —

“

53. Transitional provisions

Schedule 1 contains transitional provisions relating to amendments made to this Act.

”.

s. 39

39. Schedule 1 inserted

At the end of the Act the following Schedule is inserted —

“

Schedule 1 — Transitional provisions

[s. 53]

Division 1 — Provision for *Revenue Laws Amendment Act 2006*

1. Application of section 40

If an eligible person registers an entitlement in respect of land under section 32 after 30 June 2006 and before 1 October 2006 on the basis that the person is eligible under section 23(5) to apply to have their entitlement as regards the land registered, section 40 applies to the person as if the entitlement had been registered at the commencement of the charged period.

”.
