

Queensland



**REVENUE AND OTHER
LEGISLATION
AMENDMENT ACT 1999**

Act No. 13 of 1999

Queensland



REVENUE AND OTHER LEGISLATION AMENDMENT ACT 1999

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Queensland



**Revenue and Other Legislation Amendment
Act 1999**

Act No. 13 of 1999

An Act to amend certain Acts administered by the Treasurer

[Assented to 30 March 1999]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Revenue and Other Legislation Amendment Act 1999*.

Commencement

2.(1) Sections 10, 11, 13, 16, 35, 37, 44, 45 and 47 to 49 commence on assent.

(2) Sections 7 to 9 and 12 are taken to have commenced on 10 December 1997.

(3) Section 17 is taken to have commenced on 22 December 1997.

(4) Section 20 is taken to have commenced on 31 January 1998.

(5) Sections 14, 15, 18 and 19 are taken to have commenced on 31 July 1998.

(6) Part 2 commences, or is taken to have commenced, on 1 December 1998.

(7) The remaining provisions commence on a day to be fixed by proclamation.

PART 2—AMENDMENT OF DEBITS TAX ACT 1990

Act amended in pt 2

3. This part amends the *Debits Tax Act 1990*.

Amendment of s 2 (Definitions)**4.** Section 2—*insert—*

‘**“ADI”** means a body corporate for which an authority under the *Banking Act 1959* (Cwlth), section 9(3), is in force.

“financial institution” means a financial institution within the meaning of the *Cheques Act 1986* (Cwlth).’.

Amendment of s 6 (Accounts kept outside Queensland)**5.(1)** Section 6, ‘building society, credit union or similar body’—*omit, insert—*

‘financial institution’.

(2) Section 6, ‘the body’—*omit, insert—*

‘the institution’.

(3) Section 6, ‘a bank’—*omit, insert—*

‘an ADI’.

(4) Section 6, ‘the bank’—*omit, insert—*

‘the ADI’.

Replacement of sch 2 (Modifications of Commonwealth Act)**6.** Schedule 2—*omit, insert—*

‘SCHEDULE 2

‘MODIFICATIONS OF COMMONWEALTH ACT

section 8

‘The Commonwealth Act applies as if—

1. In section 3(1)—

(a) for the definition “account” there were substituted—

‘ “**account**” means:

(a) a primary account; or

(b) a source of funds account;

“**account certificate**” means a certificate under section 11B;’;

(b) after the definition “assessment” the following definition were inserted—

‘ “**certificate account**” means an account of a class for which an account certificate is in force;’;

(c) the definition “bank” were omitted;

(d) for the definition “Commissioner” there were substituted—

‘ “**Commissioner**” means the commissioner of stamp duties appointed under the *Stamp Act 1894*;’;

(e) for the definition “Deputy Commissioner” there were substituted—

‘ “**Deputy Commissioner**” means a deputy commissioner of stamp duties under the *Stamp Act 1894*;’;

(f) in the definition “excluded debit”—

(i) in paragraph (a)(ii)—

(A) for ‘8(3) and (4), would be entitled to exemption from the tax by virtue of any other law’ there were

substituted ‘8(3) and (4) of the Commonwealth Act as in force immediately before the commencement of this Act would have been entitled to exemption from the tax within the meaning of the Commonwealth Act by virtue of any law’;

(B) for ‘Australia’ there were substituted ‘Queensland’;

(ii) in paragraph (a)(iii) for ‘8(3) and (4), would be entitled to exemption from the tax by virtue of any other law’ there were substituted ‘8(3) and (4) of the Commonwealth Act as in force immediately before the commencement of this Act would have been entitled to exemption from the tax within the meaning of the Commonwealth Act by virtue of any law’;

(iii) in paragraph (b) for ‘Australia’ (where twice occurring) there were substituted ‘Queensland’ in each case;

(g) in the definition “exempt account” for ‘Australia’ there were substituted ‘Queensland’;

(h) for the definition “exempt debit” there were substituted—

‘**“exempt debit”**, in relation to an account, means:

(a) a debit that is made solely for reversing a credit previously made to the account; or

(b) a debit that is made for deducting an amount under subsection 221YHZC(1A) of the *Income Tax Assessment Act 1936* (Cwlth); or

(c) a debit that is made for recovering from the account holder an amount equal to an amount of tax that the financial institution has paid or is liable to pay; or

(d) a debit that is a transfer debit; or

(e) if the account is a loan account to which transfer debits may be made (other than a loan account to which payments by a financial institution for cheques drawn on the institution by the account holder, or by any 1 or more of the account holders, may be directly debited)—a debit that is made to the account; or

- (f) if the account is a certificate account—a debit that is made to the account; or
- (g) a debit that is included in a kind or class of debits that are prescribed for this paragraph;’;
- (i) for the definition “financial institution” there were substituted—
 - ‘ **“financial institution”** means a financial institution within the meaning of the *Cheques Act 1986* (Cwlth);’;
 - (j) the definition “non-bank financial institution” were omitted;
 - (k) in the definition “officer”, ‘Australian’ were omitted;
 - (l) after the definition “person” the following definition were inserted—
- ‘ **“primary account”** means an account kept with a financial institution, being an account to which payments by the financial institution for cheques drawn on the financial institution by the account holder, or by any 1 or more of the account holders, may be debited;’;
- (m) the definition “Second Commissioner” were omitted;
- (n) before the definition “tax” the following definition were inserted—
- ‘ **“source of funds account”** means an account (other than a primary account) kept with or by a financial institution to which transfer debits may be made;’;
- (o) for the definition “tax” there were substituted—
- ‘ **“tax”** means tax imposed by the *Debits Tax Act 1990*, part 2;’;
- (p) in the definition “taxable account” for ‘Australia’ there were substituted ‘Queensland’;
- (q) after the definition “taxable debit” the following definition were inserted—
- ‘ **“transfer debit”** means a debit made by a financial institution to an account kept with or by the financial institution, but only to the extent the debit is made (whether directly or indirectly through 1 or more interposed accounts) for a debit—

- (a) made, or to be made, to a primary account kept with the financial institution; and
- (b) made, or to be made, to satisfy a cheque on the financial institution;';
- (r) the definition "Tribunal" were omitted.

2. In section 3(2), for 'Australia' (wherever occurring) there were substituted 'Queensland' in each case.

3. In section 3(8), for 'Commonwealth' (where twice occurring) there were substituted 'State' in each case.

4. Section 3(9) were omitted.

5. For section 4 there were substituted—

'General administration of Act

'4.(1) The commissioner has the general administration of this Act.

'(2) Each deputy commissioner has all the powers and functions of the commissioner under this Act.

'Delegation of functions

'4A. The commissioner may delegate to a person engaged in the administration of this Act any of the commissioner's functions, other than this power of delegation.'

6. In section 7, for 'Commonwealth' (wherever occurring) there were substituted 'State' in each case.

7. In section 7(2), for '\$5,000' there were substituted '85 penalty units'.

8. In section 7(4)—

- (a) 'a Second Commissioner,' and ', by a Second Commissioner' were omitted;

- (b) for 'the Tribunal' there were substituted 'a Court'.

9. In section 7(6), for 'Minister' there were substituted 'Minister unless the communication is made with the consent (express or implied) of the person to whose affairs the information relates'.

10. In section 7(7), ', a Second Commissioner' were omitted.

11. In section 9(1)(a), for ‘8(1)’ there were substituted ‘7(1) of the *Debits Tax Act 1990*’.

12. In section 11(1), for ‘Australia’ there were substituted ‘Queensland’.

13. In section 11A(1), for ‘\$10,000’ there were substituted ‘170 penalty units’.

14. In section 11A(2), for ‘a certificate of exemption’ there were substituted ‘an account certificate or certificate of exemption’.

15. After section 11A the following section were inserted in Part III—

‘Certificate accounts

‘11B.(1) A financial institution may make written application to the commissioner for a certificate for a class of accounts—

- (a) that are not primary accounts to which payments by the financial institution for cheques drawn on the financial institution by an account holder, or by any 1 or more of the account holders, may be directly debited; and
- (b) that are kept in Queensland; and
- (c) to which transfer debits may be made.

‘(2) The financial institution must give the commissioner the information the commissioner asks for to help the commissioner decide the application.

‘(3) The commissioner may issue the certificate only if the commissioner is satisfied accounts of the class are not sufficiently connected with any primary account.

‘(4) In deciding whether or not accounts of the class are sufficiently connected with any primary account, the commissioner must have regard to—

- (a) the terms on which the accounts and any primary account to which the accounts may be connected are established; and
- (b) the circumstances in which transfer debits may be made to the accounts for debits made, or to be made, to a primary account; and
- (c) the frequency with which transfer debits may be made to the accounts; and

(d) any other circumstances the commissioner considers appropriate.

‘(5) For subsection (4)(b), the circumstances to which the commissioner may have regard include, in particular—

(a) if the primary account is an overdraft account—whether the sole purpose of any transfer debit is to reduce a debit balance in the primary account to an agreed overdraft limit (if the excess of the debit balance over the limit arises inadvertently); and

(b) in any other case—whether the sole purpose of any transfer debit is to offset a debit balance in the primary account (if the debit balance arises inadvertently).

‘(6) An account certificate—

(a) may be issued on conditions the commissioner considers appropriate about the nature of any connection with a primary account; and

(b) if issued on conditions—must state the conditions.

‘(7) If a certificate account ceases to satisfy the conditions of the account certificate, the account ceases to be a certificate account for the period the account does not satisfy the conditions.

‘(8) An account certificate—

(a) comes into force on the day stated in the certificate (which may be a day before the day on which the certificate is issued); and

(b) remains in force until—

(i) the expiry day stated in the certificate; or

(ii) if no expiry day is stated—no accounts of the class exist.’.

16. In section 12, subsection (2) were omitted.

17. In section 12(4), for ‘8(2)’ (where twice occurring) there were substituted ‘7(2) of the *Debits Tax Act 1990*’ in each case.

18. In section 13(1)(b), for ‘Commonwealth’ there were substituted ‘State’.

19. In section 13(5), for ‘Commonwealth’ (where twice occurring) there were substituted ‘State’ in each case.

20. In section 14(1)(b), for ‘Commonwealth’ there were substituted ‘State’.

21. In section 17, for subsection (6) there were substituted—

‘(6) The Commissioner may, in the Commissioner’s discretion, remit the whole or any part of the additional tax payable by a person under this section and may do so before an assessment is made under subsection (4) of the additional tax.’.

22. In section 18, for ‘Commonwealth’ (where twice occurring) there were substituted ‘State’ in each case.

23. In section 20, the definition ‘Federal Court’ were omitted.

24. In section 23, for ‘either—’ to the end thereof there were substituted ‘a request to refer the decision to the Supreme Court.’.

25. In section 25(3), for ‘Tribunal’ there were substituted ‘Supreme Court’.

26. In section 25A(1), for ‘practicable—’ to the end thereof there were substituted ‘practicable send the application to the Supreme Court.’.

27. Section 25A(2) were omitted.

28. In section 25A, for subsections (3) and (4) there were substituted—

‘(3) The sending of an application to the Supreme Court under subsection (1) constitutes the making by the person concerned of an application to the court to extend the time within which the request concerned may be lodged with the Commissioner.

‘(4) The court may grant or refuse the application.’.

29. Section 25B(2) were omitted.

30. In section 25B(3), for ‘Federal’ there were substituted ‘Supreme’.

31. In section 25D, for ‘a review before the Tribunal or on appeal to a court’ there were substituted ‘appeal to the Supreme Court’.

32. In section 25D(a), for ‘Tribunal or court’ there were substituted ‘Supreme Court’.

33. Section 25E were omitted.

34. In section 26, for ‘Federal’ there were substituted ‘Supreme’.

35. In section 29A(1), for ‘Tribunal or of a court’ there were substituted ‘Supreme Court’.

36. In section 29A(2)—

- (a) for ‘Tribunal or of the Federal’ there were substituted ‘Supreme’;
- (b) for ‘Tribunal, or of the Federal’ there were substituted ‘Supreme’.

37. In section 29A(2)(b), for ‘Federal’ there were substituted ‘Supreme’.

38. In section 31(1), for ‘Tribunal or of a court’ there were substituted ‘Supreme Court’.

39. In section 31(1)(c)(ii), for ‘Commonwealth’ there were substituted ‘State’.

40. In section 33, ‘, a Second Commissioner’ (where twice occurring) were omitted.

41. In section 34(1), for ‘Commonwealth’ there were substituted ‘State’.

42. In section 37(1), ‘, a Second Commissioner’ (wherever occurring) were omitted.

43. In section 37(1)(d), for ‘Commonwealth’ there were substituted ‘State’.

44. In section 56(1), for ‘1983’ there were substituted ‘1991’.

45. In section 57—

- (a) for ‘Australia’ (wherever occurring) there were substituted ‘Queensland’ in each case;
- (b) for ‘\$50’(wherever occurring) there were substituted ‘1 penalty unit’ in each case.

46. In section 62—

- (a) for ‘Governor-General’ there were substituted ‘Governor in Council’;
- (b) for ‘\$500’ there were substituted ‘85 penalty units’.

PART 3—AMENDMENT OF FUEL SUBSIDY ACT 1997

Act amended in pt 3

7. This part amends the *Fuel Subsidy Act 1997*.

Amendment of s 14 (Sales of diesel to licensed off-road diesel consumers)

8. Section 14(3)(b)—

omit, insert—

‘(b) a seller has reason to believe—

- (i) a licensed off-road diesel consumer intends to sell the diesel;
or
- (ii) a licensed off-road diesel consumer’s intended use of the diesel will make the consumer liable, under section 19, to repay to the commissioner the amount of the subsidy for the diesel; or’.

Amendment of s 19 (Non-licensed use by licensed off-road diesel consumers)

9.(1) Section 19, first subsection—

number as section 19(1).

(2) Section 19—

insert—

‘(1A) However, this section does not apply to diesel used under subsection (1)(a) if the diesel—

- (a) has been delivered in a quantity of not more than 3000 L directly into the vehicle’s running tank from a storage tank at the person’s fuel subsidy place; and
- (b) is used for a domestic purpose or a purpose associated with the

person's business operations for which the person holds an off-road diesel consumer's licence.'.

Amendment of s 27 (Conditions of licence)

10. Section 27(1)(b) and (c), 'fuel'—
omit, insert—
'diesel'.

Amendment of s 34 (Return of cancelled off-road diesel consumer's licence to commissioner)

11. Section 34, before 'licensee'—
insert—
'former'.

Insertion of new s 36A

12. After section 36—
insert—

'When licensee taken not to have contravened licence condition

'36A. For sections 30(b) and 36, the holder of an off-road diesel consumer's licensee is not taken to have contravened the condition of licence mentioned in section 27(1)(b) if section 19(1A) applies to diesel purchased under the licence.'.

Amendment of s 63 (Return of cancelled retailer's licence to commissioner)

13. Section 63, before 'licensee'—
insert—
'former'.

Replacement of s 98 (Return of cancelled bulk end user's licence to commissioner)

14. Section 98—

omit, insert—

'Return of cancelled bulk end user's licence to commissioner

'98.(1) This section applies if—

- (a) the commissioner has cancelled a bulk end user's licence and given an information notice for the decision to the former licensee; or
- (b) a bulk end user's licence is automatically cancelled under section 103.

'(2) The former licensee must give the licence to the commissioner—

- (a) for a cancellation mentioned in subsection (1)(a)—within 7 days after the day the former licensee receives the information notice; or
- (b) for a cancellation mentioned in subsection (1)(b)—
 - (i) if, on application by the licensee, the commissioner fixed a date under section 103(1A) for giving a return—within 7 days after that date; or
 - (ii) if, on application by the licensee, the commissioner decided not to fix a date under section 103(1A)—within 7 days after the giving of an information notice for the decision; or
 - (iii) otherwise—within 7 days after 31 October in the year of the cancellation.

Maximum penalty—40 penalty units.'

Amendment of s 103 (Returns by licensed bulk end users)

15.(1) Section 103—

insert—

'(1A) However, on application made by the licensee, the commissioner must fix a later date for the licensee for giving a return if the commissioner

is satisfied that if the person were applying for a bulk end user's licence the application for the licence would be granted.

'(1B) The commissioner must not fix a date later than 31 October next following the return date.

'(1C) If the commissioner decides not to fix a date under subsection (1A), the commissioner must give the applicant an information notice.'

(2) Section 103(5)—

omit, insert—

'(5) The licence is automatically cancelled the day after the return date if—

- (a) on application by the licensee, the commissioner fixes a later date under subsection (1A) for giving a return and the licensee does not give the commissioner a return on or before the later date; or
- (b) on application by the licensee, the commissioner decides not to fix a date under subsection (1A) for giving a return and the commissioner gives the applicant an information notice for the decision; or
- (c) paragraphs (a) and (b) do not apply and the licensee does not give the commissioner a return on or before 31 October next following the return date.'

Amendment of s 104 (Records of sales to be kept)

16. Section 104(3)(a) to (e)—

renumber as section 104(3)(a) to (f).

Amendment of s 108 (Implied terms of contract for sale of fuel by manufacturer or importer)

17.(1) Section 108, heading—

omit, insert—

'Implied terms of certain contracts for sale of fuel'.

(2) Section 108(1), from ‘between’ to ‘seller and’—
omit, insert—
‘with’.

Amendment of ch 8, pt 5

18. Chapter 8, part 5, heading—
omit, insert—

‘PART 5—SPECIAL TRANSITIONAL PROVISIONS FOR REVENUE AND OTHER LEGISLATION AMENDMENT ACT 1999

‘Transitional provisions about returns by licensed bulk end users

‘210.(1) This section applies to a return a licensed bulk end user is required, under section 103, to give the commissioner for the year ending 30 June 1998.

‘(2) Section 98(2)(b)(iii) applies as if the reference to 31 October in the year of cancellation were a reference to 30 June 1999.

‘(3) Also, section 103 applies as if a reference to 31 October next following the return date were a reference to 30 June 1999.

‘Expiry of part

‘211. This part expires on 1 July 1999.’.

Amendment of sch 1 (Decisions subject to review and appeal)

19. Schedule 1, part A—
insert—

‘103 Refusing application to fix a later date for giving a return’.

Replacement of sch 2 (Fuel)**20.** Schedule 2—*omit, insert—***‘SCHEDULE 2****‘FUEL**

schedule 3, definition “fuel”

**‘PART A—GOODS FOR EXCISE TARIFF ACT 1921
(CWLTH)**

11(B)(1)(a)

11(B)(2)(a)

11(B)(2)(d)

11(C)(1)(a)

11(C)(2)(a)

11(C)(2)(c)

11(E)(1)

11(E)(4)

11(F)(1)

11(F)(4)

11(G)(2)

11(G)(5)

11(H)(1)(b)

11(H)(1)(c)

11(H)(2)(b)

11(H)(2)(c)
11(H)(2)(e)
11(H)(2)(f)
11(I)(1)(b)(ii)
11(I)(2)(a)
11(I)(3)(a)
11(I)(3)(d)
11(J)(1)(a)
11(J)(1)(b)
11(J)(2)(a)
11(J)(2)(b)
11(J)(2)(d)
11(J)(2)(e)
12

**‘PART B—GOODS FOR CUSTOMS TARIFF ACT 1995
(CWLTH), SCHEDULE 3**

2707.10.19
2707.10.9
2707.10.91
2707.10.99
2707.20.19
2707.20.9
2707.20.91
2707.20.99

2707.30.19

2707.30.9

2707.30.91

2707.30.99

2707.50.29

2707.50.9

2707.50.91

2707.50.99

2709.00.22

2709.00.29

2709.00.99

2710.00.15

2710.00.29

2710.00.39

2710.00.57

2710.00.59

2710.00.89'.

PART 4—AMENDMENT OF LAND TAX ACT 1915

Act amended in pt 4

21. This part amends the *Land Tax Act 1915*.

Insertion of new s 4AB

22. After section 4AA—

insert—

‘Commissioner may ask police to help

‘**4AB.** The commissioner may ask a police officer to perform a function under, and only under, section 17B or 45.¹’.

Amendment of s 16 (Taxpayer to furnish returns)

23.(1) Section 16(1A) to (4)

renumber as section 16(4) to (7).

(2) Section 16, after subsection (1)—

insert—

‘**(2)** If land is owned jointly, in addition to any return required for the land under subsection (1), a joint return for the land must, unless otherwise notified by the commissioner, be given to the commissioner by the joint owner prescribed under a regulation.

‘**(3)** Notification by the commissioner under subsection (1) or (2)—

- (a) must be given by gazette notice on or before 8 September in a financial year; and
- (b) may be given to all taxpayers or a class of taxpayer.’.

Amendment of s 18 (Assessments, assessment registers, and notice)

24. Section 18—

insert—

‘**(5)** If a gazette notice has been published under section 16(3) and a taxpayer to whom the notice relates has not received notice of an assessment by 30 June following the publication of the gazette notice, the taxpayer must advise the commissioner by 31 July that the taxpayer has not received a notice of assessment.’.

¹ See *Police Powers and Responsibilities Act 1997*, section 11.

Amendment of s 20 (Alterations of assessments)

25. Section 20, heading—

omit, insert—

‘Alteration of assessments—generally’.

Insertion of new ss 20A and 20B

26. After section 20—

insert—

‘Alteration of assessments—during appeal

‘20A. The commissioner may alter an assessment even if the taxpayer is appealing against the assessment.

‘Process of altering assessment during appeal

‘20B.(1) This section applies if the commissioner alters an assessment under section 20A.

‘(2) The commissioner must give the taxpayer notice of the altered assessment at least 14 days before the appeal is to be heard.

‘(3) The taxpayer must, within 7 days of the service of the notice, give the commissioner written advice that the taxpayer—

- (a) is discontinuing the appeal and will not be objecting to, or appealing against, the altered assessment; or
- (b) is discontinuing the appeal and will be objecting to the altered assessment; or
- (c) is discontinuing the appeal and intends to make a fresh appeal under section 27 against the altered assessment; or
- (d) intends to continue the existing appeal.

‘(4) If the taxpayer takes action under subsection (3)(d), the appeal is against the assessment as altered.’.

Insertion of new pt 4A

27. After part 4—

insert—

‘PART 4A—OBJECTIONS**‘Taxpayer may object to assessment**

‘26D.(1) If a taxpayer has a right of appeal against an assessment, the taxpayer may object to the assessment instead of lodging an appeal.

‘(2) The objection must be—

- (a) in writing; and
- (b) made within 30 days after the notified date on which the land tax is payable.

‘(3) Despite subsection (2)(b), the commissioner may allow the taxpayer additional time to object to the assessment.

‘(4) The commissioner must act under subsection (3) if it is reasonable in all the circumstances to allow the taxpayer additional time to object to the assessment.

‘(5) If the commissioner acts under subsection (3), the time for objecting to the assessment is within the additional time.

‘Commissioner must consider objection

‘26E.(1) After considering the objection, the commissioner must—

- (a) allow all or part of the objection; or
- (b) refuse the objection.

‘(2) The commissioner must give the taxpayer written notice of the commissioner’s decision under subsection (1).

‘(3) If the commissioner refuses the objection or grants the objection in part only, the commissioner must give the taxpayer written reasons for the decision.

‘Commissioner must alter assessment if objection allowed

‘**26F.** If the commissioner allows all or part of the objection, the commissioner must—

- (a) alter the assessment in accordance with the commissioner’s decision under section 26E(1)(a); and
- (b) give the taxpayer notice of the altered assessment.

‘Taxpayer may appeal the commissioner’s decision

‘**26G.(1)** The taxpayer may appeal under section 27 against the commissioner’s decision.

‘(2) The appeal must be made within 30 days of the day of the service of notice of the commissioner’s decision.

‘(3) The grounds of the appeal are limited to the grounds of the objection.’.

Amendment of s 27 (Appeal)

28. Section 27(1)—

omit, insert—

‘**27.(1)** A taxpayer may appeal to the Land Court against an assessment for the taxpayer’s land, on the ground that—

- (a) the taxpayer is not liable for the land tax or any part of the tax; or
- (b) the assessment is excessive.’.

Insertion of new s 27A

29. After section 27—

insert—

‘Time for making an appeal

‘**27A.(1)** An appeal under section 27 must be made within 30 days after the notified date on which the land tax is payable.

‘(2) Despite subsection (1), the commissioner may allow the taxpayer

additional time to appeal against the assessment.

‘(3) The commissioner must act under subsection (2) if it is reasonable in all the circumstances to allow the taxpayer additional time to appeal against the assessment.

‘(4) If the commissioner acts under subsection (2), the time for appealing against the assessment is within the additional time.’.

Insertion of new ss 58A and 58B

30. After section 58—

insert—

‘Signature of commissioner

‘**58A.(1)** A document is taken to have been signed by the commissioner if the document bears the written, printed or stamped name of the commissioner instead of the commissioner’s signature.

‘(2) Subsection (1) does not apply if the name of the commissioner was written, printed or stamped on the document without the commissioner’s authority.

‘(3) A document bearing the written, printed or stamped name of the commissioner is presumed to have been made with the commissioner’s authority unless the contrary is proved.

‘Commissioner’s certificate

‘**58B.(1)** The commissioner may certify—

- (a) a copy of a document in the commissioner’s possession to be a true copy of the document; and
- (b) an extract from a document in the commissioner’s possession to be a true extract from the document.

‘(2) A copy of, or extract from, a document certified under subsection (1) is evidence of the document, or the relevant part of the document.’.

Amendment of s 61 (Regulation-making power)

31.(1) Section 61(2)(c)(iii)—

omit.

(2) Section 61(2)—

insert—

‘(ca)the payment of tax; and’.

(3) Section 61(2)(f)—

omit, insert—

‘(f) the giving of documents by or on behalf of a person to the commissioner.’.

(4) Section 61—

insert—

‘**(3)** A regulation may impose a penalty of not more than 20 penalty units for a contravention of the regulation.’.

PART 5—AMENDMENT OF PAY-ROLL TAX ACT 1971

Act amended in pt 5

32. This part amends the *Pay-roll Tax Act 1971*.

Insertion of new ss 46A–46C

33. After section 46—

insert—

‘Affidavit evidence in proceedings for recovery of tax

‘46A.(1) Evidence in a proceeding against a person for the recovery of tax may be given by affidavit.

‘(2) However, a person who gives evidence by affidavit may be cross-examined about the evidence in the affidavit.’

‘Signature of commissioner

‘**46B.(1)** A document is taken to have been signed by the commissioner if the document bears the written, printed or stamped name of the commissioner instead of the commissioner’s signature.’

‘(2) Subsection (1) does not apply if the name of the commissioner was written, printed or stamped on the document without the commissioner’s authority.’

‘(3) A document bearing the written, printed or stamped name of the commissioner is presumed to have been made with the commissioner’s authority unless the contrary is proved.’

‘Commissioner’s certificate

‘**46C.(1)** The commissioner may certify—

- (a) a copy of a document in the commissioner’s possession to be a true copy of the document; and
- (b) an extract from a document in the commissioner’s possession to be a true extract from the document.

‘(2) A copy of, or extract from, a document certified under subsection (1) is evidence of the document, or the relevant part of the document.’

Amendment of s 51 (Regulations)

34.(1) Section 51, heading—

omit, insert—

‘Regulation-making power’.

(2) Section 51(2)(d), after ‘employer’—

insert—

‘or other person’.

(3) Section 51(2)(h)—

omit, insert—

‘(h) the payment of tax; and’.

(4) Section 51(2)(j)—

omit.

(5) Section 51—

insert—

‘(3) A regulation may impose a penalty of not more than 20 penalty units for a contravention of the regulation.’.

PART 6—AMENDMENT OF STAMP ACT 1894

Act amended in pt 6

35. This part amends the *Stamp Act 1894*.

Amendment of s 29A (Restriction on entry to investigate)

36. Section 29A(3), after ‘warrant’—

insert—

‘, in the approved form,’.

Insertion of new s 31AB

37. After section 31A—

insert—

‘Transfer to company of shares bought back by company is dutiable

‘31AB.(1) This section applies if shares in a company are bought back, or agreed to be bought back, by the company under the Corporations Law, part 2J.1, division 2.

‘(2) The share buy back, or an agreement for buying back the shares, is chargeable with duty as if it were a transfer that gives effect to a sale to and

purchase of the shares by another person.’.

Amendment of s 31H (Duty on transactions on registers of Queensland incorporated companies)

38.(1) Section 31H(1), ‘containing such particulars and information as may be prescribed’—

omit, insert—

‘in the approved form’.

(2) Section 31H(3)(a), ‘proclaimed’—

omit, insert—

‘declared’.

(3) Section 31H(6)—

omit, insert—

‘**(6)** A regulation may declare a State or Territory or any country to be a State, Territory or country for this section.’.

Amendment of s 35A (Persons carrying on credit or rental business to be registered)

39. Section 35A(4)—

omit.

Insertion of new s 35AA

40. After section 35A—

insert—

‘Certificates of registration of persons carrying on credit or rental business in Queensland

35AA.(1) The commissioner must issue to a person registered under section 35A (a “**registered person**”) a certificate of registration.

(2) If a registered person carries on a credit business or rental business in more than 1 place in Queensland, the commissioner must issue a copy of

the certificate for each additional place.

‘(3) If a registered person starts carrying on a credit business or rental business at a place in Queensland for which the commissioner has not issued a certificate under subsection (2)—

- (a) the person must give the commissioner written notice of the carrying on of the credit business or rental business at the place having started; and
- (b) the commissioner must, after receiving the notice, issue a copy of the certificate for the place.

‘(4) If a registered person stops carrying on a credit business or rental business at a place for which the commissioner has issued a certificate, the person must—

- (a) give the commissioner written notice that the carrying on of the credit business or rental business at the place has stopped; and
- (b) return to the commissioner the certificate or copy of the certificate for the place.

‘(5) A notice under subsection (3)(a) or (4)(a) must be in the approved form.

‘(6) A notice—

- (a) under subsection (3)(a) must be given within 14 days after the day the carrying on of the credit business or rental business at the place started; or
- (b) under subsection (4)(a) must be given within 14 days after the day the carrying on of the credit business or rental business at the place stopped.

‘(7) A registered person must—

- (a) keep a certificate or copy of the certificate at each place in Queensland where the person carries on a credit business or rental business; and
- (b) if asked by a person seeking to transact credit business or rental business with the registered person, produce the certificate or copy of the certificate for the person’s inspection.

Maximum penalty—10 penalty units.

‘(8) If a person seeking to transact credit business or rental business with another person asks the other person a question about whether or not the other person is a registered person the other person must honestly answer the question.

Maximum penalty for subsection (8)—10 penalty units.’.

Amendment of s 35B (Statements to be lodged by required persons with the commissioner)

41. Section 35B—

insert—

‘(7) If a required person has not carried on any rental or credit business during a calendar month, the person must, by the 21st day of the following month, give to the commissioner a statement in the approved form showing the rental or credit business as ‘Nil’.’.

Amendment of s 35E (As to transactions with unregistered persons)

42. Section 35E(1), ‘containing such particulars as are prescribed’—

omit, insert—

‘in the approved form’.

Amendment of s 46C (Insurance with no executed policy)

43. Section 46C(1)(d), ‘containing prescribed particulars’—

omit, insert—

‘in the approved form’.

Amendment of s 54 (Certain contracts to be chargeable as conveyances)

44.(1) Section 54(8), from ‘agreement, but the term does not include’—

omit, insert—

‘agreement.’.

(2) Section 54—

insert—

‘(9) However, subsections (7) and (7A) do not apply to a contract or agreement (the **“first contract or agreement”**) if—

- (a) there is 1 or more arrangements, contracts or agreements resulting in any of the property the subject of the first contract or agreement being conveyed, or agreed to be conveyed, other than by the first contract or agreement; and
- (b) the purchaser under the first contract or agreement receives a direct or indirect financial benefit under the arrangements, contracts or agreements.

‘(10) In subsection (9)—

“financial benefit” does not include a benefit arising merely because the purchaser under the first contract or agreement—

- (a) is released from the purchaser’s obligations under the first contract or agreement; or
- (b) acquires a right or benefit in respect of all or part of the property the subject of the first contract or agreement.’.

Amendment of s 56B (Unit trust schemes)

45. Section 56B(1A)—

omit, insert—

‘(1A) If the commissioner is satisfied—

- (a) units in a unit trust scheme (the **“start up units”**) will be issued to the public to an extent and with the entitlements set out in the definition “public unit trust scheme” in subsection (1) within 1 year after the first issue of units to the public; and
- (b) the start up units are the only units in the unit trust scheme to be issued from and including the first issue to the public until the unit trust scheme becomes a public unit trust scheme (the **“start-up period”**);

the unit trust scheme is taken to be a public unit trust scheme during the

start-up period.’.

Amendment of s 83 (Regulations)

46.(1) Section 83, heading—

omit, insert—

‘Regulation-making power’.

(2) Section 83(2)—

insert—

‘(ab) fees to be paid under this Act; and

(ac) the payment of duty under this Act; and’.

(3) Section 83(2)(e)—

omit.

(4) Section 83—

insert—

‘**(3)** A regulation may impose a penalty of not more than 20 penalty units for a contravention of the regulation.’.

Insertion of new ss 88 and 89

47. After section 87—

insert—

‘Duty not payable on Suncorp Metway notes

‘88.(1) For this Act, an Exchanging Instalment Note Series 2 issued under the deed poll signed by the State on 8 October 1998 is not, and is taken never to have been, a marketable security or a right in respect of shares.

‘(2) To remove any doubt, it is declared that—

(a) schedule 1, under the heading “Conveyance or transfer”, subparagraph (4), does not apply to the conveyance or transfer of an Exchanging Instalment Note Series 2; and

- (b) subsection (1) does not apply to an Exchanging Instalment Note Series 2 on and from the day the note becomes a share.

‘Validation of certain exemptions from duty for applications involving registration of motor vehicles

‘89. Exemptions 5(f) to (j) and 5A in schedule 1, under the heading ‘Application for registration or application for transfer of registration of a motor vehicle’ are taken to have had effect on and from 26 April 1988.’.

Amendment of sch 1 (Stamp duties on instruments)

48.(1) Schedule 1, under the heading ‘Application for registration or application for transfer of registration of a motor vehicle’, exemption 5—

insert—

- ‘(f) an ex-service person for a motor vehicle not used for commercial purposes if, because of an injury or condition resulting from war service, the ex-service person is entitled to receive a concession for motor vehicle registration fees payable under the *Transport Operations (Road Use Management) Regulation 1995*;
- (g) a hirer who has redeemed a motor vehicle that was previously repossessed, if the registration of the motor vehicle is recorded in the same name as before repossession;
- (h) a person who has lost the use of 1 or both legs and the motor vehicle is used for transport to and from the place of employment because of inability to use public transport;
- (i) a disabled person for a motorised wheelchair used for private purposes;
- (j) the Governor.’.

(2) Schedule 1, under the heading ‘Application for registration or application for transfer of registration of a motor vehicle’, Exemptions—

insert—

‘5A. Any application for transfer of registration by way of gift from an individual to—

- (a) the individual's spouse, parent or child or any 2 or more of them jointly; or
- (b) the individual and the individual's spouse, parent or child or any 2 or more of them jointly.'

PART 7—MINOR AMENDMENTS OF ACTS

Acts amended—schedule

- 49.** The schedule amends the Acts mentioned in it.

SCHEDULE**MINOR AMENDMENTS OF ACTS**

section 49

LAND TAX ACT 1915**1. Section 3F(1)(a), ‘time;’—***omit, insert—*

‘time; or’.

2. Section 11BA(1)(a), ‘BCCM Act’—*omit, insert—*‘*Body Corporate and Community Management Act 1997*’.**3. Section 11C(3), ‘60’—***omit, insert—*

‘61’.

4. Section 25(2)(a), ‘together with’—*omit, insert—*

‘and’.

SCHEDULE (continued)

REVENUE LAWS (RECIPROCAL POWERS) ACT 1988**1. Section 7, from ‘and is liable to a penalty’—**

omit.

2. Section 7—

insert—

‘Maximum penalty—40 penalty units or 3 months imprisonment.’.

3. Section 11(3), penalty—

omit, insert—

‘Maximum penalty for subsection (3)—100 penalty units or 12 months imprisonment.’.

4. Section 13(3), penalty—

omit, insert—

‘Maximum penalty for subsection (3)—200 penalty units or 6 months imprisonment.’.

5. Section 14, penalty—

omit, insert—

‘Maximum penalty—200 penalty units or 6 months imprisonment.’.

SCHEDULE (continued)

6. Section 20(1) and (2), penalty—*omit, insert—*

‘Maximum penalty—100 penalty units or 12 months imprisonment.’