

Queensland



**REVENUE AND OTHER
LEGISLATION AMENDMENT
ACT 2002**

Act No. 17 of 2002

Queensland



REVENUE AND OTHER LEGISLATION AMENDMENT ACT 2002

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Queensland



**Revenue and Other Legislation Amendment
Act 2002**

Act No. 17 of 2002

**An Act to amend Acts administered by the Treasurer, and for other
purposes**

[Assented to 17 May 2002]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Revenue and Other Legislation Amendment Act 2002*.

2 Commencement

(1) Part 5, other than sections 21 to 27, 29, 31 to 37, 39 and 40(1) and (2), is taken to have commenced on 17 April 2001.

(2) Sections 21(1) and (2), 31 and 39 are taken to have commenced on 25 June 2001.

(3) Part 4, other than sections 13, 15 and 16, is taken to have commenced on 9 October 2001.

(4) Sections 15 and 16 are taken to have commenced on 1 January 2002.

(5) Part 3, other than sections 9 and 10, is taken to have commenced on 1 March 2002.

(6) Sections 51 and 53 commence on 1 July 2002.

(7) Section 46 commences on 1 January 2003.

(8) The remaining provisions of this Act commence on assent.

PART 2—AMENDMENT OF DEBITS TAX ACT 1990

3 Act amended in pt 2

This part amends the *Debits Tax Act 1990*.

4 Amendment of s 7 (Liability to tax)

(1) Section 7—

insert—

‘(1A) If—

- (a) under section 4(1)(c), tax is imposed on an eligible debit to an account kept outside Queensland; and
- (b) the financial institution with which the account is kept promoted the establishing and keeping of the account outside Queensland; and
- (c) it would be concluded that the sole or dominant purpose of the promotion was to encourage avoidance of the liability for payment of tax imposed by this Act;

the financial institution and the account holder (or, if there are 2 or more account holders, the account holders) are jointly and severally liable to pay the tax.’

(2) Section 7(2), ‘an account other than a taxable’—

omit, insert—

‘another’.

(3) Section 7(1A) and (2)—

renumber as section 7(2) and (3).

5 Amendment of sch 2 (Modifications of Commonwealth Act)

Schedule 2, section 17, ‘7(2)’—

omit, insert—

‘7(3)’.

PART 3—AMENDMENT OF DUTIES ACT 2001**6 Act amended in pt 3**

This part amends the *Duties Act 2001*.

7 Amendment of s 422 (What is a “de facto relationship instrument”)

Section 422, from ‘property from’—

omit, insert—

‘property—

- (a) a recognised agreement under the *Property Law Act 1974*, section 266;
- (b) an order of a court under the *Property Law Act 1974*, part 19;
- (c) an instrument made under an instrument mentioned in paragraph (a) or (b).’.

8 Amendment of s 423 (What is “de facto relationship property”)

Section 423, from ‘that is’—

omit.

9 Insertion of new s 431A

In chapter 10, part 4—

insert—

‘431A Exemption—Queensland Treasury Corporation and its affiliates

‘(1) This section applies to a financial arrangement, or other arrangement, entered into or made by the Queensland Treasury Corporation or an affiliate of the corporation.

‘(2) Subject to the conditions in subsection (3), duty is not imposed on an instrument or transaction that gives effect to, or is a part of, the arrangement.

‘(3) The conditions are—

- (a) the corporation or affiliate must be a party to the instrument or transaction or another instrument or transaction that gives effect to, or is part of, the arrangement; and
- (b) the Treasurer must certify the arrangement has as its objective—
 - (i) the advancement of the State’s financial interests; or

- (ii) the development of the State or a part of the State; or
- (iii) the benefit of persons, or a class of person, resident in or having or likely to have an association with the State.

‘(4) In this section—

“**affiliate**”, of the Queensland Treasury Corporation, means an affiliate of the corporation under the *Queensland Treasury Corporation Act 1988*.

“**financial arrangement**” means a financial arrangement under the *Queensland Treasury Corporation Act 1988*.

“**Queensland Treasury Corporation**” means the Queensland Treasury Corporation constituted under the *Queensland Treasury Corporation Act 1988*.’.

10 Amendment of s 508 (Regulation-making power)

Section 508—

insert—

‘(3) A regulation may exempt from the imposition of duty an instrument or transaction for a financial arrangement entered into by a statutory body as defined in the *Statutory Bodies Financial Arrangements Act 1982* as provided in that or another Act.’.

11 Amendment of s 533 (Liability for mortgage duty for particular mortgages first signed before commencement day)

(1) Section 533(1), ‘Subsection (2)’—

omit, insert—

‘This section’.

(2) Section 533(1)(c), after ‘Act’—

insert—

‘or a corresponding Act’.

(3) Section 533—

insert—

‘(1A) To remove any doubt, it is declared that the mortgage is a mortgage for section 248 and section 252(2) applies to it.’¹.

PART 4—AMENDMENT OF FIRST HOME OWNER GRANT ACT 2000

12 Act amended in pt 4

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

13 Amendment of s 9 (Meaning of “spouse”)

(1) Section 9(2), ‘living or’—

omit, insert—

‘living together and’.

(2) Section 9(3), ‘subsection (2)’—

omit, insert—

‘subsections (2) and (6)’.

(3) Section 9—

insert—

‘(6) Subsection (7) applies if the commissioner is satisfied, when deciding an application for a first home owner grant, an applicant for the grant—

- (a) is living apart from the person who, under subsection (2), would otherwise be the applicant’s de facto spouse; and
- (b) they intend to again live together as a couple.

‘(7) The person must be regarded as the applicant’s spouse.’.

¹ Sections 248 (What is a “mortgage”) and 252 (When liability for mortgage duty arises)

14 Amendment of s 25B (Meaning of “special eligible transaction” for div 5)

(1) Section 25B(1)(b)(i), ‘16 weeks after the commencement date,’—
omit, insert—

‘the prescribed start period’.

(2) Section 25B(1)(b)(ii), ‘1 year after it is started’—

omit, insert—

‘the prescribed building period’.

(3) Section 25B(1)(c) and (2), ‘1 May 2003’—

omit, insert—

‘the prescribed completion date’.

(4) Section 25B(2), ‘that date’—

omit, insert—

‘the prescribed completion date’.

(5) Section 25B—

insert—

‘(6) In this section—

“period 1 transaction” means an eligible transaction the commencement date for which is between 9 March 2001 and 8 October 2001, both dates inclusive.

“period 2 transaction” means an eligible transaction the commencement date for which is between 9 October 2001 and 31 December 2001, both dates inclusive.

“prescribed building period”, for building work, means—

- (a) for a period 1 transaction—the period starting on the date the work is started and ending 1 year after it is started; or
- (b) for a period 2 transaction—the period starting on the date the work is started and ending 18 months after it is started.

“prescribed completion date” means—

- (a) for a period 1 transaction—1 May 2003; or
- (b) for a period 2 transaction—1 January 2004.

“prescribed start period”, for building work, means—

- (a) for a period 1 transaction—the period starting on the commencement date and ending 16 weeks after that date; or
- (b) for a period 2 transaction—the period starting on the commencement date and ending 26 weeks after that date.’.

15 Amendment of s 25B (Meaning of “special eligible transaction” for div 5)

(1) Section 25B(1), and 25B(6), definition “period 2 transaction”, ‘31 December 2001’—

omit, insert—

‘30 June 2002’.

(2) Section 25B(6), definition “prescribed completion date”, paragraph (b)—

omit, insert—

- (b) for a period 2 transaction for which the commencement date is between 9 October 2001 and 31 December 2001, both dates inclusive—1 January 2004; or
- (c) for a period 2 transaction for which the commencement date is between 1 January 2002 and 30 June 2002, both dates inclusive—1 July 2004.’.²

16 Amendment of s 25C (Amount of grant)

Section 25C(b)—

omit, insert—

‘(b) if—

- (i) the commencement date for the transaction is between 9 March 2001 and 31 December 2001, both dates inclusive—\$14 000; or

² The amendments of section 25B made by this section commence at a later date than the amendments of the section made by section 14, see section 2(3) and (4).

- (ii) the commencement date for the transaction is between 1 January 2002 and 30 June 2002, both dates inclusive—\$10 000.’.

17 Omission of s 25D (Expiry of div 5)

Section 25D—

omit.

18 Omission of pt 7 (Transitional provisions for First Home Owner Grant Amendment Act 2001)

Part 7—

omit.

PART 5—AMENDMENT OF FUEL SUBSIDY ACT 1997

19 Act amended in pt 5

This part amends the *Fuel Subsidy Act 1997*.

20 Amendment of s 8 (Meaning of “off-road purpose”)

Section 8(1)—

omit, insert—

‘(1) An “**off-road purpose**”, for diesel, means a purpose other than—

- (a) to propel a diesel engine road vehicle on—
 - (i) a public road; or
 - (ii) another road if the purpose is merely to enable the vehicle to access a public road and is incidental to gaining access to the public road; or
- (b) a purpose that is merely incidental to a purpose mentioned in paragraph (a).’.

21 Amendment of s 19 (Calculating provisional subsidy)

(1) Section 19(2), after ‘July’—

insert—

‘and August’.

(2) Section 19(2), ‘month’—

omit, insert—

‘June’.

(3) Section 19(4)—

omit, insert—

‘(4) However, the commissioner may decide the anticipated annual subsidy if—

- (a) the commissioner is not satisfied the anticipated annual subsidy calculated under subsection (3) accurately reflects the subsidy to which the retailer is likely to be entitled for the financial year; or
- (b) the anticipated annual subsidy can not properly be calculated under subsection (3); or
- (c) the commissioner is not satisfied the anticipated annual subsidy decided under paragraph (a) or (b), or previously decided under this paragraph, accurately reflects the subsidy to which the retailer is likely to be entitled for the financial year.’

(4) Section 19—

insert—

‘(6A) A licensed retailer may make a request under subsection (6) more than once in a financial year.’.

(5) Section 19(6A) and (7)—

renumber as section 19(7) and (8).

22 Replacement of s 20 (Changing dates for paying provisional subsidies)

Section 20—

omit, insert—

‘20 When commissioner may change date for paying, or decide not to pay, provisional subsidy

‘(1) This section applies if the commissioner reasonably believes a licensed retailer—

- (a) has not complied with, or is likely not to comply with, a condition of the retailer’s licence; or
- (b) may not be entitled to a subsidy for a month; or
- (c) may not operate as a licensed retailer for the whole of a month.

‘(2) Despite section 18, the commissioner may decide—

- (a) a different date for paying a provisional subsidy to the retailer; or
- (b) not to pay a provisional subsidy to the retailer.

‘(3) If the commissioner makes a decision under subsection (2)(a), because the retailer has not complied with licence conditions, the commissioner is not required to decide a date until the commissioner is satisfied the retailer has complied with the conditions.

‘(4) The commissioner must give the licensed retailer an information notice about the commissioner’s decision under subsection (2).’.

23 Amendment of s 22 (When subsidies are claimed)

(1) Section 22, heading—

omit, insert—

‘**When subsidies are claimed—provisional subsidy paid or payable**’.

(2) Section 22(3), ‘different dates’—

omit, insert—

‘a different date’.

24 Insertion of new s 22A

After section 22—

insert—

‘22A When subsidies are claimed—no provisional subsidy payable

‘If, under section 20(2)(b), the commissioner decides not to pay a provisional subsidy to a licensed retailer for a month, the retailer may lodge

with the commissioner a claim, in the approved form, for the subsidy to which the retailer is entitled for the month.’.

25 Amendment of s 23 (Paying subsidy)

Section 23(1), ‘the provisional subsidy’—

omit, insert—

‘any provisional subsidy’.

26 Amendment of s 24 (Overpaid provisional subsidy amount)

Section 24(2)—

omit, insert—

‘(2) However, the commissioner may, by written notice, require the retailer to pay the amount to the commissioner if—

- (a) the commissioner reasonably believes another provisional subsidy will not be paid to the retailer; or
- (b) under section 20(2), the commissioner has made a decision for the next provisional subsidy for the retailer.’.

27 Amendment of s 25 (Underpaid provisional subsidy amount)

(1) Section 25—

insert—

‘(1A) However, if the commissioner reasonably believes another provisional subsidy will not be paid to the retailer, the amount is payable by the commissioner within a reasonable time.’.

(2) Section 25(2), ‘If’—

omit, insert—

‘Also, if’.

(3) Section 25(3), ‘(2)’—

omit, insert—

‘(3)’.

(4) Section 25(1A) to (3)—
renumber as section 25(2) to (4).

28 Replacement of ch 3, pt 2 hdg (Subsidy entitlement)

Chapter 3, part 2, heading—
omit, insert—

‘PART 2—SUBSIDY ENTITLEMENT

‘Division 1—Provisional subsidy payments

‘Subdivision 1—Preliminary

‘34A Application of div 1

‘(1) This division applies for a financial year to a licensed bulk end user who—

- (a) held a bulk end user’s licence that was in force for the whole of the previous financial year; and
- (b) lodged 1 or more claims for the subsidy to which the user is entitled as a bulk end user for the whole of the previous financial year; and
- (c) is entitled to a subsidy as a bulk end user for the previous financial year of not more than the amount prescribed under a regulation (the “**prescribed subsidy amount**”); and
- (d) under section 38, lodged a return for the previous financial year; and
- (e) the commissioner is satisfied intends to continue to use bulk end user fuel for the whole of the financial year.

‘(2) Also, the commissioner may decide this division applies for a financial year to a licensed bulk end user if—

- (a) lodgment of a return mentioned in section 38 for the previous financial year is made after the date required under the section; and
- (b) this division would otherwise apply to the user.

‘(3) However, the commissioner may decide this division does not apply to a licensed bulk end user if the commissioner reasonably believes the user has not complied with the licence conditions.

‘(4) Also, this division does not apply for a financial year to a licensed bulk end user if, before 1 September in the year, the user gives written notice to the commissioner asking for subsidy payments to be made under division 2.

‘(5) If the commissioner makes a decision under subsection (3), the commissioner must give the licensed bulk end user an information notice about the decision.

‘Subdivision 2—Provisional subsidies

‘34B Paying provisional subsidy

‘(1) The commissioner must—

- (a) pay to the bulk end user the provisional subsidy to which the user is entitled for the financial year less any subsidy paid under division 2 for the year; and
- (b) give the user a written statement showing how the provisional subsidy was calculated and, if section 34F or 108³ applies, the basis for the amount paid.

‘(2) Payment of the provisional subsidy must be made by—

- (a) if, under section 34A(2), the commissioner decides this division applies to the user, the later of the following—
 - (i) as soon as practicable after making the decision;
 - (ii) 1 October in the financial year; or
- (b) if paragraph (a) does not apply—1 October in the financial year.

‘34C Amount of provisional subsidy

‘(1) The provisional subsidy for the bulk end user for the financial year is the user’s subsidy for the previous financial year.

3 Section 34F (Underpaid provisional subsidy amount) or 108 (Commissioner may apply amounts payable under Act)

‘(2) However, if the commissioner is not satisfied the user’s subsidy for the previous financial year accurately reflects the subsidy to which the user is likely to be entitled for the financial year, the commissioner may decide the provisional subsidy.

‘(3) The amount decided under subsection (2) must not be more than the prescribed subsidy amount.

‘(4) In making the decision, the commissioner must have regard to the following—

- (a) storage sites acquired or disposed of by the user during or after the previous financial year;
- (b) the quantity of bulk end user fuel reasonably expected to be used by the user in the financial year;
- (c) any other matter the commissioner considers relevant.

‘(5) If the commissioner makes a decision under subsection (2), the commissioner must give the user an information notice about the decision.

‘Subdivision 3—Claiming and paying subsidies

‘34D Paying subsidy

‘(1) After lodgment of the bulk end user’s return under section 38 for the financial year, the commissioner must pay to the user the subsidy to which the commissioner is satisfied the user is entitled less the provisional subsidy paid to the user for the year.

‘(2) If the user does not lodge the return as required under section 38, the commissioner may decide the subsidy to which the user is entitled as if the user had lodged the return.

‘(3) If the commissioner makes a decision under subsection (2), the commissioner must give the user an information notice about the decision.

‘Subdivision 4—Overpaid and underpaid provisional subsidy amounts

‘34E Overpaid provisional subsidy amount

‘(1) If the provisional subsidy paid to the bulk end user for the financial year is more than the user’s subsidy for the year, the amount of the

difference (the “**amount**”) is payable by the user to the commissioner when the next provisional subsidy payment is made to the user.

‘(2) However, the commissioner may, by written notice, require the user to pay the amount to the commissioner if the commissioner reasonably believes a provisional subsidy will not be paid to the user for the next financial year.

‘(3) The person must pay the amount to the commissioner in the reasonable time stated in the notice.

‘(4) An amount not paid as required under subsection (1) or (3) is a debt owing to the commissioner.

‘34F Underpaid provisional subsidy amount

‘(1) If the provisional subsidy paid to the bulk end user for a financial year is less than the user’s subsidy for the year, the commissioner does not have to pay the amount of the difference (the “**amount**”) until making the next provisional subsidy payment to the user.

‘(2) However, if the commissioner reasonably believes a provisional subsidy will not be paid to the user for the next financial year, the amount is payable by the commissioner before the end of the month after the month in which the user lodges an annual return for the financial year for which the provisional subsidy was paid.

‘(3) Also, if the commissioner reasonably believes the user has not complied with the user’s licence conditions, the commissioner is not required to pay the amount until the commissioner is satisfied the user has complied with the conditions.

‘(4) If the commissioner makes a decision under subsection (3), the commissioner must give the user an information notice about the decision.

‘Subdivision 5—Changing from provisional subsidy payments to subsidy payments in arrears

‘34G Commissioner may decide subsidy payments to be made in arrears

‘(1) The commissioner may decide this division ceases to apply to the bulk end user for the financial year if—

- (a) at any time after a provisional subsidy is paid to the user for the year, the subsidy to which the commissioner is satisfied the user is entitled for the year exceeds the provisional subsidy paid; and
- (b) the commissioner is satisfied the subsidy to which the user is entitled for the year will significantly exceed the provisional subsidy; and
- (c) by written notice dated after 30 September in the financial year given to the commissioner, the user asks for subsidy payments to be made under division 2; and
- (d) under division 2, the user lodges a claim for the user's subsidy for the period (the **“relevant period”**)—
 - (i) if subparagraph (ii) does not apply—starting on 1 July in the year and ending on the last day of the month before the date of the notice; or
 - (ii) if the user has previously lodged a claim under division 2 for a period in the year—starting on the day after the end of the period for which the previous claim has been lodged and ending on the last day of the month before the date of the notice.

‘(2) If, under subsection (1), the commissioner decides this division ceases to apply to the user for the financial year—

- (a) the relevant period is a claim period for section 35 for which a subsidy is payable to the user; and
- (b) the commissioner must, under section 36, pay the subsidy for the period less the provisional subsidy paid to the user; and
- (c) claim periods for the user after the relevant period are determined under section 35.

‘(3) If, under subsection (1), the commissioner decides this division does not cease to apply to the user for the financial year, the commissioner must give the user an information notice about the decision.

‘Division 2—Subsidy payments in arrears

‘Subdivision 1—Preliminary

‘35AA Application of div 2

‘This division applies for a financial year to a licensed bulk end user to whom division 1 does not apply or ceases to apply because of a decision under section 34G(1).

‘Subdivision 2—Claiming and paying subsidies’.

29 Insertion of new ch 3, pt 1, div 1, sdiv 6

After section 34G—

insert—

‘Subdivision 6—Notices about ceasing to use bulk end user fuel and storage sites

‘34H Notice of ceasing to use bulk end user fuel

‘(1) A person who ceases using bulk end user fuel must give the commissioner written notice, under this section, stating when the person ceased using bulk end user fuel.

Maximum penalty—200 penalty units.

‘(2) The notice must be in the approved form and given within 1 month after the person ceased using bulk end user fuel.

‘34I Notice of ceasing to use a storage site

‘(1) A licensed bulk end user who ceases using a particular storage site stated in the user’s licence, must give the commissioner written notice, under this section, stating when the user ceased using the site.

Maximum penalty—200 penalty units.

‘(2) The notice must be in the approved form and given within 1 month after the person ceased using the storage site.’.

30 Amendment of s 35 (When subsidies are claimed)

Section 35(4)—

omit, insert—

‘(4) The commissioner may decide a claim period of less than 3 months only if—

- (a) the commissioner reasonably believes—
 - (i) the amount of bulk end user fuel likely to be used in conducting the enterprise in the next 12 months will be at least the amount prescribed under a regulation or, if an amount is not prescribed, at least 300 000 L; or
 - (ii) the costs of financing for the fuel arising from payment of a subsidy for a 3 month claim period is likely to cause the user significant financial hardship; or
 - (iii) it is necessary for the claim period to end at the end of a financial year; or
- (b) the user is of a class prescribed under a regulation.’.

31 Replacement of s 38 (Return)

Section 38—

omit, insert—

‘38 Return

‘(1) Subsection (2) applies to a person who—

- (a) was a licensed bulk end user for a financial year or part of a financial year; and
- (b) either—
 - (i) during the financial year, lodged a claim for a subsidy for fuel used as bulk end user fuel during the financial year; or
 - (ii) received a provisional subsidy for the year.

‘(2) The person must lodge a return in the approved form with the commissioner before 1 September in the next financial year or the later date advised by the commissioner.

Maximum penalty—100 penalty units.

‘(3) Subsection (4) applies to a person who—

- (a) was a licensed bulk end user for a financial year, or part of a financial year, (the “**earlier year**”); and
- (b) was a licensed bulk end user for whom part 2, division 2, applied for the earlier year; and
- (c) did not, during the earlier year, lodge a claim for a subsidy for fuel used during the earlier year; and
- (d) during a later financial year (the “**later year**”), lodged a claim for a subsidy for fuel used during the earlier year.

‘(4) The person must lodge a return in the approved form with the commissioner for the earlier year before 1 September in the financial year after the later year or the later date advised by the commissioner.

Maximum penalty—100 penalty units.’.

32 Amendment of s 38 (Return)

Section 38(2)—

omit, insert—

‘(2) The person must lodge a return in the approved form with the commissioner—

- (a) if paragraph (b) does not apply—before 1 September in the next financial year or the later date advised by the commissioner; or
- (b) if the person is required to give notice under section 34H—within the reasonable time stated in a written notice given by the commissioner to the person.

Maximum penalty—100 penalty units.’.

33 Amendment of s 109 (Commissioner may register a charge to recover overpaid provisional subsidy)

Section 109(1), after ‘24’—

insert—

‘or 34E’.

34 Amendment of s 114 (Person receiving subsidy without entitlement)

Section 114(1)(b) and (3), after ‘32’—

insert—

‘, 34E’.

35 Insertion of new s 132A

After section 132—

insert—

‘132A Estimated amounts

‘(1) This section applies if the commissioner is satisfied—

- (a) under a provision of this Act—
 - (i) a person is entitled to a subsidy; or
 - (ii) an amount is payable by a person to the commissioner; and
- (b) it is difficult or impracticable for the commissioner to properly work out the exact amount of the subsidy or amount payable because of a complexity or uncertainty or for another reason; and
- (c) the commissioner works out the amount of the subsidy or amount payable by the person (the “**estimated amount**”) on the basis of the information and records reasonably available to the commissioner.

‘(2) Subject to subsection (3), with the written agreement of the person—

- (a) this Act applies as if the amount of the subsidy or amount payable by the person were the estimated amount; and
- (b) the commissioner is not required to give the person an information notice for a decision to require payment of—
 - (i) an amount worked out using the estimated amount; or
 - (ii) the estimated amount.

‘(3) The agreement ceases to have effect if the commissioner reasonably believes—

- (a) the information and records relied on by the commissioner in working out the amount are false or misleading; or
- (b) the person failed to give the commissioner material information.

‘(4) This section applies despite any other provision of this Act to the contrary.’.

36 Replacement of ch 7 hdg (Transitionals)

Chapter 7, heading—

omit, insert—

‘CHAPTER 7—TRANSITIONAL PROVISIONS FOR GST AND RELATED MATTERS ACT 2000’.

37 Omission of ch 7, pt 1 hdg (Transitional provisions for GST and Related Matters Act 2000)

Chapter 7, part 1, heading—

omit.

38 Insertion of new ch 9

After chapter 8—

insert—

‘CHAPTER 9—TRANSITIONAL PROVISIONS FOR REVENUE AND OTHER LEGISLATION AMENDMENT ACT 2002

‘155 Application of ch 3, pt 2, div 1

‘(1) For the financial year ending 30 June 2002, section 34A applies as if—

- (a) a reference in subsection (1)(a) to (d) to the previous financial year were a reference to the period from 1 October 2000 to 30 June 2001; and
- (b) the reference in subsection (1)(c) to the prescribed subsidy amount were a reference to \$375.

‘(2) Also, for the financial year ending 30 June 2002, chapter 3, part 2, division 1, applies to a licensed bulk end user only if the user’s licence was issued on or before 17 April 2001.

‘156 Provisional subsidy for 2001–02 financial year

‘Despite section 34C, the provisional subsidy for a bulk end user for the financial year ending 30 June 2002 is worked out using the following formula—

$$PS = S \times \frac{12}{9}$$

where—

“PS” means the provisional subsidy.

“S” means the user’s subsidy for the period from 1 October 2000 to 30 June 2001.

‘157 Reviews and appeals

‘(1) This section applies if—

- (a) on or after 17 April 2001 and before the date of assent for the *Revenue and Other Legislation Amendment Act 2002*, the commissioner made a decision about a matter mentioned in chapter 3, part 2, division 1, as inserted by that Act; and
- (b) under chapter 3, part 2, division 1, the commissioner is required to give the person an information notice about the decision.

‘(2) For section 121(1)(a),⁴ the commissioner is taken to have given the person an information notice for the decision on the date of assent.’

4 Section 121 (Applying for review)

39 Insertion of new s 158

After section 157—

insert—

‘158 No retrospective criminal liability

‘Section 38 is not effective to impose criminal liability retrospectively.’.

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

(1) Schedule 1, part 2, entries for sections 20(1) and 25(2)—

omit.

(2) Schedule 1, part 2—

insert—

‘20(2) Deciding a different date for paying, or not to pay, a provisional subsidy to a licensed retailer

25(3) Deciding a licensed retailer has not complied with licence conditions’.

(3) Schedule 1, part 2—

insert—

‘34A(3) Deciding chapter 3, part 2, division 1 does not apply to a bulk end user

34C(2) Deciding provisional subsidy for a bulk end user

34D(2) Deciding subsidy to which the bulk end user is entitled

34F(3) Deciding a licensed bulk end user has not complied with the licence conditions

34G(1) Deciding chapter 3, part 2, division 1 does not cease to apply to a bulk end user’.

41 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions “provisional subsidy” and “subsidy”—

omit.

(2) Schedule 2—

insert—

‘**“prescribed subsidy amount”** see section 34A(1)(c).

“provisional subsidy” means—

- (a) for a licensed retailer—the provisional subsidy payable to the retailer under chapter 2, part 2; or
- (b) for a licensed bulk end user—the provisional subsidy payable to the user under chapter 3, part 2, division 1.

“subsidy”, for a sale of retail fuel or use of bulk end user fuel, means the amount calculated by applying the subsidy rate for the fuel at the time of sale or use to the quantity of fuel sold or used, and includes a provisional subsidy.’.

PART 6—AMENDMENT OF GAMING MACHINE ACT 1991

42 Act amended in pt 6

This part amends the *Gaming Machine Act 1991*.

43 Insertion of new pt 12, div 6

After section 401—

insert

‘Division 6—Subsequent provisions for Gaming Machine Amendment Act 2001

‘402 Provision for applications for which a date has been fixed under s 399(7)

‘(1) This section applies to a relevant application for which the commission has, under section 399(7), fixed a date after 31 December 2001 as the date for the relevant application to lapse.

‘(2) Despite section 399(8) and the date fixed by the commission, the date on which the relevant application lapses is 31 December 2002.

‘(3) If the commission has not made a decision about a relevant application by the end of 31 December 2002, the relevant application lapses at the end of that day.

‘(4) In this section—

“**relevant application**” see section 399(1).

‘403 Transitional provision for applications continued under Liquor Act 1992 for removal of licences under Liquor Act 1912, s 49A

‘(1) This section applies to each of the following—

- (a) a person who is, on or after the commencement day, entitled under the *Liquor Act 1992* to continue with an application for removal of a liquor licence;
- (b) a person who is the holder of a liquor licence for premises to which the liquor licence was removed on or after 11 April 2002 as the result of an application for removal of the liquor licence.

‘(2) The person may make an application for a gaming machine licence for liquor premises.

‘(3) The gaming application must be made—

- (a) before the end of the application period; and
- (b) as an application under section 56 for a gaming machine licence.

‘(4) A gaming application made as required under subsection (3) is to be dealt with as if it were an application for a gaming machine licence properly made under this Act and the liquor premises are to be dealt with as if the premises were to be category 1 licensed premises.

‘(5) If the liquor premises specified in the gaming application change, the applicant for the gaming application must amend the gaming application to reflect the change.

‘(6) The amendment of the gaming application is authorised to the extent it changes the premises specified in the gaming application to reflect the variation of the liquor premises, and the gaming application continues despite the amendment.

‘(7) If the commission has not made a decision about the gaming application by 31 January 2003, the application lapses at the end of that day unless the commission fixes a date under subsection (8) for it to lapse.

‘(8) Before 31 January 2003, the commission may fix a date after 31 January 2003 as the date for a gaming application to lapse if—

- (a) the chief executive receives an application for deferment of the lapsing of the gaming application before or at 5 p.m. on 31 December 2002; and
- (b) the commission is, after considering the application for deferment, satisfied there are exceptional circumstances for a deferment of the lapsing of the gaming application; and
- (c) the date fixed is no later than 30 June 2003.

‘(9) If the commission fixes a date under subsection (8) as the date for a gaming application to lapse and the commission has not made a decision about the gaming application immediately before the end of that day, the gaming application lapses at the end of that day.

‘(10) An applicant for deferment must include as part of the application all supporting information and material the applicant considers relevant to establish the exceptional circumstances for the deferment.

‘(11) This section is not limited by section 56 or division 5.

‘(12) In this section—

“application for removal of a liquor licence” means an application continued under the *Liquor Act 1992*, section 238A,⁵ that has not been disposed of before the commencement day.

“application period” means the period starting on the commencement day and ending on 1 October 2002.

“commencement day” means the day on which the *Revenue and Other Legislation Amendment Act 2002*, part 6, commences.

“gaming application” means an application made under subsection (2).

“liquor premises” means—

- (a) premises that, as the result of an application for removal of a liquor licence, are licensed premises within the meaning of the *Liquor Act 1992*; or

⁵ *Liquor Act 1992*, section 238A (Disposal of applications for removal)

- (b) premises the subject of an application for removal of a liquor licence, and to which the liquor licence is to be removed on the grant of the application.’

PART 7—AMENDMENT OF GOVERNMENT OWNED CORPORATIONS ACT 1993

44 Act amended in pt 7

This part amends the *Government Owned Corporations Act 1993*.

45 Amendment of s 159 (Payment of dividends)

(1) Section 159(1) to (3)—

omit, insert—

‘(1) Within 3 weeks after the end of each financial year, a GOC’s board must recommend to the GOC’s shareholding Ministers that the GOC and its subsidiaries pay a specified dividend, or not pay a dividend, for the financial year.

‘(2) The board must consult with the shareholding Ministers before making the recommendation.

‘(3) The recommendation must be accompanied by the board’s estimate of the GOC’s profits for the financial year, after—

- (a) provision has been made for income tax or its equivalent; and
- (b) any unrealised capital gains from upwards revaluation of non-current assets have been excluded.’

(2) Section 159(4), ‘1 month’—

omit, insert—

‘3 weeks’.

46 Amendment of s 159 (Payment of dividends)

(1) Section 159(1), ‘Within 3 weeks after the end’—

omit, insert—

‘On or after 1 May, but before 16 May.’.

(2) Section 159(3), after ‘profits’—

insert—

‘(the “**estimated profits**”)’.

(3) Section 159(4), ‘Within 3 weeks after receiving the recommendation’—

omit, insert—

‘Before the end of the financial year’.

(4) Section 159(5), from ‘profits’—

omit, insert—

‘estimated profits for the financial year.’.⁶

47 Insertion of new s 159A

After section 159—

insert—

‘159A GOC’s financial statements must state dividend payable

‘(1) A GOC’s financial statements for a financial year given to the auditor-general by it under the *Financial Administration and Audit Act 1977* must state any dividend payable, under section 159(4), for the financial year.

‘(2) In this section, a reference to the *Financial Administration and Audit Act 1977* is a reference to that Act as applying to the GOC under section 127 or 128.’.

⁶ The amendments of section 159 made by this section commence on a later date than the amendments of the section made by section 45, see section 2(7) and (8).

PART 8—AMENDMENT OF LOCAL GOVERNMENT (ABORIGINAL LANDS) ACT 1978

48 Act amended in pt 8

This part amends the *Local Government (Aboriginal Lands) Act 1978*.

49 Amendment of s 109 (Review of pt 6)

Section 109(2), ‘30 June’—

omit, insert—

‘31 December’.

PART 9—AMENDMENT OF PAY-ROLL TAX ACT 1971

50 Act amended in pt 9

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

51 Amendment of s 3 (Interpretation)

(1) Section 3(1)—

insert—

‘**“death benefit ETP”** means a death benefit ETP within the meaning of the *Income Tax Assessment Act 1936* (Cwlth), section 27A.

“ETP” means an eligible termination payment within the meaning of the *Income Tax Assessment Act 1936* (Cwlth), section 27A.

“taxable ETP” means an ETP that, under the *Income Tax Assessment Act 1936* (Cwlth), part 3, division 2, subdivision AA, would be included in an employee’s assessable income if the whole of the payment were paid to the employee, but does not include a death benefit ETP.’

(2) Section 3(1), definition “wages”—

insert—

‘(i) a taxable ETP.’

52 Amendment of s 7 (Imposition of pay-roll tax on taxable wages)

Section 7(a) to (c)—

omit, insert—

- (a) for wages paid or payable in the financial year ending 30 June 2002—4.8%;
- (b) for wages paid or payable in a later financial year—4.75%.’.

53 Amendment of s 8A (Value of taxable wages)

Section 8A(2), from ‘that are’ to ‘as fringe benefits under’—

omit, insert—

‘comprising a fringe benefit under the Fringe Benefits Assessment Act is the value that would be the fringe benefits taxable amount for’.