

Queensland



DUTIES AMENDMENT ACT 2004

Act No. 2 of 2004

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Queensland



Duties Amendment Act 2004

Act No. 2 of 2004

An Act to amend the *Duties Act 2001*

[Assented to 29 April 2004]

The Parliament of Queensland enacts—**1 Short title**

This Act may be cited as the *Duties Amendment Act 2004*.

2 Commencement

This Act commences on 1 May 2004.

3 Act amended

This Act amends the *Duties Act 2001*.

4 Amendment of s 92 (Concession for transfer duty—first home)

(1) Section 92(1)(b)(i)—

omit, insert—

- ‘(i) the transferees are all individuals of at least 18 years of age on the day the liability for transfer duty arises, the residence will be the first home of all of the transferees and none of the transferees are trustees;’.

(2) Section 92—

insert—

‘(1A) However, if subsection (1)(b)(ii) applies and 1 or more of the beneficiaries is under a legal disability only because the beneficiary is not at least 18 years of age, this section applies in relation to the dutiable transaction only if the commissioner is satisfied there is no avoidance scheme in relation to the transaction.’.

(3) Section 92(2), from ‘following amount’—

omit, insert—

‘concession amount stated in schedule 4A.¹’.

(4) Section 92—

insert—

‘(3) The commissioner may exempt a transferee from the requirement under subsection (1)(b)(i) that the transferee be at least 18 years of age if the commissioner is satisfied there is no avoidance scheme in relation to the dutiable transaction.’.

5 Amendment of s 93 (Concession for transfer duty—mixed and multiple claims for homes and first homes for individuals)

(1) Section 93—

insert—

‘(3A) For subsections (1)(c) and (2)(b), a residence may be treated as the first home of a relevant transferee only if the relevant transferee is at least 18 years of age on the day the liability for transfer duty arises.

‘(3B) The commissioner may exempt a relevant transferee from the requirement that the relevant transferee be at least 18 years of age if the commissioner is satisfied there is no avoidance scheme in relation to the dutiable transaction.’.

(2) Section 93(6A), ‘section 92(2)’—

omit, insert—

‘schedule 4A’.

6 Amendment of s 94 (Concession for transfer duty—mixed and multiple claims for homes and first homes)

Section 94—

insert—

‘(3) However, section 93(3A) and (3B) applies in relation to a beneficiary only if the beneficiary is under a legal disability only because the beneficiary is not at least 18 years of age.’.

1 See section 551 (Application of amendments about concession for transfer duty or mortgage duty for first home) in relation to dutiable transactions made on or after 1 May 2004 but relating to arrangements made before 1 May 2004.

7 Amendment of s 273 (Who is a “home borrower” and a “first home borrower”)

Section 273(2)—

omit, insert—

‘(2) A home borrower is a “**first home borrower**” if—

- (a) the borrower’s home mortgage secures an advance to the borrower to finance the purchase or construction of the borrower’s first home; and
- (b) the borrower is an individual of at least 18 years of age on the day the liability for mortgage duty arises.

‘(3) The commissioner may exempt an individual from the requirement that the individual be at least 18 years of age if the commissioner is satisfied there is no avoidance scheme in relation to the home mortgage.’.

8 Amendment of s 274 (Concession for mortgage duty—home mortgage)

Section 274(1)(b)(i) and (2)(a)(ii), ‘\$100 000’—

omit, insert—

‘\$250 000’.

9 Amendment of s 275 (Concession for mortgage duty—particular trusts)

Section 275—

insert—

‘(3) However, section 273(2)(b) and (3) applies in relation to a beneficiary only if the beneficiary is under a legal disability only because the beneficiary is not at least 18 years of age.’.

10 Amendment of ch 17, pt 2 hdg

Chapter 17, part 2 heading, after ‘**PROVISIONS**’—

insert—

‘**FOR REPEAL OF STAMP ACT 1894**’.

11 Insertion of new ch 17, pt 3

Chapter 17—

insert—

‘PART 3—TRANSITIONAL PROVISION FOR DUTIES AMENDMENT ACT 2004

‘551 Application of amendments about concession for transfer duty or mortgage duty for first home

‘(1) Chapter 2, part 9, division 3 and chapter 5, part 6, division 2 as in force on 1 May 2004 apply to dutiable transactions and mortgages only if liability for transfer duty or mortgage duty arises on or after 1 May 2004.

‘(2) However, chapter 2, part 9, division 3,² as in force immediately before 1 May 2004, applies to a dutiable transaction that is the transfer, or agreement for the transfer, of residential land made on or after 1 May 2004 if—

- (a) the transfer or agreement replaces a transfer, or an agreement for the transfer, that included the residential land and was made before 1 May 2004; or
- (b) the transferee had an option to purchase the residential land, or the transferor had an option to require the transferee to purchase the residential land, granted before 1 May 2004 and exercised on or after 1 May 2004; or
- (c) another arrangement was made before 1 May 2004 the sole or main purpose of which was to defer the making of the transfer or agreement until 1 May 2004 or later so the concession for transfer duty under the division, as in force on or after 1 May 2004, would apply in relation to the dutiable transaction.’.

12 Insertion of new sch 4A

After schedule 4—

insert—

2 Chapter 2 (Transfer duty), part 9 (Concessions for homes), division 3 (Concessions for homes and first homes)

‘SCHEDULE 4A**‘AMOUNT OF CONCESSION FOR TRANSFER
DUTY—FIRST HOME**

sections 92(2) and 93(6A)

Dutiable value of the residential land	Concession amount
Not more than \$259 999	\$2 500
\$260 000—\$269 999	\$2 400
\$270 000—\$279 999	\$2 300
\$280 000—\$289 999	\$2 200
\$290 000—\$299 999	\$2 100
\$300 000—\$309 999	\$2 000
\$310 000—\$319 999	\$1 900
\$320 000—\$329 999	\$1 800
\$330 000—\$339 999	\$1 700
\$340 000—\$349 999	\$1 600
\$350 000—\$359 999	\$1 500
\$360 000—\$369 999	\$1 400
\$370 000—\$379 999	\$1 300
\$380 000—\$389 999	\$1 200
\$390 000—\$399 999	\$1 100
\$400 000—\$409 999	\$1 000

Dutiable value of the residential land	Concession amount
\$410 000—\$419 999	\$900
\$420 000—\$429 999	\$800
\$430 000—\$439 999	\$700
\$440 000—\$449 999	\$600
\$450 000—\$459 999	\$500
\$460 000—\$469 999	\$400
\$470 000—\$479 999	\$300
\$480 000—\$489 999	\$200
\$490 000—\$499 999	\$100’.

13 Amendment of sch 6 (Dictionary)

Schedule 6—

insert—

‘ **“avoidance scheme”** means—

- (a) for chapter 2, part 9, division 3—a scheme to circumvent limitations on, or requirements affecting, eligibility or entitlement for a concession for transfer duty under the division; or
- (b) for chapter 5, part 6, division 2—a scheme to circumvent limitations on, or requirements affecting, eligibility or entitlement for a concession for mortgage duty under the division.’.