

# **GST AND RELATED MATTERS BILL 2000**

## **EXPLANATORY NOTES**

### **Short Title**

The short title of the Bill is the *GST and Related Matters Bill 2000*.

### **Policy Objectives of the Bill**

The policy objectives of the Bill are to:

- (a) Implement a number of Queensland's commitments under the Intergovernmental Agreement on Commonwealth-State Financial Relations that is, National Tax Reform; and
- (b) Amend various pieces of legislation due to the introduction of the Goods and Services Tax (GST).

### **Reason for the Bill and Achievement of the Policy Objectives**

- (a) *Implement a number of Queensland's commitments under the Intergovernmental Agreement on Commonwealth-State Financial Relations*

In June 1999, the Premier signed the Intergovernmental Agreement (IGA) on the Reform of Commonwealth-State Financial Relations. Under the IGA, Queensland agreed to the following actions that require legislation to implement;

- (i) Abolish stamp duty on quoted marketable securities from 1 July 2001;
- (ii) Adjust gambling taxes to offset the impact of the GST;
- (iii) Require State and local government entities to pay GST-equivalents where the GST cannot apply for constitutional reasons;
- (iv) Introduce a First Home Owners Scheme;

- (v) Enact the Price Exploitation Code; and
- (vi) Attach the IGA as a schedule to State legislation.

The First Home Owners Scheme was enacted by the *First Home Owner Grant Act 2000*, which commences on 1 July 2000. The Price Exploitation Code was enacted by the *New Tax System Price Exploitation Code (Queensland) Act 1999*, which commenced on 10 December 1999. The *GST and Related Matters Bill 2000* deals with the other matters listed above.

*(i) Abolition of stamp duty on quoted securities*

Under the IGA, stamp duty is to cease to apply from 1 July 2001 to transfers of marketable securities quoted on the Australian Stock Exchange or another recognised stock exchange. This excludes the transfers of marketable securities in private companies and trusts and in public companies and trusts where the securities are not quoted on the Australian Stock Exchange or another recognised stock exchange.

The *Stamp Act 1894* contains various bases on which a liability to conveyance duty may arise for transfers of marketable securities and rights in respect of shares.

The broker provisions (sections 31C to 31F) apply to orders lodged in Queensland with a broker, or outside Australia with a Queensland broker, for the sale or purchase of marketable securities or rights in respect of shares listed on a prescribed exchange. They also apply to sales and purchases of those securities by Queensland brokers on their own account. The *Stamp Act 1894* is to be amended to provide that the obligations imposed on a broker under sections 31C and 31E do not apply to any sale or purchase of a quoted security made after 30 June 2001.

The CHES provisions (sections 31K to 31Y) impose duty on SCH transfers of marketable securities or rights in respect of shares with a Queensland nexus if the broker provisions do not apply. The *Stamp Act 1894* is to be amended to remove the obligations placed on SCH participants and on the SCH in respect of transfers of a quoted security made after 30 June 2001.

The London Stock Exchange provision (section 31J) enables duty to be collected on certain dispositions on the London Stock Exchange of marketable securities or rights in respect of shares with a Queensland nexus. As the London Stock Exchange may be a recognised stock exchange, the

*Stamp Act 1894* is to be amended to remove the obligation to lodge a return or pay duty in relation to dispositions of quoted securities made 30 June 2001. This amendment will commence by proclamation to be made if the London Stock Exchange becomes a recognised exchange.

The *Stamp Act 1894* also imposes duty on any instrument of transfer or agreement to transfer property and on an instrument and transactions effecting a change in beneficial ownership of marketable securities and rights in respect of shares with a Queensland nexus. Amendments will be made so that stamp duty will not apply to conveyances or transfers of quoted securities or transactions involving changes in beneficial ownership of these securities after 30 June 2001.

Finally, sections 31G and 31H will also be amended so that they do not apply to conveyances or transfers of quoted securities occurring after 30 June 2001.

A quoted security will be defined as a marketable security or right in respect of shares quoted on the Australian Stock Exchange or a recognised exchange. The term will cover also CUFS and the rights referred to in paragraph (b) of the definition of right in respect of shares. Exchanges to be recognised will be prescribed by regulation.

#### *(ii) Reduction in Gambling Taxes*

Under the IGA, Queensland agreed to adjust its gambling taxes to offset the impact of the GST. There are two methods proposed to adjust the State's gambling taxes. One method (the rebate method) is to allow a deduction of the amount of "global GST" from the gambling operators' existing State gambling taxes. The other method involves a reduction in State tax rates.

To determine the appropriate method it is necessary to compare the tax bases on which the GST and the various State taxes are calculated. If the bases are the same then a tax rate reduction would be the preferred option. If the bases are different then the rebate method would be more appropriate.

It is the intention that the tax rates for those taxes using the rebate method be reviewed in a year or two once an accurate percentage reduction can be determined. After further consultation with the industry an appropriate tax rate reduction will apply and the rebate method will be discontinued.

After comparing the tax bases it was determined that the gaming machine taxes collected under the *Gaming Machine Act 1991* could be adjusted by a tax rate reduction.

It is considered appropriate that the other gambling taxes be adjusted using the rebate method. A requirement of the rebate method is that the deduction will not exceed the amount of tax that would be payable under the current legislation.

*The Racing and Betting Act 1980* imposes tax on a bookmaker's turnover. Bookmaker's turnover tax is to be abolished from 1 July 2000 in order for the State to meet its obligation under the IGA.

Section 163 of the *Racing and Betting Act 1980* imposes bookmaker's turnover tax at the rate of 1% of all bets made by a bookmaker at a relevant meeting. Section 163 is contained in Part 4, Division 2 of the *Racing and Betting Act 1980* which regulates the levying, payment and collection of the tax.

The Bill amends the *Racing and Betting Act 1980* to abolish bookmaker's turnover tax on and from 1 July 2000. Any necessary transitional and consequential amendments arising from the abolition of the tax will be included in the *Racing and Betting Amendment Bill 2000*.

### *(iii) Voluntary Payments Regime*

Under the IGA, Queensland agreed to a number of actions that require legislation to implement, including a requirement for State and local government entities to pay voluntary GST-equivalents where the Commonwealth legislation cannot apply GST for constitutional reasons. Section 114 of the Australian Constitution places limits on the power of the Commonwealth to tax the property of the States. In this context the State includes local governments and Aboriginal and Island councils.

Accordingly, State entities will need to comply with a GST Voluntary Payments Regime (VPR). This will involve State entities making GST payments to the Australian Taxation Office (ATO) as if the constitutional protection of section 114 did not apply.

The Bill provides for State entities to make payments under the VPR, to the ATO as if the constitutional protection of section 114 did not apply. Where a State entity fails to make the voluntary payment, the Bill confers power on the Treasurer to direct an entity to make the payment.

The policy objective of these legislative changes is to ensure State entities and local governments comply with the VPR and meet Queensland's obligations under the IGA.

The Commonwealth is to legislate a requirement that State Governments

withhold GST voluntary payment equivalent sums from Financial Assistance Grants (FAGS), where a local government has failed to comply with the VPR. The State Government therefore must implement mechanisms that ensure that it is aware of each local government's compliance with the VPR.

It is proposed, therefore, that the VPR model developed for local government apply to Aboriginal councils. That is that the council clerk of an Aboriginal council be required to certify to the Minister for Aboriginal and Torres Strait Islander Policy, at the end of each financial year, that the council is complying with the VPR (this could be done as part of existing financial reporting requirements).

However as the Auditor-General's reporting arrangements to the Minister are discretionary, an alternative mechanism for obtaining information on the compliance of Aboriginal and Torres Strait Island councils with the VPR is necessary to meet the requirements of the IGA.

*The Community Services (Torres Strait) Act 1984* and the *Community Services (Aborigines) Act 1984* do not contain provisions which enable the Director-General to request a council to provide information in writing about anything within its jurisdiction.

Consequently it is proposed to make an amendment to *Community Services (Torres Strait) Act 1984* and *Community Services (Aborigines) Act 1984* similar to that proposed for the *City of Brisbane Act 1924*. This will provide the Director-General with the power to request an Aboriginal or Island council to provide, in writing, information about compliance with the VPR.

It is proposed that these provisions would only be used if the QAO decided not to assess compliance with the VPR in a particular case.

*(vi) Attaching the IGA as a Schedule to Queensland legislation*

It is a requirement of the IGA that the States and Territories attach it as a schedule to relevant State and Territory legislation, and use their best endeavours to ensure their legislation will comply with the IGA. The Commonwealth, Victorian and Western Australian Governments have already attached the IGA as a schedule to their legislation. The Commonwealth legislation states "It is the intention of the Commonwealth to comply with, and give effect to, the agreement." The Victorian and Western Australian legislation is similarly phrased.

The Bill states that it is the intention of the State to comply with, and give effect to, the IGA. The IGA is also attached as a schedule to the Bill.

*(b) Amend various pieces of legislation due to the introduction of the Goods and Services Tax.*

With the introduction of the GST, various Acts of Parliament will require amendments to ensure that the State and the Queensland public are not exposed to adverse financial implications. The *GST and Related Matters Bill 2000* contains the amendments needed due to the introduction of the GST. In addition it contains a number of amendments to legislation associated with the following areas:

#### Stamp Duty

Stamp duty is usually charged on the consideration in respect of relevant transactions and instruments. As a result of Commonwealth tax changes on 1 July 2000, the consideration for a wide range of transactions which attract stamp duty will be influenced by movements in prices and the introduction of GST. Any increase in consideration on account of GST will therefore affect the stamp duty payable on that transaction.

However, the interaction of GST and stamp duty may result in a cascading of taxes in relation to rental business and instalment purchase agreements. To overcome this difficulty, this Bill amends the *Stamp Act 1894* to exempt from stamp duty the GST component of amounts subject to duty under the rental business and instalment purchase agreement provisions.

#### Pay-roll Tax

The *Pay-roll Tax Act 1971* would apply to impose pay-roll tax on any GST component of wages liable to pay-roll tax. Pay-roll tax is imposed on wages paid or payable by an employer where the total wages exceed the statutory threshold. Whilst most categories of wages which attract pay-roll tax will not be subject to GST, some may bear a GST liability.

The types of wages which could attract GST comprise mainly those paid by employment agents to contract workers who perform for the agents' clients services similar to those rendered by employees. Certain directors' fees may also be affected. As GST is not payable on employees' wages, the *Pay-roll Tax Act 1971* is to be amended to exempt from pay-roll tax the GST component of all wages to which the *Pay-roll Tax Act 1971* applies. This will provide consistent application of pay-roll tax to all taxable wages.

## Fuel Subsidies

Under the *Fuel Subsidy Act 1997*, licensees are entitled to a subsidy for fuel purchased by them under their licences. This subsidy ensures that Queensland motorists do not pay any part of the Commonwealth fuel excise surcharge, which was imposed under safety net arrangements in 1997. There are currently three classes of licensees—retailers, off-road diesel consumers and bulk end users (BEUs).

Under National Tax Reform, the Commonwealth will assume responsibility from 1 July 2000 for the payment of excise rebates to persons using diesel for off-road purposes. Consequently, the *Fuel Subsidy Act 1997* requires amendment to cease payment of fuel subsidies to persons who are currently eligible for these subsidies as off-road diesel consumers.

With the abolition of the off-road diesel consumer scheme, off-road diesel consumers' licences will cease to have effect on 1 July 2000. Similarly, the transitional arrangements for purchasing subsidised diesel as an off-road diesel consumer cease at that time.

In addition, the Commonwealth fuel excise surcharge will cease from 1 July 2000. Consequently, the *Fuel Subsidy Act 1997* requires amendment to modify the basis on which fuel subsidies are paid to retailers and BEUs, who will continue to be eligible for subsidies, and to ensure the proper operation of the subsidy arrangements.

The prohibition on a fuel seller recovering the cost of the surcharge will cease to be relevant. Instead, a person who sells fuel to a licensed retailer or BEU will be required to reduce the sale price payable by the licensee by the full amount of the subsidy. A claim for the subsidy may then be made by the seller to the Office of State Revenue.

As is currently the case, licensed retailers will receive the benefit of the subsidy. To ensure the full benefit of the subsidy is passed on to retail consumers, retailers will be required to reduce the sale price payable by the consumer to fully reflect the subsidy entitlement that arose on the purchase of the fuel by the retailer. Similar arrangements will apply for any other licensee who sells to another eligible purchaser.

Section 108 will cease to apply with the abolition of the surcharge. Fuel sellers may continue to have regard to the relevant costs of selling fuel when setting the selling price. Records must be kept to show the price at which fuel is sold and the basis on which the selling price is determined so that the

Commissioner can form a view as to whether or not the full benefit of the subsidy being claimed has been passed on to the licensed purchaser or retail consumer.

Transitional arrangements are also included to ensure that obligations which would have arisen but for the amendment of the *Fuel Subsidy Act 1997* continue. In relation to a person who was formerly an off-road diesel consumer and a person who sold diesel to an off-road diesel consumer before 1 July 2000, any obligations which would have applied to those persons if chapter 2 had not been repealed on 1 July 2000 continue as if chapter 2 had not been repealed.

### **Example 1**

If a person purchased diesel under a net sale for chapter 2 before 1 July 2000 and, on or after 1 July 2000, uses the diesel in contravention of the conditions of the licence under which the diesel was purchased or sells the diesel other than under a net sale, the person will be required to repay the subsidy received in relation to the purchase of the diesel.

### **Example 2**

If a person who sold diesel to an off-road diesel consumer before 1 July 2000 does not continue to keep records as required under section 39 as it was in force before 1 July 2000, that person will commit an offence under section 39(1).

In addition, a person who purchased fuel under a net sale before 1 July 2000 and who receives an amount for the surcharge on or after 1 July 2000, other than under the *Fuel Subsidy Act 1997* or a corresponding law, must repay the amount received.

### Sales Tax

Sales tax is being abolished from 1 July 2000. Under section 57A(2A) of the *Stamp Act 1894*, the list price of a motor vehicle on which stamp duty is chargeable is reduced by the amount of sales tax if the applicant for registration is exempt from sales tax. As sales tax is to be abolished from 1 July 2000, section 57A is to be amended to remove the reference to that tax.

The Bill therefore amends the *Stamp Act 1894* to remove references to sales tax in calculating stamp duty under the heading “Application for registration or Application for transfer of registration for a motor vehicle” from 1 July 2000.



### Statutory Insurance Schemes

The introduction of the GST will have a significant, adverse impact on the statutory insurance scheme administered by the Building Services Authority (BSA). GST is payable on insurance premiums.

The current model of collection of insurance premiums, insurance of building work and recovery of insurance claims from those liable, revolves around a system whereby the building contractor's licence card is physically imprinted onto the contract with the consumer. BSA currently uses an agency arrangement whereby local governments collect and remit premiums to the BSA.

The GST legislation will require a Business Activity Statement to be lodged with the ATO by the 21<sup>st</sup> day of the following month and account for all transactions in the month. As agents are viewed as an arm of their principal, the BSA would have responsibility for accounting for premiums collected by its local government agents.

In its GST implementation strategy the BSA determined that an improved system of remittances (that is direct collection by the BSA) would be needed to assist compliance and cash flow management issues arising from the introduction of the GST.

The proposed collection system will assist in removing timing lags between collection and remittance of insurance premiums to the BSA. BSA's monthly insurance GST liability is estimated at around \$130,000 based on receipt of 4,500 premiums.

To introduce the new collection method amendments are required to the Queensland Building Services Authority Act 1991, Queensland Building Services Authority Regulation 1992 and *Domestic Building Contracts Act 2000* to remove references to licence imprinting and provision of contract copies to the BSA.

The *Queensland Building Services Authority Act 1991* will also require amendment to maintain the integrity of the licensing system through the use of a PIN, which mirrors the safeguards offered by the current system of licence imprinting.

The legislative amendments would need to become effective from 1 July 2000 to meet the requirements of the GST legislation and to assist in preventing taxation compliance problems and cash flow difficulties for the BSA.

**Alternatives to the Bill**

The GST will be implemented on 1 July 2000, and Queensland must make the necessary legislative changes to ensure the State meets its obligations and provides an effective legislative framework for a post-GST environment. In addition, Queensland is obliged under the IGA to take certain legislative actions.

Further, the proposed legislative amendments will ensure that the Queensland Government is able to maintain a revenue neutral position by ensuring that fees and charges set in legislation are increased to incorporate any applicable GST. Such amendments will enable agencies to remit their GST payments to the ATO without adverse impact on their revenue position and a subsequent leakage of funds from the State.

**Estimated Cost of Implementation**

The amendments contained within this Bill will not impose any additional costs, except for the two areas below.

**Voluntary Payments Regime**

The costs to Government of implementing these legislative changes for the VPR will be administrative in nature and will not be significant. Costs will be met from within existing budgetary allocations.

**Statutory Insurance Premiums**

A financial evaluation of the proposed change to the method of collecting statutory insurance premiums has been undertaken. It is estimated the changes will cost approximately \$750,000 to implement. This cost will be borne by the Statutory Insurance Fund. This expenditure will be offset over time through the reduction in fees paid to local governments from an agency fee of \$10 per transaction to a sighting fee of \$2 per transaction.

It is estimated the improved cashflow from this immediate collection method will produce \$50,000 interest per annum additional to that currently received. The total interest earnings differential between the current and proposed collection methods would become more pronounced under the GST as late collections from local governments would result in BSA funds on deposit being used to meet GST obligations, rather than accruing interest.

## **Consistency with Fundamental Legislative Principles**

*The amendments to the Queensland Building Services Authority Act 1991* do not reverse the onus of proof in criminal proceedings. The proceedings in which BSA would rely upon such a reversal would be civil matters, conducted in either the Queensland Building Tribunal or Magistrates Court. A disciplinary matter under these provisions may result in the handing down of a financial penalty of not more than 80 penalty units.

BSA considers that a licensed contractor's obligation to properly keep and adequately protect their personal identification number, or any other licensing identification device, is an integral element of the scheme for achieving quick and effective insurance cover and that such a position is justifiable in the circumstances.

The reversal of proof was first instituted in amendments to the *Queensland Building Services Authority Act 1991* in 1994 and the proposed amendments will have no greater impact than those provisions already in operation.

No other fundamental legislative principles have been impinged upon. Care has been taken in the drafting of the Bill to ensure that no aspects of the Bill infringe upon fundamental legislative principles.

## **Consultation**

Relevant stakeholders were consulted. Outcomes on specific issues of consultation are provided below.

### Voluntary payments regime

A comprehensive explanation of the nature and purpose of the proposed amendments was provided to the Aboriginal Co-ordinating Council, Island Co-ordinating Council and each of the 32 Aboriginal and Island councils. Each was asked to comment on the proposed amendments if they so chose.

The Aboriginal Co-ordinating Council advised that it supports the proposed amendments in principle. No other comments were received by the expiration of the nominated deadline. The Queensland Audit Office has advised that it supports the proposed amendments.

Consultation has been carried out with key stakeholder groups including the Local Government Association of Queensland, the Brisbane City Council and the Queensland Audit Office.

### Statutory Insurance Premiums

The amendments have been considered and endorsed by the Queensland Building Services Board (the Board) and the Policy Committee of the Board, comprising representatives of industry associations, consumers, the accounting professions, building and construction unions and the public sector.

The Workforce Strategy Unit has been consulted in relation to the Employment Impact Statement. The Board, industry associations, local governments, Building Certifiers and individual building contractors are strongly supportive of the insurance amendments.

### Fuel Subsidy

Consultation with the fuel industry is under way and will be expanded to cover fuel consumers subsequent to the introduction of the Bill.

## **NOTES ON PROVISIONS**

### **PART 1—PRELIMINARY**

*Clause 1* sets out the short title of the Act.

*Clause 2* specifies the commencement dates for the Bill. Section 29 and Schedule 3 commence on assent to the extent they amend the *Acts Interpretation Act 1954*. Schedule 3, amendment of the *Queensland Building Services Authority Act 1991*, items 14 and 15 commence immediately after the commencement of section 39 of the *Queensland Building Services Authority Amendment Act 1999*. Schedule 3, amendment of the *Stamp Act 1894* items 5 to 7 commence on a date to be proclaimed.

*Clause 3* contains definitions for terms included in the Act.

## **PART 2—INTERGOVERNMENTAL AGREEMENT**

*Clause 4* states that a copy of the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations is set out in schedule 1 and provides that it is the intention of the State to comply with, and give effect to, the agreement.

## **PART 3—PAYMENT OF GST EQUIVALENTS BY STATE ENTITIES**

*Clause 5* creates a voluntary GST equivalents payments regime for State entities whereby State entities are to pay to the Commissioner of Taxation amounts representing the GST that would have been payable if the imposition of that GST were not prevented by section 114 of the Commonwealth Constitution. In addition, State entities may pay amounts representing the GST payable if section 5 of each of the GST imposition Acts (defined in s 3 of the Bill) had not been enacted. Section 5 of each of the GST imposition Acts states that the relevant acts do not impose a tax on property of any kind belonging to a State. In addition, clause 5(b) states that a State entity may do anything that it would be necessary or expedient for it to do if it were liable for that GST.

*Clause 6* provides that the Treasurer may give directions to State entities to make payments under section 5 or do anything else a State entity is authorised by section 5 to do. Clause 6 also provides that a State entity must comply with the directions despite any other Act.

## **PART 4—AMENDMENT OF FUEL SUBSIDY ACT 1997**

*Clause 7* provides that Part 4 and schedule 2 amend the *Fuel Subsidy Act 1997*.

*Clause 8* omits the preamble as it is no longer relevant with the abolition of the Commonwealth fuel surcharge.

*Clause 9* amends the definition of bulk end user consequent upon the abolition of the off-road diesel consumer scheme. If a person uses diesel, the person may be a bulk end user only to the extent that the diesel is used to propel a diesel engine road vehicle on a public road. For instance, a person who is currently eligible as an off-road diesel consumer, or who is eligible for a subsidy under another States' legislation in similar circumstances as an off-road diesel consumer, will not be a bulk end user.

*Clause 10* omits section 5, definition of off-road diesel consumer.

*Clause 11* omits chapter 2, dealing with off-road diesel consumer licences and subsidies, so that there will be no entitlement to a subsidy as an off-road diesel consumer for diesel purchased on and from 1 July 2000.

*Clause 12* omits section 42 consequent upon the termination of the Commonwealth safety net arrangements.

*Clause 13* inserts section 43A, which prohibits a retailer, who has received the benefit of a subsidy when purchasing fuel, from recovering the part of the sale price equal to that subsidy when selling fuel to a retail consumer. That is, a retailer must reduce the sale price payable by a retail consumer to fully reflect the subsidy entitlement that arose for the retailer on the purchase of the fuel by the retailer.

*Clause 14* amends section 46 to ensure that subsidy benefits are appropriately received by licensees.

*Clause 15* amends section 68 to require a person selling fuel under a net sale to a retailer to keep records showing the basis for calculating the sale price of the fuel.

*Clause 16* replaces section 69 to require a retailer to keep records in relation to sales and purchases of fuel, including records showing the basis for calculating the sale price of the fuel.

*Clause 17* omits section 72 consequent upon the termination of the Commonwealth safety net arrangements.

*Clause 18* amends section 76 to ensure that subsidy benefits are appropriately received by licensees.

*Clause 19* amends section 82(2)(a) to clarify the circumstances in which an applicant may be granted a licence as a bulk end user.

*Clause 20* amends section 85 to provide that a bulk end user's licence is subject to a condition regarding the use of diesel purchased under the licence.

*Clause 21* amends section 104(2)(f) to require a person selling fuel under a net sale to a bulk end user to keep records showing the basis for calculating the sale price of the fuel.

*Clause 22* omits section 108 consequent upon the termination of the Commonwealth safety net arrangements.

*Clause 23* amends section 166(b)(iii) to require repayment of the subsidy amount where a purchaser of fuel uses that fuel for a purpose that is not required or permitted under the *Fuel Subsidy Act 1997*.

*Clause 24* omits section 167A. Section 210 makes provision for transitional arrangements for the repayment of subsidies.

*Clause 25* ensures that a subsidy is not payable unless the Commissioner is satisfied that the claimant is properly entitled to the subsidy.

*Clause 26* inserts section 195A which facilitates renumbering of the *Fuel Subsidy Act 1997*, which will be necessary on the omission of chapter 2 and related provisions.

*Clause 27* omits chapter 8, part 2. As a result, the transitional arrangements for purchasing subsidised diesel as an off-road diesel consumer will cease. However, there will be no obligation to repay any subsidy received under the transitional arrangements merely because of the omission of this part.

*Clause 28* inserts section 210, which requires repayment where a person receives an amount in respect of the surcharge other than under the *Fuel Subsidy Act 1997* or a corresponding law, the fuel was purchased under a net sale before 1 July 2000 and the reimbursement is received on or after 1 July 2000.

*Clause 28* also inserts section 211 which ensures that, in relation to a person who was formerly an off-road diesel consumer and a person who sold diesel to an off-road diesel consumer before 1 July 2000, any obligations which would have applied to those persons if chapter 2 had not been repealed on 1 July 2000 continue. For instance, if a person who was an off-road diesel consumer does not continue to keep records as required under section 40 as it was in force immediately before 1 July 2000, that person will commit an offence under section 40(1).

## **PART 5—AMENDMENT OF OTHER ACTS**

*Clause 29* states that schedule 3 amends the Acts mentioned in it.

### **SCHEDULE 1**

Schedule 1 contains the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations.

### **SCHEDULE 2**

Items 1 to 15 of schedule 2, make consequential amendments to ensure the proper operation of the *Fuel Subsidy Act 1997* on and from 1 July 2000.

### **SCHEDULE 3**

## **AMENDMENT OF ACTS**

Schedule 3 contains amendments to the Acts outlined below.

### **ACTS INTERPRETATION ACT 1954**

*Item 1* amends section 36 by inserting new definitions of “GST”, “payable” and “supply” to facilitate the interpretation and construction of references to GST and associated terms where used in Queensland legislation.



## **AGRICULTURAL CHEMICALS DISTRIBUTION CONTROL ACT 1966**

*Item 1* amends s25(3)(a). The previous wording “an amount of \$30,000 at the least” is replaced with “a minimum amount of \$33,000”. The use of the words “minimum amount” reflects current drafting practice and indicates that a higher insurance amount can be sought if desirable by the owner of the aircraft or ground equipment. The previous amount of \$30,000 has been increased to \$33,000 to minimise any potential GST impact on the insured amount.

*Item 2* amends section 25(3)(b). The previous wording, “an amount to be prescribed at the least” is replaced with “a minimum amount prescribed under a regulation”. This amendment reflects current drafting practice and maintains consistency with amendments under item 1.

## **ALCAN QUEENSLAND PTY. LIMITED AGREEMENT ACT 1965**

*Item 1* inserts a new section 4A which allows for GST to be added to any rental payable under this Act after 30 June 2005. The transitional provisions of the GST legislation provide that GST does not have to be paid on a taxable supply pursuant to a non-reviewable agreement entered into prior to 8 July 1999, until such time as the agreement becomes reviewable, or 30 June 2005, whichever is the first to occur. To the extent that any fixed rental extends beyond 30 June 2005, it is necessary to ensure that GST may be recovered in order to protect the level of State revenue.

## **ANZAC DAY ACT 1995**

*Item 1* renumbers section 13(8) as section 13(9).

*Item 2* inserts subsection (8) into section 13 of the *Anzac Day Act 1995* which provides that the State must pay an annual grant to the Anzac Day Trust. Subsection (7A) specifies a formula for determining the amount of the annual grant.

The intention of the amendment is to ensure that the Trust is not disadvantaged by the imposition of the GST. The amendment ensures that the grant paid by the State to the Anzac Day Trust will be increased by any GST the Trust has to pay on the grant.

## **ASSISTED STUDENTS (ENFORCEMENT OF OBLIGATIONS) ACT 1951**

*Item 1* inserts section 5(2B) to allow GST to be included (where required) in the amount of damages.

*Item 2* inserts section 9(2A) to allow GST to be included (where required) for the assignment of a debt to a third party or where money accrues from the third party to a student.

*Item 3* omits part of the existing section 9(3A)(a) and inserts new wording to cover a scenario omitted from the original section.

## **AURUKUN ASSOCIATES AGREEMENT ACT 1975**

*Item 1* inserts a new section 4A which allows for GST to be added to any rental payable under this Act after 30 June 2005. The transitional provisions of the GST legislation provide that GST does not have to be paid on a taxable supply pursuant to a non-reviewable agreement entered into prior to 8 July 1999, until such time as the agreement becomes reviewable, or 30 June 2005, whichever is the first to occur. To the extent that any fixed rental extends beyond 30 June 2005, it is necessary to ensure that GST may be recovered in order to protect the level of State revenue.

## **BURIALS ASSISTANCE ACT 1965**

*Item 1* amends section 4(3) to clarify that moneys recovered by the chief executive under subsection (2) and paid to the Consolidated Fund excludes any GST payable for a supply made by the chief executive relating to the expenses (payment of funeral or cremation costs).

## **CASINO CONTROL ACT 1982**

*Item 1* amends section 51(3) to allow for a deduction of the global GST amount relating to casino taxes.

*Item 2* amends section 51(7) to allow for a deduction of the global GST amount relating to casino taxes.

## **CENTRAL QUEENSLAND COAL ASSOCIATES AGREEMENT ACT 1968**

*Item 1* inserts a new section 4A which allows for GST to be added to any rental payable under this Act after 30 June 2005. The transitional provisions of the GST legislation provide that GST does not have to be paid on a taxable supply pursuant to a non-reviewable agreement entered into prior to 8 July 1999, until such time as the agreement becomes reviewable, or 30 June 2005, whichever is the first to occur. To the extent that any fixed rental extends beyond 30 June 2005, it is necessary to ensure that GST may be recovered in order to protect the level of State revenue.

## **CITY OF BRISBANE ACT 1924**

*Item 1* amends section 3(1) to provide a definition of “notional GST” to be paid by a council.

*Item 2* amends the Act by inserting section 121A to give the Chief Executive Officer of the Department administering the Act, the power to require the Brisbane City Council to provide written information about the payment of notional GST that may affect the distribution of financial assistance grants under the *Local Government Act 1993*, section 200.

*Item 3* changes the numbering of existing section 127(2)(a) to (e) to section 127(2)(b) to (f).

*Item 4* amends s127 by inserting section 127(2)(a), to provide that the power to make regulations about financial management includes regulations about the Brisbane City Council providing information on the payment of notional GST that may affect the distribution of financial assistance grants under the *Local Government Act 1993*, section 200.

The intent of the provision is to enable a regulation to be made to require the council to certify that the council has paid the required amount of notional GST.

## **COMMONWEALTH ALUMINIUM CORPORATION PTY. LIMITED AGREEMENT ACT 1957**

*Item 1* inserts a new section 4A which allows for GST to be added to any rental payable under this Act after 30 June 2005. The transitional provisions of the GST legislation provide that GST does not have to be paid on a taxable supply pursuant to a non-reviewable agreement entered into prior to 8 July 1999, until such time as the agreement becomes reviewable, or 30 June 2005, whichever is the first to occur. To the extent that any fixed rental extends beyond 30 June 2005, it is necessary to ensure that GST may be recovered in order to protect the level of State revenue.

## **COMMUNITY SERVICES (ABORIGINES) ACT 1984**

*Item 1* amends section 6 to include the definition of ‘notional GST’, a term which is used in following amendments instead of the term ‘voluntary GST equivalent’ in the interest of clarity.

*Item 2* renumbers section 27B(1)(c) as section 27B(1)(d).

*Item 3* inserts section 27B(1)(c) to provide for the Minister to make an accounting standard requiring an Aboriginal council to provide an annual certification to the Minister about notional GST payments.

*Item 4* inserts section 35 to provide for the Director-General of the Department to require an Aboriginal council to provide information to the State Government relating to notional GST payments (GST VPR compliance) only.

## **COMMUNITY SERVICES (TORRES STRAIT) ACT 1984**

*Item 1* amends section 6 to include the definition of ‘notional GST’, a term which is used in the following amendments instead of the term ‘voluntary GST equivalent’ in the interest of clarity.

*Item 2* renumbers section 25B(1)(c) as section 25B(1)(d).

*Item 3* inserts section 25B(1)(c) to provide for the Minister to make an accounting standard requiring an Island council to provide an annual certification to the Minister about notional GST payments.

*Item 4* inserts section 33 to provide for the Director-General of the Department to require an Island council to provide information to the State Government relating to notional GST payments (GST VPR compliance) only.

## **DISPOSAL OF UNCOLLECTED GOODS ACT 1967**

*Item 1* amends section 6(1)(c) to specify the sum of \$110 as the amount that can be claimed by a bailee for the bailee’s charges when goods are sold. This will ensure that the rights given by the section are not eroded by GST.

*Item 2* amends section 11(6) to specify that a bailee must have a written order for repair of goods if the amount of charges exceeds \$110. This amount has been increased to ensure that the rights given by the section are not eroded by GST.

## **DOMESTIC BUILDING CONTRACTS ACT 2000**

*Item 1* omits section 20(2).

*Item 2* omits section 29(2)(b).

*Item 3* renumbers section 29(2)(c) and (d) as section 29(2)(b) and (c).

*Item 4* amends the renumbered section 29(2)(c) to replace the reference to paragraph (d) with paragraph (c).

*Item 5* omits section 31 due to the abolition of the requirement to imprint contracts.

*Item 6* omits sections 37 and 38 due to the abolition of the requirement to imprint contracts.

*Item 7* amends schedule 2 to omit the definitions of contract summary schedule and imprinted copy as they were only used in sections 31, 37 and 38 which have been omitted.

*Item 8* amends the definition of regulated amount in schedule 2 so that it means the amount, above \$3300, prescribed under a regulation. The amendment is made to retain the intended value of "regulated amount" following the introduction of the GST

### **EDUCATION (CAPITAL ASSISTANCE) ACT 1993**

*Items 1 and 2* amend section 26 by inserting a new subsection 2A which provides that an amount paid under the Interest Assistance to Non-State Schools Scheme or the Capital Assistance Scheme pursuant to subsection (2) may be increased to account for GST applicable to the payment.

### **EDUCATION (WORK EXPERIENCE) ACT 1996**

*Item 1* amends section 9(2) which currently provides that the maximum amount payable under a contract of insurance for a claim for injury or damage arising out of work experiences is \$5,000,000. Item 1 amends the subsection to allow for this amount to be exceeded to account for any GST applicable to the settlement of the claim.

### **ELECTRICITY ACT 1994**

*Item 1* inserts section 51AA which applies if there are notified prices under section 90, the notification includes a GST statement and the retail entity provides customer retail services to non-contestable customers under its standard customer sale contract and charges the customer the notified prices.

The section provides that if the Minister has notified prices that exclude GST or exclude a net GST effect (as stated in the gazette notice), the retail entity may, in addition to the notified prices that the retailer must charge for the provision of customer retail services to its non-contestable customers, charge either an amount for GST or, where relevant, for the net GST effect. The section also provides that the customer must pay this additional amount.

Subsection (6) of section 51AA provides that subsections (1) - (5) are taken to be terms of the retail entity's standard customer sale contract.

*Item 2* amends section 90 to allow the Minister to decide whether the prices notified under section 90(1) exclude GST, or exclude the net effect of GST and related matters on the prices (known as the "net GST effect").

If the pricing decision under section 90(1) excludes GST or the net GST effect, the Minister must include a statement about this in the gazette notice (a "GST statement") and must, if applicable, state what the net GST effect is or how it is to be worked out.

A pricing or GST related decision by the Minister under section 90 cannot be appealed under the Act. This is unchanged from the previous application of section 90 and preserves the certainty of the Minister's decisions as the electricity industry's economic regulator under the Act.

*Item 3* replaces section 91 with the new sections 91 and 91A. The new section 91 applies where there are notified prices, the price notification includes a statement about GST and the entity charges the notified prices.

The section provides that a retail entity may charge, for provision of customer retail services to its non-contestable customers, either the GST or a net GST amount (as decided by the Minister and set out in the GST statement), in addition to the price notified by the Minister under section 90(1).

The Minister also has the power to direct a retail entity to charge the relevant amount. This power is consistent with the Minister's role as economic regulator under the Act.

The new section 91A provides that the retail entities must charge the notified prices. It also provides that where the Minister has directed a retail entity to charge either GST or the net GST effect, the retailer must also charge that amount.

There is a penalty of 500 penalty units for non-compliance with this section. The penalty level is the same as the previous penalty under former section 91. The maximum penalty is proportionate to the gravity of the offence.

*Items 4, 5 and 6* are minor consequential amendments for consistency with section 92.

*Item 7* inserts new definitions into schedule 5 of the Act.

## **FAIR TRADING ACT 1989**

*Item 1* amends section 6(2)(b) to provide that the price of goods, services or interest involved is \$40,000 after discounting for any GST that may have been payable, ie GST exclusive.

Currently under section 6(2)(b) a consumer will only come within the definition if the price of the goods or services is not more than \$40,000. If the amount of \$40,000 were to be inclusive of GST after 1 July 2000, this would effectively reduce the number of consumers who would have otherwise had a claim under the legislation prior to the introduction of GST. The amendment will ensure that the introduction of GST does not erode consumer rights.

*Item 2* amends section 68(3) to specify that the value of the goods is to include an amount for GST payable on any supply relating to the payment of compensation.

*Item 3* amends section 68(4) so that GST is included in any payment relating to the value of the goods as at the date of supply if restitution is not possible.

## **FINANCIAL ADMINISTRATION AND AUDIT ACT 1977**

*Item 1* amends section 9 to provide for a standing appropriation of controlled receipts. Controlled receipts for the purposes of section 9 will not include those amounts referred to in paragraph (i) of the definition of controlled receipts in section 4(2). The effect of this provision will be that departments are able to retain controlled receipts in their departmental financial institution account.



*Items 2 and 3* amend sections 38 and 38A to clarify that the reporting obligations for the quarterly statements do not extend to controlled receipts. A new subsection (1A) has been inserted which provides that the quarterly statements prepared under section 38 and 38A must not include a controlled receipt appropriated from the Consolidated Fund under section 9. If an amount should otherwise be included in the quarterly statements eg the amounts referred to in paragraph (i) of the definition of controlled receipts in section 4(2), or controlled receipts used to fund an equity withdrawal; these amounts should be included in all quarterly statements.

The effect of this will be that, generally speaking, controlled receipts are captured only in the AAS 29 and 31 financial statements for the Consolidated Fund prepared under section 38B.

The policy intent behind these amendments is that the non-commercial activities of government are intended to be outside the scope of GST. For example, appropriations of general government activities will not be taxable, nor will grants from one level of government to another, as neither constitutes consideration for a supply.

## **FUNERAL BENEFIT BUSINESS ACT 1982**

*Item 1* amends section 32 to provide that the limit on the amount of benefit prescribed is after discounting for the amount of GST that may be payable on any supply.

Section 32 limits the amount of a benefit that can be paid on the death of the contributor to a specified amount. If the amount of the benefit to be paid were inclusive of GST, this would effectively reduce the benefit paid on the death of the contributor. This amendment will ensure that the introduction of GST does not erode consumer rights that previously existed.

*Item 2* amends section 56(4)(b) to allow for any GST liability that arises in relation to the vesting of property or the winding up of the business to be paid out of the property of the business.

Section 56 relates to the winding up of a funeral benefit business and section 56(4) sets out the process that applies to property, powers, authorities, immunities, rights, obligations and duties of the business in a winding up. Section 56(4)(b) specifies the duties of the registrar with respect to realisation of property and payment of debts, obligations and contributors.

## **GRAMMAR SCHOOLS ACT 1975**

*Item 1* amends section 6 of the Act. Subsection 1 currently provides where a sum of \$100,000 or more has been raised for the purpose of establishing a public grammar school, the Governor in Council may direct that a corresponding sum not exceeding twice the amount so raised, may be paid to the relevant board of trustees. Item 1 inserts a new subsection 1AA which provides that an amount paid under such a direction may exceed twice the amount of the sum raised to account for any GST applicable to the payment.

*Items 2 and 3* amend section 6(1A) of the Act. The effect of these items is to clarify that a sum paid out pursuant to a direction by the Governor in Council under subsection 1 may be applied, inter alia, to the payment of GST.

## **HIRE PURCHASE ACT 1959**

*Item 1* amends section 34(2)(a) to provide that the commission payable is after discounting for the amount of GST that may be payable on any supply that the commission relates to and effectively will allow for the payment of GST in setting the amount of the commission. The owner will still be able to receive the commission free of GST.

## **INTERACTIVE GAMBLING (PLAYER PROTECTION) ACT 1998**

*Item 1* amends section 113(1) to clarify its meaning.

## **KENO ACT 1996**

*Items 1 to 4* amend section 110(1), 110(3), 111(1) and Schedule 4 to allow for a deduction of the global GST amount relating to Keno taxes.

## **LAND ACT 1994**

*Item 1* inserts section 448A to facilitate the charging of GST on lease rentals where required by the GST legislation. Item 1 also inserts section 448B to provide that, where appropriate, GST is to be added to fixed price purchase options currently in existence in some land leases. These leases provide the lessee with the option to freehold the leased land at a predetermined purchase price. Such options do not allow for GST to be added to the preset price.

## **LOCAL GOVERNMENT ACT 1993**

*Item 1* amends section 3 to provide a definition of “notional GST” to be paid by a council.

*Item 2* amends section 200 by inserting section 200(2), to give the Minister the power to withhold unpaid notional GST amounts from financial assistance grants to councils.

*Item 3* renumbers section 502(1)(c) to (h) to section 502(1)(d) to (i).

*Item 4* amends section 502 by inserting a new section 502(1)(c), to provide that the power to make regulations includes regulations about local governments providing information on notional GST that may affect the distribution of financial assistance grants under section 200.

The intent of the provisions is to enable a regulation to be made to require the council to certify that the council has paid the required amount of notional GST.

## **MINERAL RESOURCES ACT 1989**

*Item 1* inserts a new section 290A which allows for GST to be added to any rental payable under this Act after 30 June 2005 for leases issued under the previous *Mining Act* or other Acts that became leases under the *Mineral Resources Act 1989*. The transitional provisions of the GST legislation provide that GST does not have to be paid on a taxable supply pursuant to a non-reviewable agreement entered into prior to 8 July 1999, until such time

as the agreement becomes reviewable, or 30 June 2005, whichever is the first to occur. To the extent that any fixed rental extends beyond 30 June 2005, it is necessary to ensure that GST may be recovered in order to protect the level of State revenue.

## **MOBILE HOMES ACT 1989**

*Item 1* amends section 8 by inserting a new subsection (5) which provides that subsection (4) will not prevent an owner charging GST that may be payable on the supply of either or both the sale or attempted sale or the service supplied by the owner in respect of the sale or attempted sale. This will effectively allow an owner of a mobile home site to include GST, in addition to the fee specified in the regulation.

## **MOTOR VEHICLES SECURITIES ACT 1986**

*Item 1* amends section 28(4) which limits the amount of compensation payable to the holder of a security interest when the interest is extinguished to either the amount of the debt or the value of any other obligation secured by the security interest of the value of the motor vehicle, whichever is less. This amendment provides that compensation is assessed after discounting for any GST payable on any supply relating to the payment of the compensation.

## **MOUNT ISA MINES LIMITED AGREEMENT ACT 1985**

*Item 1* inserts a new section 5 that allows for GST to be added to any rental payable under this Act after 30 June 2005. The transitional provisions of the GST legislation provide that GST does not have to be paid on a taxable supply pursuant to a non-reviewable agreement entered into prior to 8 July 1999, until such time as the agreement becomes reviewable, or 30 June 2005, whichever is the first to occur. To the extent that any fixed rental extends beyond 30 June 2005, it is necessary to ensure that GST may be recovered in order to protect the level of State revenue.

## **PAY-ROLL TAX ACT 1971**

*Item 1* inserts new subsections 3B(6) and (7) which require that the amount or value of wages as defined in the *Pay-roll Tax Act 1971* be reduced by the relevant proportion of any GST paid or payable on the supply to which the wages relate.

## **PETROLEUM ACT 1923**

*Item 1* inserts a new section 46A which allows for GST to be added to any rental payable under this Act from one of two dates which depend on the date that the petroleum lease was granted. The transitional provisions of the GST legislation provide that GST does not have to be paid on a taxable supply pursuant to a non-reviewable agreement entered into prior to 8 July 1999, until such time as the agreement becomes reviewable, or 30 June 2005, whichever is the first to occur. To the extent that any fixed rental extends beyond 30 June 2005, it is necessary to ensure that GST may be recovered in order to protect the level of State revenue.

However, the first petroleum leases granted after 8 July 1999 were granted on 26 August 1999. By including the reference to the “relevant day”, this item ensures that such tenures will incur GST on their rentals from the beginning of their second year, but avoids the necessity to recover small amounts of GST on leases already granted since 8 July 1999, where the rental has already been paid in advance.

## **PETROLEUM (SUBMERGED LANDS) ACT 1982**

*Item 1* inserts new section 140A which allows for GST to be added to any fee payable under this Act after 30 June 2005. The transitional provisions of the GST legislation provide that GST does not have to be paid on a taxable supply pursuant to a non-reviewable agreement entered into prior to 8 July 1999, until such time as the agreement becomes reviewable, or 30 June 2005, whichever is the first to occur. To the extent that any fixed fee extends beyond 30 June 2005, it is necessary to ensure that GST may be recovered in order to protect the level of State revenue.

**QUEENSLAND BUILDING SERVICES AUTHORITY  
ACT 1991**

*Item 1* amends section 34(2) and (3) to omit the requirement that the card be in a form capable of being used to imprint documents. The card is still required to contain the licensee's name and licence number. The card is also to state the class or classes of licence to which the card relates.

*Item 2* renumbers section 34(4) and (5) as section 34(3) and (4).

*Item 3* inserts section 34A which replaces the requirement to imprint contracts with a system whereby licensees will pay an insurance premium directly to the BSA by any one of a number of means. To provide security and accountability for this payment of premiums, licensees will be issued with a "personal identification number" ("PIN") and will use the PIN to access phone or Internet services. An obligation is placed on licensees issued with a PIN to take all reasonable precautions to ensure the PIN is not misused. These provisions also provide for a penalty for that misuse.

*Items 4 and 5* amend section 51 to make it an offence for a licensed contractor to allow another to improperly use the licensee's PIN or for a person to use a licensee's PIN number. In addition section 51 is amended to make it an offence for a person to use a licensee's PIN to pretend to be the holder of a certain type of licence. The same penalties as currently exist apply in all circumstances.

*Item 6* amends section 51A(2) to provide that a licensed contractor must not carry out or undertake to carry out building work using another licensed contractor's PIN without reasonable excuse. Same penalties as currently exist apply.

*Item 7* amends sections 68(2) to remove technical difficulties with the drafting of these sections. An offence is created for an assessment manager/private certifier who fails to comply with section 68(2). Appropriate penalties apply. Section 68(3) provides that an insurance premium refund is to be made where a premium has been paid for non-residential construction and clarify the operation of the section.

*Item 8* amends section 69(2)(a) to provide that a policy of insurance comes into force where the contract is for residential construction work and it bears the licence number of a licensed contractor who is entitled to enter into such contracts.

*Item 9* renumbers section 71(2)(a)(iii) and (iv) as section 71(2)(a)(viii) and (ix).

*Item 10* inserts section 71(2)(a)(iii) to (vii) to only require the licensed contractor's name. The section as it currently stands does not catch a licensee who states his name, but does not complete his address or licence number. Sections 71(4) and (5) are also amended in light of the above. These provisions provide for appropriate safeguards to be built into the section to prevent misuse or undue hardship due to the operation of section 71(2).

*Item 11* inserts section 71(6) to provide for appropriate safeguards to be built into the section to prevent misuse or undue hardship due to the operation of section 71(2).

*Item 12* amends section 72(5)(b) to only require the licensed contractor's name. The section as it currently stands does not catch a licensee who states his name, but does not complete his address or licence number. Sections 72(12) and (13) are also amended in light of the above. These provisions provide for appropriate safeguards to be built into the section to prevent misuse or undue hardship due to the operation of section 72(5).

*Item 13* inserts section 72(13A) to provide for appropriate safeguards to be built into the section to prevent misuse or undue hardship due to the operation of section 72(5).

*Item 14* inserts section 14 into Schedule 1 to omit any retrospective element or confusion on the part of contractors as to their obligations/liability in relation to recovery actions. The obligations/liability of contractors entering into contracts prior to 1 July 2000 will remain the same, regardless of when any recovery action may be taken. Contracts entered into from 1 July 2000 are amended to account for the changed method of insurance premium collection.

*Item 15* inserts definitions of "insurance notification form" and "PIN" into schedule 2 of the *Queensland Building Services Act 1991*.

## **QUEENSLAND NICKEL AGREEMENT ACT 1970**

*Item 1* inserts a new section 5 which allows for GST to be added to any rental payable under this Act after 30 June 2005. The transitional provisions of the GST legislation provide that GST does not have to be paid on a taxable supply pursuant to a non-reviewable agreement entered into prior to 8 July 1999, until such time as the agreement becomes reviewable, or 30 June 2005, whichever is the first to occur. To the extent that any fixed rental extends beyond 30 June 2005, it is necessary to ensure that GST may be recovered in order to protect the level of State revenue.

## **RACING AND BETTING ACT 1980**

*Item 1* omits Part 4 Division 2 (Section 163) which regulates the levying, payment and collection of the tax. Section 163 of the *Racing and Betting Act 1980* imposes bookmaker's turnover tax at the rate of 1% of all bets made by a bookmaker at a relevant meeting.

The *Racing and Betting Act 1980* imposes tax on a bookmaker's turnover. Bookmaker's turnover tax is to be abolished from 1 July 2000 in order for the State to meet its obligation under the IGA.

## **RESIDENTIAL TENANCIES ACT 1994**

*Item 1* inserts section 147(4) which provide that a lessor may require a tenant to pay, or accept from the tenant, a fee for the sale or attempted sale of a tenant's caravan from the rented caravan site where the lessor conducts the sale or supplies a service in the sale. The lessor's fee is limited by an amount prescribed under the regulations. The amendment will make it clear that in addition to the prescribed fee for the service supplied by the lessor or the conduct of the sale or attempted sale of the caravan by the lessor, the lessor may charge an amount for GST.



## **SECOND-HAND DEALERS AND COLLECTORS ACT 1984**

*Item 1* amends section 44(5) to increase the amount specified to \$55. The section specifies the details that a dealer must enter in the register and specifies that the dealer must not enter particulars of goods with a resale value of less than \$50. By increasing the amount specified to \$55, this ensures that the introduction of GST will not alter the original intent of the legislation.

## **SOUTH BANK CORPORATION ACT 1989**

*Item 1* amends the maximum amount from \$1000 to \$1100 to allow for the GST.

## **STAMP ACT 1894**

*Item 1* amends section 31A(6) to provide that the section does not apply to the transfer made after 30 June 2001 of a quoted security.

*Item 2* inserts section 31BAA which provides that sections 31C, 31E, 31G, 31GA and 31H do not apply to any sale, purchase or transfer made after 30 June 2001 of a quoted marketable security. One consequence of section 31BAA is that section 31D will not apply to any sale or purchase made after 30 June 2001 of a quoted security. This is because section 31D applies only to sales and purchases to which section 31C applies.

*Items 3, 4, 6, 7, 9, and 10* amend sections 31GA, 31J, 31N, 31P and 31V so that a lesser period for the retention of records required to be kept by those sections may be prescribed in respect of transfers before 1 July 2001 of a quoted security.

*Item 5* amends section 31J to exclude from the obligations imposed under section 31J(4) transactions after 30 June 2001 for a quoted security.

*Item 8* amends section 31K to exclude the operation of the CHES provisions to transfers after 30 June 2001 of a quoted security. The operation of section 31X after 30 June 2001 in relation to the transfer of a quoted security is not affected by this amendment if the transfer referred to in section 31X(1)(a) was made before 1 July 2001.

*Item 11* amends paragraph (a) of the definition of “purchase price” in section 32A(1) by allowing deduction of the GST component to ensure that there is no cascading of GST and stamp duty on instalment purchase agreements.

*Item 12* amends paragraph (b) of the definition of “purchase price” in section 32A(1) by allowing deduction of a notional GST component to ensure consistent treatment with other instalment purchase agreements.

*Item 13* inserts a definition of “GST component” for section 32A. The GST component is the GST paid or payable by the vendor on the supply constituted by the agreement. Consequently, if the agreement involves supplies in addition to those referred to in the definition of the relevant type of agreement, the purchase price is reduced only by that part of the GST referable to the supply as defined. Any GST referable to the additional supplies under the agreement is not deductible.

This item also inserts a definition of “notional GST component” for section 32A. This amount is the GST that would have been payable on the notional purchase which is relevant in determining the purchase price for a rental agreement.

*Item 14* amends section 32A(6B)(a) by requiring that the original instrument show also the GST component or notional GST component.

*Item 15* amends sections 35B(1)(a)(xi), 35B(1AA)(b) and 35B(1AB)(b)(ii) to allow deduction of the GST component to ensure that there is no cascading of GST and stamp duty on rental business.

*Item 16* makes a consequential amendment to section 35B(1)(a)(xii) to clarify the amount on which duty is payable for rental business.

*Item 17* amends section 35B(1AC) to insert a definition of “GST component” for section 35B. The GST component is the GST paid or payable by the required person on the supplies mentioned in section 35B(1)(a)(xi). Consequently, any GST referable to other supplies by the rental business is not deductible.

*Item 18* inserts a new subsection 54AC(3A) so that the obligation to prepare and lodge a statement does not apply to a change in beneficial ownership of a quoted security under a transaction or acquisition after 30 June 2001.

*Item 19* amends section 57A(2AB) to omit the reference to “sales tax”.

*Item 20* inserts a new definition of “list price” in Section 57A(2A).

*Item 21* inserts a new exemption 21 under the heading “Conveyance or transfer” for a transfer after 30 June 2001 of a quoted security. The operation of provisions such as sections 49C(4) to (4H) and 49D after 30 June 2001 in relation to the transfer of a quoted security is not affected by exemption 21 if the transfer occurred before 1 July 2001.

*Item 22* amends the dictionary in Schedule 2 to insert a definition of “quoted security”. This item also inserts a definition of “recognised stock exchange” in the dictionary of Schedule 2.

## **THIESS PEABODY COAL PTY. LTD. AGREEMENT ACT 1962**

*Item 1* inserts a new section 4A which allows for GST to be added to any rental payable under this Act after 30 June 2005. The transitional provisions of the GST legislation provide that GST does not have to be paid on a taxable supply pursuant to a non-reviewable agreement entered into prior to 8 July 1999, until such time as the agreement becomes reviewable, or 30 June 2005, whichever is the first to occur. To the extent that any fixed rental extends beyond 30 June 2005, it is necessary to ensure that GST may be recovered in order to protect the level of State revenue.

## **TRUSTEE COMPANIES ACT 1968**

*Item 1* amends section 41(1) to enable the commission chargeable by a trustee company to take account of any GST payable on any supply the commission relates to.

*Item 2* omits the existing section 41(5) and inserts new subsections (5) and (5A) to enable the commission chargeable by a trustee company to take account of any GST payable on any supply the commission relates to.

*Item 3* amends section 41(6) by omitting the opening words of the section and inserting language that accords with current drafting standards and style.

*Item 4* amends section 45(1)(b) to enable the commission chargeable by a trustee company to take account of any GST payable on any supply the commission relates to.

*Item 5* amends section 45(1)(c) to enable the commission chargeable by a trustee company to take account of any GST payable on any supply the commission relates to.

*Item 6* inserts a new section 45A which is an explanatory provision to remove any doubt about the implications of GST in relation to commission or fees chargeable by a trustee company under the Act.

## **VOCATIONAL EDUCATION AND TRAINING (INDUSTRY PLACEMENT) ACT 1999**

*Item 1* amends section 20(2) to provide that when determining whether a payment exceeds the maximum limit of \$2,000,000 one must deduct any GST from the payment.

## **WAGERING ACT 1998**

*Item 1* renumbers section 166(1) to (3) as section 166(2) to (4).

*Items 2 and 3* amend section 166 to provide for how the wagering tax payable is determined.

*Item 4* inserts a new subsection (5) in section 166 to allow for a deduction of the global GST amount relating to wagering taxes.

**WORKPLACE HEALTH AND SAFETY ACT 1995**

*Item 1* amends the definition of building work in schedule 3 to ensure that applicable GST is disregarded when one determines if the estimated final price exceeds \$40,000.00 or a greater amount prescribed by legislation.

*Item 2* amends the definition of civil construction work in schedule 3 to ensure that applicable GST is disregarded when one determines if the estimated final price exceeds \$40,000.00 or a greater amount prescribed by legislation.