

REVENUE LAWS AMENDMENT BILL 2000

EXPLANATORY NOTES

GENERAL OUTLINE

Policy Objectives

To amend the *Land Tax Act 1915* to make a minor cross-referencing amendment.

To amend the *Pay-roll Tax Act 1971*:

- to provide an exemption for wages paid to apprentices and trainees; and
- to ensure that the anti-avoidance provisions of Part IVA relating to grouping apply appropriately to trusts.

To amend the *Stamp Act 1894*:

- to ensure that late lodgment penalties apply where there is a failure to lodge documents for stamping;
- to confirm valuers' rights of access to property;
- to empower the Commissioner in certain cases to calculate the taxable amount for the purposes of credit and rental business duty;
- to allow the Commissioner to use valuation evidence although it may not have been tendered to the Commissioner;
- to establish the liability to duty of acquisitions of water entitlements under the *Water Act 2000*;
- to address avoidance opportunities and to clarify the operation of an anti-avoidance provision;
- to allow Queensland Transport to refund motor vehicle registration stamp duty and to pay stamp duty collected directly to the Commissioner; and

- to provide exemptions from duty for the appointment or removal of custodians of registered managed investment schemes.

Reasons for the Bill

The amendments to the *Pay-roll Tax Act 1971* are required:

- to ensure there is no pay-roll tax payable by employers engaging apprentices and trainees under apprenticeships and traineeships respectively; and
- to ensure that the grouping provisions of Part IVA apply appropriately to trusts.

The amendments to the *Stamp Act 1894* are required:

- to ensure that penalties may be imposed where default assessments are made due to failure to properly lodge documents for assessment of duty and on the same basis as where documents are lodged late;
- to clarify the Commissioner's power to use valuation evidence regardless of whether or not it was tendered by the taxpayer and to ensure that valuers have access to property when accompanied by an investigating officer;
- to provide a mechanism for determining the taxable amount to which credit or rental business duty applies where it is not reasonably practicable to precisely calculate the amount;
- to clarify how duty applies to the grant of water entitlements under the *Water Act 2000*, given that the entitlements may be dealt with separately from land, and to ensure that duty applies consistently regardless of the means of acquisition;
- to protect the revenue base by addressing various stamp duty avoidance opportunities in relation to the land rich corporation provisions, unit trust provisions and corporate trustee shareholding provisions;
- to clarify that the anti-avoidance provision imposing lease duty on certain licences of real property applies also where the licence relates to both a building and the surrounding land; and

- to provide new exemptions for transactions involving the appointment or removal of custodians of registered managed investment schemes to provide greater flexibility for these schemes in relation to the structuring of their property transactions.

Achievement of Objectives

Land Tax Act 1915

Section 26D(3) of the *Land Tax Act 1915* is to be amended to correct a cross-reference to section 26D(2).

Pay-roll Tax Act 1971

Wages paid by employers to apprentices and trainees

To encourage employment, a rebate of pay-roll tax is currently available to employers who engage apprentices and trainees. However, under the previous method of calculating the rebate there could be a residual pay-roll tax liability for some employers in relation to the employment of apprentices and trainees.

To address this, the 1999-2000 State Budget provided that the method for calculating the rebates would be amended from 1 July 1999 to ensure that employers face no payroll tax liability when hiring apprentices or trainees. However, under this arrangement, employers are required to pay the relevant pay-roll tax during the financial year and then claim a rebate for the tax attributable to apprentice and trainee wages.

To improve arrangements for employers, the *Pay-roll Tax Act 1971* is to be amended to exclude from taxable wages those wages paid on and from 1 July 2000 to apprentices/trainees as such under the *Vocational Education, Training and Employment Act 1991*, and from 28 September 2000, under the *Training and Employment Act 2000*, during the person's apprenticeship/traineeship.

Grouping of Trusts

Pay-roll tax applies where taxable wages exceed the statutory exemption threshold of \$850,000. Where wages exceed the threshold, a reducing deduction is allowable. The deduction cuts out where total wages exceed \$3.4 million.

To prevent taxpayers avoiding pay-roll tax by splitting their pay-roll among a number of entities to obtain multiple exemption thresholds or deductions, grouping provisions apply. These provisions operate to restrict the grouped entities to one application of the exemption threshold or deduction. The circumstances where entities will be grouped are described in the legislation and a discretion is conferred on the Commissioner to exclude an entity from a group in certain circumstances.

Under the legislation, trustees are generally liable for pay-roll tax in their capacity of trustees and therefore may be entitled to the benefit of the statutory exemption or deduction as the case may be. Further, the trust wages are treated separately and distinctly from other wages. However, that general rule in section 42(1) is subject to the operation of the grouping provisions relating to trusts; section 42(2). For certainty, the *Pay-roll Tax Act 1971* will be amended to ensure that the grouping provisions apply appropriately to trusts and despite section 42(1).

Stamp Act 1894

Late Lodgement Penalties

Under the Act, taxpayers are required to lodge instruments for assessment of duty within a certain time of execution of the instrument. To encourage voluntary compliance, the Commissioner is empowered to impose late lodgement penalties where an instrument is lodged late.

There are also circumstances where there is a complete failure to lodge instruments as required, including where instruments required to be created are not brought into existence. To ensure that taxpayers cannot avoid liability for payment merely by failing to lodge dutiable instruments, section 22A empowers the Commissioner to issue a default assessment of duty. In these cases, the duty assessed is deemed to be the duty payable on the instrument.

Section 22A is to be amended to ensure that penalties for late lodgement may be imposed where the Commissioner makes a default assessment of duty, including where instruments are not brought into existence as required. The period to which the penalties will apply will run from the due date for lodgement of the instrument until the assessment is made.

Valuations

Sections 51C and 56FC provide that the Commissioner may accept a valuation tendered by or on behalf of any party. This provision is necessary in some cases to enable the value of property to be determined when making an assessment of stamp duty.

These sections are to be amended to clarify that the Commissioner may use a valuation of property, regardless of the means by which the valuation is obtained by the Commissioner. For example, a valuation may be accessed from a taxpayer's records in the course of an audit.

The Act is also to be amended to confirm that valuers appointed by the Commissioner to carry out property valuations may enter the property with an investigating officer.

Rental Business Duty

Under the rental business provisions of the *Stamp Act 1894*, a taxpayer carrying on rental business is required to lodge a monthly statement of the amount received in relation to the grant of the right to use, or the use of, goods. Duty is imposed on this amount. As there are cases where the taxpayer may receive one amount for the rental of goods and the provision of services, and the amount referable to each element is not specified, precise determination of the taxable amount is not always possible. The *Stamp Act 1894* therefore contemplates apportionment of the amount received by the taxpayer to enable the taxable amount to be determined.

The apportionment provision is to be expanded to permit the Commissioner to determine the amount liable for duty under the rental and credit business provisions where a precise calculation of the taxable amount is not practicable. Duty will then be imposed on the apportioned amount under those provisions.

The Commissioner may require the taxpayer to provide information regarding an appropriate basis for apportioning and may consider information provided by the taxpayer in arriving at the apportioned amount. However, the Commissioner will not be bound by, or limited to, any information provided by the taxpayer.

New water licensing and allocation arrangements

The *Water Resources Act 1989* currently governs water licensing arrangements, with a licence required to be held before activities such as the construction of waterworks and the taking of water may be conducted. Under existing licensing arrangements, a licence is attached to the land and it is only in rare circumstances that the licence may be transferred separately from the land, or that a water allocation may be increased without acquiring further land. As a result, stamp duty usually applies to the transfer of a water licence and may apply to the grant of a licence, depending on the documentation adopted.

The *Water Act 2000* will introduce new water licensing and new water allocation arrangements under which water allocations will be capable of being dealt with separately from the land for the first time. The *Stamp Act 1894* is to be amended so that conveyance stamp duty applies to the acquisition of a water entitlement, whether by grant or transfer and regardless of how the transaction is documented.

The duty will not apply to an initial grant of a water entitlement to the extent that it replaces and substantially represents an entitlement already held under a licence, permit or supply agreement issued under the *Water Resources Act 1989*, or already granted by the State. This includes entitlements under supply agreements entered into by the State (other than those entered into under the *Water Resources Act 1989*) and allocations of water made by Order in Council under the *Water Resources Act 1989*. Existing water entitlement holders will therefore be unaffected by the amendment.

For example, a licence for 20 megalitres of water is issued under the *Water Resources Act 1989* on 1 January 1995 for a term of 10 years. A water entitlement for 20 megalitres for four years is issued on 1 January 2001 under the *Water Act 2000* to replace the licence. In these circumstances, duty will not be payable on the new water entitlement. However, if the new water entitlement had been issued for 30 megalitres for

6 years, the new entitlement would not be taken to substantially represent the existing entitlement and duty would be payable.

Section 56B and 56C

In 1999, the prescribed provisions (sections 56F to 56FO) were amended to overcome the decision in *MIM Holdings Ltd v Commissioner of Stamp Duties*. In that case, the taxpayer avoided those provisions by acquiring partly paid shares and then paying up those shares. Because of the terms of the corporation's articles of association, the provisions were held not to apply to either the purchase or the payment up of the shares. The 1999 amendments now ensure that the manner of acquisition of an interest in a corporation is irrelevant in determining whether the provisions apply.

Similar amendments are to be made by this Bill to sections 56B and 56C, which impose duty on the disposition of a unit in a unit trust scheme or a share in a trustee company, respectively.

Land rich corporations

The decision on appeal in the *MIM* case held that, for the purpose of determining whether a corporation was a land holder:

- the corporation's right to call up unpaid premiums on shares was part of the property to which the corporation was entitled; and
- the value of contractual rights over land not owned by a corporation could not be taken into account in valuing the corporation's land even though the rights enhanced the value of the corporation's land.

The prescribed provisions will be amended to overcome the decision on these matters. The amendments will ensure that, in determining whether or not a corporation is a landholder:

- the value of rights relating to other land is to be included in the value of the land of the corporation or subsidiary, as the case may be, if those rights enhance the value of the land of the corporation or subsidiary; and
- any amount owing or which may become owing to the corporation or subsidiary in respect of issued shares is to be excluded from the value of the property or a corporation or subsidiary.

Treatment of property under contract

The decision in *Road Australia Pty Ltd v Commissioner of Stamp Duties* has implications for sections 56B and 56C. In that case, the Court held that a company's beneficial interest in land under an unconditional contract for the purchase of the land was equal only to the deposit paid under the contract.

In 1997, the prescribed provisions were amended to include the full value of land being purchased or sold by a corporation or subsidiary in determining if the corporation was a landholder. However, sections 56B and 56C do not expressly address the issue. Before the decision, stamp duty practice under those sections was to include the full unencumbered value of the property being purchased under a contract of sale where the contract was unconditional.

To ensure consistency of treatment of land under contract, sections 56B and 56C are being amended to ensure that the full unencumbered value of land under a purchase or sale contract is taken into account in calculating duty. Provision has been made for reassessments if a purchase contract is subsequently rescinded or a sale contract is completed.

The 1997 amendments to the prescribed provisions are also being updated to adopt consistent terminology with sections 56B and 56C in this regard and to confirm the basis upon which duty is calculated.

A consequential amendment to the prescribed provisions will ensure that monies paid or payable to a corporation or a subsidiary by the purchaser under a sale contract is disregarded in determining the property of the corporation.

Authorisation of Queensland Transport to refund stamp duty

Section 57A is to be amended to allow the Commissioner to authorise Queensland Transport to make refunds of stamp duty on applications for registration or applications for transfer of registration of motor vehicles in those cases where the Commissioner is currently authorised to make those refunds.

Section 57A is also to be amended to allow Queensland Transport to pay the duty collected to the Commissioner rather than directly to the Consolidated Fund, providing legislative authority for the current working arrangements between the Office of State Revenue and Queensland Transport.

Operation of lease anti-avoidance provision

Section 64D imposes lease duty on the acquisition of a right to occupy all or part of a building in Queensland in certain cases. The section will be amended to clarify that it applies also where the right of occupation relates both to a building and to adjoining land.

Managed Investments Act 1998 (Cwlth)

From 1 July 1998, the *Managed Investments Act 1998* (Cwlth) amended the *Corporations Law* by implementing a new regime for the regulation of collective investment schemes. The *Stamp Act 1894* was amended to provide various transitional stamp duty concessions enabling existing schemes to convert to the new regime.

The new regime requires each managed investment scheme to be administered by a responsible entity. The *Corporations Law* also requires a responsible entity to hold any scheme assets on trust for the scheme members and obliges the responsible entity to hold any scheme assets separately from any of its own assets. As a result, many responsible entities appoint third parties, known as custodians, to hold the property on trust for the scheme. In addition, the *Corporations Law* requires that the scheme assets be held by a custodian in certain cases.

The appointment or removal of a custodian for a registered managed investment scheme may be liable to stamp duty because the transactions may involve transfers of property between the responsible entity and custodian and a declaration of a trust by the custodian.

These transactions are effected to ensure a responsible entity complies with its obligations under the *Corporations Law* although the scheme assets are held at all times for the scheme members. The *Stamp Act 1894* is therefore to be amended to provide exemptions for transactions involving the transfer of scheme assets from a responsible entity to a custodian and vice versa, and declarations of trust by a custodian in respect of scheme property. Exemptions are limited to registered managed investment schemes.

The exemption will also apply where a responsible entity contracts to purchase property for the scheme but the transfer is made to the custodian. Duty will apply only to the contract.

Conditions will apply to ensure the new exemptions are not used to avoid duty.

Alternatives to the Bill

The policy objectives require statutory amendment to give them ongoing effect.

Estimated Cost for Government Implementation

Any additional administrative costs are not expected to be significant.

Consistency with Fundamental Legislative Principles*Retrospective operation of amendment*

The amendment to the *Pay-roll Tax Act 1971* to exempt wages paid to apprentices and trainees will apply retrospectively. However, as this is beneficial and was announced before the July pay-roll tax returns were required to be lodged, there are no fundamental legislative principle issues.

Power to enter premises

It has been the Commissioner's long standing practice when engaging valuers to have the valuer accompany investigators onto property to effect valuations for the purposes of the *Stamp Act 1894*. The amendment to the *Stamp Act 1894* to confirm that appointed valuers in these cases can enter property does not confer any independent power on a valuer to enter property alone. Rather, the valuer must be accompanied by an investigating officer who will be exercising access powers already held under the current legislation.

As the amendment confirms the current practice and does not confer entry powers on valuers in their own right, there are no fundamental legislative principle issues.

Remission of penalties

Sections 22A(6C) and 54AE(6) of the *Stamp Act 1894* provide that the Commissioner may waive or reduce penalties under those sections. Although remission criteria are not specified, the circumstances in which remission is appropriate vary greatly from case to case and specifying

criteria would limit, rather than expand, the matters to which regard may be had. As this would be detrimental to taxpayers, the absence of criteria is not considered to raise any fundamental legislative principle issues.

Other provisions

The remaining amendments included in the *Revenue Laws Amendment Bill 2000* are not considered to raise fundamental legislative principle issues.

Consultation

Affected Departments within Government have been consulted regarding the liability for stamp duty of acquisitions of water entitlements, the exemption for pay-roll tax on wages paid to apprentices and trainees, and the refund and payment arrangements for stamp duty on applications for registration and applications for transfer of registration of motor vehicles.

The proposed stamp duty concessions for transactions under the Commonwealth's managed investments arrangements were sought by some industry participants.

Consultation on the remaining amendments was either unnecessary or, in the case of anti-avoidance provisions, inappropriate.

NOTES ON PROVISIONS

Clause 1 cites the short title of this Act.

Clause 2 specifies the commencement dates for provisions of the Act.

Clause 3 provides that Part 2 amends the *Land Tax Act 1915*.

Clause 4 corrects the subsection numbering reference in section 26D(3) of the *Land Tax Act 1915*.

Clause 5 provides that Part 3 amends the *Pay-roll Tax Act 1971*.

Clause 6 exempts certain wages paid to apprentices and trainees as such from taxable wages for pay-roll tax purposes.

Clauses 7, 8, 9 and 10 amend sections 16C, 16D, 16DA and 16E of Part 4A of the *Pay-roll Tax Act 1971* to confirm that trustees of trusts can be members of groups constituted by those sections. The amendments put beyond doubt that those grouping provisions apply to trustees as well as non-trustees.

Clause 11 makes consequential amendments to section 42(2) to put beyond doubt that the grouping provisions relating to trusts and trustees apply despite section 42(1). For example, where persons comprise a group under section 16C and one or more of them is a trustee, only the designated group employer of the group will be entitled to the benefit of the statutory deduction despite section 42(1).

Clause 12 provides that Part 4 amends the *Stamp Act 1894*.

Clause 13 amends section 22A of the *Stamp Act 1894* to enable the imposition of a penalty where the Commissioner issues a default assessment in respect of a failure to deliver or lodge a statement, return or other document as required, or a failure to provide all relevant information that is required to make a proper assessment. In certain circumstances, the imposition of a penalty will be considered an alternative to the Commissioner commencing prosecution action.

Clause 14 amends section 29 of the *Stamp Act 1894* to enable appointed valuers to enter property with an investigating officer in order to assist the investigating officer when conducting inquiries.

Clause 15 amends section 35C of the *Stamp Act 1894* to allow the Commissioner to calculate the amount that is to be included in a statement under section 35B where the amount cannot be precisely calculated.

Clause 16 amends section 51C of the *Stamp Act 1894* to allow the Commissioner to accept a valuation of property made by another person, regardless of how the valuation comes to the Commissioner's attention.

Clause 17 inserts section 54AE of the *Stamp Act 1894*, which establishes the dutiability of water entitlements issued under the *Water Act 2000* by requiring a person who acquires, or agrees to acquire, a water entitlement to lodge a statement with the Commissioner within 1 month of doing so. The statement is then charged with duty as if it were a conveyance or transfer of the water entitlement and failure to lodge the statement is an offence.

The section does not operate to impose duty on the acquisition of water entitlements where exempt under clause 1008 of the *Water Act 2000*, or where the water entitlement acquired, or agreed to be acquired, replaces and substantially represents an entitlement to water held under the *Water Resources Act 1989* or already granted by the State, immediately before the repeal of that Act. Nor will a statement be required to be lodged where another instrument has been executed in respect of the acquisition, or agreement to acquire, the water entitlement and that instrument is chargeable with conveyance duty on the conveyance or transfer of the water entitlement.

Clause 18 amends section 56B in the following respects.

- Clause 18(1) inserts new definitions of *contracted property*, *purchase contract* and *sale contract* in subsection (1).
- Clause 18(2) inserts a new paragraph (e) in the definition of *disposition* in subsection (1) to extend the definition to cases where, for any reason, there is an increase in the proportion of the total issued units under a unit trust scheme represented by a unit. These amendments overcome the decision in *Commissioner of Stamp Duties v MIM Holdings Ltd*.
- Clause 18(3) inserts new subsections 56B(4AG) and (4AH). These subsections are necessary to ensure an appropriate amount of duty is payable where a disposition of a unit occurs which is within new paragraph (e) of the definition of *disposition*. Specifically, any duty payable as a result of the application of the new paragraph (e) is calculated by reference only to the increase in the proportion of the total issued units. For example, a unit holder in a unit trust scheme may hold units representing 25% of the total issued units in the unit trust scheme. If the proportion increases to 30% as a result of a circumstance to which the new paragraph (e) applies, the duty imposed by section 56B will be calculated on the basis that there has been a disposition of units representing 5% of the total issued units in the unit trust scheme. That is, it is only the increase that is subject to duty.
- Clause 18(4) inserts new subsections (11) and (12). Under subsection (11), contracted property is taken to be property of a unit trust scheme. Under subsection (12), sale contracts are to be disregarded and purchase contracts are to be taken to have been completed in applying section 56B(4). These amendments overcome the decision in *Road Australia Pty Ltd v Commissioner*

of Stamp Duties so that the full unencumbered value of contracted property is taken into account in calculating duty payable on a disposition of units in the unit trust scheme.

- Clause 18(4) also inserts new subsection (13) that enables any necessary reassessments and refunds of duty where a sale contract is subsequently completed or a purchase contract is subsequently rescinded.

Clause 19 amends section 56C in a similar way to that in which clause 18 amends section 56B.

Clause 20 inserts new definitions of *contracted land*, *purchase contract*, and *sale contract* in section 56FA(1) of the *Stamp Act 1894*.

Clause 21 amends section 56FC of the *Stamp Act 1894* to allow the Commissioner to accept a valuation of property made by another person, regardless of how the valuation comes to the Commissioner's attention.

The prescribed provisions (sections 56F to 56FO) are amended as follows;

- *Clauses 22 and 23* amend sections 56FK and 56FL in a number of respects consequential upon the insertion of new sections 56FLA and 56FLB.
- *Clause 22(1), (2) and (3)* updates cross-references in section 56FK(4) and (5).
- *Clause 22(4) and (5)* amends sections 56FK(11), (12) and (13) by updating the terminology relating to land under contract to ensure consistency with amendments made by this Bill to sections 56B and 56C.
- *Clause 23(1) and (2)* amends section 56FL(2)(b) by updating references in those sections to refer to *subsidiary land* and *subsidiary property*, terms defined in new section 56FL(8); (see clause 23(6)).
- *Clause 23(3) and (4)* renumbers section 56FL(4)(d) to (f) as (4)(f) to (h) and insert new sections 56FL(4)(d) and (e) which are further items of property to be excluded in determining whether or not a corporation is a land holder under section 56FL.

- New section 56FL(4)(d) is consequential upon adoption of the rule that contracted land under a sale contract is valued as if the contract had not been made. It necessarily follows that monies owing to the corporation or subsidiary under the contract should be excluded. The new subparagraph provides accordingly.
- New section 56FL(4)(e) overcomes the decision in *Commissioner of Stamp Duties v MIM Holdings Ltd* by excluding any monies owing or which may become owing to the corporation or a subsidiary for its issued shares.
- *Clause 23(5)* omits sections 56FL(5) and (6). These provisions are re-enacted in sections 56FLA and 56FLB.
- *Clause 23(6)* inserts new definitions of *subsidiary land* and *subsidiary property*.
- *Clause 24* inserts new sections 56FLA and 56FLB. These new sections prescribe rules to be applied in determining whether or not a corporation is a landholder under section 56FL and in calculating the duty payable under section 56FK.
- New section 56FLA specifies rules for determining the land or property to which a corporation or a subsidiary is entitled. The first rule (section 56FLA(3)) is that a corporation is taken to be entitled to land or property to the extent that a subsidiary is entitled to the land or property. The second rule is that a corporation or a subsidiary is taken to be entitled to contracted land.
- New section 56FLB specifies rules that apply in calculating the value of land or property of a corporation or subsidiary.
 - The first rules (section 56FLB(2) and (3)) relate to contracted land. Consistent with the amendments made to section 56B and 56C, the rules require that the full unencumbered value of land or property to which a corporation is entitled is calculated on the basis that a sale contract was not made and a purchase contract was completed. The combined effect of these rules and section 56FLA(4) is that the full unencumbered value of contracted land is taken into account in applying the prescribed provisions.

- The second rule (section 56FLB(4)) overcomes the decision in *Commissioner of Stamp Duties v MIM Holdings Ltd* in relation to valuing rights in relation to land. New subsection (4) enables the value of certain rights of the corporation or a subsidiary to be factored into the value of the corporate land. The rights must, however, relate to, or affect, the use of the corporate land and other land. That is, the rights must be in relation to the corporate land and land owned by someone else. Further, the rights must not be land. Finally, they must enhance the value of the corporate land.
- The rules in sections 56FLA and 56FLB are not exhaustive as sections 56FLA(2) and 56FLB provide that the sections do not limit the way that sections 56FK or 56FL apply.

Clause 25 amends section 57A of the *Stamp Act 1894* to allow the Commissioner to authorise Queensland Transport to make refunds of stamp duty on applications for registration or applications for transfer of registration of motor vehicles in those cases where the Commissioner is currently authorised to make those refunds. The section is also amended to allow Queensland Transport to pay the duty collected to the Commissioner.

Clause 26 omits the definitions of “managed investment scheme” and “registered scheme” from section 61B(1) of the *Stamp Act 1894*. The definitions are re-enacted in the Dictionary by clause 30.

Clause 27 amends section 64D of the *Stamp Act 1894* to clarify the application of that provision where a licence gives the licensee the right to occupy all or part of a building and the land on which the building is erected.

Clause 28 omits the definitions of “managed investment scheme”, “registered scheme” and “responsible entity” from section 90(5) of the *Stamp Act 1894*. The definitions are re-enacted in the Dictionary by clause 30.

Clause 29 inserts exemptions 22, 23 and 24 in the ‘Conveyance or transfer’ heading in schedule 1 of the *Stamp Act 1894*, as well as inserting exemption 3 in the ‘Declaration of trust’ heading in schedule 1.

- Exemption 22 in the ‘Conveyance or transfer’ heading applies to exempt from stamp duty a transfer or conveyance of scheme property of a registered scheme, provided the transfer or conveyance is from the responsible entity of the scheme to the primary custodian of the scheme. The transfer or conveyance

must not be part of an arrangement under which the property ceases to be scheme property or changes occur in the beneficial interests in the scheme property.

- Exemption 23 in the ‘Conveyance or transfer’ heading applies to exempt from stamp duty a transfer or conveyance of property from a person to a primary custodian for a responsible entity. The exemption will only apply where the conveyance or transfer is made under a contract entered into between the person as vendor and the responsible entity as purchaser and the property is acquired as scheme property. Further, ad valorem duty chargeable under the heading ‘Conveyance or transfer’ in schedule 1 of the *Stamp Act 1894* has to have been paid on the contract between the person and the responsible entity.
- Exemption 24 in the ‘Conveyance or transfer’ heading applies to exempt from stamp duty a transfer or conveyance of scheme property of a registered scheme, provided the transfer or conveyance is from the primary custodian of the scheme to the responsible entity of the scheme. The transfer or conveyance must not be part of an arrangement under which the property ceases to be scheme property or changes occur in the beneficial interests in the scheme property.
- Exemption 3 in the ‘Declaration of trust’ heading applies to exempt from stamp duty a declaration of trust by a primary custodian that property acquired and held by a primary custodian for the responsible entity or which is to be vested in a primary custodian is, or will be, held as scheme property by the person as a primary custodian.

Clause 30 amends the Dictionary in schedule 2 of the *Stamp Act 1894* by inserting definitions of “managed investment scheme”, “primary custodian”, “registered scheme”, “responsible entity” and “scheme property”.