

Revenue and Other Legislation Amendment Bill 2007

Explanatory Notes

General Outline

Policy Objectives

To amend the *Duties Act 2001* and the *Land Tax Act 1915* to implement measures announced in the 2007-08 State Budget.

To amend the *Petroleum Products Subsidy Act 1965* to reflect the Commonwealth Government's decision to abolish the Petroleum Products Freight Subsidy Scheme.

To amend the *Electricity Act 1994* and *Electricity and Other Legislation Amendment Act 2006* to clarify the application of the *Fair Trading Act 1989* and industry codes made under the *Electricity Act 1994* and *Gas Supply Act 2003*.

Reasons for the Bill

The Bill implements the following revenue measures announced in the 2007-08 State Budget:

- a 50% reduction of the mortgage duty rate to give effect to the first stage of mortgage duty abolition;
- changes to vehicle registration duty rates;
- an increase in the land tax threshold for natural residents from \$500,000 to \$600,000;
- an increase in the land tax threshold for companies, trustees and absentees from \$300,000 to \$350,000; and
- the introduction of a 50% cap on annual increases in the land value used for calculating land tax.

Amendments to the *Petroleum Products Subsidy Act 1965* will reflect the Commonwealth Government's decision to abolish the Petroleum Products Freight Subsidy scheme effective 30 June 2006.

The *Electricity and Other Legislation Amendment Act 2006* amended the *Electricity Act 1994* and *Gas Supply Act 2003* to give effect to full retail competition (FRC) in the Queensland electricity and natural gas markets. These amendments, and FRC, will commence on 1 July 2007 (the FRC day).

The *Electricity Act 1994* and *Electricity and Other Legislation Amendment Act 2006* will be amended to clarify the application of the *Fair Trading Act 1989* and industry codes made under the *Electricity Act 1994* and *Gas Supply Act 2003* and also make minor, technical drafting changes to earlier amendments.

Achievement of Objectives

Duties Act 2001

Reduction of mortgage duty rate

As announced in the 2005-06 and subsequent State Budgets, mortgage duty will be abolished in two stages (50% on 1 January 2008 and 100% on 1 January 2009). The Bill gives effect to the first stage of abolition by reducing the mortgage duty rate by 50% from 1 January 2008. A later Bill will give effect to full abolition of mortgage duty from 1 January 2009.

Chapter 5 of the *Duties Act 2001* imposes mortgage duty on instruments that are mortgages, particular caveats claiming an interest under a mortgage, and particular releases of mortgage. Duty is imposed on the amount secured by the mortgage, which is determined under Part 4 of Chapter 5. The rate of mortgage duty imposed on a mortgage is 40c for each \$100, or part of \$100, of the amount secured by the mortgage. Mortgage duty on caveats and releases of mortgage that are subject to mortgage duty is calculated at the same rate.

The Bill amends the *Duties Act 2001* to reduce the mortgage duty rate to 20c for each \$100, or part of \$100, of the amount secured by the mortgage, where a mortgage duty liability arises on or after 1 January 2008.

Changes to vehicle registration duty rates

Chapter 9 of the *Duties Act 2001* imposes vehicle registration duty on applications to register or transfer registration of a vehicle. The rate of duty is \$2 for each \$100, or part of \$100, of the dutiable value of the vehicle.

The 2% rate of duty does not apply to special vehicles (that is, conditionally registered vehicles and tractor-based mobile machinery). A flat concessional duty of \$25 is imposed on applications to register or transfer these vehicles.

As announced in the 2007-08 State Budget, new rates of vehicle registration duty will apply from 1 January 2008. The rate of duty will in most cases be determined by reference to the number of cylinders or rotors of the vehicle. The rates of duty that will apply for applications to register or transfer vehicles which are made on or after 1 January 2008 are set out below.

Vehicle registration duty rates from 1 January 2008	
Vehicle type	Duty rate
1 to 4 cylinders, 2 rotors or steam	3%
5 or 6 cylinders or 3 rotors	3.5%
7 or more cylinders	4%
Hybrid or electric vehicles	2%
Special vehicles	\$25

The Bill amends the *Duties Act 2001* to effect these rate changes.

Electricity Act 1994 and Electricity and Other Legislation Amendment Act 2006

The amendments to the *Electricity Act 1994* and *Electricity and Other Legislation Amendment Act 2006* will ensure that, when FRC commences on 1 July 2007, the electricity and gas markets operate in a manner consistent with the policy objectives of the government's decision to introduce FRC. In particular, that the *Fair Trading Act 1989* operate in parallel to the provisions of any industry codes made under the *Electricity Act 1994* and *Gas Supply Act 2003*.

Land Tax Act 1915

Increase in land tax thresholds

Land tax for a financial year is levied on all freehold land owned in Queensland by the taxpayer as at midnight on 30 June immediately before the financial year. Land tax is calculated by applying the relevant land tax rate to the taxable value of the land after taking into account any exemptions or deductions that may apply.

There are two land tax rate scales – one for natural residents and another for companies, trustees and absentees.

Currently, an exemption threshold of \$500,000 applies to natural residents. If the taxable value of land owned by a natural resident is less than \$500,000, no land tax is payable. Once the taxable value reaches \$500,000

or more, the minimum land tax payable is \$500, with this amount increasing as the taxable value of the land increases.

For companies, trustees and absentees, an exemption threshold of \$300,000 currently applies. If the taxable value of land owned by a company, trustee or absentee is less than \$300,000, no land tax is payable. Once the taxable value reaches \$300,000 or more, the minimum land tax payable is \$1,500, with this amount increasing as the taxable value of the land increases.

As announced in the 2007-08 State Budget, the exemption threshold for natural residents will be raised from \$500,000 to \$600,000 for the 2007-08 and later financial years. The minimum land tax payable will be \$1,200 once the taxable value of the land reaches \$600,000.

In addition, the exemption threshold for companies, trustees and absentees will be raised from \$300,000 to \$350,000 for the 2007-08 and later financial years. The minimum land tax payable will be \$2,250 once the taxable value reaches \$350,000.

The Bill amends the *Land Tax Act 1915* to give effect to these changes.

Introduction of capped value

Land tax is payable by an owner of land on the taxable value of all land owned and not exempt from land tax. The taxable value is the amount of the relevant unimproved value of the land (or where there is more than one parcel of land, the aggregate of the relevant unimproved values of all parcels) less any applicable deduction.

The relevant unimproved value of land for a financial year is the lesser of the unimproved value or the averaged unimproved value of the land for that year. Averaging of unimproved values over three years was introduced in 1996 to smooth the impact of fluctuating land values on land tax liability.

As announced in the 2007-08 State Budget, a 50% cap is to be introduced on annual increases in the relevant unimproved value of land for the purposes of levying land tax for the 2007-08, 2008-09 and 2009-10 financial years. This will be achieved by amending the definition of relevant unimproved value to include a capped value.

A capped value will apply to a parcel of land for a financial year if all of the following criteria are satisfied.

- The land has an unimproved value for the previous financial year (that is, it is not a new parcel created in the previous year by subdivision, amalgamation or other means).

- The 40% discount under section 3CA of the *Land Tax Act 1915* for certain lots which are created by subdivision and continue to be owned by the subdivider does not apply to the unimproved value of the land for the financial year.
- The unimproved value or the averaged unimproved value (whichever is less) of the land for the financial year is more than 150% of the value that applied for land tax purposes for the previous financial year.

The Bill amends the *Land Tax Act 1915* to give effect to this change.

Petroleum Products Subsidy Act 1965

The purpose of the *Petroleum Products Subsidy Act 1965* was to enable the Queensland Government to administer funds made available from the Commonwealth through the Petroleum Products Freight Subsidy Scheme under the *States Grants (Petroleum Products) Act 1965* (Cwlth).

The Commonwealth Government's decision to abolish the Petroleum Products Freight Subsidy Scheme effective 30 June 2006 was announced in the Commonwealth Government's 2004 Energy White Paper, *Securing Australia's Energy Future*.

The repeal of the Commonwealth legislation will be effective 1 July 2007, therefore State legislation will need to be amended as no further funding can be made available.

Alternatives to the Bill

The policy objectives can only be achieved by legislative enactment.

Estimated Cost for Government Implementation

Implementation costs of amendments to the *Duties Act 2001* and the *Land Tax Act 1915* are not expected to be significant.

There will be no cost to Government in implementing amendments to the *Petroleum Products Subsidy Act 1965*, as all funding in relation to the Petroleum Products Freight Subsidy Scheme was provided by the Commonwealth.

There is no implementation cost associated with the amendments to the *Electricity Act 1994* and the *Electricity and Other Legislation Amendment Act 2006* for FRC.

Consistency with Fundamental Legislative Principles

This Bill raises no fundamental legislative principle issues.

Consultation

Consultation on amendments to implement the 2007-08 State Budget initiatives was not appropriate. The mortgage duty amendments have been announced in previous State Budgets. Further, the mortgage duty and land tax measures are beneficial for taxpayers.

The Departments of State Development, Employment and Industrial Relations and Communities, along with other Government stakeholders were consulted regarding the amendments to the *Petroleum Products Subsidy Act 1965*. Public consultation was not undertaken by the State, as the Act is enabling legislation for the administration of a Federal scheme. However, the Commonwealth Government wrote to all key stakeholders in June 2005.

The *Petroleum Products Subsidy Act 1965* enabled the Queensland Government to administer funds made available by the Commonwealth through the Petroleum Products Freight Subsidy Scheme under the *States Grants (Petroleum Products) Act 1965* (Cwlth).

Registered distributors of eligible petroleum products in certain country areas were able to seek payments from Treasury Department to subsidise their fuel distribution costs. The scheme allowed for registered distributors to submit claims for up to 12 months after becoming entitled to a subsidy payment. Claims could be made where the cost to distribute petroleum to regional and rural Queensland exceeded approximately 15 cents per litre. Treasury Department made the subsidy payments from Commonwealth funds held in trust. An imprest account of approximately \$250,000 has been maintained by Treasury Department and reimbursement from the Commonwealth was sought on a frequent basis.

The Energy Competition Committee, appointed to oversee the implementation of FRC in Queensland, and the Department of Mines and Energy have consulted with representatives of the Queensland Government, energy businesses and consumer groups on the policy and legislative framework for FRC. Specific consultation has also been undertaken with the Office of Fair Trading and Department of Tourism, Fair Trading and Wine Industry Development in the drafting of these amendments. All stakeholders consulted support the proposed amendments.

Notes On Provisions

Clause 1 cites the short title of the Bill.

Clause 2 states the date on which Parts 2, 5 and 6 of the Bill are taken to commence.

Clause 3 states that Part 2 amends the *Duties Act 2001*.

Clause 4 amends section 254 of the *Duties Act 2001*, which prescribes the rate of mortgage duty, to reduce the rate from 40c to 20c per \$100, or part of \$100, of the amount secured by the mortgage. The reduced rate will apply where a liability for mortgage duty arises on or after 1 January 2008.

Clause 5 amends section 383 of the *Duties Act 2001*, which prescribes the rate of vehicle registration duty for vehicles other than special vehicles, to replace the existing flat rate of \$2 per \$100, or part of \$100, of the vehicle's dutiable value, with the rates set out in Schedule 4C (inserted by clause 7 of this Bill). The new rates will apply to applications to register or transfer registration of vehicles made on or after 1 January 2008.

Clause 6 inserts a new part 7 into Chapter 17 of the *Duties Act 2001*. Part 7 contains transitional and savings provisions for the reduction of the mortgage duty rate from 1 January 2008 under clause 4 of this Bill.

- New section 584 ensures that the reduced mortgage duty rate will only apply to a mortgage if the liability date for the mortgage is on or after 1 January 2008.

Further, section 584(2) ensures that the reduced mortgage duty rate will not apply in certain circumstances where a liability date for a mortgage is deferred until on or after 1 January 2008.

Section 584(3) clarifies that no refunds of mortgage duty paid before 1 January 2008 will be provided only because a liability date for the mortgage is on or after 1 January 2008.

Example

Pursuant to section 257 of the *Duties Act 2001*, a mortgage is stamped before 1 January 2008 in respect of an advance that is made after that date. No refund of mortgage duty paid in respect of the advance made after 1 January 2008 will be available.

- New section 585 prescribes the applicable rate of mortgage duty for debenture subscriptions made in the financial year ending 30 June 2008. For subscriptions between 1 July 2007 and 31

December 2007 inclusive, the current rate of 40c for each \$100, or part of \$100, of the amount secured, applies. For subscriptions on or after 1 January 2008, the reduced rate of 20c per \$100, or part of \$100, of the amount secured, applies.

In addition, section 585(3) ensures that the reduced mortgage duty rate will not apply in certain circumstances where a subscription for debentures is deferred until on or after 1 January 2008.

- New section 586 clarifies the applicable rate of mortgage duty for caveats and releases of mortgage. To the extent mortgage duty is calculated on the relevant mortgage by reference to the current rate of 40c for each \$100, or part of \$100, of the amount secured, that rate will also apply for calculating mortgage duty on the caveat or release of mortgage, even if the caveat or release is effected on or after 1 January 2008.

Clause 7 inserts a new Schedule 4C into the *Duties Act 2001* which prescribes the rates of vehicle registration duty that will apply for vehicles other than special vehicles from 1 January 2008.

Clause 8 provides that Part 3 amends the *Electricity Act 1994*.

Clause 9 makes a minor, transitional drafting amendment to clarify the operation of a provision of the *Community Ambulance Cover and Other Acts Amendment Act 2006* which amended the *Electricity Act 1994*.

Clause 10 provides that Part 4 amends the *Electricity and Other Legislation Amendment Act 2006*.

Clause 11 amends section 30 (Replacement of ch5, pts 1A-1C of *Act No. 64 of 1994*) by inserting a new division 7 into chapter 5, part 1A of the *Electricity Act 1994* (as amended by the *Electricity and Other Legislation Amendment Act 2006*). This new Division provides that industry codes made under the *Electricity Act 1994* do not affect the operation of the *Fair Trading Act 1989* to clarify that the *Fair Trading Act 1989* continues to operate even if an industry code makes provisions on a matter contained in the *Fair Trading Act 1989*. This provision will ensure the operation of both the industry code and the *Fair Trading Act 1989* cannot be challenged on relevant issues in the electricity sector.

Clause 11 also clarifies how a party will achieve compliance with both the *Fair Trading Act 1989* and an industry code to the extent that the two instruments have inconsistent provisions. This amendment ensured

technical compliance with both instruments can be achieved where a party complies with the more onerous of the relevant provisions.

Clause 12 amends section 44 (Insertion of new ch 11, pt 1A of *Act No. 64 of 1994*) by renumbering certain sections to ensure they follow in sequence from preceding provisions in the *Electricity Act 1994*.

Clause 13 amends section 145 (Insertion of new ch 5A of *Act No. 29 of 2003*) by inserting a new part 6 into chapter 5A of the *Gas Supply Act 2003* (as amended by the *Electricity and Other Legislation Amendment Act 2006*). This new part provides that industry codes made under the *Gas Supply Act 2003* do not affect the operation of the *Fair Trading Act 1989* to clarify that the *Fair Trading Act 1989* continues to operate even if an industry code makes provisions on a matter contained in the *Fair Trading Act 1989*. This provision will ensure the operation of both the industry code and the *Fair Trading Act 1989* cannot be challenged on relevant issues in the natural gas sector.

Clause 13 also clarifies how a party will achieve compliance with both the *Fair Trading Act 1989* and an industry code to the extent that the two instruments have inconsistent provisions. This amendment ensured technical compliance with both instruments can be achieved where a party complies with the more onerous of the relevant provisions.

Clause 14 states that Part 5 amends the *Land Tax Act 1915*.

Clause 15 amends the definition of relevant unimproved value in section 3 of the *Land Tax Act 1915* to include a capped value of land if section 3G(3) applies. Clause 15 also inserts a new definition of capped value. These changes, together with the insertion of section 3G under clause 16 of this Bill, give effect to the introduction of a 50% cap on annual increases in the relevant unimproved value of land for the purposes of levying land tax for the 2007-08, 2008-09 and 2009-10 financial years.

Clause 16 inserts a new section 3G into the *Land Tax Act 1915* which prescribes the circumstances in which a capped value will apply for a financial year.

Clause 17 amends section 16 of the *Land Tax Act 1915* to reflect the effect of the changes in tax thresholds under clauses 21 and 22 of this Bill on the obligation of land owners to lodge returns. Also, section 16(1)(b) is amended to remove references to tax thresholds applicable to financial years before 1 July 2007.

Clause 18 amends section 27 of the *Land Tax Act 1915* to ensure that there is no right of appeal against an assessment under that Act on the grounds

that a capped value is excessive if an unimproved value used, directly or indirectly, to work out the capped value, is the value under the *Valuation of Land Act 1944*.

Clause 19 replaces section 62 of the *Land Tax Act 1915* with a new section 62 which provides that the amendments made by part 5 of this Bill apply to land tax levied for a financial year starting on or after 1 July 2007.

Clause 20 inserts a new section 66 into the *Land Tax Act 1915* which is a savings provision relating to the amendments to section 16 of that Act under clause 17 of this Bill.

Clause 21 amends schedule 1 of the *Land Tax Act 1915* to increase the land tax threshold for individuals (otherwise than in the capacity of a trustee) who are not absentees from \$500,000 to \$600,000, and increase the minimum tax payable from \$500 to \$1,200.

Clause 22 amends schedule 2 of the *Land Tax Act 1915* to increase the land tax threshold for companies, trustees and absentees from \$300,000 to \$350,000, and increase the minimum tax payable from \$1,500 to \$2,250.

Clause 23 provides that Part 6 amends the *Petroleum Products Subsidy Act 1965*.

Clause 24 amends section 2 (Meaning of terms) by omitting definitions *authorised officer*, *Commonwealth Minister* and *scheme*, inserting new definitions *authorised officer*, *repealed* and *scheme* and amending definition *registered distributor of eligible petroleum products* and section 2(2). With the repeal of the Commonwealth legislation effective 1 July 2007, these amendments will reflect the Commonwealth's discontinuance of the Petroleum Products Fuel Subsidy Scheme and ceasing of payments for claims from 1 July 2007.

Clause 25 amends section 3 (Calculation of subsidy) by inserting new subsection (2) to provide for the payment for deliveries made prior to 1 July 2006 up to 30 June 2007. No claims will be paid from 1 July 2007 as the Commonwealth legislation will be repealed effective 1 July 2007.

Clause 26 omits sections 4 to 6. As the Commonwealth Government abolished the Petroleum Products Freight Subsidy Scheme effective 30 June 2006 and no claims will be paid from 1 July 2007, these sections relating to advances on account of subsidy, appointment of authorised officers and claims for payments are no longer required.

Clause 27 amends section 7 (Certificates) by omitting section 7(1) and (2) and amending section 7(3). The amendment removes the subsections relating to the provision of certificates to claimants authorising payment,

however, still reserves the State's right to issue certificates to claim back any overpayments or amounts inappropriately claimed.

Clause 28 omits section 8 (Payments) as no further funding will be made available (for deliveries made prior to 1 July 2006) with the Commonwealth legislation being repealed effective 1 July 2007.

Clause 29 amends section 10 (Preservation of accounts etc.) to ensure that a person who has received a payment under the Act is to maintain appropriate records for a period of not less than two years after the date of making the claim in respect of which the payment was made.

Clause 30 amends section 11 (Stocktaking and inspection of accounts etc.) to reserve the State's right to inspect accounts and investigate any claims which require investigation.

Clause 31 omits section 12 (Powers of authorised officer) as such powers, authorities, protection and jurisdiction of a commission under the *Commissions of Inquiry Act 1950* extended to authorised officer will not be required.

Clause 32 omits sections 15 (Delegation), 16 (Financial provisions) and 17 (Regulations) and inserts new sections 15 (Closure of Commonwealth Petroleum Products Subsidies Fund) and 16 (Expiry of Act). Sections 15-17 are no longer required with the Commonwealth scheme having been abolished from 30 June 2006 and no further Commonwealth funding will be available from 1 July 2007. A new section is inserted for the closure of the balance of the Commonwealth Petroleum Products Subsidies Fund being returned to the Commonwealth after the Auditor-General certifies the disbursements and receipts for the financial year ended 30 June 2007. The Act is also amended to provide for the expiry of the Act on 1 July 2009.