Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Bill 2011

Explanatory Notes

Short title

The short title of the Bill is the *Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Bill 2011*.

Policy objectives and the reasons for them

Amendments to revenue legislation

The *Duties Act 2001* will be amended to implement the announcement in the Mid Year Fiscal and Economic Review 2010-11 that, from 1 July 2011, Queensland's land rich duty will be aligned to landholder duty.

The Bill also implements the following revenue measures announced in the 2011-12 State Budget:

- abolition of the Community Ambulance Cover levy on 1 July 2011;
- abolition of the transfer duty home concession under the *Duties Act 2001* on 1 August 2011;
- changes to transfer duty rates under the *Duties Act 2001* on 1 August 2011;
- extension of land value capping arrangements under the *Land Tax Act 2010* for the 2011-12 financial year; and
- extension of the 25% payroll tax rebate for apprentices and trainees under the *Payroll Tax Act 1971* until 30 June 2012.

Amendments to royalty legislation

The Mid Year Fiscal and Economic Review 2010-11 announced the transfer of royalty administration responsibility from the Department of Employment, Economic Development and Innovation (DEEDI) to the Office of State Revenue (OSR) from 1 July 2011. The *Mineral Resources*

Act 1989 and the *Petroleum and Gas (Production and Safety) Act 2004* will be amended to facilitate their continued effective administration following the transfer.

Amendment of the Geothermal Energy Act 2010

The Bill amends the *Geothermal Energy Act 2010* to correct an anomaly in section numbering.

Additional amendments to the Mineral Resources Act 1989

The *Mineral Resources Act 1989* will be amended to -

- Make discretionary the current mandatory requirement for separate coal or oil shale mining lease applications where the proposed lease would cover both overlapping petroleum tenure and untenured ("other") land, or would overlap both an authority to prospect and a petroleum lease ("tenured land") that are not held by the same person. This will allow proponents greater choice in deciding the number and size of their proposed lease(s), reducing the administrative burden for both government and the applicant. It will also increase certainty regarding the validity of future applications where the overlapping tenure may include gaps in the grant because of the exclusion of certain classes of land.

- Remove uncertainty regarding the validity of coal mining lease applications made since 17 March 2008 where such applications may have inadvertently been in breach of the requirement for separate applications if the proposed lease would cover both overlapping petroleum tenure and other land, or would overlap tenured land that is owned by more than one person.

- Correct an anomaly in the numbering of sections of the Act that arises as a result of uncommenced sections of the *Geothermal Energy Act 2010*.

Additional amendments to the Petroleum and Gas (Production and Safety) Act 2004

The *Petroleum and Gas (Production and Safety) Act 2004* will be amended to -

- Allow a petroleum lease holder to construct and operate pipelines across multiple leases to transport water extracted during coal seam gas production for treatment. The treated water may then be

transported for either reinjection or beneficial use within that same area.

- Make discretionary the current mandatory requirement for separate petroleum lease applications where the proposed lease would overlap both coal or oil shale tenements and untenured ("other") land, or would overlap both a coal or oil shale exploration tenement and a coal or oil shale mining lease ("tenement land") that are not held by the same person. This will allow proponents greater choice in deciding the number and size of their proposed lease(s), reducing the administrative burden for both government and the applicant. It will also increase certainty regarding the validity of future applications where the overlapping tenure may include gaps in the grant because of the exclusion of certain classes of land.
- Remove uncertainty regarding the validity of applications made since 17 March 2008 where such applications may have inadvertently been in breach of the requirement for separate applications where the proposed lease would cover overlapping coal or oil shale tenements and other land, or overlap tenement land that is owned by more than one person.

Achievement of policy objectives

Amendments to revenue legislation

Community Ambulance Cover Act 2003

Under the *Community Ambulance Cover Act 2003*, a Community Ambulance Cover levy (levy) is imposed on non-exempt electricity sale arrangements and collected by electricity retailers as agents for the Commissioner of State Revenue (Commissioner). Electricity accounts issued by electricity retailers to their customers include a statement of levy liability for each electricity sale arrangement to which the account relates. The *Community Ambulance Cover Act 2003* also specifies arrangements for power card arrangements and on-supply arrangements.

The levy is to be abolished on 1 July 2011 through repeal of the *Community Ambulance Cover Act 2003*. Any levy liability accrued before repeal (up to and including 30 June 2011) will continue to be imposed and collected in the ordinary way under the *Community Ambulance Cover Act 2003*. As a result, electricity statements issued by electricity retailers after 1 July 2011 for account periods starting before that date will continue to include a levy

liability for the period to 30 June 2011. No levy liability will accrue for account periods after 30 June 2011.

Savings provisions are included to achieve the following.

- Supplement the savings provisions of the *Acts Interpretation Act 1954* to ensure the continued proper administration of the repealed Act and the ongoing effect of rights, privileges, obligations and liabilities arising in relation to pre-repeal matters.
- Modify the operation of administration agreements entered into between the Commissioner and electricity retailers in relation to payment of the administration fee under the agreements.
- Provide for the commission of an offence where, from 1 January 2012, an electricity retailer, an owner for a power card arrangement or an on-supplier seeks to recover a purported levy amount for the period after 30 June 2011. The offence will not apply in the period from 1 July to 31 December 2011 to allow time to make the necessary system and business process changes.
- Provide that, where a levy is incorrectly billed to an electricity customer for an account period on or after 1 July 2011, the amount is not payable by the customer and, if paid, must be refunded or credited against the next electricity account.
- Limit the period for claiming refunds in relation to overpaid levy, with entitlement to a refund ending if no claim is made before 1 July 2012.

Duties Act 2001

Landholder duty

Under the *Duties Act 2001*, transfer duty applies to the transfer of land. Before 2007, transfer duty also applied to transfers of shares in a corporation at a lower flat rate than for transfers of other dutiable property. (Transfer duty on share transfers was abolished in 2007 under the Intergovernmental Agreement on Commonwealth-State Financial Relations.) Due to the differential rates of transfer duty on land and share transfers, duty on the acquisition of land owned by a corporation could be minimised or avoided altogether by acquiring the corporation rather than the land. To address this avoidance, land rich duty was introduced in 1988.

Presently land rich duty applies where a person acquires an interest of 50% or more in a land rich corporation within a 3 year period, or, increases such an interest. A corporation is land rich if it is unlisted, holds land in

Queensland worth at least $1 million and all its land holdings comprise 60% or more of the value of all its property. Duty is calculated at the general transfer duty rates on the proportion of the value of land in Queensland owned by the corporation and its subsidiaries represented by the interest acquired.

The 60% land rich test continues to give rise to complex valuation and technical arguments as failure to meet the test results in no land rich duty being payable. The test therefore creates a significant incentive for transactions to be structured and valued to avoid the 60% threshold. This inevitably leads to uncertainty and increased compliance and administration costs.

While all states and the Northern Territory (NT) originally adopted similar land rich duty provisions, Australian Capital Territory adopted a model which does not depend on the corporation being land rich (the landholder model). NT moved to a landholder model in 2003, followed by Western Australia in 2008 and New South Wales in 2009. South Australia is adopting a landholder model from 1 July 2011 and Victoria will adopt the model from 1 July 2012.

The *Duties Act 2001* is to be amended to adopt the landholder model. The 60% land rich test will be removed so that landholder duty will apply to an acquisition of 50% or more of an unlisted corporation holding land in Queensland worth $2 million. Duty will continue to apply in relation to the land of both the landholder and its subsidiaries.

In addition, the *Duties Act 2001* is to be amended to include listed corporations and listed unit trusts in the landholder provisions. Landholder duty will apply to an acquisition of 90% or more of a listed corporation or listed unit trust holding land in Queensland worth $2 million. The extension of landholder duty to takeovers of listed corporations and listed unit trusts will improve equity with similar transactions for unlisted entities. Duty presently does not apply to the takeover of listed entities but can apply for unlisted entities. Extension is also consistent with the approach taken in New South Wales, Western Australia, South Australia and the NT. Similar to arrangements in New South Wales, landholder duty in these cases will be charged at a concessional rate of 10% of the duty that would otherwise apply to the transfer of all the landholdings of the landholder.

The changes will also more closely align Queensland's arrangements with landholder duty applying in the majority of other jurisdictions by:

- providing that a relevant acquisition occurs when a person (alone or with related persons) acquires or has an interest in a landholder of 50% or more regardless of when the interests were acquired; and
- providing that, for working out landholder duty, excluded interests and exempt acquisitions are disregarded.

The amendments are to commence on 1 July 2011 and will apply to a relevant acquisition occurring on or after that day.

Summary of the landholder model

Landholder duty is imposed for a relevant acquisition in a landholder. Generally, a person makes a relevant acquisition if they (alone or with related parties) acquire a significant interest in a landholder (whether in one transaction or not) or, where a significant interest is already held, they increase that interest. Special timing rules apply to determine when an interest is acquired.

A person has an interest in a landholder if the person has an entitlement as a shareholder or unitholder to a distribution of the landholder's property on its winding up or termination.

A significant interest in an unlisted corporation (a private landholder) exists if the person has an interest of 50% or more. For a listed corporation or listed unit trust (a public landholder), a significant interest exists if the person has an interest of 90% or more.

All interests in an entity are taken into account to determine whether or nor a person has a significant interest in the entity. Where a significant interest exists, landholder duty may apply regardless of when the interests were acquired or whether or not the entity held land when the interest was acquired. However, in calculating the duty payable, excluded interests are disregarded.

A landholder is an unlisted corporation, listed corporation or listed unit trust that has land-holdings in Queensland, the unencumbered value of which are $2,000,000 or more either alone or through the landholder's subsidiaries.

Land-holdings include interests in land including things attached to the land that are regarded as fixtures at law and therefore part of the land. Land-holdings also include things fixed to land which do not become part of the land at law as well as certain rights that enhance the value of the land.

For a private landholder (i.e. an unlisted corporation), landholder duty is imposed on the dutiable value of a relevant acquisition. The dutiable value is worked out by multiplying the unencumbered value of all Queensland land-holdings of the landholder by the interests in the landholder making up the relevant acquisition other than excluded interests.

The following are excluded interests for a private landholder.

- Interests that were held by the person or a related person, or by the person and a related person, on or before the day that is 3 years before the relevant acquisition. An exception applies where the interest is acquired under an arrangement which also involved the interest most recently acquired.
- Interests acquired when no Queensland land was held.
- Interests acquired before 1 July 2011 where the corporation would not be land rich.

For an acquisition of a further interest in a private landholder, duty is only payable on the increased interest.

For a public landholder (i.e. a listed corporation or listed unit trust), landholder duty imposed on a relevant acquisition is 10% of the duty that would be chargeable on a transfer of all Queensland land-holdings of the landholder (calculated as if the transfer had occurred at the date of the relevant acquisition). Duty is to be reduced proportionately for excluded interests.

The following are excluded interests for a public landholder.

- Interests acquired when no Queensland land was held.
- Interests acquired before 1 July 2011.

No further duty is payable for the acquisition of a further interest in a public landholder if the person's interest that constituted the previous relevant acquisition has not reduced. This is because landholder duty on a relevant acquisition in a public landholder is charged by reference to all the land-holdings of the landholder.

Provision is also made for certain deductions and exempt acquisitions.

Changes to transfer duty rates

Transfer duty is imposed under the *Duties Act 2001* on the dutiable value of dutiable transactions such as transfers and agreements for the transfer of

dutiable property, at progressive rates. The transfer duty rates are contained in Schedule 3 of the *Duties Act 2001*.

As announced in the 2010-11 State Budget, the transfer duty rates are being adjusted with effect on and from 1 August 2011. The Bill amends the *Duties Act 2001* to give this effect by inserting a new Schedule 3.

Abolition of the transfer duty home concession

The *Duties Act 2001* provides a transfer duty concession for home buyers, first home buyers and persons buying vacant land on which to construct a first home, subject to conditions. For this concession, a home must be the person's principal place of residence or the vacant land must be acquired for construction of the person's home.

As announced in the 2011-12 State Budget, the transfer duty home concession will cease to apply for transactions where the transfer duty liability date is on or after 1 August 2011.

Also, the basis for calculating the transfer duty first home concession will change. As now, no duty will apply on homes up to $500,000. For higher value homes, transfer duty for a first home buyer will be calculated at the general transfer duty rates under Schedule 3, with a phased rebate reducing the duty payable for values between $500,000 and $600,000. The rebate will fully phase out once the dutiable value is $600,000.

In addition, the rebate for the vacant land transfer duty concession is being adjusted to reflect the new transfer duty rates that commence on 1 August 2011.

Land Tax Act 2010

The *Land Tax Act 2010* includes a land value capping concession for the 2010-11 financial year for all parcels of land, other than newly created parcels or parcels subject to the subdivider's discount. The cap limits increases in taxable value to 50% of the relevant unimproved value that applied for the 2009-10 financial year.

As announced in the 2011-12 State Budget, the capping of taxable value for land tax is being continued for the 2011-12 financial year. The *Land Tax Act 2010* is being amended to give this effect. As a result, the increase in taxable value for relevant parcels of land for 2011-12 will be limited to 50% of the taxable value that applied for the 2010-11 financial year.

Payroll Tax Act 1971

A 25% payroll tax rebate is available in relation to wages paid to trainees and apprentices which are already exempt under the *Payroll Tax Act 1971*. The rebate is payable by allowing it as an offset against an employer's payroll tax liability. The amount of the rebate is limited to the amount of the employer's liability. However, if the employer is a member of a group for payroll tax purposes, any excess rebate can be shared with other group members which have a payroll tax liability.

As announced in the 2011-12 State Budget, the rebate is being extended to 30 June 2012. The *Payroll Tax Act 1971* is being amended to give this effect.

Amendments to royalty legislation

Mineral Resources Act 1989 and *Petroleum and Gas (Production and Safety) Act 2004*

Confidentiality

From 1 July 2011, the Treasurer and Minister for State Development and Trade will have principal Ministerial responsibility for mineral and petroleum royalties under the *Mineral Resources Act 1989* and the *Petroleum and Gas (Production and Safety) Act 2004*. The Minister for Employment, Skills and Mining will have continuing responsibility for the *Mineral Resources Act 1989* and *Petroleum and Gas (Production and Safety) Act 2004* except to the extent administered by the Treasurer and Minister for State Development and Trade. As a result, royalty information will no longer be obtained by the Department of Employment, Economic Development and Innovation (DEEDI) in the administration of the *Mineral Resources Act 1989* or the *Petroleum and Gas (Production and Safety) Act 2004*. However, access to this information will continue to be required for DEEDI's administration of other aspects of the legislation, such as regulatory matters and tenure administration.

The *Mineral Resources Act 1989* and the *Petroleum and Gas (Production and Safety) Act 2004* include provisions regulating the disclosure of confidential information obtained in the administration of royalties. However, these provisions are inconsistent across the Acts and raise issues regarding the provision to DEEDI of confidential information obtained by OSR in administering royalties where that information is required by DEEDI.

To address these and other issues, the confidentiality provisions of the *Mineral Resources Act 1989* and the *Petroleum and Gas (Production and Safety) Act 2004* are being replaced with provisions that will operate consistently and effectively across both Acts. Similarly to the *Taxation Administration Act 2001*, the provisions will distinguish between personal confidential information and other confidential information. The circumstances in which personal confidential information may be disclosed will be limited to ensure appropriate safeguards for this type of information.

Payment of royalties and lodgement of returns

Certain provisions of the *Mineral Resources Act 1989 (approval provisions)* provide that, in seeking approval from the mining registrar for the assignment or surrender of a mining claim or mining lease, the application must be accompanied by a royalty return and the royalty payable.

Following the transfer of royalty administration to OSR on 1 July 2011, royalty returns will be lodged with, and royalty payments made to, OSR. The *Mineral Resources Act 1989* is being amended to ensure that, where a person lodges a return and makes a payment in this way, they will be taken to have satisfied their lodgement and payment obligations under the approval provisions.

Amendment of the Geothermal Energy Act 2010

The Bill renumbers some sections of the *Geothermal Energy Act 2010*.

Additional amendments to the Mineral Resources Act 1989

The Bill amends all sections of the MRA relevant to making lease application(s) over overlapping tenure and "other" land, to replace the obligation that an applicant "must" make separate applications with the option that the applicant "may" make separate applications. This will make discretionary the current mandatory requirement for separate coal or oil shale mining lease applications where there is an existing overlapping petroleum tenement and other land, or overlapping tenured land that is owned by more than one person. It will also provide certainty regarding the validity of future applications where the overlapping tenure may include gaps in the grant because of the exclusion of certain classes of land.

The Bill introduces a transitional provision that validates coal mining lease applications made since 17 March 2008 where such applications may have inadvertently been in breach of the requirement for separate applications if

there was an overlapping petroleum tenement and "other" land, or overlapping tenured land that was owned by more than one person.

The Bill renumbers sections of the Act to correct an anomaly that arises as a result of uncommenced sections of the *Geothermal Energy Act 2010*.

Additional amendments to the Petroleum and Gas (Production and Safety) Act 2004

The Bill amends the *Petroleum and Gas (Production and Safety) Act 2004* to allow a petroleum lease holder to construct and operate pipelines across multiple leases to transport for treatment water that is extracted during coal seam gas production. The amendment will also allow treated water to then be transported for either reinjection or beneficial use within the same area.

The Bill amends all sections of the *Petroleum and Gas (Production and Safety) Act 2004* relevant to making lease application(s) over overlapping tenure and "other" land, to replace the obligation that an applicant "must" make separate applications with the option that the applicant "may" make separate applications. This will make discretionary the current mandatory requirement for separate petroleum lease applications where there is an existing overlapping coal or oil shale tenement and "other" untenured land, or overlapping tenement land that is owned by more than one person. It will also provide certainty regarding the validity of future applications where the overlapping tenure may include gaps in the grant because of the exclusion of certain classes of land.

The Bill introduces a transitional provision that validates petroleum lease applications made since 17 March 2008 where such applications may have inadvertently been in breach of the requirement for separate applications where there were overlapping coal or oil shale tenements and "other" untenured land, or overlapping tenement land that was owned by more than one person.

Alternative ways of achieving policy objectives

Amendments to revenue legislation

The policy objectives can only be achieved by legislative amendments.

Amendments to royalty legislation

The policy objectives can only be achieved by legislative amendments.

Additional amendments to the Mineral Resources Act 1989 and Petroleum and Gas (Production and Safety) Act 2004

For amendments to the *Mineral Resources Act 1989* and the *Petroleum and Gas (Production and Safety) Act 2004* in the Bill, there are no other viable alternatives that would achieve the policy objectives other than the amendments introduced by the Bill.

Estimated cost for government implementation

Amendments to revenue legislation

Implementation costs in relation to amendments to the revenue legislation are not expected to be significant. These costs relate to client education activities, changes to publications, documents, website and systems, staff training and managing any enquiries on the amendments. Such costs will be funded through existing resources.

Amendments to royalty legislation

There are no additional costs in relation to the amendments to the royalty legislation.

Additional amendments to the Mineral Resources Act 1989 and Petroleum and Gas (Production and Safety) Act 2004

There are no financial considerations that arise from amendments to the *Mineral Resources Act 1989* and the *Petroleum and Gas (Production and Safety) Act 2004* in the Bill.

Consistency with fundamental legislative principles

Amendments to revenue legislation

Rights and liberties of individuals

If land rich duty is unpaid by the due date for payment, the liability is a first charge on the land of the land rich corporation and of its subsidiaries. The amendments in this Bill implementing landholder duty will mean that this charging provision will apply from 1 July 2011 for landholder duty. The application of landholder duty to corporations which would not have been land rich corporations under the land rich duty arrangements and to listed unit trusts will mean that the charging provision will apply to those entities for the first time. This has the potential for holders of existing registered securities over land of a landholder and its subsidiaries to lose the priority of their securities to the Commissioner's first charge. For this to occur, however, the following events would need to occur:

- a relevant acquisition would need to happen, that is a person (alone or with related persons) must acquire 50 per cent or more of the interests in a private landholder or 90 per cent or more of the interests in a public landholder or;
- where a relevant acquisition has already happened, the person's interest must increase;
- the person must then default in payment of the landholder duty payable;
- the Commissioner must decide to register a charge over the land to ensure collection of the duty payable.

In these circumstances, the risk of loss of priority of existing registered securities is very limited. Further, given the nature of a relevant acquisition for landholder duty, it is probable that lenders to the corporation will be aware of these transactions and will have opportunity to make appropriate arrangements to protect their interests.

The remaining revenue-related legislative amendments are consistent with fundamental legislative principles.

Amendments to royalty legislation

The amendments are consistent with fundamental legislative principles.

Additional amendments to the Mineral Resources Act 1989 and Petroleum and Gas (Production and Safety) Act 2004

Whether legislation adversely affect rights and liberties, or impose obligations, retrospectively—Legislative Standards Act 1992, section 4(3)(g)

Clauses 167 and 194 of the Bill have retrospective application insofar as they act to treat some production lease applications made under Chapter 3 of the *Petroleum and Gas (Production and Safety) Act 2004* or Part 7AA of the *Mineral Resources Act 1989* as if they had been properly made, even if they could otherwise be regarded as being in breach of a requirement for making separate applications because the proposed lease would cover both overlapping tenure and untenured ("other") land, or overlap land subject to tenure for the alternative resource where that tenure is held by more than one person.

Any such breach would only be technical in nature, as a failure to submit the correct number of applications would not affect the decision maker's ability to consider the issues relevant to the decision. The clauses do not

affect any other aspect of the application process, nor do they affect any rights in relation to a potential review of that decision, other than a review related to the number of applications that were made.

The amendments do not have a detrimental effect on rights or liberties, or impose retrospective obligations, on any party. No additional requirements apply to the applicant as a result of the amendments. The amendments act to protect the rights of applicants whose applications were made in good faith and met all other requirements for making an application, apart from a potential breach in the number of applications that were made.

Consultation

Amendments to revenue legislation

To the extent the Bill gives effect to the 2011-12 State Budget initiatives, consultation was not appropriate.

Consultation on the landholder duty changes was not undertaken as the existing legislative provisions (which are amended to implement the duty) are longstanding and the policy changes were publicly announced.

Amendments to royalty legislation

The amendments to the confidentiality provisions are principally being made for administrative purposes. Consultation with industry is therefore not considered to be necessary.

Additional amendments to the Mineral Resources Act 1989 and Petroleum and Gas (Production and Safety) Act 2004

Community

Number of resource lease applications: The proposal to introduce discretion in the requirement for separate lease applications where there is land subject to existing overlapping tenure as well as other untenured land, or overlapping land subject to tenure for the alternative resource where that tenure is held by more than one person, was included in the draft *Mines and Petroleum Legislation Amendment Bill 2011*, which was released for public and industry consultation on 20 January 2011.

None of the submissions received on the draft *Mines and Petroleum Legislation Amendment Bill 2011* objected to providing discretion in the requirement for separate lease applications where there is land subject to existing overlapping tenure as well as other untenured land, or overlapping land subject to tenure for the alternative resource where that tenure is held

by more than one person. The lack of clarity regarding the number of applications that are required if there are built-in gaps in the overlapping tenure was raised by industry.

Consistency with legislation of other jurisdictions

Amendments to revenue legislation

The Bill is not part of national scheme legislation.

Amendments to royalty legislation

The Bill is not part of national scheme legislation.

Additional amendments to the Mineral Resources Act 1989 and Petroleum and Gas (Production and Safety) Act 2004

The requirements of the *Mineral Resources Act 1989* and the *Petroleum and Gas (Production and Safety) Act 2004* that are amended by the Bill are specific to the State of Queensland, and that legislation is not uniform with or complementary to legislation of the Commonwealth or another state.

Notes on Provisions

Part 1 Preliminary

Clause 1 cites the short title of the Act as the *Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011*.

Clause 2 provides when the provisions of the Bill commence.

Part 2 Matters relating to repeal of Community Ambulance Cover Act 2003

Clause 3 inserts definitions of *assessable period, pre-repeal matter* and *repealed Act.* This part commences on 1 July 2011.

Clause 4 applies, for this part, the meaning of the words defined in the *Community Ambulance Cover Act 2003* immediately before that Act's repeal.

Clause 5 provides that this part does not limit section 20 of the *Acts Interpretation Act 1954*.

Clause 6 is a savings provision which supplements the savings provisions of the *Acts Interpretation Act 1954*. The clause ensures that the repealed *Community Ambulance Cover Act 2003*, as in force immediately before 1 July 2011, continues to apply for rights, privileges, obligations and liabilities that would have been acquired, accrued or incurred on or after 1 July 2011 in relation to a pre-repeal matter as if the *Community Ambulance Cover Act 2003* had not been repealed. This ensures, for instance, that an electricity retailer continues to act as the agent of the Commissioner for collecting the levy for an assessable period, and a customer may claim a refund for levy overpaid before 1 July 2011 even though the claim is made after the repeal of the *Community Ambulance Cover Act 2003*.

The clause clarifies that offence provisions under the repealed Act continue to apply in respect of anything done or not done on or after 1 July 2011 in relation to a pre-repeal matter.

The clause also clarifies that these savings provisions apply to any statutory instruments in force under the repealed Act immediately before 1 July 2011.

Clause 7 clarifies that there is no levy liability for a period other than an assessable period and that a statement of levy liability cannot issue for an amount that purports to be a levy amount for a period other than an assessable period. This avoidance of doubt provision recognises that this Act establishes requirements and entitlements where a purported levy is incorrectly included in a statement of levy liability.

Clause 8 amends certain requirements relating to levy liability statements under the repealed Act. From 1 July 2011 it is no longer required that a

statement cover the same period as the electricity account or that statements be issued for nil amounts. Also a statement of levy liability under section 87(5) of the repealed Act may relate only to an assessable period. These provisions reflect that the levy liability included in a statement of levy liability should only relate to the period before 1 July 2011. An electricity customer is only required to pay a levy that relates to an assessable period. If an electricity retailer incorrectly includes a purported levy amount for a period on or after 1 July 2011, the retailer must issue a statement of levy liability to replace the incorrect statement. This would then give rise to a right to a refund under section 108 of the repealed Act.

Clause 9 ensures the operation of section 108 of the repealed Act where an electricity retailer is required to issue a replacement statement of levy liability under this Act.

Clause 10 limits an electricity retailer's ability to issue a replacement statement of levy liability under section 89(b) of the repealed Act on or after 1 July 2012 to cases where the electricity customer has asked the retailer for the replacement statement before 1 July 2012 and the liability relates to an assessable period. This does not limit the electricity retailer's ability to issue a replacement statement of levy liability under section 89(a) to give effect to the outcome of a review or appeal decision.

Clause 11 limits entitlement to a refund of a levy amount under section 107 or 107A of the repealed Act to claims lodged by an electricity customer or a responsible person with the relevant person before 1 July 2012. This provision does not extend the refund period mentioned in section 107(5) or section 107A(5) of the repealed Act.

Clause 12 provides that an owner of power card premises cannot recover from the occupier a purported levy amount paid in relation to a period that is not an assessable period. However, the owner may seek a refund from the electricity retailer and, under this Act, the electricity retailer must issue a statement of levy liability to replace the incorrect statement.

Clause 13 provides that an on-supplier cannot recover from a person a purported levy amount paid in relation to a period that is not an assessable period. However, the on-supplier may seek a refund from the electricity retailer and, under this Act, the electricity retailer must issue a statement of levy liability to replace the incorrect statement.

Clause 14 limits an electricity retailer's entitlement to recover an amount claimed to be overpaid under the repealed Act. The retailer must claim any

refund before 1 July 2012. The exception to this requirement is where the retailer is required to make a refund to an electricity customer under part 7 division 8 of the repealed Act, as modified by this Act, and the retailer cannot pay the customer the amount out of levy amounts the retailer has collected. For instance, if an electricity customer has claimed a refund from the electricity retailer before 1 July 2012, based on an entitlement to an exemption, but the retailer has insufficient levy amounts collected to apply the refund against under section 103(3) of the repealed Act, the retailer is not precluded from seeking reimbursement from the commissioner. This section does not confer a right, or impose an obligation, for the payment of an amount.

Clause 15 provides that an administration agreement in force immediately before 1 July 2011 continues in force until it is ended in accordance with its terms.

Clause 16 provides for the application of subdivision 4 for administration agreements continued in force under section 11.

Clause 17 inserts a definition of *assessable electricity sale arrangement*.

Clause 18 provides that, on and from 1 July 2011, the base annual fee under an administration agreement is the same as for the financial year ending 30 June 2011.

Clause 19 modifies the requirements relating to levy statistics statements under an administration agreement that is still in force on or after 1 October 2011.

Clause 20 provides formulae for calculating administration fees for October 2011 and subsequent months where the administration agreement is in force for the entire month or part of the month.

Clause 21 allows an electricity retailer to elect in writing not to claim any further administration fees on or after 1 October 2011. Such an election extinguishes the commissioner's liability to pay the fee. No further levy statistics statements will then be required to be lodged.

Clause 22 continues the operation of part 9 division 2 of the repealed Act in relation to proceedings for a review by QCAT, whether the decision on the objection was made before, on or after 1 July 2011.

Clause 23 ensures that confidentiality provisions under sections 142 (relating to persons taken to be officials for the purposes of the *Taxation Administration Act 2001*) and 143 (relating to the use of information

obtained in the administration or enforcement of a taxation law) continue to apply as if the repealed Act had not been repealed.

Clause 24 limits the application of the *Taxation Administration Act 2001,* in relation to this Act being a revenue law, to certain provisions of the *Taxation Administration Act 2001*. This Act is declared to be a revenue law under part 17 of the *Taxation Administration Act 2001*.

Clause 25 prohibits an electricity retailer from giving a customer a statement of levy liability for a purported levy amount for a period other than an assessable period and provides a penalty for such an offence. The provision supports section 7 (a statement of levy liability cannot issue for a levy amount for a period other than an assessable period), section 8(3) (a replacement statement of levy liability must be issued where this occurs) and section 8(4) (electricity customers are liable for pay only levies for an assessable period). This provision commences on 1 January 2012 recognising that electricity retailers will need to modify their systems.

Clause 26 prohibits an owner for a power card arrangement from recovering a purported levy amount from a person if the levy amount is not for an assessable period and provides a penalty for such an offence. This provision commences on 1 January 2012.

Clause 27 prohibits an on-supplier from recovering from a person a purported levy amount if the levy amount is not for an assessable period and provides a penalty for such an offence. This provision commences on 1 January 2012.

Part 3 Amendment of Community Ambulance Cover Act 2003

Clause 28 provides that this part amends the *Community Ambulance Cover Act 2003*. This part commences on assent.

Clause 29 amends section 4 to provide that the *Community Ambulance Cover Act 2003* imposes the levy only for the days on or after 1 July 2003 and before 1 July 2011.

Clause 30 inserts new section 17A providing a definition of *later financial year.* This clarifies that reference to a later financial year does not include a financial year commencing on or after 1 July 2011.

Clause 31 amends section 18 to provide that establishment of the annual levy and the daily levy relates only to a financial year ending before 1 July 2011. A definition of *relevant financial year* is inserted.

Clause 32 amends the definition of *later financial year* in the Schedule to refer to section 17A.

Part 4 Repeal of Community Ambulance Cover Act 2003

Clause 33 repeals the *Community Ambulance Cover Act 2003* on 1 July 2011.

Part 5 Amendment of this Act

Clause 34 provides that this part amends this Act on 2 July 2011.

Clause 35 amends the long title of this Act.

Clause 36 amends the short title of this Act. The Act will then be referred to as the *Community Ambulance Cover Levy Repeal Act 2011*.

Part 6 Consequential amendments for repeal of Community Ambulance Cover Act 2003

Clause 37 provides that this part amends the *Electricity Act 1994* to make consequential amendments.

Clause 38 omits section 55DA(3) and (4) of the *Electricity Act 1994.* This removes references to the Community Ambulance Cover levy from provisions requiring retail entities to enter into community service agreements.

Clause 39 omits sections 55F and 61A of the *Electricity Act 1994*. Section 55F makes it a condition of a retail authority for a retail entity to comply with the requirements of the *Community Ambulance Cover Act 2003*. Section 61A makes it a condition of a special approval holder for the holder to comply with the requirements of the *Community Ambulance Cover Act 2003*.

Clause 40 inserts a new part 11 into the *Electricity Act 1994* providing a transitional provision for the repeal of the *Community Ambulance Cover Act 2003*.

New section 331 provides that sections 55DA(3) and (4), 55F and 61A, as in force immediately before 1 July 2011, continue to apply. .

Clause 41 omits the definition of *Ambulance Cover Act* from the Dictionary in Schedule 5 of the *Electricity Act 1994*.

Clause 42 amends the reference to the *Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011* to reflect the change in its short title on 2 July 2011 to the *Community Ambulance Cover Levy Repeal Act 2011*.

Clause 43 amends the *Energy and Water Ombudsman Act 2006* to make consequential amendments.

Clause 44 amends section 11 of the *Energy and Water Ombudsman Act 2006* to omit reference to section 13.

Clause 45 omits section 13 the *Energy and Water Ombudsman Act 2006* which excludes disputes relating to the Community Ambulance Cover levy from referral to the Energy and Water Ombudsman.

Clause 46 amends section 19(b) of the *Energy and Water Ombudsman Act 2006* to omit reference to section 13.

Clause 47 amends sections 22(4) of the *Energy and Water Ombudsman Act 2006* to omit reference to section 13.

Clause 48 amends sections 23(1)(a) of the *Energy and Water Ombudsman Act 2006* to omit reference to section 13.

Clause 49 inserts a new part 11 into the *Energy and Water Ombudsman Act 2006* providing a transitional provision for the repeal of the *Community Ambulance Cover Act 2003*.

New section 102 provides that sections 11(2), 13, 19(b), 22(4) and 23(1)(a), as in force immediately before 1 July 2011, continue to apply in

respect of the functions of, and referral of disputes to, the Energy and Water Ombudsman.

Clause 50 amends the reference to the *Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011* to reflect the change in its short title on 2 July 2011 to the *Community Ambulance Cover Levy Repeal Act 2011*.

Clause 51 amends the *Taxation Administration Act 2001* to make consequential amendments.

Clause 52 amends section 6 of the *Taxation Administration Act 2001* so that the *Community Ambulance Cover Act 2003* is no longer a revenue law.

Clause 53 inserts a new part 17 into the *Taxation Administration Act 2001* providing savings, transitional and related provisions for the repealed *Community Ambulance Cover Act 2003*.

New section 170 provides definitions for *commencement* and *repealed Act*.

New section 171 provides that the repealed Act is taken to continue to be a revenue law under section 6 of the *Taxation Administration Act 2001* and that section 141 of the repealed Act (which excludes certain parts of the *Taxation Administration Act 2001* from operation) continues to apply.

New section 172 provides that the *Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011* is taken to be a revenue law under section 6 of the *Taxation Administration Act 2001*.

New section 173 ensures that delegations or subdelegations of the Commissioner's powers in force immediately before 1 July 2011 continue for the administration of the repealed Act.

New section 174 clarifies that the confidentiality provisions contained in part 8 of the *Taxation Administration Act 2001* continue to apply.

Clause 54 amends the reference to the *Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011* to reflect the change in its short title on 2 July 2011 to the *Community Ambulance Cover Levy Repeal Act 2011*.

Clause 55 changes the reference to the *Community Ambulance Cover Levy Repeal Act 2011*.

Clause 56 changes the reference to the *Community Ambulance Cover Levy Repeal Act 2011*.

Part 7 Amendment of Duties Act 2001

Clause 57 provides that this part amends the *Duties Act 2001*.

Clause 58 Clauses 58, 62-64, 66-67, 73, 75, 83, 85-88, 90-91, 95, 98, 102-109, 111-125 and 127 make changes to terminology and defined terms throughout chapter 3 part 1, to change references from land rich duty to landholder duty; land rich corporation to landholder or entity as the context requires; and to include listed unit trusts, unitholders and units in the relevant provisions.

Clause 59 inserts a new note to section 49 to advise that landholder duty may be payable in relation to an acquisition of an interest in a listed unit trust.

Clause 60 changes the references in section 61(1)(b) from a majority interest to an interest of 50% or more due to the new definition of significant interest.

Clause 61 inserts a new note to section 69 to advise that landholder duty may be payable in relation to an acquisition of an interest in a listed unit trust.

Clause 65 replaces section 157 which imposes landholder duty on relevant acquisitions. Subsection (2) provides that for a relevant acquisition in a private landholder duty is imposed on the dutiable value of the acquisition and for a relevant acquisition in a public landholder, duty is imposed in the way provided in new section 179B as inserted by clause 94.

Clause 68 replaces section 158 which explains when a person makes a relevant acquisition. The making of a relevant acquisition in a landholder is the event that triggers imposition of landholder duty.

It also provides that all interests held in a landholder are taken into account to determine whether or nor a person has a significant interest in the landholder. Where a significant interest exists, landholder duty will apply regardless of when the interests were acquired or whether or not the landholder held land when the interest was acquired. However, in calculating the duty payable, excluded interests are disregarded.

Current sections 158(2) and (3) are omitted due to the changes made to section 158(1). However, new section 179(6) as inserted by clause 93 ensures that landholder duty is payable where interests are acquired over a

greater than 3 year period pursuant to an arrangement that includes the most recent acquisition are not excluded.

New subsection (2) clarifies that section 158(1)(b) may still apply where, immediately before the acquisition of an interest in a landholder by a person, the person already had a significant interest in the landholder , or the interests held by related persons of the person alone or when aggregated with interests held by the person, were a significant interest in the landholder.

Example

On 2 July 2011 A acquires 55% of the shares in X Co Pty Ltd. At the time of the acquisition, X Co Pty Ltd owned land in Queensland but was not a landholder and therefore no landholder duty was paid on that acquisition. On 15 September 2011, A acquires a further 5% interest in X Co Pty Ltd which then owns land in Queensland valued at $3 million and is a landholder. A has made a relevant acquisition in X Co Pty Ltd as A has an interest of 60% which is a significant interest. As none of the interests are excluded interests, landholder duty will be payable on 60% of the value of the land.

If at the time of the acquisition of A's 55% interest, X Co Pty Ltd did not own land in Queensland, these interests would be excluded interests and landholder duty would be payable on 5% of the value of the land.

Clause 69 omits existing section 159 and inserts a new section 159 to provide for interests in a landholder to include units in a listed unit trust and shares in a listed corporation. Subsection (2) provides that a person will have a significant interest in a landholder if they have an interest of 50% or more in a private landholder or 90% or more in a public landholder.

Clause 70 replaces section 160 which provides the formula for measurement of a person's interest in a corporation or listed unit trust.

Clause 71 amends section 161 making it subject to new section 161B as inserted by clause 72. It also amends section 161(1)(b) to clarify that that the provisions relating to determining a person's entitlement on the distribution of a corporation's property operate so that any or all of the powers and discretions may be exercised. Clauses 71(3) and (4) omit subsections (2) and (3) and renumber existing subsection (4) as a consequence.

Clause 72 inserts new sections 161A and 161B.

New section 161A sets out the way the entitlement of a person on a distribution of a landholder that is a listed unit trust's property is to be calculated. New section 161A is subject to new section 161B.

New section 161A(2) provides that an entitlement of a person must be worked out without regard to the liabilities of the trust.

Sections 161(1) and 161A(1) allow the Commissioner of State Revenue (the Commissioner) to calculate the entitlement of a person as if any or all powers, discretions, conditions or contingencies that could maximise the entitlement have been exercised, fulfilled or occurred. However, new section 161B(1) provides that if the Commissioner considers that calculation on the basis of a deemed exercise of these things would be inequitable, the Commissioner may calculate the entitlement on the basis of a distribution carried out under the corporation's constitution and the *Corporations Act 2001* (Cwlth) or the instrument creating the trust.

New section 161B(2) clarifies the application of sections 161(1)(b) and 161A(1)(b) in calculating the entitlement of an acquirer and a related person cannot result in a maximised entitlement of more than 100%.

Clause 73 inserts new paragraph (e) into section 162(2) which specifies when a person acquires an interest in a landholder. For example, a change in capacity may occur where there is a change in the beneficial ownership of an interest held by a person as trustee. In addition, a change in capacity may occur in the circumstances set out in section 53(2) of the *Duties Act 2001*.

Clause 74 replaces section 163 which sets out the timing rules for determining when an acquisition of an interest is made. Section 163(1) ensures that the provision operates in relation to the acquisition of all interests that are covered by chapter 3, part 1 whether or not the landholder was a landholder at the time of the acquisition.

Section 163(3) addresses the situation where the holder of a security interest later acquires their interest free from the interest or equity of the owner, to ensure that landholder duty is appropriately imposed.

Clause 75 amends section 164. Clause 75(1) changes the references in section 164(1)(b) from a majority interest to an interest of 50% or more due to the new definition of significant interest. Clause 75(3) omits section 164(3) as section 158(1)(b)(iii) has been omitted. Clauses 75(4) & (5) make consequential amendments to section 164 to take into renumbering and the other changes to the section.

Clause 77 omits existing section 165 and inserts new section 165 which provides a definition of a "landholder".

It also inserts new section 165A which provides a definition of a "private landholder" and a "public landholder".

Clause 78 replaces existing section 166 with a new section 166 which provides a broad definition of "subsidiary". In particular, section 166(1) ensures that a corporation is a subsidiary of both a corporation and a listed unit trust (the holding entity) under the provisions dealing with subsidiaries under the *Corporations Act 2001* (Cwlth). Section 166(4) adapts with necessary changes the relevant provisions of the Corporations Act to apply for a listed unit trust.

Example

X Co Pty Ltd as trustee for the Green Development Trust which is a listed unit trust holds 60% of the issued shares in Y Co Pty Ltd. Under section 166, Y Co. Pty Ltd would be a subsidiary of the Green Development Trust.

Clause 79 replaces existing sections 167(2) and (3). Section 167(2) provides that an entity's land-holdings include the land-holdings of its subsidiaries. Section 167(3) operates so that in relation to trust property, land-holdings held on trust by a corporation will only be included as part of the corporation's land-holdings if the corporation, or one of its subsidiaries, is a beneficiary of the trust. However, for listed unit trusts, this only applies in relation to land-holdings held on trust by a subsidiary of it (and not the trust itself) where the trust or one of its subsidiaries is a beneficiary of the trust.

Clause 80 replaces existing section 168. It defines the "property" of an entity for the landholder duty provisions. Section 168(2) provides that an entity's property includes the property of its subsidiaries.

Like section 167, in relation to trust property, section 168(3) provides that land-holdings held on trust by a corporation will only be included as part of the corporation's land-holdings if the corporation, or one of its subsidiaries, is a beneficiary of the trust. However, for listed unit trusts, this only applies in relation to land-holdings held on trust by a subsidiary of it (and not the trust itself) where the trust or one of its subsidiaries is a beneficiary of the trust.

Clause 81 omits section 169.

Clause 82 replaces section 170(1) which provides special rules for working out the value of co-owned land-holdings for section 165 and ensures that an entity's land-holdings cannot be diluted by a co-ownership arrangement.

Clause 84 omits section 172 which will not be relevant for landholder duty.

Clause 89 omits section 176. The rate of landholder duty for private landholders in included in new section 178A as inserted by Clause 92.

Clause 92 replaces the heading of chapter 3, part 1, division 4 so that it sets out the provisions for working out landholder duty on relevant acquisitions and inserts a new subdivision 1 for private landholders, including new section 178A.

New section 178A provides that the duty imposed on the dutiable value of a relevant acquisition in a private landholder is to be calculated at the rate of transfer duty applicable to a transfer of land.

Clause 93 amends section 179 so that it applies for working out the dutiable value of a relevant acquisition in a private landholder. In particular, section 179(1) requires that in working out the dutiable value, excluded interests must be deducted from the interests, or total of interests, in the landholder constituting the relevant acquisition. Clause 93(6) inserts a definition of "excluded interest" for a private landholder. However, it ensures that interests acquired over a greater than 3 year period pursuant to an arrangement that includes the most recent acquisition are not excluded.

Clause 94 inserts a new subdivision 2 into chapter 3, part 1 division 4 for public landholders.

New section 179A sets out how to calculate the landholder duty payable for a relevant acquisition in a public landholder. Section 179A(2) applies only where a person increases their interest in a public landholder from the initial acquisition of a significant interest of 90% or more up to 100%. If the person's interest reduces, such as on the sale or part of their interest, and then a further interest is obtained, the provision will not apply and landholder duty will be payable.

New section 179B sets out how to work out the dutiable value of the deemed dutiable transaction for section 179A. In particular, where there are excluded interests, the value of these interests are deducted from the unencumbered value of the Queensland land-holdings of the landholder. Excluded interests are defined in new section 179B(2).

Clause 96 omits section 181.

Clause 97 amends section 182 which details how the unencumbered value of a landholder's land-holdings is to be calculated where land-holdings of a subsidiary are included. Section 182(2) provides that the value to be attributed to the landholder is to be based on the proportion of the subsidiaries' land-holdings that the landholder would be entitled if they were wound up (for a corporation) or terminated (for a trust) at the same time without regard to their liabilities. Section 182(3) provides specific rules for determining the entitlement of the landholder on the winding up of all its subsidiaries depending on whether the subsidiary is a corporation, a trustee of unit trust or other trust and allows for maximisation of the entitlement.

Clause 99 replaces section 184 which provides that for working out the duty on a relevant acquisition under sections 179 and 179B, only the unencumbered value of the landholder's interest co-owned land-holdings is to be taken into account. This is to be contrasted with section 170 which includes the entire value of the co-owned land-holdings for the purposes of determining whether an entity is a landholder.

Clause 100 amends section 185 to ensure that the reduction of landholder duty where corporate trustee duty is also paid or payable is worked out in relation to the land-holdings that were included in the duty calculation.

Clause 101 amends section 186 to ensure that the reduction of landholder duty where transfer duty is also paid or payable is worked out in relation to the land-holdings that were included in the duty calculation.

Clause 110 amends section 194 to ensure that the provision operates to provide exemption for a relevant acquisition where transfer duty would not be imposed on a dutiable transaction because of one of the exemptions listed after the abolition of transfer duty on marketable securities.

Clause 126 inserts new part 15 into chapter 17 to provide for transitional provisions for this Bill.

New section 622 sets out the definition for part 15.

New section 623 provides for relevant references to landholder duty to include a reference to land rich duty imposed or paid under the previous provisions; references to a relevant acquisition to also include a relevant acquisition made under the previous provisions and for references to a significant interest to include a reference to a majority interest under the previous provisions.

New section 624 provides that, for a relevant acquisition in a land rich corporation made before 1 July 2011, the *Duties Act 2001* prior to the changes made in this Bill will continue to apply in relation to that acquisition.

New section 625 ensures that any interests acquired by a person or a related person before 1 July 2011 are included for the application of section 158.

New section 626 includes as an excluded interest for calculating landholder duty for a relevant acquisition in a private landholder, interests acquired before 1 July 2011 where the corporation was not land rich. In working out when the interest was acquired, section 163(2) applies.

New section 627 provides that a reference in section 412 to duty assessed on the basis of an exemption in section 409 includes a reference to duty assessed under section 409 before amendment by this Bill.

Clause 127 changes the reference to section 176 to new section 178A in schedule 3.

Clause 128 amends the Dictionary in schedule 6 by omitting definitions that are no longer required and inserting new definitions of "landholder", "landholder duty", "landholder duty statement", "listed corporation", "private landholder", "public landholder", "significant interest", "unlisted corporation", "entity" and "previous".

Clause 129 amends headings in chapter 2 part 9 to refer to *first homes*.

Clause 130 amends section 85 to remove reference to *home*.

Clause 131 amends section 86, which defines a *home* and *first home*, to reflect the fact that a concession is no longer provided for the purchase of a home that is not a first home. Section 86 now relates only to a first home. The requirement that the occupation date is within one year of the transfer date is included in the definition of *first home*.

Clause 132 amends section 86B(2)(a) to reflect that the first home concession is no longer available.

Clause 133 amends the heading for chapter 2 part 9 division 3 to remove reference to *home*.

Clause 134 omits section 91 which provides formulae for calculating transfer duty on a dutiable transaction relating to the acquisition of a home that is not a first home.

Clause 135 amends section 92 to replace the formula in subsection (2) for calculating transfer duty on a dutiable transaction relating to the acquisition of residential land that is a first home with a new formula. The replaced formula provided for the rebate amount referred to in schedule 4A to be deducted from the transfer duty at the concessional rate for a home other than a first home calculated under section 91. Under the new formula, the rebate is deducted from the transfer duty payable on the dutiable value of the dutiable transaction without concession. The drafting of the formula for calculating transfer duty on the acquisition of vacant land on which a first home is to be built is updated to adopt similar language to that in (2)(a). Subsection (4) is omitted.

Clause 136 amends section 93 to ensure that the mixed and multiple claims provisions no longer apply to the interests of transferees, lessees or vested persons acquiring a home that is not a first home. The formula for calculating transfer duty in relation to mixed and multiple claims has been replaced by a new formula that calculates transfer duty where one or more, but not all of the transferees, lessees or vested persons, are acquiring a first home or where a part interest in a first home is acquired. Under the new formula, the rebate is deducted from the transfer duty payable for first home acquirers only.

Clause 137 amends section 94 to update cross references.

Clause 138 amends the heading for chapter 2 part 14 division 1 to refer to *first homes.*

Clause 139 amends section 153 to remove the reference to section 91 and *home*.

Clause 140 amends section 154 to omit the reference to section 91 and so that the provision applies to first homes and not homes.

Clause 141 amends section 155 to remove the reference to section 91.

Clause 142 replaces section 272 to ensure that the definition of *home* for mortgage duty home concession purposes remains substantively the same despite the changes to section 86.

The clause also inserts new section 272A providing a definition of *first home* for mortgage duty home concession purposes which aligns with the amended definition in section 86 with the necessary adjustments.

Clause 143 inserts a heading for new division 1 in chapter 17 part 15.

Clause 144 inserts a new division 2 in chapter 17 part 15.

New section 628 provides that sections 86, 91, 93, 153, 154 and 155, schedules 3, 4A and 4B, and schedule 6 (in relation to the definitions of *home* and *occupancy requirement*), as in force immediately before the commencement of this clause, continue to apply to a dutiable transaction in relation to a home for which a transfer duty liability arose before commencement

Clause 145 replaces schedule 3 with a new schedule 3 containing amended rates of duty on dutiable transactions and relevant acquisitions for landholder and corporate trustee duty.

Clause 146 replaces schedule 4A with a new schedule 4A containing new concession (rebate) amounts for transfer duty on residential land containing a first home.

The clause also replaces schedule 4B with a new schedule 4B containing new concession (rebate) amounts for transfer duty on vacant land on which a new home is to be constructed.

Clause 147 amends the definitions of *first home* and *occupancy requirement* in the Dictionary contained in schedule 6 and omits the definition of *home.*

Part 8 Amendment of Geothermal Energy Act 2010

Clause 148 provides that this part amends the *Geothermal Energy Act 2010*.

Clause 149 renumbers inserted sections of the Act to correct an anomaly.

Part 9 Amendment of Land Tax Act 2010

Clause 150 provides that this part amends the *Land Tax Act 2010*.

Clause 151 amends the definition of *taxable value* in section 16 to include a capped value of land if section 18A applies.

Clause 152 inserts a new section 18A which prescribes the circumstances in which a capped value will apply for the 2011-12 financial year so that there is a 50% cap on annual increases in the taxable value of land for the purposes of levying land tax for the 2011-12 financial year.

Clause 153 inserts a new definition of *capped value* in the Dictionary in schedule 4 of the *Land Tax Act 2010*.

Part 10 Amendment of Mineral Resources Act 1989

Clause 154 provides that this part amends the *Mineral Resources Act 1989*.

Clause 155 amends the notes in section 318AO of the *Mineral Resources Act 1989* to remove a reference made redundant by other amendments in this part.

Clause 156 amends the heading for part 7AA, division 2, sub-division 3 of the *Mineral Resources Act 1989* to remove the word 'separate' in order to reflect changes to the content of the sub-division that are made by subsequent sections.

Clause 157 amends section 318AQ of the *Mineral Resources Act 1989* to remove the mandatory requirement for separate mining lease applications where there is an overlapping authority to prospect and petroleum lease that are not held by the same person. The amended section provides discretion for the applicant to make a single application or separate applications. Sub-sections that deal with the arrangements for processing applications have been redrafted to reflect that a single application may have parts with different overlapping tenure and that the different parts of a single application will still be dealt with under the relevant divisions of part 7AA. A separate application for land overlapping an authority to prospect, or the part of an application that relates to land overlapping an authority to prospect, must be decided under division 2. A separate application for land overlapping a petroleum lease, or the part of an application that relates to land overlapping a petroleum lease, must be decided under division 5 or 6.

Clause 158 amends section 318AR of the *Mineral Resources Act 1989* to remove the mandatory requirement for separate mining lease applications over 'other land'. The amended section provides discretion for the applicant to make a single application or separate applications. The amendment to sub-section (3) clarifies that a separate application, or that part of a single application that relates to land where there is no overlapping petroleum tenure, will be dealt with under part 7.

Clause 159 amends the notes in section 318BO of the *Mineral Resources Act 1989* to remove a reference made redundant by other amendments in this part.

Clause 160 amends section 318BQ of the *Mineral Resources Act 1989* to remove the mandatory requirement for separate mining lease applications where there is an overlapping authority to prospect and petroleum lease that are not held by the same person. The amended section provides discretion for the applicant to make a single application or separate applications. Sub-sections that deal with the arrangements for processing applications have been redrafted to reflect that a single application may have parts with different overlapping tenure and that the different parts of a single application will still be dealt with under the relevant divisions of part 7AA. A separate application for land overlapping an authority to prospect, or the part of an application that relates to land overlapping an authority to prospect, must be decided under division 3. A separate application for land overlapping a petroleum lease, or the part of an application that relates to land overlapping a petroleum lease, must be decided under division 5 or 6.

Clause 161 amends section 318BR of the *Mineral Resources Act 1989* to remove the mandatory requirement for separate mining lease applications over 'other land'. The amended section provides discretion for the applicant to make a single application or separate applications. The amendment to sub-section (3) clarifies that a separate application, or that part of a single application that relates to land where there is no overlapping petroleum tenure, will be dealt with under part 7.

Clause 162 amends the notes in section 318BW of the *Mineral Resources Act 1989* to remove a reference made redundant by other amendments in this part.

Clause 163 amends section 318BY of the *Mineral Resources Act 1989* to remove the mandatory requirement for separate mining lease applications over 'other land'. The amended section provides discretion for the applicant to make a single application or separate applications. The

amendment to sub-section (3) clarifies that a separate application, or that part of a single application that relates to land where there is no overlapping petroleum tenure, will be dealt with under division 2.

Clause 164 amends the notes in section 318CC of the *Mineral Resources Act 1989* to remove a reference made redundant by other amendments in this part.

Clause 165 amends section 318CE of the *Mineral Resources Act 1989* to remove the mandatory requirement for separate mining lease applications over 'other land'. The amended section provides discretion for the applicant to make a single application or separate applications. The amendment to sub-section (3) clarifies that a separate application, or that part of a single application that relates to land where there is no overlapping petroleum tenure, will be dealt with under division 2.

Clause 166 renumbers sections of the *Mineral Resources Act 1989* to remove an anomaly that arises as a result of uncommenced sections of the *Geothermal Energy Act 2010*.

Clause 167 inserts a new division 15 into part 19 of the *Mineral Resources Act 1989*. The new division sets out a transitional provision that ensures that mining lease applications made in the period 17 March 2008 to the commencement of this section, which may have been in breach of the requirement to make separate applications where there is an existing overlapping petroleum tenement and other untenured land, or there is an overlapping authority to prospect and a petroleum lease that is owned by more than one person, are regarded as having been validly made. The extent of this validation is restricted to only ensuring that the application is deemed to have met the requirements of the sections that are amended by this part of the Bill, as they were before they were amended. This means that validating applications under this section does not validate an application in regards to any breach of another requirement under the *Mineral Resources Act 1989*. Such breaches will still be dealt with under the appropriate part of the Act. At the same time, a failure of the application to meet any other requirements of the Act apart from the sections that are amended by this part of the Bill, does not affect the limited validation that is granted by this section. The validation also applies whether or not the application being validated has been decided at the commencement of the new division.

Clause 168 amends section 96 to reflect amendments being made to section 325 regarding the obligation to lodge a royalty return or pay a royalty amount when assigning or mortgaging a mining claim.

Clause 169 amends section 107 to reflect amendments being made to section 325 regarding the obligation to lodge a royalty return or pay a royalty amount when surrendering a mining claim.

Clause 170 amends section 300 to reflect amendments being made to section 325 regarding the obligation to lodge a royalty return or pay a royalty amount when assigning, mortgaging or subleasing a mining lease.

Clause 171 amends section 309 to reflect amendments being made to section 325 regarding the obligation to lodge a royalty return or pay a royalty amount when surrendering a mining lease.

Clause 172 inserts a new heading for part 9 division 1.

Clause 173 amends section 325 to clarify that a person is not required to lodge a royalty return or pay a royalty amount under the section if the person has lodged the return or paid the amount under section 320.

Clause 174 inserts a new heading for part 9 division 2.

Clause 175 inserts a new heading for part 9 division 3

Clause 176 omits section 334.

Clause 177 renumbers section 335 as section 334.

Clause 178 inserts new division 4 in part 9 relating to confidentiality requirements.

Section 334A provides definitions for part 9 division 4.

Section 334B prohibits the disclosure of confidential information that has been acquired by an official in the official's capacity, except where expressly permitted under this division. The obligation of non-disclosure extends to persons who are or have been public service employees and to other persons performing functions under or in relation to the administration or enforcement of this Act. The extent to which disclosure is permitted depends on whether the information is personal confidential information or other confidential information. The disclosure of personal confidential information, being information that identifies, or is likely to identify, a person or disclose information about the person's affairs, is allowed only in the circumstances stated in subsection 334B(2).

These circumstances include the provision of information to a person for the administration or enforcement of a royalty law, being the *Mineral Resources Act 1989 or another* law administered by the Minister that provides for the payment of a royalty. For instance, the Minister may provide personal confidential information to officers in the department in which the non-royalty provisions of the *Mineral Resources Act 1989* are administered for purposes including the broader development of policy for that Act.

Non-personal confidential information, which is more general in nature, may also be disclosed in the circumstances considered appropriate by the Minister.

As the intention of division 4 is to protect the confidentiality of specific information and is not intended as a general enabling provision for the dissemination of information by the Minister, section 334B confirms that it creates no right in any person to be given confidential information.

Section 334C deals with the further disclosure of confidential information that has been either knowingly acquired by a person who is not entitled to it or has been received by a person who ought to know that the information is confidential.

Information disclosed by the Minister under section 334B may be further disclosed in the circumstances specified. For instance, there is no limitation on the further disclosure by the person to whom the information relates.

Section 334D provides that a person engaged in administering or enforcing this Act can not be compelled to disclose confidential information or matters relating to that confidential information in the course of legal proceedings, unless those proceedings are for the administration of this Act.

Clause 179 amends definitions in schedule 2.

Part 11 Amendment of Payroll Tax Act 1971

Clause 180 provides that this part amends the *Payroll Tax Act 1971*.

Clause 181 amends subsection 27A(1)(a) to allow the rebate for apprentices and trainees to apply to wages paid or payable during a periodic return period in the financial year ending 30 June 2012 in addition to the years ending 30 June 2010 and 30 June 2011.

Clause 182 amends subsection 35A(1)(a) to allow the rebate for apprentices and trainees to apply to wages paid or payable during the financial year ending 30 June 2012 in addition to the years ending 30 June 2010 and 30 June 2011.

Clause 183 amends subsection 43A(1)(a) to allow the rebate for apprentices and trainees to apply to wages paid or payable during a final period in the financial year ending 30 June 2012 in addition to the years ending 30 June 2010 and 30 June 2011.

Clause 184 amends the definition of "relevant financial year" for an excess rebate in section 49A to include the financial year ending 30 June 2012.

Part 12 Amendment of Petroleum and Gas (Production and Safety) Act 2004

Clause 185 provides that this part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

Clause 186 amends section 110 of the *Petroleum and Gas (Production and Safety) Act 2004* to remove the term 'contiguous to the lease' from subsection (2)(b). The term 'for each continuous lease' is also replaced with 'of each other lease' in subsection (2)(b)(ii) to allow a CSG proponent to undertake the coordination process that is outlined elsewhere in the *Petroleum and Gas (Production and Safety) Act 2004* so that they can construct water pipelines across non-contiguous petroleum leases. The clause also replaces subsection (3), in order to provide that a water pipeline may be operated for the transport of associated untreated water from a petroleum well to a facility for treatment. Treated water may then be transported within the area of a lease as provided for in the amended subsection (2)(b).

Clause 187 amends the heading for chapter 3 part 2, division 1, sub-division 3 of the *Petroleum and Gas (Production and Safety) Act 2004*

to remove the word 'separate' in order to reflect changes to the content of the sub-division that are made by subsequent sections.

Clause 188 amends section 307 of the *Petroleum and Gas (Production and Safety) Act 2004* to remove the mandatory requirement for separate ATP-related applications where there is an both an overlapping coal or oil shale exploration tenement and a coal or oil shale mining lease that are not held by the same person. The amended section provides discretion for the applicant to make a single application or separate applications. Sub-sections that deal with the arrangements for processing applications have been redrafted to reflect that a single application may have parts with different overlapping tenure and that the different parts of a single application will still be dealt with under the relevant part of the Act. A separate application for land in an overlapping exploration tenement, or the part of an application that relates to land in an overlapping exploration tenement, must be decided under part 2 division 1. A separate application for land in an overlapping mining lease, or the part of an application that relates to land in an overlapping mining lease, must be decided under part 3.

Clause 189 amends section 308 of the *Petroleum and Gas (Production and Safety) Act 2004* to remove the mandatory requirement for separate ATP-related applications where there is an both an overlapping coal or oil shale mining tenement and untenured ("other") land. The amended section provides discretion for the applicant to make a single application or separate applications. The amendment to sub-section (3) clarifies that a separate application, or that part of a single application, that relates to land where there is no overlapping coal or oil shale mining tenement will be dealt with under chapter 2.

Clause 190 amends section 335 of the *Petroleum and Gas (Production and Safety) Act 2004* to remove the mandatory requirement for separate ATP-related applications where there is both an overlapping coal or oil shale exploration tenement and a coal or oil shale mining lease that are not held by the same person. The amended section provides discretion for the applicant to make a single application or separate applications. Sub-sections that deal with the arrangements for processing applications have been redrafted to reflect that a single application may have parts with different overlapping tenure and that the different parts of a single application will still be dealt with under the relevant part of the Act. A separate application for land in an overlapping exploration tenement, or the part of an application that relates to land in an overlapping exploration

tenement, must be decided under part 2 division 2. A separate application for land in an overlapping mining lease, or the part of an application that relates to land in an overlapping mining lease, must be decided under part 3.

Clause 191 amends section 336 of the *Petroleum and Gas (Production and Safety) Act 2004* to remove the mandatory requirement for separate ATP-related applications where there is both an overlapping coal or oil shale mining tenement and untenured ("other") land. The amended section provides discretion for the applicant to make a single application or separate applications. The amendment to sub-section (3) clarifies that a separate application, or that part of a single application, that relates to land where there is no overlapping coal or oil shale mining tenement will be dealt with under chapter 2.

Clause 192 amends section 346 of the *Petroleum and Gas (Production and Safety) Act 2004* to remove the mandatory requirement for separate petroleum lease applications where there is both an overlapping coal or oil shale mining lease and untenured ("other") land. The amended section provides discretion for the applicant to make a single application or separate applications. The amendment to sub-section (3) clarifies that a separate application, or that part of a single application, that relates to land where there is no overlapping coal or oil shale mining lease will be dealt with under chapter 2.

Clause 193 amends section 354 of the *Petroleum and Gas (Production and Safety) Act 2004* to remove the mandatory requirement for separate petroleum lease applications where there is both an overlapping coal or oil shale mining lease and untenured ("other") land. The amended section provides discretion for the applicant to make a single application or separate applications. The amendment to sub-section (3) clarifies that a separate application, or that part of a single application, that relates to land where there is no overlapping coal or oil shale mining lease will be dealt with under chapter 2.

Clause 194 inserts a new part 12 into chapter 15 the *Petroleum and Gas (Production and Safety) Act 2004*. The new part sets out a transitional provision that ensures that ATP- related or petroleum lease applications made in the period 17 March 2008 to the commencement of this section, which may have been in breach of the requirement to make separate applications for areas where there is an existing overlapping coal or oil shale mining tenement or coal or oil shale mining lease and other untenured land, or an overlapping coal or oil shale exploration tenement

and a coal or oil shale mining lease that are not held by the same person, are regarded as having been validly made. The extent of this validation is restricted to only ensuring that the application is deemed to have met the requirements of the sections that are amended by this part of the Bill, as they were before they were amended. This means that validating applications under this section does not validate an application in regards to any breach of another requirement under the *Petroleum and Gas (Production and Safety) Act 2004*. Such breaches will still be dealt with under the appropriate part of the Act. At the same time, a failure of the application to meet any other requirements of the Act apart from the sections that are amended by this part of the Bill, does not affect the limited validation that is granted by this section. The validation also applies whether or not the application being validated has been decided at the commencement of the new part.

Clause 195 replaces sections 617A – 617C with new confidentiality provisions in sections 617A - 617D.

Section 617A inserts definitions for chapter 6 part 5.

Section 617B specifies when confidential information may be disclosed and when its disclosure is prohibited. The provision operates in the same way as new section 334B of the *Mineral Resources Act 1989*.

Section 617C specifies the obligations about disclosure and use of confidential information. The provision operates in the same way as new section 334C of the *Mineral Resources Act 1989*.

Section 617D specifies when disclosure of confidential may be refused. The provision operates in the same way as new section 334D of the *Mineral Resources Act 1989*.

Clause 196 amends definitions in schedule 2.