

Revenue Amendment and Trade and Investment Queensland Bill 2013

Explanatory Notes

Short title

The short title of the Bill is the *Revenue Amendment and Trade and Investment Queensland Bill 2013*.

Policy objectives and the reasons for them

The Revenue Amendment and Trade and Investment Queensland Bill 2013 (the Bill) amends the *Duties Act 2001* and the *Fire and Rescue Act 1990* to implement 2013-14 State Budget measures.

The Bill provides for the establishment of a new statutory body, Trade and Investment Queensland ('TIQ'), to become the lead agency responsible for facilitating and promoting trade and investment opportunities for Queensland, and in particular, between Queensland and foreign countries.

The Bill also contains amendments to the *Duties Act 2001*, the *Payroll Tax Act 1971*, the *First Home Owners Grant Act 2000* and the *Taxation Administration Act 2001* to maintain their currency and proper administration.

Proposed amendments to the *Electricity Act 1994* (the Act) will insert a power for the Minister for Energy and Water Supply to set regulated retail electricity tariffs (notified prices) for the 2013-14 tariff year. The purpose of the amendments is to allow the Minister to limit the 2013-14 price increases for those tariffs that are referred to as 'transitional and obsolete' tariffs.

The Bill will also repeal the *Future Growth Fund Act 2006* and make consequential amendments to the *Financial Accountability Act 2009*.

Budget Measures

The insurance duty rates under the *Duties Act 2001* for premiums paid for class 1 and 2 general insurance contracts will be increased to 9% from 7.5% and 5% respectively, as part of the 2013-14 State Budget initiatives.

The amendments to the *Fire and Rescue Service Act 1990* will ensure a sustainable funding base for emergency services through more equitable sharing of the cost of these services across the whole community.

Duties Act 2001

Amendments to the *Duties Act 2001* will give retrospective legislative effect to a number of taxpayer beneficial administrative arrangements affecting pooled superannuation trusts, certain unregistered management investment schemes under the *Corporations Act 2001* (Cwlth), particular covered bond transactions under the *Banking Act 1959* (Cwlth), certain transfers of dutiable property involving custodians of complying superannuation funds, and certain dutiable transactions to correct a clerical error.

Other amendments to the *Duties Act 2001* will:

- Clarify that proceeds from the sale of land over which the Commissioner of State Revenue has registered a charge for debts relating to landholder duty will be applied to the landholder duty liability before any other encumbrances over the land;
- Ensure that transfer duty is payable on the distribution of trust property to a beneficiary where duty was not paid in relation to the acquisition of the beneficiary's trust interest or on a trust creation for the property;
- Clarify that requirements to keep particular instruments effecting or evidencing acquisitions include acquisitions within the extended definition of acquisition under the landholder duty provisions;
- Provide a regulation-making power to support imposition of insurance duty on a part of a premium; and
- Ensure that recipients of the home concession for transfer duty on a property are required to notify the Commissioner of State Revenue if they transfer, lease or grant exclusive possession over the property, or surrender their lease over the property before or within one year after their occupation date.

Electricity Act 1994

In its Draft Determination on regulated retail electricity tariffs for 2013-14, the Queensland Competition Authority (QCA) estimated significant price rises for transitional and obsolete tariffs. These tariffs generally supply farming and irrigation customers, and large business customers in Ergon Energy's distribution region (i.e. outside south east Queensland). In response to the Draft Determination, the Government decided to limit the price rises for transitional and obsolete tariffs in 2013-14 to no more than 10 per cent.

On 31 May 2013, the QCA released its Final Determination for 2013-14 which confirmed that many customers on transitional and obsolete tariffs would have faced significant price rises, had Government decided not to intervene. To implement the Government's decision, amendments to the *Electricity Act 1994* are required.

A minor amendment is also being made to remove the transitional provision relating to the determination of notified prices for the 2012-13 tariff year as it is no longer required.

Financial Accountability Act 2009

The *Financial Accountability Act 2009* will be amended as a consequence of the repeal of the *Future Growth Fund Act 2006*.

First Home Owner Grant Act 2000

The *First Home Owner Grant Act 2000* will be amended to clarify eligibility for the grant for the purchase of a share under a company title arrangement in relation to a home.

Future Growth Fund Act 2006

The *Future Growth Fund Act 2006*, through its establishment of a separate fund (the Queensland Future Growth Fund), creates unnecessary administrative, audit and resource costs for the department. Abolishing the Queensland Future Growth Fund by repealing this Act will reduce red tape.

Payroll Tax Act 1971

The *Payroll Tax Act 1971* will be amended to align the payroll tax treatment of wages paid to part time employees with that for full time employees where parental, adoption or surrogacy leave is taken on less than full pay. This beneficial amendment will apply retrospectively in accordance with a current administrative arrangement.

Taxation Administration Act 2001

The *Taxation Administration Act 2001* will be amended to clarify that the exception to the limitation period for reassessments increasing tax arising out of certain investigations also applies to investigations conducted interstate under reciprocal power arrangements.

Trade and Investment Queensland

The Bill provides for the establishment of a new statutory body, Trade and Investment Queensland ('TIQ'), to become the lead agency responsible for facilitating and promoting trade and investment opportunities for Queensland, and in particular, between Queensland and foreign countries. The new body will assume the role and functions of the specialist, departmental division currently accommodated within Queensland Treasury and Trade ('QTT').

The decision to establish the new body gives effect to a recommendation of the independent Review of Trade and Investment Queensland ('the Trade Office') commissioned in late November 2012, in line with the portfolio priorities of the Treasurer and Minister for Trade. Consistent with its broad investigative remit, the Review made recommendations encompassing all aspects of the business of QTT's Trade Office (which currently operates under the name Trade and Investment Queensland). Key recommendations centred on the organisation's corporate structure, governance, and role and operations domestically and overseas.

The Review concluded it is vital to establish a structure that better positions TIQ to shape and fulfil its corporate mission, balancing appropriate governance controls with a degree of operational autonomy that reduces unnecessary administrative process and compliance costs. The statutory body model emerged as the preferred structural vehicle to accomplish the right proportion between operational autonomy and strategic Government oversight.

Achievement of policy objectives

Duties Act 2001

Increasing the class 1 and class 2 general insurance duty rates to 9 per cent

Insurance duty is imposed under the *Duties Act 2001* on contracts of insurance relating to Queensland. Different duty rates apply depending on the nature of the risk insured. For general insurance, Queensland's standard rate of duty has been 7.5 per cent of the premium paid. This rate applies to class 1 general insurance, which is all general insurance other than class 2 general insurance and CTP insurance.

Class 2 general insurance, applying to specific categories of general insurance such as professional indemnity insurance and insurance against personal injury relating to a person's travel on an aircraft, has attracted duty at the rate of 5 per cent of the premium. CTP insurance attracts duty at the rate of 10 cents per premium.

As announced in the 2013-14 State Budget, the *Duties Act 2001* will be amended to increase the rate of duty for premiums paid for contracts of Class 1 and Class 2 general insurance to 9 per cent, where both the contract is entered into, and the premium is paid, on or after 1 August 2013.

Extending transfer duty exemptions for mortgage-backed and asset-backed securities to particular covered bond transactions under the Banking Act 1959 (Cwlth)

Securitisation is the financial practice of pooling and repackaging various types of illiquid receivables, such as home mortgages, other secured loans, unsecured loans and debts, into securities issued to investors. The *Duties Act 2001* provides transfer duty exemptions for certain qualifying securitisation transactions relating to mortgage-backed securities and asset-backed securities.

On 17 October 2011, the *Banking Act 1959* (Cwlth) was amended to enable authorised deposit taking institutions such as banks, credit unions and building societies to issue covered bonds. Covered bonds are securities, structured as bonds, some of which are similar to other securities that are mortgage-backed or asset-backed securities as defined in the *Duties Act 2001*.

An administrative arrangement has applied since 7 October 2012 extending the transfer duty exemption for mortgage-backed and asset-backed securities in the *Duties Act 2001* to covered bond transactions under the *Banking Act 1959* (Cwlth) where all other relevant conditions of the duty exemptions for mortgage-backed and asset-backed securities are satisfied. The *Duties Act 2001* is being amended to give this beneficial administrative arrangement retrospective legislative effect from 7 October 2012.

Extending the pooled public investment unit trust status for transfer duty purposes to certain pooled superannuation trusts

Under the *Duties Act 2001*, transfer duty is imposed on a trust acquisition or trust surrender of a trust interest in a trust that directly or indirectly holds Queensland dutiable property. However, the *Duties Act 2001* does not impose transfer duty on the acquisition or surrender of a trust interest in a public unit trust other than a majority trust acquisition in a land holding trust.

There are five categories of public unit trust, one of which is a pooled public investment unit trust. A pooled public investment unit trust is a unit trust that is a registered managed investment scheme as defined in the *Corporations Act 2001* (Cwlth) or an exempt managed investment scheme under the *Corporations Act 2001* (Cwlth) that satisfies the relevant pooled public investment unit trust conditions under the *Duties Act 2001*.

A pooled superannuation trust is a unit trust regulated by the Australian Prudential Regulation Authority (APRA) in which the assets of regulated superannuation funds, approved deposit funds and other pooled superannuation trusts are pooled and invested by an investment manager.

Pooled superannuation trusts are specifically excluded from the definition of a managed investment scheme in the *Corporations Act 2001* (Cwlth). Consequently, transfer duty applies to trust acquisitions or surrenders in a pooled superannuation trust.

However, based on similarities between pooled superannuation trusts and managed investment schemes, an administrative arrangement has applied since 6 September 2011 enabling pooled superannuation trusts to qualify as a pooled public investment unit trust under the *Duties Act 2001* if the other conditions for that type of public unit trust are satisfied. The *Duties Act 2001* is being amended to give this beneficial arrangement retrospective legislative effect from 6 September 2011.

Extending the transfer duty status of exempt managed investment schemes to unregistered managed investment schemes under the Corporations Act 2001 (Cwlth) with members comprising only wholesale clients

To qualify as a pooled public investment unit trust under the *Duties Act 2001*, a unit trust can be a registered managed investment scheme under the *Corporations Act 2001* (Cwlth) or an unregistered managed investment scheme that meets certain conditions.

For an unregistered managed investment scheme to qualify as a pooled public investment unit trust, all investors in the scheme must be professional investors as defined in the *Corporations Act 2001* (Cwlth). Professional investors comprise only one category of wholesale client under the *Corporations Act 2001* (Cwlth). All wholesale clients are sophisticated investors in terms of wealth, knowledge and experience regarding investment products or services of a managed investment scheme.

An administrative arrangement has been in place since 26 October 2012 enabling unregistered managed investment schemes with members comprising only wholesale clients described in sections 761G and 761GA of the *Corporations Act 2001* (Cwlth), as opposed to only professional investors, to be treated as an exempt managed investment scheme for the purposes of the *Duties Act 2001*. Consequently, qualifying unregistered managed investment schemes are eligible for a duty exemption as a pooled public investment unit trust if they satisfy the other pooled public investment unit trust conditions under the *Duties Act 2001*. The Bill will amend the *Duties Act 2001* to give retrospective legislative effect to this beneficial administrative arrangement from 26 October 2012.

Extending a transfer duty exemption for certain transfers involving public superannuation entities to also include transfers of dutiable property between trustees and custodians of complying superannuation funds

Under the *Superannuation Industry (Supervision) Act 1993* (Cwlth), the trustees of certain superannuation entities of a public nature are required to be licenced by APRA. APRA can require all assets of the entity to be held by a custodian instead of the trustee.

The *Duties Act 2001* exempts from transfer duty the transfer of fund property between a trustee of such an APRA regulated public superannuation entity and the custodian for the trustee.

In certain circumstances other funds, which are not public superannuation entities, may elect to be regulated by APRA or the Australian Taxation Office (ATO), and become complying superannuation funds within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cwlth).

Where a fund elects to be an APRA-regulated complying superannuation fund, a custodian can be appointed to assist with satisfying APRA requirements relating to capital and risk management. Where a custodian is appointed to such a fund, it is a requirement that all the assets of the fund be held by the custodian.

In addition, all superannuation funds regulated by APRA and the ATO are subject to the provisions of the *Superannuation Industry (Supervision) Act 1993* (Cwlth) which prohibit the borrowing of money unless under a limited recourse borrowing arrangement. These arrangements involve a superannuation fund trustee taking out a loan from a third party lender. The trustee then uses the borrowed funds to purchase an asset to be held in a separate trust. Creation of the separate trust is a requirement of the *Superannuation Industry (Supervision) Act 1993* (Cwlth) and can be satisfied by the appointment of a custodian.

The *Duties Act 2001* is to be amended to extend the exemptions currently limited to transfers of dutiable property involving custodians of public superannuation entities. The exemption will also apply to transfers of dutiable property involving custodians of complying superannuation funds where the complying superannuation fund is regulated by APRA or the custodian is appointed to satisfy the limited recourse borrowing arrangement requirements under the *Superannuation Industry (Supervision) Act 1993* (Cwlth).

The proposed amendment has been operating under an administrative arrangement that has applied since 26 October 2011. The amendment will be given retrospective effect from that date.

Extending a transfer duty exemption for qualifying dutiable transactions entered into to correct a clerical error in the description of a property

The *Duties Act 2001* provides an exemption from transfer duty in particular circumstances to correct certain clerical errors in a dutiable transaction. Examples include misnaming the transferee or transferring the wrong property title. The exemption applies to the dutiable transaction that corrects the clerical error in a previous dutiable transaction about the same property where certain conditions are met.

An error involving transfer of the right property to the wrong person can be rectified by a further transfer of the property from the wrong person to the right person, which would attract the exemption. In those circumstances, transfer duty is paid on only one transaction.

However, a transfer of the wrong property to the correct person (incorrect transfer) arising from a clerical error in the property description may require two further transfers to correct the error: a retransfer of the incorrect property to the vendor (retransfer) and the transfer of the correct property to the purchaser. In those cases, the exemption only exempts the retransfer. The incorrect transfer and the transfer of the correct property both remain liable for transfer duty under the *Duties Act 2001*.

Under an administrative arrangement, additional relief is provided in these circumstances to ensure that transfer duty only applies to the transfer of the correct property, subject to the satisfaction of certain conditions. The administrative arrangement took effect on 4 February 2012, pending legislative amendment, and will now be given retrospective legislative effect from that date.

Charge for landholder duty is a first charge

Under the *Duties Act 2001*, the Commissioner of State Revenue has power to register a charge over land for debts relating to landholder duty. To improve the consistency and effectiveness of charges as a debt recovery tool across revenue streams, the *Duties Act 2001* was amended by the *Revenue and Other Legislation Amendment Act 2010* to provide that such a charge would rank as a first charge with priority over all other encumbrances over the land.

The *Duties Act 2001* is to be amended to ensure that a further provision dealing with the application of the proceeds of the sale of land over which the Commissioner of State Revenue has a charge for unpaid landholder duty accords with the intention that the charge is a first charge.

Clarifying the operation of an exemption for distribution of trust property to a beneficiary

Under the *Duties Act 2001*, transfer duty is imposed on trust creations and trust acquisitions, subject to certain exceptions. One way in which a trust creation occurs is if a person, who has acquired property other than as trustee, starts to hold the property as trustee. A trust acquisition occurs when a person acquires a trust interest in a trust that holds or has an indirect interest in dutiable property.

However, section 66(2) of the *Duties Act* provides that transfer duty is not payable on a trust acquisition where the trustee has paid transfer duty on the acquisition of the property or where the acquisition of the property by the trustee was either exempt from duty or not dutiable. For example, if X agrees to buy property and hold it on trust for Y, transfer duty will apply to the agreement for transfer but the trust acquisition by Y in the trust will be exempt from transfer duty. The exemption implemented a practice that existed before the *Duties Act 2001* of not imposing two transfer duty liabilities at the acquisition time, even though there were two separate dutiable transactions, namely the purchase and the trust acquisition.

Under section 123 of the *Duties Act 2001*, an exemption from duty is provided for a distribution of dutiable property to a beneficiary of a trust to the extent that it represents the beneficiary's trust interest under the trust. The exemption is only available where the Commissioner of State Revenue is satisfied that, among other things, transfer duty was paid for the trust acquisition of the beneficiary's trust interest in relation to the property or the acquisition was exempt from duty. This exemption is designed to ensure that, where transfer duty has applied in relation to a beneficiary's acquisition of a trust interest, duty should not apply a second time when the trustee transfers to the beneficiary legal ownership of the trust property to which that trust acquisition related.

This does not occur when a trustee merely pays transfer duty for the acquisition of the property. Using the previous example, transfer duty has not been paid on the trust acquisition by Y. Consequently, if X distributes the trust property to Y, transfer duty should apply, as the duty previously paid related to the agreement for transfer under which X acquired the property as trustee. Duty has not been paid in relation to the acquisition of Y's interest in the property.

To ensure section 123 of the *Duties Act 2001* applies as intended, an amendment will make clear that section 123 does not apply where the transaction which gave rise to the initial trust interest is not imposed with duty on the basis of section 66(2) of the *Duties Act 2001*.

Clarifying record keeping obligations for unit trusts, corporations and societies

The *Taxation Administration Act 2001* imposes an obligation on a person to keep the records necessary to allow their tax law liability to be ascertained. Failure to do so gives rise to an offence under the *Taxation Administration Act 2001*.

A number of transactions imposed with duty under the *Duties Act 2001* involve interests in entities which are not parties to the liable transaction itself, and which do not result in a tax law liability for those entities (non-party entities). An example includes the landholder in transactions giving rise to landholder duty.

To support the effective administration of the *Duties Act 2001* by the Commissioner of State Revenue, section 506 of that Act requires certain non-party entities to keep records of certain matters affecting interests in that entity. With effect from 1 July 2011, the *Duties Act 2001* was amended by the *Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011* to replace land rich duty with landholder duty.

Section 506 of the *Duties Act 2001* is to be amended to ensure that the changes in terminology resulting from the introduction of landholder duty are appropriately reflected in the record-keeping obligations placed upon unit trusts, corporations and societies under section 506.

Providing regulation-making power for imposition of insurance duty on part of a premium

The *Duties Act 2001* imposes duty on the insurance premium paid for contracts of general insurance.

Some general insurance policies cover risks in more than one jurisdiction. To avoid multiple imposition of duty and to ensure each jurisdiction receives an appropriate share of the duty in these cases, an inter-jurisdictional apportionment model was agreed by States and Territories in conjunction with the Insurance Council of Australia. In relation to travel insurance for travel outbound from Australia including baggage, the apportionment model provides that duty is payable on 10% of premium received and, similar to other travel insurance, apportioned by the state of registration of the business (where the insured is not a natural person) or the place of residence of the person insured.

The *Duties Regulation 2002* is due to be remade in 2013. It will include a provision prescribing this apportionment for travel insurance for travel outbound from Australia. To support the imposition of insurance duty on this basis, the *Duties Act 2001* will be amended to provide that a regulation may prescribe that duty be paid on part of a premium.

Notification to the Commissioner of State Revenue required when recipient of home, first home or vacant land concession fails to meet certain requirements

Chapter 2 Part 9 of the *Duties Act 2001* provides transfer duty concessions for first homes, homes and vacant land (home concessions) where certain conditions are met. Subject to some exceptions, the Commissioner of State Revenue must reassess to remove the concession where the recipient fails to meet certain occupancy requirements or disposes of the property before or within 1 year after their occupation date for the property. A recipient of the concession must also notify the Commissioner of State Revenue of certain events which may trigger the reassessment provisions. Failure to meet these notification obligations without reasonable excuse gives rise to an offence under the *Taxation Administration Act 2001*.

Notification obligations currently arise where the recipient of the home concession:

- transfers, leases or otherwise grants exclusive possession of all or part of the land within 1 year after their occupation date for the residence on the land; or
- fails to comply with the occupancy requirement for the residence on the land.

The *Duties Act 2001* is to be amended to impose a notification obligation where recipients of the home concession transfer, lease or grant exclusive possession of all or part of the land before their occupation date. Notification obligations will also apply for leases of residential or vacant land for which the home concession has applied, when the lease is surrendered by the recipient of the concession before or within 1 year after the occupation date. Failure to give notice of these new notification events will also be an offence under the *Taxation Administration Act 2001*.

Electricity Act 2004

The amendments to the *Electricity Act 1994* will insert a power for the Minister for Energy and Water Supply to set regulated retail electricity tariffs for 2013-14 in order to limit the price increases for transitional and obsolete tariffs.

Financial Accountability Act 2009

The amendments are a consequence of the proposed repeal of the *Future Growth Fund Act 2006*.

Fire and Rescue Service Act 1990

The policy objective will be achieved by refocussing the urban fire levy as a levy for emergency management more generally.

First Home Owner Grant Act 2000

Under the *First Home Owner Grant Act 2000*, certain first homebuyers who have entered into an eligible transaction which has been completed and who satisfy certain eligibility criteria are entitled to the payment of a grant.

All eligible transactions require the applicant for the grant to hold a relevant interest in the land on which the home is built or to be built.

“Relevant interest” is defined in section 8 of the *First Home Owner Grant Act 2000*. To minimise opportunities for abuse of the grant, the types of interest qualifying as relevant interests are limited to cases where the recipient of the grant will have security of tenure in the home they are acquiring.

One of the types of relevant interest under section 8(1)(h) of the *First Home Owner Grant Act 2000* is an interest in a company’s shares if the Commissioner of State Revenue is satisfied of certain matters, including that the interest entitles the holder of the interest to exclusive occupation of a specified home owned by the company.

Section 8(1)(h) of the *First Home Owner Grant Act 2000* will be amended to clarify that the home to which the holder of the interest is entitled to exclusive occupation by the interest in a company’s shares must be built at the time the interest in the shares arises.

Future Growth Fund Act 2006

The repeal of the *Future Growth Fund Act 2006* will reduce red tape and unnecessary administrative, audit and resource costs.

Payroll Tax Act 1971

Under section 14A of the *Payroll Tax Act 1971*, an exemption from payroll tax is provided for wages paid or payable to an employee for parental leave, adoption leave or surrogacy leave. The exemption is limited to wages paid or payable for not more than 14 weeks’ leave.

Specific provision is made to ensure that where a full time employee takes this leave on less than full pay, the exemption applies for a period equivalent to 14 weeks' leave on full pay (for example 28 weeks on half pay).

Since 16 April 2011 an administrative arrangement has applied so that part-time employees similarly obtain the benefit of the exemption for the equivalent of 14 weeks' leave at their part-time rate of pay, if they take the leave over a longer period at a reduced rate of pay.

The *Payroll Tax Act 1971* will be amended with retrospective effect from 16 April 2011, to exempt wages paid or payable to a part-time employee for relevant leave equating to not more than 14 weeks' leave at their part-time rate.

Taxation Administration Act 2001

Under the *Taxation Administration Act 2001*, the Commissioner of State Revenue may, subject to a limitation period, make a reassessment increasing a taxpayer's liability for tax. The limitation period is five years after the assessment notice for the original assessment was given. Exceptions to the limitation period for a reassessment increasing liability for tax include where, within the limitation period, the Commissioner of State Revenue has given written notice to the taxpayer informing the taxpayer an investigation into the taxpayer's liability for tax has started.

To facilitate the investigation of tax laws across jurisdictions, reciprocal investigation arrangements were developed as part of a cooperative legislative scheme involving the Commonwealth, States and Territories. With the exception of Tasmania, investigations conducted by Queensland under reciprocal arrangements occur under the taxation administration legislation of the jurisdiction in which the investigation takes place.

The exception to the limitation period does not currently apply to investigations conducted outside Queensland under the taxation administration legislation of another jurisdiction.

The *Taxation Administration Act 2001* will be amended so that the Commissioner of State Revenue may issue a reassessment increasing a taxpayer's liability for tax outside the limitation period if notice is given to the taxpayer within that period of an investigation under Part 7 of the *Taxation Administration Act 2001* or the taxation administration legislation of any other jurisdiction.

Trade and Investment Queensland

To achieve the foregoing policy objectives, the Bill will establish TIQ as a new statutory body, and facilitate the transfer of assets, liabilities and employees from QTT's Trade Office.

The Bill gives expression to the key institutional and governance features recommended by the Review. The object and functions for TIQ reflect its core, dual export and investment roles. A board will be established to oversee the entity, comprising a senior-level representative from each of QTT and the Department of State Development, Infrastructure and Planning ('DSDIP') (as Government's foremost central economic development agencies), and independent members appointed by the Governor in Council. A chief executive officer role for TIQ will also be established.

The new entity will operate in accordance with the governance standards under the *Financial Accountability Act 2009* (Qld) ('*FAA*'), the *Statutory Bodies Financial Arrangements Act 1982* (Qld) and the *Crime and Misconduct Act 2001* (Qld).

In addition, the responsible Minister (presently the Treasurer and Minister for Trade) is conferred the power to issue a written direction to the entity about the performance of its functions or the exercise of its powers. The entity will be required to comply with any direction issued by the Minister. The Bill also requires regular (half-yearly) reporting to the Minister on TIQ's operations, and that the board keeps the Minister reasonably informed about TIQ's operations, financial performance and financial position and the achievement of strategic and operational objectives.

Finally, the Bill provides for the preservation of rights and entitlements of employees transferred to TIQ. The Bill confirms that, *inter alia*, the transfer of employment does not affect an employee's total remuneration, or prejudice existing or accruing rights to superannuation or recreation, sick or long service leave.

In view of TIQ's extraterritorial functions, and having regard to the entity's role in promoting order and good government of the State through the facilitation of investment and trade opportunities, the Bill expressly provides that the Act will apply both within and outside Queensland, and that it applies outside Queensland to the full extent of the Parliament's extraterritorial competence.

Alternative ways of achieving policy objectives

The policy objectives can only be achieved by legislative enactment.

A range of alternative levy models were considered in relation to the proposed amendments to the *Fire and Rescue Service Act 1990*, however the preferred model best provides for sustainable funding for emergency services in the longer term.

Estimated cost for government implementation

In relation to the amendments to the *Fire and Rescue Service Act 1990*, Government pays an administration fee to local councils for administration of the levy, based on the number of relevant properties in the local government area. For councils where the number of levied properties increases, there will be a resultant increase in the administration fee. There will also be a cost related to support for local councils in implementing the new arrangements in the first year.

The costs of establishing TIQ will be met from existing resources

The implementation costs for the remaining amendments are not expected to be significant as the amendments fall within existing frameworks of administration.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

Amendments to the Duties Act 2001

Legislation should not adversely affect rights and liberties, or impose obligations retrospectively - Legislative Standards Act 1992, sections 4(2)(a) and 4(3)(g)

Clause 4 - Extending the pooled public investment unit trust status for transfer duty purposes to certain pooled superannuation trusts

Clause 4 of the Bill is given retrospective effect from 6 September 2011 by clause 2(1) of the Bill. However, this does not breach the principle against retrospectivity because the amendment is beneficial to taxpayers, and is in accordance with an administrative arrangement which has been applied since that date and which has been published as a Public Ruling.

Clauses 6, 7, 8, 20 and Schedule 2, amendments to the Duties Act 2001, item 1 - Extending a transfer duty exemption for certain transfers involving public superannuation entities to also include transfers of dutiable property between trustees and custodians of complying superannuation funds

Clauses 6, 7, 8 and associated definition amendments in clauses 20 and Schedule 2, amendments to the *Duties Act 2001*, item 1 of the Bill are given retrospective effect from 26 October 2011 by clause 2(2) of the Bill. However, this does not breach the principle against retrospectivity because the amendments are beneficial to taxpayers, and are in accordance with an administrative arrangement which has been applied since that date.

Clauses 9 and 14 - Extending duty exemptions for mortgage-backed and asset backed securities to particular covered bond transactions under the *Banking Act 1959* (Cwlth)

Clauses 9 and 14 of the Bill are given retrospective effect from 7 October 2012 by clause 2(3) of the Bill. However, this does not breach the principle against retrospectivity because the amendments are beneficial to taxpayers, and are in accordance with an administrative arrangement which has been applied since that date and which has been published as a Public Ruling.

Clause 11 - Extending a transfer duty exemption for qualifying dutiable transactions entered into to correct a clerical error in the description of a property

Clause 11 of the Bill is applied to certain dutiable transactions that happen before commencement, from 4 February 2012, through the operation of new section 650 inserted by clause 19. However, this does not breach the principle against retrospectivity because the amendment is beneficial to taxpayers, and is in accordance with an administrative arrangement which has been applied since that date.

Clause 12 – Notification to the Commissioner required when recipient of home, first home or vacant land concession fails to meet certain requirements

Clause 12 extends the notification obligation for recipients of a home concession. However, the extended notification obligations are consistent with the terms upon which the home concession is provided and relate to events of which the recipient would or ought to reasonably have knowledge.

Clauses 20(1) and 20(2) in relation to “exempt managed investment schemes” - Extending the transfer duty status of exempt managed investment schemes to unregistered managed investment schemes under the Corporations Act 2001 (Cwlth) with members comprising only wholesale clients

The amendments made in Clause 20 of the Bill to the definition of “exempt managed investment scheme” are given retrospective effect from 26 October 2012 by clause 2(4) of the Bill. However, this does not breach the principle against retrospectivity because the relevant amendments are beneficial to taxpayers, and are in accordance with an administrative arrangement which has been applied since that date and which has been published as a Public Ruling.

Clause 23 - extending the application of exemptions from payroll tax for parental, adoption or surrogacy leave for part time workers

Clause 23 of the Bill is given retrospective effect from 16 April 2011, through the application of the transitional provision in clause 24. However, this does not breach the principle against retrospectivity because the amendment is beneficial to taxpayers, and is in accordance with an administrative arrangement which has been applied since that date and which has been published as a Public Ruling.

Amendments to Fire and Rescue Act 1990

Section 113 of the *Fire and Rescue Service Act 1990* allows for an appeal by a person to the chief executive against a local government’s decision about the annual contributions payable by the person for their prescribed property where, for example, the person believes the property is not prescribed property, or the local government has made an error or wrongly categorised the person’s property.

The amendments provide that an appeal will not be available if a previous appeal has been lodged on the ground that the property is not prescribed property or that the property has been wrongly categorised and the appeal has been rejected, unless there has been a material change of use of the property. This amendment will limit instances of serial and vexatious appeals.

This amendment is a potential breach of the fundamental legislative principle that legislation has sufficient regard to the rights and liberties of individuals by making rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review, in that it constitutes a limitation on a person’s appeal rights.

This potential breach is justified as the limitation will only apply where the matter has already been heard and a determination made. Appeal rights will be retained for matters where an error has been made on the appeal notice or where there has been a material change to the use of the property.

Amendments to the Payroll Tax Act 1971

Legislation should not adversely affect rights and liberties, or impose obligations retrospectively – Legislative Standards Act 1992, sections 4(2)(a) and 4(3)(g)

Clause 44 - extending the application of exemptions from payroll tax for parental, adoption or surrogacy leave for part time workers

Clause 44 of the Bill is given retrospective effect from 16 April 2011, through the application of the transitional provision, section 143, inserted by clause 45. However, this does not breach the principle against retrospectivity because the amendment is beneficial to taxpayers, and is in accordance with an administrative arrangement which has been applied since that date and which has been published as a Public Ruling.

Trade and Investment Queensland

Whether the Bill has sufficient regard for rights and liberties of individuals and whether the administrative power is sufficiently defined and subject to appropriate review – Legislative Standards Act 1992 (Qld) ('LSA'), s 4(3)(b)

Clause 72 (Vacation of office) and Clause 82 (Term of appointment)

Clauses 72 and 82 allow the removal of TIQ board members and the chief executive officer (CEO) at the full discretion of Governor in Council and the board respectively. The appointments may be ended at any time, and for any reason or no reason. This power is not subject to a review process.

The discretion afforded to the Governor in Council and the board to remove the CEO and directors from office is entirely congruent with the approach taken across a wide range of Government entities established by statute, and, as amply illustrated by the stock of legislative precedent, comports with longstanding, accepted practice for strategic roles of this nature.

It is considered appropriate that these offices should be treated in the same way as a director of a company under the *Corporations Act 2001* (Cth) and chief executive officer under the *Industrial Relations Act 1999* (Qld).

Moreover, it would be expected that, in agreeing to accept an appointment to the board of TIQ, or to the role of CEO, an individual ought to do so in full knowledge of the provisions governing their removal from office.

Whether the Bill has sufficient regard for rights and liberties of individuals – LSA, s 4(2)(b) and s 4(4)

Chapter 3, Part 3 (Transfer of Trade Office's Business to TIQ)

Chapter 3, Part 3 of the Bill deals with the transfer of the business of the Trade Office, which is part of Queensland Treasury and Trade (QTT), to TIQ. To give effect to this restructure, the Bill will transfer certain assets, liabilities, instruments and legal proceeding relating to the Trade Office and nominated QTT employees to TIQ. While it is acknowledged that the legal effect of Part 3 will override certain third party rights (e.g. consent to the transfer of a contract to TIQ), this mechanism ensures that the status quo is maintained for the affected employees and third parties dealing with TIQ, providing certainty for TIQ and all parties.

The restructure will be recorded in a register of assets, liabilities, instruments, legal proceedings and employees to be approved by the chief executive of QTT. This approval process is consistent with the chief executive's role as an accountable officer under the *FAA* and, therefore, is an appropriate delegation.

Similar restructure provisions can be found in the *Superannuation (State Public Sector) Act 1990* (Qld), *Forestry Plantations Queensland Act 2006* (Qld), *South East Queensland Water (Restructuring) Act 2007* (Qld) and *Investment Infrastructure (Asset Restructure and Disposal) Act 2009* (Qld).

Consultation

Community Consultation was not undertaken in relation to the amendments proposed in the Bill which are beneficial or which make minor technical changes or clarifications. Many beneficial changes have been operating under administrative arrangements pending passage of the necessary legislative amendment. A number of these have been published as Public Rulings.

Broader community consultation on other amendments in the Bill was not considered appropriate given their revenue protection or clarification nature.

Consultation was undertaken with all relevant government departments. No objections were raised to the amendments.

In relation to the amendments to the *Electricity Act 1994*, the final rates for the transitional and obsolete tariffs for 2013-14 will be published in the Queensland Government Gazette. Further consultation is not considered necessary.

As part of the independent Review undertaken by Mr Geoffrey Thomas and Mr John Mickel between November 2012 and January 2013, consultation was undertaken with key stakeholders, including industry leaders in the field of trade and investment in Queensland.

The Review identified structural reform as a necessary and urgent condition for revitalising TIQ. The establishment of an independent statutory body emerged as a cornerstone recommendation.

On the proposed Bill, QTT has consulted with:

- the Department of the Premier and Cabinet (DPC) and DSDIP on the overall content;
- the Public Service Commission about the transition of staff from QTT to the new statutory authority; and
- the Queensland Audit Office on financial reporting implications of the reform.

Consistency with legislation of other jurisdictions

The amendment made to the *Payroll Tax Act 1971* concerns provisions for the imposition of payroll tax which have been harmonised with other States and Territories.

In relation to the establishment of Trade and Investment Queensland as a statutory body, the Bill is specific to the State of Queensland, and is not uniform with or complementary to legislation of the Commonwealth or another state.

The decision to establish a dedicated statutory body to advance the State's trade and investment interests is consistent with the approach adopted by the Commonwealth Government, which constituted the Australian Trade Commission as a statutory body under the *Australian Trade Commission Act 1985* (Cth) to serve as the vehicle for facilitating and promoting trade and investment between Australia and foreign countries.

Otherwise, the Bill is not uniform with or complementary to legislation of the Commonwealth or another state or territory.

Notes on provisions

Chapter 1 Preliminary

Clause 1 provides that the Act may be cited as the *Revenue Amendment and Trade and Investment Queensland Act 2013*.

Clause 2 provides commencement dates for a number of the amendments with retrospective operation.

Chapter 2 Revenue Amendments

Part 1 – Amendment of Duties Act 2001

Clause 3 provides that Chapter 2 Part 1 amends the *Duties Act 2001*.

Clause 4 extends the definition of a pooled public investment unit trust in section 75 to include a pooled superannuation trust if the other conditions of the section are satisfied. Pooled superannuation trust is defined in Schedule 6. As a consequence of this amendment, a qualifying pooled superannuation trust may ultimately fall within the meaning of public unit trust under the *Duties Act 2001*, and be eligible to qualify for concessional transfer duty treatment under section 49(2). The amendment has retrospective operation from 6 September 2011.

Clause 5 amends section 123 to clarify the conditions for exemption under that section. In particular, section 123(2)(b)(ii) will not apply where the trust acquisition of a beneficiary's trust interest is exempt from transfer duty under section 66(2) of the *Duties Act 2001*.

Clause 6 amends the heading for Chapter 2, part 13, Division 3A as a consequence of amendments to that Division.

Clause 7 amends section 130A to extend the existing transfer duty exemption provided under that section to transfers to persons as custodian for certain complying superannuation funds as defined in the *Superannuation Industry Supervision Act 1993* (Cwlth). The public superannuation entities and complying superannuation funds to which exemption as extended may apply are collectively referred to as eligible superannuation entities.

New subsection 130A(1) provides that for a complying superannuation fund to be eligible for exemption, it must have elected to be regulated by a regulator specified under the *Superannuation Industry Supervision Act 1993* (Cwlth). Where the complying superannuation fund has elected to be regulated by a body or person other than APRA, new subsection 130A(3) provides the exemption will only apply if the transfer is to the custodian to comply with the requirements for limited recourse borrowing arrangements under section 67A of the *Superannuation Industry (Supervision) Act 1993* (Cwlth). Additionally, instances of the term “approved trustee” in section 130A have been replaced with the term “trustee”, newly defined in clause 20, to reflect amendments to the *Superannuation Industry Supervision Act 1993* (Cwlth). The amendments have retrospective effect from 26 October 2011.

Clause 8 amends section 130B to extend the transfer duty exemption provided under that section to certain transfers and agreements for the transfer of fund property between the custodian and the trustee of eligible superannuation entities as defined in new subsection 130A(1). New subsection 130B(3) provides that where the complying superannuation fund has elected to be regulated by a body or person other than APRA, the exemption will only apply if property the subject of the transaction is an acquirable asset held by the custodian in compliance with the requirements for limited recourse borrowing arrangements under section 67A of the *Superannuation Industry Supervision Act 1993* (Cwlth). Additionally, instances of the term “approved trustee” in section 130B have been replaced with the term “trustee”, newly defined in clause 20, to reflect amendments to the *Superannuation Industry Supervision Act 1993* (Cwlth). The amendments have retrospective effect from 26 October 2011.

Clause 9 inserts new subsection 130C(1)(d) to extend the definition of asset-backed security in section 130C of the *Duties Act 2001*. The extended definition includes covered bonds within the meaning of section 26 of the *Banking Act 1959* (Cwlth) if the cover pool for the covered bond consists of a financial asset or a pool of financial assets. “Financial asset” and “pool of financial assets” are defined in sections 130E and 130F respectively. The amendment has retrospective effect from 7 October 2012.

Clause 10 amends section 152 to introduce the new defined term “section 152 exempt transaction”. The term is used in the new exemption provided under new section 152A as inserted by clause 11.

Clause 11 inserts a new section 152A, to provide an exemption for a previous dutiable transaction containing a clerical error which is an accidental misdescription of property, in certain circumstances. The exemption will apply in addition to the existing exemption provided under section 152 of the *Duties Act 2001*, only where conditions set out in new subsection 152A(1) are met. Subsection 152A(2) provides that where the exemption applies, the previous dutiable transaction containing the clerical error is exempt from transfer duty and may be reassessed upon application in the approved form by a party to the previous dutiable transaction. Subsection 152A(3) provides a definition of “previous dutiable transaction” for new section 152A.

Clause 12 amends section 155 to add additional notifiable events which may result in reassessment to remove the concession. Subsection 155(3)(a) is amended to insert as a notifiable event the transfer, lease or otherwise granting of exclusive possession of all or part of the land before the transferee, lessee or vested person’s occupation date. New subsection 155(3)(b) is also inserted to provide that, for the acquisition of leases of residential or vacant land as mentioned in section 85(b), the surrender of the lease before or within 1 year of the lessee’s occupation date for the residence on the land will be a notifiable event.

Clause 13 amends section 202 to ensure that where land is sold under a court order under Chapter 3 Part 1 Division 7 of the Act, the outstanding liability to the Commissioner under that charge is paid before any other amounts secured by another security interest or charge over the land.

Clause 14 inserts new subsection 286(1)(d) to extend the definition of mortgage-backed security in section 286. The extended definition includes covered bonds within the meaning of section 26 of the *Banking Act 1959* (Cwlth) if the cover pool for the covered bond consists of a loan secured by a mortgage or a pool of mortgages if all mortgages in the pool or collection of assets comprising the pool of mortgages under section 288 are loans secured by a mortgage. “Loan”, “mortgage” and “pool of mortgages” are defined in sections 250, 287 and 288 respectively. The amendment has retrospective effect from 7 October 2012.

Clause 15 amends section 349 to recognise that insurance duty is imposed on part of a premium for general insurance, as opposed to the full premium, if a regulation so prescribes. This supports the making of a regulation to provide for apportionment of a premium.

Clause 16 amends section 362 to ensure that the application of the specified rates of general insurance duty also apply when liability is imposed on part of a premium.

Clause 17 further amends section 362 to change the rate of insurance duty for both class 1 and class 2 general insurance to 9 per cent.

Clause 18 amends section 506 to clarify the record keeping obligations of corporations, societies and trustees of listed unit trusts in relation to acquisitions of interests in them. It ensures that for any such entity which is a landholder, the extended definition of acquisition provided for landholder duty under section 162 of the *Duties Act 2001* applies for the purpose of the record keeping obligation.

Clause 19 inserts transitional provisions for the operation of new section 152A, and for section 155 as amended. In addition it includes a transitional provision which applies the increased insurance duty rates announced as part of the 2013-14 State Budget to premiums paid on or after 1 August 2013, for insurance contracts entered into on or after that date.

Clause 20 amends certain terms as defined in Schedule 6 of the *Duties Act 2001* to support various amendments made under the preceding clauses.

The insertion of a new definition of “exempt managed investment scheme” now includes certain unregistered managed investment schemes under the *Corporations Act 2001* (Cwlth) with units issued only to wholesale clients within the meaning of section 761G(4) of the *Corporations Act 2001* (Cwlth), including persons who are not retail clients under section 761GA of that Act.

Part 2 - Amendment of Electricity Act 1994

Clause 21 provides that this part amends the *Electricity Act 1994*.

Clause 22 amends section 90(7) to remove the note regarding the determination of notified prices for the financial year commencing on 1 July 2012.

Clause 23 inserts a new section 90AAA which applies to the determination of notified prices for 2013-14 tariff year.

The new section prescribes that if, under section 90, the Minister is the pricing entity for a particular regulated retail electricity tariff for 2013-14, the Minister is not required to have regard to the matters mentioned in section 90(5)(a) of the *Electricity Act 1994* when deciding that tariff.

The operation of section 90AAA is limited to the 2013-14 tariff year only, commencing 1 July 2013 until 30 June 2014.

Clause 24 makes a minor administrative amendment to the heading of chapter 14, part 12.

Clause 25 omits section 332 which relates to the determination of notified prices for 2012-13. This section is a transitional provision which applied to the 2012-13 tariff year only, and as such can now be removed.

Part 3 - Amendment of Financial Accountability Act 2009

Clause 26 states that this part amends the *Financial Accountability Act 2009*.

Clause 27 amends the heading for part 7, division 2.

Clause 28 inserts transitional provisions as a consequence of the repeal of the *Future Growth Fund Act 2006*.

Part 4 - Amendment of Fire and Rescue Service Act 1990

Clause 29 (Act Amended) states that this part amends the *Fire and Rescue Service Act 1990*.

Clause 30 (Amendment of long title) amends the long title to include establishment of a fund for particular purposes.

Clause 31 (Fund) renames the Queensland Fire and Rescue Service Fund as the Emergency Management, Fire and Rescue Fund.

The clause inserts changes to clearly express that amounts in the Emergency Management, Fire and Rescue Fund can be used for emergency and disaster management functions broadly and are not limited in their use to fire related matters.

This clause refers to incidents and events to convey that the size and scope of the matter does not limit expenditure from the fund for its purpose. Events are defined by reference to the *Disaster Management Act 2003*.

Clause 32 (Definitions) removes the definition of component local government as the levy system will now apply to all local governments, except where expressly exempted. The clause also amends the reference to an urban district to refer to a levy district.

Clause 33 (Replacement) replaces the part 10, division 2 heading.

Clause 34 (Constitution of urban district) amends section 106 to replace references to urban districts with levy districts. Sub-section 106(1)(a) is amended to clarify that a regulation may constitute any portion of the State a levy district, not limited to fire related purposes.

Sub-section 106(3) is omitted as it is transitional in effect and is no longer relevant.

Clause 35 (Liability to Contribute) amends sub-section 107(1) to confirm that the owners of prescribed properties must contribute to the cost of emergency and disaster management more broadly, in addition to the cost of administering and giving effect to the *Fire and Rescue Service Act 1990*.

The clause removes section 1A so that contributions must be made at all times and not limited to times when specific services are provided within the levy district.

The clause also provides that two or more contiguous parcels of farming land are taken to be one prescribed property if each parcel is owned by the same owner and shares a boundary with at least one of the other parcels of farming land. This provision recognises that many farming properties comprise more than one parcel of land and would ordinarily attract more than one levy. Such properties are generally operated as a single farm and the provision allows for a single levy to be charged. Where property owners own parcels of land that are not contiguous, separate levies will apply. Discretion for the local government to determine that a portion of a parcel of land should be classed as a separate parcel is retained.

Farming land is defined by reference to the *Land Valuation Act 2010*.

Section 107 is renumbered.

Clause 36 (Appeal against local government's determination) amends the grounds on which an appeal may be made to clarify each ground, particularly to differentiate between an error in the levy notice and an incorrect determination regarding the categorisation of the property.

The clause also provides that an appeal will not be available if a previous appeal has been lodged on the ground that the property is not prescribed property or that the property has been wrongly categorised and the appeal has been rejected, unless there has been a material change of use of the property. Material change of use is referenced to the *Sustainable Planning Act 2009*. This amendment is intended to limit instances of serial and vexatious appeals.

References to fire levy notices in section 113 are amended to refer to levy notices.

Section 113 is renumbered.

Clause 37 (Amendment of s116) amends the reference to a component local government to be a reference to a local government.

The clause also updates the reference to the Brisbane City Council city fund to refer to its operating fund.

Clause 38 (Amendment of s118) amends the reference to a component local government to be a reference to a local government.

The clause also removes the reference to the Brisbane City Council city fund in section 118.

Clause 39 (Insertion of new pt12, div 6) inserts transitional provisions to ensure a reference to a levy notice includes a reference to a fire levy notice, a reference to a levy district includes a reference to an urban district and a reference to the Emergency Management, Fire and Rescue Fund includes a reference to the Queensland Fire and Rescue Service Fund.

The clause ensures that amounts in the Queensland Fire and Rescue Service Fund immediately before the commencement of the section form part of the Emergency Management, Fire and Rescue Fund.

The clause inserts provisions to ensure an effective transition of appeal mechanisms.

The clause also provides flexibility for local governments in implementation of levy changes by allowing that, for the 2013-14 financial year only, a local government may make determinations regarding the prescribed property in its area on any day during the financial year. Additionally, the requirement to issue at least one levy or rates notice prior to 1 January in the relevant financial year does not apply in the 2013-14 financial year.

Clause 40 (amendment of sch 6 dictionary) amends the definition of owner in accordance with current drafting practice, amends the definition of urban district to rename it as levy district and inserts a definition for prescribed property referenced to section 105. The clause also defines the fund as the Emergency Management, Fire and Rescue Fund.

Part 5 – Amendment of First Home Owner Grant Act 2000

Clause 41 provides that Part 5 amends the *First Home Owner Grant Act 2000*.

Clause 42 amends the meaning of relevant interest for section 8(1)(h)(i) to clarify that one of the conditions for an interest in a company's shares to fall within the meaning of "relevant interest" under the *First Home Owner Grant Act 2000*, is that the home must be built before the interest in the shares was acquired or the agreement to acquire that interest was entered into.

Part 6 – Amendment of Payroll Tax Act 1971

Clause 43 provides that Part 6 amends the *Payroll Tax Act 1971*.

Clause 44 inserts a new subsection 14A(4)(b) to ensure the exemption provided under section 14A applies to wages paid or payable to part-time employees for the equivalent of 14 weeks' leave at their part-time rate of pay, if they take the leave over a longer period at a reduced rate of pay.

Clause 45 inserts a transitional provision for the amendment made to section 14A by clause 44, so that it is taken to have had effect on and from 16 April 2011.

Part 7 – Amendment of Taxation Administration Act 2001

Clause 46 provides that Part 7 amends the *Taxation Administration Act 2001*.

Clause 47 amends section 22(2)(b) to ensure that the exception to the time limit for reassessments can be extended by a notice to the taxpayer in the manner prescribed, whether the investigation is conducted under either or both of Part 7 of the *Taxation Administration Act 2001* and a recognised law within the meaning of the Act.

Clause 48 removes a redundant heading.

Clause 49 inserts a transitional provision in new section 175 for the amendments made to section 22 by clause 47. New section 174 clarifies that a notice may be issued under the amended section 22 regardless of whether or not the investigation to which it relates had started before commencement of the amendment.

Part 8 – Repeal and minor amendments

Division 1 Repeal of Future Growth Fund Act 2006

Clause 50 provides for the repeal of the *Future Growth Fund Act 2006*.

Division 2 Minor and consequential amendments

Clause 51 provides that Schedule 2 makes minor amendments to the Acts it mentions.

Chapter 3 Trade and Investment Queensland

Part 1 – Preliminary

Clause 52 states the object of this Act is to provide for the establishment of Trade and Investment Queensland ('TIQ') to achieve economic and social benefits for Queensland through facilitating, supporting and encouraging trade, investment and other commercial opportunities for Queensland, including between Queensland and foreign countries.

Clause 53 provides for the extraterritorial application of this Act. TIQ, as shown by its functions in clause 59, will be carrying on its operations outside of Queensland. For example, TIQ is responsible for establishing and operating offices in foreign countries.

Clause 54 provides that the dictionary for particular words used in this Act is contained in Schedule 1.

Clause 55 provides that a reference to a function includes a reference to a power and a reference to performing a function includes a reference to exercising a power.

Part 2 – Trade and Investment Queensland

Division 1 Establishment and Status

Clause 56 provides for the establishment of TIQ.

Clause 57 provides that TIQ represents the State and has the status, privileges and immunities of the State.

Clause 58 provides that TIQ is a statutory body under the *Financial Accountability Act 2009* (Qld) and *Statutory Bodies Financial Arrangements Act 1982* (Qld).

Clause 59 provides for TIQ's functions in relation to facilitating, supporting and encouraging trade, investment and other commercial opportunities for Queensland, including between Queensland and foreign countries.

Clause 60 provides that TIQ has all the powers of an individual.

Clause 61 provides that TIQ may perform its functions inside and outside Queensland, including Australia. TIQ, as shown by its functions in clause 59, will be carrying on its operations outside of Queensland. For example, TIQ is responsible for establishing and operating offices in foreign countries.

Clause 62 provides that the Minister may give TIQ a written direction in relation to TIQ and its subsidiaries.

Clause 63 provides that TIQ may delegate its functions to certain nominated persons under this Act.

Clause 64 provides for the execution of documents by TIQ.

Division 2 Board

Subdivision 1 Establishment, membership and related matters

Clause 65 provides for the establishment of the board as the governing body of TIQ, comprising of at least 2, but not more than 7 members appointed by the Governor in Council.

Clause 66 provides for the role of the TIQ's board.

Clause 67 provides for the conditions of appointment for TIQ's members.

Clause 68 provides for the term of appointment of TIQ's members.

Clause 69 provides for the appointment of a board member as a chairperson of the TIQ's board.

Clause 70 provides for the appointment of a board member as a deputy chairperson of TIQ's board.

Clause 71 provides for the disqualification from membership of the TIQ's board.

Clause 72 provides for the vacation of office for members.

Clause 73 provides that the board may establish committees to assist it in performing its functions.

Subdivision 2 Business

Clause 74 provides that the board may conduct its business in the way it considers appropriate, subject to subdivision 2.

Clause 75 provides for the time and place of board meetings.

Clause 76 provides for the quorum for board meetings.

Clause 77 provides for the presiding of meetings.

Clause 78 provides for the conduct of meetings.

Clause 79 provides for the keeping of minutes of board meetings.

Subdivision 3 Duty of members

Clause 80 provides for the disclosure of interests.

Division 3 Chief executive officer

Clauses 81 to 84 provide for the appointment of TIQ's chief executive officer ('CEO') and the CEO's responsibilities.

Division 4 Reporting

Clause 85 provides for half yearly reporting by TIQ on its operations to the Minister.

Clause 86 provides that the TIQ board must keep the Minister informed about TIQ's operations, financial performance and financial position and its achievement of the objectives in its strategic and operational plans.

Clause 87 provides for TIQ to report to the department.

Clause 88 provides that clauses 86 and 87 do not limit the matters for which the TIQ board may be required to provide a report or information under another Act.

Part 3 Transfer of Trade Office's business to TIQ

Division 1 Preliminary

Clause 89 provides for the definitions for Part 3.

Division 2 Transferable assets and liabilities

Clause 90 provides for the definition of register for this division.

Clause 91 provides for the transfer of assets, liabilities, instruments and legal proceedings from the Trade Office to TIQ.

Clause 92 provides for the transfer of shares in Queensland Trade and Investment Office Pty Ltd to TIQ.

Clause 93 provides for the application of instruments applying to the Trade Office to TIQ.

Division 3 Employees

Clause 94 defines what is an employee register.

Clause 95 defines who is a transferable employee for this division.

Clause 96 provides for the transfer of employees of the Trade Office to TIQ.

Clause 97 provides for the preservation of employee rights arising from the transfer from the Trade Office to TIQ.

Division 4 Miscellaneous

Clause 98 provides that TIQ is the successor in law of the State in relation to the matters transferred to TIQ under this Act.

Clause 99 provides for the registering or recording of any dealing with an asset, liability or instrument under the Act to TIQ.

Clause 100 provides the effect of legal relationships in relation to matters done under this Act.

Clause 101 provides that TIQ is not liable to pay certain State taxes in relation to the transfer of assets, liabilities, instruments and shares under this Act. Section 426 of the *Duties Act 2001* (Qld) also applies to exempt the State and TIQ (as an agent of the State) from duties in relation to this restructure.

Part 4 Miscellaneous Provision

Clause 102 provides that the Governor in Council may make regulations under this Act.

Part 5 Transitional Provisions for Trade and Investment Queensland Act 2013

Clause 103 provides that the Minister may appoint the first chief executive officer until the board consists of at least 2 members.

Clause 104 provides that TIQ's first strategic and operational plans may be prepared and submitted at a later time than would otherwise apply under the *Financial Accountability Act 2009* (Qld), if approved by the Minister.

Clause 105 provides that the amendment of the *Industrial Relations Regulation 2011* by this Act does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

Part 6 Consequential amendments of Revenue Amendment and Trade and Investment Queensland Act 2013

Clauses 106 to 114 provide for the subsequent omission and expiry of certain clauses of this Bill.

Part 7 Amendment of the Industrial Relations Regulation 2011

Clauses 115 to 117 deal with the amendment of the *Industrial Relations Regulation 2011* (Qld) to provide that TIQ is not a national system employer for the purposes of the *Fair Work Act 2009* (Cth).

Schedule 1 Dictionary

Schedule 1 provides definitions of particular works used in this Act as a result of clause 54.

Schedule 2 Minor and consequential amendments

Duties Act 2001

Section 1 of the *Schedule 2* amendments to the *Duties Act 2001* replaces the wording "*Superannuation Industry (Supervision) Act 1993* (Cwlth)" where it occurs throughout the *Duties Act 2001* with "Superannuation Industry Act.

Section 2 of the *Schedule 2* amendments to the *Duties Act 2001* amends section 204(1) to update a cross-reference to section 202 as a result of the amendment of section 202 by clause 13.

Fire and Rescue Service Act 1990

Sections 1 to 5 of the *Schedule 2* amendments to the *Fire and Rescue Act 1990* make amendments to change references to urban districts to levy districts, fire levies to levies, fire levy notices to levy notices to levy notices and component local governments to local governments. These amendments reflect the broadened purpose of the Emergency Management, Fire and Rescue Fund and the levies that contribute to the fund. The amendments also recognise that the majority of local governments will have a role in levy administration and there is no longer a need to refer to a component local government.