Payroll Tax Rebate, Revenue and Other Legislation Amendment Bill 2015

Explanatory Notes

Short title

The short title of the Bill is the *Payroll Tax Rebate, Revenue and Other Amendment Bill 2015.*

Policy objectives and the reasons for them

The Payroll Tax Rebate, Revenue and Other Legislation Amendment Bill 2015 (the Bill) amends the *Payroll Tax Act 1971* to give effect to a 2015 election commitment by the Government to provide a payroll tax rebate on the wages of apprentices and trainees. The Bill also introduces amendments to the *Duties Act 2001* and the *Taxation Administration Act 2001* to support electronic conveyancing in Queensland. It also amends the *Duties Act 2001, First Home Owner Grant Act 2000, Payroll Tax Act 1971* and the *Taxation Administration Act 2001* (revenue legislation) to maintain their currency and ensure their proper operation.

The Bill will also amend the:
- *Financial Accountability Act* 2009;
- *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*;
- *Environmental Protection Act 1994*;
- *Plumbing and Drainage Act 2002*; and
- *Water Supply (Safety and Reliability) Act 2008*.

Amendments to revenue legislation

Duties Act 2001

Amendments to the *Duties Act 2001* provide an appropriate transfer duty and administration framework to support the introduction of electronic conveyancing, as enabled in Queensland through the provisions of the *Electronic Conveyancing National Law (Queensland) Act 2013*.

Other amendments to the *Duties Act 2001* give retrospective legislative effect to a number of taxpayer beneficial administrative arrangements. These amendments:
- provide a transfer duty concession for resource sector farm-in agreements as defined;
- correct the operation of a transfer duty exemption in section 145 of the *Duties Act 2001* so that it also applies to land vested under statute law in the State for a purpose specified under that section; and

- extend the vehicle registration duty exemption available to charitable institutions by reducing the period that charitable institutions must use a vehicle for a qualifying exempt purpose to nine months.

Further amendments to the *Duties Act 2001* remove redundant provisions and update an example for the calculation of vehicle registration duty to reflect current transfer duty rates.

First Home Owner Grant Act 2000

The *First Home Owner Grant Act 2000* is amended to ensure the statutory discretion given to the Commissioner of State Revenue (Commissioner) to vary the period of, or exempt an applicant from, the residence requirements which form part of the eligibility criteria under the *First Home Owner Grant Act 2000,* can be exercised at any time. This amendment benefits applicants and will apply retrospectively in accordance with an existing administrative arrangement.

Payroll Tax Act 1971

The *Payroll Tax Act 1971* is amended to give effect to the Government's 2015 election commitment to provide a payroll tax rebate on the wages of apprentices and trainees, funded for three years. This rebate will be given effect by extending the application of existing provisions which allowed a similar rebate for 2009-10, 2010-11 and 2011-12 financial years, to relevant wages paid or payable for the 2015-16, 2016-17 and 2017-18 financial years.

The *Payroll Tax Act 1971* is amended to clarify the application of exemptions from liability under the relevant contract provisions of that Act. This will put beyond doubt that the contractor exemptions require the contract as a whole, as opposed to a portion of payments under the contract, to qualify for exemption.

Another amendment to the *Payroll Tax Act 1971* omits a redundant provision relating to the exemption for wages paid to trainees and inserts new definitions of a certificate II traineeship and certificate III traineeship to reflect the current framework under which these qualifications are accredited.

Taxation Administration Act 2001

The *Taxation Administration Act 2001* is amended to support electronic conveyancing for transfer duty in Queensland.

Further amendments to the *Taxation Administration Act 2001* provide for the payment of interest on refunds to taxpayers by the Commissioner resulting from a reassessment giving effect to the Commissioner's decision on an objection. This will bring Queensland in line with all other states and territories and provide fairer treatment of taxpayers by compensating them for the loss of use of their funds while their objection is being determined. It will also ensure consistency with existing provisions for the payment of interest on refunds arising from court or tribunal decisions and orders.

Finally, a minor amendment to the *Taxation Administration Act 2001* corrects a cross-reference.

Amendments to the *Financial Accountability Act 2009 (FA Act)*

The Bill amends the FA Act so the legislation reflects modern financial management practices and to streamline certain procedural matters. Specifically, the amendments will:

- increase the number of administrative powers that the Treasurer is able to delegate to officers within Queensland Treasury and the Queensland Treasury Corporation;
- clarify the ability of the Treasurer to enter into derivative transactions on behalf of the State and when this is appropriate;
- allow a non-public servant to be a department's Head of Internal Audit;
- clarify that a department does not enter into a derivative transaction if it merely takes over the administration of a derivative transaction;
- require the appropriate Minister to be given a report on, and to monitor, derivative transactions administered by the department (a department administers a derivative transaction if it enters into the transaction or if it takes over the administration from another department); and
- specify the requirements when ownership of a company moves between departments.

Amendment of the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*

The Bill will delay for a further 12 months certain not commenced amendments in the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013* aimed at excluding motorcycle gang members from working in certain licensed occupations covered by the *Electrical Safety Act 2002*, the *Queensland Building and Construction Commission Act 1991* (formerly the *Queensland Building Services Authority Act 1991)* and the *Work Health and Safety Act 2011*.

It is essential these amendments do not commence as they will cause significant delays in processing licence applications and renewals, and potentially restrict the ability of these workers to commence or continue to earn a living in their licensed occupation. This delay allows for the Government's review of these laws to be undertaken and to implement any relevant recommendations arising from the review.

Amendments to the *Environmental Protection Act 1994*

The amendments to the *Environmental Protection Act 1994* allow for the cancellation of Transitional Environmental Programs (TEPs) and Temporary Emissions Licences (TELs).

TEPs are a tool available under the *Environmental Protection Act 1994* which allow, for example, a transitionary period for environmental authority holders not operating in accordance with their licence to reach or return to compliance with their approval.

TELs are a tool available for authorising in emergency situations what would otherwise be unlawful activities, such as urgent release of water from tailings dams during flood events.

There is currently no power in the *Environmental Protection Act 1994* to cancel a TEP or TEL in the event of changed circumstances, even if it would result in enhanced environmental outcomes or the approval is no longer required.

For example, the amendment would remove a potential barrier to the extension of the life of the Copper Smelter at Mount Isa beyond 2016. Closure of the smelter would cause significant job losses in both Mount Isa and Townsville. The smelter operates under a TEP that authorises operating parameters different to the environmental authority during a transitionary period. The extension of the life of the smelter is inconsistent with a commitment made by the operator in a draft TEP. The TEP was subsequently approved under the *Environmental Protection Act 1994* and noted on the operator's environmental authority, so is now legally binding on the current operator. The environmental impact of any extension of the life of the smelter is expected to be managed under amended conditions of the environmental authority, rendering the TEP unnecessary. Without cancellation of the TEP, there would be likely to be a conflict of conditions between the TEP and the conditions of the environmental authority. These amendments would allow for the cancellation of an unnecessary TEP, removing the potential conflict of conditions, and consequently giving effect to the Government's commitments and responding to a significant issue raised by the local community.

The power to cancel is limited so there is no loss of rights for the holder of the instrument and no loss of environmental outcomes.

Amendments to the *Plumbing and Drainage Act 2002* and *Water Supply (Safety and Reliability) Act 2008*

The policy objective is to amend legislation so that the installation of a water meter is plumbing work that can only be performed by a licensed plumber.

The Government made an election commitment to restore high standards in Queensland's plumbing industry by requiring the installation of water meters to be performed by a fully qualified and licensed plumber. The Bill will realise this election commitment.

Achievement of policy objectives

Amendments to revenue legislation

***Duties Act 2001* and *Taxation Administration Act 2001* – amendments to support electronic conveyancing**

<u>Background</u>

Electronic conveyancing for land is enabled in Queensland through the provisions of the *Electronic Conveyancing National Law (Queensland) Act 2013,* which adopts national framework provisions under New South Wales' *Electronic Conveyancing (Adoption of National Law) Act 2012* (the National Law). This legislation provides for establishment of web based hubs called Electronic Lodgement Networks (ELNs), operated by ELN Operators approved by the Registrar of Titles (Registrar).

Parties will be able to elect to use an ELN to electronically settle certain transactions, as an alternative to attending a physical settlement. Certain Land Registry forms will be created, signed and lodged with the Registrar through a dedicated ELN workspace for the transaction, in the ELN system, as part of the settlement process.

Transfer duty implications

The electronic settlement process differs from current conveyancing practice in a number of key respects. The principal differences for duty purposes are that:

- ELN transfers can be "unsigned"; and
- duty may be paid out of settlement funds *after* endorsement and Titles registration.

The differences impact upon four key areas for payment of duties:

- liability on transfers at the earlier of signing or registration;
- liability on both contract and transfer (with an exemption to prevent double duty);
- endorsement of the transfer based on payment of duty; and
- endorsement of the transfer as a precondition to Titles registration.

The Bill makes adjustments to the transfer duty and taxation administration framework under the *Duties Act 2001* and *Taxation Administration Act 2001* to address these areas of difference and ensure appropriate protection of revenue.

For the purposes of these amendments, a transfer in the ELN environment will be known as an "ELN transfer" and the document lodged with the Registrar to effect it will be known as an "ELN transfer document". Each term is defined.

Scope

Under the *Duties Act 2001*, transfer duty is imposed on dutiable transactions, including both an agreement for the transfer of land in Queensland, and transfers of land in Queensland. Certain exemptions or concessions may apply depending on the nature of the transaction. A transfer duty home concession may be available when a residence is transferred and the transferee occupies the residence as their principal place of residence.

Given the untested nature of electronic settlement in Queensland, and to minimise risk to revenue, transfer duty endorsement in an ELN will only be permissible for cottage conveyance type transactions. In particular, the dutiable property transferred must only be residential land and incidental chattels, and there must be a preceding agreement for transfer entered into outside the ELN. No exemptions or concessions may be applied other than the transfer duty home concession (applying to the agreement for transfer) and the exemption on a transfer pursuant to an agreement for which the duty obligation has been met.

Liability

Under the existing framework, liability for duty on transfers of land arises at the earlier of when the land is transferred or, if an instrument effects or when recorded in a register will effect, the transfer, when the instrument is signed by the parties to the transaction. Amendments to the *Duties Act 2001* will provide a liability to duty adjusted to the ELN environment, which takes into account the process by which an ELN transfer document moves through the ELN settlement process. As a consequence liability to duty for a transfer in the ELN environment will be the earlier of when the land is transferred or when the ELN workspace in which a digitally signed electronic transfer document has been created, is "locked". This concept is legislatively defined and is essentially the point where the subscribers for the ELN workspace for the transaction are no longer able to change data in the ELN workspace for the ELN transfer document or its endorsement.

As the electronic workspace may be unlocked in certain circumstances, to ensure revenue protection in the new ELN environment, the amendments make it clear that a separate "ELN transfer" and therefore a separate duty liability will arise every time the ELN workspace for an ELN transfer is locked. Similarly, with each locking, a fresh electronic transfer document is deemed to exist. Any endorsement applied before unlocking is of no effect from unlocking and the endorsement process occurs once again for the new ELN transfer and ELN transfer document, if the ELN workspace is locked again.

However, once a transfer is completed through registration of an electronic transfer document by the Registrar, a deeming provision will ensure that duty is only applied once for the conveyance.

Amendments to the existing provisions in relation to reassessments of duty in particular circumstances under section 499 of the *Duties Act 2001* and cancelled transfers under section 156A of the *Duties Act 2001* will also extend the application of those sections to qualifying ELN transfer liabilities.

<u>Assessment</u>

Most duty payable under the *Duties Act 2001* is assessed and paid under the self assessment system. The Commissioner has power to register a person as a self assessor. In particular, parties to transactions and agents for parties to property transactions (mainly solicitors) may be registered.

ELN transfers and the agreements for transfer under which they occur will continue to be self assessed. The Bill amends the self assessment provisions as required to allow for this. Administrative adjustments to the terms of registration for relevant self assessors will also occur, as required.

<u>Endorsement</u>

Where duty applies, it is an offence for a person to record in a register of interests in property, a transaction or instrument that effects or evidences the transaction, which has not been properly stamped. This currently requires endorsement of a hard copy instrument which effects or evidences the dutiable transaction. It is a current precondition to endorsement that duty must first be paid to the Commissioner or received by the self assessor. Breach of this condition is an offence. The requirement for and conditions surrounding endorsement are revenue protection measures. They are intended to minimise the prospect of liable parties being able to take the benefit of dutiable transactions without paying duty.

However, in the ELN environment, lodgement of the ELN transfer document with the Registrar may occur before duty has been paid to the Commissioner or received by the self assessor. This is because in the ELN environment, it will be possible for transfer duty to be included as part of the disbursements to be made for financial settlement. These disbursements are made after lodgement of the ELN transfer document with the Registrar through the ELN.

To reflect this, amendments permit endorsement of an ELN transfer document where, as an alternative to the Commissioner having been paid, or the self assessor (where permitted) having received the duty, a "payment commitment" exists for duty on the relevant agreement for transfer. This concept is legislatively defined and requires the locked ELN workspace for the transaction to include transfer duty as a disbursement to be made from financial settlement for the transaction. The parties liable for duty on the ELN transfer are deemed to have made the payment commitment.

Endorsement in the ELN will be deemed to be made by the self assessor once the ELN workspace is locked. However, this deeming does not make good any substantive deficiencies in the endorsement itself.

Where endorsement is made on the basis of a payment commitment, transfer duty will be disbursed from the ELN to the endorsing self assessor, with the usual legislative obligations under section 35 of the *Taxation Administration Act 2001* then applying to require the self assessor to pay the duty to the Commissioner.

Revenue protection

A number of other amendments provide additional revenue protection to adjust for the altered risks associated with endorsement based on payment commitment rather than actual payment to the Commissioner or receipt by a registered self assessor. In particular:

- A new offence will prohibit the use or reliance upon an endorsed ELN transfer document other than for the ELN settlement process for that transaction, until it is registered under the *Land Title Act 1994*.
- Existing offences for improper endorsement under sections 480, 481 and 481A of the *Duties Act 2001* will be extended to cover ELN endorsement and the payment commitment process.
- Where transfer duty is not paid on a transaction despite endorsement of an ELN transfer document, a new provision will give the Commissioner a first charge over the transferee's interest in land, with capacity for the Commissioner to register the charge while the land is owned by the transferee. Once the charge is registered, it will run with the land, and may be enforced by the Commissioner against the owner from time to time, subject to certain conditions.
- Where transfer duty is not paid on an ELN transfer document endorsed on the basis of a payment commitment, the Commissioner's existing power to suspend or cancel a self assessor's registration may be enlivened unless the self assessor can show the failure to pay is due to circumstances beyond their control.
- Information given in the ELN workspace for an ELN transfer relevant to the *Duties Act 2001* or *Taxation Administration Act 2001* is deemed to be stated to the Commissioner by specified parties, with the result that it will be an offence by those parties if that information is false or misleading.

Other amendments include the introduction of definitions to support these new provisions and minor and consequential amendments to ensure the operation of the new terminology across the *Duties Act 2001* and *Taxation Administration Act 2001* framework.

Commencement

The amendments apply from commencement. However, they will have no practical application until an approved Electronic Lodgement Network Operator under the National Law provides a live environment for transfers of Queensland land.

***Duties Act 2001* - Concession relating to farm-in agreements for exploration authorities and transfers of interests in exploration authorities under farm-in agreements**

Background

Farm-in agreements occur in the mineral and petroleum resource sectors and are used to share the risk associated with exploration activity. Generally, under a farm-in agreement, the holder of an exploration authority (farmor) grants to another party (farmee) the right to earn a specified interest in the exploration authority by spending a specified amount for the exploration and development of the exploration authority by a stated date (exploration amount).

The 2012–13 State Budget adopted an announcement in the *2011–12 Mid Year Fiscal and Economic Review* that direct and indirect transfers of exploration authorities would be subject to duty from 10:30am on 13 January 2012 (start time). However, it was also announced that certain farm-in agreements would not be subject to duty to the extent that the consideration under the agreement comprised an exploration amount, with the scope and technical design of the concession to be settled after consultation between the Office of State Revenue and industry.

This concession has been administered under an administrative arrangement, which was published on 27 June 2013 as Public Ruling DA000.12.1 – *Transfer duty – exemption for farm-in transactions in the resources sector* (Public Ruling DA000.12.1). The administrative arrangement applies to farm-in agreements entered into from the start time, and transfers of interests in exploration authorities under those farm-in agreements (also from the start time). Transfers of interests in exploration authorities under agreements entered into before the start time are exempted through the operation of section 636 of the *Duties Act 2001*. That section was introduced by the *Fiscal Repair Amendment Act 2012* to govern the transitional operation of its provisions, which first included exploration authorities as dutiable property.

The Bill amends the *Duties Act 2001* to insert a new Part 8A into Chapter 2, setting out the concessional arrangements which will apply for qualifying transactions. Where applicable, the concession has the following effect -

- Delays the assessment of elements of consideration in the dutiable value of a farm-in agreement until certain contingencies related to transfers under the agreement occur. To achieve this, additional reassessment events apply for farm-in agreements.
- Suspends the usual rule that dutiable value for a dutiable transaction is the greater of unencumbered value and consideration, and instead limits dutiable value to consideration.
- Provides adjusted rules as to what is included in consideration.

A number of amendments ensure the concession is only available within its intended scope, and support administration of the concession.

Scope

The provisions recognise two types of qualifying farm-in agreements - upfront farm-in agreements and deferred farm-in agreements. The distinction relates to whether payment of an exploration amount is a pre-condition or condition subsequent to the transfer to the farmee of each interest in the exploration authority under the agreement.

A qualifying upfront farm-in agreement must have a number of specified features, including the following.

- Each interest in the exploration authority is transferred from the farmor to the farmee conditional upon the farmee subsequently spending the exploration amount for that interest.
- The whole of each exploration amount must be spent after the agreement is entered into.
- Each interest transferred must be less than 100%.
- The farmee must spend each exploration amount by a specified day (expenditure completion date) in order to retain the relevant interest in the exploration authority.
- If the farmee does not spend the exploration amount by the expenditure completion date, the farmee must transfer the relevant interest back to the farmor.

A qualifying deferred farm-in agreement must have a number of specified features, including the following.

- Each interest in the exploration authority is required to be transferred from the farmor to the farmee only once the farmee has spent the exploration amount for that interest.
- The whole of each exploration amount must be spent after the agreement is entered into.
- Each interest transferred must be less than 100%.
- The farmee must spend each exploration amount by a specified day (expenditure completion date).

Under either type of agreement, there may be multiple interests transferred (for upfront) or transferrable (for deferred) in the specified exploration authority. However, for simplicity of administration, all transfers under an agreement must meet the qualifying criteria for a single type of farm-in agreement. Hybrid agreements which have some transfers with payment of the exploration amount as a pre-condition and others as a condition subsequent, will not qualify for the concession.

Example 1

X and Y enter into a written agreement on 1 August 2014 under which Y is permitted to acquire a series of interests in X's exploration authority A as follows.

- 20% interest in exploration authority A to be transferred to Y upon entry into the agreement, subject to a requirement that Y transfer that 20% back to X if Y fails to spend a specified exploration amount ($50,000). The $50,000 exploration amount must be spent after the date of entry of the agreement and before 30 November 2014.

- If Y's obligations in relation to the 20% interest are successfully performed, the agreement provides for X to transfer a further 30% interest in the exploration authority to Y. This transfer is subject to Y spending another specified exploration amount ($75,000), by 1 March 2015. If Y fails to spend the $75,000 by 1 March 2015, Y must transfer the 30% interest back to X.

The agreement is capable of qualifying as an upfront farm-in agreement, provided all qualifying criteria are met.

Example 2

X and Y enter into a written agreement on 31 March 2015 under which Y is permitted to acquire a series of interests in X's exploration authority A as follows.

- 20% interest in exploration authority A to be transferred to Y after Y spends a specified exploration amount ($100,000). The $100,000 exploration amount must be spent after the date of entry of the agreement and before 1 December 2015.
- Following the transfer of the 20%, Y will be entitled to the transfer of another 30% interest in exploration authority A if Y spends a second specified exploration amount (another $150,000) before 1 March 2016.

The agreement is capable of qualifying as a deferred farm-in agreement, provided all qualifying criteria are met.

Example 3

X and Y enter a written agreement on 1 February 2016 under which Y is permitted to acquire a series of interests in X's exploration authority A as follows.

- 20% interest in exploration authority A to be transferred to Y upon entry into the agreement, subject to a requirement that Y transfer that 20% back to X if Y fails to spend a specified exploration amount ($60,000). The $60,000 must be spent after the date of entry of the agreement and before 30 June 2016.
- A further 30% interest in exploration authority A to be transferred to Y once Y spends another specified exploration amount ($100,000). The $100,000 must be spent by 31 December 2016.

The agreement is not capable of qualifying as a farm-in agreement as it combines upfront and deferred elements.

<u>Liability</u>

To avoid any doubt as to how a farm-in agreement is to be characterised for duty purposes, it is specified that a farm-in agreement is an agreement for the transfer of dutiable property (and not, for example, the grant of a new right). This also means that provided any duty imposed on the agreement is paid, a transfer of an interest in an exploration authority under the agreement receives the benefit of the exemption under section 22(2) of the *Duties Act 2001* where the conditions of that subsection are met.

For the farm-in concession to apply there must be an interest in the exploration authority in existence when the written agreement is entered into. This means the exploration authority must have been granted under the relevant Act (as defined) which creates the interests which fall within the definition of "exploration authority" in Schedule 6 of the *Duties Act 2001*. However, the grant of the exploration authority need not have been registered by the Registrar by the time the agreement is entered.

If, in contrast, there is only an application for the grant of such an interest in existence, it is not dutiable property. This means an agreement for transfer of that interest is not dutiable, and consequently there is no qualifying farm-in agreement to which the concession can apply. Where the exploration authority is granted between the time of entry into the agreement and its transfer under the agreement, the transfer cannot receive the benefit of section 22(2) of the *Duties Act 2001,* because the transfer is of a different type of property to that dealt with under the agreement.

While it is a condition for qualification as a farm-in that each interest transferred (for upfront) or transferrable (for deferred) under the agreement must be less than 100%, an agreement does not cease to be a farm-in agreement if it provides for a final transfer to the farmee on completion of the agreement, which brings their interest to 100%. However, in these cases, the last transfer will not be entitled to the benefit of section 22(2) of the *Duties Act 2001*, because it does not fit within the scope of arrangements to which section 22(2) is intended to apply. An amendment will put this beyond doubt.

Where the farmee transfers the interest back to the farmor under an upfront agreement due to non-payment of an exploration amount, an amendment exempts the transfer back to the farmee from transfer duty provided any transfer duty imposed on the upfront farm-in agreement has been paid.

<u>Assessment</u>

There will be multiple assessment events for the farm-in agreement (assessed as an agreement for transfer). Under the amendments, transfer duty will initially be assessable when a farm-in agreement is entered into, as is the case for all agreements for transfer of dutiable property. However, the Commissioner must reassess the agreement if certain "reassessment events" occur.

Reassessment events are specified under the amendments, and operate in conjunction with existing and new lodgement and notification obligations for the taxpayer (discussed below).

For upfront farm-in agreements, the occurrence of certain events gives rise to a lodgement and/or notification obligation for the taxpayer, and also prima facie gives rise to a reassessment event. However, the requirement for reassessment ceases to apply in certain circumstances. As a result, a reassessment for an upfront farm-in agreement will be required where, for an interest transferred under the upfront farm-in agreement:

- an exploration amount is spent; or
- each of the following applies:
    - the exploration amount is not spent; and
    - the interest is not transferred back to the farmor within a specified period; and

- either the parties have not varied the expenditure completion date or the parties have varied the expenditure completion date and the Commissioner is satisfied that the variation is part of an arrangement to avoid imposition of transfer duty.

For a deferred farm-in agreement, a reassessment event occurs if an interest in the exploration authority is transferred from the farmor to the farmee under the agreement.

The nature of the reassessment to be made depends on the particular reassessment event. Special rules for ascertaining dutiable value (see "Dutiable value" below) apply where there is a reassessment event because:

- the exploration amount for an upfront farm-in agreement has been spent; or
- an interest has been transferred to the farmee under a deferred farm-in agreement.

Where there is a reassessment event for an upfront farm-in agreement because the exploration amount has not been spent, and the interest has not been transferred back to the farmor in the period specified under the legislation, unless the completion date was varied and the Commissioner is satisfied the variation was not part of an arrangement to avoid duty, the Commissioner will be required to reassess the relevant transactions as if the farm-in agreement provisions did not apply.

If a farm-in agreement is part of an arrangement to avoid the imposition of transfer duty, a separate provision requires the Commissioner to make an assessment to impose transfer duty as if the farm-in concession did not apply.

An amendment will ensure the usual imposition of penalty tax under the *Taxation Administration Act 2001* will not apply where reassessment is solely due to a reassessment event unless there is an arrangement to avoid the imposition of duty, or a farmee under a farm-in agreement has failed to comply with the necessary lodgement and/or notification requirements for the reassessment event. This is consistent with the purpose of the specific reassessment events for farm-in agreements in supporting concessional treatment of these transactions. However this will not affect the imposition of penalty tax if reassessment occurs for other reasons.

To remove any doubt, it is noted that where a farm-in agreement deals with more than one exploration authority, the *Duties Act 2001* will apply so that there will be separate dutiable transactions for the separate dutiable property constituted by each exploration authority (and any other dutiable property dealt with under the agreement). The one written agreement may therefore constitute a number of separate farm-in agreements – one for each exploration authority, with the conditions of the concession applied separately to each farm-in agreement. Section 30 of the *Duties Act 2001* will operate to aggregate several farm-in agreements, and any other dutiable transactions, arising from the one written agreement.

Lodgement and notification

For upfront farm-in agreements, amendments introduce two new lodgement/notification obligations for taxpayers, to support the new reassessment framework. In the first of these, a farmee under an upfront farm-in agreement will be required to lodge specified documents for reassessment of the farm-in agreement within 14 days of when an expenditure amount for an exploration authority interest is spent under the agreement.

In addition, the farmee under an upfront farm-in agreement will be required to notify the Commissioner and lodge specified material, if they fail to expend an exploration amount for a particular exploration authority interest by the relevant expenditure completion date for that interest. This notification and lodgement must occur within 30 days of the defaulted expenditure completion date, regardless of whether or not the farmee subsequently spends the exploration amount.

These obligations also apply for any variations to expenditure completion dates agreed by the parties. Breach of these obligations will constitute an offence under existing sections 120 (Failure to give notice) and 121 (Failure to comply with information or lodgement requirement) of the *Taxation Administration Act 2001*.

For a deferred farm-in agreement, the Commissioner will become aware of a reassessment event when the taxpayer meets their obligations to lodge the transfer under section 19 of the *Duties Act 2001*.

Dutiable value

In addition, special rules will apply for determining the dutiable value of the transaction at each assessment. Other than in particular circumstances where the agreement is reassessed as not eligible for the concession, these rules have the following outcomes.

- An exploration amount, as defined, will be excluded from the dutiable value of the farm-in agreement at all times. Consequently, if the only amount paid or payable in relation to a farm-in agreement is an exploration amount, as defined, no duty will be payable on the farm-in agreement.
- For the purpose of assessment of a farm-in agreement when it is entered into, the dutiable value is limited to any consideration paid or payable to the farmor or a related party for entry into the agreement.
- On any reassessment, the dutiable value of the farm-in agreement is adjusted to include the following.
    - Consideration paid or payable to the farmor, or a related person of the farmor, for the farmor entering into the agreement.
    - An amount relating to the transfer of an interest in the exploration authority, the subject of a reassessment event that is paid or payable on or before the day the reassessment event happens. This includes any transfers under a previous stage of the farm-in agreement.
    - Any other consideration paid or payable to the farmor or a related person of the farmor under the agreement to the date of the latest reassessment event.

On any reassessment, a credit will apply to duty already paid, in accordance with the normal operation of the *Taxation Administration Act 2001*.

Example

X enters into a deferred farm-in agreement with Y under which Y agrees to provide the following consideration:

- $10,000 to X for entering into the agreement.
- $1 million on exploration activity in the authority area for the right to acquire a 20% interest in an exploration authority held by X (Transfer 1).

- On commencement of exploration activity, $200,000 to X for mining information about the authority.
- $300,000 to X if the 20% interest in the authority is transferred to Y.
- On acquisition of the 20% interest, a further $2 million on exploration activity in the authority area for the right to acquire a further interest of 30% in the authority area (Transfer 2).
- $400,000 to X if the 30% interest in the authority is transferred to Y.

The consideration for the agreement, including the exploration amount, is $3,910,000. Transfer duty will be initially assessed on the agreement on $10,000, being the amount paid for entering into the agreement.

If Transfer 1 occurs, transfer duty will be reassessed on the agreement on $510,000, being the sum of the amount paid for entering into the agreement, the amount paid for mining information and the amount paid for the transfer other than the exploration amount. A credit will apply for duty previously paid on the agreement, and the transfer will be stamped pursuant to the agreement.

If Transfer 2 occurs, transfer duty will be reassessed on the agreement on $910,000, being the sum of the amount paid for entering into the agreement, the amount paid for mining information and the amounts paid for Transfer 1 and Transfer 2 other than the exploration amount. A credit will apply for duty previously paid on the agreement, and the transfer will be stamped pursuant to the agreement.

Commencement

The amendments have effect on commencement. However, transitional provisions specify that the concession operates from 10:30am on 13 January 2012 (the start time), and ensure that actions taken under Public Ruling DA000.12.1 pending commencement are recognised. If, during the period between the start time and commencement, a person became liable to lodge materials with the Commissioner or notify the Commissioner but failed to do so, the period within which they must comply with their statutory notification or lodgement obligation runs from commencement. Similarly, in relation to any assessments made from the start date to commencement, amendments allow an objection to be lodged within 30 days from commencement.

Other amendments to the Duties Act 2001

Clarifying the operation of an exemption for the transfer of land to the State for a public or community purpose

Under the *Duties Act 2001*, the State is not liable for transfer duty unless the Act provides otherwise. The State may be liable for duty if a statutory entity (a constructing authority under the *Acquisition of Land Act 1967* or an entity that is established under an Act and authorised under the Act to acquire property) makes a compulsory acquisition of dutiable property.

An existing exemption in section 145 of the *Duties Act 2001* provides that transfer duty is not imposed on a dutiable transaction that is a transfer of land to the State for—

(a) a public purpose under the *Acquisition of Land Act 1967*; or
(b) a community purpose under the *Land Act 1994*.

However, compulsory acquisitions under the *Acquisition of Land Act 1967* and *Land Act 1994* usually occur by vesting the land in the entity making the acquisition. Statutory vestings do not qualify for exemption under section 145 of the *Duties Act 2001* because the exemption only applies to the dutiable transaction that is a transfer of land. Where statutory vestings occur for purposes which fall within section 145, they are intended to be exempted.

In order to correct the operation of section 145 of the *Duties Act 2001*, an administrative arrangement was approved on 25 February 2014 and published as Public Ruling DA 145.1.1 – *Transfer duty exemption for qualifying vestings of land in the State*, on 27 March 2014. The administrative arrangement extends the application of section 145 to the vesting of land in the State by, or expressly authorised by, statute law for one of the purposes mentioned in section 145.

The Bill amends section 145 of the *Duties Act 2001* so that it also applies to a vesting of land in the State by, or expressly authorised by, statute law. The amendment will apply retrospectively to such vestings of land in the State for a qualifying purpose made on or after 25 February 2014.

<u>Extending the vehicle registration duty exemption for charitable institutions</u>

Under the *Duties Act 2001,* an exemption from vehicle registration duty is available to charitable institutions provided certain conditions are satisfied. To be eligible, the charitable institution must start to use the vehicle for a qualifying exempt purpose immediately after making an application to register or transfer the vehicle, and continue using it for that purpose for one year.

The Bill amends the *Duties Act 2001* to reduce the period that the charitable institution must use the vehicle for a qualifying exempt purpose to nine months.

This taxpayer beneficial amendment has been operating under an administrative arrangement that has applied since 25 February 2014. The amendment will be given retrospective effect from that date.

<u>Other Amendments</u>

Under the *Duties Act 2001*, certain dealings under the *Land Act 1994* are exempt from transfer duty, including a grant in fee simple of land comprised in a purchase lease. The provision of the *Land Act 1994* which provided entitlement to a grant in fee simple of land comprised in a purchase lease was repealed with effect from 23 February 2009. As a consequence, the corresponding transfer duty exemption is now redundant. The *Duties Act 2001* is amended to remove the redundant exemption.

Amendments to the *Duties Act 2001* with effect from 1 July 2011 replaced liabilities for land rich duty with landholder duty. For land rich duty, certain kinds of property were required to be disregarded for the purpose of calculating the unencumbered value of a corporation's property, including loans to "associated persons". Although a definition of "associated person" is provided for in the *Duties Act 2001*, the term has no relevance for landholder duty and has no other application in the *Duties Act 2001.* The *Duties Act 2001* is therefore amended to remove the definition of "associated person".

Under the *Duties Act 2001*, vehicle registration duty is imposed on an application to register or transfer the registration of a vehicle. Additionally, as a vehicle is a chattel, it is liable to transfer duty when transferred with other dutiable property. The *Duties Act 2001* ensures that double duty does not apply where the transfer of a vehicle is part of a dutiable transaction on which transfer duty is paid or payable by reducing the transfer duty attributable to the transfer of the vehicle under a formula set out in the *Duties Act 2001.* For clarity, the *Duties Act 2001* contains an example of the operation of this formula. However, the transfer duty rates used in the example do not reflect changes made to those rates since 30 June 2008. The *Duties Act 2001* is amended to reflect the current rates of duty.

Each of these amendments apply from commencement of the Bill.

First Home Owner Grant Act 2000

To be eligible for a grant under the *First Home Owner Grant Act 2000,* an applicant must meet certain requirements including "residence requirements". To comply with the residence requirements, an applicant must occupy the home to which the application relates as the applicant's principal place of residence for at least six months commencing within one year after completion of the eligible transaction. However, the Commissioner has discretions to vary these periods or exempt an applicant from the residence requirements.

The *First Home Owner Grant Act 2000* may be interpreted to impose time limitations on the exercise of the Commissioner's discretions, such that they can only be exercised within the statutory time for initial compliance with the relevant requirement. However, it is not intended that the discretions be limited in this way.

An administrative arrangement published as Public Ruling FHOGA015.2.2 – *Residence requirements – Commissioner Discretions*, has ensured with effect from 4 July 2013, that the Commissioner's discretions can be exercised at any time, even when the period to which the discretion relates has expired. This Bill amends the *First Home Owner Grant Act 2000* to give legislative effect to the administrative arrangement, with retrospective effect from 4 July 2013.

Payroll Tax Act 1971

<u>Implementing a 2015 election commitment to provide a rebate on the wages of apprentices and trainees</u>

During the 2015 State election campaign, the Government announced a payroll tax incentive of a 25 per cent rebate on wages paid by an employer to apprentices and trainees, in addition to the existing exemption from payroll tax for these wages, funded for a three year period (the Rebate).

A similar rebate for the 2009-10, 2010-11 and 2011-12 financial years is provided by existing provisions of the *Payroll Tax Act 1971* (sections 27A, 35A, 43A and Division 6A, Part 2). While these financial years have passed, the provisions remain in the Act as they are still relevant to any reassessment or default assessment of liability for the 2009-10, 2010-11 and 2011-12 financial years. In implementing the Government's election commitment, the Bill makes amendments to extend these provisions to the 2015-16, 2016-17 and 2017-18 financial years.

In accordance with the framework of the existing provisions, the rebate is available in addition to the exemption for wages paid to apprentices and trainees under section 14(2)(j) of the *Payroll Tax Act 1971*. The rebate will be 25 percent of the amount calculated by applying the payroll tax rate (4.75 per cent) to the exempt apprentices and trainee wages. The rebate amount is then applied in reduction of the tax otherwise payable on the employer's taxable wages in an eligible period.

If the calculated amount of the rebate is greater than the total payroll tax payable on the employer's other wages, the rebate will be set at the total tax payable, resulting in a nil liability. Any excess rebate is not refunded. For an employer that is a member of a group for payroll tax purposes, where the rebate amount determined under the calculation is greater than the payroll tax payable, special provisions will apply to allow other group members to share in the excess to the extent of the other group members' tax liability, on an annual or final return basis, and limited to the total payroll tax liability of the group.

Consistent with the existing provisions, the rebate will be able to be claimed by employers by self assessing their rebate entitlement in the process of working out their periodic liabilities, with any necessary adjustment made through the annual or final return process.

The amendments will commence on 1 July 2015, with effect for payroll tax liabilities arising in the 2015-16, 2016-17 and 2017-19 financial years.

<u>Clarifying the application of the exclusions from the contractor liability provisions</u>

Under the *Payroll Tax Act 1971,* payroll tax is payable by employers on all taxable wages. In addition to wages paid to an employee, the *Payroll Tax Act 1971* makes payments to contractors under a "relevant contract" liable to payroll tax as wages (relevant contract provisions) unless one or more exemptions apply (contractor exemptions).

The relevant contract provisions are based on those in New South Wales and Victoria, and were adopted when Queensland's payroll tax legislation was amended in 2008 to give effect to payroll tax harmonisation arrangements.

The contractor exemptions are intended to operate on the basis that payments under a contract are either fully exempt because the contract falls within the relevant exemption, or fully taxable because the contract does not wholly satisfy the conditions specified for the particular contractor exemption.

Victoria amended its payroll tax legislation through the *State Tax Laws Amendment (Budget and Other Measures) Act 2013* to clarify this as the position for their contractor exemptions. New South Wales passed amendments to achieve the same effect in October 2014 under the *State Revenue Legislation Further Amendment Act 2014*.

The Bill makes amendments to put beyond doubt that the contractor exemptions require the contract as a whole to qualify for the exemption, rather than being applicable to a portion of payments under the contract. As a consequence, all services under a contract must meet the qualifying criteria for the relevant exemption under section 13B sought to be applied for any payments under the contract to receive exemption.

The amendments have effect for work performed on or after commencement of the Bill, regardless of when amounts are paid or become payable for the performance of the work.

Updating the exemption for wages paid to a trainee

Under the *Payroll Tax Act 1971*, wages paid to trainees are exempt from payroll tax. However, to prevent abuse the exemption is lost where an existing employee of an employer commences a traineeship. Section 14(4) and section 14(5) provide for an exception to this rule where the traineeship undertaken is a certificate III traineeship and the employee previously completed a certificate II traineeship in the same training package or occupational stream with the same employer.

Section 14(4) applies where the certificate II traineeship was started before 1 December 2002. Given the passage of time, section 14(4) has no further practical application. As such, the Bill amends the *Payroll Tax Act 1971* to omit section 14(4).

Section 14(4) also defines a certificate II traineeship and a certificate III traineeship. However, these definitions do not reflect the framework under which these qualifications are currently accredited. The Bill inserts new definitions of a certificate II traineeship and certificate III traineeship and a related definition of Australian Qualifications Framework to address this.

These amendments take effect from the date of commencement of the Bill.

Other amendments to the Taxation Administration Act 2001

Allowing the payment of interest on successful objections

Under the *Taxation Administration Act 2001,* a taxpayer who is dissatisfied with an original assessment or a reassessment increasing their liability for tax may object to the Commissioner. The Commissioner must allow the objection completely or partly, or disallow it.

Interest is currently only payable on a refund of tax or late payment interest where an objection decision is successfully challenged in the Supreme Court or the Queensland Civil and Administrative Tribunal, and payment is ordered by the court or tribunal.

The Bill introduces an obligation upon the Commissioner to pay interest on a refund of tax or late payment interest resulting from a successful objection that will align the treatment of refunds for decisions made during the objection and review process. Under this new provision, the Commissioner must pay interest at the prescribed rate on a refund of tax or late payment interest because of a reassessment that gives effect to a decision to allow an objection, either in whole or in part. Interest must be calculated from the date the refunded amount was originally paid to the Commissioner to the date the refund is made by the Commissioner.

Existing rules in the *Taxation Administration Act 2001* concerning pre-conditions to payment of refunds by the Commissioner will be amended to also apply to interest paid by the Commissioner on refunds resulting from a successful objection decision.

While payment of an assessment under objection is not a pre-condition to the right to object, payment of duty pending the objection decision limits the taxpayer's exposure to unpaid tax interest on the liability under objection if their objection is disallowed. The amendments recognise that some objections involve lengthy periods for the Commissioner to reach a decision due to complex facts and issues, and that payment of interest on successful objections is fair in these circumstances.

These amendments take effect from the date of commencement of the Bill.

Minor amendment

Part 4 Division 3 of the *Taxation Administration Act 2001* provides for how payments for tax and other amounts are allocated and applied. Section 40, which provides deeming rules for when payment is taken to be received by the Commissioner, refers to a section which does not exist. The Bill corrects this cross-reference. The amendment has effect from the date of commencement of the Bill.

Amendments to the *Financial Accountability Act 2009*

The policy objectives and reasons for them in relation to the FA Act are outlined below.

It is proposed to amend section 48 to add powers that the Treasurer is able to delegate. These powers relate to: approving payments out of the consolidated fund ledger and bank account; and allowing Queensland Treasury Corporation to administer investments made by the Treasurer for miscellaneous amount of non-public moneys as required by various Acts or contracts or on behalf of various Government institutions**.** The delegation of these powers will allow Queensland Treasury and Queensland Treasury Corporation officers to administer funds in accordance with Government decisions.

Section 53 is to be amended to clarify that the Treasurer can only enter into derivative transactions to hedge against a risk to which the State is or will be exposed. Section 53 grants the Treasurer all the powers of an individual however, there is no explicit power available for the Treasurer to enter into derivative transactions. Section 53 is to be amended to make this power clear, and to provide the appropriate safeguards.

The Bill amends section 78 to allow an accountable officer in a department to nominate a non-public service employee to the role of Head of Internal Audit. Currently, only a public service employee or other employee of the State may assume this role. The reason for this amendment is to provide flexibility and assist departments to achieve better value for money, as many departments have shifted from a fully in-house internal audit function to either outsourced or co-sourced internal audit arrangements. To facilitate this change in approach, the amendment gives the accountable officer the flexibility to nominate either an appropriately qualified public service employee or a non-public service employee such as the partner or lead auditor in the outsourced internal audit function to assume the Head of Internal Audit role. The minimum responsibilities contained in section 78 and the minimum qualifications contained in the *Financial Accountability Regulation 2009* are applicable to the person who assumes the Head of Internal Audit role.

The Bill amends section 85 of the FA Act to clarify that a department does not enter into a derivative transaction if it merely takes over the administration of a derivative transaction entered into by another department.

Section 86 is to be amended to acknowledge that responsibility for derivative transactions may change over time, particularly following a change in administrative arrangements, and require a department to report on, and a Minister to monitor, a derivative transaction administered by a department. The amendment will also allow a copy of the report to be given to the Treasurer or an appropriately qualified employee of Treasury department, and also clarifies that a department administers a derivative transaction if it enters into the derivative transaction or if the department takes over the administration of the derivative transaction from another department. The reason for this amendment is to provide flexibility when processes or responsibilities change.

The Bill inserts section 88A in the FA Act to address the movement of ownership of companies between departments. When a company is transferred between departments, the receiving department must obtain the Treasurer's approval, within four months, for the department's proposed action in relation to the company. If the proposed action is to retain membership in the company, the receiving department must prepare a business case outlining reasons for this. The purpose of this section is to streamline the requirements as a strict interpretation of section 88 could create a number of administrative difficulties in the management and administration of companies that are transferred between departments as a result of a machinery of Government change.

Amendment of the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*

The Bill delays for a further 12 months certain not commenced amendments in the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013* aimed at excluding motorcycle gang members from working in certain licenced occupations covered by the *Electrical Safety Act 2002, Queensland Building and Construction Commission Act 1991* (formerly the *Queensland Building Services Authority Act 1991*) and *Work Health and Safety Act 2011*.

Amendments to the *Environmental Protection Act 1994*

The policy objectives of the amendments to the *Environmental Protection Act 1994* are achieved by inserting provisions which allow for the cancellation of Transitional Environmental Programs (TEPs) and Temporary Emissions Licences (TELs) by agreement or when the TEP or TEL is no longer required.

Amendments to the *Plumbing and Drainage Act 2002* and *Water Supply (Safety and Reliability) Act 2008*

The Bill removes an exemption from the offences in the *Plumbing and Drainage Act 2002*, which currently allows an authorised person of a service provider, who is not a licensed plumber, to install a relevant water meter.

Additionally, the Bill will amend the *Plumbing and Drainage Act 2002* and the *Water Supply (Safety and Reliability) Act 2008* to make it clear that the installation of a water meter is plumbing work that can only be performed by a licensed plumber.

To ensure that the water sector has time to adjust to this legislative change, a transitional period is provided by the Bill. Under the transitional period, provided certain preconditions are met, an authorised person of a service provider may continue to install relevant water meters for two years. After this transitional period expires, only a licensed plumber will be able to perform this work.

Alternative ways of achieving policy objectives

The policy objectives can only be achieved by legislative amendment.

Estimated cost for government implementation

Amendments to revenue legislation

As part of the Government's 2015 election commitment, the payroll tax rebate amendments are funded through a $45M allocation over 3 years. This is expected to be sufficient to cover the estimated reduction in payroll tax revenue over the 2015-16, 2016-17 and 2017-18, resulting from the rebate.

The implementation costs for the amendments to implement electronic conveyancing for transfer duty in Queensland are $1 million.

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

Amendments to the *Financial Accountability Act 2009 (FA Act)*

There are unlikely to be any financial implications for implementing the requirements of the Bill in relation to the FA Act.

Amendment of the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*

There are no significant implementation costs associated with the amendments.

Amendments to the *Environmental Protection Act 1994*

The proposed amendments are not anticipated to increase administrative costs to the government.

Amendments to the *Plumbing and Drainage Act 2002* and *Water Supply (Safety and Reliability) Act 2008*

The State Government will not incur any additional costs to implement the amendments.

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 revenue legislation

Legislation should have sufficient regard to the rights and liberties of individuals - Legislative Standards Act 1992, section 4(2)(a)

<u>Amendments to *Duties Act 2001* and *Taxation Administration Act 2001* for electronic conveyancing</u>

Overview

While a number of amendments to allow for electronic conveyancing affect the rights or liberties of individuals, they need to be considered as a package, and overall they are beneficial. Electronic conveyancing will provide an alternative to parties attending a physical settlement, and is intended to achieve greater efficiency in the conveyancing process. However, in a traditional physical conveyance, payment of duty to the Commissioner is a pre-condition to endorsement, and endorsement is a pre-condition to Titles registration. The introduction of endorsement based on payment commitment removes the pre-registration assurance of payment for the Commissioner.

These amendments seek to strike an appropriate balance between the rights and liberties of individuals, and minimisation of risk to revenue associated with allowing endorsement in an ELN based on payment commitment. While the amendments apply to parties who elect an ELN settlement, parties may choose to continue to operate under current conveyancing practices. Should parties opt not to use electronic conveyancing, they will not be impacted by the amendments.

Further details of how the balance between revenue protection and the rights and liberties of individuals is achieved through the amendments are discussed below.

Amendments to existing offence provisions

- Clauses 30, 32 - 36 and 38 extend existing offences and related provisions for improper endorsement and use of documents not properly endorsed, to cover electronic conveyancing endorsement and the payment commitment process.

- Clause 19 inserts new section 156V which provides that information in the ELN workspace is taken to be stated to the Commissioner. This will enliven the existing offence under section 123 of the *Taxation Administration Act 2001* if relevant information in the ELN workspace is false or misleading.

The extension of the existing offences to cover the ELN settlement process will ensure the same offence provisions apply in relation to both current conveyancing practice and electronic conveyancing. This will ensure equity is maintained regardless of the conveyancing method adopted. Where offences are prosecuted, as is currently the case, a person charged has the opportunity to defend the charge. Existing rights of review will continue to apply.

New offence provisions. Clause 31 introducing section 480A (Offences about self assessments – endorsements of ELN transfer documents). Clause 37 introducing section 487A (*Limitation on use of ELN transfer document endorsed on basis of payment commitment)*

The electronic conveyancing amendments also introduce two new offences, each of which carry a maximum penalty of 200 penalty units. New section 480A will replicate the exiting offences under section 480 of the *Duties Act 2001* for endorsements of instruments unless duty is accounted for, with an offence concerning the same matters for endorsement of ELN transfer documents. The 200 penalty unit maximum penalty is consistent with section 480 of the *Duties Act 2001* and other offences concerned with maintaining the framework for endorsement by self assessors.

New section 487A makes it an offence for a person to use an ELN transfer document endorsed on the basis of a payment commitment other than for completion of the ELN transfer. This offence is intended to support the connection between assurance of payment to the Commissioner and the endorsement, where a payment commitment applies, given ultimate payment to the Commissioner is exposed to a number of ELN process contingencies. As such, it is analogous in purpose and character to existing offences which currently attract a maximum penalty of 200 penalty units.

The Department of Justice and Attorney-General has reviewed and supports these penalty amounts.

Clauses 28 – 29 – amendments regarding suspension or cancellation of self assessor registration

Clauses 28 and 29 adjust the grounds and process by which the Commissioner may cancel or suspend a self assessor’s registration to include circumstances where a self assessor endorses an ELN transfer on the basis of a payment commitment. Suspension or cancellation will not apply if non-payment is due to circumstances beyond the self assessor’s control.

Other than in exceptional circumstances governed by existing statutory provisions, the *Duties Act 2001* process for suspension or cancellation of a self assessor’s registration to self assess duty involves an opportunity for the self assessor to show cause why their registration should not be suspended or cancelled prior to that action being taken. This, together with the usual review rights, will continue to apply to protect an affected self assessor’s individual rights.

As the ELN system is an entirely new system, the circumstances in which non-payment of duty included in a payment commitment may occur cannot be fully anticipated at this time. However, the amendments adding grounds to the circumstances in which the Commissioner may suspend or cancel a self assessor's registration to include where duty has not been paid despite endorsement on the basis of a payment commitment will support effective management of the self assessment regime for ELN transactions. Limiting application of the ground to circumstances which were not beyond the self assessor's control also ensures that, as for the existing grounds of suspension or cancellation, the new ground is tied to conduct of the self assessor which contributes to risk to revenue.

Clause 19 – sections 156P to 156U - Commissioner's charge

Clause 19 introduces Part 15, Division 4 establishing a statutory charge in favour of the Commissioner where an ELN transfer has been endorsed on the basis of a payment commitment, but the tax is not in fact paid in full.

Similarly to the Commissioner's existing powers to register a charge over property to secure payment of landholder duty under the *Duties Act 2001* and debts under the *First Home Owner Grant Act 2000*, and consistent with the position for charges for land tax debts under the *Land Tax Act 2010*, the amendments provide that a charge securing an outstanding amount for a payment commitment will rank as a first charge over the transferee's interest in the land. This will mean that these tax debts will be paid prior to payment of debts owed to other secured creditors in relation to the transferee's interest in the land. Some mortgagees may have concerns that providing priority to the Commissioner's charge in this way will negatively impact on their securities. However, the charge is necessary to protect revenue given the required amendments to allow endorsement on the basis of payment commitment for ELN transactions.

Further, a funding financial institution (and potential mortgagee) will be an active participant in the entry into the ELN transaction, and the provision of the payment commitment. Consequently, they will be aware of the duty liability and can assess the risk of non-payment of duty, and consequent imposition of a first charge in the Commissioner's favour, as part of their decision to participate in the transaction. Lending institutions are well positioned to vet the credit history of borrowers.

The charging provisions seek to strike a balance between protection of revenue and the rights and interests of persons affected by the provisions through:

- Limitation of the statutory charge to the transferee's interest in the land;
- Requiring the charge to be registered before it runs with the land; and
- Allowing the charge to be registered only while the transferee is still the registered owner of the land.

In particular, these measures are intended to protect bona fide purchasers in good faith.

Until registered, the statutory charge simply gives the Commissioner a right to priority of payment from any sale of the land. If, after the relevant ELN transfer is complete, the transferee gives security over the land to a mortgagee, who was not party to the electronic conveyance to the transferee, the Commissioner's statutory charge would have priority to that mortgage. However, the prospects of this are considered low, as:

- The charge only arises if duty committed to be paid is not in fact paid.

- Mortgagees, particularly those taking a second or subsequent mortgage, take into account a range of risks of non-payment in their lending decisions. The potential for an unregistered first charge in favour of the Commissioner already exists for unpaid landholder duty under Chapter 3 Part 1 Division 7 of the *Duties Act 2001*. The potential existence of a charge under the amendments will simply be another commercial factor to be taken into account in their lending decision.

In relation to other interests which may be created by the transferee, impacts of an unregistered Commissioner charge will be dependent on the nature of the interest granted, but in most cases are expected to be limited. For example, a person's ability to be granted a lease by the transferee will not be affected. If, on the other hand, the ELN transferee transfers the land to a purchaser, provided that transfer to the purchaser is registered, the Commissioner's charge over the land lapses and therefore will not impact the purchaser. However, if the parties choose not to register, then they assume the risks of that decision, including operating outside the protections of indefeasibility provided by the *Land Title Act 1994*.

<u>Clause 15 – Amendments to *Duties Act 2001* - Concession relating to farm-in agreements for exploration authorities and transfers of exploration authorities under farm-in agreements</u>

Under the *Taxation Administration Act 2001*, it is an offence for a person to fail, without reasonable excuse, to give a notice or comply with a lodgement requirement under a tax law. It is also an offence for a person to give to the Commissioner a document containing information that the person knows, or should reasonably know, is false or misleading in a material particular. As clause 15 of the Bill inserts new lodgement and notice requirements under section 84K and 84L into the *Duties Act 2001* in relation to farm-in agreements, the new requirements will be subject to the offence provisions under the *Taxation Administration Act 2001*.

The relevant provisions are part of the package of amendments for farm-ins which are taxpayer beneficial. So that concessions are received by the parties for whom they are intended, they necessarily are subject to conditions. In relation to the farm-in concession, relevant conditions relate to whether or not certain events occur after the initial liability event of the entry of the farm-in agreement. To allow the effective administration of the concession, it has therefore been necessary to ensure lodgement and/or notification obligations apply so that the Commissioner is made aware when a condition has not been or may not be complied with. For these lodgement and notification requirements to be meaningful, it is necessary that offences apply where they are breached, in the same way as existing notice and lodgement obligations.

In addition, clause 15 inserts 84O, which ensures the usual imposition of penalty tax under the *Taxation Administration Act 2001* where primary tax increases on reassessment will not apply where reassessment is solely due to a reassessment event unless there is an arrangement to avoid the imposition of duty, or a farmee under a farm-in agreement has failed to comply with the lodgement or notification requirements for the reassessment event. However this will not affect the imposition of penalty tax if reassessment occurs for other reasons.

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

<u>Clause 43 – Amendments to *Duties Act 2001* - Concession relating to farm-in agreements for exploration authorities and transfers of exploration authorities under farm-in agreements</u>

Clause 43 of the Bill inserts new sections 655, 657, 658 and 659 into the *Duties Act 2001*, which provide for the retrospective operation of the new Part 8A of Chapter 2. Specifically, the new part applies to farm-in agreements made from 10:30am on 13 January 2012. However, the amendment is beneficial to taxpayers as it provides a concession from transfer duty. Additionally, the amendment is in accordance with an administrative arrangement which has been applied since that date and published as a Public Ruling.

Transitional provisions in clause 659 ensure that, in relation to liabilities which arose between 10.30am on 13 January 2012 and the commencement of the Bill, a taxpayer's objection rights against any assessment is protected, and compliance with notification and lodgement obligations under Public Ruling DA000.12.1 is recognised.

<u>Clause 43 - Clarifying the operation of an exemption for the transfer of land to the State for a public or community purpose</u>

Clause 43 of the Bill inserts a new section 656 into the *Duties Act 2001*, which provides for the retrospective operation of the amended section 145. Specifically, the amended section 145 applies to a vesting of land in the State made on or after 25 February 2014. However, the amendment is beneficial to the State and is necessary to ensure the exemption applies consistently with the intended longstanding policy. Additionally, the amendment is in accordance with an administrative arrangement which has been applied since that date and which has been published as a Public Ruling.

<u>Clause 43 - Extending the vehicle registration duty exemption for charitable institutions</u>

Clause 43 of the Bill inserts new section 660 which gives retrospective effect to the amended section 416 from 25 February 2014. However, the amendment is beneficial to taxpayers and is in accordance with an administrative arrangement which has applied since that date and which has been published as a Public Ruling.

<u>Clause 61 – Ensuring the Commissioner's discretions in relation to the residence requirements under the *First Home Owner Grant Act 2000* can be exercised at any time</u>

Clause 61 of the Bill inserts new section 82 which gives retrospective effect to the amended section 15 from 4 July 2013. However, the amendment is beneficial to taxpayers and is in accordance with an administrative arrangement which has applied since that date and which has been published as a Public Ruling.

Consultation

Amendments to revenue legislation

Consultation on the payroll tax rebate was not undertaken, as it was a Government election commitment.

Consultation on the amendments to support electronic conveyancing for transfer duty in Queensland was undertaken with all relevant Departments and the Queensland Law Society.

Industry consultation was undertaken during development of the administrative arrangement for farm-in transactions in the resources sector. No further community consultation was undertaken in relation to the amendments as the amendments reflect the policy under the administrative arrangement.

Community consultation was not undertaken in relation to the other amendments to revenue legislation in the Bill. Consultation was not considered necessary or appropriate as these amendments have either operated under administrative arrangements, are taxpayer beneficial, make technical changes to the legislation to ensure its continued proper operation or are necessary to protect revenue.

Amendments to the *Financial Accountability Act 2009 (FA Act)*

Consultation was undertaken with the Auditor-General with respect to the proposed changes relating to: the Treasurer being able to enter into derivative transactions on behalf of the State; making the legislation clearer about reporting on derivative transactions; the transfer of companies between departments; and allowing a non-public servant to assume the responsibilities of Head of Internal Audit in a department. The Auditor-General raised no objections to the amendments.

Amendments to the *Environmental Protection Act 1994*

The proposed amendments are an administrative fix to existing tools. Consequently, no consultation with the community has been undertaken.

All government agencies with an interest in the amendments were consulted. No issues were raised prior to introduction of the Bill into Parliament.

Amendments to the *Plumbing and Drainage Act 2002* and *Water Supply (Safety and Reliability) Act 2008*

The installation of water meters was the subject of extensive consultation during the former State Development, Infrastructure and Industry Committee's examination of the Water Supply Services Legislation Amendment Bill 2014. This matter was also raised during the Queensland State Election 2015 when the Government made an election commitment to restore high standards in Queensland's plumbing industry by requiring the installation of water meters to be performed by a fully qualified and licensed plumber.

The water sector, as represented by the Queensland Water Directorate, and the plumbing industry have been consulted on this matter following the Queensland State Election 2015.

Consistency with legislation of other jurisdictions

Amendments to revenue legislation

The *Electronic Conveyancing National Law (Queensland) Act 2013*, which applies the Electronic Conveyancing National Law in force in New South Wales, is part of a national scheme to ensure consistency of legislation in all jurisdictions participating in national electronic conveyancing. The Bill contains amendments to support electronic conveyancing for transfer duty in Queensland. However, variations in the duty legislation in each jurisdiction means there will, necessarily, be different approaches to the amendments to that legislation to support electronic conveyancing.

The concession for farm-in agreements is not uniform or complementary to legislation of the Commonwealth or another state. While some other states also provide transfer duty relief for farm-in agreements, there is no uniform legislative model or formal arrangement between the states to provide such relief.

The amendment to the *First Home Owner Grant Act 2000* will align Queensland with New South Wales, South Australia, Western Australia and Northern Territory.

The amendment to the *Payroll Tax Act 1971* to clarify the application of exemptions from liability under the relevant contract provisions, will achieve harmonised policy outcomes with Victoria and New South Wales, who have previously amended for similar reasons.

The amendment of the *Taxation Administration Act 2001* to provide for the payment of interest on refunds of tax or late payment interest resulting from an objection decision will align Queensland with all other states and territories.

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

Amendments to the *Financial Accountability Act 2009 (FA Act)*

The amendments to the FA Act are mainly administrative in nature and relate to the internal management of Queensland's public sector. As a result the amendments are not substantially uniform or complementary to legislation of the Commonwealth or another state.

Amendments to the *Environmental Protection Act 1994*

This Bill is consistent with legislation of other jurisdictions.

Amendments to the *Plumbing and Drainage Act 2002* and *Water Supply (Safety and Reliability) Act 2008*

In other states, the service provider determines if its authorised person installing water meters need be a plumber, rather than state legislation determining this. Generally this work is done by water industry workers who have undertaken training under the Water Industry (Civil) Curriculum on installing, maintaining and repairing water meters, although the service provider can decide to use plumbers if it wishes.

Notes on provisions

Part 1 Preliminary

Clause 1 provides that, when enacted, the Bill may be cited as the *Payroll Tax Rebate, Revenue and Other Legislation Amendment Act 2015*.

Clause 2 provides that the amendments:

- extending the payroll tax rebate on apprentice and trainee wages to the financial years ending 30 June 2016, 30 June 2017 and 30 June 2018, commence on 1 July 2015; and
- relating to the *Environmental Protection Act 1994*, *Plumbing and Drainage Act 2002* and *Water Supply (Safety and Reliability) Act 2008* will commence on a day to be fixed by proclamation.

Part 2 Amendment of Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013

Clause 3 specifies that amendments are to be made to the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013* (the Act).

Clause 4 amends the commencement provision of the Act to provide that parts 8, 14 and 24 will commence on 1 July 2016.

Part 3 Amendment of Duties Act 2001

Clause 5 provides that part 3 amends the *Duties Act 2001*.

Clause 6 amends the existing note to section 8. Section 8 imposes transfer duty on dutiable transactions. The note includes new part 8A in identifying parts of the *Duties Act 2001* which deal with concessions and exemptions for transfer duty.

Clause 7 amends section 11 by inserting a new subsection (6A). The new subsection provides that the *dutiable value* of a dutiable transaction that is an agreement for the transfer of dutiable property that is a farm-in agreement, is determined under the new part 8A.

Clause 8 inserts a new note to section 16, which is the general provision prescribing when liability for transfer duty imposed on a dutiable transaction arises, by reference to the time stated for the transaction in schedule 2. The amendments establish a new liability framework for ELN transfers, including special rules imposing and reconciling multiple liabilities in new part 15, division 2 in chapter 2. The note draws attention to new sections 156H and 156K which contain rules about when liability for transfer duty arises on transfers in particular ELN related scenarios.

Clause 9 amends section 18 and its heading to include a reference to *ELN transfer document*. This ensures that a transfer duty statement is not required for a transfer if an ELN transfer document exists which effects or evidences the transfer.

Clause 10 amends section 19 to include a reference to *ELN transfer document* in the heading and subsections (1)(a) and (3)(a). This amendment allows a statutory entity for a statutory dutiable transaction under subsection (1), and the parties liable to pay transfer duty relating to another dutiable transaction under subsection (3), to meet the lodgement obligations prescribed under section 19 by lodging an ELN transfer document that effects or evidences the relevant dutiable transaction.

Clause 11 amends section 20 and its heading to include references to *ELN transfer document*. This means that where one of the parties to the dutiable transaction complies with a requirement under section 19 by lodging an ELN transfer document, the other parties to the transaction will be relieved from complying with the requirement to lodge under section 19.

Clause 12 inserts a new note to section 21(1) to refer to new part 15, division 2 in chapter 2. Section 156M in division 2 contains provisions clarifying particular circumstances in which section 21 does not apply for an ELN transfer.

Clause 13 inserts new subsection (2A) into section 22 providing that no transfer duty will be imposed on an ELN transfer of dutiable property to the transferee under an agreement for transfer for which a payment commitment is made. It mirrors the operation of section 22(2) which makes similar provision for a transfer to a transferee under an agreement for transfer on which duty has been paid. It also inserts a note in relation to subsections (2) and (2A) cross-referencing part 15 division 2 for a dutiable transaction that is an ELN transfer, and a note cross-referencing part 15, division 3 in relation to the making of a payment commitment.

Clause 14 amends section 30 to include a reference to *ELN transfer document* in subsection (6). This ensures that lodgement of an ELN transfer document is included for the purposes of a lodgement requirement arising under subsection (6), where section 30 applies to require aggregation of dutiable transactions.

Clause 15 inserts a new part 8A into chapter 2 which provides for the new transfer duty concession for farm-in agreements.

Division 1 of part 8A outlines some basic concepts about farm-in agreements.

Section 84A, subsection (1), provides a definition of *farmor* which covers persons to whom an exploration authority has been granted or transferred with all necessary approvals under a relevant Act for the authority. In either case, it does not matter whether the grant or transfer has been registered under the relevant Act. A person who is merely an applicant for the grant of such an interest is not covered. Subsection (2) defines *relevant Act* as used in subsection (1).

Section 84B, subsection (1), sets out the features an agreement must contain in order to qualify as an *upfront farm-in agreement*. The subsection also defines the terms *farmee* and *exploration amount*. Subsection (2) provides a qualification to the criteria in subsection (1) for a farm-in agreement which is a *100% transfer farm-in agreement* as defined in section 84D.

Section 84C, subsection (1), sets out the features an agreement must contain in order to qualify as a *deferred farm-in agreement*. The subsection also defines the terms *farmee* and *exploration amount*. Subsection (2) provides a qualification to the criteria in subsection (1) for a farm-in agreement which is a *100% transfer farm-in agreement* as defined in section 84D.

Section 84D defines the term *100% transfer farm-in agreement*. This term is used in sections 84B and 84C in establishing what constitutes an *upfront farm-in agreement* and a *deferred farm-in agreement.* Under those sections, an agreement can still qualify as a farm-in agreement where its performance results in 100% of the interest in the exploration authority being held by the farmee. However, the transfer which results in the farmee holding 100% of the total interest in the exploration authority does not receive the benefit of the farm-in concession, as a consequence of the operation of section 84I.

Section 84E provides a definition of *expenditure completion date* and *ECD variation*. The *expenditure completion date*, for an exploration amount for the transfer of an interest in an exploration authority under a farm-in agreement, is defined as the day stated in the agreement on or before which the exploration amount must be spent, and any variation or further variation to that day agreed by the farmor and farmee. Any such variation or further variation is an *ECD variation*.

Section 84F provides a definition of *relevant exploration or development* as used in the qualifying conditions for both upfront and deferred farm-in agreements under sections 84B and 84C respectively. Exploration or development will be relevant exploration or development for an exploration amount relating to an interest in an exploration authority the subject of a farm-in agreement if it is comprised of, or associated with the carrying out of an activity under the exploration authority, after the farm-in agreement is entered into. For example, it would include drilling, sampling, geological surveys and geological evaluations and assessments for the exploration authority. However, it would not include bankable feasibility studies, rates, or legal, administration or management costs.

Division 2 of part 8A outlines the dutiable transaction for farm-in agreements and the duty treatment of particular transactions under a farm-in agreement.

Section 84G, subsection (1), clarifies that both an upfront farm-in agreement and a deferred farm-in agreement are an agreement for the transfer of dutiable property mentioned in section 9(1)(b), and cannot be characterised as any other dutiable transaction (for example, the acquisition of a new right). Given subsection (1), the Commissioner of State Revenue’s discretion under section 21 will have no operation. This is confirmed by subsection (2).

Section 84H provides that no transfer duty is imposed on a transfer of an interest in an exploration authority from the farmee back to the farmor made under an upfront farm-in agreement in specified circumstances. It applies if the transfer occurs under an obligation in the agreement requiring the farmee to make the transfer upon a failure to spend the exploration amount for the interest by the applicable expenditure completion date. However, the exemption will only apply if transfer duty imposed on the upfront farm-in agreement has been paid.

Section 84I provides that section 22(2) will not apply for the transfer of an interest in an exploration authority in specified circumstances. The first of these is where a transfer is made under a 100% transfer farm-in agreement and the transfer results in the farmee holding 100% of the interest in the exploration authority. The second is where a farmee under a deferred farm-in agreement fails to spend the exploration amount in whole or part on or before the expenditure completion date and the farmor still transfers the interest to the farmee. As these transfers are not intended to receive the benefit of the concession, they are liable to transfer duty under the usual provisions by removing the benefit of section 22(2).

Division 3 of part 8A outlines the concession for transfer duty for farm-in agreements.

Section 84J provides how transfer duty is initially assessed on a farm-in agreement. Subsection (1) specifies that the section applies for assessing transfer duty on a farm-in agreement. Under the usual operation of section 16 and Schedule 2 of the *Duties Act 2001*, liability for duty arises when the agreement is made. Subsection (2) provides that the dutiable value of the farm-in agreement for that assessment is the consideration paid or payable to the farmor, or a related person of the farmor, for the farmor entering into the agreement, other than an exploration amount. Subsection (3) ensures that the rules for determining consideration based on contingency under section 502(1)(a) and (b) and (2)(a) continue to apply for determining the "consideration", other than an exploration amount, paid or payable to the farmor or a related person of the farmor for the farmor entering into a farm-in agreement, but not otherwise for the assessment.

Division 4 of part 8A outlines the lodgement and notice requirements for upfront farm-in agreements.

Section 84K imposes a lodgement requirement on the farmee under an upfront farm-in agreement, where the farmee spends the exploration amount for each interest in the exploration authority. Within 14 days after spending the exploration amount, the farmee must lodge information, in the approved form, about the expenditure of the exploration amount, as well as the upfront farm-in agreement or a transfer duty statement for the agreement. Failure to comply with the requirement is an offence under section 121 of the *Taxation Administration Act 2001*. The circumstances in which a farmee is required to make a lodgement under this section also give rise to a reassessment event on the farm-in agreement under section 84M.

Section 84L imposes a notice requirement on the farmee under an upfront farm-in agreement in particular circumstances specified in subsection (1). Relevantly, the notice requirement arises where the farmee fails to spend all or part of the exploration amount for an interest transferred to them under the farm-in agreement, by the expenditure completion date for that amount. Under subsection (2), the farmee must, within 30 days after the expenditure completion date, give notice to the Commissioner of State Revenue in the approved form. Failure to give the notice is an offence under section 120 of the *Taxation Administration Act 2001*. Within the 30 day period, the farmee must also lodge the farm-in agreement or a transfer duty statement for the agreement. Failure to do so is an offence under section 121 of the *Taxation Administration Act 2001*. The notice and lodgement requirements apply even if:

- the exploration amount is spent, but later than required under the agreement; or
- some of the exploration amount was paid before the expenditure completion date but it was not spent in full by that date.

Section 84L, subsection (3), provides that the notice requirement also applies for any expenditure completion date as varied. Subsection (4) provides a definition of *original expenditure completion date* used in subsection (3).

Division 5 of part 8A outlines when the Commissioner of State Revenue must reassess transfer duty and how transfer duty is reassessed.

Section 84M sets out circumstances, described as *reassessment events*, the occurrence of which requires the Commissioner of State Revenue to reassess transfer duty on a farm-in agreement. Subsection (1) identifies these reassessment events. For an upfront farm-in agreement, they are that the farmee has an obligation to lodge under section 84K, or to give notice and lodge under section 84L(2). For a deferred farm-in agreement, there is a reassessment event if, under the farm-in agreement, an interest in an exploration authority is transferred by the farmor to the farmee. Subsection (2) specifies particular circumstances where subsection (1) does not apply, such that the Commissioner is not required to reassess the agreement. These relate to whether the interest in the exploration authority has been transferred back to the farmor under an upfront farm-in agreement or where an ECD variation has been made for the expenditure of the exploration amount and the Commissioner is satisfied the ECD variation is not part of an arrangement to avoid the imposition of transfer duty. Subsection (3) specifies further circumstances where subsection (1) does not apply with the result that the Commissioner is not required to reassess the agreement. These relate to transfers under a 100% farm-in agreement where the transfer results in the farmee holding 100% of the interest in the exploration authority. In these cases, the transfers are liable to duty without the benefit of the concession. Subsection (4) clarifies that the obligation to reassess under subsection (1) applies despite the limitation period under the *Taxation Administration Act 2001*.

Section 84N provides how transfer duty is reassessed on a farm-in agreement for a reassessment under section 84M. Subsection (1), which applies subject to subsections (3) and (4), specifies certain amounts, excluding exploration amounts, that are included in the dutiable value of the farm-in agreement for the reassessment. See the discussion of "Dutiable value" for the farm-in amendments under the "Achievement of policy objectives" section of these Explanatory Notes, for an example of the application of section 84N. Subsection (2) ensures that the rules for determining consideration based on contingency under section 502(1)(a) and (b) and (2)(a) continue to apply for determining "consideration" where it is part of the dutiable value under subsection (1), but not otherwise for a reassessment.

Subsection (3) of section 84N identifies certain circumstances in which a reassessment required under section 84M is not reassessed on the basis of dutiable value as determined under subsection (1). In those specified circumstances, subsection (4) requires the Commissioner of State Revenue to make the reassessment to impose transfer duty on the agreement as if it was not a farm-in agreement under part 8A. That is, the concessions provided in part 8A will not apply for the reassessment. Subsection (5) provides that section 84N applies despite section 84J.

Division 6 of part 8A deals with miscellaneous matters for farm-in agreements.

Section 84O provides that section 58(1)(c) of the *Taxation Administration Act 2001* does not apply in relation to a reassessment made by the Commissioner of State Revenue under section 84M, unless:

- section 84N(4) applies for the reassessment; or
- the farmee has failed to comply with a lodgement requirement for the reassessment event to which the reassessment relates, or a requirement to give the commissioner notice under section 84L(2) for the reassessment event to which the reassessment relates.

Section 58(1)(c) of the *Taxation Administration Act 2001* would otherwise make a taxpayer liable to penalty tax where primary tax assessed on the reassessment is more than that assessed on the original assessment or an earlier reassessment. Section 58(1)(c) continues to apply if the reassessment is one to which section 84N(4) or section 84P applies, or where the farmee has failed to comply with a lodgement or notice requirement for the reassessment event.

Section 84P excludes arrangements to avoid the imposition of transfer duty from the application of the farm-in concession provisions. Subsection (1) identifies the section as applying to a dutiable transaction that is a farm-in agreement if the transaction is part of an arrangement to avoid the imposition of transfer duty. In those circumstances, subsection (2) requires the Commissioner of State Revenue to make an assessment to impose transfer duty on the agreement as if it were not a farm-in agreement under part 8A. Subsection (3) clarifies that the obligation to reassess under subsection (2) applies despite the limitation period under the *Taxation Administration Act 2001*.

Clause 16 subclause (1), omits section 136(c), which provides that transfer duty is not imposed on a grant under section 506H of the *Land Act 1994.* As section 506H of the *Land Act 1994* has been repealed, section 136(c) is redundant. Subclause (2) renumbers section 136(d) to (h) to reflect the omission of paragraph (c).

Clause 17 amends section 145 so that it also applies to a vesting of land in the State in a way mentioned in section 9(1)(d)(i), to ensure section 145 operates as intended.

Clause 18 amends section 156A, as part of the amendments for electronic conveyancing. The amendments adjust references in section 156A, concerning reassessment of duty for cancelled transfers of dutiable property, to ensure it can apply to the cancellation of an ELN transfer in qualifying circumstances.

Clause 19 inserts new part 15 into chapter 2, containing provisions for ELN transfers.

Division 1 of part 15 sets out preliminary matters for ELN transfers.

Section 156D provides definitions of various terms used in part 15. Amongst these, the definition of *ELN transfer* sets the scope for the dutiable transactions capable of endorsement within an electronic lodgement network. In particular:

- the dutiable property transferred must consist only of relevant residential land and any chattel incidental to the land;
- an ELN workspace must exist for the transfer; and
- the transfer of dutiable property must be to the transferee under a relevant transfer agreement and for the same consideration as provided for under the agreement.

The concepts of *relevant residential land*, *ELN workspace* and *relevant transfer agreement*, which are also fundamental to the transfer duty scope for electronic conveyancing under the bill, are each defined in section 156D.

Section 156E sets out when an ELN transfer document is signed for the purposes of the *Duties Act 2001*. This is relevant to the time at which liability arises for an ELN transfer under amendments to Schedule 2, discussed below. Under section 156E, an ELN transfer document for an ELN transfer is signed when all *transfer information* in the ELN workspace for the ELN transfer is *digitally signed* by or for all parties. *Transfer information*, in an ELN workspace for an ELN transfer, is defined in section 156D to mean information in the ELN workspace that is necessary for either of the following purposes in relation to an ELN transfer document for the ELN transfer:

- complying with a provision of the *Land Title Act 1994* in relation to the registration of the document; or
- endorsing the document under the *Duties Act 2001*.

Digitally sign is defined in the Schedule 6 dictionary.

Section 156F specifies when an ELN workspace is *locked* and *unlocked* for the purposes of the *Duties Act 2001*. Subsection (1) provides that an ELN workspace for an ELN transfer is locked when the subscribers to the ELN workspace are unable to amend the transfer information in the ELN workspace. Subsection (2) provides that an ELN workspace for an ELN transfer is unlocked if, after the ELN workspace has been locked, the subscribers to the ELN workspace are no longer unable to amend the transfer information in the ELN workspace.

Section 156G specifies when transfers of dutiable property will be *related.* The transfers must be transfers of the same dutiable property, to the same transferee, under the same *relevant transfer agreement*. A note to section 156G confirms that there may be more than one ELN transfer of the same dutiable property to the same transferee under the same relevant transfer agreement, and cross references section 156H.

Division 2 of part 15 outlines the liability for transfer duty of ELN transfers.

Section 156H specifies the effect of multiple locking events for the ELN workspace for an ELN transfer. Subsection (1) provides that each time a *multiple locking event* happens, a new ELN transfer document is taken to exist, the ELN transfer document is taken to be signed, and as a consequence, another dutiable transaction that is an ELN transfer arises. Subsection (2) provides that a *multiple locking event* happens when the ELN workspace has been unlocked, and is locked again.

Section 156I states for the removal of doubt that the events listed under new section 156I(1) do not affect a liability for transfer duty imposed on an ELN transfer. Section 156I ensures that the amendments have their intended effect, by making it clear that subsequent events which are relevant to the imposition of transfer duty in the ELN transfer context do not replace, override or negate an earlier imposition of duty for an ELN transfer. Subsection (2) defines *unsigning* in relation to an ELN transfer document by reference to unsigning for the purposes of the *Electronic Conveyancing National Law (Queensland)*, and notes in particular section 12(3) of that Law.

Section 156J specifies that chapter 2, part 15, division 2, subdivision 2 applies if one or more *incomplete ELN transfers* are related to a *completed transfer*. That is, the subdivision does not apply unless there is a completed transfer. *Incomplete ELN transfer* and *completed transfer* are defined in section 156D. Subdivision 2 makes provision to ensure multiple duty is not imposed in the specified circumstances.

Section 156K specifies when liability for transfer duty arises on related incomplete ELN transfers and the completed transfer. Subsection (1) specifies the transfers to which the section relates. It excludes the *first related transfer* as the usual time for liability arising on that transfer under Schedule 2 will continue to apply, unaffected by this section. However, for the remaining related incomplete ELN transfers and the completed transfer, subsection (2) deems liability for those transactions to arise at the same time as when liability arises on the first related transfer. This overrides the timing provisions in column 2 of Schedule 2 for those transfers, given effect through section 16. Subsection (3) makes it clear that section 156K applies despite section 16. *First related transfer* is defined in subsection (4) to mean the incomplete ELN transfer related to the completed transfer, for which the ELN workspace is first locked.

Section 156L deems duty obligations under particular provisions for an incomplete ELN transfer to be complied with by reference to compliance with the same obligations for the related completed transfer. The deeming occurs under subsection (1). The *duty obligation* for the completed transfer must be complied with in full before compliance is deemed for the incomplete ELN transfer. Subsection (2) defines *duty obligation* as meaning an obligation arising under specified provisions of the *Taxation Administration Act 2001* and the *Duties Act 2001*.

Section 156M makes provision for the operation of sections 21, 22(2) and 22(2A) and transfer duty generally for certain ELN transfers and related matters. Those sections ensure that duty is imposed as appropriate in particular circumstances. Subsection (1) declares that section 21 does not apply to the imposition of transfer duty in specified circumstances, for the removal of doubt.

Subsection (2) provides that neither subsections 22(2) nor (2A) apply to an incomplete ELN transfer related to the completed transfer. This is because where there is a completed transfer, subsections 22(2) and (2A), whichever is applicable, are only intended to apply to the completed transfer. Liability imposed on any related incomplete ELN transfer in this scenario is subject to the operation of sections 156K and 156L. This also ensures that the effective endorsement is the one that is made on the completed transfer.

Subsection (3) makes clear, for the removal of doubt, that the fact that an incomplete ELN transfer is not related to a completed transfer does not affect imposition of liability to duty on the incomplete ELN transfer.

Subsection (4) confirms for the removal of doubt that section 156M does not limit sections 156A or 499. Section 156A provides for reassessment of duty assessed on certain cancelled transfers of dutiable property. Section 499 allows for reassessment of duty in other specified circumstances. Those sections, where their conditions are satisfied, may apply to an incomplete ELN transfer which is not related to a completed transfer.

Division 3 of part 15 deals with payment commitments for ELN transfers.

Section 156N makes provision for the parties to an agreement for transfer of dutiable property within scope to make a *payment commitment* for the agreement. An offence will apply under new section 480A where a self assessor endorses an ELN transfer document on the basis that section 22(2A) applies to the ELN transfer, unless a *payment commitment* has been made for the relevant transfer agreement. Subsection (1) provides that a *payment commitment* for an agreement for the transfer of dutiable property is made by the parties to the agreement if both of the following occur:

- the ELN workspace for an ELN transfer of the dutiable property to the transferee under the agreement is locked; and
- the amount (the *commitment amount*) of transfer duty, assessed interest and penalty tax imposed on the agreement is included in the ELN workspace as an amount to be paid and is *outstanding* when the ELN workspace becomes locked.

An example is provided of how the commitment amount may be included in the ELN workspace as required. Subsection (2) specifies when an amount is *outstanding* for subsection (1).

Subsection (3) provides that a payment commitment made for an agreement for the transfer of dutiable property has effect until the earlier of when the Commissioner of State Revenue is paid all of the commitment amount, and when the ELN workspace for an ELN transfer of the dutiable property to the transferee under the agreement is unlocked. Consequently, if there are multiple locking events, the preconditions to the existence of a payment commitment for the purposes of the *Duties Act 2001* need to be fulfilled again in order for payment commitment to be subsequently relied upon for endorsement of another ELN transfer document. Finally, subsection (4) defines *relevant self assessor* for the purposes of section 156N.

Section 156O states, for the removal of doubt, that a party's liability under the *Duties Act 2001* to pay an amount to the Commissioner of State Revenue is not affected by the making of a payment commitment for all or part of the amount.

Division 4 of part 15 makes provision for a charge over specified land in favour of the Commissioner of State Revenue for unpaid transfer duty in certain circumstances.

Section 156P establishes the charge. Subsection (1) specifies the circumstances in which the section will apply. This is where:

- an ELN transfer document for an ELN transfer is stamped on the basis that duty is not imposed on the transfer under section 22(2A), and is registered under the *Land Title Act 1994;* and
- all or part of the commitment amount for the payment commitment is not paid by the date the amount (*outstanding liability*) is payable.

As included in the note to subsection (1), section 30 of the *Taxation Administration Act 2001* specifies when tax must be paid.

Subsection (2) states that the outstanding liability is a first charge on the transferee's interest in the land that is the subject of the ELN transfer. Subsection (3) provides that the charge has priority over all other encumbrances over the transferee's interest in the land. Subsection (4) states that subsection (3) applies regardless of whether the other encumbrances are registered or unregistered or were created before or after the charge, and despite part 3, divisions 2 and 2A of the *Land Title Act 1994*. Part 3, divisions 2 and 2A of the *Land Title Act 1994* provide for, amongst other things, the creation of indefeasible title for a lot.

Subsection (5) permits the Commissioner of State Revenue to lodge a request to register the charge on the land that is the subject of the ELN transfer, through the process provided under part 4, division 5 of the *Taxation Administration Act 2001*. Subsection (6) limits the Commissioner's ability to register the charge to the period during which the transferee is the registered owner of the land, by prohibiting the registrar from registering the charge if the transferee is no longer the registered owner. This is stated to apply despite section 47B of the *Taxation Administration Act 2001* (part of part 4, division 5 of that Act). Section 47B(3) would otherwise require the registrar to register the charge. Subsection (7) provides that on its registration, the charge is not affected by a disposition of the transferee's interest in the land.

Section 156Q sets out the circumstances in which and procedure by which the Commissioner of State Revenue may apply to the Supreme Court for an order to sell the land for which a charge has been registered under section 156P.

Section 156R sets out the circumstances when the court must order the sale of the land.

Section 156S sets out the rules for the application of the proceeds of the sale of the land.

Section 156T provides for the registration of the transfer of the land made under the order for the sale of the land as if the registered owner had signed it. This provision safeguards the interest of the purchaser of the land under the court-ordered sale.

Section 156U provides the former owner whose land is sold with a right to recover an amount equal to the proceeds of sale, less any amounts paid to discharge mortgages or other security interests over the land from the persons liable to pay the outstanding liability. For the purposes of section 156U, *former owner* is defined to mean the person who owned the land immediately before its sale by court order.

Division 5 of part 15 deals with miscellaneous matters for ELN transfers.

Section 156V provides that particular information in ELN workspace is taken to be stated to Commissioner of State Revenue by specified parties and subscribers. Consequently, should this information be false or misleading, an offence will arise under section 123 of the *Taxation Administration Act 2001.*

Section 156W specifies that the endorsement of an ELN transfer document by a self assessor registered under chapter 12, part 2 or 3 is of no effect from the time the ELN workspace for an incomplete ELN transfer is unlocked. Consequently, if there are multiple locking events, endorsement of another ELN transfer document must occur before it can be registered under the *Land Title Act 1994*.

Clause 20 amends the example in section 384(2) in relation to vehicle registration duty so that all of the values in the formula reflect current duty rates.

Clause 21 amends section 416(4)(d) to reduce the amount of time that a charitable institution must use a vehicle for a qualifying exempt purpose to be eligible for exemption from vehicle registration duty. Subject to conditions, amended section 416(4)(d) ensures that charitable institutions are eligible for exemption from vehicle registration duty if they use a vehicle solely or almost solely for a qualifying exempt purpose for at least nine months.

Clause 22 amends section 445 to include a reference to *ELN transfer documents* in subsection (2)(g) so that a notice of registration for a self assessor under chapter 12, part 2 must also state any endorsements to be made on the *ELN transfer documents*.

Clause 23 amends section 447 to include a reference to *ELN transfer document* in subsection (1). This extends the restriction on lodgement by a self assessor under chapter 12, part 2 of certain instruments for assessment by the Commissioner of State Revenue, to also apply to ELN transfer documents.

Clause 24 amends section 452 to include a reference to *ELN transfer documents* in subsection (2)(g) so that a notice of registration for a self assessor under chapter 12, part 3 must also state any endorsements to be made on the *ELN transfer documents*.

Clause 25 amends section 454 to include a reference to *ELN transfer document* in subsection (1). This extends the restriction on lodgement by a self assessor under chapter 12, part 3 of certain instruments for assessment by the Commissioner of State Revenue, to also apply to ELN transfer documents.

Clause 26 amends section 455 by omitting subsection (5) which defined *transaction number*. The definition of transaction number, adjusted to apply as required for ELN transfers is instead included in Schedule 6.

Clause 27 amends section 455A for electronic conveyancing. Section 455A sets out the obligations of a self assessor for a standard self assessment in relation to lodgement as required by the self assessor’s notice of registration. It also sets out their obligations for stamping of the instrument, or (as amended) ELN transfer document, to which the transaction statement relates.

Clause 27(1) amends section 455A(1)(b) to include a reference to *ELN transfer document*. Clause 27(2) amends section 455A(1)(b)(i) and (ii) to include references to the term *transaction*. Clause 27(3) includes a new note to section 455A(1) to refer to new subsection 455A(7) for when a self assessor is taken to have stamped an ELN transfer document. Clause 27(4) amends section 455A(1A) to include a reference to *ELN transfer documents*. Clause 27(5) amends section 455A(4)(a) to include a reference to *ELN transfer document*.

Clause 27(6) omits existing subsection (5) and inserts new subsections (5) to (8). The omitted section 455A(5) provided the meaning of transaction number for section 455A was as provided in section 455(5). As the definition of transaction number in section 455(5) has now been omitted and is provided in the Schedule 6 dictionary, omitted section 455A(5) is redundant. New section 455A(5) provides that section 455A(4)(a)(ii)(F) does not apply to an ELN transfer document. Section 455A(4)(a)(ii)(F) requires an endorsement to include the signature of the individual completing the endorsement. However, for ELN transfer documents the endorsement appearing on the registered ELN transfer document will not include the self assessor's signature with the endorsement. Consequently, section 455A(4)(a)(ii)(F) will not have practical application for the endorsement of ELN transfers documents.

New section 455A(6) specifies when new section 455A(7) applies. Section 455A(7) deems that for section 455A(1)(b), the ELN transfer document is taken to have been stamped by the self assessor immediately after the ELN workspace for the ELN transfer is locked. Section 455A(1)(b) sets out the requirements for when and how a registered self assessor in a standard self assessment must stamp an instrument, or as amended, an ELN transfer document. Breach of section 455A(1) constitutes an offence. Subsection (7) also includes a note confirming that an endorsement of an ELN transfer document stops having effect if the ELN workspace for the ELN transfer is unlocked, and cross references section 156W.

Finally new section 455A(8) provides that subsection (7) does not affect the self assessor's compliance with the requirements mentioned in section 455A(4). Section 455A(4) sets out the way in which an endorsement must occur, including what the endorsement must include. That is, subsection (7) only deems the endorsement to have been stamped by the self assessor at the specified time. It does not have the effect of deeming the endorsement to be compliant with all requirements of section 455A.

Clause 28 inserts into section 465 a new ground for suspension or cancellation of a self assessor's registration, as section 465(f), and renumbers accordingly. The new ground arises where the self assessor has endorsed an ELN transfer document on the basis that section 22(2A) applies to the ELN transfer, and the ELN transfer document is registered under the *Land Title Act 1994*, but the commitment amount for the payment commitment was not paid to the Commissioner of State Revenue in full as required. The existing show cause process under chapter 12, part 5 will continue to apply, subject to the amendment to section 468 referred to below.

Clause 29 extends the application of section 468. Section 468 provides for the Commissioner of State Revenue to end the show cause process without further action in certain circumstances. Clause 29 inserts a new subsection (1A) to section 468. Where the new section 465(f) is the only ground for the proposed action stated in the show cause notice, if the Commissioner is reasonably satisfied that the reason the commitment amount was not paid in full was beyond the self assessor's control, the Commissioner may end the show cause process without further action. An example of circumstances beyond the self assessor's control is included.

Clause 30 amends the heading of section 480 to include a reference to *endorsements of instruments*. Under section 480, it is an offence for a self assessor to endorse an instrument unless the duty and assessed interest and penalty tax have either been paid to the Commissioner of State Revenue or received by the self assessor. Given the insertion of new section 480A which provides a similar offence for self assessors endorsing an ELN transfer document, this amendment clarifies that the scope of section 480 is limited to offences concerning endorsements of instruments**.**

Clause 31 inserts a new section 480A, creating an offence by a self assessor endorsing an ELN transfer document in particular circumstances, similar to those covered by existing section 480. However, it is adapted to cater for the operation of payment commitment and section 22(2A) in relation to ELN transfers. Under section 480A(1) a self assessor registered under chapter 12, part 2 or 3 must not endorse an ELN transfer document for an ELN transfer under section 455A on the basis that section 22(2) applies to the ELN transfer unless the duty amount for the relevant transfer agreement has either been paid to the Commissioner of State Revenue or received by the self assessor as applicable. Section 480A(2) makes it an offence for a self assessor registered under chapter 12, part 2 or 3 to endorse an ELN transfer document for an ELN transfer under section 455A on the basis that section 22(2A) applies to the ELN transfer unless a payment commitment has been made for the relevant transfer agreement. A maximum penalty of 200 penalty units applies for the commission of each offence under sections 480A(1) and (2). However, section 480A(3) ensures that a self assessor does not commit an offence against section 480A where:

- the self assessor endorses an ELN transfer document for an ELN transfer; and
- the ELN transfer becomes an incomplete ELN transfer as defined.

Section 480A(4) defines *duty amount* as used in section 480A(1).

Clause 32 omits and replaces section 481. Subsection (1) makes it an offence for a person to make any notation or endorsement on an instrument or ELN transfer document indicating or implying duty has been paid for the instrument or ELN transfer document, unless the person is authorised to do so under the *Duties Act 2001*. This extends the offence to endorsement of ELN transfer documents. To ensure that a person is not placed in technical breach of section 481 due to the method in which an endorsement is applied in an ELN, subsection (2) provides that a person does not commit an offence against section 481(1) in specified circumstances. These are where the potentially offending conduct is required under the *Electronic Conveyancing National Law (Queensland) 2013* for the completion of an ELN transfer. Subsection (3) provides a definition of *make* in the context of section 481, which includes entering information into the ELN workspace for the ELN transfer to which the ELN transfer document relates.

Clause 33 amends section 481A. Clause 33(1) amends the heading of section 481A to include a reference to *ELN transfer document*. Clause 33(2) amends subsections 481A(1) and (2) to include references to *ELN transfer document*. As a consequence, an existing offence that arises under subsection 481A(2)(c) where a person makes an endorsement that incorrectly states the amount of duty, assessed interest or penalty tax paid on the instrument, will also apply for endorsement on ELN transfer documents. Clause 33(3) omits the existing subsection (3), and inserts a new subsection 481A(3). The omitted subsection (3) provided that the meaning of transaction number for section 481A was as provided for by section 455(5). As the definition of transaction number in section 455(5) has now been omitted and is provided in the Schedule 6 dictionary, omitted section 481A(3) is redundant. The new subsection (3) sets out circumstances in which a person does not commit an offence against subsection 481A(2)(c), as amended by the Bill. The intended form of endorsement for ELN transfer documents does not differentiate between whether duty has been paid or is the subject of a payment commitment. New subsection 481A(3) ensures an endorsement on an ELN transfer document based on payment commitment is not an offence under section 481A.

Clause 34 amends section 482 for electronic conveyancing. Subclause (1) includes a reference to *ELN transfer documents* in the heading of the section. Subclause (2) includes a reference to *ELN transfer document* in subsections (1) and (2)(b).

Clause 35 amends section 483 for electronic conveyancing, by including a reference to *ELN transfer document*.

Clause 36 amends section 487 for electronic conveyancing, to include a reference to *ELN transfer documents* in the heading, and to include references to *ELN transfer document* in subsections (1), (2) and (3).

Clause 37 introduces a new offence under new section 487A where an ELN transfer document endorsed on the basis of payment commitment is used other than for specified purposes, before it is registered under the *Land Title Act 1994*. Subsection (1) states the circumstances in which the section applies. Section 487A(2) provides that until the ELN transfer document is registered under the *Land Title Act 1994*, a person must not use the endorsed ELN transfer document for a purpose other than the completion of the ELN transfer. Failure to comply with the provision is an offence attracting a maximum penalty of 200 penalty units.

Clause 38 amends section 488. Section 488 enables the Commissioner of State Revenue to impose an administrative penalty in relation to certain acts. Clause 38(1) amends subsections (1)(bb), (bd) and (c) to include a reference to *ELN transfer document*. Clause 38(2) renumbers section 488(1)(bd) as section 488(1)(be). Clause 38(3) extends the application of section 488 through newly inserted subparagraph (bd), so that it also applies if a self assessor contravenes section 480A in relation to the endorsement of an ELN transfer document.

Clause 39 amends section 491. Clause 39(1) amends the heading of section 491 to include a reference to *ELN transfer document*. Clause 39(2) inserts new subsection (1A) to provide that an ELN transfer document is *properly stamped* if it is stamped under section 455A(1)(b).

Clause 40 amends section 496 to cover electronic conveyancing. Section 496 currently imposes a requirement on a person who, for the assessment of that person’s liability to duty, lodges an instrument which does not contain all of the facts and circumstances affecting the liability to duty or the amount of duty that may be imposed on the instrument, or a transaction to which it relates. The person is required to lodge a statutory declaration stating the relevant facts and circumstances when lodging the instrument. Failure to do so is an offence under section 121 of the *Taxation Administration Act 2001*. The clause 40 amendment also imposes this obligation where an ELN transfer document is lodged with the specified deficiencies.

Clause 41 amends section 499 for electronic conveyancing. It inserts references to *ELN transfer document* in subsections (1), (2)(a) to (e), (3) and (4). Subsections (6) and (8) are amended to include a reference to *ELN transfer document or a copy of the ELN transfer document*. The reference to a copy of the ELN transfer document in subsections (6) and (8) ensure those provisions are capable of operation if it is not possible for the original ELN transfer document to be lodged with the Commissioner of State Revenue.

Clause 42 amends section 503 for electronic conveyancing, to include reference to *ELN transfer document.*

Clause 43 inserts transitional provisions under new part 20 in chapter 17 of the *Duties Act 2001* for the transfer duty concession for farm-in agreements. It also inserts transitional provisions for the operation of section 145 and section 416 as amended.

Section 655 contains definitions of *start time*, *retrospectivity period* and *ruling*, in relation to transitional arrangements for farm-in agreements.

Section 656 provides that section 145, as amended by the Bill, when enacted, applies to a vesting of land in the State made on or after 25 February 2014.

Section 657, subsection(1) provides that chapter 2, part 8A and any ancillary provision, as inserted or amended by the Bill, is taken to have had effect on and from the start time. New subsection 657(2) defines *ancillary provision* as used in subsection (1).

Section 658 makes provision for particular matters relating to upfront farm-in agreements for the retrospectivity period. Under subsection (1), provision is made deeming the farmee for an upfront farm-in agreement to have complied with section 84K in particular circumstances where they lodged in compliance with paragraph 12 of Public Ruling DA000.12.1 *Transfer duty – exemption for farm-in transactions in the resources sector,* during the retrospectivity period. Subsection (2) makes similar provision deeming compliance with section 84L where a taxpayer notified the Commissioner of State Revenue in compliance with paragraph 14 of the Ruling during the retrospectivity period. For the removal of doubt, subsection (3) declares that if subsection (2) applies, the Commissioner or an investigator under the *Taxation Administration Act 2001* may require a person liable for transfer duty for the agreement to give them the agreement or transfer duty statement for the agreement on or after commencement. Subsection (4) provides that section 84K applies as if the person is required to lodge the information and agreement or a transfer duty statement for the agreement under that section within 14 days after commencement of the Bill. Subsection (5) provides that section 84L applies as if the person is required to give the notice and lodge the agreement or a transfer duty statement for the agreement under section 84L(2) within 30 days after commencement of the Bill.

Section 659 specifies the application of part 6 of the *Taxation Administration Act 2001*, where liability for transfer duty arises and was assessed during the retrospectivity period for a dutiable transaction that was a farm-in agreement or a transfer of an interest in an exploration authority under a farm-in agreement. Subsection (2) provides that despite section 65(1)(d) of the *Taxation Administration Act 2001*, the person liable for transfer duty on the agreement may object to the assessment within 30 days after the commencement. Section 65(1)(d) of the *Taxation Administration Act 2001* would otherwise require the objection to be lodged within

60 days after the assessment notice for the assessment to which the objection relates is given to the taxpayer.

Section 660 makes provision for the transitional application of the amendment to section 416 for vehicle registration duty. The amendment applies retrospectively for applications to register or transfer a vehicle made by a charitable institution on or after 25 February 2014. It also applies retrospectively for applications to register or transfer a vehicle made by a charitable institution on or after 26 February 2013 provided that the period that the vehicle is used for a qualifying exempt purpose has not ended before 25 February 2014.

Example

A charitable institution applies to register a vehicle on 1 April 2013. From that date until 1 March 2014, it uses the vehicle for a qualifying exempt purpose. However, it sells the vehicle on 2 March 2014. The exemption applies because as at 25 February 2014, the charitable institution had continued to use the vehicle for a qualifying exempt purpose for at least nine months from the date of its application to register.

Clause 44 amends Schedule 2 to the *Duties Act 2001* which sets out when a liability for transfer duty on a dutiable transaction arises for electronic conveyancing. Currently, for transfers of dutiable property, this is the earlier of:

- when the property is transferred; and
- if an instrument effects, or when recorded in a register will effect, the transfer—when the instrument is signed by the parties to the transaction.

The amendment to Schedule 2 adds an alternative to the second limb above, specific to ELN transfers. As a consequence, for a transfer that is an ELN transfer, liability arises on the earlier of when the property is transferred and when the ELN workspace for the ELN transfer:

- includes an ELN transfer document for the ELN transfer signed by the parties to the transaction; and
- is locked.

Clause 45 amends the Dictionary in Schedule 6. The definition of *associated person* is omitted due to redundancy. New definitions are also inserted for terms used in the amendments in part 2 of the Bill.

Part 4 Amendment of Environmental Protection Act 1994

Clause 46 states that this part amends the *Environmental Protection Act 1994*.

Clause 47 inserts a new division 3B into the *Environmental Protection Act 1994* which contains the provisions for the cancellation of the approval of a transitional environmental program (TEP).

TEPs are a tool available under the *Environmental Protection Act 1994* which allow a transitionary period for operators not meeting the standards set under the *Environmental Protection Act 1994* to reach or return to compliance with the standard. An example is an environmental authority holder who needs time to reach or return to compliance with the conditions of their environmental authority.

The *Environmental Protection Act 1994* currently contains provisions that allow for a TEP to be amended, and provides for what happens when it ends on its terms (i.e. if a TEP is granted for 12 months, what happens at the end of those 12 months).

However, there is currently no provision to cancel an approval for a TEP when the TEP is no longer required or the holder of the approval for the program has decided on other measures to achieve compliance with the *Environmental Protection Act 1994*.

As cancelling the approval for the TEP does not relieve the operator of the obligation to achieve compliance with the Act or any standards of environmental performance set under the Act, there is no loss of environmental outcomes by cancelling the approval.

There is no loss of rights for the holder of the approval as the only circumstances where the approval may be cancelled are those where the holder has agreed or it has been established that the holder no longer needs the benefit of the approval because the holder is not operating the approved activity.

Division 3B Cancellation of approval for transitional environmental programs

Section 344E Cancelling approval

This section sets out the grounds and process for cancelling an approval for a TEP.

These grounds are split into three different scenarios:

(1) Where the approval holder agrees in writing to the cancellation;
(2) Where the approval holder has advised that they have ceased to carry out the relevant activity via a notice of disposal under section 347(6) or a notice of cessation under section 348;
(3) Where the approval holder hasn’t notified that they have ceased the activity, but the administering authority has some other means of knowing that the business has been disposed of or the approved activity has ceased.

The first scenario allows for cancellation in any circumstances, but only where the holder agrees in writing.

The second scenario allows the TEP to be cancelled where the operator no longer requires the approved TEP because the operator has advised that they are no longer carrying out the activity to which the TEP relates.

The *Environmental Protection Act 1994* already contains provisions for the holder of a TEP to notify the administering authority if the activity has ceased, or the holder is disposing of the place or business.

Section 347(6) of the *Environmental Protection Act 1994* requires the holder to inform the administering authority if they have agreed to dispose of the place or business to which the TEP relates (e.g. they have signed a contract of sale). It only applies where the TEP does not relate to an environmental authority. In this case, the TEP does not transfer with a sale of the business or land, as the TEP is personal to the holder. Consequently, a notice of disposal under section 347(6) is effectively giving the administering authority notice that the TEP will no longer be in effect. This section does not apply where the TEP relates to an environmental authority, since the TEP attaches to the environmental authority and the rights and obligations travel with the transfer of the environmental authority.

Where the holder has given a notice under section 347(6), the administering authority may not cancel the approval until the disposal has occurred. This is because the notice under section 347(6) is a notice of the operator entering into an agreement to dispose of the business or land, and the actual disposal (e.g. settlement of the contract) may occur more than 20 business days later.

Section 348 of the *Environmental Protection Act 1994* applies where the activity to which the TEP relates is no longer being carried out. Where the TEP relates to an environmental authority, this does not mean that the entire environmentally relevant activity (ERA) has stopped, as this would then require surrender of the environmental authority. The activity referred to in section 348 may be an activity which forms part of an ERA, but is the subject of the TEP. For example, the activity may be the emission of certain solid or liquid contaminants into a watercourse, which is carried out as part of ERA 63 (Sewage treatment). The emission may be authorised under the TEP as a temporary measure while the sewage treatment plant is being upgraded. Once the upgrade has been completed, the emission of those contaminants would no longer be necessary, so the activity will have ceased, even though the holder continues to operate a sewage treatment plant, and continues to hold an environmental authority for ERA 63.

The third scenario allows for cancellation where an activity has ceased or been disposed of, but it is not practically possible to contact the holder of the approval. Note that this ground is an original decision (see below amendment to schedule 2 of the *Environmental Protection Act 1994*), which creates appeal rights against the decision. This ensures that fundamental legislative principles are not breached and the holder has the right to internal review and appeal if a decision to cancel the approval is made. It should also be noted that, while an application for internal review (and then appeal) should usually be made within 10 business days of the decision, section 510 of the *Environmental Protection Act 1994* already allows this timeframe to be extended in special circumstances. Due to the nature of this decision (i.e. that it may be made without notice to the holder where the holder cannot be located), this is precisely the type of scenario where this discretion to allow an internal review should be exercised.

This section also sets out the process for an approval for a TEP to be cancelled. The process involves giving the holder a notice that the TEP has been cancelled and the date of cancellation. The delay of 20 business days before the cancellation takes effect allows the holder to contact the administering authority if the TEP shouldn't be cancelled.

Subsection (2)(b) applies where the grounds for cancellation are that the administering authority knows that the business has been disposed of or the approved activity has ceased (i.e. section 344E(1)(b)). In these circumstances, if the holder cannot be located, then the administering authority cannot give a cancellation notice, but may instead note the decision by making a record of the matters that would have been included in the cancellation notice. This ensures that the TEP can be cancelled where the holder cannot be found. The administering authority must have made all reasonable enquiries to locate the holder. This would generally include actions such as sending a letter by registered post to the last known address for the holder, searching electoral roles and the White Pages for a more recent address, and/or checking the Australian Business Register for up-to-date contact details. As noted above, the rights of internal review and appeal could still be exercised where the holder is later located and objects to the cancellation of the approval.

Section 344F Cancelling without approval holder's agreement

This section requires further process steps in the event that the grounds of cancellation are that the administering authority knows that the business has been disposed of or the approved activity has ceased (i.e. section 344E(1)(b)). Section 344E(4)(a) requires that the date of cancellation is at least 20 business days after the notice is given. This therefore allows a holder to contact the administering authority if the TEP shouldn't be cancelled. This section states that the cancellation must be immediately withdrawn if the administering authority is no longer satisfied of the grounds of the cancellation notice. Therefore, the requirements of this section ensure that natural justice is provided to the holder of the TEP prior to the cancellation taking effect.

Section 344G Cancelled approval noted under s 343A

This section applies where the TEP relates to an environmental authority and the TEP is noted on the environmental authority. In these circumstances, if the TEP is cancelled, then the administering authority must also give the holder a new copy of the environmental authority without the TEP notation. This ensures that the holder has an up-to-date copy of the environmental authority and has certainty that the environmental authority is not subject to a TEP.

Clause 48 amends section 348 (Notice of ceasing activity by holder of program approval) of the *Environmental Protection Act 1994* to correct a drafting error by removing the word "the".

Clause 49 replaces section 357H (Licence cannot be surrendered or transferred) of the *Environmental Protection Act 1994* to remove references to surrendering temporary emissions licences (TEL). This amendment is consequential to the amendment to section 357J of the *Environmental Protection Act 1994*.

Although the holder still has no ability to apply for a surrender, the amendments to section 357J insert a process for cancellation of the TEL with the agreement of the holder. In some ways, this process is akin to a surrender process by agreement, so maintaining the prohibition of a surrender in this section would lead to internal inconsistencies in the Act. However, it should be noted that the holder is still unable to request a surrender of the TEL as this would be inconsistent with the intent of the TEL to be a temporary relaxation of approval conditions. If the TEL is no longer required, the appropriate mechanism would be to use the power to cancel the TEL by agreement.

Clause 50 amends section 357J (Amendment, cancellation of suspension of temporary emissions licence) of the *Environmental Protection Act 1994* to provide for the cancellation of a temporary emissions licence (TEL) in certain circumstances.

TELs are an emergency response tool which permit the temporary relaxation or modification of conditions or requirements that relate to the release of a contaminant into the environment. For example, the TEL may authorise the urgent release of water from tailings dams during flood events, or the temporary relocation of a monitoring point which is inaccessible in the immediate aftermath of a flood event.

Due to their temporary nature and the need for an urgent response, TELs can already be cancelled by the administering authority if the effects of the release are greater than envisaged. This is to ensure that, for example, downstream drinking water is not adversely affected by the release to the extent that it impinges on the health of the downstream community.

However, there is no provision to cancel a TEL when the TEL is no longer required or the department and the holder of the TEL have agreed on other measures to achieve compliance with the *Environmental Protection Act 1994*. This is because the TEL was designed to only be a temporary measure, and the operator would return to operating under the conditions and requirements of their environmental authority or transitional environmental program if the TEL was no longer in effect.

However, this has caused some administrative difficulties and a lack of certainty about whether an operator is operating under the TEL or under their original approval (the environmental authority or transitional environmental program being varied). Consequently, this amendment permits the administering authority to cancel a TEL if:

1. the holder of the approval agrees; or
2. the holder has given notice that the activity has ceased.

Note that the activity referred to in subsection (c) is the activity authorised by the TEL (i.e. the act or omission approved by the licence under section 357G(2) of the *Environmental Protection Act 1994*). This is usually a sub-activity of the activity approved by the environmental authority (i.e. an environmentally relevant activity or ERA) or the transitional environmental program.

For example, an environmental authority may approve mining activities as an ERA. The TEL may permit the temporary relocation of a monitoring point for emissions because the original monitoring point is unsafe to access in the aftermath of a particular flood event (e.g. because the access road is cut by flood waters). The temporary monitoring point might only be accessible via a foot track, rather than an access road. Consequently, it is clearly beneficial for both the mine operator and their staff if the operator can return to using the usual monitoring point as soon as possible.

However, this may create administrative uncertainty about whether the operator is acting under their TEL or their original environmental authority. This is where the holder may contact the administering authority to give notice that the activity has ceased, or to reach agreement with the administering authority for the cancellation of the TEL.

As cancelling the TEL does not relieve the operator of the obligation to achieve compliance with the Act or any standards of environmental performance set under the Act, there is no loss of environmental outcomes by cancelling the TEL.

There is no loss of rights for the holder of the TEL as the only additional circumstances where the TEL may be cancelled are those where the holder has agreed, or it has been established that the holder no longer needs the benefit of the TEL because the holder is no longer operating under the relaxed conditions.

Clause 51 amends schedule 2 (Original decisions) of the *Environmental Protection Act 1994* to include cancellation of approval for a transitional environmental program (TEP) as an original decision which enlivens internal review and appeal rights. It should also be noted that, while an application for internal review (and then appeal) should usually be made within 10 business days of the decision, section 510 of the *Environmental Protection Act 1994* already allows this timeframe to be extended in special circumstances. Due to the nature of this decision (i.e. that it may be made without notice to the holder where the holder cannot be located), this is precisely the type of scenario where this discretion to allow an internal review should be exercised.

Cancellation of a temporary emissions licence (TEL) is already an original decision under this schedule, so no amendment is required to ensure that holders retain internal review and appeal rights.

Part 5 Amendment of Financial Accountability Act 2009

Clause 52 provides that this part amends the *Financial Accountability Act 2009*.

Clause 53 amends section 48 to add powers that the Treasurer is able to delegate. These powers relate to approving payments out of the Consolidated Fund and the Consolidated Fund bank account, and allowing Queensland Treasury Corporation to administer investments made by the Treasurer. The delegation of these powers allows Queensland Treasury and Queensland Treasury Corporation officers to administer funds in line with Government decisions.

Clause 54 amends section 53 to clarify that the Treasurer has the ability to enter into derivative transactions, but only to hedge against a risk to which the State is or will be exposed.

Clause 55 amends section 78 to allow an accountable officer in a department to nominate a non-public service employee to the role of Head of Internal Audit. The minimum responsibilities contained in section 78 and the minimum qualifications as contained in the *Financial Accountability Regulation 2009* will be applicable to the non-public service employee.

Clause 56 amends section 85 to remove any doubt that a department does not enter into a derivative transaction if it merely takes over the administration of a derivative transaction entered into by another department.

Clause 57 amends section 86 to provide that a department must give reports to its Minister about derivative transactions administered by the department and the Minister must monitor these transactions. In addition, the amendment allows a copy of the report to be given to the Treasurer or an appropriately qualified employee of Treasury department, and also clarifies that a department administers a derivative transaction if it enters into the derivative transaction or the department takes over the administration of the derivative transaction from another department.

Clause 58 inserts a new section 88A to address the movement of ownership of companies between departments. When a company is transferred between departments, the receiving department must obtain the Treasurer's approval, within four months, for the department's proposed action in relation to the company. If the proposed action is to retain membership in the company, the receiving department must prepare a business case outlining reasons for this.

Part 6 Amendment of First Home Owner Grant Act 2000

Clause 59 provides that the part amends the *First Home Owner Grant Act 2000.*

Clause 60 inserts new subsection (5) to section 15. As part of the eligibility criteria for a grant under the *First Home Owner Grant Act 2000*, an applicant must comply with the residence requirements in section 15. These provide that an applicant must occupy the home to which the application relates as the applicant's principal place of residence for at least six months commencing within one year after completion of the eligible transaction. Subsection (5) makes it clear that the Commissioner of State Revenue may give an approval or exemption under subsections (2), (3) or (4) of section 15 at any time, even if the period to which the approval or exemption relates has ended.

Clause 61 inserts new part 12, section 82. This is a transitional provision with the effect that section 15(5) applies in relation to an approval or exemption given by the Commissioner of State Revenue on or after 4 July 2013.

Part 7 Amendment of Payroll Tax Act 1971

Clause 62 provides that the part amends the *Payroll Tax Act 1971*.

Clause 63 amends section 13B to clarify the operation of the payroll tax contractor liability provisions. Section 13B(2)(d)(i) of the *Payroll Tax Act 1971* provides that a contract is not a relevant contract for the purposes of the contractor provisions if it relates to services supplied by an owner driver (owner-driver exemption). This has the result that payments under it are not liable to payroll tax under those provisions. Clause 63(1) amends section 13B(2)(d)(i) to clarify that, for the purposes of the owner-driver exemption, a relevant contract does not include a contract under which the principal is supplied with services solely for the conveyance of goods, or services that are ancillary to that conveyance, using a vehicle provided by the person conveying the goods. Clause 63(2) clarifies that, an exclusion from the contractor liability provisions in subsection 13B(2)(a), (b), (c) or (d) does not apply to a contract under which any additional services or work of a kind not covered by the relevant subsection is supplied or performed. Clause 63(3) amends section 13B(4) to ensure the exclusions in section 13B(2) the *Payroll Tax Act 1971* do not apply if the Commissioner of State Revenue is satisfied that the contract or arrangement under which the services are supplied was entered into with an intention either directly or indirectly of avoiding the payment of tax by any person.

Clause 64 amends section 14 of the *Payroll Tax Act 1971*. Section 14 provides an exemption from payroll tax in certain circumstances. Clause 64(1) omits subsection 14(4) due to redundancy. Clause 64(2) amends section 14(5) to omit the word “also” which referred back to subsection (4), and is therefore no longer required because of the removal of subsection (4). Clause 64(3) amends subsection 14(7) to omit a reference to subsection 14(4) due to the removal of that subsection. Finally, Clause 64(4) amends subsection 14(9) to insert new definitions of certificate II traineeship, certificate III traineeship and Australian Qualifications Framework.

Clause 65 amends section 27A to extend the application of a rebate on qualifying wages paid or payable to apprentices or trainees for certain periodic return periods to a periodic return period in a financial year ending 30 June 2016, 2017 or 2018. The rebate previously only applied to a periodic return period in a financial year ending 30 June 2010, 2011 or 2012.

Clause 66 amends section 35A to extend the application of a rebate on qualifying wages paid or payable to apprentices or trainees for an annual payroll tax amount for certain financial years, to an annual payroll tax amount for a financial year ending 30 June 2016, 2017 or 2018. The rebate is only available for reduction of an employer’s or DGE’s annual payroll tax amount in the same financial year as the apprentice or trainee wages on which the rebate is calculated, are paid or payable. The rebate previously only applied to an annual payroll tax amount for a financial year ending 30 June 2010, 2011 or 2012.
Clause 67 amends section 43A to extend the application of a rebate on qualifying wages paid or payable to apprentices or trainees for a final payroll tax amount for a final period in certain financial years, to a final payroll tax amount for a final period in a financial year ending 30 June 2016, 2017 or 2018. The rebate previously only applied to a final payroll tax amount for a final period in a financial year ending 30 June 2010, 2011 or 2012.

Clause 68 amends the definition of relevant financial year in section 49A to ensure the provisions in Division 6A of Part 2 concerning sharing of an excess rebate by group members applies for an excess rebates in a financial year ending 30 June 2016, 2017 and 2018. Previously the rebate only applied to an excess rebate in a financial year ending 30 June 2010, 2011 and 2012. To simplify the previous approach of identifying the financial years where the rebate is available in sections 27A, 35A, 43A and 49A, the term “eligible year” is introduced to the sections, and defined in the Dictionary as meaning a financial year ending 30 June 2010, 2011, 2012, 2016, 2017 or 2018

Clause 69 inserts a new part 12 into the *Payroll Tax Act 1971* providing for the transitional application of the amendments to section 13B. Section 144(1) as inserted provides that section 13B as amended applies in respect of work performed on or after the commencement of the Bill, regardless of when amounts are paid or become payable for the performance of the work. Section 144(2) provides, for the removal of doubt, that section 13B as in force immediately before commencement continues to apply in respect of work performed before the commencement regardless of when amounts are paid or become payable for the performance of the work.

Clause 70 amends the Dictionary in the schedule to the *Payroll Tax Act 1971* to insert a definition of “eligible year” used in amended sections 27A, 35A, 43A and 49A.

Part 8 Amendment of Plumbing and Drainage Act 2002

Clause 71 provides that this part amends the *Plumbing and Drainage Act 2002*.

Clause 72 amends section 121 to replace subsection 121(1)(e).

Subsection 121(1)(e) previously provided an exemption from the offence provisions under section 119 and section 120 of the *Plumbing and Drainage Act 2002*. This exemption allowed an authorised person, which was appointed by a service provider, to install a relevant water meter without committing an offence under the *Plumbing and Drainage Act 2002*. By removing this exemption, the offence provisions in section 119 and section 120 apply to the installation, and any work relating to the installation, of a water meter.

The new subsection 121(1)(e) provides an exemption from the offence provision under section 119 and section 120 of the *Plumbing and Drainage Act 2002*. This new exemption allows an authorised person to remove, replace or repair a relevant water meter under section 36 of the *Water Supply (Safety and Reliability) Act 2008*, without committing an offence under the *Plumbing and Drainage Act 2002*.

Clause 73 inserts a new part 10, division 12 into the *Plumbing and Drainage Act 2002*.

New Division 12 Transitional provision for Plumbing and Drainage and Another Act Amendment Act 2015

New section 205 – Installation of relevant water meters by authorised persons

New section 205 provides an ‘authorised person’ with a two year transitional period in which they may continue to install relevant water meters, provided that certain preconditions are met.
The transitional provision provides that a person does not commit an offence against section 119 or section 120 of the *Plumbing and Drainage Act 2002* if the worked performed is:

- the installation of a relevant water meter by an authorised person under section 35 of the *Water Supply (Safety and Reliability) Act 2008*; and
- the person performing the work was an authorised person of a service provider immediately before the commencement of this section; and
- the person performs the installation as an authorised person of a service provider within two years of commencement of this section.

A relevant water meter is defined as a water meter that measures water supplied to a range of premises types, but not to the individual lots or units within multi-unit residential or multi-unit commercial premises (known typically as a sub-meter). This means that the transitional provision has no effect in relation to sub-meters.

Clause 74 amends schedule (Dictionary) for the purposes of the Bill.

The definitions for 'plumbing work 'is omitted.

A new definitions for 'plumbing work' is inserted. This new definition makes it clear that the installation of a water meter that measures the delivery of water to premises is plumbing work even if that particular water meter is part of a water service provider's infrastructure. To be clear other meters that form part of the service provider's infrastructure, such as bulk meters, are not plumbing and the installation of those meters is not plumbing work under the *Plumbing and Drainage Act 2002.* Water meters within premises, such as sub-meters, are plumbing and only licensed plumbers can work on those types of meters.

Part 9 Amendment of Taxation Administration Act 2001

Clause 75 provides that the part amends the *Taxation Administration Act 2001*.

Clause 76 amends the heading to part 4, division 2 – Refunds of tax and other amounts - to include a reference to particular payments to taxpayers. This takes into account the payment of *section 61A interest* for the division. *Section 61A interest* is defined in newly inserted section 38(5) as interest payable under new section 61A of the *Taxation Administration Act 2001* by the Commissioner of State Revenue to the taxpayer on the whole or part of a refund amount.

Clause 77 amends section 38 to ensure it also operates in relation to *section 61A interest*.

Clause 78 amends section 39 to ensure that section also operates in relation to *section 61A interest.*

Clause 79 amends section 40(1)(b) to correct a section cross-reference.

Clause 80 inserts new section 61A. Section 61A(1) provides that the section applies if a taxpayer is entitled to a refund of tax or late payment interest, defined as the *overpaid amount*, because of a reassessment giving effect to a decision of the Commissioner of State Revenue under section 67(1). As part of the objection process set out in part 6, division 1, section 67(1) requires the Commissioner to allow the objection completely or partly or disallow it.

Subsection (2) provides that the Commissioner of State Revenue must pay interest on the overpaid amount. Subsection (3) provides that interest is calculated daily at the prescribed rate from the date the amount to be refunded was paid to the Commissioner to the date the refund is made by the Commissioner.

Clause 81 includes sections 480A(1) and 480A(2) of the *Duties Act 2001* in section 140(5) which defines *executive liability provision* for section 140.

Clause 82 inserts new part 20, section 177 to make transitional provision for the operation of section 61A. Section 61A applies in relation to a reassessment giving effect to a decision by the Commissioner of State Revenue under section 67(1) if the decision is made on or after the commencement of the Bill.

Clause 83 amends the Dictionary in Schedule 2 by inserting new definitions of terms used in the amendments in part 3 of the Bill.

Part 10 Amendment of Water Supply (Safety and Reliability) Act 2008

Clause 84 provides that this part amends the *Water Supply (Safety and Reliability) Act 2008*.

Clause 85 amends section 35 to omit the word 'particular' from the note in subsection 35(2). This amendment makes it clear that, under sections 119 and 121 of the *Plumbing and Drainage Act 2002*, a licence may still be required to install meters.

Clause 86 amends section 36 to omit subsection 36(1)(c), which provided that an authorised person of a service provider may enter a place to install a meter at the place.

Clause 87 inserts a new chapter 10, part 9 into the *Water Supply (Safety and Reliability) Act 2008.*

New Part 9 Transitional provision for Plumbing and Drainage and Another Act Amendment Act 2015

New section 672 – Authorised persons power to enter places

New section 672 provides, for two years after the commencement of this section, section 36(1) of the *Water Supply (Safety and Reliability) Act 2008* is taken to include the power that an authorised person may to enter a place to install a meter at the place.