

Queensland



**REVENUE LAWS  
AMENDMENT BILL 1997**



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1997**

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**1997**

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**A BILL**

**FOR**

**An Act to amend certain Acts administered by the Treasurer**

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**The Parliament of Queensland enacts—**

1

## **PART 1—PRELIMINARY**

2

### **Short title**

3

Clause **1.** This Act may be cited as the *Revenue Laws Amendment Act 1997*.

4

### **Commencement**

5

Clause **2.(1)** Part 2 (other than sections 6(2) and 10) is taken to have commenced on 29 June 1997.

6

7

**(2)** Section 10 commences or is taken to have commenced on 13 July 1997.

8

9

## **PART 2—AMENDMENT OF LAND TAX ACT 1915**

10

### **Act amended in pt 2**

11

Clause **3.** This part amends the *Land Tax Act 1915*.

12

### **Amendment of s 3E (When land is a principal place of residence)**

13

Clause **4.(1)** Section 3E(a), ‘by that person for residential purposes’—

14

*omit, insert—*

15

‘for residential purposes by the person (whether alone or with other persons)’.

16

17

**(2)** Section 3E(b)—

18

*omit, insert—*

19

‘(b) in any other case—the commissioner is satisfied the land is used

20

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as the principal place of residence of the person (whether alone or  
with other persons) and for no other purpose.’. 1  
2

**Insertion of new s 9AA** 3

Clause 5. After section 9— 4

*insert—* 5

**‘General rebate** 6

‘**9AA.** A taxpayer is entitled to a rebate of the tax assessed to be payable  
by the taxpayer for a financial year of an amount equal to 5% of the tax.’. 7  
8

**Amendment of s 9A (Rebate)** 9

Clause 6.(1) Section 9A, heading— 10

*omit, insert—* 11

**‘Additional rebate in certain cases’.** 12

(2) Section 9A, ‘or it’— 13

*omit.* 14

(3) Section 9A— 15

*insert—* 16

‘(2) The rebate mentioned in subsection (1) applies in addition to the  
rebate mentioned in section 9AA.’. 17  
18

**Insertion of new s 9AB** 19

Clause 7. After section 9A— 20

*insert—* 21

**‘Calculating rebates** 22

‘**9AB.** If a taxpayer is entitled to the rebate mentioned in section 9AA  
and the rebate mentioned in section 9A, the amount of each rebate is to be  
calculated on the full amount of tax assessed to be payable by the taxpayer  
for the relevant financial year, without any deduction for the amount of the  
other rebate.’. 23  
24  
25  
26  
27

	<b>Amendment of s 11 (Taxable value)</b>	1
Clause	<b>8.(1)</b> Section 11(4), ‘\$160 000’—	2
	<i>omit, insert—</i>	3
	‘\$200 000’.	4
	<b>(2)</b> Section 11(5), after ‘absentee’—	5
	<i>insert—</i>	6
	‘(other than an Australian citizen)’.	7
	<b>(3)</b> Section 11(6A), (6D) and (6F)(b), ‘exclusively’—	8
	<i>omit.</i>	9
	<b>(4)</b> Section 11—	10
	<i>insert—</i>	11
	<b>(7)</b> In this section—	12
	“ <b>Australian citizen</b> ” means a person who is an Australian citizen under the	13
	<i>Australian Citizenship Act 1948 (Cwlth).</i> ’.	14
	<b>Amendment of s 11B (Provisions relating to land comprised in a building units plan etc.)</b>	15
		16
Clause	<b>9.</b> Section 11B, ‘exclusively’—	17
	<i>omit.</i>	18
	<b>Amendment of s 11BA (Provisions relating to scheme land for a community titles scheme)</b>	19
		20
Clause	<b>10.</b> Section 11BA, ‘exclusively’—	21
	<i>omit.</i>	22
	<b>Amendment of s 11C (Deduction—home unit companies)</b>	23
Clause	<b>11.</b> Section 11C, ‘exclusively’—	24
	<i>omit.</i>	25



	<b>Amendment of s 13 (Land exempted from tax)</b>	1
Clause	<b>12.(1)</b> Section 13(1)(h), ‘exclusively’—	2
	<i>omit.</i>	3
	<b>(2)</b> Section 13(1)(i), ‘\$60 000’—	4
	<i>omit, insert—</i>	5
	‘\$100 000’.	6
	<b>(3)</b> Section 13(1)(j), ‘\$40 000’—	7
	<i>omit, insert—</i>	8
	‘\$100 000’.	9
	<b>(4)</b> Section 13(1)(k), ‘\$60 000’—	10
	<i>omit, insert—</i>	11
	‘\$100 000’.	12

	<b>Amendment of s 16 (Taxpayer to furnish returns)</b>	13
Clause	<b>13.</b> Section 16(1)(a) to (b)—	14
	<i>omit, insert—</i>	15
	‘(a) for an owner who is an absentee, an owner in the capacity of trustee of 1 or more trusts or a company—\$100 000 or more; or	16
	(b) for another owner—\$219 895 or more;’.	17
		18

## PART 3—AMENDMENT OF PAY-ROLL TAX ACT 1971

	<b>Act amended in pt 3</b>	21
Clause	<b>14.</b> This part amends the <i>Pay-roll Tax Act 1971</i> .	22

**Amendment of s 9 (Deduction from taxable wages)**

Clause **15.(1)** Section 9(1), definition “**prescribed amount**”, ‘where—’ to ‘66 667.’—

*omit, insert—*

‘where—

“**E**” (maximum deduction per month) means—

(a) in the period starting on 1 July 1997 and ending on 31 December 1997—66 667; and

(b) in a period starting on or after 1 January 1998—70 833.’.

**(2)** Section 9(4), ‘1 January 1997’—

*omit, insert—*

‘1 January 1998’.

**Amendment of s 11A (Interpretation)**

Clause **16.(1)** Section 11A(2)(a) and (b)—

*omit, insert—*

‘(a) for the financial year starting on 1 July 1997—using the formula—

$$P = \frac{TW}{TW + IW} \left[ \frac{JA + KB}{365} - \frac{1}{3} \left( TW + IW - \frac{JA + KB}{365} \right) \right]; \text{ and}$$

(b) for the financial years starting on 1 July 1998 and afterwards—using the formula—

$$P = \frac{TW}{TW + IW} \left[ \frac{KC}{365} - \frac{1}{3} \left( TW + IW - \frac{KC}{365} \right) \right].'$$

**(2)** Section 11A(2A), definitions “**J**” and “**K**”—

*omit, insert—*

‘“**J**” means 800 000.

“**K**” means 850 000.’.

**Amendment of s 12 (Registration)**

Clause **17.** Section 12(1)(a)(i) and (ii)—

*omit, insert—*

‘(i) if the month is a month after June 1997 and before January 1998—\$15 385 per week; or

(ii) if the month is January 1998, or a later month—\$16 346 per week; or’.

**Amendment of s 16J (Interpretation)**

Clause **18.(1)** Section 16J(1)(a) and (b)—

*omit, insert—*

‘(a) for the financial year starting on 1 July 1997—using the formula—

$$P = \frac{TW}{TW + IW} \left[ \frac{JA + KB}{365} - \frac{1}{3} \left( TW + IW - \frac{JA + KB}{365} \right) \right]; \text{ and}$$

(b) for the financial years starting on 1 July 1998 and afterwards—using the formula—

$$P = \frac{TW}{TW + IW} \left[ \frac{KC}{365} - \frac{1}{3} \left( TW + IW - \frac{KC}{365} \right) \right].$$

**(2)** Section 16J(1A), definitions “**J**” and “**K**”—

*omit, insert—*

“**J**” means 800 000.

“**K**” means 850 000.’.

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**PART 4—AMENDMENT OF STAMP ACT 1894**

		1
	<b>Act amended in pt 4</b>	2
Clause	<b>19.</b> This part amends the <i>Stamp Act 1894</i> .	3
	<b>Insertion of new s 68AA</b>	4
Clause	<b>20.</b> After section 68—	5
	<i>insert—</i>	6
	<b>‘Security of third party</b>	7
	<b>‘68AA.(1)</b> This section applies if—	8
	(a) a loan (the <b>“primary loan”</b> ) is made by a person to another person; and	9 10
	(b) under an arrangement (whether or not the arrangement involves the primary loan), a security is used, or is capable of being used, (either directly or indirectly) to recover an amount (the <b>“recoverable amount”</b> ), or part of an amount (also the <b>“recoverable amount”</b> ), payable, or that may become payable, under a declared instrument by a guarantor, indemnifier or another person; and	11 12 13 14 15 16 17
	(c) there is a connection (whether direct or indirect) between the security and the primary loan.	18 19
	<b>‘(2)</b> The security—	20
	(a) is taken to be a security for the payment or repayment of money lent or to be lent, advanced or paid; and	21 22
	(b) is chargeable with the same duty as if the recoverable amount were a separate advance made under the security.	23 24
	<b>‘(3)</b> In the application of subsection (2), the recoverable amount—	25
	(a) is limited to the amount of the primary loan to the extent it is included in the recoverable amount; and	26 27
	(b) does not include any contingent liability apart from the contingent liability constituted by the recoverable amount.	28 29

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‘(4) Nothing in this section requires duty to be paid more than once in relation to a loan. 1  
2

‘(5) This section does not limit the operation of section 68(1) or (2). 3

‘(6) In this section— 4

“**declared instrument**” means— 5

(a) a guarantee; or 6

(b) an indemnity; or 7

(c) another instrument creating a contingent liability. 8

“**loan**” includes advance.’. 9

**Omission of s 69K (Duty chargeable on certain exempt home mortgages)** 10  
11

Clause 21. Section 69K— 12

*omit.* 13

**Amendment of s 69L (Duty chargeable on certain home refinance mortgages)** 14  
15

Clause 22.(1) Section 69L(2) and (3)— 16

*omit.* 17

(2) Section 69L(4), ‘or (2)’— 18

*omit.* 19

**PART 5—AMENDMENT OF TOBACCO PRODUCTS (LICENSING) ACT 1988** 20  
21

**Act amended in pt 5** 22

Clause 23. This part amends the *Tobacco Products (Licensing) Act 1988*. 23

	<b>Amendment of s 22 (Duration of licence)</b>	1
Clause	<b>24.</b> Section 22(3)—	2
	<i>omit, insert—</i>	3
	‘(3) Subsection (2) applies only if the licence does not cease to be in force at an earlier time because it is—	4
		5
	(a) cancelled; or	6
	(b) surrendered to the commissioner by the licensee with the intention it should cease to be in force.’.	7
		8
	<b>Insertion of new ss 23A—23D</b>	9
Clause	<b>25.</b> After section 23—	10
	<i>insert—</i>	11
	<b>‘Conditions of licences</b>	12
	‘ <b>23A.(1)</b> The commissioner may issue or renew a licence on conditions the commissioner considers appropriate.	13
		14
	‘(2) Without limiting subsection (1), the commissioner may impose conditions for regulating the distribution, sale and purchase of tobacco by the licensee.	15
		16
	‘(3) If the commissioner issues or renews a licence on conditions, the commissioner must promptly give the applicant or licensee written notice of the commissioner’s decision to impose the conditions.	17
		18
	‘(4) The notice also must state—	19
		20
	(a) the reasons for the decision; and	21
		22
	(b) that the applicant or licensee may make an objection to the decision to the commissioner within 30 days after being informed of the decision. <sup>1</sup>	23
		24
		25

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<sup>1</sup> Section 31 provides for the making of an objection to a decision of the commissioner to impose conditions on a licence.

<b>‘Notice of contravention of licence conditions</b>	1
<b>‘23B.</b> If a licensee contravenes a condition of the licensee’s licence, the licensee must immediately give written notice of the contravention to the commissioner.	2 3 4
Maximum penalty—1 650 penalty units or 5 years imprisonment.	5
<b>‘Changing licence conditions</b>	6
<b>‘23C.(1)</b> If the commissioner makes a decision under section 31 <sup>2</sup> (an <b>“objection decision”</b> ) to allow an objection to a decision of the commissioner imposing a condition on a licence, on receiving notice of the objection decision, the licensee must promptly return the licence to the commissioner for amendment.	7 8 9 10 11
Maximum penalty—40 penalty units or 3 months imprisonment.	12
<b>‘(2)</b> On receiving the licence, the commissioner must amend the licence in a way that is appropriate to reflect the objection decision and return the amended licence to the licensee.	13 14 15
<b>‘Cancellation of licences</b>	16
<b>‘23D.(1)</b> The commissioner may, by written notice (a <b>“cancellation notice”</b> ) given to a licensee, cancel the licensee’s licence if the commissioner is satisfied—	17 18 19
(a) for a licence other than a group licence—the licensee has contravened this Act or a condition of the licence; or	20 21
(b) for a group licence—any member of the group has contravened this Act or a condition of the licence; or	22 23
(c) for a licence held by an individual—the licensee is not, or is no longer, a fit and proper person to hold a licence; or	24 25
(d) for a licence held by a corporation—a director or officer (by whatever name called) concerned in the management of the licensee is not, or is no longer, a fit and proper person to conduct, on behalf of the licensee, the business of selling tobacco.	26 27 28 29

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<sup>2</sup> Section 31 (Objections)

‘(2) In deciding whether a ground for cancellation mentioned in subsection (1)(c) or (d) exists, the commissioner must consider the same issues the commissioner is required to consider in determining whether an applicant for a licence is a fit and proper person to hold a licence.’<sup>3</sup>

‘(3) The cancellation notice also must state—

- (a) the reasons for the decision to cancel the licence; and
- (b) that the licensee may make an objection to the decision to the commissioner within 30 days after being informed of the decision.’<sup>4</sup>

‘(4) The cancellation of a licence takes effect—

- (a) on the day the cancellation notice is given to the licensee; or
- (b) if a later day is stated in the notice—on the later day.’.

**Amendment of s 24 (Fees)** 13

Clause **26.** Section 24— 14

*insert—* 15

‘(5) If an application is made for a licence for a period (the “**application period**”) that is less than 1 month and tobacco wholesaling or tobacco retailing was carried on by the applicant for the entire relevant month, the fee payable by the applicant for the licence is the amount that bears the same proportion to the full fees that apply to the applicant as the number of days in the application period bears to the number of days in the application month. 16-22

‘(6) In this section— 23

“**application month**”, for an application period, means the month in which the application period occurs. 24-25

“**full fees**”, for an applicant for a licence for an application period, means the fees that would be payable by the applicant for a licence 26-27

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<sup>3</sup> Section 20(2D) deals with the issues for determining whether an applicant is a fit and proper person to hold a licence.

<sup>4</sup> Section 31 provides for the making of an objection to a decision of the commissioner to cancel a licence.



commencing on the first day of the application month, being a licence of the same class as the licence to which the application relates.’

### **Amendment of s 30 (Register of licensees)**

Clause 27. Section 30—

*insert—*

‘(1A) The register must include, for each licensee, details of any conditions to which the licensee’s licence is subject.’

### **Amendment of s 31 (Objections)**

Clause 28.(1) Section 31(1), ‘, including’ to ‘section 20 or 23,’—

*omit, insert—*

‘or with a licensing decision’.

(2) Section 31(2), ‘, including a fee under section 44,’—

*omit.*

(3) Section 31(3) and (4)—

*omit, insert—*

‘(3) The commissioner must consider the objection as soon as practicable after receiving it and either allow it (wholly or in part) or disallow it.

‘(4) The making of an objection to an assessment or licensing decision does not, pending a decision on the objection, affect the assessment or decision and the fee may be recovered, or the decision may be carried out, in the same way as if the objection had not been made.’.

(4) Section 31—

*insert—*

‘(5A) If the commissioner allows an objection to a decision of the commissioner to cancel a licence, the licence is reinstated for any period of the month for which the licence was issued or renewed remaining after the allowing of the objection.’.

(5) Section 31(6), ‘to an assessment’—

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<i>omit.</i>	1
(6) Section 31—	2
<i>insert—</i>	3
‘(6A) The notice also must state—	4
(a) the reasons for the commissioner’s decision; and	5
(b) that the objector may appeal against the decision to the Supreme Court within 30 days after receiving the notice. <sup>5</sup> ’.	6 7
(7) Section 31(7), ‘to an assessment’—	8
<i>omit.</i>	9
(8) Section 31—	10
<i>insert—</i>	11
‘(8) In this section—	12
“fee” includes a fee under section 44 or 44A. <sup>6</sup>	13
“licensing decision” means any of the following decisions of the commissioner—	14 15
(a) a decision under section 20 <sup>7</sup> to refuse to issue a licence;	16
(b) a decision under section 23 <sup>8</sup> not to renew a licence;	17
(c) a decision under section 23A <sup>9</sup> to impose conditions on a licence;	18
(d) a decision under section 23D <sup>10</sup> to cancel a licence.’.	19

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<sup>5</sup> Section 32 provides for an appeal against a decision of the commissioner on an objection made under section 31.

<sup>6</sup> Sections 44 (Recovery of fees from unlicensed persons) and 44A (Recovery of penalty fees from licensees)

<sup>7</sup> Section 20 (Applications for licences)

<sup>8</sup> Section 23 (Renewal of licences)

<sup>9</sup> Section 23A (Conditions of licences)

<sup>10</sup> Section 23D (Cancellation of licences)

	<b>Amendment of s 34 (Powers of investigation)</b>	1
Clause	<b>29.</b> Section 34(8), definition “ <b>relevant material</b> ”, paragraph (a)(ii), after ‘section 44’—	2
	<i>insert</i> —	3
	<i>insert</i> —	4
	‘or 44A’.	5
	<b>Amendment of s 39 (Power of commissioner to require information)</b>	6
Clause	<b>30.</b> Section 39(6), ‘section 24, 27 or 44’—	7
	<i>omit, insert</i> —	8
	‘section 24, 27, 44 or 44A’.	9
	<b>Amendment of s 44 (Recovery of fees from unlicensed persons)</b>	10
Clause	<b>31.</b> Section 44—	11
	<i>insert</i> —	12
	‘(5) The commissioner may release the person from all or part of the person’s liability for the fee mentioned in subsection (1) for any reason the commissioner considers just and reasonable.’.	13
		14
		15
	<b>Insertion of new s 44A</b>	16
Clause	<b>32.</b> After section 44—	17
	<i>insert</i> —	18
	<b>‘Recovery of penalty fees from licensees</b>	19
	<b>‘44A.(1)</b> This section applies if—	20
	(a) the commissioner believes, on reasonable grounds, a licensee has committed an offence against section 23B <sup>11</sup> (the “ <b>alleged offence</b> ”); and	21
		22
		23
	(b) the conduct constituting the alleged contravention of the relevant licence condition (the “ <b>unauthorised conduct</b> ”) is conduct for	24
		25

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<sup>11</sup> Section 23B (Notice of contravention of licence conditions)

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which a licence may be issued. 1

‘(2) The licensee is liable to pay to the commissioner a fee (a **“penalty fee”**) equal to 3 times any fee that would have been payable if the person had applied for, and been issued with, a separate licence for the relevant period for the unauthorised conduct. 2  
3  
4  
5

‘(3) Section 24<sup>12</sup> applies for assessing the penalty fee. 6

‘(4) As soon as practicable after assessing the penalty fee, the commissioner must give written notice of the assessment to the licensee. 7  
8

‘(5) The notice also must state that the licensee may make an objection to the assessment to the commissioner within 30 days after being informed of the assessment.<sup>13</sup> 9  
10  
11

‘(6) The commissioner may release the licensee from all or part of the licensee’s liability for the penalty fee for any reason the commissioner considers just and reasonable. 12  
13  
14

‘(7) If the licensee is prosecuted for the alleged offence— 15

(a) the commissioner must release the licensee from all of the licensee’s liability for the penalty fee; and 16  
17

(b) if the penalty fee, or part of the penalty fee, has been paid to the commissioner—the commissioner must refund the amount paid to the licensee. 18  
19  
20

‘(8) In this section— 21

**“expiry day”**, for a licence, means— 22

(a) if paragraph (b) does not apply—the last day of the month in which the licence started; or 23  
24

(b) if section 23(5)<sup>14</sup> applies to the licence—the day to which the licence is taken to continue in force under the subsection. 25  
26

**“relevant licence condition”**, for a licence, means a condition of the licence to which an alleged offence relates. 27  
28

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<sup>12</sup> Section 24 (Fees)

<sup>13</sup> Section 31 provides for the making of an objection to an assessment of a penalty fee.

<sup>14</sup> Section 23 (Renewal of licences)

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- “relevant period”**, for a licensee mentioned in subsection (1), means the period—
- (a) starting on the day on which the licensee is alleged to have contravened the relevant licence condition of the licensee’s licence; and
  - (b) ending on the earliest of the following—
    - (i) the expiry day;
    - (ii) if the licensee notifies the commissioner of the contravention of the relevant licence condition on a day later than the day on which the contravention was required, under section 23B, to be notified—the day of notification;
    - (iii) if the licence is cancelled—the day the cancellation takes effect.’.

**Amendment of s 45 (Recovery of fees)** 14

Clause **33.** Section 45(4), after ‘section 44’— 15

*insert—* 16

‘or 44A’. 17

18