

Queensland



**REVENUE AND OTHER
LEGISLATION
AMENDMENT BILL
(No. 2) 1999**

Queensland



REVENUE AND OTHER LEGISLATION AMENDMENT BILL (No. 2) 1999

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MINOR AMENDMENTS OF ACTS

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PAY-ROLL TAX ACT 1971 28

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1999

A BILL

FOR

An Act to amend certain Acts administered by the Treasurer

*Revenue and Other Legislation
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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 and Other Legislation Amendment Bill (No. 2) 1999*.

4

5

Commencement

6

Clause **2.(1)** Part 5, division 3 has effect when an arrangement is made under the *Commonwealth Places (Mirror Taxes Administration) Act 1999*, section 4.

7

8

(2) When the arrangement is made, part 5, division 3 is taken to have had effect on 6 October 1997.

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(3) The remaining provisions of this Act commence on assent.

11

**PART 2—AMENDMENT OF FUEL SUBSIDY
ACT 1997**

12

13

Act amended in pt 2

14

Clause **3.** This part amends the *Fuel Subsidy Act 1997*.

15

Amendment of s 4 (Meaning of “bulk end user”)

16

Clause **4.** Section 4(1), after ‘off-road diesel consumer’—
insert—

17

18

‘or entitle the person, under a corresponding law, to a similar subsidy for diesel as an off-road diesel consumer’.

19

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| | | |
|--------|---|----|
| | Amendment of s 9 (Only 1 subsidy payable for fuel) | 1 |
| Clause | 5. Section 9(7)— | 2 |
| | <i>omit.</i> | 3 |
| | Amendment of s 39 (Records of sales to be kept) | 4 |
| Clause | 6.(1) Section 39(1), ‘, complying with subsections (2) and (3)’— | 5 |
| | <i>omit, insert—</i> | 6 |
| | ‘as required under subsections (2) to (4)’. | 7 |
| | (2) Section 39— | 8 |
| | <i>insert—</i> | 9 |
| | ‘ (4) Each record must be kept for 5 years after it is made.’. | 10 |
| | Amendment of s 40 (Records to be kept by licensed off-road diesel consumers) | 11 |
| Clause | 7. Section 40(1), ‘complying with subsection (2)’— | 13 |
| | <i>omit, insert—</i> | 14 |
| | ‘as required under subsections (2) and (3)’. | 15 |
| | (2) Section 40— | 16 |
| | <i>insert—</i> | 17 |
| | ‘ (3) The record must be kept for 5 years after it is made.’. | 18 |
| | Amendment of s 68 (Records of sales to be kept) | 19 |
| Clause | 8. Section 68(1), ‘, complying with subsections (2) and (3)’— | 20 |
| | <i>omit, insert—</i> | 21 |
| | ‘as required under subsections (2) to (4)’. | 22 |
| | (2) Section 68— | 23 |

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insert—

‘(4) Each record must be kept for 5 years after it is made.’.

Amendment of s 69 (Records to be kept by licensed retailers)

Clause **9.** Section 69(1), ‘complying with subsection (2)’—

omit, insert—

‘as required under subsections (2) and (3)’.

(2) Section 69—

insert—

‘(3) The record must be kept for 5 years after it is made.’.

Amendment of s 104 (Records of sales to be kept)

Clause **10.** Section 104(1), ‘, complying with subsections (2) and (3)’—

omit, insert—

‘as required under subsections (2) to (4)’.

(2) Section 104—

insert—

‘(4) Each record must be kept for 5 years after it is made.’.

Amendment of s 105 (Records to be kept by licensed bulk end users)

Clause **11.** Section 105(1), ‘complying with subsection (2)’—

omit, insert—

‘as required under subsections (2) and (3)’.

(2) Section 105—

insert—

‘(3) The record must be kept for 5 years after it is made.’.

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Amendment of s 165 (Person receiving subsidy without entitlement)

| | | |
|--------|---|----------------|
| Clause | 12.(1) Section 165(2) and (3)— | 1 2 |
| | <i>omit, insert—</i> | 3 |
| | ‘(2) The commissioner may, by written notice given to the claimant, require the claimant to pay to the commissioner— | 4 5 |
| | (a) the amount (the “overpaid amount”) that is the difference between the paid amount and the correct amount; and | 6 7 |
| | (b) a further amount (the “incorrect payment penalty”) if the commissioner is satisfied— | 8 9 |
| | (i) the purchaser of the fuel for which the claim is made, because of a contravention of the Act, did not fully receive the benefit of the subsidy; or | 10 11 12 |
| | (ii) the claim is materially false; or | 13 |
| | (iii) the claimant sold the fuel other than in reliance on a licence.’. | 14 |
| | (2) Section 165(4) and (5)— | 15 |
| | <i>renumber</i> as section 165(3) and (4). | 16 |
| | (3) Section 165(4), as renumbered, ‘(3)’— | 17 |
| | <i>omit, insert—</i> | 18 |
| | ‘(2)’. | 19 |
| | (4) Section 165— | 20 |
| | <i>insert—</i> | 21 |
| | ‘(5) The claimant must pay to the commissioner the overpaid amount and the whole or part of the incorrect payment penalty the claimant is required to pay (the “penalty payable”) within the time stated in the notice. | 22 23 24 |
| | ‘(6) The stated time must not be less than 7 days after the claimant receives the notice. | 25 26 |
| | ‘(7) An amount not paid as required under subsection (5) is a debt owing to the commissioner.’. | 27 28 |

*Revenue and Other Legislation
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| | | |
|--------|---|----------------------|
| | Amendment of s 166 (Person incorrectly receiving benefit of subsidy) | 1 |
| Clause | 13. Section 166— | 2 |
| | <i>insert—</i> | 3 |
| | ‘(7) The incorrect subsidy amount and the whole or part of the incorrect benefit penalty the purchaser is required to pay (the “ penalty payable ”), must be paid— | 4 5 6 |
| | (a) if this section applies to the purchaser under subsection (1)—within 7 days after the sale; or | 7 8 |
| | (b) if this section applies to the purchaser under subsection (2)—within 7 days after the thing mentioned in subsection (2)(b) applies to the purchaser. | 9 10 11 |
| | ‘(8) An amount not paid as required under subsection (7) is a debt owing to the commissioner.’. | 12 13 |
| | Insertion of new s 167A | 14 |
| Clause | 14. In chapter 6, part 3, after section 167— | 15 |
| | <i>insert—</i> | 16 |
| | ‘Person receiving reimbursement for surcharge | 17 |
| | ‘ 167A.(1) This section applies to a purchaser of fuel if— | 18 |
| | (a) the seller of the fuel did not recover from the purchaser the part of the sale price that is an amount equal to the subsidy for the sale, because the purchase of the fuel was, or purportedly was, a net sale for chapter 2, 3 or 4; and | 19 20 21 22 |
| | (b) the purchaser receives, other than under this Act or a corresponding law, an amount in relation to the surcharge for the fuel (the “ reimbursed amount ”). | 23 24 25 |
| | ‘(2) The licensee must pay the reimbursed amount to the commissioner within 7 days after the amount is received. | 26 27 |
| | ‘(3) An amount not paid as required under subsection (2) is a debt owing to the commissioner.’. | 28 29 |

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| | | |
|--------|--|----------------|
| | Amendment of s 187 (Decision to require persons to pay amounts owing) | 1 2 |
| Clause | 15.(1) Section 187, heading— | 3 |
| | <i>omit, insert—</i> | 4 |
| | ‘Commissioner to give information notice for certain decisions’. | 5 |
| | (2) Section 187(1)— | 6 |
| | <i>omit, insert—</i> | 7 |
| | ‘187.(1) This section applies if— | 8 |
| | (a) the commissioner decides a prescribed section applies to a person; | 9 |
| | or | 10 |
| | (b) under a prescribed section, the commissioner decides to require a person to pay an amount.’. | 11 12 |
| | (3) Section 187(3), definition “prescribed section” , after ‘166,’— | 13 |
| | <i>insert—</i> | 14 |
| | ‘167A.’. | 15 |
| | Amendment of s 193 (Confidentiality of information) | 16 |
| Clause | 16.(1) Section 193(3)(b)— | 17 |
| | <i>omit, insert—</i> | 18 |
| | (b) the chief executive officer of customs under the <i>Customs Administration Act 1985</i> (Cwlth) or a delegate of the chief executive officer; or | 19 20 21 |
| | (c) an entity administering a corresponding law.’. | 22 |
| | (2) Section 193(4), definition “corresponding law” — | 23 |
| | <i>omit, insert—</i> | 24 |
| | ‘ “corresponding law” includes a law of the Commonwealth about the payment of subsidies for fuel.’. | 25 26 |

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| | | |
|--------|--|--------|
| | Amendment of sch 3 (Dictionary) | 1 |
| Clause | 17. Schedule 3— | 2 |
| | <i>insert—</i> | 3 |
| | ‘ “corresponding law” means a law of another State about the payment of subsidies for fuel.’. | 4 |
| | | 5 |
| | PART 3—AMENDMENT OF LAND TAX ACT 1915 | 6 |
| | Act amended in pt 3 | 7 |
| Clause | 18. This part amends the <i>Land Tax Act 1915</i> . | 8 |
| | Amendment of s 13 (Land exempted from tax) | 9 |
| Clause | 19. Section 13(1)(g), ‘a site for’— | 10 |
| | <i>omit, insert—</i> | 11 |
| | ‘the site of’. | 12 |
| | Amendment of s 26D (Taxpayer may object to assessment) | 13 |
| Clause | 20. Section 26D(2)— | 14 |
| | <i>omit, insert—</i> | 15 |
| | ‘(2) The objection must— | 16 |
| | (a) be made in writing to the commissioner; and | 17 |
| | (b) state the grounds on which it is made; and | 18 |
| | (c) be made within 30 days after the notified date on which the land tax is payable.’. | 19 |
| | | 20 |

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| | | |
|--------|---|----------------------|
| | Insertion of new s 27AA | 1 |
| Clause | 21. After section 27— | 2 |
| | <i>insert—</i> | 3 |
| | ‘How appeal is started | 4 |
| | ‘27AA. An appeal is started by— | 5 |
| | (a) filing written notice of appeal with the Land Court; and | 6 |
| | (b) serving a copy of the notice on the commissioner.’. | 7 |
| | PART 4—AMENDMENT OF PAY-ROLL TAX ACT 1971 | 8 9 |
| | Act amended in pt 4 | 10 |
| Clause | 22. This part amends the <i>Pay-roll Tax Act 1971</i> . | 11 |
| | Amendment of s 3 (Interpretation)— | 12 |
| Clause | 23. Section 3, definition “ corresponding law ”— | 13 |
| | <i>omit, insert—</i> | 14 |
| | ‘ “corresponding law” means— | 15 |
| | (a) in relation to Queensland—a law in force in Queensland imposing on employers a tax on wages paid or payable by them and the assessment and collection of the tax, but does not include the Commonwealth Act or this Act; and | 16 17 18 19 |
| | (b) in relation to another State—means a law in force in the State imposing on employers a tax on wages paid or payable by them and the assessment and collection of the tax, but does not include the Commonwealth Act.’. | 20 21 22 23 |

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PART 5—AMENDMENT OF STAMP ACT 1894

Division 1—Preliminary

Act amended in pt 5

Clause **24.** This part amends the *Stamp Act 1894*.

Division 2—General amendments

**Amendment of s 55A (Duty relating to principal place of residence
and first principal place of residence)**

Clause **25.(1)** Section 55A(2AB)(a), ‘a partial interest’—

omit, insert—

‘an interest or a further interest’.

(2) Section 55A(2AB)(b)—

omit.

(3) Section 55A(2AB)(c), ‘other than as a co-owner—’

omit, insert—

‘under the transaction,’.

(4) Section 55A(2AB), ‘partial interest in the property’—

omit, insert—

‘acquisition’.

Amendment of s 56B (Unit trust schemes)

Clause **26.(1)** Section 56B(1), definition “**public unit trust scheme**”, paragraphs (a) and (b)—

renumber as paragraphs (e) and (f).

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- (2) Section 56B(1), definition “**public unit trust scheme**”, from ‘means’ to ‘under which—’— 1
2
omit, insert— 3
‘means a unit trust scheme as defined in schedule 2— 4
- (a) the units of which are listed on a stock exchange; or 5
 - (b) until the end of the transitional period defined in section 61B(1)—for which there is an approved deed under the Corporations Law, part 7.12, division 5 (as in force on 30 June 1998); or 6
7
8
9
 - (c) that is a registered scheme under the Corporations Law, part 5C; or 10
11
 - (d) for which there is a deed of a class approved under a regulation; 12
but does not include a unit trust scheme mentioned in 13
paragraph (b), (c) or (d) under which—’. 14
- (3) After section 56B(1A)— 15
insert— 16
- ‘(1AA) If the start-up units are not issued in the way mentioned in subsection (1A)(a) or are not the only units issued in the unit trust scheme in the start-up period (the “**disqualifying circumstances**”), all of the following apply— 17
18
19
20
- (a) the scheme is taken not to have been a public unit trust scheme under subsection (1A); 21
22
 - (b) if because of the application of paragraph (a) duty becomes payable, interest, at the rate of 10% per annum and computed from 60 days after the disposition giving rise to the liability to the duty until payment of the duty, is payable on the amount of the duty; 23
24
25
26
27
 - (c) after considering the circumstances, the commissioner may waive or reduce the interest; 28
29
 - (d) the trustee must, within 28 days after the disqualifying circumstances occur, give the commissioner written notice that the start-up units were not issued in the way mentioned in 30
31
32

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subsection (1A)(a) or were not the only units issued in the unit trust scheme in the start-up period; 1
2

- (e) section 80 applies as if the amount of any duty assessed in the first instance, on the basis that the unit trust scheme was a public unit trust scheme, has been assessed at an insufficient amount. 3
4
5

Maximum penalty for subsection (1AA)(d)—100 penalty units plus an amount equal to double the amount of any additional duty payable because of the application of subsection (1AA)(a). 6
7
8

‘**(1AB)** If the trustee is a corporation, the executive officers of the corporation must ensure the corporation complies with subsection (1AA)(d). 9
10
11

‘**(1AC)** If the corporation commits an offence against subsection (1AA)(d), each of the corporation’s executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with subsection (1AA)(d). 12
13
14
15

Maximum penalty for subsection (1AC)—the same as the maximum penalty for an offence against subsection (1AA)(d). 16
17

‘**(1AD)** Evidence that the corporation has been convicted of an offence under subsection (1AA)(d) is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complied with subsection (1AA)(d). 18
19
20
21

‘**(1AE)** However, it is a defence for an executive officer to prove— 22

- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with subsection (1AA)(d); or 23
24
25
26
- (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence. 27
28

‘**(1AF)** If proceedings for an offence against subsection (1AA)(d) are not taken against the trustee, the commissioner may impose a penalty of— 29
30

- (a) 3% of the additional duty payable because of the application of subsection (1AA)(a) for the first month, or part of the month, after the period mentioned in subsection (1AA)(d); and 31
32
33

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(b) 2% of the additional duty payable because of the application of subsection (1AA)(a) for each subsequent month or part of the month, until the additional duty is paid.

‘**(1AG)** However, if the penalty calculated under subsection (1AF) would be less than \$10, the penalty is \$10.

‘**(1AH)** After considering the circumstances, the commissioner may waive or reduce the penalty.

‘**(1AI)** In this section—

“**executive officer**”, of a corporation, means a person who is concerned with, or takes part in, the corporation’s management, whether or not the person is a director or the person’s position is given the name of executive officer.’.

Amendment of s 56FA (Interpretation)

Clause **27.(1)** Section 56FA(1), definition “**acquire**”, paragraph (a), ‘to a subscriber to a memorandum’—

omit, insert—

‘on incorporation’.

(2) Section 56FA(1), definition “**acquire**”—

insert—

‘(ca) any circumstance, whether involving an acquisition of a shareholding or not, where there is an increase, whether from no interest or otherwise, in an interest in a corporation;’.

(3) Section 56FA(1)—

insert—

“**rules**”, of a corporation, means 1 or more of the following—

(a) the corporation’s constitution;

(b) replaceable rules applying to the corporation under the Corporations Law;

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(c) internal management rules applying to the corporation under the Corporations Law.’. 1
2

(4) Section 56FA(5)(a), ‘memorandum and articles of association’— 3
omit, insert— 4
‘rules’. 5

(5) Section 56FA(5)(a), ‘memorandum, articles’— 6
omit, insert— 7
‘rules’. 8

(6) Section 56FA(5)(b)(i), ‘memorandum or articles of association’— 9
omit, insert— 10
‘rules’. 11

Amendment of s 56FC (Valuation of land) 12

Clause 28.(1) Section 56FC, heading, ‘land’— 13
omit, insert— 14
‘property’. 15

(2) Section 56FC, ‘land’— 16
omit, insert— 17
‘property’ 18

(3) Section 56FC(1)(a), after ‘required to’— 19
insert— 20
‘, or the commissioner believes on reasonable grounds should,’. 21

(4) Section 56FC(1)(a), ‘further’— 22
omit. 23

Amendment of s 56FH (When statement to be lodged) 24

Clause 29. Section 56FH(3) and (7), ‘a shareholding’— 25

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| | | |
|--------|---|----|
| | <i>omit, insert—</i> | 1 |
| | ‘an interest’. | 2 |
| | Amendment of s 56FN (Meaning of “interest”, “majority interest” and “further interest”) | 3 |
| | | 4 |
| Clause | 30.(1) Section 56FN(1), (2) and (3), ‘acquires’— | 5 |
| | <i>omit, insert—</i> | 6 |
| | ‘has’. | 7 |
| | (2) Section 56FN(1), (2) and (3), ‘after the shareholding was acquired’— | 8 |
| | <i>omit.</i> | 9 |
| | (3) Section 56FN(1A)— | 10 |
| | <i>omit, insert—</i> | 11 |
| | ‘ (1A) For the prescribed provisions, if a person acquires an interest in a corporation under an agreement, subject to subsection (1D), the person is taken to have acquired the interest at the time the agreement is made.’. | 12 |
| | | 13 |
| | | 14 |
| | (4) Section 56FN— | 15 |
| | <i>insert—</i> | 16 |
| | ‘ (1D) However, if the corporation in which a person acquires an interest is not, at the time the agreement is made, a corporation to which the prescribed provisions apply but would be a corporation to which the prescribed provisions apply if the time the agreement was completed were the time of the acquisition, then the person is taken to have acquired the interest on completion of the agreement.’. | 17 |
| | | 18 |
| | | 19 |
| | | 20 |
| | | 21 |
| | | 22 |
| | (5) Section 56FN(3)(c), ‘further shareholding’— | 23 |
| | <i>omit, insert—</i> | 24 |
| | ‘shareholding’. | 25 |
| | (6) Section 56FN— | 26 |
| | <i>insert—</i> | 27 |
| | ‘ (4) A person’s interest in a corporation is the person’s entitlement calculated under section 56FA(5) and expressed as a percentage of the value | 28 |
| | | 29 |

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of all the corporation's distributable property if the corporation were to be wound-up immediately.' 1
2

Amendment of s 61B (Instrument amending a trust deed constituting a public unit trust scheme) 3
4

Clause **31.(1)** Section 61B(1)— 5
omit, insert— 6

'61B.(1) For this section— 7

"approved deed" means a deed approved under the Corporations Law, 8
part 7.12, division 5 (as in force on 30 June 1998). 9

"excluded issue" means an issue under the Corporations Law, 10
section 66(2). 11

"managed investment scheme" has the same meaning as in the 12
Corporations Law, section 9.¹ 13

"public unit trust scheme" means a unit trust scheme that— 14

(a) until the end of the transitional period— 15

(i) has been offered to the public and has an approved deed; or 16

(ii) complies with the conversion conditions and is not required 17
to have an approved deed because all issues of units in the 18
scheme were excluded issues when the issues were made; or 19

(b) is a registered scheme under the Corporations Law, part 5C. 20

"registered scheme" means a managed investment scheme that is 21
registered under the Corporations Law, section 601EB. 22

"transitional period" means the period from 1 July 1998 to the later of the 23
following— 24

(a) 30 June 2000; 25

¹ For the meaning of "managed investment scheme" see the attachment to this Act.

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(b) the last day permitted by the Corporations Law or Australian Securities and Investments Commission for the transition of a prescribed interest scheme to a registered scheme.’. 1
2
3

(2) Section 61B— 4

insert— 5

‘**(1A)** For subsection (1), definition “**public unit trust scheme**”, the conversion conditions are— 6
7

(a) the unit trust scheme must convert to a registered scheme in the transitional period; and 8
9

(b) the scheme must convert under an instrument signed in the transitional period; and 10
11

(c) any variation of the terms or manner of operation of the trust must be— 12
13

(i) for giving effect to the conversion; and 14

(ii) made in the transitional period.’. 15

Amendment of s 80 (Amendment of assessments) 16

Clause **32.** Section 80(2)— 17

omit, insert— 18

‘**(2)** Subsection (2A) applies if— 19

(a) a court decides the amount of duty payable on an instrument or statement has been assessed, for any reason, at an insufficient amount; or 20
21
22

(b) the commissioner finds the amount of duty payable on an instrument or statement has been assessed, for any reason, at an insufficient amount. 23
24
25

‘**(2A)** The commissioner may reassess the duty— 26

(a) for an incorrect assessment mentioned in subsection (2)(a)—at 27
any time within 2 years after the court’s decision; or 28

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- (b) for an incorrect assessment mentioned in subsection (2)(b) if the assessment was made because of incorrect or insufficient information, including information relating to future circumstances—at any time within 2 years after obtaining the information necessary to make a correct assessment; or 1
2
3
4
5
- (c) in any other case—within 2 years from the date on which the duty under the assessment became due and payable. 6
7

‘(2B) The commissioner may demand and recover an amount equal to the difference between the amount of duty assessed at an insufficient amount and the amount of duty assessed under subsection (2A).’ 8
9
10

Insertion of new s 90 11

Clause 33. After section 89— 12
insert— 13

‘Transitional provisions for the conversion of prescribed interests 14

‘90.(1) The purpose of this section is to provide for the payment of nominal duty only on a conversion instrument if the conversion conditions are met. 15
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‘(2) If a conversion instrument is not exempt from duty under this Act, and the conversion conditions are met, the duty payable on the instrument is— 18
19
20

(a) for an instrument mentioned in the definition “conversion instrument”, paragraph (a)—nil; 21
22

(b) for an instrument mentioned in the definition “conversion instrument”, paragraph (b)—\$4; 23
24

(c) for an instrument mentioned in the definition “conversion instrument”, paragraph (c), (d), (e) or (f)—\$100. 25
26

‘(3) For subsections (1) and (2), the conversion conditions are— 27

(a) the conversion instrument must be made for giving effect to the conversion of a prescribed interest scheme to a registered scheme; 28
29
and 30

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- (b) the conversion instrument must be signed in the transitional period; and 1
2
- (c) the persons who are members of the registered scheme must have the same beneficial interest in the property of the scheme immediately before the conversion instrument is signed as they had immediately after the instrument was signed; and 3
4
5
6
- (d) for a conversion instrument mentioned in subsection (5), definition “conversion instrument”, paragraph (a) or (b)—any instrument of settlement or declaration of trust that subsequently alters the terms of the trust as intended, will be an instrument to which section 61B applies. 7
8
9
10
11
- ‘(4) This section expires 1 year after the end of the transitional period. 12
- ‘(5) In this section— 13
- “conversion instrument”** means— 14
- (a) an instrument transferring trust property from a retiring trustee of a trust to a new trustee of the trust and on which nil duty would be payable under schedule 1, paragraph (v) of the first proviso to subsection (3) or (4) under the heading ‘Conveyance or transfer’ if it were not for the intention to alter the terms of the trust at any future time to give effect to the conversion of the trust to a registered scheme; or 15
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21
- (b) a declaration of trust on which only \$4 duty would be payable under schedule 1, under the heading ‘Declaration of trust’ if it were not for the intention to alter the terms of the trust at any future time to give effect to the conversion of the trust to a registered scheme; or 22
23
24
25
26
- (c) an instrument transferring trust property from a retiring trustee of a prescribed interest scheme to the entity that will, after the transition of the prescribed interest scheme to a registered scheme, be the custodian of the responsible entity for the registered scheme; or 27
28
29
30
31
- (d) an instrument transferring property of a registered scheme from the responsible entity of the scheme to the custodian of the responsible entity; or 32
33
34

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- (e) a declaration of trust made by a custodian acting as a trustee; or 1
- (f) a transaction that effects the appointment of a custodian and— 2
- (i) imposes on the custodian a trust restriction mentioned in 3
section 54AB(1AB)(b); or 4
- (ii) that would be chargeable with duty under section 54AC if it 5
were not for this provision. 6
- “custodian”** means the corporation that has been or will be appointed under 7
the Corporations Law, section 601FB, to hold the property of a 8
registered scheme as agent for the responsible entity of the scheme. 9
- “managed investment scheme”** has the same meaning as in the 10
Corporations Law, section 9.² 11
- “prescribed interest scheme”** means an investment scheme that offers 12
prescribed interests as that term was defined in the Corporations Law 13
(as in force on 30 June 1998). 14
- “registered scheme”** means a managed investment scheme that is 15
registered under the Corporations Law, section 601EB. 16
- “responsible entity”**, of a registered scheme, has the same meaning as in 17
the Corporations Law, section 9.³ 18
- “transitional period”** means the period from 1 July 1998 to the later of the 19
following— 20
- (a) 30 June 2000; 21
- (b) the last day permitted by the Corporations Law or the Australian 22
Securities and Investments Commission for the transition of a 23
prescribed interest scheme to a registered scheme.’. 24

² For the meaning of “managed investment scheme” see the attachment to this Act.

³ For the meaning of “responsible entity” see the attachment to this Act.

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Amendment of sch 1 (Stamp duties on instruments)

Clause **34.** Schedule 1, under the heading ‘Mortgage, bond, debenture, and covenant’, exemptions—

insert—

‘**7.(1)** An application solely for a credit card that is chargeable with duty under provision (1)(b) or (c).

‘**(2)** Subsection (1) does not apply if, when making the application for the credit card, the cardholder and the cardholder’s bank contemplate the use of the card for a transaction exceeding \$100 000 within 1 year after the issue of the card.

‘**(3)** Words used in this exemption that are defined in section 42B(1) have the same meaning in this exemption.’.

Division 3—Amendments about the Commonwealth Places (Mirror Taxes) Act 1998 (Cwlth)

Amendment of s 2 (Definitions)

Clause **35.** Section 2(1)—

insert—

‘ **“Commonwealth place”** means a place in Queensland acquired by the Commonwealth for public purposes.’.

Amendment of s 35B (Statements to be lodged by required persons with the commissioner)

Clause **36.** Section 35B—

insert—

‘**(7)** Despite subsection (1AA)(b), if a required person is carrying on rental business in Queensland, other than in a Commonwealth place, and is also carrying on rental business in a Commonwealth place in Queensland, the total amount received by the required person for the purposes of subsection (1AA)(b) is the sum of—

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(a) the total amount received by the required person under subsection (1AA)(b) for the rental business carried on in Queensland, other than in a Commonwealth place; and

(b) the total amount received by the required person under subsection (1AA)(b) for the rental business carried on in the Commonwealth place in Queensland.

‘(8) Despite subsection (1AB)(b), if a required person is carrying on rental business in Queensland, other than in a Commonwealth place, and is also carrying on rental business in a Commonwealth place in Queensland, the total amount received by the required person under subsection (1AB)(b)(ii) is the sum of—

(a) the total amount received by the required person under subsection (1AB)(b)(ii) for the rental business carried on in Queensland, other than in a Commonwealth place; and

(b) the total amount received by the required person under subsection (1AB)(b)(ii) for the rental business carried on in the Commonwealth place in Queensland.

‘(9) Despite subsection (1AB)(c), if a required person is carrying on credit business in Queensland, other than in a Commonwealth place, and is also carrying on credit business in a Commonwealth place in Queensland, the sum of the total amounts debited by the required person under all credit arrangements and the total amounts of all forbearances by the required person under subsection (1AB)(c) (the “**total credit amounts**”) is the sum of—

(a) the total credit amounts for the credit business carried on in Queensland, other than in a Commonwealth place; and

(b) the total credit amounts for the credit business carried on in the Commonwealth place in Queensland.’.

Insertion of new s 91

Clause **37.** After section 90, as inserted by this Act—

insert—

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‘Recognition of duty paid in certain circumstances

‘**91.(1)** If this Act requires regard to be had to duty previously paid or payable, regard must be had to any duty previously paid or payable under the Commonwealth Act if regard would have been had under this Act to that duty if that duty were paid or payable under this Act.

‘(2) In this section—

“**Commonwealth Act**” means the *Stamp Act 1894* (Queensland) as a law applied under the *Commonwealth Places (Mirror Taxes) Act 1998* (Cwlth).’.

PART 6—MINOR AMENDMENTS OF ACTS

Acts amended—schedule

Clause **38.** The schedule amends the Acts it mentions.

| | |
|---|--------|
| SCHEDULE | 1 |
| MINOR AMENDMENTS OF ACTS | 2 |
| <i>section 38</i> | 3 |
| COMMONWEALTH PLACES (MIRROR TAXES ADMINISTRATION) ACT 1999 | 4 5 |
| 1. Section 3, heading— | 6 |
| <i>omit, insert—</i> | 7 |
| ‘Act binds all persons’. | 8 |
| DEBITS TAX ACT 1990 | 9 |
| 1. Section 11(1)(a), ‘officer;’— | 10 |
| <i>omit, insert—</i> | 11 |
| ‘officer; or’. | 12 |
| 2. Section 11(1)(b), ‘person;’— | 13 |
| <i>omit, insert—</i> | 14 |
| ‘person; or’. | 15 |
| PAY-ROLL TAX ACT 1971 | 16 |
| 1. Section 9(5), ‘containing the prescribed particulars’— | 17 |
| <i>omit.</i> | 18 |

SCHEDULE (continued)

- | | |
|---|---|
| 2. Section 16I(1) and (2)(b), ‘containing the prescribed particulars’— | 1 |
| <i>omit.</i> | 2 |
| 3. Section 46(4), from ‘at the place’ to ‘furnished,’— | 3 |
| <i>omit.</i> | 4 |

STAMP ACT 1894

- | | |
|--|----|
| 1. Title— | 6 |
| <i>omit, insert—</i> | 7 |
| ‘An Act about the assessment and payment of stamp duties’. | 8 |
| 2. Section 1, heading, ‘and commencement of Act’— | 9 |
| <i>omit.</i> | 10 |
| 3. Section 1, from ‘, and shall come into operation’— | 11 |
| <i>omit.</i> | 12 |
| 4. Section 2, ‘2.(1) In this Act—’— | 13 |
| <i>omit, insert—</i> | 14 |
| ‘2. The dictionary in schedule 2 defines particular words used in this Act.’. | 15 |
| | 16 |
| 5. Section 2(1), definitions— | 17 |
| <i>relocate</i> to schedule 2, as inserted by this Act. | 18 |

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SCHEDULE (continued)

| | |
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| 6. Before section 2(2), as heading— | 1 |
| <i>insert—</i> | 2 |
| ‘Effect of stamping duplicate instruments’. | 3 |
| 7. Before section 2AB, as renumbered by this Act— | 4 |
| <i>insert—</i> | 5 |
| ‘Attachment | 6 |
| ‘2AA.(1) The attachment to this Act contains definitions of words that have the same meaning in this Act as they have in the Corporations Law. | 7 8 |
| ‘(2) The attachment is not part of this Act. | 9 |
| ‘(3) The attachment must be revised so that it is an accurate copy of the definitions as amended from time to time. | 10 11 |
| ‘(4) The revision must happen in the first reprint of this Act after an amendment of any of the definitions.’. | 12 13 |
| 8. Section 2(2) and (2A)— | 14 |
| <i>renumber</i> as section 2AB(1) and (2). | 15 |
| 9. Section 6, ‘, by order in council,’— | 16 |
| <i>omit.</i> | 17 |
| 10. Sections 13 and 26(3)(a) and(c), ‘order in council or’— | 18 |
| <i>omit.</i> | 19 |

SCHEDULE (continued)

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| 11. Sections 31B(1), definitions “declared State” and “prescribed stock exchange”, 56B(1), definition “unit trust scheme”, 56FA(1), definition “discretionary trust”, 59E(1)(a)(i) and (iii) and (d), schedule 1, under the heading ‘Caveat’, exemption, schedule 1, under the heading ‘Conveyance or transfer’, exemption 15(f), schedule 1, under the heading ‘Request’, exemption and schedule 2 (as inserted by this Act), definition “corporate debt security”, ‘by order in council’— | 1 2 3 4 5 6 7 |
| <i>omit, insert—</i> | 8 |
| ‘under a regulation’. | 9 |
| 12. Section 31J(2), ‘The Governor in Council may by order in council’— | 10 11 |
| <i>omit, insert—</i> | 12 |
| ‘A regulation may’. | 13 |
| 13. Sections 35(4A) and (4C)(b), ‘the Governor in Council by order in council’— | 14 15 |
| <i>omit, insert—</i> | 16 |
| ‘a regulation’. | 17 |
| 14. Sections 35(4B), ‘Queensland Government Development Authority constituted under the <i>Statutory Bodies Financial Arrangements Act 1982</i>’— | 18 19 20 |
| <i>omit, insert—</i> | 21 |
| ‘Queensland Treasury Corporation’. | 22 |

SCHEDULE (continued)

| | |
|---|----|
| 15. Sections 35(4B), ‘the Governor in Council by order in council prescribes’— | 1 |
| <i>omit, insert—</i> | 2 |
| ‘a regulation declares’. | 3 |
| <i>omit, insert—</i> | 4 |
| ‘A regulation may’. | 5 |
| 16. Section 35F(1), ‘The Governor in Council may, from time to time, by order in council’— | 6 |
| <i>omit, insert—</i> | 7 |
| ‘A regulation may’. | 8 |
| 17. Section 35G— | 9 |
| <i>omit.</i> | 10 |
| 18. Section 42B(2), ‘31 December 1975 and after’— | 11 |
| <i>omit.</i> | 12 |
| 19. Section 42B(2), ‘thereafter’— | 13 |
| <i>omit.</i> | 14 |
| 20. Section 42B(2), from ‘, accompanied by a declaration’ to ‘return,’— | 15 |
| <i>omit.</i> | 16 |
| <i>omit.</i> | 17 |
| 21. Section 42B(3A), ‘the Governor in Council may by order in council’— | 18 |
| <i>omit, insert—</i> | 19 |
| ‘a regulation may’. | 20 |
| <i>omit, insert—</i> | 21 |
| ‘a regulation may’. | 21 |

SCHEDULE (continued)

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|---|----------|
| 22. Section 42B(4), ‘the Governor in Council may, by order in council,’— | 1 2 |
| <i>omit, insert—</i> | 3 |
| ‘a regulation may’. | 4 |
| 23. Section 42B(4), ‘such order in council is revoked’— | 5 |
| <i>omit, insert—</i> | 6 |
| ‘the declaration is repealed’. | 7 |
| 24. Section 49C(1)(a), ‘specified in its memorandum of association’— | 8 |
| <i>omit.</i> | 9 |
| 25. Section 49C(1)(a), ‘specified in the memorandum of association’— | 10 |
| <i>omit.</i> | 11 |
| 26. Section 54(4), from ‘the memorandum of association’ to ‘such corporation’— | 12 13 |
| <i>omit, insert—</i> | 14 |
| ‘the certificate of incorporation’. | 15 |
| 27. Section 54AB(5), ‘The Governor in Council’— | 16 |
| <i>omit, insert—</i> | 17 |
| ‘A regulation’. | 18 |
| 28. Section 54AB(5), ‘by order in council,’— | 19 |
| <i>omit.</i> | 20 |

SCHEDULE (continued)

| | |
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| 29. Section 56B(1), definition “unit trust scheme”, ‘section 2’— | 1 |
| <i>omit, insert—</i> | 2 |
| ‘schedule 2’. | 3 |
| 30. Section 64(3A)(b), ‘prescribed by the Governor in Council by order in council’— | 4 |
| <i>omit, insert—</i> | 5 |
| ‘declared under a regulation’. | 6 |
| 31. Section 64(4), ‘The Governor in Council may prescribe’— | 7 |
| <i>omit, insert—</i> | 8 |
| ‘A regulation may declare’. | 9 |
| 32. Section 64(4), ‘prescribed’— | 10 |
| <i>omit, insert—</i> | 11 |
| ‘declared’. | 12 |
| 33. Section 64(4), ‘order in council’— | 13 |
| <i>omit, insert—</i> | 14 |
| ‘regulation’. | 15 |
| 34. Section 69, from ‘(approved’ to ‘gazette)’— | 16 |
| <i>omit, insert—</i> | 17 |
| ‘, approved under a regulation,’. | 18 |
| | 19 |

SCHEDULE (continued)

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|---|----|
| 35. Section 83B(1)(c), ‘26(3)(e)’— | 1 |
| <i>omit, insert—</i> | 2 |
| ‘26(8)’. | 3 |
| 36. Section 85(1)(a), ‘116(1)(b)’— | 4 |
| <i>omit, insert—</i> | 5 |
| ‘112(c)’. | 6 |
| 37. Schedule 1, under the heading ‘Conveyance or transfer’, (2A)(c), ‘section 2(1)’— | 7 |
| <i>omit, insert—</i> | 8 |
| ‘schedule 2’. | 9 |
| | 10 |
| 38. Schedule 1, under the heading ‘Conveyance or transfer’, exemption 2, ‘Land Act 1962’— | 11 |
| <i>omit, insert—</i> | 12 |
| ‘Land Act 1994’. | 13 |
| | 14 |
| 39. Schedule 1, under the heading ‘Conveyance or transfer’, exemptions 14(b)(iii) and (d)(iii) and schedule 1, under the heading ‘Mortgage, bond, debenture, and covenant’, exemption 5, ‘by the Governor in Council by order in council’— | 15 |
| <i>omit, insert—</i> | 16 |
| ‘under a regulation’. | 17 |
| | 18 |
| | 19 |
| | 20 |
| 40. Schedule 1, under the heading ‘Declaration of trust’, exemption 3— | 21 |
| <i>omit.</i> | 22 |
| | 23 |

SCHEDULE (continued)

| | |
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| 41. Schedule 1, under the heading ‘Mortgage, bond, debenture, and covenant’, exemption 3, ‘to which the Governor in Council by order in council’— | 1 2 3 |
| <i>omit, insert—</i> | 4 |
| ‘and under which a regulation’. | 5 |
| 42. After schedule 1— | 6 |
| <i>insert—</i> | 7 |
| ‘SCHEDULE 2 | 8 |
| ‘DICTIONARY | 9 |
| section 2’. | 10 |
| 43. After schedule 2, as inserted by this Act— | 11 |
| <i>insert—</i> | 12 |
| ‘ATTACHMENT | 13 |
| section 2AA | 14 |
| ‘DEFINITIONS IN CORPORATIONS LAW | 15 |
| “managed investment scheme” means: | 16 |
| (a) a scheme that has the following features: | 17 |
| (i) people contribute money or money’s worth as consideration | 18 |
| to acquire rights (interests) to benefits produced by the | 19 |
| scheme (whether the rights are actual, prospective or | 20 |

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SCHEDULE (continued)

| | |
|---|----------------------------|
| contingent and whether they are enforceable or not) | 1 |
| (ii) any of the contributions are to be pooled, or used in a common enterprise, to produce financial benefits, or benefits consisting of rights or interests in property, for the people (the members) who hold interests in the scheme (whether as contributors to the scheme or as people who have acquired interests from holders) | 2 3 4 5 6 7 |
| (iii) the members do not have day-to-day control over the operation of the scheme (whether or not they have the right to be consulted or to give directions); or | 8 9 10 |
| (b) a time-sharing scheme; | 11 |
| but does not include the following: | 12 |
| (c) a partnership covered by an application order made for the purposes of section 115 | 13 14 |
| (d) a body corporate (other than a body corporate that operates as a time sharing scheme) | 15 16 |
| (e) a scheme in which all the members are bodies corporate that are related to each other and to the body corporate that promotes the scheme | 17 18 19 |
| (f) a franchise | 20 |
| (g) a statutory fund maintained under the <i>Life Insurance Act 1995</i> | 21 |
| (h) a regulated superannuation fund, an approved deposit fund, a pooled superannuation trust, or a public sector superannuation scheme, within the meaning of the <i>Superannuation Industry (Supervision) Act 1993</i> | 22 23 24 25 |
| (i) a scheme operated by an Australian ADI in the ordinary course of its banking business | 26 27 |
| (j) the issue of debentures or convertible notes by a body corporate | 28 |
| (k) a barter scheme under which each participant may obtain goods or services from another participant for consideration that is wholly or substantially in kind rather than in cash | 29 30 31 |

SCHEDULE (continued)

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|---|---------------------------------|
| (l) a retirement village scheme operating within or outside Australia: | 1 |
| (i) under which the participants, or a majority of them, are provided, or are to be provided, with residential accommodation within a retirement village (whether or not the entitlement of a participant to be provided with accommodation derives from a proprietary interest held by the participant in the premises where the accommodation is, or is to be, provided); and | 2 3 4 5 6 7 8 |
| (ii) which is not a time-sharing scheme | 9 |
| (m) a scheme that is operated by a co-operative company registered under Part VI of the <i>Companies (Co-operative) Act 1943</i> of Western Australia or under a previous law of Western Australia that corresponds to that Part | 10 11 12 13 |
| (n) a scheme of a kind declared by the regulations not to be a managed investment scheme. | 14 15 |
| “responsible entity” of a registered scheme means the company named in ASIC’s record of the scheme’s registration as the responsible entity or temporary responsible entity of the scheme.’ | 16 17 18 |

| | |
|---|----|
| STATUTE LAW (MISCELLANEOUS PROVISIONS) | 19 |
| ACT 1994 | 20 |

- | | |
|---|----|
| 1. Schedule 1, amendments of <i>Stamp Act 1894</i>, amendment 2— | 21 |
| <i>omit.</i> | 22 |