



Queensland

Revenue and Other Legislation Amendment Bill (No. 2) 2008



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2008

A Bill

for

An Act to amend the Duties Act 2001, Electricity Act 1994, First Home Owner Grant Act 2000, Fuel Subsidy Act 1997, Government Owned Corporations Act 1993, Integrated Planning Act 1997, Land Tax Act 1915, Liquor Act 1992, Liquor and Other Acts Amendment Act 2008, Payroll Tax Act 1971, Petroleum and Gas (Production and Safety) Act 2004, Racing Act 2002, South Bank Corporation Act 1989, South Bank Corporation By-law 2004, South East Queensland Water (Restructuring) Act 2007, State Development and Public Works Organisation Act 1971, Statutory Authorities (Superannuation Arrangements) Act 1994, Superannuation (State Public Sector) Act 1990 and Taxation Administration Act 2001 for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Revenue and Other Legislation
Amendment Act (No. 2) 2008*. 4
5

Clause 2 Commencement 6

- (1) Part 2, division 2 is taken to have commenced on 26 July 7
2002. 8
- (2) Part 2, division 3 is taken to have commenced on 1 January 9
2007. 10
- (3) Part 2, division 4 is taken to have commenced on 10 11
September 2007. 12
- (4) Part 2, division 5 is taken to have commenced on 18 June 13
2007. 14
- (5) Part 2, division 6 is taken to have commenced on 29 August 15
2007. 16
- (6) Part 2, division 7 is taken to have commenced on 1 September 17
2008. 18
- (7) Part 2, division 9 commences on 1 January 2009. 19
- (8) Section 49 is taken to have commenced on 14 October 2008. 20
- (9) Part 4, other than sections 45, 49, 50, 52 and 54 (to the extent 21
it inserts new section 74), commences on 1 January 2009. 22
- (10) Parts 9, 10, 14 and 15 commence on 1 January 2009. 23
- (11) Part 13 commences on a day to be fixed by proclamation. 24

-
- (12) Section 90, as far as it inserts new section 113C, must be commenced on a day that is later than the day of commencement of section 89. 1
2
3
- (13) Subsection (12) does not limit the *Acts Interpretation Act 1954*, section 15D. 4
5
- (14) Section 125 is taken to have commenced on the day the Bill for this Act was introduced into the Legislative Assembly. 6
7

Part 2 Amendment of Duties Act 2001 8

Division 1 Preliminary 9

- Clause 3 Act amended in pt 2 and schedule** 10
This part and the schedule amend the *Duties Act 2001*. 11

Division 2 Amendments taken to have commenced on 26 July 2002 12 13

- Clause 4 Insertion of new ch 2, pt 9, div 4** 14
Chapter 2, part 9— 15
insert— 16

‘Division 4 Miscellaneous 17

- ‘95A Occupation date—particular arrangements for retirement village** 18
19
- ‘(1) This section applies if— 20
- (a) a dutiable transaction is the transfer, or an agreement for the transfer, of residential land that is an accommodation unit in a retirement village; and 21
22
23

[s 5]

(b) the transferee enters into a retirement village leasing arrangement for the unit. 1
2

‘(2) A reference in section 88 to a person occupying a residence as owner of the residence includes the transferee occupying the unit under the sublease.’. 3
4
5

Clause 5 Amendment of s 153 (Reassessment—noncompliance with occupancy requirements after occupation date for residence) 6
7
8

Section 153— 9
insert— 10

‘(1B) Also, for subsection (1)(b), a transferee does not dispose of residential land that is an accommodation unit in a retirement village only by entering into a retirement village leasing arrangement for the unit.’. 11
12
13
14

Clause 6 Amendment of s 154 (Reassessment—other noncompliance with occupancy requirements) 15
16

Section 154— 17
insert— 18

‘(2B) Also, for subsection (1)(b), a transferee does not dispose of residential land that is an accommodation unit in a retirement village only by entering into a retirement village leasing arrangement for the unit.’. 19
20
21
22

Clause 7 Amendment of s 155 (When transferees must give notice for reassessment) 23
24

Section 155(3)— 25
insert— 26

‘*lease* does not include a lease or sublease entered into as part of a retirement village leasing arrangement.’. 27
28

Clause 8	Amendment of s 291 (Reassessment—concession under pt 6)	1 2
	Section 291—	3
	<i>insert—</i>	4
	‘(1AB) Also, for subsection (1)(a) or (c), a home borrower does not dispose of land that is an accommodation unit in a retirement village only by entering into a retirement village leasing arrangement for the unit.’.	5 6 7 8
Clause 9	Insertion of new ch 17, pt 11	9
	Chapter 17—	10
	<i>insert—</i>	11
‘Part 11	Savings and transitional provisions for Revenue and Other Legislation Amendment Act (No. 2) 2008	12 13 14 15
‘608	Meaning of <i>commencement day</i>	16
	In this part—	17
	<i>commencement day</i> means the day of commencement of the provision in which the term is used.	18 19
‘609	Limitation period—particular retirement village arrangements	20 21
	‘(1) This section applies to duty imposed before the commencement day if—	22 23
	(a) the duty was—	24
	(i) transfer duty on the transfer, or agreement for the transfer, of residential land; or	25 26
	(ii) mortgage duty imposed on a mortgage over residential land; and	27 28

[s 10]

- (b) the land was an accommodation unit in a retirement village; and 1
2
 - (c) on or after the commencement day, the transferee enters 3
into a retirement village leasing arrangement for the 4
unit. 5
- ‘(2) The limitation period for a reassessment of the duty does not 6
apply.’. 7

Clause 10	Amendment of sch 6 (Dictionary)	8
	Schedule 6—	9
	<i>insert—</i>	10
	‘accommodation unit see the <i>Retirement Villages Act 1999</i> , schedule.	11 12
	resident , of a retirement village, see the <i>Retirement Villages Act 1999</i> , section 9.	13 14
	retirement village see the <i>Retirement Villages Act 1999</i> , section 5.	15 16
	retirement village leasing arrangement means an arrangement—	17 18
	(a) entered into between an owner of an accommodation unit in a retirement village and the scheme operator; and	19 20
	(b) under which the owner leases the unit to the scheme operator but occupies the unit, as the owner’s principal place of residence, under a sublease from the scheme operator; and	21 22 23 24
	(c) that is the only arrangement available to the owner for occupying the unit.	25 26
	scheme operator means a retirement village scheme operator within the meaning of the <i>Retirement Villages Act 1999</i> , section 8.’.	27 28 29

Division 3	Amendment taken to have commenced on 1 January 2007	1 2
Clause 11	Amendment of s 93A (Concession—mixed and multiple claims for individuals—vacant land)	3 4
	Section 93A(5) and (6)—	5
	<i>omit, insert—</i>	6
	‘(5) The transfer duty imposed on the dutiable transaction is the amount worked out by deducting, from transfer duty on the dutiable value of the transaction, the lesser of the following amounts—	7 8 9 10
	(a) the total amount worked out by, for each relevant transferee, applying the relevant transferee’s interest to the concession amount stated in schedule 4B opposite the dutiable value of the vacant land;	11 12 13 14
	(b) the total amount worked out by, for each relevant transferee, applying the relevant transferee’s interest to transfer duty on the dutiable value of the vacant land.	15 16 17
	‘(6) For subsection (5), the relevant transferee’s interest is the proportion that the share of the relevant transferee in the whole dutiable property bears to the total of the shares of—	18 19 20
	(a) for a dutiable transaction to which this section applies under subsection (1)—all the transferees; or	21 22
	(b) for a dutiable transaction to which this section applies under subsection (2)—all the co-owners, or the owner, on completion of the transaction.’	23 24 25
Division 4	Amendments taken to have commenced on 10 September 2007	26 27
Clause 12	Amendment of s 76 (Who is a <i>qualified holder</i> and a <i>large qualified holder</i>)	28 29
	Section 76(1)—	30

[s 13]

- insert—* 1
'(e) a person of a class approved under section 76A; or 2
(f) a person approved under section 76B.' 3

Clause 13 Insertion of new ss 76A–76D 4

After section 76— 5

insert— 6

'76A Approval of class of foreign unit holders as qualified holders 7
8

'The commissioner may, by gazette notice, approve a class of 9
persons as qualified holders of units in a unit trust if the 10
commissioner is satisfied persons of that class hold the units 11
in a capacity that, under the law of a foreign country or 12
external Territory, corresponds to— 13

- (a) an entity mentioned in section 76(1)(a) other than the 14
trustee of a declared public unit trust; or 15
(b) an entity mentioned in section 76(1)(b) to (d). 16

'76B Approval of particular foreign unit holder as qualified holder 17
18

'(1) The trustee of a unit trust may apply to the commissioner for 19
the approval, for section 76(1)(f), of a stated person who holds 20
units in the trust (the *unit holder*). 21

'(2) The application must— 22
(a) be in the approved form; and 23
(b) be supported by enough information to enable the 24
commissioner to decide the application. 25

'(3) The commissioner may approve the application if satisfied the 26
unit holder holds the units in a capacity that, under the law of 27
a foreign country or external Territory, corresponds to— 28
(a) an entity mentioned in section 76(1)(a) other than the 29
trustee of a declared public unit trust; or 30

(b) an entity mentioned in section 76(1)(b) to (d).	1
‘(4) If the commissioner reasonably requires advice about a particular matter before deciding the application, the commissioner may refuse to deal further with the application until the applicant pays, or agrees to pay, the reasonable costs of obtaining the advice.	2 3 4 5 6
‘(5) The commissioner may give approval subject to conditions the commissioner considers appropriate.	7 8
<i>Example—</i>	9
A condition may state that the approval ends if there is a particular change in the circumstances of the person to whom the approval relates.	10 11
‘(6) The commissioner must give notice of the decision on the application to the applicant.	12 13
‘(7) If, because of the decision, the commissioner makes an assessment on the basis that a particular person is not approved, or is approved on stated conditions, an objection to the decision may be made as part of an objection to the assessment.	14 15 16 17 18
<i>Note—</i>	19
For objections and appeals against assessments, see the Administration Act, part 6.	20 21
‘(8) An approval takes effect on the day it is given or on the later day stated in the notice of the decision to give the approval.	22 23
‘76C Approval holders must notify commissioner of material changes	24 25
‘(1) This section applies to an approval in force under section 76B if there is a material change in the circumstances existing when the approval was given.	26 27 28
‘(2) Within 28 days after the approval holder becomes aware, or ought reasonably to have become aware, of the change, the approval holder must give the commissioner notice of the change.	29 30 31 32

[s 13]

Note—

Failure to give the notice is an offence under the Administration Act,
section 120.

‘76D Cancellation or variation of approvals

‘(1) The commissioner may, by notice to the holder of an approval
in force under section 76B, cancel the approval or vary it in a
stated way if the commissioner considers—

(a) a condition of the approval is no longer being satisfied
or complied with; or

(b) there has been a material change in the circumstances
existing when the approval was given.

‘(2) The cancellation or variation has effect on the day stated in the
notice (the *effective day*).

‘(3) The effective day may be earlier than the day the notice is
given but not earlier than the day the condition mentioned in
subsection (1)(a) stopped being satisfied or complied with or
the day of the material change in the circumstances mentioned
in subsection (1)(b).

‘(4) If, because of the decision to cancel or vary the approval, the
commissioner makes an assessment on the basis that, at a
particular time, a particular person was not approved or was
approved on stated conditions, an objection to the decision
may be made as part of an objection to the assessment.

Note—

For objections and appeals against assessments, see the Administration
Act, part 6.’

Division 5	Amendment taken to have commenced on 18 June 2007	1 2
Clause 14	Amendment of s 14 (What is the <i>unencumbered value</i> of property)	3 4
	Section 14(4), ‘that is the transfer, or agreement for the transfer, of land’—	5 6
	<i>omit, insert</i> —	7
	‘mentioned in section 9(1)(a), (b) or (d) for which the dutiable property is land’.	8 9
Division 6	Amendment taken to have commenced on 29 August 2007	10 11
Clause 15	Amendment of s 390 (Exemption—particular persons and entities)	12 13
	Section 390(1)—	14
	<i>insert</i> —	15
	‘(m) a person who has lost the use of 1 or both legs if—	16
	(i) the vehicle is for use for transport to and from the person’s place of education because the person can not use public transport; and	17 18 19
	(ii) the education is for the purpose of obtaining employment.’.	20 21
Division 7	Amendments taken to have commenced on 1 September 2008	22 23
Clause 16	Amendment of s 92 (Concession—first home)	24
	Section 92(1)(c)(i)(A), ‘\$350000’—	25

[s 17]

omit, insert— 1
'\$500000'. 2

Clause 17 Insertion of new s 610 3

Chapter 17, part 11— 4

insert— 5

'610 Application of amendment about concession for transfer duty—first home 6
7

'A reference in section 607 to a relevant provision as in force 8
on 1 September 2008 includes section 92, as amended by the 9
Revenue and Other Legislation Amendment Act (No. 2) 2008, 10
as in force on 1 September 2008.'. 11

Division 8 Amendments commencing on assent 12
13

Clause 18 Amendment of s 10 (What is *dutiable property*) 14

Section 10(1)— 15

insert— 16

Note— 17

Section 498 includes provision about references to dutiable property.'. 18

Clause 19 Amendment of s 41 (What is a *partnership acquisition*) 19

Section 41— 20

insert— 21

Note— 22

Section 498 includes provision about references to dutiable property.'. 23

Clause 20 Amendment of s 53 (Creating trust of dutiable property) 24

Section 53(2)— 25

<i>insert—</i>	1
‘ <i>Note—</i>	2
Section 498 includes provision about references to dutiable property.’	3

Clause 21	Amendment of s 69 (What is a <i>listed unit trust</i>)	4
	Section 69—	5
	<i>insert—</i>	6
	‘ <i>Note—</i>	7
	Section 498A includes provision about when the quotation of securities is suspended.’	8 9

Clause 22	Amendment of s 83 (Person’s indirect trust interest is proportionate to land holding trust’s dutiable property)	10 11
	Section 83—	12
	<i>insert—</i>	13
	‘ <i>Note—</i>	14
	Section 498 includes provision about references to dutiable property.’	15

Clause 23	Amendment of s 118 (Exemption—trust acquisition or surrender in family trust)	16 17
	Section 118(1)(a), (2)(a) and (4), definition <i>family company</i> , after ‘established’—	18 19
	<i>insert—</i>	20
	‘and maintained’.	21

Clause 24	Amendment of s 225 (Exemption—relevant acquisition in family trust)	22 23
	Section 225(1)(a) and (3), definition <i>family company</i> , after ‘established’—	24 25
	<i>insert—</i>	26
	‘and maintained’.	27

[s 25]

Clause 25	Insertion of new s 379A	1
	After section 379—	2
	<i>insert—</i>	3
	‘379A Who is a <i>relative</i>	4
	‘A <i>relative</i> of a person is any of the following—	5
	(a) the person’s spouse;	6
	(b) a parent or grandparent of the person;	7
	(c) a parent or grandparent of the person’s spouse;	8
	(d) a child, stepchild or grandchild of the person;	9
	(e) a child, stepchild or grandchild of the person’s spouse;	10
	(f) the spouse of anyone in paragraphs (b) to (e).’.	11
Clause 26	Amendment of s 385 (Exemption—registration of previously registered vehicle)	12
	Section 385(c)—	13
	<i>omit, insert—</i>	14
	‘(c) the application is made by—	15
	(i) the same person in whose name the vehicle was registered immediately before the expiry or cancellation (the <i>previous registered operator</i>); or	16
	(ii) a relative of the previous registered operator; or	17
	(iii) the previous registered operator and a relative of the previous registered operator.’.	18
Clause 27	Amendment of s 386 (Exemption—registration of interstate registered vehicle)	19
	(1) Section 386, heading, after ‘vehicle’—	20
	<i>insert—</i>	21
	‘or previously registered vehicle’.	22
	(2) Section 386(1)(a)—	23
		24
		25
		26
		27
		28

<i>omit, insert—</i>	1
‘(a) either—	2
(i) the vehicle is registered under an Act of another State that corresponds to the Vehicle Registration Act (a <i>corresponding Act</i>); or	3 4 5
(ii) the vehicle was registered under a corresponding Act and the registration expired or was cancelled under that Act; and’.	6 7 8
(3) Section 386(4)—	9
<i>omit, insert—</i>	10
‘(4) In this section—	11
<i>registered operator</i> , of a vehicle mentioned in subsection (1)(a)(ii), means the person in whose name the vehicle was registered immediately before the expiry or cancellation.’.	12 13 14

Clause 28	Amendment of s 390 (Exemption—particular persons and entities)	15 16
	Section 390(2), words after ‘gift’—	17
	<i>omit, insert—</i>	18
	‘to a relative of the registered operator.’.	19

Clause 29	Insertion of new s 393A	20
	Chapter 9, part 5—	21
	<i>insert—</i>	22
‘393A	Reassessment—noncomplying use by vehicle dealer	23 24
	‘(1) This section applies if—	25
	(a) vehicle registration duty is not paid on an application to register a vehicle in the name of a vehicle dealer, or to transfer a vehicle to a vehicle dealer, on the basis of an exemption under section 389; and	26 27 28 29

[s 30]

(b) the vehicle stops being trading stock, or stops being used as a demonstrator, other than because of a sale of the vehicle in the ordinary course of business. 1
2
3

‘(2) Within 28 days after the event mentioned in subsection (1)(b) happens, the vehicle dealer must give notice in the approved form to the commissioner. 4
5
6

Note— 7

Failure to give the notice is an offence under the Administration Act, section 120. 8
9

‘(3) The commissioner must make a reassessment to impose vehicle registration duty on the application to register or transfer the vehicle as if the exemption from duty had never applied. 10
11
12
13

Note— 14

Unpaid tax interest and penalty tax may be payable under the Administration Act, part 5. 15
16

‘(4) For subsection (1)(b), the vehicle is taken to stop being trading stock, or stop being used as a demonstrator, on the day that is the prescribed period after the registration or transfer mentioned in subsection (1)(a), unless the vehicle dealer sells the vehicle in the ordinary course of business before that day. 17
18
19
20
21

‘(5) In this section— 22

prescribed period means the period, at least 1 year, prescribed under a regulation for this section or, if no period is prescribed, 1 year.’. 23
24
25

Clause 30 Amendment of s 407 (Group property for intra-group transfer of property) 26
27

Section 407(1)(e)— 28

insert— 29

Note— 30

Section 498A includes provision about when the quotation of securities is suspended.’. 31
32

Clause 31	Amendment of s 412 (Reassessment—exemption for intra-group transfers of property, trustees and land rich duty)	1
	Section 412(4)(b)(ii)—	2
	<i>insert—</i>	3
	<i>Note—</i>	4
	Section 498A includes provision about when the quotation of securities is suspended.’	5
		6
		7
		8
Clause 32	Amendment of s 433 (Application of ch 11)	9
	(1) Section 433(1)(b)—	10
	<i>omit.</i>	11
	(2) Section 433(1)(c)—	12
	<i>renumber</i> as section 433(1)(b).	13
	(3) Section 433—	14
	<i>insert—</i>	15
	‘(3) However, despite subsection (1), this chapter does not apply in relation to a duty benefit that is attributable to an exemption or concession under this Act for duty, unless an entity entered into or carried out a scheme or part of a scheme for the sole or dominant purpose of creating a circumstance or state of affairs to which the exemption or concession would apply.	16
		17
		18
		19
		20
		21
	‘(4) For this section, for deciding what was an entity’s sole or dominant purpose for entering into or carrying out a scheme or part of a scheme, any purpose relating to eliminating, reducing or postponing a liability for a foreign tax is to be disregarded.	22
		23
		24
		25
		26
	‘(5) In this section—	27
	<i>foreign tax</i> means a tax, duty or other impost imposed under a law of another State, the Commonwealth or a jurisdiction outside Australia.’	28
		29
		30

[s 33]

Clause 33	Amendment of s 459 (Restrictions on registration)	1
	Section 459(3)—	2
	<i>omit, insert—</i>	3
	‘(3) Also, an institution may be registered if its principal object or pursuit—	4
	(a) is fulfilling a charitable object or promoting the public good; and	5
	(b) is not a leisure, recreational, social or sporting object or pursuit.’	6
		7
		8
		9
Clause 34	Insertion of new s 463A	10
	After section 463—	11
	<i>insert—</i>	12
	‘463A Notice of ceasing to be entitled to registration	13
	‘Within 28 days after an exempt institution ceases to be entitled to be registered under section 459, it must give written notice to the commissioner.	14
		15
		16
	<i>Note—</i>	17
	Failure to give the notice is an offence under the Administration Act, section 120.’	18
		19
Clause 35	Insertion of new s 471EA	20
	After section 471E—	21
	<i>insert—</i>	22
	‘471EA Liability not discharged until commissioner receives payment	23
		24
	‘(1) This section applies to the liability of a liable party to the instrument or transaction to pay an amount of duty, assessed interest or penalty tax on the instrument or transaction.	25
		26
		27
	‘(2) The liability is not discharged until the amount is paid to the commissioner.	28
		29

‘(3) Subsection (2) applies even though the liable party has paid the amount to the self assessor.’. 1
2

Clause 36 Insertion of new s 498A 3

After section 498— 4

insert— 5

‘498A Suspension of quotation of securities as part of an avoidance arrangement 6
7

‘(1) This section applies to securities quoted on the market operated by a recognised stock exchange if the quotation of the securities is suspended. 8
9
10

‘(2) The commissioner may regard the securities as not being quoted on the market during the period of the suspension if the suspension is part of an arrangement to avoid the imposition of duty. 11
12
13
14

‘(3) In this section— 15
security includes a share and a unit in a unit trust.’. 16

Clause 37 Insertion of new s 611 17

Chapter 17— 18

insert— 19

‘611 Reassessment of vehicle registration duty under s 393A 20
21

‘Section 393A does not apply in relation to an application to register a vehicle in the name of a vehicle dealer, or to transfer a vehicle to a vehicle dealer, made before the commencement day. 22
23
24
25

‘612 Non-application of s 471EA to liabilities arising before commencement day 26
27

‘Section 471EA does not apply to a liability to pay an amount of duty, assessed interest or penalty tax that arose before the commencement day.’. 28
29
30

[s 38]

Clause 38	Amendment of sch 6 (Dictionary)	1
	(1) Schedule 6—	2
	<i>insert—</i>	3
	‘ <i>relative</i> , for chapter 9, see section 379A.’.	4
	(2) Schedule 6, definition <i>Queensland marketable security</i> , section 2—	5 6
	<i>insert—</i>	7
	‘ <i>Note—</i>	8
	Section 498A includes provision about when the quotation of securities is suspended.’.	9 10
	(3) Schedule 6, definition <i>unlisted corporation—</i>	11
	<i>insert—</i>	12
	‘ <i>Note—</i>	13
	Section 498A includes provision about when the quotation of securities is suspended.’.	14 15
Division 9	Amendments commencing on 1 January 2009	16 17
Clause 39	Amendment of s 153 (Reassessment—disposal after occupation date for residence)	18 19
	Section 153(1)(b), after ‘land’—	20
	<i>insert—</i>	21
	‘, other than because of an intervening event,’.	22
Clause 40	Amendment of s 154 (Reassessment—noncompliance with occupancy requirements)	23 24
	(1) Section 154(1)(b)—	25
	<i>omit, insert—</i>	26
	‘(b) either of the following happens other than because of an intervening event—	27 28

-
- (i) a transferee disposes of the land before the occupation date; 1
2
- (ii) a transferee's occupation date for the residence on the land is not within— 3
4
- (A) if the dutiable transaction related to residential land—1 year after the transfer date for the land; or 5
6
7
- (B) if the dutiable transaction related to vacant land—2 years after the transfer date for the land.' 8
9
10
- (2) Section 154(2), (2A), (2B) and (4)(b), 'subsection (1)(b)'— 11
omit, insert— 12
'subsection (1)(b)(i)'. 13

Clause 41 Amendment of s 291 (Reassessment—concession under pt 6) 14
15

- (1) Section 291(1), after 'happen'— 16
insert— 17
'other than because of an intervening event'. 18
- (2) Section 291(1)(b), 'other than because of an intervening event,'— 19
20
omit. 21

Clause 42 Amendment of sch 6 (Dictionary) 22

- Schedule 6, definition *intervening event*, paragraph (b), 'section 154 or 291 apply'— 23
24
omit, insert— 25
'section 153, 154 or 291 applies'. 26

[s 43]

Part 3	Amendment of Electricity Act 1994	1
		2
Clause 43	Act amended in pt 3	3
	This part amends the <i>Electricity Act 1994</i> .	4
Clause 44	Insertion of new s 91AA	5
	Chapter 4, part 2, division 2—	6
	<i>insert—</i>	7
	‘91AA Provision for compliance with decisions about notified prices	8
		9
	‘(1) This section applies if—	10
	(a) the pricing entity decides or purports to decide notified prices (the <i>decided prices</i>); and	11
		12
	(b) the decided prices are, for whatever reason, quashed, set aside or declared or ordered to be of no effect in a proceeding.	13
		14
		15
	‘(2) Despite any matter mentioned in subsection (1)(b), for section 90A and any other provision of this Act, the decided prices—	16
		17
	(a) are taken to have, since the making of the decision or purported decision, always been notified prices; and	18
		19
	(b) continue in force as if they were notified prices until the pricing entity decides new notified prices.’.	20
		21
Part 4	Amendment of First Home Owner Grant Act 2000	22
		23
Clause 45	Act amended in pt 4	24
	This part amends the <i>First Home Owner Grant Act 2000</i> .	25

Clause 46	Amendment of s 5 (Meaning of <i>eligible transaction</i>)	1
	Section 5—	2
	<i>insert—</i>	3
	‘(6) Also, a transaction is not an eligible transaction if the consideration for the transaction is \$1m or more.	4 5
	‘(7) Also, a contract mentioned in subsection (1)(a) is not an eligible transaction if the total of the following—	6 7
	(a) the unencumbered value of the home;	8
	(b) the unencumbered value of the relevant interest in the land, on which the home is built or to be built, at the commencement date for the contract;	9 10 11
	is \$1m or more.	12
	‘(8) Also, a contract mentioned in subsection (1)(b) to have a home built on land is not an eligible transaction if the total of the following—	13 14 15
	(a) the consideration for the transaction;	16
	(b) the unencumbered value of the land at the commencement date for the contract;	17 18
	is \$1m or more.	19
	‘(9) Also, a transaction mentioned in subsection (1)(c) is not an eligible transaction if the total of the following—	20 21
	(a) the consideration for the transaction;	22
	(b) the unencumbered value of the land, on which the home is to be built, at the commencement date for the transaction;	23 24 25
	is \$1m or more.’	26
Clause 47	Insertion of new s 8A	27
	After section 8—	28
	<i>insert—</i>	29

[s 48]

‘8A	Meaning of <i>unencumbered value</i>	1
‘(1)	The <i>unencumbered value</i> of property is the value of the property determined without regard to—	2 3
	(a) any encumbrance to which the property is subject, whether contingently or otherwise; or	4 5
	(b) any arrangement—	6
	(i) the parties to which are not dealing with each other at arm’s length; and	7 8
	(ii) that results in the reduction of the value of the property; or	9 10
	(c) any arrangement for which a significant purpose of any party to the arrangement was, in the commissioner’s opinion, the reduction of the value of the property.	11 12 13
‘(2)	Also, the <i>unencumbered value</i> of property held by a person on trust as guardian for another person who is under a legal disability must be determined without regard to the liabilities of the trust, including the liability to indemnify the trustee.	14 15 16 17
‘(3)	In this section—	18
	<i>property</i> means—	19
	(a) a home; or	20
	(b) land; or	21
	(c) a relevant interest in land.’.	22
Clause 48	Insertion of new s 22A	23
	After section 22—	24
	<i>insert—</i>	25
‘22A	Repayment of grant after completion of particular transactions	26 27
‘(1)	This section applies if—	28
	(a) a first home owner grant is paid before the completion of a relevant transaction; and	29 30

- (b) on completion of the transaction— 1
 - (i) the unencumbered value of the home the subject of 2
the transaction results in the transaction not being 3
an eligible transaction under section 5(7); or 4
 - (ii) the consideration for the transaction results in the 5
transaction not being an eligible transaction under 6
section 5(8) or (9). 7
- ‘(2) The applicant for the grant must within 28 days after 8
completion of the transaction— 9
 - (a) give written notice to the commissioner that the 10
transaction is not an eligible transaction; and 11
 - (b) repay the amount of the grant. 12Maximum penalty—40 penalty units. 13
- ‘(3) For a joint application, each applicant is individually liable to 14
comply with the requirements under subsection (2)(a) and (b), 15
but compliance by any one or more of them must be regarded 16
as compliance by both or all. 17
- ‘(4) In this section— 18
 - relevant transaction* means— 19
 - (a) a contract mentioned in section 5(1)(b) to have a home 20
built on land; or 21
 - (b) a transaction mentioned in section 5(1)(c); or 22
 - (c) a contract mentioned in section 5(2)(b).’. 23

Clause 49 Replacement of pt 3, div 5 24

Part 3, division 5— 25

omit, insert— 26

‘Division 5 Special eligible transactions 27

‘25A Meaning of *new home* for div 5 28

‘(1) A *new home* is a home that— 29

[s 49]

- (a) has not been previously occupied or sold as a place of residence; or
 - (b) is a substantially renovated home.
- ‘(2) For subsection (1)(b), a home is a substantially renovated home if—
- (a) the home is the subject of a contract for the purchase of the home; and
 - (b) the sale of the home under the contract is, under the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth), a taxable supply as a sale of new residential premises as defined under section 40-75(1)(b) of that Act; and
 - (c) the home, as renovated, has not been previously occupied or sold as a place of residence.

‘25B Meaning of *special eligible transaction* for div 5

- ‘(1) A *special eligible transaction* is an eligible transaction the commencement date for which is between 14 October 2008 and 30 June 2009, both dates inclusive, that is—
- (a) a contract for the purchase of a home; or
 - (b) a comprehensive home building contract for a new home if—
 - (i) the building work starts within the prescribed start period or within the longer period the commissioner allows in particular circumstances; and
 - (ii) the contract states the building work must be completed within the prescribed building period or, if the contract does not state a completion date for the building work, it is completed—
 - (A) within the prescribed building period; or
 - (B) within the longer period the commissioner allows in particular circumstances; or

-
- (c) the building of a new home by an owner builder if the eligible transaction is completed within the prescribed building period or within the longer period the commissioner allows in particular circumstances.
- ‘(2) However, an eligible transaction mentioned in subsection (1)(a) that is a contract to purchase a new home on a proposed lot on an unregistered plan of subdivision of land is a special eligible transaction only if the contract states the building work must be completed before the prescribed completion date or, if the contract does not state a completion date for the building work, it is completed before the prescribed completion date.
- ‘(3) Also, an eligible transaction that is a contract is not a special eligible transaction if the commissioner is satisfied the contract forms part of a scheme to circumvent limitations on, or requirements affecting, eligibility or entitlement to a first home owner grant for a special eligible transaction.
- ‘(4) Unless satisfied to the contrary, the commissioner must presume the existence of a scheme mentioned in subsection (3) if the contract replaces a contract made before 14 October 2008 that is—
- (a) a contract to purchase the same or substantially similar home; or
- (b) a comprehensive home building contract to build the same or a substantially similar home.
- ‘(5) For this section, building work—
- (a) starts when laying the foundations for the home starts; and
- (b) is completed when the building is ready for occupation as a home and any completion requirements prescribed under a regulation are complied with.
- ‘(6) In this section—
- prescribed building period*, for building work, means the period starting on the date the work is started and ending 18 months after it is started.

[s 50]

prescribed completion date means 31 December 2010. 1

prescribed start period, for building work, means the period 2
starting on the commencement date and ending 26 weeks after 3
that date. 4

'25C Amount of grant 5

'(1) Despite section 20, the amount of a first home owner grant for 6
an eligible transaction that is a special eligible transaction for 7
a new home is the lesser of the following— 8

(a) the consideration for the transaction; 9

(b) \$21000. 10

'(2) Despite section 20, the amount of a first home owner grant for 11
an eligible transaction that is a special eligible transaction for 12
a home, other than a new home, is the lesser of the 13
following— 14

(a) the consideration for the transaction; 15

(b) \$14000.'. 16

Clause 50 Amendment of s 32 (Powers on investigation) 17

Section 32(1)— 18

omit, insert— 19

'(1) For carrying out an authorised investigation, the 20
commissioner may, by written notice, require a person to do 21
one or more of the following— 22

(a) give the commissioner written information stated in the 23
notice; 24

(b) attend at a stated time and place before the 25
commissioner, or a stated authorised officer, to answer 26
questions relevant to the investigation; 27

(c) produce a document relevant to the investigation to the 28
commissioner at a reasonable stated time and place.'. 29

Clause 51	Insertion of new s 51A	1
	Part 4, division 3—	2
	<i>insert—</i>	3
'51A	Court may order repayment etc.	4
	'(1) This section applies if—	5
	(a) a first home owner grant is paid to a person; and	6
	(b) the person is convicted by a court for a contravention of section 22(5), 22A(2), 23(4), 42(1) or 43(1) in relation to the grant.	7 8 9
	'(2) The court may order the person to repay the grant.	10
	'(3) Also, the court may order the person to pay the commissioner twice the grant amount if it is satisfied the circumstances of the contravention form part of a scheme to circumvent limitations on, or requirements affecting, eligibility or entitlement to a first home owner grant.	11 12 13 14 15
	'(4) This section does not limit the court's powers under the <i>Penalties and Sentences Act 1992</i> or any other law.'	16 17
Clause 52	Amendment of s 68 (Offence to disclose confidential information)	18 19
	(1) Section 68(2), 'subsection (3)'—	20
	<i>omit, insert—</i>	21
	'subsection (3) or (4)'.	22
	(2) Section 68(3)(d)—	23
	<i>omit, insert—</i>	24
	'(d) for a legal proceeding under this Act.'	25
	(3) Section 68(3A) and (4)—	26
	<i>renumber</i> as section 68(6) and (7).	27
	(4) Section 68—	28
	<i>insert—</i>	29

[s 53]

- ‘(4) Also, if the commissioner becomes aware, from information 1
obtained or held by the commissioner in the course of 2
administering this Act, of a particular offence or suspected 3
offence (whether against this Act or another law), the 4
commissioner may disclose confidential information about 5
the offence or suspected offence to a member of the 6
Queensland Police Service or the Australian Federal Police 7
for an investigation or proceeding (including for starting an 8
investigation or proceeding). 9
- ‘(5) For a proceeding other than a legal proceeding under this Act, 10
the person can not be compelled to disclose to a court or to a 11
party— 12
- (a) confidential information; or 13
- (b) whether or not the person has received particular 14
confidential information; or 15
- (c) the identity of the source of particular confidential 16
information.’. 17
- (5) Section 68(7), as renumbered, definition *confidential* 18
information— 19
omit, insert— 20
- ‘*confidential information* means information held by the 21
commissioner, including information given under section 16, 22
that relates to a particular application for a first home owner 23
grant.’. 24

Clause 53 Insertion of new s 69B 25

After section 69A— 26

insert— 27

‘69B Valuation or evidence of value of property 28

- ‘(1) For determining whether a transaction is an eligible 29
transaction, the commissioner may— 30
- (a) by notice given to a relevant person, require the person 31
to lodge a valuation of property prepared by a registered 32

-
- valuer or to provide the other evidence of value the
commissioner considers appropriate; or
- (b) have property valued; or
- (c) rely on a valuation of property prepared by a registered
valuer, or other person the commissioner is satisfied is
properly qualified to provide evidence of value of the
property.
- ‘(2) If the commissioner is not satisfied with the valuation or
evidence lodged or provided under subsection (1)(a), the
commissioner may—
- (a) have the property valued; or
- (b) rely on a valuation of the property prepared by a
registered valuer, or another person the commissioner is
satisfied is properly qualified to provide evidence of
value of the property.
- ‘(3) The commissioner may recover the cost of obtaining a
valuation under this section from the relevant person.
- ‘(4) In this section—
- property*** means—
- (a) a home; or
- (b) land; or
- (c) a relevant interest in land.
- registered valuer*** means a valuer registered under the *Valuers
Registration Act 1992*.
- relevant person*** means—
- (a) an applicant for a first home owner grant in relation to
the transaction; or
- (b) a former applicant for a first home owner grant in
relation to the transaction.’.
-

[s 54]

Clause 54	Insertion of new pt 8	1
	After section 72—	2
	<i>insert—</i>	3
‘Part 8	Transitional provisions for Revenue and Other Legislation Amendment Act (No. 2) 2008	4 5 6
‘73	Continuing operation of Act for particular eligible transactions	7 8
	‘(1) This Act continues to apply in relation to a relevant application as if this Act had not been amended by part 4 of the amending Act, other than sections 49, 50 and 52.	9 10 11
	‘(2) In this section—	12
	<i>amending Act</i> means the <i>Revenue and Other Legislation Amendment Act (No. 2) 2008</i> .	13 14
	<i>relevant application</i> means an application for a first home owner grant, if the commencement date for the eligible transaction to which the application relates is a date earlier than 1 January 2009.	15 16 17 18
‘74	Transitional provision for particular approved form	19
	‘(1) This section applies to the first publication in the gazette, on or after the commencement of this section, of a notice under the <i>Statutory Instruments Act 1992</i> , section 58(6)(a) relating to the approval or availability of a relevant form.	20 21 22 23
	‘(2) The publication is taken to have been effective on and from 14 October 2008.	24 25
	‘(3) In this section—	26
	<i>relevant form</i> means a form for making an application for a first home owner grant for a special eligible transaction.	27 28
	<i>special eligible transaction</i> see section 25B.’.	29

Clause 55	Amendment of schedule (Dictionary)	1
	Schedule—	2
	<i>insert</i> —	3
	‘ <i>new home</i> , for part 3, division 5, see section 25A(1).	4
	<i>special eligible transaction</i> , for part 3, division 5, see section 25B(1).	5
	<i>unencumbered value</i> see section 8A.’.	6
		7
Part 5	Amendment of Fuel Subsidy Act 1997	8
		9
Clause 56	Act amended in pt 5	10
	This part amends the <i>Fuel Subsidy Act 1997</i> .	11
Clause 57	Amendment of s 141 (Confidentiality of information)	12
	(1) Section 141(1), after ‘gained’—	13
	<i>insert</i> —	14
	‘or held’.	15
	(2) Section 141(3A) and (4)—	16
	<i>renumber</i> as section 141(5) and (6).	17
	(3) Section 141—	18
	<i>insert</i> —	19
	‘(4) Also, if the commissioner becomes aware, from information obtained or held by the commissioner in the course of administering this Act, of a particular offence or suspected offence (whether against this Act or another law), subsection (1) does not apply to the disclosure of information about the offence or suspected offence to a member of the Queensland Police Service or the Australian Federal Police for an	20
		21
		22
		23
		24
		25
		26

[s 58]

investigation or proceeding (including for starting an
investigation or proceeding).’ 1
2

Clause 58 Insertion of new s 141A 3

After section 141— 4

insert— 5

‘141A Refusal to disclose particular information 6

‘(1) This section applies to a person in relation to information 7
(*confidential information*) concerning someone else’s affairs 8
gained or held by the person in performing functions or 9
exercising powers under this Act. 10

‘(2) The person can not be compelled to disclose to a court in a 11
proceeding, or to a party to the proceeding— 12

(a) confidential information; or 13

(b) whether or not the person has received particular 14
confidential information; or 15

(c) the identity of the source of particular confidential 16
information. 17

‘(3) Subsection (2) does not apply to a proceeding for the 18
administration or enforcement of this Act. 19

‘(4) In this section— 20

information includes a document.’. 21

**Part 6 Amendment of Government 22
Owned Corporations Act 1993** 23

Clause 59 Act amended in pt 6 24

This part amends the *Government Owned Corporations Act* 25
1993. 26

Clause 60	Replacement of s 146 (Appointment of senior executives)	1
	Section 146—	2
	<i>omit, insert—</i>	3
‘146	Appointment of senior executives	4
	‘The senior executives of a GOC are to be appointed by the GOC’s board.’.	5
		6
Part 7	Amendment of Integrated Planning Act 1997	7
		8
Clause 61	Act amended in pt 7	9
	This part amends the <i>Integrated Planning Act 1997</i> .	10
Clause 62	Insertion of new ch 6, pt 9	11
	After section 6.8.13—	12
	<i>insert—</i>	13
‘Part 9	Transitional provision for amendments under Revenue and Other Legislation Amendment Act (No. 2) 2008	14
		15
		16
		17
‘6.9.1	Provision for particular development applications	18
	‘(1) Subsection (2) applies to a development application that—	19
	(a) was made before 31 March 2008 (whether or not the application was decided before 31 March 2008); and	20
		21
	(b) was a properly made application.	22
	‘(2) Schedule 8, part 1, table 5, item 2A as in force on or after 31 March 2008 does not apply to the development application.	23
		24

[s 63]

- ‘(3) Subsection (4) applies to a development application that— 1
 - (a) was made after 30 March 2008 and before the 2
 - commencement (whether or not the application was 3
 - decided before the commencement); and 4
 - (b) was a properly made application. 5
- ‘(4) Schedule 8, part 1, table 5, item 2A as in force on or after the 6
 - commencement applies to the development application. 7
- ‘(5) Subsection (2) applies despite section 1.4.8. 8
- ‘(6) In this section— 9
 - commencement* means the day this section commences.’. 10

Clause 63 Amendment of sch 8 (Assessable development and self-assessable development) 11
 12
 Schedule 8, part 1, table 5, item 2A— 13
omit, insert— 14

Development on local heritage place	
‘2A	All aspects of development on a local heritage place, other than— <ul style="list-style-type: none"> (a) development that is self-assessable development under part 2, item 1; or (b) development to which chapter 5, part 6 applies; or (c) development carried out by the State on designated land; or (d) development mentioned in schedule 9.’.

Part 8	Amendment of Land Tax Act 1915	1
		2
Division 1	Preliminary	3
Clause 64	Act amended in pt 8	4
	This part amends the <i>Land Tax Act 1915</i> .	5
Division 2	Amendment about secrecy	6
Clause 65	Amendment of s 4A (Secrecy)	7
	(1) Section 4A(1AA)—	8
	<i>renumber</i> as section 4A(2).	9
	(2) Section 4A(1AB), ‘subsection (1AA)’—	10
	<i>omit, insert</i> —	11
	‘subsection (2)’.	12
	(3) Section 4A(1AB)(a), ‘subsection (1AA)(a) or (b)’—	13
	<i>omit, insert</i> —	14
	‘subsection (2)(a) or (b)’.	15
	(4) Section 4A(1AB)(b), ‘subsection (1AA)(c)’—	16
	<i>omit, insert</i> —	17
	‘subsection (2)(c)’.	18
	(5) Section 4A(1AB) to (3)—	19
	<i>renumber</i> as section 4A(4) to (9).	20
	(6) Section 4A—	21
	<i>insert</i> —	22
	‘(3) Also, if the commissioner becomes aware, from information	23
	obtained or held by the commissioner in the course of	24

[s 66]

administering this Act, of a particular offence or suspected 1
offence (whether against this Act or another law), subsection 2
(1) does not apply to the disclosure of information about the 3
offence or suspected offence to a member of the Queensland 4
Police Service or the Australian Federal Police for an 5
investigation or proceeding (including for starting an 6
investigation or proceeding).’ 7

Division 3 Other amendments 8

Clause 66	Amendment of s 3 (Definitions)	9
	Section 3—	10
	<i>insert—</i>	11
	‘ <i>residential care</i> see the <i>Aged Care Act 1997</i> (Cwlth), section 12 41-3. 13	
	<i>residential care service</i> see the <i>Aged Care Act 1997</i> (Cwlth), 14 schedule 1.’. 15	
Clause 67	Amendment of s 3E (When land is a principal place of residence)	16 17
	Section 3E—	18
	<i>insert—</i>	19
	‘(1A) Subsection (1)(a) applies subject to section 3EAA.’. 20	
Clause 68	Insertion of new s 3EAA	21
	After section 3E—	22
	<i>insert—</i>	23
	‘3EAA Land not continuously used for residential purposes	24
	‘(1) This section states the circumstances in which land is taken to 25 be used as the principal place of residence of a person despite 26 the land not being continuously used for residential purposes 27	

-
- by the person during the period (the *relevant period*) 1
mentioned in section 3E(1)(a). 2
- ‘(2) The land is taken to be used as the principal place of residence 3
of the person during the relevant period if during the whole or 4
part of the period— 5
- (a) the person resided at a hospital as an inpatient of the 6
hospital; or 7
- (b) the person received residential care at a residential care 8
service; or 9
- (c) the person resided on other land that is not owned by the 10
person with, and was under the care of, someone else. 11
- ‘(3) Subject to subsection (4), subsection (2) does not apply if 12
income has been derived from the use of the land during the 13
period of 1 year (the *1 year period*) immediately preceding the 14
time when the ownership of land for the purposes of this Act 15
is determined. 16
- ‘(4) Income may be derived from the use of the land during the 1
year period only if— 18
- (a) the income is derived from a lease, licence or other 19
arrangement under which a person has a right to occupy 20
the land and the total period for which the right of 21
occupation is conferred is not more than 6 months of the 22
1 year period; or 23
- (b) the income is derived from a lease, licence or other 24
arrangement under which a person has a right to occupy 25
the land, and the income is not more than is reasonably 26
required to cover the following— 27
- (i) rates and other charges levied on the land by the 28
local government for the land; 29
- (ii) maintenance expenses for the land. 30
- ‘(5) The maximum period for which a person may be taken under 31
subsection (2) to use land as the principal place of residence 32
of the person is 6 years starting at the end of the last period of 33
at least 6 consecutive months during which the land was 34

[s 69]

actually used as the principal place of residence of the
person.’. 1
2

Clause 69	Amendment of s 13 (Land exempted from tax)	3
(1)	Section 13(1)—	4
	<i>insert—</i>	5
	‘(m) land on which an aged care facility is located.’.	6
(2)	Section 13(5)—	7
	<i>insert—</i>	8
	‘ <i>aged care facility</i> means a facility at which residential care is provided by an approved provider.	9 10
	<i>approved provider</i> see the <i>Aged Care Act 1997</i> (Cwlth), schedule 1.’.	11 12

Clause 70	Amendment of s 26C (Liability of owner who subdivides certain land)	13 14
	Section 26C—	15
	<i>insert—</i>	16
‘(1A)	Subsection (1) does not apply if—	17
	(a) the owner of the land has used it as the owner’s principal place of residence during the relevant period; and	18 19
	(b) the land has been subdivided by the owner into not more than 5 allotments (the <i>subdivided allotments</i>) in the financial year starting immediately after the end of the relevant period.	20 21 22 23
‘(1B)	Despite subsection (1A), subsection (1) continues to apply if—	24 25
	(a) the owner subdivides any of the subdivided allotments within 5 years after the day of the original subdivision (the <i>relevant period</i>); and	26 27 28

[s 74]

Clause 74	Amendment of s 142AE (Application of div 6)	1
	Section 142AE(4)(b)—	2
	<i>insert—</i>	3
	‘(vii)licensed premises at the Queensland Performing Arts Centre, Queensland Cultural Centre, corner of Grey and Melbourne Streets, South Brisbane; and’.	4 5 6
Clause 75	Insertion of new s 153A	7
	After section 153—	8
	<i>insert—</i>	9
	‘153A Sale, supply or consumption of liquor in car park	10
	‘(1) This section applies if licensed premises include a car park.	11
	‘(2) The licensee must not, without the chief executive’s approval—	12 13
	(a) sell or supply liquor in the car park; or	14
	(b) allow liquor to be consumed in the car park.	15
	Maximum penalty—25 penalty units.’.	16
Clause 76	Omission of s 215A (Refund of fees—general)	17
	Section 215A—	18
	<i>omit.</i>	19

Part 10	Amendment of Liquor and Other Acts Amendment Act 2008	1 2 3
Clause 77	Act amended in pt 10	4
	This part amends the <i>Liquor and Other Acts Amendment Act 2008</i> .	5 6
	<i>Editor's note—</i>	7
	The legislation ultimately amended by this part is the <i>Liquor Act 1992</i> .	8
Clause 78	Amendment of s 13 (Replacement of pt 4 (Licences and permits))	9 10
	Section 13, new sections 76(2) and 80(2), 'primary purpose'—	11 12
	<i>omit, insert—</i>	13
	'principal activity'.	14
Clause 79	Amendment of s 14 (Amendment of s 105 (Requirements for applications))	15 16
	Section 14, new section 105(5)—	17
	<i>insert—</i>	18
	'(f) an application by a licensee for an approval to sell or supply liquor, or allow liquor to be consumed, in a car park of the licensed premises.'.	19 20 21
Clause 80	Amendment of s 23 (Insertion of new pt 5, div 4A)	22
	Section 23, new section 141C(2), '(1)(c)'—	23
	<i>omit, insert—</i>	24
	'(1)(b)'.	25

[s 81]

Clause 81	Omission of s 37 (Amendment of s 215A (Refund of fees—general))	1 2
	Section 37—	3
	<i>omit.</i>	4
Clause 82	Amendment of sch 1 (Consequential and other amendments of Acts)	5 6
	(1) Schedule 1, amendments of the <i>Liquor Act 1992</i> , amendment 33—	7 8
	<i>omit.</i>	9
	(2) Schedule 1, amendments of the <i>Liquor Act 1992</i> , amendment 41—	10 11
	<i>omit, insert—</i>	12
‘41	Section 162—	13
	<i>omit, insert—</i>	14
‘162	Taking liquor onto or away from premises subject to subsidiary on-premises licence	15 16
	‘(1) A person must not take liquor onto premises to which a subsidiary on-premises licence relates for consumption on the premises, unless the premises are premises mentioned in section 67A.	17 18 19 20
	Maximum penalty—25 penalty units.	21
	‘(2) Subject to subsections (3) to (5), a person must not take liquor from premises to which a subsidiary on-premises licence relates.	22 23 24
	Maximum penalty—25 penalty units.	25
	‘(3) Subsection (2) does not apply if—	26
	(a) the premises are premises mentioned in section 67A; and	27 28
	(b) either of the following applies—	29

[s 86]

- (3) Schedule, definition *corresponding law*, paragraph (b), ‘, but does not include the Commonwealth Act’— 1
2
omit. 3

Part 12 **Amendment of Petroleum and Gas (Production and Safety) Act 2004** 4
5
6

- Clause 86** **Act amended in pt 12** 7
This part amends the *Petroleum and Gas (Production and Safety) Act 2004*. 8
9

- Clause 87** **Insertion of new ch 6, pt 5** 10
Chapter 6— 11
insert— 12

‘Part 5 **Disclosure and confidentiality** 13

‘617A **When Minister may disclose** 14

- ‘(1) The Minister may disclose personal confidential information relating to the administration of this chapter— 15
16
(a) to the person to whom the information relates or, if either of the following apply, to someone else— 17
18
(i) with the consent, express or implied, of the person to whom the information relates; 19
20
(ii) who the Minister reasonably believes is acting for the person to whom the information relates; or 21
22
(b) if the disclosure is expressly permitted or required under an Act; or 23
24

-
- (c) to the extent necessary to perform the Minister’s functions under or relating to the administration or enforcement of this chapter; or
- (d) to a person for the administration or enforcement of this chapter; or
- (e) for any legal proceeding relating to this chapter.
- ‘(2) Also, the Minister may disclose other confidential information to any person, or for any purpose, the Minister is satisfied is appropriate in the circumstances.
- ‘(3) This section does not create a right in any person to be given personal confidential information.
- ‘(4) In this section—
- personal confidential information* means confidential information that—
- (a) is not publicly available; and
- (b) identifies, or is likely to identify, a person or discloses matters about a person’s affairs.
- ‘617B Confidentiality**
- ‘(1) This section applies to a person who—
- (a) is or has been a public service officer or engaged to perform functions under this Act; and
- (b) in that capacity has acquired information or has or had access to, or custody of, a document containing information relating to the administration of this chapter that is not publicly available.
- ‘(2) This section also applies to a person to whom the Minister has disclosed information under section 617A, other than the person to whom the information relates.
- ‘(3) The person must not—
- (a) make a record of the information; or

[s 87]

- (b) whether directly or indirectly, divulge or communicate the information; or 1
2
- (c) use the information to benefit any person. 3
- Maximum penalty—200 penalty units or 1 year’s imprisonment. 4
5
- ‘(4) However, subsection (3) does not apply if the record is made, 6
or the information is divulged, communicated or used— 7

 - (a) to the extent necessary to perform the person’s functions 8
under or relating to this chapter; or 9
 - (b) with the consent of the person to whom the information 10
relates; or 11
 - (c) as required or permitted by law. 12

- ‘617C Refusal of disclosure of particular information 13**
- ‘(1) A person engaged in the administration or enforcement of this 14
chapter can not be compelled to disclose to a court in a 15
proceeding, or to a party to the proceeding— 16

 - (a) information disclosed under or relating to this chapter 17
(*confidential information*); or 18
 - (b) whether or not the person has received particular 19
confidential information; or 20
 - (c) the identity of the source of particular confidential 21
information. 22

- ‘(2) Subsection (1) does not apply to a proceeding for the 23
administration or enforcement of this chapter.’ 24

Part 13	Amendment of Racing Act 2002	1
Clause 88	Act amended in pt 13	2
	This part amends the <i>Racing Act 2002</i> .	3
Clause 89	Amendment of s 34 (Powers of control body for its code of racing)	4
	Section 34(1)—	5
	<i>insert—</i>	6
	‘(i) issuing race information authorities under section 113E(1).’	7
		8
		9
Clause 90	Insertion of new ch 3, pt 6	10
	Chapter 3—	11
	<i>insert—</i>	12
‘Part 6	Use of Queensland race information	13
		14
‘113A	Definitions for pt 6	15
	‘In this part—	16
	<i>betting exchange</i> see section 113B.	17
	<i>licensed wagering operator</i> means a wagering operator that holds a licence or other authority—	18
		19
	(a) under a law of a State or foreign country; or	20
	(b) issued by a control body, or a principal racing authority of another State or a foreign country;	21
		22
	authorising it to conduct a wagering business.	23
	<i>principal racing authority</i> , of another State or a foreign country, means an entity that manages a type of animal racing in the other State or foreign country.	24
		25
		26

[s 90]

<i>Queensland race information</i> means information that identifies, or is capable of identifying any of the following—	1 2
(a) the name, number or time of an intended race to be held at a race meeting at a licensed venue in Queensland;	3 4
(b) the name or number of a licensed animal that has been nominated for, or that will otherwise take part in, an intended race to be held at a race meeting at a licensed venue in Queensland;	5 6 7 8
(c) the name or number of a licensed animal that has been scratched or withdrawn from an intended race to be held at a race meeting at a licensed venue in Queensland;	9 10 11
(d) the name or number of a rider, or trainer, of a licensed animal that has been nominated for, or that will otherwise take part in, an intended race to be held at a race meeting at a licensed venue in Queensland;	12 13 14 15
(e) the outcome of a race held at a race meeting at a licensed venue in Queensland.	16 17
<i>race information authority</i> means a race information authority issued under section 113E(1).	18 19
<i>totalisator</i> see the <i>Wagering Act 1998</i> , section 8.	20
<i>wagering operator</i> means—	21
(a) a person who conducts bookmaking; or	22
(b) a person who conducts a betting exchange; or	23
(c) a person who conducts a totalisator; or	24
(d) a person who otherwise conducts a wagering business.	25
‘113B Meaning of <i>betting exchange</i>	26
‘(1) <i>Betting exchange</i> means a facility that enables persons—	27
(a) to place or accept, through the operator of the facility, wagers with other persons; or	28 29

-
- (b) to place with the operator of the facility wagers that, on acceptance, are matched with opposing wagers placed with and accepted by the operator. 1
2
3
- ‘(2) However, *betting exchange* does not include a facility that enables persons to place wagers only with a person who conducts bookmaking or a totalisator. 4
5
6
- ‘113C Use of Queensland race information 7**
- ‘A licensed wagering operator must not, whether in Queensland or elsewhere, use Queensland race information for the conduct of the operator’s wagering business, unless the operator is authorised to do so under a race information authority. 8
9
10
11
12
- Maximum penalty— 13
- (a) for a first offence—600 penalty units or 12 months imprisonment; or 14
15
- (b) for a second or subsequent offence—4000 penalty units or 5 years imprisonment. 16
17
- ‘113D Application for race information authority 18**
- ‘(1) A licensed wagering operator wishing to use Queensland race information for the conduct of the operator’s wagering business for a code of racing may apply to the control body for the code of racing for a race information authority for the code of racing. 19
20
21
22
23
- ‘(2) The application must— 24
- (a) be made in the way prescribed under a regulation; and 25
- (b) be accompanied by— 26
- (i) any application fee decided by the control body; 27
and 28
- (ii) the documents prescribed under a regulation. 29
- ‘(3) The control body must consider the application and either grant, or refuse to grant, the application. 30
31

[s 90]

- ‘(4) In deciding the application, the control body must have regard to the criteria prescribed under a regulation. 1
2
- ‘(5) Without limiting subsection (4), the criteria that are prescribed under a regulation for that subsection may state— 3
4
- (a) the types of matters that may, or must, be taken into account by the control body in deciding the application; 5
6
or 7
- (b) the types of matters that must not be taken into account by the control body in deciding the application. 8
9
- ‘113E Decision 10**
- ‘(1) If the control body decides to grant the application, the control body must as soon as practicable issue a race information authority for the code of racing to the applicant. 11
12
13
- ‘(2) If the control body decides to refuse to grant the application, the control body must as soon as practicable give the applicant a notice stating the decision and reasons for the decision. 14
15
16
- ‘(3) If the control body decides to grant the application, the control body may impose any of the following conditions on the authority— 17
18
19
- (a) a condition that the holder of the authority pay the control body a fee for the use of Queensland race information for the conduct of the holder’s wagering business for the code of racing; 20
21
22
23
- (b) a condition of a type prescribed under a regulation. 24
- ‘(4) In deciding whether to impose a condition on the authority, or the type of condition, the control body must not take into account the matters prescribed under a regulation. 25
26
27
- ‘(5) If the applicant has used Queensland race information for the conduct of the applicant’s wagering business for the code of racing at any time during the period from 1 September 2008 to the day of issue of the authority to the applicant, a condition mentioned in subsection (3)(a) may be that the holder of the 28
29
30
31
32

authority pay a fee for the use of the information during the period.	1 2
‘(6) Without limiting subsection (4), in deciding whether to impose a condition mentioned in subsection (3)(a) on the authority, or the amount of the fee, the control body must take into account any other fees payable to it by the holder of the authority under any agreement between the control body and holder of the authority.	3 4 5 6 7 8
‘(7) If the control body decides to impose a condition mentioned in subsection (3)(a) on the authority, section 35(2) does not apply to the amount of the fee charged.	9 10 11
‘113F Cancellation of race information authority	12
‘(1) A control body that has issued a race information authority to a licensed wagering operator may, by notice given to the operator, cancel the authority on a ground prescribed under a regulation.	13 14 15 16
‘(2) A notice given under subsection (1) must state the reasons for the cancellation.	17 18
‘113G Authorisations for competition legislation	19
‘(1) The following things are specifically authorised for the competition legislation—	20 21
(a) an agreement entered into between—	22
(i) 2 or more control bodies in relation to the appointment of an agent (an <i>appointed agent</i>) to collect, or the collection by the agent or any of the bodies of, fees that are payable to the bodies under race information authorities issued by the bodies;	23 24 25 26 27
or	28
(ii) 1 or more control bodies and any corresponding body of another State in relation to the appointment of an agent (also an <i>appointed agent</i>) to collect, or the collection by the agent or any of the bodies of, fees that are payable to the bodies for	29 30 31 32 33

[s 91]

	the use of Queensland race information and corresponding information relating to the corresponding body;	1 2 3
	(b) the conduct of the bodies and an appointed agent in negotiating and entering into the agreement;	4 5
	(c) the conduct of the bodies and an appointed agent in performing the agreement.	6 7
	‘(2) Anything authorised to be done by subsection (1) is authorised only to the extent to which it would otherwise contravene the <i>Trade Practices Act 1974</i> (Cwlth) or the Competition Code of Queensland.	8 9 10 11
	‘(3) In this section— <i>agreement</i> includes a contract, arrangement or understanding. <i>competition legislation</i> means the <i>Trade Practices Act 1974</i> (Cwlth), section 51(1)(b) or the Competition Code of Queensland, section 51.’.	12 13 14 15 16
Clause 91	Amendment of s 143 (Way control body may take or deal with a thing for analysis)	17 18
	Section 143(3)—	19
	<i>insert</i> —	20
	‘ <i>Note</i> —	21
	See section 352A (Integrity of analysis of thing).’.	22
Clause 92	Insertion of new s 352A	23
	After section 352—	24
	<i>insert</i> —	25
	‘352A Integrity of analysis of thing	26
	‘(1) This section applies to any of the following decisions—	27
	(a) a decision of a control body about taking disciplinary action relating to a licence, which action is reliant on a	28 29

[s 94]

Clause 94	Insertion of new pt 11, div 4	1
	After section 128—	2
	<i>insert—</i>	3
‘Division 4	Transitional provision for Revenue and Other Legislation Amendment Act (No. 2) 2008	4
		5
		6
‘129	Amendment of by-law	7
	‘The amendment of the <i>South Bank Corporation By-law 2004</i>	8
	by the <i>Revenue and Other Legislation Amendment Act (No. 2) 2008</i>	9
	does not affect the power of the Governor in Council to	10
	approve any further amendment of the by-law, or the repeal of	11
	the by-law, by the corporation.’	12
Part 15	Amendment of South Bank Corporation By-law 2004	13
		14
Clause 95	By-law amended in pt 15	15
	This part amends the <i>South Bank Corporation By-law 2004</i> .	16
Clause 96	Replacement of s 6 (Site notices—controlling drinking, entry to a place and other activities)	17
	Section 6—	18
	<i>omit, insert—</i>	19
		20
‘6	Site notice—controlling entry to a place and activities etc.	21
		22
	‘(1) For the purposes of the Act, the corporation may, by site notice—	23
		24
	(a) indicate the entitlement of persons to enter a place on the site; or	25
		26

	<i>Example—</i>	1
	A site notice may indicate an unauthorised person must not enter a place.	2 3
	(b) control the activities, conduct or behaviour of persons on the site.	4 5
	‘(2) A person must comply with a site notice under subsection (1) unless the person has a reasonable excuse.	6 7
	Maximum penalty for subsection (2)—4 penalty units.’.	8
Part 16	Amendment of South East Queensland Water (Restructuring) Act 2007	9 10 11
Clause 97	Act amended in pt 16	12
	This part amends the <i>South East Queensland Water (Restructuring) Act 2007</i> .	13 14
Clause 98	Amendment of s 26 (Disclosure of interests)	15
	(1) Section 26(7)— <i>renumber</i> as section 26(8).	16 17
	(2) Section 26— <i>insert—</i>	18 19
	‘(7) If there are no members who may remain present for considering or deciding an issue, the responsible Ministers may, by each signing consent to a proposed resolution, consider and decide the issue.’.	20 21 22 23

[s 99]

Clause 99	Replacement of s 33 (Appointment of senior executives)	1
	Section 33—	2
	<i>omit, insert—</i>	3
‘33	Appointment of senior executives	4
	‘The senior executives of a new water entity are to be appointed by the new water entity’s board.’	5
		6
Clause 100	Amendment of s 65 (Water entities)	7
	Section 65(1)(d), after ‘Company’—	8
	<i>insert—</i>	9
	‘Pty’.	10
Part 17	Amendment of State Development and Public Works Organisation Act 1971	11
		12
		13
Clause 101	Act amended in pt 17	14
	This part amends the <i>State Development and Public Works Organisation Act 1971</i> .	15
		16
Clause 102	Amendment of s 2 (Definitions)	17
	Section 2, ‘the schedule’—	18
	<i>omit, insert—</i>	19
	‘schedule 2’.	20

Clause 103	Insertion of new pt 4, div 1A	1
	Part 4—	2
	<i>insert—</i>	3
'Division 1A	Coordinator-General's costs of environmental coordination process	4 5
'25A	Fees for pt 4	6
	'(1) An application under this part must be accompanied by the relevant application fee stated in schedule 1.	7 8
	'(2) The Coordinator-General must refuse to receive the application unless the fee has been paid.	9 10
	'(3) The proponent for a significant project must pay the Coordinator-General the fees stated in schedule 1 at the times provided for under the schedule.	11 12 13
	'(4) If a fee stated in schedule 1 becomes payable under subsection (3), the Coordinator-General's obligations under this part for the significant project are suspended until the fee has been paid.	14 15 16 17
	'(5) Subsection (4) applies despite any other provision of this part.	18
'25B	Recovering the cost of advice or services for environmental coordination	19 20
	'(1) This section applies if the Coordinator-General obtains from another entity advice or services the Coordinator-General considers necessary to—	21 22 23
	(a) decide an application under this part by a proponent of a project; or	24 25
	(b) take action under this part relating to a significant project.	26 27
	'(2) The Coordinator-General may recover from the proponent as a debt the reasonable cost of obtaining the advice or services.'	28 29

[s 104]

Clause 104	Insertion of pt 4, div 2, sdiv 1 hdg	1
	After part 4, division 2 heading—	2
	<i>insert—</i>	3
	‘Subdivision 1 Power to declare significant project’.	4
		5
Clause 105	Insertion of new pt 4, div 2, sdiv 2, pt 4, div 2, sdiv 3 hdg and s 27AD	6
	After section 27—	7
	<i>insert—</i>	8
	‘Subdivision 2 Applying for and obtaining significant project declaration	9
		10
		11
	‘27AA Who may apply	12
	‘(1) The proponent of the project may apply to the Coordinator-General for a declaration under section 26(1) about the project.	13
		14
		15
	‘(2) To remove any doubt, it is declared that this subdivision does not prevent the Coordinator-General from making a declaration under section 26(1) on the Coordinator-General’s own initiative.	16
		17
		18
		19
	‘27AB Requirements for application	20
	‘The application must be written and include—	21
	(a) an initial advice statement mentioned in section 27(a);	22
	and	23
	(b) enough information about the project to allow the Coordinator-General to consider the matters mentioned in section 27(b) to (h) for the project.	24
		25
		26

‘27AC Deciding application	1
‘(1) The Coordinator-General must decide whether or not to make the declaration.	2 3
‘(2) Sections 26(2) and (3) and 27 apply for the making of the decision.	4 5
‘(3) If the Coordinator-General decides not to make the declaration, the Coordinator-General must give the applicant written notice of the decision and the reasons for it.	6 7 8
‘Subdivision 3 Miscellaneous provisions	9
‘27AD Application of Judicial Review Act 1991	10
‘The <i>Judicial Review Act 1991</i> , parts 3 and 5, other than section 41(1), do not apply to a decision, action or conduct of the Coordinator-General under this part relating to the project.	11 12 13
<i>Editor’s note—</i>	14
<i>Judicial Review Act 1991</i> , part 3 (Statutory orders of review) and part 5 (Prerogative orders and injunctions)’.	15 16
Clause 106 Replacement of ss 35C and 35D	17
Sections 35C and 35D—	18
<i>omit, insert—</i>	19
‘35C Application for evaluation of environmental effects of proposed change	20 21
‘The proponent may apply to the Coordinator-General to evaluate, under this division, the environmental effects of the proposed change, its effects on the project and any other related matters.’.	22 23 24 25
Clause 107 Amendment of s 35E (Requirements for notice)	26
(1) Section 35E, heading, ‘notice’—	27
<i>omit, insert—</i>	28

[s 108]

‘application’. 1

(2) Section 35E, ‘notice must’— 2

omit, insert— 3

‘application must be written and’. 4

Clause 108 Amendment of s 35F (Coordinator-General may seek comments or information) 5
6

Section 35F(1), ‘notice’— 7

omit, insert— 8

‘application’. 9

Clause 109 Amendment of s 35G (Public notice) 10

(1) Section 35G(1), ‘may, by written notice,’ 11

omit, insert— 12

‘must decide whether or not to’. 13

(2) Section 35G(2)— 14

renumber as section 35G(4). 15

(3) Section 35G— 16

insert— 17

‘(2) The Coordinator-General must give the proponent a written notice (the *decision notice*) stating the decision, and if the decision was to make a requirement under subsection (1), the decided way of public notification. 18
19
20
21

‘(3) If the decision is to require public notification, the decision notice must be given before the evaluation is made. 22
23

‘(5) Subsections (6) to (8) apply if the decision is not to require public notification. 24
25

‘(6) If the Coordinator-General is of the opinion that the proposed change might be approved unconditionally, the Coordinator-General may defer giving the decision notice. 26
27
28

-
- ‘(7) If the Coordinator-General’s opinion under subsection (6) changes or if the Coordinator-General is not of that opinion, the Coordinator-General must immediately give the decision notice. 1
2
3
4
- ‘(8) If the proposed change is approved unconditionally, the decision notice must accompany the Coordinator-General’s change report when it is given to the proponent under section 35J. 5
6
7
8
- ‘(9) In this section— 9
approved unconditionally, for the proposed change, means that the evaluation allows the change without the Coordinator-General doing anything mentioned in section 35I(2).’. 10
11
12
13

- Clause 110 Amendment of s 35I (Coordinator-General’s change report) 14
15**
- Section 35I— 16
insert— 17
- ‘(3) The evaluation may refuse to allow the proposed change. 18
- ‘(4) If the evaluation refuses to allow the proposed change, it must state reasons for the refusal.’. 19
20

- Clause 111 Amendment of s 111 (Delegation of authority of Coordinator-General) 21
22**
- (1) Section 111(2)(b)— 23
omit, insert— 24
- ‘(b) may be delegated only to a local body or any of the following under the *Public Service Act 2008*— 25
26
- (i) a chief executive; 27
- (ii) a senior executive; 28
- (iii) a term appointee whose remuneration is equivalent to, or more than, that of a senior executive.’. 29
30

[s 112]

- (2) Section 111(3), ‘A local body or chief executive’— 1
omit, insert— 2
‘An entity’. 3

Clause 112 Insertion of new pt 7A 4
After section 157— 5
insert— 6

‘Part 7A Enforcement and general offences 7
8

‘Division 1 Enforcement notices 9

‘Subdivision 1 Giving enforcement notice 10

‘157A What is an *enforceable condition* 11

- ‘(1) An *enforceable condition* is any of the following— 12
- (a) a condition mentioned in section 35(4)(b) or (d), 35I(2), 13
62 or 71; 14
 - (b) a requirement recommended under section 35I(2)(b) or 15
43 that has been included in a designation as community 16
infrastructure under the Integrated Planning Act, section 17
2.6.8; 18
 - (c) a stated condition recommended under section 35I(2)(b) 19
or section 52 that has become part of an approval under 20
another Act mentioned in part 4, division 7 (a *relevant* 21
approval); 22
 - (d) a condition imposed under section 76O or 84. 23
- ‘(2) To remove any doubt, it is declared that a condition or 24
requirement mentioned in subsection (1) continues to be an 25
enforceable condition even though— 26

-
- (a) it has become part of a relevant approval; or 1
 - (b) it has been amended under this Act; or 2
 - (c) the enforceable condition, as a part of a relevant approval, has been amended under another Act. 3
4

‘157B Power to give enforcement notice 5

- ‘(1) This section applies if the Coordinator-General reasonably believes a person has contravened, or is contravening, an enforceable condition. 6
7
8
- ‘(2) The Coordinator-General may give the person a written notice (an *enforcement notice*) requiring the person to— 9
10
 - (a) comply with the condition; or 11
 - (b) take stated steps the Coordinator-General considers are reasonably necessary to ensure compliance with the condition. 12
13
14
- ‘(3) Without limiting subsection (2)(b), an enforcement notice may— 15
16
 - (a) require the recipient to not start, or stop, a stated activity indefinitely, for a stated period or until further notice from the Coordinator-General; or 17
18
19
 - (b) require the recipient to carry out a stated activity only during stated times or subject to stated conditions; or 20
21
 - (c) require the recipient to take stated action within a stated period. 22
23
- ‘(4) An enforcement notice may also require the recipient to notify the Coordinator-General when the recipient has complied with the notice. 24
25
26
- ‘(5) To remove any doubt, it is declared that this section does not— 27
28
 - (a) affect a power under another Act to enforce a condition; or 29
30
 - (b) prevent the bringing of a proceeding for an offence against another Act. 31
32

[s 112]

Note—

See, however, the *Acts Interpretation Act 1954*, section 45 (Offence punishable only once).

‘157C Requirements for enforcement notice

‘(1) An enforcement notice must—

- (a) identity the enforceable condition the subject of the notice; and
- (b) state each of the following—
 - (i) the recipient’s name;
 - (ii) the land or activity the subject of the notice;
 - (iii) that the Coordinator-General believes the recipient has contravened, or is contravening, the condition;
 - (iv) the reasons for the belief;
 - (v) the requirements imposed under the notice; and
- (c) include, or be accompanied by, an information notice about the decision to give the notice.

‘(2) In this section—

information notice means a written notice stating—

- (a) the appeal right against the decision, under section 157D; and
- (b) that an appeal must be started within 20 business days after the day the notice is given; and
- (c) how to appeal; and
- (d) that, under section 157E, the recipient may apply for a stay of the decision.

‘Subdivision 2	Appeals	1
‘157D	Right of appeal	2
‘(1)	The recipient of an enforcement notice may appeal to the Planning and Environment Court against the decision to give the notice.	3 4 5
‘(2)	The appeal must be started within 20 business days after the day the notice is given.	6 7
	<i>Note—</i>	8
	For how to start the appeal and procedures for the appeal, see the Integrated Planning Act, chapter 4, part 1, divisions 10 to 12.	9 10
‘157E	Stay only by application	11
‘(1)	An appeal under section 157D affects the decision the subject of the appeal and the operation of the relevant enforcement notice only if the decision is stayed.	12 13 14
‘(2)	The Planning and Environment Court may grant a stay of the decision to secure the effectiveness of the appeal.	15 16
‘(3)	A stay—	17
	(a) may be given on the conditions the court considers appropriate; and	18 19
	(b) operates for the period fixed by the court; and	20
	(c) may be amended or cancelled by the court.	21
‘(4)	The period of a stay under this section must not extend past the time when the court decides the appeal.	22 23

[s 112]

‘Subdivision 3	Effects of enforcement notice	1
‘157F	Offence to contravene enforcement notice	2
	‘The recipient of an enforcement notice must comply with the notice.	3 4
	Maximum penalty—1665 penalty units.	5
‘157G	Notice of disposal by recipient of any current enforcement notice	6 7
‘(1)	This section applies if the recipient of a current enforcement notice proposes to dispose of the land or business to which the notice relates to someone else (the <i>prospective buyer</i>).	8 9 10
‘(2)	Before agreeing to dispose of the land or business, the recipient must give written notice to the prospective buyer of the existence of the enforcement notice.	11 12 13
	Maximum penalty—50 penalty units.	14
‘(3)	Within 10 business days after agreeing to dispose of the land or business, the recipient must give written notice of the disposal to the Coordinator-General.	15 16 17
	Maximum penalty—50 penalty units.	18
‘(4)	In this section—	19
	<i>current enforcement notice</i> means an enforcement notice that has not been complied with and has not been withdrawn.	20 21
‘157H	Additional consequence of not giving notice of disposal	22 23
‘(1)	This section applies if section 157G applies and the recipient of the enforcement notice does not comply with section 157G(2).	24 25 26
‘(2)	The prospective buyer may end the agreement to dispose of the land or business by written notice given to the recipient	27 28

before the completion of the agreement or possession under the agreement, whichever is the earlier.	1 2
‘(3) On the ending of the agreement under subsection (2)—	3
(a) a person who was paid amounts by the prospective buyer under the agreement must refund the amounts to the prospective buyer; and	4 5 6
(b) the prospective buyer must return to the recipient any documents about the disposal, other than the prospective buyer’s copy of the agreement.	7 8 9
‘(4) This section has effect despite any other Act or anything to the contrary in the agreement.	10 11
‘Division 2 Enforcement orders	12
‘157I Starting proceeding for enforcement order	13
‘(1) The Coordinator-General may start a proceeding in the Planning and Environment Court—	14 15
(a) for an enforcement order to remedy or restrain a contravention of an enforceable condition; or	16 17
(b) if the Coordinator-General has started a proceeding under this section for an enforcement order and the court has not decided the proceeding—for an order under section 157J.	18 19 20 21
‘(2) A proceeding for an enforcement order may be started whether or not anyone’s right has been, or may be, infringed by, or because of, the contravention of the enforceable condition the subject of the proceeding.	22 23 24 25
‘157J Making interim enforcement order	26
‘(1) The Planning and Environment Court may make an order pending a decision of a proceeding for an enforcement order if the court is satisfied it would be appropriate to make the order.	27 28 29 30

[s 112]

- ‘(2) The court may make the order subject to conditions. 1
- ‘(3) However, a condition can not require the Coordinator-General 2
to give an undertaking about damages. 3
- ‘157K Making enforcement order 4**
- ‘(1) The Planning and Environment Court may make an 5
enforcement order if the court is satisfied the relevant 6
contravention of an enforceable condition— 7
- (a) is happening, or has happened; or 8
- (b) will happen unless the enforcement order is made. 9
- ‘(2) The court may make the order whether or not an enforcement 10
notice has been given for the contravention. 11
- ‘157L Effect of enforcement order 12**
- ‘(1) An enforcement order may direct a party to the proceeding for 13
the order— 14
- (a) to stop an activity that constitutes, or will constitute, a 15
contravention of an enforceable condition; or 16
- (b) not to start an activity that will constitute a 17
contravention of an enforceable condition; or 18
- (c) to do anything required to stop a contravention of an 19
enforceable condition; or 20
- (d) to return anything to a condition as close as practicable 21
to the condition it was in immediately before a 22
contravention of an enforceable condition; or 23
- (e) to do anything about the land or activity the subject of 24
the order to comply with an enforceable condition. 25
- ‘(2) Without limiting the Planning and Environment Court’s 26
powers, it may make an enforcement order requiring the 27
repair, demolition or removal of a building. 28
- ‘(3) An enforcement order must state the time by which it must be 29
complied with. 30

-
- ‘(4) An enforcement order may be in terms the court considers appropriate to ensure compliance with an enforceable condition. 1
2
3

‘157M Powers about enforcement orders 4

- ‘(1) The Planning and Environment Court’s power to make an enforcement order to stop, or not to start, an activity may be exercised— 5
6
7
- (a) whether or not it appears to the court that the person against whom the order is made (the *relevant person*) intends to engage again, or to continue to engage again, in the activity; and 8
9
10
11
- (b) whether or not the relevant person has previously engaged in an activity of the same type; and 12
13
- (c) whether or not there is danger of substantial damage to property or the environment or injury to another person if the relevant person engages, or continues to engage, in the activity. 14
15
16
17
- ‘(2) The court’s power to make an enforcement order to do anything may be exercised— 18
19
- (a) whether or not it appears to the court that the person against whom the order is made (also the *relevant person*) intends to fail, or to continue to fail, to do the thing; and 20
21
22
23
- (b) whether or not the relevant person has previously failed to do a thing of the same type; and 24
25
- (c) whether or not there is danger of substantial damage to property or the environment or injury to anyone else if the relevant person fails, or continues to fail, to do the thing. 26
27
28
29
- ‘(3) The court may cancel or change an enforcement order on the application of the Coordinator-General or the person against whom the order is made. 30
31
32

[s 112]

‘(4) The court’s powers under this section are in addition to, and do not limit, its other powers.	1 2
<i>Note—</i>	3
For costs, see the Integrated Planning Act, section 4.1.23.	4
‘157N Offence to contravene enforcement order	5
‘A person against whom an enforcement order has been made must comply with the order.	6 7
Maximum penalty—3000 penalty units or 2 years imprisonment.	8 9
<i>Note—</i>	10
See also the Integrated Planning Act, section 4.1.5 (Contempt and contravention of orders).	11 12
‘Division 3 General offences	13
‘157O Giving Coordinator-General a false or misleading document	14 15
‘A person must not, in relation to the performance of the Coordinator-General’s functions, give the Coordinator-General a document containing information the person knows is false or misleading in a material particular.	16 17 18 19
Maximum penalty—1665 penalty units.	20
‘157P Executive officer must ensure corporation does not commit particular offences	21 22
‘(1) The executive officers of a corporation must ensure the corporation complies with sections 84, 157F, 157N and 157O.	23 24
<i>Editor’s note—</i>	25
section 84 (Use of land under approved development scheme)	26
‘(2) If a corporation commits an offence against section 84, 157F, 157N or 157O each of its executive officers also commits an	27 28

offence, namely, the offence of failing to ensure the corporation complies with the section.	1 2
Maximum penalty—the penalty for the contravention of the section by an individual.	3 4
‘(3) Evidence that the corporation has been convicted of an offence against section 84, 157F, 157N or 157O is evidence that each of its executive officers committed the offence of failing to ensure the corporation complies with the section.	5 6 7 8
‘(4) However, it is a defence for an executive officer to prove that—	9 10
(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 the section; or	11 12 13 14
(b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.	15 16
‘(5) In this section—	17
<i>executive officer</i> , of a corporation, means a person who is concerned with, or takes part in, its management, whether or not the person is a director or the person’s position is given the name of executive officer.	18 19 20 21
‘Division 4 Proceedings for offences	22
‘157Q Types of offence under Act	23
‘(1) An offence against the following is a misdemeanour—	24
(a) section 157N;	25
(b) section 157P, to the extent the offence relates to an offence by a corporation against section 157N.	26 27
‘(2) Any other offence against this Act is a summary offence.	28

[s 113]

‘157R Who may bring summary proceeding	1
‘A proceeding for a summary offence against this Act may be brought only by the Coordinator-General or a person acting for the Coordinator-General.’	2 3 4
Clause 113 Omission of s 170 (Mode of prosecution)	5
Section 170—	6
<i>omit.</i>	7
Clause 114 Insertion of new pt 9, div 3 and sch 1	8
After section 178—	9
<i>insert—</i>	10
‘Division 3 Transitional provisions for amendments under Revenue and Other Legislation Amendment Act (No. 2) 2008	11 12 13 14
‘179 Meaning of commencement for div 3	15
‘In this division—	16
<i>commencement</i> means the date of assent of the <i>Revenue and Other Legislation Amendment Act (No. 2) 2008</i> .	17 18
‘180 Existing evaluation requests under pt 4, div 3A	19
‘(1) A notice under former section 35D given before the commencement is taken to be an application under section 35C as in force from the commencement.	20 21 22
‘(2) Subject to section 181(2), this Act as in force from the commencement applies to the application and the evaluation under part 4, division 3A for the application.	23 24 25

‘181	Fees	1
‘(1)	The fees stated in schedule 1, part 2 under the heading ‘Significant project declaration and EIS process’ do not apply to a proponent of a significant project declared before the commencement.	2 3 4 5
‘(2)	The fees stated in schedule 1, part 2 do not apply to an evaluation under part 4, division 3A for a notice under former section 35D given before the commencement.	6 7 8
‘182	Enforcement notices and orders	9
‘(1)	An enforcement notice or enforcement order may relate to an enforceable condition that existed before the commencement.	10 11
‘(2)	However, an enforcement notice or enforcement order can not relate to a contravention of an enforceable condition if the act or omission that constitutes the contravention happened before the commencement.	12 13 14 15
‘Schedule 1	Fees for part 4	16
	section 25A	17
‘Part 1	General provisions	18
‘1	Operation of sch 1	19
‘(1)	This schedule provides for the fees mentioned in section 25A.	20
‘(2)	The fees are for the matters relating to the administration of part 4 by the Coordinator-General that are stated in column 1 of the table in part 2.	21 22 23
‘(3)	If, under section 32(1)(b), the process under part 4, division 3 involves an EIS for a stage of a significant project, the fees	24 25

[s 114]

apply as if each stage of the project were a whole significant project.	1 2
‘2 When the fees are payable	3
‘The fee for each of the matters stated in column 1 of the table in part 2 is payable on the happening of the event stated opposite the matter in column 2 of the table.	4 5 6
‘3 Amount of the fees	7
‘(1) The amount of the fee for each of the matters is—	8
(a) if the fee becomes payable before 2010—the amount stated opposite the matter in column 3 of the table in part 2 (<i>column 3</i>); or	9 10 11
(b) if the fee becomes payable during 2010—the amount stated opposite the matter in column 3, CPI indexed for 2010; or	12 13 14
(c) if the fee becomes payable during any later year—the amount stated opposite the matter in column 3, CPI indexed for 2010 and all years since 2010.	15 16 17
‘(2) However, if the amount provided for under subsection (1) is an amount that is or includes a fraction of a dollar, the amount is taken to be the amount that is the nearest dollar, rounded up.	18 19 20
‘(3) In this section—	21
CPI means—	22
(a) the all groups index for Brisbane published by the Australian Bureau of Statistics; or	23 24
(b) if the index ceases to be published, another similar index prescribed under a regulation.	25 26
CPI indexed , for a year (the <i>relevant year</i>), means the addition of any amount that equates to any percentage increase in the CPI between the following quarters—	27 28 29
(a) the December quarter for the year before the previous year to the relevant year;	30 31

(b) the December quarter for previous year to the relevant year. 1
2

‘4 Access to adjusted amounts 3

‘(1) From and including 2010, the Coordinator-General must publish on the department’s website the amount of the fee for each of the matters as worked out under section 3. 4
5
6

‘(2) A failure to comply with subsection (1) does not limit or otherwise affect the operation of section 3. 7
8

‘Part 2 Table of fees 9

column 1 matter for which fee is payable	column 2 event when payment is required	column 3 amount of fee (up to 2010) \$
---	--	--

significant project declaration and EIS process (part 4, divisions 2 and 3)

application for declaration of significant project (section 27AA)	the making of the application	25 990.00
notice of requirement for EIS and of draft terms of reference (section 29) and finalising terms of reference (section 30)	public notification for the significant project (section 29(1)(b))	25 000.00
the matters mentioned in sections 31, 32 and 33(1) relating to an EIS	the giving to the proponent of a copy of the finalised terms of reference (section 30(1))	50 000.00

[s 114]

column 1 matter for which fee is payable	column 2 event when payment is required	column 3 amount of fee (up to 2010) \$
Coordinator-General's evaluation of EIS, submissions, other material and preparation of report (section 35)	when the submission period for the EIS ends (section 33(1)(d))	50 000.00
evaluation of changes to significant project (part 4, division 3A)		
application for evaluation of environmental effects of proposed change (section 35C)	when the application is made	990.00
the matters mentioned in sections 35F to 35J if— (a) the Coordinator-General decides under section 35G not to require public notification; and (b) the decision notice under section 35G does not accompany the Coordinator-General's change report (section 35G(7))	on the giving of the decision notice	25 000.00
the matters mentioned in sections 35F to 35J if the Coordinator-General decides under section 35G to require public notification	on the giving of the decision notice under section 35G	50000.00'.

Clause 115	Amendment of schedule (Dictionary)	1
	(1) Schedule—	2
	<i>insert</i> —	3
	‘ <i>enforceable condition</i> see section 157A.	4
	<i>enforcement notice</i> see section 157B(2).	5
	<i>enforcement order</i> means an order made under part 7A, division 2.	6 7
	<i>Planning and Environment Court</i> means the Planning and Environment Court under the Integrated Planning Act.	8 9
	<i>recipient</i> , for a provision about an enforcement notice given or proposed to be given, means the person to whom the notice has been, or is proposed to be, given.’	10 11 12
	(2) Schedule—	13
	<i>renumber</i> as schedule 2.	14
Part 18	Amendment of Statutory Authorities (Superannuation Arrangements) Act 1994	15 16 17
Clause 116	Act amended in pt 18	18
	This part amends the <i>Statutory Authorities (Superannuation Arrangements) Act 1994</i> .	19 20
Clause 117	Amendment of s 4 (Superannuation arrangements)	21
	Section 4(2), ‘ <i>Occupational Superannuation Standards Act 1987</i> ’—	22 23
	<i>omit, insert</i> —	24
	‘ <i>Occupational Superannuation Standards Regulations Application Act 1992</i> ’.	25 26

[s 118]

Part 19	Amendment of Superannuation (State Public Sector) Act 1990	1 2
Clause 118	Act amended in pt 19	3
	This part amends the <i>Superannuation (State Public Sector) Act 1990</i> .	4 5
Clause 119	Amendment of s 6A (Board may ask Minister to revoke trustee's appointment)	6 7
	Section 6A—	8
	<i>insert—</i>	9
	'(5) To remove any doubt, it is declared that this section does not apply to the office of a trustee that has become vacant under section 5(9).'	10 11 12
Clause 120	Omission of s 27 (Exemption from taxation)	13
	Section 27—	14
	<i>omit.</i>	15
Clause 121	Amendment of s 28 (Contributions by units)	16
	Section 28(2), after 'member'—	17
	<i>insert—</i>	18
	'or, for a payment other than a periodic payment, by the time stated by the Treasurer'.	19 20
Clause 122	Amendment of s 29 (Appropriation of contribution)	21
	Section 29—	22
	<i>insert—</i>	23
	'(2) The contribution by the Crown under subsection (1) in a financial year must be at least the amount required to meet the	24 25

defined benefits under the deed that fall due for payment in 1
the financial year less— 2

(a) any share of the defined benefits satisfied by 3
contributions already paid by the Crown; and 4

(b) any share of the defined benefits satisfied by 5
contributions already paid by the defined benefit 6
members to whom the benefits are payable and 7
accumulated interest on the contributions. 8

‘(3) In this section— 9

accumulated interest, on contributions paid by a defined 10
benefit member, means interest credited to the member’s 11
account under the deed that is attributable to the amount of the 12
contributions. 13

defined benefit members means members in a defined benefit 14
category under the deed. 15

defined benefits means benefits payable under the deed to 16
defined benefit members.’. 17

Clause 123 Omission of s 32J (Liability for tax) 18

Section 32J— 19

omit. 20

**Clause 124 Amendment of s 32K (Deed making power for 21
transferring members) 22**

Section 32K(6), after ‘decided by’— 23

insert— 24

‘the board after consulting with’. 25

Clause 125 Insertion of new pt 5B 26

After part 5A— 27

insert— 28

[s 125]

‘Part 5B	Closure of standard defined benefit category	1
		2
‘32M	Definitions for pt 5B	3
	‘In this part—	4
	<i>commencement day</i> means the day this part commences.	5
	<i>standard defined benefit category</i> means the membership category under the deed that was of that name immediately before the commencement day.	6
		7
		8
‘32N	Closure of standard defined benefit category	9
	‘(1) A person may not become a member in the standard defined benefit category.	10
		11
	‘(2) A person who is not a member in the standard defined benefit category in relation to particular employment may not become a member in the standard defined benefit category in relation to that employment.	12
		13
		14
		15
	‘(3) To remove any doubt, it is declared that—	16
	(a) subsections (1) and (2) apply despite anything in the deed or other instrument in force under this Act; and	17
		18
	(b) subsection (1) prevents a person becoming a member in the standard defined benefit category even if the person was previously in that category (before or after the commencement day); and	19
		20
		21
		22
	(c) subsection (2) prevents a person becoming a member in the standard defined benefit category in relation to particular employment even if the person was previously in that category in relation to that employment (before or after the commencement day).	23
		24
		25
		26
		27
	‘(4) This section does not apply to a person with approval given under section 32O.	28
		29

‘320 Approval to join after commencement day in particular circumstances	1 2
‘(1) Within 6 months after the commencement day, a person may give a written application to the government superannuation officer (the <i>officer</i>) for approval to become a member in the standard defined benefit category in relation to particular employment.	3 4 5 6 7
‘(2) The person must give the officer the information reasonably required by the officer to decide the application.	8 9
‘(3) The officer may approve the application if satisfied that, before the commencement day, the applicant—	10 11
(a) took a step for the purpose of becoming a member in the standard defined benefit category; or	12 13
<i>Example—</i>	14
The applicant completed a form required to become a member in the standard defined benefit category but, on the commencement day, the form was with the applicant’s employer.	15 16 17
(b) took a step for the purpose of deciding whether to become a member in the standard defined benefit category.	18 19 20
<i>Example—</i>	21
The applicant arranged before the commencement day to obtain financial advice for the purpose of deciding whether to become a member in the standard defined benefit category.	22 23 24
‘(4) The officer must decide the application as soon as is practicable.	25 26
‘(5) The officer must give the applicant written notice of the decision and, if the decision is not to give the approval, the reasons for the decision.	27 28 29
‘(6) If the officer decides not to give approval, the applicant may, within 28 days after receiving notice of the decision, give a written application to the chief executive for a review of the decision.	30 31 32 33

[s 125]

- ‘(7) The chief executive must review the decision as soon as is practicable and either confirm the officer’s decision or give the approval. 1
2
3
- ‘(8) The chief executive must give the applicant written notice of the chief executive’s decision on the review and, if the decision is to confirm the officer’s decision, the reasons for the chief executive’s decision. 4
5
6
7
- ‘(9) For part 3A, the officer’s functions include the functions under this section. 8
9
- ‘32P Membership taken to continue in particular circumstances 10
11**
- ‘(1) This section applies if— 12
- (a) on or after the commencement day, a person who is a member of the standard defined benefit category in relation to employment with a particular unit of the State public sector stops being employed by that unit; and 13
14
15
16
17
- (b) within 1 month after ceasing the employment mentioned in paragraph (a), the person starts employment with the same or another unit of the State public sector (the *new employment*); and 18
19
20
21
- (c) the person is eligible for membership in the standard defined benefit category in relation to the new employment. 22
23
24
- ‘(2) The person’s membership in the standard defined benefit category continues until it ends under the deed.’. 25
26

Part 20	Amendment of Taxation Administration Act 2001	1
		2
Clause 126	Act amended in pt 20	3
	This part amends the <i>Taxation Administration Act 2001</i> .	4
Clause 127	Amendment of s 111 (Disclosure of confidential information)	5
		6
	(1) Section 111(3) to (5)—	7
	<i>renumber</i> as section 111(4) to (6).	8
	(2) Section 111—	9
	<i>insert</i> —	10
	‘(3) Also, if the commissioner becomes aware, from information obtained or held by the commissioner in the course of administering this Act, of a particular offence or suspected offence (whether against this Act or another law), the commissioner may disclose confidential information about the offence or suspected offence to a member of the Queensland Police Service or the Australian Federal Police for an investigation or proceeding (including for starting an investigation or proceeding).’.	11
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Clause 128	Amendment of sch 2 (Dictionary)	20
	Schedule 2, definition <i>confidential information</i> —	21
	<i>omit, insert</i> —	22
	‘ <i>confidential information</i> means information disclosed to, obtained by, or otherwise held by, an official under or in relation to a tax law.’.	23
		24
		25

Schedule	Minor amendments of the Duties Act 2001	1 2
	section 3	3
1	Section 9(4), ‘subsection (1)(e)’— <i>omit, insert—</i> ‘subsection (1)(d)’.	4 5 6
2	Section 123(3)(b)(i), ‘or’— <i>omit.</i>	7 8
3	Section 141(1)(a), ‘<i>Libraries and Archives Act 1988</i>’— <i>omit, insert—</i> ‘ <i>Libraries Act 1988</i> ’.	9 10 11
4	Section 141(1)(f)— <i>omit.</i>	12 13
5	Section 141(1)(g)— <i>renumber</i> as section 141(1)(f).	14 15
6	Section 375, ‘<i>National Health Act 1953 (Cwlth)</i>, section 67’— <i>omit, insert—</i> ‘ <i>Private Health Insurance Act 2007 (Cwlth)</i> , section 121—1’.	16 17 18 19
7	Section 382(2), ‘the following amount’— <i>omit.</i>	20 21

8	Section 393(a), ‘Libraries and Archives Act 1988’—	1
	<i>omit, insert—</i>	2
	<i>‘Libraries Act 1988’.</i>	3
9	Section 428, heading, ‘Gas Pipelines Access (Queensland) Act’—	4
	<i>omit, insert—</i>	5
	‘National Gas (Queensland) Act’.	6
10	Schedule 6—	8
	<i>insert—</i>	9
	<i>‘advance see section 249.’.</i>	10
11	Schedule 6, definition <i>government entity</i>, ‘Public Service Act 1996, section 21’—	11
	<i>omit, insert—</i>	12
	<i>‘Public Service Act 2008, section 24’.</i>	13
12	Schedule 6, definition <i>insurance intermediary</i>—	15
	<i>omit, insert—</i>	16
	<i>‘insurance intermediary see the Insurance Contracts Act 1984 (Cwlth), section 11(1).’.</i>	17
		18