

Duties (Declared Public Unit Trusts) Amendment Regulation 2016

Explanatory notes for SL 2016 No. 211

made under the

Duties Act 2001

General Outline

Short title

Duties (Declared Public Unit Trusts) Amendment Regulation 2016

Authorising law

Sections 79 and 508(1) of the *Duties Act 2001*

Policy objectives and the reasons for them

The policy objective of the Regulation is to amend the *Duties Regulation 2013* to include the QIC Infrastructure Portfolio No.1 Trust on the list of declared public unit trusts in schedule 1, part 2.

Under the *Duties Act 2001*, transfer duty applies to dutiable transactions, including the acquisition or surrender of an interest in a trust which directly or indirectly holds dutiable property in Queensland. However, unit dealings in public unit trusts that hold Queensland dutiable property do not usually attract duty as it is recognised that investments in these trusts are more akin to shareholdings rather than beneficial interests in the underlying trust property.

Chapter 2, part 8, division 7 of the *Duties Act 2001* contains provisions relating to public unit trusts. There are five categories of public unit trusts, including declared public unit trusts. Section 79 of the *Duties Act 2001* states that a declared public unit trust is a trust declared under a regulation. Section 4 of the *Duties Regulation 2013* provides that unit trusts listed in schedule 1 are declared public unit trusts for chapter 2, part 8, division 7 of the *Duties Act 2001*. For a trust to become a declared public unit trust, it must meet and maintain certain conditions set out in section 4(2) of the *Duties Regulation 2013*.

The QIC Infrastructure Portfolio No.1 Trust currently satisfies the conditions in section 4(2) of the *Duties Regulation 2013* and therefore qualifies for declared public unit trust status.

Achievement of policy objectives

The objective will be achieved by amending the *Duties Regulation 2013* to include the QIC Infrastructure Portfolio No.1 Trust on the list of declared public unit trusts in schedule 1, part 2.

Consistency with policy objectives of authorising law

The amendments are consistent with the policy objectives of the *Duties Act 2001*, which contemplates the making of a regulation to declare particular unit trusts that satisfy certain conditions to be public unit trusts for chapter 2, part 8, division 7 of the *Duties Act 2001*.

Inconsistency with policy objectives of other legislation

The amendments are not inconsistent with policy objectives of other legislation.

Alternative Ways of Achieving Policy Objectives

Any change to the list of declared public unit trusts can only be effected by amendment of the *Duties Regulation 2013*.

Benefits and costs of implementation

Implementation of the amendment will not result in any additional costs to Government.

Once the QIC Infrastructure Portfolio No.1 Trust is a declared public unit trust, unit dealings in it will not be dutiable. However, no revenue implications arise as it is not intended that duty be imposed on dealings in units in unit trusts that qualify for declared public unit trust status.

Consistency with fundamental legislative principles

The Regulation is consistent with fundamental legislative principles.

Consultation

In accordance with the Queensland Government Guide to Better Regulation, the Office of Best Practice Regulation was not consulted in relation to the regulatory proposal. The amendment to the *Duties Regulation 2013* is excluded from regulatory impact analysis as it falls within an agency-assessed exclusion category.

No other consultation was considered necessary.