



Queensland

Revenue and Other Legislation Amendment Act 2018

Act No. 27 of 2018

An Act to amend the Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984, the Aboriginal Cultural Heritage Act 2003, the Acquisition of Land Act 1967, the Cross River Rail Delivery Authority Act 2016, the Duties Act 2001, the Duties Regulation 2013, the Land Tax Act 2010, the Payroll Tax Act 1971, the Police Powers and Responsibilities Act 2000, the State Penalties Enforcement Act 1999, the State Penalties Enforcement Amendment Act 2017, the Taxation Administration Act 2001, the Torres Strait Islander Cultural Heritage Act 2003 and the Victims of Crime Assistance Act 2009 for particular purposes

[Assented to 9 November 2018]



Queensland

Revenue and Other Legislation Amendment Act 2018

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The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Revenue and Other Legislation Amendment Act 2018*.

2 Commencement

The following provisions commence on the day on which the *State Penalties Enforcement Amendment Act 2017*, section 25 commences—

- (a) sections 70, 72, 73 and 74;
- (b) part 9.

Part 2 Amendment of Duties Act 2001

3 Act amended

This part amends the *Duties Act 2001*.

4 Amendment of s 16 (When liability for transfer duty arises)

Section 16, note, after ‘ELN transfer’—
insert—
or ELN lodgement

[s 5]

5 Amendment of s 18 (Need for instrument, ELN transfer document or statement)

Section 18, 'ELN transfer'—

omit, insert—

ELN transaction

6 Amendment of s 19 (Lodging instrument, ELN transfer document or statement)

Section 19, 'ELN transfer'—

omit, insert—

ELN transaction

7 Amendment of s 20 (Effect of making or lodging instrument, ELN transfer document or statement by 1 party)

Section 20, 'ELN transfer'—

omit, insert—

ELN transaction

8 Amendment of s 21 (No double duty—general)

Section 21(1), note 2, after 'ELN transfer'—

insert—

or ELN lodgement

9 Amendment of s 22 (No double duty—particular dutiable transactions)

(1) Section 22(2)—

insert—

Note—

For a dutiable transaction that is an ELN transfer or ELN lodgement, see also part 15, division 2.

- (2) Section 22(2A), note 1, ‘In relation to subsections (2) and (2A), for’—

omit, insert—

For

10 **Amendment of s 30 (Aggregation of dutiable transactions)**

Section 30(6), ‘ELN transfer’—

omit, insert—

ELN transaction

11 **Insertion of new ss 76E–76G**

After section 76D—

insert—

76E Exempt managed investment schemes

- (1) For section 75(1), a unit trust that is a managed investment scheme is taken to be an exempt managed investment scheme, during the deeming period for the trust, if the scheme has been approved under section 76F as a deregistered managed investment scheme.
- (2) In this section—
- deeming period*, for a unit trust, means the period—
- (a) starting immediately before the first trust acquisition or trust surrender of a trust interest in the trust following its deregistration under the Corporations Act, section 601PA; and

[s 11]

- (b) ending immediately before the time that either of the following happens—
 - (i) the ASIC order mentioned in section 76F(3)(a) ceases to apply;
 - (ii) a unit in the trust is issued or transferred to a person who is not a wholesale client.

76F Approval of unit trust as a deregistered managed investment scheme

- (1) The trustee of a unit trust that is a managed investment scheme may apply to the commissioner for the approval of the scheme as a deregistered managed investment scheme.

Note—

See section 76E(1).

- (2) The application must—
 - (a) be in the approved form; and
 - (b) be supported by enough information to enable the commissioner to decide the application.
- (3) The commissioner may give the approval if—
 - (a) ASIC made an exemption or declaration under the Corporations Act, section 601QA (the *ASIC order*), enabling an application for deregistration of the scheme (the *deregistration application*) to be made under the Corporations Act, section 601PA; and
 - (b) for the purpose of the deregistration application, all the members of the scheme agreed the scheme should be deregistered; and

- (c) all the members of the scheme were wholesale clients—
 - (i) when they acquired (by way of issue or transfer) their interest in the scheme; and
 - (ii) when the deregistration application was made; and
- (d) ASIC deregistered the scheme under the Corporations Act, section 601PA, applying chapter 5C of that Act under the ASIC order; and
- (e) the scheme is not required to be registered under the Corporations Act, section 601ED because of an exemption from that section under the ASIC order; and
- (f) the commissioner is satisfied it would be appropriate to give the approval, having regard to—
 - (i) the reasons why the members of the scheme agreed the scheme should be deregistered; and
 - (ii) the reasons for the decision by ASIC to deregister the scheme; and
 - (iii) the terms of the ASIC order; and
 - (iv) whether the scheme has ever been a public unit trust and, if so, why it is no longer a public unit trust; and
 - (v) the circumstances of the scheme's operation since it was deregistered by ASIC; and
 - (vi) the purposes of this division.
- (4) The commissioner must give the applicant notice of the decision on the application.
- (5) If, because of the decision on the application, the

[s 12]

commissioner makes an assessment on the basis that the scheme is not an exempt managed investment scheme for section 75(1), an objection to the decision may be made as part of an objection to the assessment.

- (6) If the approval is given, it takes effect on—
 - (a) the day it is given; or
 - (b) if the notice of the decision to give the approval states a day on which the approval takes effect—that day.
- (7) The day mentioned in subsection (6)(b) may be earlier or later than the day the approval is given.

76G Approval holders must notify commissioner if deeming period ends

- (1) This section applies in relation to an approval for a unit trust in force under section 76F if either of the following happens (the *notifiable event*)—
 - (a) the ASIC order mentioned in section 76F(3)(a) ceases to apply;
 - (b) a unit in the trust is issued or transferred to a person who is not a wholesale client.
- (2) Within 28 days after the trustee becomes aware, or ought reasonably to have become aware, of the notifiable event, the trustee must give the commissioner notice of the notifiable event.

Note—

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

12 Amendment of s 156A (Reassessment of duty for cancelled transfer of dutiable property)

Section 156A, ‘ELN transfer’—

omit, insert—

ELN transaction

13 Amendment of ch 2, pt 15, hdg (Provisions for ELN transfers)

Chapter 2, part 15, heading, after ‘transfers’—

insert—

and ELN lodgements

14 Amendment of s 156D (Definitions for pt 15)

(1) Section 156D, heading, ‘pt 15’—

omit, insert—

part

(2) Section 156D, definitions *ELN transfer*, *ELN transfer document*, *relevant residential land*, *relevant transfer agreement* and *signed—*

omit.

(3) Section 156D—

insert—

completed lodgement means a dutiable transaction—

- (a) that is a transfer, surrender or vesting of dutiable property or an acquisition of a new right; and
- (b) for which an instrument or ELN transaction document for an ELN lodgement is registered under the *Land Title Act 1994*, the *Land Act 1994* or the *Water Act 2000*; and
- (c) on which a liability for transfer duty is imposed.

eligible land means land, an instrument of

[s 14]

transfer of which must comply with the requirements of the *Land Title Act 1994*, section 61 for transferring the land under that Act.

ELN lodgement means a dutiable transaction, other than an ELN transfer—

- (a) that is a transfer, surrender or vesting of land, or an acquisition of a new right that is land, registered under the *Land Title Act 1994*, the *Land Act 1994* or the *Water Act 2000*; and
- (b) for which an ELN workspace exists; and
- (c) that is not eligible for a concession, exemption or other reduction for transfer duty, other than a concession, exemption or reduction for transfer duty for an ELN lodgement prescribed by regulation.

ELN transaction document means a document under the Electronic Conveyancing National Law (Queensland) that—

- (a) is—
 - (i) for an ELN transfer—an instrument of transfer under the *Land Title Act 1994*, section 61 for a relevant transfer agreement, alone or together with an instrument of transfer under the *Land Act 1994*, chapter 6 or the *Water Act 2000*, section 170 that is under the same relevant transfer agreement; or
 - (ii) for an ELN lodgement—an instrument under the *Land Title Act 1994*, the *Land Act 1994* or the *Water Act 2000*; and
- (b) would effect a dutiable transaction that is an ELN transfer or ELN lodgement if the document were—

- (i) digitally signed; and
- (ii) lodged electronically under the Electronic Conveyancing National Law (Queensland), section 7; and
- (iii) registered under the *Land Title Act 1994*, the *Land Act 1994* or the *Water Act 2000*.

Note—

Under the Electronic Conveyancing National Law (Queensland), schedule 1, section 12(1) definition *document*, a document includes a record of information that exists in a digital form and is capable of being reproduced, transmitted, stored and duplicated by electronic means.

ELN transfer—

- (a) means a transfer of dutiable property—
 - (i) that includes eligible land; and
 - (ii) for which an ELN workspace exists; and
 - (iii) that is to the transferee under a relevant transfer agreement and for the same consideration as provided for under the agreement; but
- (b) does not include a transaction for which—
 - (i) there is an agreement for the transfer of dutiable property (the ***first agreement***); and
 - (ii) after the first agreement takes place, 1 or more agreements to transfer all or part of the dutiable property the subject of the first agreement take place (the ***intervening agreements***); and
 - (iii) to give effect to the first agreement and the intervening agreements, 1 or more transfers of dutiable property will be

[s 14]

effected by 1 or more parties to the first agreement and the intervening agreements.

incomplete ELN lodgement means an ELN lodgement for which the ELN workspace is unlocked before an ELN transaction document for the ELN lodgement is registered under the *Land Title Act 1994*, the *Land Act 1994* or the *Water Act 2000*.

lodgement information, in an ELN workspace for an ELN lodgement, means information in the ELN workspace that is necessary for either of the following purposes in relation to an ELN transaction document for the ELN lodgement—

- (a) complying with a provision of the *Land Title Act 1994*, the *Land Act 1994* or the *Water Act 2000* in relation to the registration of the document;
- (b) endorsing the document under this Act.

relevant transfer agreement means an agreement for the transfer of dutiable property—

- (a) that includes eligible land; and
- (b) on which transfer duty is imposed; and
- (c) that is not eligible for a concession, exemption or other reduction for transfer duty, other than a concession, exemption or reduction for transfer duty for an ELN transfer prescribed by regulation; and
- (d) that—
 - (i) is aggregated under section 30 with a transfer of other dutiable property under that agreement; or
 - (ii) is aggregated under section 30 only with another agreement for the transfer

of dutiable property that complies with paragraphs (a) to (c); or

- (iii) if subparagraph (i) or (ii) does not apply—is not aggregated under section 30 with any other dutiable transaction.

signed—

- (a) in relation to an ELN transaction document for an ELN transfer—see section 156E(1); or
(b) in relation to an ELN transaction document for an ELN lodgement—see section 156E(2).

- (4) Section 156D, definition *completed transfer*, paragraph (a), ‘ELN transfer document’—

omit, insert—

ELN transaction document for an ELN transfer

- (5) Section 156D, definition *ELN workspace*, after ‘ELN transfer’—

insert—

or ELN lodgement

- (6) Section 156D, definition *incomplete ELN transfer*, ‘ELN transfer document’—

omit, insert—

ELN transaction document

- (7) Section 156D, definition *locked*, after ‘ELN transfer’—

insert—

or ELN lodgement

- (8) Section 156D, definition *payment commitment*, after ‘property’—

insert—

[s 15]

that is a relevant transfer agreement

- (9) Section 156D, definition *transfer information*, ‘ELN transfer document’—

omit, insert—

ELN transaction document

- (10) Section 156D, definition *unlocked*, after ‘ELN transfer’—

insert—

or ELN lodgement

15 Amendment of s 156E (When an ELN transfer document is *signed*)

- (1) Section 156E, ‘ELN transfer document’—

omit, insert—

ELN transaction document

- (2) Section 156E—

insert—

- (2) An ELN transaction document for an ELN lodgement is *signed* when all lodgement information in the ELN workspace for the ELN lodgement is digitally signed by or for all parties to the ELN lodgement.

16 Amendment of s 156F (When an ELN workspace is *locked* and *unlocked*)

- (1) Section 156F, after ‘ELN transfer’—

insert—

or ELN lodgement

- (2) Section 156F, after ‘transfer information’—

insert—

or lodgement information

17 Amendment of s 156G (When transfers of dutiable property are *related*)

(1) Section 156G, heading, ‘transfers of dutiable property’—
omit, insert—

dutiable transactions

(2) Section 156G—
insert—

(2) Also for this part, an incomplete ELN lodgement and a completed lodgement, or an incomplete ELN lodgement and another incomplete ELN lodgement, are *related* to each other if—

- (a) both are dutiable transactions of the same dutiable property; and
- (b) the parties to the transactions are the same; and
- (c) if an agreement has been entered into by the parties in relation to the transactions—
 - (i) 1 or both transactions are transfers of dutiable property; and
 - (ii) both transactions are under the same agreement; and
 - (iii) the agreement is not a relevant transfer agreement.

Note—

There may be more than 1 ELN lodgement of the same dutiable property that have the same parties to the transaction—see section 156H.

18 Amendment of s 156H (Effect of multiple locking events for ELN workspace)

(1) Section 156H(1), ‘ELN transfer,’—
omit, insert—

[s 19]

ELN transfer or ELN lodgement,

- (2) Section 156H(1)(a), ‘ELN transfer document’—
omit, insert—

ELN transaction document

- (3) Section 156H(1)(b), ‘transfer’—
omit, insert—

dutiable transaction

- (4) Section 156H(1)(c), from ‘declared’—
omit, insert—

declared that—

- (i) for an ELN transfer—another dutiable transaction that is an ELN transfer is taken to arise; or
(ii) for an ELN lodgement—another dutiable transaction that is an ELN lodgement is taken to arise.

- (5) Section 156H(2), after ‘ELN transfer’—
insert—

or ELN lodgement

19 Amendment of s 156I (Liability for transfer duty not affected by particular events)

- (1) Section 156I(1), ‘ELN transfer—’—
omit, insert—

ELN transfer or ELN lodgement—

- (2) Section 156I(1)(a) and (b), ‘ELN transfer;’—
omit, insert—

ELN transfer or ELN lodgement;

- (3) Section 156I(1)(b) and (c)(i), ‘ELN transfer document’—

omit, insert—

ELN transaction document

(4) Section 156I(1)(c)(ii)—

omit, insert—

(ii) a signing of an ELN transaction document for another ELN lodgement that is related to the ELN lodgement; or

(iii) another locking of the ELN workspace;

(5) Section 156I(1)(d), from ‘effect’—

omit, insert—

effect—

(i) a completed transfer related to the ELN transfer; or

(ii) a completed lodgement related to the ELN lodgement.

(6) Section 156I(2), definition *unsigned*, ‘ELN transfer’—

omit, insert—

ELN transaction

20 Amendment of ch 2, pt 15, div 2, sdiv 2, hdg (No multiple duty—incomplete ELN transfers related to completed transfer)

Chapter 2, part 15, division 2, subdivision 2, heading, from ‘—incomplete’—

omit, insert—

for particular incomplete ELN transfers and incomplete ELN lodgements

21 Replacement of s 156J (Application of sdiv 2)

Section 156J—

[s 22]

omit, insert—

156J Application of subdivision

This subdivision applies if—

- (a) 1 or more incomplete ELN transfers are related to a completed transfer; or
- (b) 1 or more incomplete ELN lodgements are related to a completed lodgement.

22 Amendment of s 156K (When liability for transfer duty is imposed on incomplete ELN transfers and completed transfer)

- (1) Section 156K, heading, after ‘imposed’—

omit.

- (2) Section 156K(1), ‘This section’—

omit, insert—

Subsection (2)

- (3) Section 156K—

insert—

(2A) Subsection (4) applies to a liability for transfer duty imposed on each of the following—

- (a) any incomplete ELN lodgement related to the completed lodgement, other than the first related lodgement;
- (b) the completed lodgement.

(2B) The liability is taken to be imposed when the liability for transfer duty is imposed on the first related lodgement.

- (4) Section 156K(4)—

insert—

first related lodgement means the incomplete ELN lodgement related to the completed

lodgement for which the ELN workspace is first locked.

- (5) Section 156K(2A) to (4)—
renumber as section 156K(3) to (6).

23 Amendment of s 156L (Deemed compliance with duty obligation for incomplete ELN transfer)

- (1) Section 156L, heading, after ‘obligation’—
omit.

- (2) Section 156L—
insert—

(1A) A duty obligation for an incomplete ELN lodgement that is related to the completed lodgement is taken to be complied with when the duty obligation under the same provision is complied with in full for the completed lodgement.

- (3) Section 156L(1A) and (2)—
renumber as section 156L(2) and (3).

24 Amendment of s 156M (Exclusion of ss 21 and 22(2) and (2A) for ELN transfers etc.)

- (1) Section 156M, heading, after ‘(2A)’—
omit.

- (2) Section 156M(1), ‘either’—
omit, insert—

any

- (3) Section 156M(1)—
insert—

(c) an incomplete ELN lodgement that is related to—

[s 25]

- (i) a completed ELN lodgement; or
 - (ii) another incomplete ELN lodgement;
 - (d) a completed lodgement.
- (4) Section 156M—
insert—
- (3A) Section 22(2) does not apply to an incomplete ELN lodgement that is related to a completed lodgement and for which there is an agreement that is not a relevant transfer agreement.
 - (3B) The fact that an incomplete ELN lodgement is not related to a completed lodgement does not affect a liability for transfer duty imposed on the incomplete ELN lodgement.
- (5) Section 156M(3A) to (4)—
renumber as section 156M(4) to (6).

25 Amendment of s 156N (Making of *payment commitment* for agreement to transfer dutiable property)

- (1) Section 156N, heading, ‘agreement’—
omit, insert—
- relevant transfer agreement**
- (2) Section 156N(1) and (3), after ‘transfer of dutiable property’—
insert—
- that is a relevant transfer agreement
- (3) Section 156N(4), definition *relevant self assessor*, ‘ELN transfer’—
omit, insert—
- ELN transaction

26 Amendment of s 156P (Charge over transferee's interest in land for unpaid transfer duty for ELN transfer)

Section 156P(1)(a), 'ELN transfer document'—

omit, insert—

ELN transaction document

27 Amendment of s 156V (Particular information in ELN workspace taken to be stated to commissioner)

Section 156V, after 'ELN transfer'—

insert—

or ELN lodgement

28 Amendment of s 156W (Effect of self assessor's endorsement of ELN transfer document for incomplete ELN transfer)

(1) Section 156W, heading, from 'ELN transfer document'—

omit, insert—

**ELN transaction document for incomplete
ELN transfer or incomplete ELN lodgement**

(2) Section 156W(1), 'This section'—

omit, insert—

Subsection (2)

(3) Section 156W(1)(a), 'ELN transfer document'—

omit, insert—

ELN transaction document

(4) Section 156W—

insert—

(3) Subsection (4) applies if—

[s 29]

- (a) an ELN transaction document for an ELN lodgement is endorsed by a self assessor registered under chapter 12, part 2 or 3; and
 - (b) the ELN lodgement becomes an incomplete ELN lodgement.
- (4) The endorsement is of no effect from the time the ELN workspace for the incomplete ELN lodgement is unlocked.

29 Amendment of s 179 (Working out dutiable value of relevant acquisition)

Section 179(4), 'section 409(2)'—

omit, insert—

section 409(3)

30 Amendment of s 445 (Notice of registration)

Section 445(2)(g), 'ELN transfer'—

omit, insert—

ELN transaction

31 Amendment of s 447 (Restriction on assessment by commissioner)

Section 447(1), 'ELN transfer'—

omit, insert—

ELN transaction

32 Amendment of s 452 (Notice of registration)

Section 452(2)(g), 'ELN transfer'—

omit, insert—

ELN transaction

33 Amendment of s 454 (Restriction on assessment by commissioner)

Section 454(1), 'ELN transfer'—

omit, insert—

ELN transaction

34 Amendment of s 455A (Lodging transaction statements)

(1) Section 455A(1), (1A), (4) and (5), 'ELN transfer'—

omit, insert—

ELN transaction

(2) Section 455A(6), 'ELN transfer document for an ELN transfer'—

omit, insert—

ELN transaction document for an ELN transfer or
ELN lodgement

(3) Section 455A(7), 'ELN transfer document'—

omit, insert—

ELN transaction document

(4) Section 455A(7), 'ELN transfer is'—

omit, insert—

ELN transfer or ELN lodgement is

35 Amendment of s 465 (Grounds for suspension or cancellation)

Section 465(f), 'ELN transfer document'—

omit, insert—

ELN transaction document

[s 36]

36 Amendment of s 480A (Offences about self assessments—endorsements of ELN transfer documents)

- (1) Section 480A, heading, ‘transfer’—

omit, insert—

transaction

- (2) Section 480A(1), from ‘ELN transfer document’ to ‘transfer agreement’—

omit, insert—

ELN transaction document for an ELN transfer or ELN lodgement under section 455A on the basis that section 22(2) applies to the ELN transfer or ELN lodgement unless the duty amount for the agreement for the transfer of dutiable property

- (3) Section 480A(2), ‘ELN transfer document’—

omit, insert—

ELN transaction document

- (4) Section 480A(3)(a), ‘ELN transfer document for an ELN transfer’—

omit, insert—

ELN transaction document for an ELN transfer or ELN lodgement

- (5) Section 480A(3)(b)—

omit, insert—

(b) either—

- (i) for an ELN transfer—the ELN transfer becomes an incomplete ELN transfer within the meaning of chapter 2, part 15; or
- (ii) for an ELN lodgement—the ELN lodgement becomes an incomplete

ELN lodgement within the meaning of
chapter 2, part 15.

**37 Amendment of s 481 (Offence for person other than self
assessor to endorse instrument or ELN transfer
document)**

(1) Section 481, 'ELN transfer document'—

omit, insert—

ELN transaction document

(2) Section 481(2), 'ELN transfer.'—

omit, insert—

ELN transfer or ELN lodgement.

(3) Section 481(3), definition *make*, 'ELN transfer to'—

omit, insert—

ELN transfer or ELN lodgement to

**38 Amendment of s 481A (Offence to endorse instrument or
ELN transfer document incorrectly or illegibly)**

Section 481A, 'ELN transfer document'—

omit, insert—

ELN transaction document

**39 Amendment of s 482 (Obligations relating to unstamped
instruments or ELN transfer documents)**

Section 482, 'ELN transfer'—

omit, insert—

ELN transaction

[s 40]

40 Amendment of s 483 (Registration of instruments and transactions)

Section 483, 'ELN transfer'—

omit, insert—

ELN transaction

41 Amendment of s 487 (Receipt of instruments or ELN transfer documents in evidence)

Section 487, 'ELN transfer'—

omit, insert—

ELN transaction

42 Amendment of s 487A (Limitation on use of ELN transfer document endorsed on basis of payment commitment)

Section 487A, 'ELN transfer document'—

omit, insert—

ELN transaction document

43 Amendment of s 488 (Commissioner may require payment of penalty)

Section 488(1), 'ELN transfer'—

omit, insert—

ELN transaction

44 Amendment of s 491 (When is an instrument or ELN transfer document *properly stamped*)

Section 491, 'ELN transfer'—

omit, insert—

ELN transaction

45 Amendment of s 496 (Lodging declaration stating facts and circumstances)

Section 496, 'ELN transfer'—

omit, insert—

ELN transaction

46 Amendment of s 499 (Reassessments of duty in particular circumstances)

Section 499, 'ELN transfer'—

omit, insert—

ELN transaction

47 Amendment of s 503 (Amounts stated in foreign currency)

Section 503, 'ELN transfer'—

omit, insert—

ELN transaction

48 Insertion of new ch 17, pt 25

Chapter 17—

insert—

**Part 25 Transitional provisions
for Revenue and Other
Legislation
Amendment Act 2018**

671 Meaning of *amending Act*

In this part—

amending Act means the *Revenue and Other*

Legislation Amendment Act 2018.

672 Retrospective effect of ss 76E–76G

- (1) This Act applies, and is taken to have applied since 9 August 2017, to a trust acquisition or trust surrender happening on or after that day, as if sections 76E to 76G were in force from 9 August 2017.
- (2) However, to remove any doubt, it is declared that a person can not be prosecuted under this Act or the Administration Act for a contravention of section 76G before the commencement.
- (3) A pre-commencement approval has effect, and is taken to have had effect since it was given, to the extent it would have had effect if sections 76E to 76G were in force from 9 August 2017.
- (4) In this section—

pre-commencement approval means an approval mentioned in section 76F given by the commissioner on or after 9 August 2017 and before the commencement.

673 Retrospective effect of amended s 179(4)

- (1) The amended provision applies, and is taken to have applied since 22 August 2017, to a relevant acquisition for which a liability for landholder duty arose on or after that day.
- (2) In this section—

amended provision means section 179(4) as amended by the amending Act.

**674 Retrospective effect of amended definition
*business property***

- (1) The amended definition applies, and is taken to

have applied since 12 October 2016, in relation to a dutiable transaction entered into on or after that day.

(2) In this section—

amended definition means schedule 6, definition *business property* as amended by the amending Act.

49 Amendment of sch 2 (When liability for transfer duty on dutiable transaction arises)

(1) Schedule 2, entry for transfer of dutiable property—
omit, insert—

[s 49]

Transfer of dutiable property

The earlier of the following—

- (a) when the property is transferred;
 - (b) if the transfer is an ELN transfer—when the ELN workspace for the ELN transfer—
 - (i) includes an ELN transaction document for the ELN transfer signed by the parties to the transaction; and
 - (ii) is locked;
 - (c) if the transfer is an ELN lodgement—when the ELN workspace for the ELN lodgement—
 - (i) includes an ELN transaction document for the ELN lodgement signed by the parties to the transaction; and
 - (ii) is locked;
 - (d) if an instrument effects, or when recorded in a register will effect, the transfer and the transfer is not an ELN transfer or ELN lodgement—when the instrument is signed by the parties to the transaction
- (2) Schedule 2, entry for surrender of dutiable property—
omit, insert—

- Surrender of dutiable property that is land in Queensland or a transferable site area
- The earlier of the following—
- (a) when the property is surrendered;
 - (b) if the surrender is an ELN lodgement—when the ELN workspace for the ELN lodgement—
 - (i) includes an ELN transaction document for the ELN lodgement signed by the parties to the transaction; and
 - (ii) is locked;
 - (c) if an instrument effects, or when recorded in a register will effect, the surrender and the surrender is not an ELN lodgement—when the instrument is signed by the parties to the transaction
- (3) Schedule 2, entries for vesting of dutiable property—
omit, insert—

[s 49]

Vesting of dutiable property by, or expressly authorised by, statute law of this or another jurisdiction, whether inside or outside Australia

The earlier of the following—

- (a) when the vesting takes place;
- (b) if an ELN transaction document for an ELN lodgement evidences the vesting—when the ELN workspace for the ELN lodgement—
 - (i) includes the ELN transaction document signed by the parties to the transaction; and
 - (ii) is locked

Vesting of dutiable property by a court order, of this or another jurisdiction, whether inside or outside Australia

The earlier of the following—

- (a) when the order is made;
- (b) if an ELN transaction document for an ELN lodgement evidences the vesting—when the ELN workspace for the ELN lodgement—
 - (i) includes the ELN transaction document signed by the parties to the transaction; and
 - (ii) is locked

(4) Schedule 2, entry for acquisition of a new right—
omit, insert—

Acquisition of a new right

The earlier of the following—

- (a) when the right is acquired;
- (b) if the acquisition is an ELN lodgement—when the ELN workspace for the ELN lodgement—
 - (i) includes an ELN transaction document for the ELN lodgement signed by the parties to the transaction; and
 - (ii) is locked;
- (c) if an instrument effects, or when recorded in a register will effect, the acquisition and the acquisition is not an ELN lodgement—when the instrument is signed by the parties to the transaction;
- (d) if a written agreement evidences the acquisition—when the agreement is made

50 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *business property*, *ELN transfer document*, *relevant residential land* and *signed*—

omit.

- (2) Schedule 6—

insert—

business property means—

- (a) land primarily used to carry on a business of primary production; or

[s 50]

- (b) other dutiable property used, on or in relation to land mentioned in paragraph (a), to carry on that business of primary production; or
- (c) land primarily used to carry on a prescribed business; or
- (d) personal property used, on or in relation to land mentioned in paragraph (c), to carry on that prescribed business.

completed lodgement, for chapter 2, part 15, see section 156D.

eligible land, for chapter 2, part 15, see section 156D.

ELN lodgement see section 156D.

ELN transaction document see section 156D.

incomplete ELN lodgement, for chapter 2, part 15, see section 156D.

lodgement information, for chapter 2, part 15, see section 156D.

managed investment scheme see the Corporations Act, section 9.

signed—

- (a) in relation to an ELN transaction document for an ELN transfer—see section 156E(1); or
- (b) in relation to an ELN transaction document for an ELN lodgement—see section 156E(2).

wholesale client see the Corporations Act, section 761G(4).

- (3) Schedule 6, definition *ELN workspace*, after ‘ELN transfer’—
insert—

[s 53]

duty for an ELN transfer or ELN lodgement.

- (2) Each of the exemptions for transfer duty mentioned in a provision of an Act stated in schedule 1A, part 2 is an exemption for transfer duty for an ELN lodgement.

53 Insertion of new sch 1A

After schedule 1—

insert—

Schedule 1A Concessions and exemptions for transfer duty—ELN transfers and ELN lodgements

section 4A

Part 1 Concessions for transfer duty—ELN transfers and ELN lodgements

- section 91
- section 92
- section 105
- section 105A

Part 2 Exemptions for transfer duty—ELN lodgements

1 the Act

- section 117
- section 124
- section 125
- section 130A
- section 130B
- section 136
- section 143
- section 145
- section 147
- section 149
- section 151
- section 152
- section 424
- section 426
- section 429
- section 430(b)
- section 430(c)
- section 431A

2 *Family Law Act 1975 (Cwlth)*

- section 90
- section 90L
- section 90WA

-
- (3B) Land that is taken to be owned by the deceased person under subsection (4)(a), or a part of that land, is exempt land, for the purpose of assessing a liability for land tax arising on the next 30 June after the date of death, if—
- (a) as at the last 30 June before the date of death, the land or part was exempt land; and
 - (b) as at the next 30 June after the date of death—
 - (i) the land or part is not being used and has not been used since the date of death; or
 - (ii) the land or part is being used, and has been used since the date of death, only for a purpose for which it was being used on the last 30 June before the date of death.
- (3C) A reference in subsection (5) to the next 30 June after the date of death is, if the date of death is 30 June, a reference to that day.
- (5) Section 23(3A) to (4)—
renumber as section 23(4) to (7).

56 Insertion of new pt 10, div 8

Part 10—

insert—

Division 8

**Transitional provision for
Revenue and Other
Legislation Amendment
Act 2018**

[s 57]

101 Retrospective operation of amended s 23

Section 23, as amended by the *Revenue and Other Legislation Amendment Act 2018*, is taken to have had effect since the commencement of this Act.

Part 5 Amendment of Payroll Tax Act 1971

57 Act amended

This part amends the *Payroll Tax Act 1971*.

58 Amendment of s 13Y (Exempt component of motor vehicle allowance)

Section 13Y(4), definition *R*—

omit, insert—

R means—

- (a) the rate determined under the *Income Tax Assessment Act 1997* (Cwlth), section 28-25(4) for calculating a deduction for car expenses using the ‘cents per kilometre’ method for the financial year immediately preceding the financial year in which the allowance is paid or payable; or
- (b) if there is no rate under paragraph (a)—the rate prescribed by regulation.

59 Insertion of new pt 14

After part 13—

insert—

Part 14 **Transitional provision
for Revenue and Other
Legislation
Amendment Act 2018**

146 Retrospective operation of amended s 13Y

Section 13Y, as amended by the *Revenue and Other Legislation Amendment Act 2018*, is taken to have had effect since 1 July 2016.

Part 6 **Amendment of State Penalties
Enforcement Act 1999**

60 Act amended

This part amends the *State Penalties Enforcement Act 1999*.

61 Amendment of s 10 (Staff and contractors)

Section 10, penalty—
omit.

62 Amendment of s 32F (Definitions for part)

Section 32F—
insert—

WDO eligible amount, of a person's SPER debt—

- (a) means any amount that is—
 - (i) if an enforcement order has been served on the person and the person has not taken any action under section

[s 63]

41(1), the amount stated in the order;
or

(ii) the enforceable amount of the person's
SPER debt; but

(b) does not include an amount that a court has
ordered the person pay to a specified person
or entity.

63 Amendment of s 32G (Work and development orders)

Section 32G, 'enforceable amount'—

omit, insert—

WDO eligible amount

**64 Amendment of s 32H (Eligibility for work and
development order)**

Section 32H, 'enforceable amount'—

omit, insert—

WDO eligible amount

**65 Amendment of s 32I (No work and development order for
restitution or compensation)**

(1) Section 32I, heading, 'restitution or compensation'—

omit, insert—

amount payable to specified person or entity

(2) Section 32I, from 'someone'—

omit, insert—

a specified person or entity.

*Examples of court orders for the payment of part of a
person's SPER debt to a specified person or entity—*

- an order for restitution or compensation under the
Penalties and Sentences Act 1992, section 35(1)

- an order for damages under the *Penalties and Sentences Act 1992*, section 190
- an order to pay costs to a complainant under the *Justices Act 1886*, section 157
- an order to pay a fixed portion of a penalty to an individual

66 Amendment of s 32J (Application for work and development order)

Section 32J, ‘enforceable amount’—

omit, insert—

WDO eligible amount

67 Amendment of s 32O (Variation of work and development order)

Section 32O(1), ‘enforceable amount’—

omit, insert—

WDO eligible amount

68 Amendment of s 32P (Withdrawal of work and development order)

Section 32P(4), ‘If the registrar withdraws the work and development order, the’—

omit, insert—

The

69 Amendment of s 32S (External review of decisions under this part)

Section 32S(1)—

insert—

(ba) a decision to refuse to withdraw a work and development order under section 32P;

[s 70]

70 Insertion of new pt 4A

After part 4—

insert—

Part 4A Order of satisfaction

60A Order of satisfaction of amounts of SPER debt

- (1) This section applies if a person pays, under a payment plan or otherwise, all or part of the person's SPER debt.
- (2) Subject to section 60B, the amount paid must be applied towards satisfying the person's SPER debt in the order stated in subsection (3).
- (3) For subsection (2), the following is the order of satisfaction—
 - (a) compensation;
 - (b) restitution;
 - (c) damages;
 - (d) a fixed portion of a penalty;
 - (e) an offender levy;
 - (f) court fees;
 - (g) witnesses' expenses payable under the decision;
 - (h) professional costs;
 - (i) any other fees or costs;
 - (j) any other amount ordered to be paid, including a fine (other than an infringement notice fine);
 - (k) any amount liable to be paid to the State under the *Victims of Crime Assistance Act 2009*, section 117(4);

- (l) any amount liable to be paid to the State under the *Victims of Crime Assistance Act 2009*, section 191(4);
- (m) an infringement notice fine.

60B Order of satisfaction if more than 1 unpaid amount

If an amount is paid under section 60A and there is more than 1 unpaid amount to which the amount could be applied—

- (a) the amount must first be applied to satisfy all unpaid amounts in the first relevant category in section 60A(3) in the order in which they became payable; and
- (b) after all amounts in the first relevant category are satisfied, any remaining amount must be applied to satisfy unpaid amounts in the next relevant category and then to each other relevant category in the same way until each relevant category is satisfied.

60C Application of part to payment of any amount

This part applies to the payment of any amount of a person's SPER debt—

- (a) despite any direction of the person to the contrary; and
- (b) despite the payment being made in response to a particular notice, order or warrant.

Example—

A person responds to an early referral notice under section 37B by paying the amount stated in the notice to SPER in full. SPER must apply the amount paid towards satisfying the person's SPER debt in the order stated in sections 60A and 60B.

[s 71]

71 Amendment of s 83 (Provisions for working out earnings for s 82)

Section 83(7), from '*Income Tax*'—

omit, insert—

Taxation Administration Act 1953 (Cwlth).

72 Amendment of s 96 (Application of amounts paid or credited if 2 or more debts due)

Section 96(2), 'Division 9'—

omit, insert—

Part 4A

73 Omission of pt 5, div 9 (Order of satisfaction of fines etc.)

Part 5, division 9—

omit.

74 Amendment of s 121 (Order of satisfaction of fines if enforcement debtor imprisoned)

Section 121, 'part 5, division 9'—

omit, insert—

part 4A

75 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

WDO eligible amount see section 32F.

Part 7 **Amendment of State Penalties Enforcement Amendment Act 2017**

76 **Act amended**

This part amends the *State Penalties Enforcement Amendment Act 2017*.

77 **Amendment of s 25 (Replacement of pt 4, div 1 (Default commences enforcement process))**

(1) Section 25, note to new section 33A(2)—

omit, insert—

Note—

See also the *Penalties and Sentences Act 1992*, section 179F and the *Police Powers and Responsibilities Act 2000*, sections 115 and 781.

(2) Section 25, new section 37E(2)(b), ‘28 days’—

omit, insert—

the period ending 28 days

Editor's note—

Legislation ultimately amended—

- *State Penalties Enforcement Act 1999*

78 **Amendment of s 26 (Amendment of s 38 (Issue of enforcement order))**

Section 26, new section 38(1)—

insert—

- (d) the scheme manager registers a debt under the *Victims of Crime Assistance Act 2009*, section 120.

[s 79]

Editor's note—

Legislation ultimately amended—

- *State Penalties Enforcement Act 1999*

79 Omission of s 65 (Amendment of s 113 (Order of satisfaction if more than 1 enforcement order))

Section 65—

omit.

Editor's note—

Legislation ultimately amended—

- *State Penalties Enforcement Act 1999*

Part 8 Amendment of Taxation Administration Act 2001

80 Act amended

This part amends the *Taxation Administration Act 2001*.

81 Amendment of s 113D (How reportable information may be collected)

Section 113D(2), 'ELN transfer'—

omit, insert—

ELN transaction

82 Amendment of s 149A (Application for registration)

Section 149A—

insert—

(3) In this section—

constitution see section 149C(6).

83 Amendment of s 149C (Restrictions on registration)

- (1) Section 149C(5), ‘unless, under its constitution, however described’—

omit, insert—

unless its constitution, however described, expressly provides that

- (2) Section 149C—

insert—

- (6) In this section—

constitution, of an institution, includes a law, deed or other instrument that constitutes the institution and governs the activities of the institution or its members.

84 Insertion of new pt 21

After part 20—

insert—

**Part 21 Transitional provision
for Revenue and Other
Legislation
Amendment Act 2018**

178 Application of s 149C to currently registered entities

- (1) This section applies to an institution that, immediately before the commencement, was registered under part 11A.
- (2) Despite the *Revenue and Other Legislation Amendment Act 2018*, the unamended section continues to apply in relation to the institution until the day that is 2 years after the commencement.

[s 85]

(3) In this section—

unamended section means section 149C as in force immediately before the commencement.

85 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition *document*, ‘transfer’—

omit, insert—

transaction

(2) Schedule 2, definition *ELN transfer document*, ‘transfer’—

omit, insert—

transaction

Part 9 Amendment of Victims of Crime Assistance Act 2009

86 Act amended

This part amends the *Victims of Crime Assistance Act 2009*.

87 Amendment of s 120 (Registration of unpaid amount under State Penalties Enforcement Act 1999)

(1) Section 120(1), ‘may give particulars of the unpaid amount to the SPER registrar for registration’—

omit, insert—

may register the unpaid amount

(2) Section 120(2)—

omit, insert—

(2) However, the *State Penalties Enforcement Act 1999*, part 4, division 1C does not apply to the debt.

Note—

See the *State Penalties Enforcement Act 1999*, section 38(1)(d).

(3) Section 120(5)—

omit, insert—

- (5) If the person's liability to pay an amount under section 117(4) is reduced under section 118 or 119, the scheme manager must amend the unpaid amount registered under the *State Penalties Enforcement Act 1999*, section 34 to reflect the reduction.

Part 10 Amendment of other legislation

Division 1 Amendment of Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984

88 Act amended

This division amends the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*.

89 Amendment of s 26 (Purpose of pt 5)

Section 26(2)(a)—

omit, insert—

- (a) prohibiting, in particular community areas—
- (i) the possession or supply of homemade alcohol; and

[s 90]

- (ii) the possession of substances used to make homemade alcohol; and
- (iii) the possession of things used to make homemade alcohol; and

90 Amendment of s 38 (Offences relating to homemade alcohol)

(1) Section 38(2)—

insert—

- (ca) possess a substance other than home-brew concentrate, or a combination of substances, with the intention of using the substance or substances to make homemade alcohol; or

(2) Section 38(2)(ca) and (d)—

renumber as section 38(2)(d) and (e).

(3) Section 38(3)—

insert—

- (ca) possess a substance other than home-brew concentrate, or a combination of substances, with the intention of using the substance or substances to make homemade alcohol; or

(4) Section 38(3)(ca) to (e)—

renumber as section 38(3)(d) to (f).

91 Amendment of s 39 (Relationship with restricted areas)

Section 39(2), ‘Section 38(3)(d)’—

omit, insert—

Section 38(3)(e)

92 Amendment of s 67 (Evidentiary aids)

Section 67(4), ‘38(2)(b), (c) or (d) or (3)(b), (c), (d) or (e)’—

omit, insert—

38(2)(b), (c) or (e) or (3)(b), (c), (e) or (f)

93 Amendment of s 69 (Evidence of homemade alcohol having regard to belief of police officer)

Section 69(1), ‘section 38(2)(d) or (3)(d) or (e)’—

omit, insert—

section 38(2)(e) or (3)(e) or (f)

Division 2 Amendment of Aboriginal Cultural Heritage Act 2003

94 Act amended

This division amends the *Aboriginal Cultural Heritage Act 2003*.

95 Amendment of s 34 (Native title party for an area)

Section 34(1)(b)(i)(C), before ‘native title holder’—

insert—

registered

96 Amendment of pt 11, hdg (Transitional provisions)

Part 11, heading, after ‘Transitional’—

insert—

and validation

97 Insertion of new pt 11, div 1, hdg

Before section 161—

insert—

[s 98]

**Division 1 Transitional provisions for
Act No. 79 of 2003**

98 Insertion of new pt 11, div 2

After section 169—

insert—

**Division 2 Transitional and validation
provisions for Revenue
and Other Legislation
Amendment Act 2018**

**170 Consideration of particular cultural heritage
studies endorsed before commencement**

- (1) This section applies if, before the commencement, a sponsor—
 - (a) either—
 - (i) gave a written notice (proposed study) under section 56(1); or
 - (ii) caused a public notice (proposed study) to be published under section 61(2); and
 - (b) endorsed an Aboriginal party to take part in a cultural heritage study under section 62(2), 64(2) or 65(2).
- (2) If the cultural heritage study is given to the chief executive for recording under section 71(1), the chief executive must consider whether to record the findings of the study under this Act as in force before the commencement.
- (3) Despite subsection (1), this section does not apply to an act or omission that is declared to be, and to have always been, valid and lawful under section

172.

171 Approval of particular cultural heritage management plans endorsed before commencement

- (1) This section applies if, before the commencement, a sponsor—
 - (a) either—
 - (i) gave a written notice (proposed plan) under section 91(1); or
 - (ii) caused a public notice (proposed plan) to be published under section 96(2); and
 - (b) either—
 - (i) endorsed an Aboriginal party under section 97(2), 99(2) or 101(2); or
 - (ii) was not required to endorse an Aboriginal party.
- (2) If the cultural heritage management plan is given to the chief executive for approval under section 107(1), the chief executive must approve or refuse to approve the plan under this Act as in force before the commencement.
- (3) Despite subsection (1), this section does not apply to an act or omission that is declared to be, and to have always been, valid and lawful under section 172.

172 Validation of particular acts and omissions done before commencement

- (1) An act or omission done under this Act before the commencement, to the extent it was invalid or unlawful, is declared to be, and to have always been, as valid and lawful as if amended section 34

[s 99]

were in force at the time of the act or omission.

(2) In this section—

amended section 34 means section 34 as in force on the commencement.

Division 3 Amendment of Acquisition of Land Act 1967

99 Act amended

This part amends the *Acquisition of Land Act 1967*.

100 Amendment of sch 2 (Dictionary)

Schedule 2, definition *relevant Minister*—

insert—

(ba) for land to be taken for a purpose of the *Cross River Rail Delivery Authority Act 2016*, the Minister administering that Act; and

Division 4 Amendment of Cross River Rail Delivery Authority Act 2016

101 Act amended

This part amends the *Cross River Rail Delivery Authority Act 2016*.

102 Amendment of s 33 (Membership of board)

Section 33(1)(c), '*Transport (Rail Safety) Act 2010*'—

omit, insert—

Rail Safety National Law (Queensland) Act 2017

103 Amendment of s 49 (Appointment)

Section 49—

insert—

- (3) If there is a vacancy in the office of the chief executive officer or the chief executive officer is for any reason unable to perform the functions of the office, the board may appoint a person to act as the chief executive officer for a period of not more than 6 months.
- (4) Subsection (3) does not limit the power of the board, in consultation with the Minister, to appoint a person under the *Acts Interpretation Act 1954*, section 25(1)(b) to act as the chief executive officer.
- (5) Despite subsection (2), if a person appointed (whether under subsection (3) or by a power mentioned in subsection (4)) to act as the chief executive officer is an officer or employee of a government agency, the authority and the chief executive of that agency may agree to treat the appointment as if it were an alternative staffing arrangement under section 58.

104 Amendment of s 71 (Annual budgets and financial management policies)

- (1) Section 71(1), ‘Before 31 March each’—

omit, insert—

Each

- (2) Section 71(2), ‘by 30 April each year’—

omit, insert—

before the end of the financial year

[s 105]

Division 5 Amendment of Police Powers and Responsibilities Act 2000

105 Act amended

This division amends the *Police Powers and Responsibilities Act 2000*.

106 Amendment of s 53 (Prevention of particular offences relating to liquor)

Section 53(1)(a)(ii), ‘38(2)(d) or (3)(d) or (e)’—
omit, insert—

38(2)(e) or (3)(e) or (f)

Division 6 Amendment of Torres Strait Islander Cultural Heritage Act 2003

107 Act amended

This division amends the *Torres Strait Islander Cultural Heritage Act 2003*.

108 Amendment of s 34 (Native title party for an area)

Section 34(1)(b)(i)(C), before ‘native title holder’—
insert—

registered

109 Amendment of pt 10, hdg (Transitional provisions)

Part 10, heading, after ‘Transitional’—
insert—

and validation

110 Insertion of new pt 10, div 1, hdg

Before section 160—

insert—

**Division 1 Transitional provisions for
Act No. 80 of 2003**

111 Insertion of new pt 10, div 2

After section 167—

insert—

**Division 2 Transitional and validation
provisions for Revenue
and Other Legislation
Amendment Act 2018**

**168 Consideration of particular cultural heritage
studies endorsed before commencement**

- (1) This section applies if, before the commencement, a sponsor—
 - (a) either—
 - (i) gave a written notice (proposed study) under section 56(1); or
 - (ii) caused a public notice (proposed study) to be published under section 61(2); and
 - (b) endorsed a Torres Strait Islander party to take part in a cultural heritage study under section 62(2), 64(2) or 65(2).
- (2) If the cultural heritage study is given to the chief executive for recording under section 71(1), the chief executive must consider whether to record the findings of the study under this Act as in force

[s 111]

before the commencement.

- (3) Despite subsection (1), this section does not apply to an act or omission that is declared to be, and to have always been, valid and lawful under section 170.

169 Approval of particular cultural heritage management plans endorsed before commencement

- (1) This section applies if, before the commencement, a sponsor—
 - (a) either—
 - (i) gave a written notice (proposed plan) under section 91(1); or
 - (ii) caused a public notice (proposed plan) to be published under section 96(2); and
 - (b) either—
 - (i) endorsed a Torres Strait Islander party under section 97(2), 99(2) or 101(2); or
 - (ii) was not required to endorse a Torres Strait Islander party.
- (2) If the cultural heritage management plan is given to the chief executive for approval under section 107(1), the chief executive must approve or refuse to approve the plan under this Act as in force before the commencement.
- (3) Despite subsection (1), this section does not apply to an act or omission that is declared to be, and to have always been, valid and lawful under section 170.

**170 Validation of particular acts and omissions
done before commencement**

- (1) An act or omission done under this Act before the commencement, to the extent it was invalid or unlawful, is declared to be, and to have always been, as valid and lawful as if amended section 34 were in force at the time of the act or omission.
- (2) In this section—
amended section 34 means section 34 as in force on the commencement.

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