

TASMANIA

DUTIES AMENDMENT (LANDHOLDER AND CORPORATE RECONSTRUCTION AND CONSOLIDATION) BILL 2016

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**DUTIES AMENDMENT (LANDHOLDER AND
CORPORATE RECONSTRUCTION AND
CONSOLIDATION) BILL 2016**

*(Brought in by the Treasurer, the Honourable Peter Carl
Gutwein)*

A BILL FOR

An Act to amend the *Duties Act 2001*

Be it enacted by Her Excellency the Governor of Tasmania, by
and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Duties Amendment
(Landholder and Corporate Reconstruction and
Consolidation) Act 2016*.

2. Commencement

This Act commences on the day on which this
Act receives the Royal Assent.

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3. Principal Act

In this Act, the *Duties Act 2001** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting “majority interest” from paragraph (c) of the definition of *associated person* and substituting “significant interest, within the meaning given by section 66,”;
- (b) by inserting the following paragraph after paragraph (e) in the definition of *associated person*:
 - (ea) public companies are associated persons if common shareholders have a majority shareholding in each company;
- (c) by inserting the following paragraphs after paragraph (f) in the definition of *associated person*:
 - (fa) a company and the trustee of a unit trust scheme are associated persons if the shares in the company and the units in the unit

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trust scheme cannot be traded
except as a single security;

- (fb) trustees of 2 or more unit trust schemes are associated persons if the units in the unit trust schemes cannot be traded except as a single security;
- (d) by omitting “section 63(1);” from the definition of *beneficiary of a discretionary trust* and substituting “section 77(1);”;
- (e) by omitting the definition of *exempt acquisition*;
- (f) by omitting the definition of *interest*, second occurring;
- (g) by omitting the definition of *land holding*;
- (h) by omitting the definition of *majority interest*;
- (i) by omitting “private” from the definition of *majority shareholder*;
- (j) by omitting the definition of *private corporation*;
- (k) by omitting the definition of *relevant acquisition*.

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5. Chapter 3, Parts 1 and 2 substituted

Parts 1 and 2 of Chapter 3 of the Principal Act are repealed and the following Parts are substituted:

PART 1 – PRELIMINARY

58. Overview

- (1) This Chapter charges duty on certain transactions that are not dutiable transactions.
- (2) Duty is chargeable under this Chapter on a relevant acquisition in a landholder at the rate, or a portion of the rate, specified under section 29, for a transfer of dutiable property.

59. Interpretation of Chapter 3

- (1) In this Chapter –

acquisition statement means a statement prepared and lodged in accordance with section 68;

acquisition statement period means the 3-year period of an acquisition statement referred to in section 68(6) or the longer period referred to in section 68(7), as appropriate;

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concessional acquisition means a concessional acquisition within the meaning of section 84A;

exempt acquisition means an exempt acquisition within the meaning of section 83 or 84;

goods, of a landholder, has the meaning given by section 63;

interest, in a landholder, has the meaning given by section 66;

land holding has the meaning given by section 62;

linked entity has the meaning given by –

- (a) section 76(2) in relation to a private unit trust scheme or private company; or
- (b) section 76(3) in relation to a public unit trust scheme or listed company;

listed company means a company any of the shares of which are quoted on the Australian Stock Exchange, or any other recognised stock exchange;

person includes a landholder;

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private landholder has the meaning given by section 61(2);

public landholder has the meaning given by section 61(3);

relevant acquisition has the meaning given by section 65;

significant interest, in a landholder, has the meaning given by section 66.

- (2) In this Chapter, a reference to a marketable security in relation to another jurisdiction is a reference to a marketable security within the meaning of the corresponding Act of that jurisdiction.

60. Provisions relating to trusts

- (1) Any land or goods held on trust by –
- (a) a trustee of a unit trust scheme in its capacity as a trustee; or
 - (b) a custodian of a trustee of a unit trust scheme in its capacity as a custodian; or
 - (c) a sub-custodian of a custodian of a trustee of a unit trust scheme in its capacity as a sub-custodian –

are taken to be held by the unit trust scheme.

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(2) Any act done by –

- (a) a trustee of a unit trust scheme in its capacity as a trustee; or
- (b) a custodian of a trustee of a unit trust scheme in its capacity as a custodian; or
- (c) a sub-custodian of a custodian of a trustee of a unit trust scheme in its capacity as a sub-custodian –

is taken, where appropriate, to have been done by the unit trust scheme.

(3) If a landholder is a unit trust scheme, any act to be done by the landholder is to be done by any of the following:

- (a) the trustee of the unit trust scheme in its capacity as a trustee;
- (b) a custodian of the trustee of the unit trust scheme in its capacity as a custodian;
- (c) a sub-custodian of a custodian of the trustee of the unit trust scheme in its capacity as a sub-custodian.

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**61. Meaning of *landholder*, *private landholder*
and *public landholder***

(1) For the purposes of this Chapter, a landholder is –

- (a) a private unit trust scheme; or
- (b) a public unit trust scheme; or
- (c) a private company; or
- (d) a listed company –

that has land holdings in Tasmania with a total unencumbered value of \$500 000 or more.

(2) A landholder is a private landholder if the landholder is a private unit trust scheme or private company.

(3) A landholder is a public landholder if the landholder is a public unit trust scheme or a listed company.

62. What are the *land holdings* of a landholder

(1) For the purposes of this Chapter and subject to this section, a land holding is an interest in land other than –

- (a) the interest of a mortgagee, chargee or other secured creditor; or

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(b) *a profit a prendre.*

- (2) An interest in land is a land holding of a unit trust scheme only to the extent that the interest is held by the trustee of the unit trust scheme in its capacity as trustee of the scheme, by a custodian of the trustee of the unit trust scheme in its capacity as custodian or by a sub-custodian of the custodian of the trustee of the unit trust scheme in its capacity as sub-custodian.
- (3) An interest in land is not a land holding of a company if the company holds the land on trust, but only if the company is not a beneficiary of the trust.
- (4) If a company holds land on trust and is also a beneficiary of the trust, the Commissioner may determine that the interest of the company in the land as trustee is not a land holding of the company and, if the Commissioner so determines, that interest of the company in the land as trustee is not a land holding of the company.
- (5) For the purposes of this Chapter –
 - (a) an interest in a mineral tenement is taken to be an interest in land; and
 - (b) an interest in a pipeline, within the meaning of the *Gas Pipelines*

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Act 2000, is taken to be an interest in land.

- (6) If a private company, listed company, private unit trust scheme or public unit trust scheme has an entitlement to or interest in land, a thing that is fixed to the land is taken to be part of the land for the purposes of determining the extent of the company or unit trust scheme's land holdings for the purposes of this Chapter.
- (7) A thing that is fixed to the land is not to be taken to be part of the land for the purposes of subsection (6) if the Commissioner is satisfied that it would not be just and reasonable to do so in the circumstances.
- (8) If –
 - (a) a private company, listed company, private unit trust scheme or public unit trust scheme has an entitlement to, or interest in, a thing that is fixed to the land; and
 - (b) that entitlement or interest is, or purports to be, separate from the ownership of the rest of the land –

the private company, listed company, private unit trust scheme or public unit trust scheme is to be regarded as having

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an interest in land for the purposes of this Chapter to the extent of its entitlement to, or interest in, the thing.

(9) In this section –

thing that is fixed to the land means any thing that is fixed to the land (including a thing that, under the direct or indirect authority of a mineral tenement, is fixed to land that is the subject of that mineral tenement), whether or not the thing –

- (a) constitutes a fixture at law; or
- (b) is owned separately from the land; or
- (c) is notionally severed or considered to be legally separate from the land as a result of the operation of any other Act or law.

63. What are the goods of a landholder, unit trust scheme or company

(1) In this Chapter –

goods does not include the following:

- (a) goods that are stock-in-trade;
- (b) materials held for use in manufacture;

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- (c) goods under manufacture;
 - (d) livestock;
 - (e) a registered motor vehicle that is not exempt from motor tax under the *Vehicle and Traffic Act 1999* or the *Transport Act 1981*.
- (2) For the purposes of this Chapter, goods are goods of a landholder, unit trust scheme or company –
- (a) if the landholder, unit trust scheme or company has any interest in the goods, other than an interest as mortgagee, chargee or other secured creditor; but
 - (b) only to the extent of that interest.
- (3) Goods are goods of a unit trust scheme only to the extent that the interest in the goods is held by the trustee of the unit trust scheme in its capacity as trustee of the scheme, by a custodian of the trustee of the unit trust scheme in its capacity as custodian or by a sub-custodian of the custodian of the trustee of the unit trust scheme in its capacity as sub-custodian.
- (4) Goods are not goods of a company if the interest the company has in the goods is held on trust and the company is not a beneficiary of the trust.

- (5) If a company holds goods on trust and is also a beneficiary of the trust, the Commissioner may determine that the interest of the company in the goods as trustee is not an interest of the company in the goods and, if the Commissioner so determines, the interest of the company in the goods as trustee is not an interest of the company in the goods.

PART 2 – CHARGING OF DUTY ON ACQUISITIONS OF INTERESTS OF LANDHOLDERS

64. When does a liability for duty arise

A liability for duty charged by this Part arises when a relevant acquisition is made.

65. What is a *relevant acquisition*

- (1) For the purposes of this Chapter, a person makes a relevant acquisition if the person –
- (a) acquires an interest in a landholder –
 - (i) that is of itself a significant interest in the landholder; or
 - (ii) that, when aggregated with other interests in the landholder held by the

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person or an associated person, results in an aggregation that amounts to a significant interest in the landholder; or

- (b) having a significant interest, or an interest described in paragraph (a)(ii), in a landholder, acquires a further interest in the landholder.
- (2) However, an acquisition of an interest in a private landholder under an arrangement that results in the private landholder ceasing to be a private landholder is not a relevant acquisition because of subsection (1)(a)(ii).
- (3) If a trustee acquires or holds an interest in a landholder and the trustee is a trustee for 2 or more trusts, any interests in the landholder acquired or held by the trustee for different trusts are to be treated as if they were acquired or held independently by separate trustees.
- (4) If a person acquires or holds an interest in a landholder otherwise than as a trustee (the *personal interest*) but also acquires or holds another interest in the landholder as trustee (the *trust interest*) but is not also a beneficiary under that trust, the personal interest is to be treated as if it were –

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- (a) acquired or held independently of the trust interest; and
 - (b) acquired or held by a different person from the person who acquires or holds the trust interest.
- (5) If a life company acquires or holds an interest in a landholder, any interests in the landholder acquired or held by the life company for different statutory funds are to be treated as if they were acquired or held independently by separate life companies.
- (6) If a life company acquires or holds an interest in a landholder otherwise than for a statutory fund (the *first interest*) but also acquires or holds another interest in the landholder for a statutory fund (the *second interest*), the first interest is to be treated as if it were –
 - (a) acquired or held independently of the second interest; and
 - (b) acquired or held by a different person from the life company who acquires or holds the second interest.
- (7) For the purpose of avoiding doubt, subsections (3), (4), (5) and (6) do not affect –

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- (a) the definition of *associated person* in section 3; or
 - (b) the operation of subsection (1)(a)(ii) or Part 3.
- (8) In this section –
- statutory fund* has the same meaning as in section 29 of the *Life Insurance Act 1995* of the Commonwealth.

66. What are *interests* and *significant interests* in landholders

- (1) For the purposes of this Chapter, a person has an interest in a landholder if the person, in the event of a distribution of all the property of the landholder, would be entitled to any of the property distributed.
- (2) A person who has an interest in a landholder has a significant interest in the landholder if the person, in the event of a distribution of all the property of the landholder (without regard to the liabilities of the landholder) immediately after the interest was acquired, would be entitled to –
 - (a) in the case of a private landholder, 50% or more of the property distributed; or

- (b) in the case of a public landholder, 90% or more of the property distributed.

67. How an interest may be *acquired*

- (1) For the purposes of this Chapter, a person acquires an interest in a landholder if the person obtains an interest, or the person's interest increases, in the landholder regardless of how it is obtained or increased.
- (2) Without limiting subsection (1), a person may acquire an interest in a landholder in the following ways:
 - (a) a purchase, gift or issue of a unit or share;
 - (b) a cancellation, redemption or surrender of a unit or share;
 - (c) an abrogation or alteration of a right pertaining to a unit or share;
 - (d) a payment of an amount owing for a unit or share;
 - (e) a declaration of trust over units or shares;
 - (f) a statutory vesting of units or shares;

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- (g) if the person holds an interest in the landholder (whether or not as trustee for another person) and the capacity in which the person holds the interest changes (including if there is a change in the beneficial ownership of an interest held by a person as trustee).
- (3) A person may acquire an interest in a landholder without acquiring units or shares in the landholder.

68. Acquisition statements

- (1) A person who has made a relevant acquisition must prepare a statement and lodge it with the Commissioner within 3 months after the relevant acquisition is made.

Penalty: Fine not exceeding 50 penalty units.

- (2) If a person makes a relevant acquisition as a result of the aggregation of the interests of the person with one or more associated persons –
 - (a) subsection (1) applies not only to the person but also to each such associated person; but

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- (b) compliance with subsection (1) by the person or any such associated person is taken to be sufficient compliance with that subsection by the person and each such associated person.
- (3) The statement is to be prepared in an approved form and must contain the following information:
 - (a) the name and address of the person who has acquired the interest;
 - (b) in relation to each interest acquired, the date on which it was acquired;
 - (c) if the relevant acquisition results from the aggregation of the interests of associated persons, particulars of the interests acquired by the person and any associated persons;
 - (d) particulars of the total interest of the person and any associated person in the landholder at that date;
 - (e) such other information as the Commissioner may require.
- (4) The statement must also contain additional information consisting of the

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unencumbered value of all land holdings and goods in Tasmania of the landholder as at the date of the relevant acquisition and, if the landholder is a private landholder, as at the date of acquisition of each interest acquired in the landholder during the statement period.

- (5) The additional information referred to in subsection (4) is not required in relation to any exempt acquisition or concessional acquisition.
- (6) The statement period is the period commencing 3 years before the date of the relevant acquisition and ending on the date of the relevant acquisition.
- (7) However, if the relevant acquisition is related to an acquisition of an interest in the landholder that was made before the start of that 3-year period (the *earlier acquisition*), the statement period is the period commencing on the date that earlier acquisition was made (or, if there is more than one, the first of them) and ending on the date of the relevant acquisition.
- (8) For the purposes of subsection (7), a relevant acquisition is related to another acquisition of an interest in the landholder if both acquisitions are part of an arrangement to acquire interests in the landholder.

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- (9) If a statement in relation to a relevant acquisition is not prepared and lodged in accordance with subsection (1), the Commissioner may prepare, in relation to the relevant acquisition, a statement for the purposes of that subsection and any statement so prepared is to be taken for the purposes of this section to be the acquisition statement in relation to the relevant acquisition.
- (10) In preparing a statement under subsection (9), the Commissioner may take into account any information available to the Commissioner and may make estimates based on that information.

69. When must duty be paid

A tax default does not occur for the purposes of the *Taxation Administration Act 1997* if duty is paid within 3 months after the liability to pay the duty arises.

70. Who is liable to pay the duty

- (1) Duty chargeable under this Part is payable by the person who makes the relevant acquisition, except as provided by subsection (2).
- (2) If a relevant acquisition results from the aggregation of the interests of associated

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persons, the person who made the relevant acquisition and the associated person are jointly and severally liable for payment of the duty.

71. How duty is charged on relevant acquisitions – private landholders

- (1) If an acquisition statement that discloses a relevant acquisition in a private landholder does not disclose any other acquisitions during the statement period, duty is chargeable, at the rate specified in section 29 on a dutiable transaction, on the amount calculated by multiplying the unencumbered value of all land holdings and goods of the landholder in Tasmania (calculated at the date of acquisition of the interest acquired) by the proportion of that value represented by the interest acquired in the relevant acquisition.
- (2) Despite subsection (1), duty is not chargeable under this section on a relevant acquisition referred to in that subsection if the acquisition is an exempt acquisition.
- (3) Despite subsection (1), duty is not chargeable as specified in that subsection on a relevant acquisition referred to in that subsection if that acquisition is also a concessional acquisition, but is

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chargeable at the relevant concessional rate of duty under Part 5 of Chapter 2.

- (4) If a relevant acquisition results from the aggregation of the interests of associated persons, the reference in subsection (1) to the interest acquired includes a reference to any interests acquired by associated persons.
- (5) If an acquisition statement disclosing a relevant acquisition in a private landholder also discloses one or more other acquisitions during the statement period, duty is chargeable, at the rate specified in section 29 on a dutiable transaction, on the aggregate of the amounts severally calculated, in the manner provided by subsection (1), in respect of each interest required to be disclosed in the statement.
- (6) For the purpose of calculating duty under this section –
 - (a) if the acquisition statement discloses one or more other acquisitions referred to in subsection (5) and the relevant acquisition is an exempt acquisition the value of the land and goods for the relevant acquisition is taken to be zero; and

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- (b) if the acquisition statement discloses one or more other acquisitions and the relevant acquisition is a concessional acquisition –
 - (i) the value of the land and goods for the relevant acquisition is taken to be zero; and
 - (ii) the relevant concessional amount of duty under Part 5 of Chapter 2 is to be added to the amount of duty otherwise chargeable under this section; and
- (c) if any of the other acquisitions referred to in subsection (5) occurred when the landholder did not own land in Tasmania, the value of any goods that the landholder held at the time of that other acquisition is taken to be zero; and
- (d) if any of the other acquisitions referred to in subsection (5) is an exempt acquisition, the value of the land and goods acquired for that other acquisition is taken to be zero; and

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- (e) if any of the other acquisitions referred to in subsection (5) is a concessional acquisition –
- (i) the value of the land and goods acquired for that other acquisition is taken to be zero; and
 - (ii) the relevant concessional amount of duty under Part 5 of Chapter 2 is to be added to the amount of duty otherwise chargeable under this section.
- (7) Duty chargeable under this section is to be reduced by the sum of the duty paid, or payable, under this Chapter in respect of an acquisition, during the acquisition statement period, by the person or any associated person of an interest in the same landholder, but only in proportion to the extent to which the duty paid, or payable, is attributable to the amount of the duty payable under this section.
- (8) Duty chargeable under this section is to be reduced by an amount (if any) calculated in accordance with the following formula:

$$\frac{A}{B} \times C$$

where –

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A is the unencumbered value of the land holdings and goods in Tasmania of the landholder at the time the acquisition was made; and

B is the unencumbered value of all property of the landholder at that time; and

C is any marketable securities duty paid or payable under a law of another Australian jurisdiction in relation to the relevant acquisition.

- (9) If a relevant acquisition is made owing to the aggregation of the interests of associated persons, but the Commissioner is satisfied that the associated persons acquired their respective interests independently and for no common purpose, the Commissioner may assess and charge duty on each separate acquisition without aggregating the interests of the person who made it with the interests of associated persons.
- (10) This section is subject to Parts 3A and 3B.

72. How duty is charged on relevant acquisitions – public landholders

- (1) If an acquisition statement discloses a relevant acquisition in a public landholder, the duty chargeable on the relevant acquisition is 10% of the duty that would be chargeable, at the rate specified in section 29 on a transfer of dutiable property, on a transfer of all the land holdings and goods of the landholder in Tasmania (calculated as if the transfer had occurred at the date of the relevant acquisition).
- (2) For the purposes of subsection (1), the dutiable value of all the land holdings and goods of the landholder as referred to in that subsection is the unencumbered value of those land holdings and goods at the date of the relevant acquisition.
- (3) If an acquisition disclosed in an acquisition statement is an exempt acquisition or a concessional acquisition –
 - (a) the duty chargeable under this section is to be calculated after deducting from the dutiable value of the land holdings and goods the proportion of the dutiable value represented by the interest acquired in the exempt

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acquisition or concessional acquisition; and

(b) in the case of a concessional acquisition, the relevant concessional amount of duty under Part 5 of Chapter 2 is to be added to the amount of duty otherwise chargeable under this section.

(4) Duty chargeable under this section is to be reduced by an amount (if any) calculated in accordance with the following formula:

$$\frac{A}{B} \times C$$

where –

A is the unencumbered value of the land holdings and goods in Tasmania of the landholder at the time the acquisition was made; and

B is the unencumbered value of all property of the landholder at that time; and

C is any marketable securities duty paid or payable under a law of another Australian jurisdiction in relation to the relevant acquisition.

- (5) If duty is chargeable in respect of a relevant acquisition made by a person in a public landholder, no duty is chargeable in respect of any further acquisition made by that person in that landholder.
- (6) This section is subject to Parts 3A and 3B of this Chapter.

PART 3 – CHARGING OF DUTY ON ACQUISITIONS MADE BY TRUSTEES

73. Application of Part

- (1) This Part applies for the purposes of determining a liability for duty under this Chapter where a person acquires or holds an interest in a landholder as bare trustee for another person.
- (2) In this Part, a bare trustee includes a custodian, other than –
 - (a) a custodian of a trustee of a unit trust scheme in its capacity as a custodian; and
 - (b) a sub-custodian of a custodian of a trustee of a unit trust scheme in its capacity as a sub-custodian.

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74. Meaning of *beneficial owner*

- (1) If a person who acquires or holds an interest in a landholder acquires or holds that interest as bare trustee for another person, the other person is a beneficial owner of that interest in the landholder.
- (2) If a person who is a beneficial owner of an interest in a landholder (whether as a result of subsection (1) or as a result of one or more applications of this subsection) holds that interest as bare trustee for another person, that other person is also a beneficial owner of that interest in the landholder.
- (3) For the purposes of this Part, the ultimate beneficial owner of an interest in a landholder is any beneficial owner of the interest in the landholder who does not hold that interest as bare trustee for another person.

75. Beneficial owners liable for duty on acquisition in landholders

- (1) Any interest in a landholder that is acquired or held by a person (the *legal owner*) as bare trustee for another person is taken, for the purposes of this Chapter, to have been acquired by, or to be held by, the ultimate beneficial owner of the interest in the landholder, rather than the legal owner.

- (2) Accordingly, the ultimate beneficial owner of an interest acquired by the legal owner will be liable to lodge an acquisition statement, and to pay any duty chargeable under this Chapter, in respect of any relevant acquisition made as a result of that acquisition by the legal owner.
- (3) For the purpose of determining whether an acquisition is a relevant acquisition, section 65 applies as if a reference to a person who acquires or holds an interest in a landholder were a reference to the ultimate beneficial owner of the interest, rather than the legal owner.
- (4) For the purposes of subsection (3), the acquisition is to be aggregated with other interests held by the ultimate beneficial owner of the interest and any associated person of the ultimate beneficial owner of the interest.

**PART 3A – GENERAL PRINCIPLES TO BE APPLIED
UNDER THIS CHAPTER**

**76. Constructive ownership of land holdings and
other property: linked entities**

- (1) In addition to any interest in land or other property that it may hold in its own right, a private unit trust scheme, public unit trust scheme, private company or listed company is taken, for the purposes of

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this Chapter, to hold an interest in land or other property held by a linked entity of the private unit trust scheme, public unit trust scheme, private company or listed company.

- (2) A linked entity of a private unit trust scheme or a private company (the *principal entity*) means a private unit trust scheme or a private company that is part of a chain of private unit trust schemes or private companies –
- (a) which includes the principal entity; and
 - (b) which is comprised of one or more links; and
 - (c) in which a link exists if a private unit trust scheme or a private company would be entitled to receive not less than 50% of the unencumbered value of the property of another private unit trust scheme or private company in the event of a distribution of all the property of the private unit trust scheme or private company; and
 - (d) which does not include, in any of the links between the private unit trust scheme or private company and the principal entity, a public

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unit trust scheme or a listed
company.

- (3) A linked entity of a public unit trust scheme or a listed company (the *principal entity*) means a unit trust scheme or a company that is part of a chain of unit trust schemes or companies –
- (a) which includes the principal entity; and
 - (b) which is comprised of one or more links; and
 - (c) in which a link exists if a unit trust scheme or company would be entitled to receive not less than 50% of the unencumbered value of the property of another unit trust scheme or company in the event of a distribution of all the property of the unit trust scheme or company.
- (4) The value, for duty purposes, of the interest in land or other property that a private unit trust scheme, public unit trust scheme, private company or listed company (being a principal entity) is taken, by this section, to hold because of a holding by a linked entity is that portion of the interest's unencumbered value to which the unit trust scheme or

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company would be entitled (without regard to any liabilities of the linked entity or any other person in the ownership chain) in the event of a distribution of all the property of each entity in the chain of entities.

77. Constructive ownership of land holdings and other property: discretionary trusts

- (1) A person, or a person of a class of persons, in the favour of whom or which, by the terms of a discretionary trust, capital which is the subject of the trust may be applied –
 - (a) in the event of the exercise of a power or discretion in favour of the person or class; or
 - (b) in the event that a discretion conferred under the trust is not exercised –

is, for the purposes of this section, a beneficiary of the trust.

- (2) A beneficiary of a discretionary trust is taken to own or be otherwise entitled to all of the property which is the subject of the trust unless the Commissioner determines otherwise.
- (3) For the purposes of this Chapter, any property that is the subject of a

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discretionary trust is taken to be the subject of any other discretionary trust –

- (a) that is; or
- (b) any trustee of which (in the capacity of trustee) is –

a beneficiary of it.

- (4) Subsection (3) extends to apply to property that is the subject of a discretionary trust only by the operation of that subsection.

78. Inclusion of land holdings and goods recently transferred

- (1) In determining the land holdings or goods of a private unit trust scheme or private company, the land holdings or goods of the scheme or company are taken to include any land holdings or goods of the unit trust scheme or company, or of a linked entity of the scheme or company, that were recently transferred –
 - (a) to the person who has made the acquisition in the scheme or company; or
 - (b) to a person who was an associated person of the person referred to in paragraph (a) when

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the acquisition occurred and also was an associated person of the person referred to in paragraph (a) when the transfer of the land holding or goods occurred.

- (2) For the purposes of subsection (1), a land holding or goods are ***recently transferred*** if the land holding or goods are transferred within 12 months before the acquisition is made.
- (3) Subsection (1) does not apply if, after considering the circumstances of the acquisition, the Commissioner determines that it is just and reasonable in the circumstances that the subsection should not apply.
- (4) The duty payable under this Chapter in respect of the acquisition is to be reduced by the amount of *ad valorem* duty (if any) paid in respect of the transfer under Chapter 2 of the land holding or goods referred to in subsection (1).
- (5) In this section, a reference to a transfer, in relation to a land holding or goods, includes a reference to any dutiable transaction that effects a change in the beneficial ownership of the land holding or goods in favour of the person referred to in subsection (1)(a) or (b).

79. Agreements for sale or transfer of land

- (1) For the purposes of this Chapter, the transferor and the transferee under an uncompleted agreement for the sale or transfer of land or of goods, or of both land and goods, are taken to be separately entitled to the whole of that land or those goods, or of that land and those goods.
- (2) If duty is charged on an acquisition that relates to a land holding, or a land holding and goods, to which subsection (1) applies, the Commissioner may defer all or part of the payment of duty under section 59 of the *Taxation Administration Act 1997*.
- (3) If –
 - (a) at the time of acquisition of an interest by a person in a landholder that necessitates the lodgement of an acquisition statement under this Chapter, the landholder was the transferor under an uncompleted agreement for the sale or transfer of land or of goods, or of both land and goods; and
 - (b) the person acquiring that interest in the landholder, or an associated person of that person, is not also

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the transferee of the sale or transfer of land or of goods, or of both land and goods, under that agreement; and

- (c) that agreement is subsequently completed –

the Commissioner is to assess or reassess the statement as though the land or goods, or land and goods, which are the subject of the agreement were not, at the time of the acquisition concerned, a land holding or goods, or a land holding and goods, of the landholder.

- (4) If the statement is reassessed under subsection (3), any amount paid in excess of the amount reassessed is to be refunded.

- (5) If –

- (a) at the time of acquisition of an interest by any person in a landholder that necessitates the lodgement of an acquisition statement under this Chapter, the landholder was the transferee under an uncompleted agreement for the sale or transfer of land or of goods, or of both land and goods; and

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- (b) the agreement is subsequently rescinded, annulled or otherwise terminated without completion –

the Commissioner is to assess or reassess the statement as though the land or goods, or land and goods, which are the subject of the agreement were not, at the time of the acquisition concerned, a land holding or goods, or a land holding and goods, of the landholder.

- (6) If the statement is reassessed under subsection (5), any amount paid in excess of the amount reassessed is to be refunded.
- (7) In this section, a reference to a landholder includes a reference to a linked entity of the landholder.

80. Agreements for sale or issue of shares or units in landholder

- (1) For the purposes of this Chapter, if an agreement is made to purchase or issue a unit or share in a landholder, then, on and from the agreement liability date –
- (a) the purchaser or person to whom the unit or share is to be issued is taken to have an entitlement to a distribution of property of the landholder in the event of a distribution of all the property of

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the landholder (as if the purchase or interest acquired by the person were registered on the agreement liability date); and

- (b) in the case of an agreement to purchase a share or unit, the registered interest of the vendor in the unit or share is to be disregarded; and
- (c) the purchaser or person to whom a share or unit is to be issued, under an agreement for the sale or issue of a share or unit in a landholder, acquires an interest in the landholder on the agreement liability date.

(2) In subsection (1) –

agreement liability date means the date on which the first of the following occurs:

- (a) the agreement is completed;
- (b) the necessary transfer or title documents are delivered to the person acquiring the share or unit;
- (c) the consideration for the purchase or issue is paid.

- (3) This section does not apply in respect of shares or units in a public landholder.

81. Valuation of property

- (1) Subject to this Chapter, the provisions of this Act for ascertaining the value of transfers of dutiable property chargeable with *ad valorem* duty extend to an acquisition statement under this Chapter and the unencumbered value of land holdings and goods mentioned in it.
- (2) In determining the unencumbered value of land holdings or goods under this Chapter, any arrangement made in respect of the land holdings or goods that has the effect of reducing the unencumbered value is to be disregarded, subject to subsection (3).
- (3) An arrangement is not to be disregarded if the Commissioner is satisfied that the arrangement was not made as part of an arrangement or scheme with a collateral purpose of reducing the duty otherwise payable in relation to the relevant acquisition.
- (4) In considering whether or not he or she is satisfied for the purposes of subsection (3), the Commissioner may have regard to –

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- (a) the duration of the arrangement before the relevant acquisition; and
- (b) whether the arrangement has been made with an associated person; and
- (c) whether there is any commercial efficacy to the making of the arrangement other than to reduce duty; and
- (d) any other matters the Commissioner considers relevant.

82. Maximisation of entitlements on distribution of property

- (1) This section applies to any calculation, for the purposes of this Chapter, of the entitlement of a person (the *interested person*) to participate in a distribution of the property of a landholder.
- (2) A calculation is to be made based, firstly, on a distribution carried out in accordance with the constitution of the landholder, and with any law relevant to the distribution, as in force at the time of distribution, and the entitlement of the interested person is to be evaluated accordingly.

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- (3) Next, a calculation is to be made as if a distribution had been carried out after the interested person, and any other person whom the interested person has power to direct with respect to such a distribution or who is, in relation to the interested person, an associated person, had exercised all powers and discretions exercisable by them by reason of having acquired an interest in the landholder concerned –
- (a) to effect or compel an alteration to the constitution of the landholder; and
 - (b) to vary the rights conferred by units or shares in the landholder; and
 - (c) to effect or compel the substitution or replacement of units or shares in the landholder with other units or shares in it –

in such a manner as would maximise the value of the entitlement, and the entitlement of the interested person is to be evaluated accordingly.

- (4) The results obtained by the evaluations of the interested person's entitlement in accordance with subsections (2) and (3) are then to be compared, and whichever evaluation results in a greater entitlement

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is the evaluation of the entitlement to be used for the purposes of this Chapter unless the Commissioner, being satisfied that the application of this subsection in the particular case would be inequitable, determines that the evaluation that results in the lesser entitlement is the evaluation to be so used.

- (5) The evaluation in accordance with subsections (2) and (3) that results in the lesser entitlement is to be used for the purposes of this Chapter if the Commissioner so determines under subsection (4).

**PART 3B – EXEMPTIONS, CONCESSIONS AND
REFUNDS**

83. General exemptions

- (1) An acquisition of an interest in a landholder (whether a relevant acquisition or other acquisition) is an exempt acquisition for the purposes of this Chapter if the Commissioner is satisfied that the acquisition, had it been a dutiable transaction, would have been exempt or not chargeable with duty under Chapter 2.
- (2) For the purposes of subsection (1) –
- (a) shares or units which are the subject of the acquisition are

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taken to be the dutiable property of the landholder, or part of the dutiable property, based on the proportion of those shares or units to the total number of shares or units in the landholder; and

- (b) the person whose interest in the landholder increases as a result of the acquisition is taken to be the transferee; and
- (c) the person whose interest in the landholder decreases as a result of the acquisition is taken to be the transferor; and
- (d) the acquisition, however made, is taken to be a dutiable transaction.

84. Restricted exemptions for acquisition securing financial accommodation

- (1) An acquisition of an interest in a landholder (whether a relevant acquisition or other acquisition) is an exempt acquisition for the purposes of this Chapter if –
 - (a) the acquisition is disclosed in an acquisition statement; and
 - (b) the person lodging the acquisition statement informs the Commissioner, at the time the

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statement is lodged, that the acquisition is effected for the purpose of securing financial accommodation; and

(c) the Commissioner is satisfied that the acquisition is effected for that purpose.

(2) An exempt acquisition referred to in subsection (1) ceases to be an exempt acquisition on the expiration of the period of 5 years after the day on which the interest in the landholder is acquired, or such longer period as may be determined by the Commissioner in the particular case, if the interest concerned is not, within that period or longer period –

(a) re-acquired by the person from whom it was acquired; or

(b) in the case of an acquisition by way of mortgage, conveyed by the mortgagee to a third person in exercise of the mortgagee's power of sale.

(3) A person is not required to lodge an acquisition statement with the Commissioner in respect of a re-acquisition referred to in subsection (2)(a).

84A. Concessions generally

- (1) An acquisition of an interest in a landholder (whether a relevant acquisition or other acquisition) is a concessional acquisition for the purposes of this Chapter if the Commissioner is satisfied that the acquisition, had it been a dutiable transaction, would have attracted a concessional rate of duty under Part 5 of Chapter 2.
- (2) For the purposes of subsection (1) –
 - (a) shares or units which are the subject of the acquisition are taken to be the dutiable property of the landholder, or part of the dutiable property, based on the proportion of those shares or units to the total number of shares or units in the landholder; and
 - (b) the person whose interest in the landholder increases as a result of the acquisition is taken to be the transferee; and
 - (c) the person whose interest in the landholder decreases as a result of the acquisition is taken to be the transferor; and
 - (d) the acquisition, however made, is taken to be a dutiable transaction.

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84B. Refunds

If –

- (a) an acquisition is an exempt acquisition; or
- (b) a concession has been granted under this Chapter in relation to an acquisition –

the Commissioner is to refund any amount of duty paid in relation to the relevant acquisition that exceeds the amount of the duty payable after taking into account the exemption or concession.

6. Section 90 amended (Assessment of duty)

Section 90 of the Principal Act is amended by omitting “general”.

7. Section 225 amended (Intergenerational rural transfers)

Section 225(2) of the Principal Act is amended by omitting “section 67,” and substituting “section 65,”.

8. Chapter 10, Part 1A inserted

After section 226 of the Principal Act, the following Part is inserted in Chapter 10:

**PART 1A – CORPORATE RECONSTRUCTION
TRANSACTIONS AND CORPORATE
CONSOLIDATION TRANSACTIONS**

226A. Interpretation of Part 1A

(1) In this Part –

corporate consolidation transaction
has the meaning given by
section 226D;

corporate group has the meaning
given by section 226B;

corporate reconstruction transaction
has the meaning given by
section 226C;

corporation includes a unit trust
scheme;

security, of a corporation, means –

(a) in the case of a
corporation other than a
unit trust scheme, an
issued share of the
corporation; or

(b) in the case of a unit trust
scheme, a unit issued
under the scheme.

(2) A reference in this Part to anything done
by or held by a unit trust scheme

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(including any voting control held by a unit trust scheme) includes a reference to anything done by or held by –

- (a) a trustee of the unit trust scheme in its capacity as a trustee; and
- (b) a custodian of a trustee of the unit trust scheme in its capacity as a custodian; and
- (c) a sub-custodian of a custodian of a trustee of the unit trust scheme in its capacity as a sub-custodian.

226B. Meaning of *corporate group*

- (1) For the purposes of this Part, a corporate group consists of a parent corporation and its subsidiaries.
- (2) A corporation is the parent corporation of another corporation (which is the subsidiary of the first corporation) if the first corporation, directly or indirectly –
 - (a) holds at least 90% of the securities of the other corporation; and
 - (b) holds voting control over the other corporation.
- (3) The first corporation holds voting control over the other corporation if the first corporation has the ability to cast, or

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control the casting of, at least 90% of the maximum number of votes that may be cast at a general meeting of that corporation (other than votes to which a person is entitled under the provisions of a debenture or of a trust deed that secures the issue of a debenture).

- (4) The corporate group for a corporation, all of the securities of which cannot be traded except as a single security with the securities of one or more other corporations, includes all of those other corporations and their subsidiaries.
- (5) A corporation that is a unit trust scheme is taken to be a member of a corporate group for the purposes of a corporate reconstruction transaction if the transaction is between the trustee of the unit trust scheme, acting as trustee of the scheme, and another corporation that is a member of the same corporate group as the unit trust scheme.
- (6) A corporation is not a member of a corporate group for the purposes of a corporate reconstruction transaction if the corporation is acting in the capacity of trustee of –
 - (a) a unit trust scheme that is not a member of the same corporate group as the other party to the transaction; or

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- (b) a discretionary trust; or
- (c) a trust (not being a unit trust scheme) for any person who is not a member of the corporate group.

226C. Meaning of *corporate reconstruction transaction*

- (1) For the purposes of this Part, a corporate reconstruction transaction means –
 - (a) a transfer of dutiable property between corporations that are members of the same corporate group; or
 - (b) a surrender of an interest in land by a corporation to a corporation that is a member of the same corporate group; or
 - (c) a vesting of dutiable property if the dutiable property was held, immediately before the vesting, and continues to be held, immediately after the vesting, by corporations that are members of the same corporate group; or
 - (d) an acquisition of an interest in a landholder, within the meaning of Chapter 3, by a corporation if the interest is acquired from another

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- corporation that is a member of
the same corporate group; or
- (e) an application, under the *Vehicle and Traffic Act 1999*, to register a motor vehicle as a result of a transfer of the vehicle between corporations that are members of the same corporate group; or
 - (f) a notice, under the *Vehicle and Traffic Act 1999*, of a change of beneficial ownership of a motor vehicle between corporations that are members of the same corporate group.
- (2) A corporate reconstruction transaction is taken not to be a corporate reconstruction transaction if the members of the relevant corporate group involved in the transaction were not members of the group –
- (a) for a period of at least 12 months before the day on which the corporate reconstruction transaction occurred; or
 - (b) in the case of a company that has been incorporated for less than 12 months, since incorporation; or
 - (c) in the case of a unit trust scheme that has been established for less than 12 months, since the

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establishment of the unit trust
scheme.

- (3) Despite subsection (2), a corporate reconstruction transaction that would, under that subsection, be taken not to be a corporate reconstruction transaction continues to be a corporate reconstruction transaction if, in the case of the acquisition of a company, the company –
- (a) was acquired by one or more members of the group from a person that, in the ordinary course of business, registers shelf companies for the purposes of selling them; and
 - (b) did not derive any business income or incur any business expenses during the period commencing on incorporation and ending on the acquisition; and
 - (c) remains a member of the group.
- (4) A transaction of a kind referred to in subsection (1)(a), (b), (c), (d), (e) or (f) is taken not to be a corporate reconstruction transaction unless the Commissioner is satisfied that the members of the relevant corporate group that are involved in the

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transaction are likely to satisfy the requirements of section 226H(1)(a).

226D. Meaning of *corporate consolidation transaction*

- (1) For the purposes of this Part, a corporate consolidation transaction means an acquisition of an interest in a landholder, within the meaning of Chapter 3, that –
 - (a) is made for the purpose of interposing a corporation (the ***head corporation***) between another corporation (the ***affected corporation***) and the holders of the affected corporation's securities; and
 - (b) is a transfer or acquisition of securities of –
 - (i) the affected corporation by the head corporation for which the only consideration given by the head corporation is the issue or transfer of its securities to the person from whom the affected corporation's securities were transferred or acquired; or

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- (ii) the head corporation by a holder of securities of the affected corporation.
- (2) An acquisition of an interest in a landholder is taken not to be a corporate consolidation transaction if, immediately before the acquisition occurred, the head corporation held any –
 - (a) dutiable property; or
 - (b) motor vehicle; or
 - (c) interest in a corporation.
- (3) An acquisition of an interest in a landholder is taken not to be a corporate consolidation transaction unless, immediately after the issue or transfer of the head corporation's securities –
 - (a) each person who holds those securities (a *security holder*) is a person who held securities of the affected corporation immediately before the securities of the affected corporation were transferred to or acquired by the head corporation; and
 - (b) the proportion of those securities held by each security holder is the same as the proportion of the securities of the affected corporation held by each security

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holder before the issue or
transfer.

- (4) An acquisition of an interest in a landholder is taken not to be a corporate consolidation transaction if the members of the relevant corporate group involved in the transaction were not members of the group –
- (a) for a period of at least 12 months before the day on which the transaction in respect of which the exemption was sought occurred; or
 - (b) in the case of a company that has been incorporated for less than 12 months, since incorporation; or
 - (c) in the case of a unit trust scheme that has been established for less than 12 months, since the establishment of the unit trust scheme.
- (5) Despite subsection (4), a corporate consolidation transaction that would, under that subsection, be taken not to be a corporate consolidation transaction continues to be a corporate consolidation transaction if, in the case of the acquisition of a company, the company –
- (a) was acquired by one or more members of the group from a

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person that, in the ordinary course of business, registers shelf companies for the purposes of selling them; and

(b) did not derive any business income or incur any business expenses during the period commencing on incorporation and ending on the acquisition; and

(c) remains a member of the group.

(6) An acquisition of an interest in a landholder is taken not to be a corporate consolidation transaction unless the Commissioner is satisfied that the members of the relevant corporate group that are involved in the transaction are likely to satisfy the requirements of section 226H(1)(a).

226E. Exemptions for corporate reconstruction transaction and corporate consolidation transaction

(1) Duty under this Act is not chargeable on a transaction if the Commissioner is satisfied, on application by a party to the transaction, that –

(a) the transaction is a corporate reconstruction transaction or a

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corporate consolidation
transaction; and

- (b) the transaction, or the series of transactions of which the transaction is a part, is undertaken for the purpose of either or both of the following:
 - (i) changing the structure of a corporate group;
 - (ii) changing the holding of assets within a corporate group; and
- (c) the transaction, or the series of transactions of which the transaction is a part –
 - (i) is not undertaken for a purpose of avoiding or reducing duty under this Act on another transaction; and
 - (ii) is not undertaken for the sole or dominant purpose of avoiding or reducing a liability for tax, other than duty under this Act, under a law of an Australian jurisdiction.

(2) In this section –

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transaction means –

- (a) a transfer of dutiable property; or
- (b) a surrender of an interest in land;
or
- (c) a vesting of dutiable property; or
- (d) an acquisition of an interest in a
landholder, within the meaning of
Chapter 3; or
- (e) an application, under the *Vehicle
and Traffic Act 1999*, to register a
motor vehicle; or
- (f) a notice, under the *Vehicle and
Traffic Act 1999*, of a change of
the beneficial ownership of a
motor vehicle.

226F. Applications for exemptions

- (1) An application for an exemption from
duty for a corporate reconstruction
transaction or a corporate consolidation
transaction is to be made to the
Commissioner –
 - (a) in the approved form; and
 - (b) not before the date of the
transaction.

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- (2) The Commissioner may grant an exemption with or without conditions.
- (3) The Commissioner must reassess any duty payable on a transaction if an exemption is granted.

226G. Refund provisions

If an exemption from duty for a corporate reconstruction transaction, or a corporate consolidation transaction, is granted under section 226F, the Commissioner must refund any amount of duty paid that exceeds the amount of the duty payable after taking into account the exemption.

226H. Revocation of exemption

- (1) The Commissioner may revoke an exemption granted under this Part in relation to a transaction if –
 - (a) any member of the relevant corporate group involved in the transaction in respect of which the exemption was granted does not remain a member of the group for a period of at least 12 months commencing immediately after the day on which the transaction occurred; or

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- (b) the exemption was granted based on false or misleading information provided to the Commissioner by the corporate group or a member of the group.
- (2) Subsection (1)(a) does not apply if the Commissioner is satisfied that a member of the relevant corporate group involved in the transaction (being a transaction within the meaning of section 226E) in respect of which the exemption was granted ceases to be a member of the group by virtue of –
 - (a) a public float that occurred within 12 months after the day on which the transaction occurred; or
 - (b) the shares or units of the member being unstapled (so that the shares or units may be traded separately from the shares or units in any of the shares or units of the other members) to enable the member's liquidation, deregistration, dissolution or, in the case of a unit trust scheme, winding-up; or
 - (c) its liquidation, deregistration or, in the case of a unit trust scheme, winding-up.

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- (3) The Commissioner must assess the duty payable on a corporate reconstruction transaction, or corporate consolidation transaction, for which an exemption is revoked.
- (4) Each member (at the date of the transaction) of the corporate group to which the transaction relates is jointly and severally liable to pay the duty chargeable on the transaction.
- (5) In this section –

public float means a share float or an offer of units to create a public unit trust scheme –

- (a) the shares or units of which are quoted on the ASX or a recognised stock exchange and are offered to the public generally; and
- (b) of which the issue of the shares or units to the public does not give any person and their related persons (other than the corporate entity that floated the shares or units) a combined beneficial interest in the floated entity greater than 20%; and
- (c) that is not part of a scheme for the purpose of minimising duty otherwise payable under this Act.

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9. Section 248 amended (Assessment where consideration inadequate)

Section 248(3) of the Principal Act is amended by omitting “dutiabale transaction or relevant acquisition, for the purposes of Division 3 of Part 2 of Chapter 3,” and substituting “dutiabale transaction, or the relevant acquisition within the meaning of section 65,”.

10. Section 259F inserted

After section 259E of the Principal Act, the following section is inserted in Part 3:

259F. Savings and transitional provisions consequent on enactment of *Duties Amendment (Landholder and Corporate Reconstruction and Consolidation) Act 2016*

(1) For the purposes of determining –

(a) whether a relevant acquisition in a landholder is made on or after the commencement day; and

(b) the duty chargeable on a relevant acquisition under Chapter 3 –

an acquisition of any interest in the landholder before the commencement day is to be taken into account in accordance with Chapter 3.

(2) If an acquisition of any interest in a landholder before the commencement

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day is taken into account for the purposes of determining whether a relevant acquisition in the landholder is made on or after the commencement day, the acquisition statement in relation to that relevant acquisition is to disclose that earlier acquisition.

- (3) If an acquisition of an interest in a private landholder made before the commencement day (the *pre-commencement day acquisition*) has been taken into account in determining whether a relevant acquisition in the private landholder has been made on or after the commencement day, then, in determining the unencumbered value of the land and goods of the landholder in relation to the pre-commencement acquisition (for the purpose of calculating the duty chargeable in relation to the relevant acquisition), the landholder is taken not to hold goods in Tasmania.
- (4) The former Chapter 3 continues to apply in relation to a former relevant acquisition in a land-rich private corporation made before the commencement day.
- (5) The former Chapter 3 continues to apply in relation to a prescribed acquisition made in a land-rich private corporation before the commencement day if that

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acquisition is not taken into account for the purpose of determining whether a relevant acquisition in a private landholder is made on or after the commencement day.

- (6) For the purpose of determining whether a relevant acquisition in a public landholder is made on or after the commencement day, an acquisition of any interest in the public landholder made before the commencement day is to be taken into account in accordance with Chapter 3.
- (7) If an acquisition of an interest in a public landholder made before the commencement day has been taken into account in determining whether a relevant acquisition in the public landholder has been made on or after the commencement day, then that pre-commencement day acquisition is taken to be an exempt acquisition for the purpose of determining the duty chargeable under Chapter 3 in relation to the relevant acquisition.
- (8) Duty is not chargeable in relation to a relevant acquisition in a public landholder made on or after the commencement day if the person's intention to make the relevant acquisition was announced, before the commencement day, to the Australian

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Stock Exchange, or any other recognised stock exchange, on which the landholder is listed.

- (9) For the purposes of section 71(7), any duty paid or payable in respect of an acquisition under the former Chapter 3 is taken to have been paid or be payable under Chapter 3 of this Act.
- (10) In this section, unless a contrary intention appears –

acquisition statement has the same meaning as in Chapter 3;

commencement day means the day on which the *Duties Amendment (Landholder and Corporate Reconstruction and Consolidation) Act 2016* commences;

former Act means this Act as in force immediately before the commencement day;

former Chapter 3 means Chapter 3 of the former Act;

former relevant acquisition means a relevant acquisition, within the meaning of the former Act, made before the commencement day;

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interest, in relation to a landholder,
has the same meaning as in
Chapter 3;

landholder has the same meaning as in
Chapter 3;

land-rich private corporation has the
same meaning as in the former
Chapter 3;

prescribed acquisition means an
acquisition within the meaning of
the former Act, other than a
former relevant acquisition;

private landholder has the same
meaning as in Chapter 3;

public landholder has the same
meaning as in Chapter 3;

relevant acquisition has the same
meaning as in Chapter 3.

11. Schedule 1 amended (Savings and transitional provisions)

Schedule 1 to the Principal Act is amended as follows:

- (a) by inserting the following clause after clause 1:

1A. References to sections and terms

- (1) A reference to a section of this Act is a reference to that section as in force on the commencement day.
 - (2) If a word or term used in this Schedule was defined in or had a meaning within this Act, or a part of this Act, as in force on the commencement day, that meaning applies, if appropriate, to that word or term as used in this Schedule.
- (b) by omitting subclause (4) from clause 2;
 - (c) by omitting clause 6;
 - (d) by omitting clauses 8 and 9;
 - (e) by omitting clause 15;
 - (f) by omitting clause 17.

12. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.