

**TAXATION AND RELATED LEGISLATION (MISCELLANEOUS
AMENDMENTS) BILL 2011**

NOTES ON CLAUSES

	<p>Part 1 – Preliminary</p> <p>Part 1 of the Act contains the short title and commencement provisions.</p>
Clause 1	Short title.
Clause 2	Part 5 of the Act is taken to have commenced on 1 July 2010. The rest of the Act commences on the day on which the Act receives Royal Assent.
	<p>Part 2 – <i>Duties Act 2001</i> Amended</p>
Clause 3	In this Part, the <i>Duties Act 2001</i> is referred to as the Principal Act.
Clause 4	Replaces the existing subsection 16(1) to provide that if a dutiable transaction is effected by more than one instrument, one instrument is to be stamped with the duty payable on the dutiable transaction, and each other instrument is to be stamped with nil duty.
Clause 5	Defines “excluded costs”, which are not to be considered “additional consideration” for the purposes of Division 2 (Transfers involving additional consideration) of Part 4A of Chapter 2 of the Duties Act.
Clause 6	Amends subsection 36B(4) to ensure that excluded costs are not considered additional consideration.
Clause 7	Amends section 36D to ensure that excluded costs are not included in the dutiable value of a subsequent transaction, and provides that if a person obtains an increased transfer right as part of a subsequent transaction, the amount for which the property might reasonably have been sold is to be calculated only to the extent of the transfer right obtained by the subsequent purchaser under the subsequent transaction.

Clause 8	<p>Amends the exemption from duty of the transfer of matrimonial property after a marriage is dissolved or annulled to include the transfer of such property to a trustee of a child of the marriage under the age of 18.</p> <p>Provides that in this section a “child of a marriage” includes:</p> <ul style="list-style-type: none"> (a) a child of either or both of the parties to the marriage; and (b) a trustee of such a child.
Clause 9	<p>Provides that in section 56 a “child of the relationship” includes:</p> <ul style="list-style-type: none"> (a) a child of either or both of the parties to the relationship; and (b) a trustee of such a child.
Clause 10	<p>Provides for the refund of duty paid on the transfer of relationship property, provided the Commissioner is satisfied that the relationship has been terminated and the transfer was effected in accordance with:</p> <ul style="list-style-type: none"> (a) a document registered or approved under the <i>Relationships Act 2003</i>; (b) an order of the court under the Relationships Act; (c) a prescribed agreement; or (d) a purchase at public auction of property that was relationship property, and the auction was held to comply with such a document, prescribed agreement or order. <p>Provides that in this section a “child of the relationship” includes:</p> <ul style="list-style-type: none"> (a) a child of either or both of the parties to the relationship; and (b) a trustee of such a child.

<p>Clause 11</p>	<p>Provides for the refund of duty paid on the transfer of a relevant acquisition in a land-rich private corporation provided the Commissioner is satisfied that the relationship has been terminated and the acquisition was pursuant to:</p> <ul style="list-style-type: none"> (a) a document registered or approved under the <i>Relationships Act 2003</i>; (b) an order of the court under the Relationships Act; or (c) a prescribed agreement. <p>Provides that in this section a “child of the marriage” includes:</p> <ul style="list-style-type: none"> (a) a child of either or both of the parties to the marriage; and (b) a trustee of such a child. <p>Provides that in this section a “child of the relationship” includes:</p> <ul style="list-style-type: none"> (a) a child of either or both of the parties to the relationship; and (b) a trustee of such a child. <p>Provides that a "prescribed agreement" means an agreement that is –</p> <ul style="list-style-type: none"> (a) a personal relationship agreement or separation agreement within the meaning of the <i>Relationships Act 2003</i>; and (b) in accordance with paragraphs (b), (c), (d) and (e) of section 62(1) of the <i>Relationships Act 2003</i>.”
	<p>Part 3 – First Home Owner Grant Act 2000 Amended</p>
<p>Clause 12</p>	<p>In this Part, the <i>First Home Owner Grant Act 2000</i> is referred to as the Principal Act.</p>
<p>Clause 13</p>	<p>Criterion 5 of the First Home Owner Grant eligibility criteria requires the applicant to occupy the home as their principal place of residence for a continuous period of at least six months within 12 months after the transaction is completed, or such other period as is approved by the Commissioner of State Revenue approves.</p> <p>This Clause inserts a requirement in section 12 that an applicant to retain their relevant interest in the land to which the application relates until the residence requirement has been satisfied.</p>

Clause 14	<p>Requires that if the applicant does not retain their relevant interest in the land until the residence requirement has been satisfied, they must give written notice of that fact to the Commissioner and repay the grant, within 14 days, unless the Commissioner has exempted the applicant from the residence requirement.</p> <p>Provides that a person who fails to comply with this condition is guilty of an offence.</p>
Clause 15	<p>Inserts a note in section 18 to clarify that when the consideration for the eligible transaction is zero, a grant is not payable.</p>
<p>Part 4 – Land Tax Act 2000 Amended</p>	
Clause 16	<p>In this Part, the <i>Land Tax Act 2000</i> is referred to as the Principal Act.</p>
Clause 17	<p>In order to be classified as shack land, the owner must be a qualifying owner. To be considered a qualifying owner, certain criteria must be met, two of which relate to ownership of other shack land.</p> <p>This Clause relaces the two criteria regarding ownership of other land that has been determined by the Commissioner to be shack land in section 6A(4) with a single subsection that requires the Commissioner to be satisfied that the owner of the land does not own, or if the owner has a spouse both the owner and the spouse do not own, in whole or in part (whether separately, together or with some other person) other land that has been determined by the Commissioner to be shack land.</p>
Clause 18	<p>General land is defined in section 8 as land that is not –</p> <ul style="list-style-type: none"> (a) principal residence land; or (b) primary production land. <p>This clause amends this definition so that general land is also not shack land.</p>
Clause 19	<p>Corrects section 24(1A) so that it refers to the four classes of land, including shack land.</p>
<p>Part 5 – Land Tax Act 2000 Amended</p>	
Clause 20	<p>In this Part, the <i>Land Tax Act 2000</i> is referred to as the Principal Act.</p>

Clause 21	<p>In order to be classified as shack land, the owner must be a qualifying owner. To be considered a qualifying owner one of the current criterion is that the owner resides in this State.</p> <p>This Clause broadens the criterion contained in paragraph 6A(4)(b) such that an owner residing in Tasmania, or in another State or Territory of the Commonwealth will satisfy this aspect of the qualifying owner test.</p>
	Part 6 – Payroll Tax Act 2008 Amended
Clause 22	In this Part, the <i>Payroll Tax Act 2008</i> is referred to as the Principal Act.
Clause 23	Replaces an outdated note in section 26 with one that is harmonised with the payroll tax legislation in most other states and territories.
Clause 24	Replaces “if” with “is” in section 72(2)(g) to correct a drafting error.
	Part 7 – Repeal
Clause 25	Provides that this Act is repealed on the 90 th day from the day on which it commences.