

LAND TAX AMENDMENT BILL 2010

NOTES ON CLAUSES

- Clause 1 Short title.
- Clause 2 Provides for the Act to commence on 1 July 2010.
- Clause 3 Defines the *Land Tax Act 2000* as the “Principal Act” referred to in Part 2 of this Act.
- Clause 4 Paragraph (a) amends section 3 of the *Land Tax Act 2000* to allow for definitions to be made in specific parts of the Act, that do not affect the whole Act.

Paragraph (b) amends section 3 of the *Land Tax Act 2000* by inserting a definition of “prescribed dwelling”, for the purpose of determining shack land and qualifying home business eligibility. The definition requires the dwelling to be a permanent building affixed to land, as opposed to a structure of a temporary or moveable nature such as a caravan.

Paragraph (c) amends section 3 of the *Land Tax Act 2000* by inserting a definition of “qualifying home business”.

In the qualifying home business definition, paragraph (a) requires that qualifying home businesses must be operated from land on which a prescribed dwelling is located. Paragraph (b) requires that a qualifying home business must be operated from either a prescribed dwelling or a building ordinary found on residential land, such as a garage or shed. A building ordinary found on residential land does not include purpose built commercial buildings, such as shop-fronts and commercial accommodation buildings not inhabited by the owner. Paragraph (c) requires that a qualifying home business is operated by the land owner or immediate family member. Paragraph (d) requires that the land must be the sole permanent business dwelling, which disqualifies business that have other shops, offices or workshops etc, but includes mobile businesses, operated by people such as tradespersons or consultants, who conduct much of their work on various client sites. Paragraph (e) disqualifies home businesses that ordinarily use more than 50 per cent of the dwelling floor space.

Paragraph (d) of this Act amends section 3 of the *Land Tax Act 2000* by inserting a definition of “shack land” by reference to section 6A.

Clause 5 Inserts a new section 6A into the of the *Land Tax Act 2000*, which prescribes the criteria for “shack land” classification.

By section 6A(1), shack land is land that the Commissioner of State Revenue has determined to be shack land in accordance with the requirements of section 6A.

Section 6A(2) requires the Commissioner to determine land to be shack land if the land meets the criteria for “qualifying land” and that the land owner meets the criteria of a “qualifying owner”.

Section 6A(3) provides that land is qualifying land if the Commissioner is satisfied that – a prescribed dwelling is located on the land; building work since 1 July 2004, including new building and alternations on existing buildings, are compliant with the *Building Act 2000*; the land is held for recreational purposes of the owner and their family, thereby excluding land held for commercial purposes; it is not the principal residence of any person; no income is derived from the land, including the dwelling; it is not advertised for lease or rent; and the assessed land value is no more than \$500 000.

A provision is also made to allow regulations that prescribe additional conditions for land to be qualifying land.

Section 6A(4) provides that an owner of land, is a qualifying owner if the Commissioner is satisfied that the owner – is a natural person; resides in Tasmania; is at least 18 years of age; and does not own any other shack land and their spouse does not own shack land. The intent of these provisions is that married couples and other couples in a significant relationship, as defined by the *Relationships Act 2003*, are entitled to have not more than one parcel of land classified as shack land between them.

Section 6A(5) requires owners of shack land to notify the Commissioner if any income has been received in relation to the shack land, including the dwelling on that land, with 30 days of receipt.

Section 6A(6) requires the Commissioner to determine parcels of shack land, in respect of which income has been generated in a financial year, as general land retrospectively from 1 July of that financial year; and to reassess the land tax liability of the land owner, unless the owner successfully applies for the land to receive an alternative classification, such as principal residence land, primary production land or exempt land.

- Clause 6 Amends section 16 of the *Land Tax Act 2000* to require owners of shack land to notify the Commissioner with 30 days if the land ceases to be shack land, for instance if the it becomes any person's principal residence, is used for commercial purposes, or ceases to meet any other conditions under section 6A.
- Clause 7 Amends section 20 of the *Land Tax Act 2000* to allow a rate of land tax to be set in respect of shack land.
- Clause 8 Amends section 26 of the *Land Tax Act 2000* so that, for a portion of principal residence land used to operate a qualifying home business, the land value in respect of that portion is not to be apportioned as general land, despite being used for a purpose other than the principal residence of the owner or related person.
- Clause 9 Amends section 36 of the *Land Tax Act 2000* so that the onus is on the land owner to establish to the Commissioner's satisfaction that a business is a qualifying home business and that land is shack land.
- Clause 10 Amends section 37 of the *Land Tax Act 2000* so that a first home owner builder who received or is eligible for a land tax rebate under section 37(1) and was entitled to a refund of duty under section 30A of the *Duties Act 2000*, will be entitled to an addition rebate if they were the owner and incurred a land tax liability in the year prior to the year in respect of which a rebate under section 39(1) was paid or payable.
- This rebate is only be available in respect of land on which the construction of the dwelling is completed after 1 July 2010.
- Clause 11 Defines the *Land Tax Rating Act 2000* as the "Principal Act" referred to in Part 3 of this Act.
- Clause 12 Amends the *Land Tax Rating Act 2000* to prescribe the rate of tax on shack land to be zero.
- Clause 13 Substitutes Schedule 1 of the *Land Tax Rating Act 2000* so that, from 1 July 2010, land tax liabilities in respect of general land are assessed at the rate of for zero for assessed land value less than \$25 000; \$50 plus a marginal rate of 0.55 per cent of land value between \$20 000 and \$349 999.99; and \$1 837.50 plus a marginal rate of 1.5 per cent for land value of \$350 000 or more.
- Clause 14 Repeals this Act ninety days after it commences.