

TAXATION AND RELATED LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2008

NOTES ON CLAUSES

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| Clause 1 | Short title. |
| Clause 2 | Provides for the Act to commence on the date of Royal Assent with the exception of Part 5, which is to commence on 1 July 2008. |
| Clause 3 | Defines the Duties Act 2001 as being the Principal Act referred to in Part 2 of this Act. |
| Clause 4 | Amends section 3 by inserting definitions for the terms “day-procedure centre”, “medical establishment” and “residential care service” and amends the definition of “private hospital” to reflect the introduction of similar definitions in the Health Service Establishments Act 2006. The clause also amends section 3 by revising the definition of “recognised stock exchange” by removing the reference to the Stock Exchange of Newcastle. |
| Clause 5 | Amends section 6(1)(b)(ii) of the Principal Act to ensure that declarations of trust over both dutiable and non-dutiable property are treated as dutiable transactions in the first instance so that the concession provided in section 42 of the Act operates as intended to charge \$20 duty where a trust is declared over unidentified or non-dutiable property. |
| Clause 6 | Amends section 47(1) to extend the exemption provisions to include transfers of dutiable property pursuant to an order made under the Testator’s Family Maintenance Act 1912. |
| Clause 7 | Amends section 53 by introducing a new exemption in respect of associations that are required to incorporate under the Corporations Act 2001 (Commonwealth). |
| Clause 8 | Amends section 60 of the Principal Act so that a private corporation is land-rich if the unencumbered value of the corporation’s land holdings in Tasmania is 60 per cent or more of the unencumbered value of all of the corporation’s property. |
| Clause 9 | Amends section 64 of the Principal Act so that a person is considered to have acquired a majority interest in a land-rich corporation if, following acquisition, that person is entitled to 50 per cent or more of all of the property of that corporation. |
| Clause 10 | Repeals and substitutes section 90 of the Principal Act to clarify that duty is payable on the acquisition statement lodged following acquisition of land use entitlements and not on the subsequent share allotment or unit issue. |
| Clause 11 | Amends subsection (1)(a) of section 181 to reflect the fact that insurers are now ‘authorised’ rather than ‘registered’ under the Insurance Act 1973 (Commonwealth). |
| Clause 12 | Inserts a new section 190(ha) in the Principal Act to extend the current insurance duty exemption provisions to include those |

policies taken out by self-insurers to indemnify themselves against liability or payment in relation to workers compensation claims. The clause also amends section 190 to include correct terminology as a consequence of the insertion of a new definition for the term “medical establishment”.

- Clause 13 Amends section 192 of the Principal Act to confirm that all notices of changes of beneficial ownership of a motor vehicle are chargeable with duty (subject to the operation of the exemption provisions contained in section 199 of the Principal Act).
- Clause 14 Amends section 199 to provide a new exemption provision to cover instances where a registered operator of a vehicle takes ownership of that vehicle following the expiration of the lease on that vehicle. This clause also introduces a definition of “lease agreement” in respect to a motor vehicle.
- Clause 15 Amends section 225 of the Principal Act to clarify the policy intent of the duty exemption in relation to intergenerational rural transfers by linking the granting of the exemption to the land tax primary production land classification.
- Clause 16 Amends section 227(1)(b) of the Principal Act to include correct terminology as a consequence of the insertion of a new definition for the term “medical establishment”.
- Clause 17 Amends section 247(4) to replace the reference to “dutiable person”, which is an undefined term not used in any other part of the Principal Act, with correct terminology.
- Clause 18 Repeals sections 252 and 253 of the Principal Act.
- Clause 19 Inserts new section 259A into Part 3 of the Principal Act to provide for transitional provisions consequent upon the repeal of sections 252 and 253.
- Clause 20 Defines the First Home Owner Grant Act 2000 as being the Principal Act referred to in Part 3 of this Act.
- Clause 21 Amends section 13(3)(b) by correcting the omission of the word “home” in the reference to the term “comprehensive home building contract”.
- Clause 22 Inserts a new section 36A in the Principal Act to include provisions, similar to those of the Taxation Administration Act 1997, to provide authorised officers with the power to access records held pursuant to an Act without the requirement to pay a fee.
- Clause 23 Repeals and substitutes section 37 to differentiate the applicable penalty between instances where a person dishonestly makes a statement in connection with a grant application from circumstances where they intentionally or negligently make a misleading statement. The offence provisions are expanded to prohibit the dishonest, intentional or negligent omission of material information or the provision of a document that itself contains false or misleading information.

- Clause 24 Amends section 38 of the Principal Act to clarify repayment provisions and provides for the imposition of an administrative penalty where an applicant, or former applicant, intentionally or negligently makes a false or misleading statement, omits material information or provides a false document in connection with an application for a first home owner grant.
- Clause 25 Amends section 39 by inserting new provisions to enable interest to be charged where grant monies are not repaid following the issue of a Notice requiring repayment of the grant in accordance with section 38 of the Principal Act. Further provides that a person is not liable to pay interest charged in these circumstances where that interest is less than \$20.
- Clause 26 Defines the Judicial Review Act 2000 as being the Principal Act referred to in Part 4 of this Act.
- Clause 27 Amends Schedule 1 of the Principal Act by substituting references to redundant legislation with references to current legislation.
- Clause 28 Defines the Land Tax Act 2000 as being the Principal Act referred to in Part 5 of this Act.
- Clause 29 Amends section 3 by inserting definitions for the terms “day-procedure centre”, “medical establishment” and “residential care service” and amends the definition of “private hospital” to reflect the introduction of similar definitions in the Health Service Establishments Act 2006. Further amends section 3 by inserting definitions for the terms “owner”, “retirement village”, “retirement village company” and “transfer”.
- Clause 30 Amends section 6 of the Principal Act to clarify principal residence land provisions where a person who occupies residential premises in a retirement village.
- Clause 31 Amends section 7 to include provisions to classify land subject to a forest practices plan certified by the Forest Practices Authority in accordance with the State Permanent Forest Estate Policy as primary production land.
- Clause 32 Amends section 18 of the Principal Act to include correct terminology as a consequence of the insertion of a new definition for the term “medical establishment”.
- Clause 33 Amends section 19 by introducing a new exemption to cover all retirement village land.
- Clause 34 Amends section 25 by including the term “transferred” so that the terminology used, in respect of the disposition of land, is consistent with other provisions of the Principal Act.
- Clause 35 Repeals and substitutes section 29 to update apportionment provisions relating to retirement village land where the land holding of a retirement village company comprises exempt and general land.

- Clause 36 Amends section 37 to clarify the eligibility requirements for a land tax rebate to apply where the owner constructs a dwelling on vacant and that they owned as at 1 July.
- Clause 37 Amends section 37A to clarify the policy intent of provisions relating to claiming a land tax rebate in transitional circumstances.
- Clause 38 Amends section 39 to expand the provisions for the recovery of unpaid land tax to include recovery from both a current agent and a person who was an agent at the time that the liability was raised.
- Clause 39 Defines the Taxation Administration Act 1997 as being the Principal Act referred to in Part 6 of this Act.
- Clause 40 Amends section 41 to clarify provisions relating to the reduction of penalty tax for the disclosure of information by a taxpayer in respect of their tax default.
- Clause 41 Amends section 51 of the Principal Act to clarify provisions relating to the conditions of approval of special tax return arrangements.
- Clause 42 Repeals and substitutes section 55 to allow the Commissioner to recover any costs and expenses incurred in connection with the recovery or attempted recovery of an amount of unpaid tax whether by way of action in a court of competent jurisdiction or any other lawful means.
- Clause 43 Amends section 79E to remove duplicate provisions, as referenced in section 77, in respect of the disclosure of information.
- Clause 44 Amends section 95 to provide that interest is only payable on an amount refunded where the amount of interest exceeds \$20, ensuring consistency with the calculation of interest payable by taxpayers on late payments.