

# TAXATION ADMINISTRATION (CONSEQUENTIAL PROVISIONS) BILL 2001

## EXPLANATORY MEMORANDUM

This Explanatory Memorandum provides detailed notes on the operation of each clause of the Taxation Administration (Consequential Provisions) Bill 2001.

A number of the amendments are necessary to update references in certain non-taxation statutes that refer to the Commissioner of State Taxation or the Land Tax Assessment Act 1976.

Amendments are made to the Cattle Industry Compensation Act 1965 and the Pig Industry Compensation Act 1942 to reflect the removal of adhesive stamps as a stamp duty payment mechanism, a change that is made in the Stamp Amendment Bill 2001.

This Bill also contains the repeal of 6 rewritten taxation Acts and all transitional provisions relevant to the new Acts and the Stamp Act.

### PART 1 - PRELIMINARY

#### **Clause 1: Short title**

This clause provides that the Act is to be cited as the Taxation Administration (Consequential Provisions) Act 2001.

#### **Clause 2: Commencement**

Subclause (1) provides for the Act, with the exception of the amendments in Part 3 Division 2 which relate to the Road Traffic Act 1974, to operate on the day on which the Taxation Administration Act 2001 comes into operation. The Taxation Administration Bill 2001 is to commence upon proclamation. It is envisaged that once passed, such proclamation will occur on 1 January 2003. For the purposes of this clause, this date has been labelled the "commencement day".

The amendments in Part 3 Division 2 have been structured in three Subdivisions, to account for the possible scenarios regarding the commencement of amending Acts which affect the Road Traffic Act 1974.

Subclause (2) sets out the commencement date of Part 3 Division 2 if sections 9 and 13 of the Road Traffic Amendment Act 2000 have not come into operation on the commencement date. If this is the case, Part 3 Division 2 Subdivision 1 comes into operation, and Subdivisions 2 and 3 do not.

Subclause (3) sets out the commencement date of Part 3 Division 2 if sections 9 and 13 of the Road Traffic Amendment Act 2000 are operative, but the Road Traffic Amendment (Vehicle Licensing) Act 2001 is not. If this is the case, Part 3 Division 2 Subdivision 2 comes into operation, and Subdivisions 1 and 3 do not.

Subclause (4) sets out the commencement date of Part 3 Division 2 if sections 9 and 13 of the Road Traffic Amendment Act 2000 and the Road Traffic Amendment (Vehicle Licensing) Act 2001 are operative. If this is the case, Part 3 Division 2 Subdivision 3 comes into operation, and Subdivisions 1 and 2 do not.

**Clause 3: Relationship with other Acts**

This clause provides that the Taxation Administration Act 2001 and this Act are to be read as one. This ensures concepts present in the Taxation Administration Act will translate to the amendments made by this Bill and vice versa.

**Clause 4: Meaning of terms used in this Act**

This clause provides that the Glossary contained in the Taxation Administration Act 2001 affects the meaning of some of the words and expressions in this Act. It also notes that the Glossary may affect the operation of other provisions.

**PART 2 – REPEALS**

**Clause 5: Acts repealed**

This Bill repeals the following Acts:

- Debits Tax Act 1990;
- Debits Tax Assessment Act 1990;
- Land Tax Act 1976;
- Land Tax Assessment Act 1976;
- Pay-roll Tax Act 1971; and
- Pay-roll Tax Assessment Act 1971.

Each of these Acts has been rewritten as a result of the Taxation Administration Bill. The rewritten Acts and other associated amendments together form a package of 10 Bills.

**PART 3 – CONSEQUENTIAL AMENDMENTS**

**Division 1 – Various Acts amended**

**Clause 6: Acts Amendment (Continuing Lotteries) Act 2000**

This clause amends section 17 of the Acts Amendment (Continuing Lotteries Act) 2000, which includes a number of defined terms that operate for transitional purposes.

The definition of “Commissioner of State Revenue” is being deleted from this section, on the basis that the definition is being moved to the Interpretation Act 1984, so that it applies across all Western Australian statutes.

**Clause 7: Agriculture and Related Resources Protection Act 1976**

Subclause (1) identifies that the amendments in this clause are to the Agriculture and Related Resources Protection Act 1976.

Subclause (2) amends section 7(1) of the Agriculture and Related Resources Protection Act to update the term "Commissioner". As noted above, the definition will now refer to the "Commissioner of State Revenue", which will be defined in the Interpretation Act 1984.

Subclause (3) amends section 63(3a)(c) of the Agriculture and Related Resources Protection Act. This section previously applied sections 42 to 51 (inclusive) of the Land Tax Assessment Act 1976 to rates assessed under section 60 or 61 of the Agriculture and Related Resources Protection Act as if they were land tax. Sections 42 to 51 of the Land Tax Assessment Act 1976 allowed the lodgement of a memorial on property in respect of outstanding land tax.

The provisions previously contained in sections 42 to 51 of the Land Tax Assessment Act have been updated and moved to the Taxation Administration Bill.

This amendment ensures that the same powers can still be used in relation to rates under the Agriculture and Related Resources Protection Act.

**Clause 8: Anglican Church of Australia (Diocesan Trustees) Act 1888**

This clause amends section 5A(6) of the Anglican Church of Australia (Diocesan Trustees) Act 1888 to update the reference to the Land Tax Assessment Act 1907 to the Land Tax Act 2001. The change in terminology represents the fact that land tax is imposed by the Land Tax Act 2001.

**Clause 9: Cattle Industry Compensation Act 1965**

This clause makes a number of amendments to the Cattle Industry Compensation Act 1965. These include amendments made as a result of the removal of adhesive stamps as a method of paying stamp duty.

The Cattle Industry Compensation Act and the Stamp Act charge stamp duty on certain cattle statements and returns, with the duty being paid into the Cattle Industry Compensation Fund. The fund is used to compensate the owners of cattle in the circumstances set out in the Cattle Industry Compensation Act.

The duty is paid on the statements by two mechanisms, namely the use of adhesive stamps and by returns. Adhesive stamps are primarily used for statements on cattle from one primary producer to another. The returns are generally used for cattle sales to wholesalers and abattoirs.

Subclause (1) provides that the amendments in this section are to the Cattle Industry Compensation Act 1965.

Subclause (2) deletes the definition of "Commissioner of State Taxation". Where necessary in the Act, references have been amended to the "Commissioner of State Revenue", which is to be defined in the Interpretation Act 1984 for the purposes of all Western Australian statutes.

Subclause (3)(a) replaces a reference in section 23(1)(c) to "Commissioner of State Taxation" with a reference to "Commissioner of State Revenue".

Subclause (3)(b) rectifies a deficiency in section 23(1) by ensuring that all money received by the Minister on returns under Part IV of the Cattle Industry Compensation Act are paid into the Cattle Industry Compensation Fund.

Subclause (4) replaces a reference in section 25 to "Commissioner of State Taxation" with a reference to "Commissioner of State Revenue".

Subclause (5) repeals section 26. This section has been removed as the charging provision operates under item 3 of the Second Schedule to the Stamp Act (Cattle Sales Statements).

Subclause (6) deletes section 27(1)(b) and (c), which requires that adhesive duty stamps be affixed to cattle sales statements and then cancelled, and for the statement to be forwarded to the Commissioner within 14 days of the sale.

A replacement section 27(1)(b) and (c) are inserted, which require the statement to be lodged with the Commissioner within 14 days of the sale and the relevant payment of the stamp duty to be made.

Subclause (7) amends section 28(1) by removing the reference to duty payable under section 26 (which has been repealed) and replacing it with a requirement to pay the amount of stamp duty payable on the sales.

Subclause (8) replaces a reference in section 28(3) to "Commissioner of State Taxation" with a reference to "Commissioner of State Revenue".

Subclause (9) amends section 29(1) by removing the reference to "duty payable under this Act in respect of that purchase money" and replacing it with a requirement to pay the amount of stamp duty payable on the sales. This amendment has been made as the charging authority operates under item 3 of the Second Schedule to the Stamp Act.

Subclause (10) replaces references in section 29(2) and (4) to "Commissioner of State Taxation" with a reference to "Commissioner of State Revenue".

Subclause (11) amends section 30 by removing the reference to "duty payable under this Act" and replacing it with a reference to "stamp duty". Again, this amendment is made on the basis that the duty is payable under the charging authority of item 3 of the Second Schedule to the Stamp Act.

Subclause (12) amends section 31 of the Act to ensure the provision refers to the new payment mechanism, rather than adhesive stamps, as was previously the case.

Subclause (13) amends section 32 of the Act by removing a now redundant reference to section 27(1)(c).

Subclause (14) amends section 33(1) of the Cattle Industry Compensation Act.

Paragraph (a) amends section 33(1)(b) by updating the terminology to ensure the section is consistent with the other changes made to the Cattle Industry Compensation Act.

Paragraph (b) amends section 33(1)(c) by removing the reference to "duty payable under section 26 in respect of the purchase money" and replacing it with a requirement to pay the amount of stamp duty payable on the sales. This amendment has been made on the basis that the duty is payable under the charging authority of item 3 of the Second Schedule to the Stamp Act.

Subclause (15) amends section 34(1) by removing the reference to "duty payable under this Act in respect of that money" and replacing it with a requirement to pay the amount of stamp duty payable on the sales.

Subclause (16)(a) replaces a reference in section 34(2) to "Commissioner of State Taxation" with a reference to "Commissioner of State Revenue".

Subclause (16)(b) replaces a reference in section 34(2) to "Commissioner of Stamps" with a reference to "Commissioner of State Revenue".

Subclause (17) amends section 34(4) by updating the terminology used to ensure the section is consistent with the other changes made to the Act.

Subclause (18) repeals sections 35 and 36. Section 35 authorised the payment of duty by adhesive stamps, which have been removed by the Stamp Amendment Bill as previously mentioned. Section 36 has been removed on the basis that the Taxation

Administration Act 2001 will provide the necessary powers to recover the stamp duty outstanding.

Subclause (19)(a) amends section 37(1) to remove a reference to section 38, which is being repealed.

Subclause (19)(b) amends section 37(1) to replace a reference to "this Act" with a reference to "the Stamp Act 1921". This is necessary because the duty is payable under the charging authority of item 3 of the Second Schedule to the Stamp Act.

Subclause (20) repeals section 38 on the basis that it applied the Stamp Act with respect to duty stamps. As duty stamps are being removed, this power is not required.

**Clause 10: Commercial Tenancy (Retail Shops) Agreements Act 1985**

This clause amends section 12(3) of the Commercial Tenancy (Retail Shops) Agreement Act 1985.

Paragraph (a) amends the definition of "land tax" by replacing a reference to the Land Tax Act 1976 with a reference to the new Land Tax Act 2001.

Paragraph (b) amends the definition of "notional land tax" by replacing a reference to the Land Tax Assessment Act 1976 with a reference to the new Land Tax Assessment Act 2001.

**Clause 11: Evidence Act 1906**

This clause amends section 73U(1)(a) and (b) of the Evidence Act 1906 by deleting "duly". This reference is no longer needed, due to the changes made to the definition of "stamped" by the Stamp Amendment Bill 2001.

**Clause 12: Financial Institutions Duty Act 1983**

This clause amends section 3(1) of the Financial Institutions Duty Act 1983 to update the term "Commissioner". As noted above, the definition will now refer to the "Commissioner of State Revenue", which will be defined in the Interpretation Act 1984, so that it applies across all Western Australian statutes. It should also be noted that duty ceased to apply under this Financial Institutions Duty Act from 1 July 2001. However, the Act is still operational to ensure that all outstanding investigations can be completed and outstanding duty collected under the Act's revenue assessment, collection and investigation powers.

**Clause 13: Gaming Commission Act 1987**

This clause deletes the definition of "Commissioner of State Revenue" from section 101(1) of the Gaming Commission Act 1987. References to the "Commissioner of State Revenue" will be interpreted in accordance with the definition of "Commissioner of

State Revenue" inserted by this Bill into the Interpretation Act 1984.

**Clause 14: Hale School Act 1876**

This clause amends section 12 of the Hale School Act 1876 to update the reference to the Land Tax Assessment Act 1907 to the Land Tax Act 2001. The change in terminology represents the fact that land tax is imposed by the Land Tax Act 2001.

**Clause 15: Heritage of Western Australia Act 1990**

Subclause (1) identifies that the amendments in this clause are to the Heritage of Western Australia Act 1990.

Subclause (2)(a) amends section 36(2)(a) of the Heritage of Western Australia Act by replacing a reference to the "Commissioner of State Taxation" with a reference to the "Commissioner of State Revenue".

Subclause (2)(b) amends section 36(2)(a) of the Heritage of Western Australia Act to update the reference to the Land Tax Act 1976 to the Land Tax Assessment Act 2001.

Subclause (3) amends section 36(3) of the Heritage of Western Australia Act by replacing a reference to the "Commissioner of State Taxation" with a reference to the "Commissioner of State Revenue".

**Clause 16: Interpretation Act 1984**

This clause amends the Interpretation Act 1984 to insert a definition of "Commissioner of State Revenue".

The definition refers to the person appointed under the Public Sector Management Act 1994 for the purposes of the Taxation Administration Act. Clause 6 of the Taxation Administration Bill is the relevant provision.

**Clause 17: Metropolitan Region Town Planning Scheme Act 1959**

Subclause (1) identifies that the amendments in this clause are to the Metropolitan Region Town Planning Scheme Act 1959.

Subclause (2)(a) amends section 41(1a) of the Metropolitan Region Town Planning Scheme Act to update a reference to "section 15A of the Land Tax Assessment Act 1976" with a reference to the new "sections 14 and 15 of the Land Tax Assessment Act 2001". It should be noted that clause 14 of the Land Tax Assessment Bill 2001 equates to section 15A of the Land Tax Assessment Act 1976. Clause 15 equates to section 15B, which was unintentionally omitted from the Metropolitan Region Town Planning Scheme Act when section 15B was inserted into the Land Tax Assessment Act.

Subclause (2)(b) amends section 41(1a) of the Metropolitan Region Town Planning Scheme Act to update the reference to the Land Tax Act 1976 to the Land Tax Act 2001.

Subclause (3) amends section 41(2) of the Metropolitan Region Town Planning Scheme Act to update the reference to the Land Tax Assessment Act 1976 to the Land Tax Assessment Act 2001 and the Taxation Administration Act 2001.

Subclause (4) amends section 41(4) of the Metropolitan Region Town Planning Scheme Act by replacing a reference to the "Commissioner of State Taxation" with a reference to the "Commissioner of State Revenue".

**Clause 18: National Rail Corporation Agreement Act 1992**

This clause amends section 12(3) of the National Rail Corporation Agreement Act 1992 by replacing a reference to the "Commissioner of State Taxation" with a reference to the "Commissioner of State Revenue".

**Clause 19: Pig Industry Compensation Act 1942**

This clause makes a number of amendments to the Pig Industry Compensation Act 1942. These include amendments made as a result of the removal of adhesive stamps as a method of paying stamp duty on pig sales statements.

The Pig Industry Compensation Act charges stamp duty on pig cattle statements and returns, with the duty being paid into the Pig Industry Compensation Fund. The fund is used to compensate the owners of pigs in the circumstances set out in the Act.

The duty is paid on the statements by two mechanisms, namely the use of adhesive stamps and by returns. Adhesive stamps are primarily used for statements on pigs from one primary producer to another. The returns are generally used for pig sales to wholesalers and abattoirs.

Subclause (1) identifies that the amendments in this clause are to the Pig Industry Compensation Act 1942.

Subclause (2) deletes the definition of "duty stamp" from section 3 of the Pig Industry Compensation Act. This term is no longer required, as duty stamps are being abolished by the amendments in the Stamp Amendment Bill 2001.

Subclause (3) amends section 13(2)(a) of the Pig Industry Compensation Act by replacing a reference to the "Commissioner of State Taxation" with a reference to the "Commissioner of State Revenue".

Subclause (4) amends section 14(1)(b) and (c) of the Pig Industry Compensation Act, which requires that adhesive duty stamps be



affixed to pig sales statements and then cancelled, and for the statement to be forwarded to the Commissioner within 7 days of the sale.

A replacement section 14(1)(b) and (c) are inserted, which require the statement to be lodged with the Commissioner within 7 days of the sale and the relevant payment of the stamp duty to be made.

Subclause (5) amends section 14(1a) of the Pig Industry Compensation Act.

Paragraph (a) amends section 14(1a)(a) of the Pig Industry Compensation Act by updating the terminology used to ensure the section is consistent with the other changes made to the Pig Industry Compensation Act.

Paragraph (b) amends section 14(1a)(e) of the Pig Industry Compensation Act by replacing a reference to the "Commissioner of State Taxation" with a reference to the "Commissioner of State Revenue".

Paragraph (c) amends section 14(1a)(g) of the Pig Industry Compensation Act by updating the terminology used to ensure the section is consistent with the other changes made to the Pig Industry Compensation Act.

Paragraph (d) amends section 14(1a)(h) and (j) of the Pig Industry Compensation Act by replacing a reference to the "Commissioner of State Taxation" with a reference to the "Commissioner of State Revenue".

Subclause (6) amends section 14(3) of the Pig Industry Compensation Act to ensure the provision refers to the new payment mechanism, rather than duty stamps, as was previously the case.

Subclause (7) amends section 14(4) of the Pig Industry Compensation Act by removing a now redundant reference to paragraph (c) of subsection (1).

Subclause (8) amends section 14A(1) of the Pig Industry Compensation Act by updating the terminology used to ensure the section is consistent with the other changes made to the Pig Industry Compensation Act.

Subclause (9) amends section 14A(3) and (5) of the Pig Industry Compensation Act by replacing a reference to the "Commissioner of State Taxation" with a reference to the "Commissioner of State Revenue".

Subclause (10) replaces section 15(1) of the Pig Industry Compensation Act to provide that stamp duty is payable on the sale of any pig or carcass. This section previously referred to the

use of duty stamps, which have been abolished as a stamp duty collection method.

Subclause (11) amends section 15(2) of the Pig Industry Compensation Act by updating the terminology used to ensure the section is consistent with the other changes made to the Act.

Subclause (12) repeals section 16(1) and (3). Section 16(1) authorised the payment of duty by adhesive stamps, which have been removed by the Stamp Amendment Bill as previously mentioned. Section 16(3) has been removed on the basis that the Taxation Administration Act 2001 will provide the necessary powers to recover the stamp duty outstanding.

Subclause (13) amends section 16(4) of the Pig Industry Compensation Act to ensure that the Stamp Act and any regulations made under that Act extend and apply with any necessary adaptations to stamp duty payable under the Pig Industry Compensation Act as if it were duty payable under the Stamp Act.

Subclause (14) amends section 16(5) of the Pig Industry Compensation Act to make a grammatical change.

**Clause 20: Presbyterian Church Act 1908**

This clause amends section 21(6) of the Presbyterian Church Act 1908 to update the reference to the Land Tax Assessment Act 1907 to the Land Tax Act 2001. The change in terminology represents the fact that land tax is imposed by the Land Tax Act 2001.

**Clause 21: Residential Tenancies Act 1987**

This clause amends section 48(b) of the Residential Tenancies Act 1987 to update the reference to the Land Tax Act 1976 to the Land Tax Act 2001.

**Clause 22: Soil and Land Conservation Act 1945**

This clause amends section 25B(3)(b) of the Soil and Land Conservation Act 1945, which previously applied sections 42 to 51 (inclusive) of the Land Tax Assessment Act 1976 to soil conservation rates as if they were land tax. The provision also allowed references to the Commissioner of State Taxation to be read as references to the chief executive officer.

Sections 42 to 51 of the Land Tax Assessment Act 1976 allow the lodgement of a memorial on property in respect of outstanding land tax.

The provisions previously contained in sections 42 to 51 of the Land Tax Assessment Act have been updated and moved to the Taxation Administration Bill.

This amendment ensures that the same powers can still be used in relation to soil conservation rates under the Soil and Land Conservation Act 1945.

**Clause 23: Strata Titles Act 1985**

Subclause (1) identifies that the amendments in this clause are to the Strata Titles Act 1985.

Subclause (2) amends section 65(1) of the Strata Titles Act by replacing a reference to the "Commissioner of State Taxation" with a reference to the "Commissioner of State Revenue" and by updating the reference to the Land Tax Assessment Act 1976 to the Land Tax Assessment Act 2001.

Subclause (3) amends section 65(2) of the Strata Titles Act by updating the reference to the Land Tax Assessment Act 1976 to the Land Tax Assessment Act 2001.

Subclause (4) amends section 65A of the Strata Titles Act by updating the reference to the Land Tax Assessment Act 1976 to the Land Tax Assessment Act 2001.

**Clause 24: Taxation (Reciprocal Powers) Act 1989**

This clause amends the Taxation (Reciprocal Powers) Act 1989.

Paragraph (a) amends section 3(1) of the Taxation (Reciprocal Powers) Act to update the term "Commissioner". As noted above, the definition will now refer to the "Commissioner of State Revenue", which will be defined in the Interpretation Act 1984.

Paragraph (b) amends the definition of "State Taxation Act". This amendment has the effect of applying the Taxation (Reciprocal Powers) Act to investigations regarding the Financial Institutions Duty Act 1983 and the Fuel Suppliers Licensing Act 1997. Both these Acts no longer operate to charge duty or pay subsidies. However, they are still operational to allow outstanding audits to be finalised and any outstanding assessments to be collected.

The Acts that were previously mentioned in this definition have been deleted on the basis that the Taxation Administration Bill 2001 contains powers that allow cross border investigations under the Debits Tax Assessment Act 1990, Land Tax Assessment Act 1976, Pay-roll Tax Assessment Act 1971 and Stamp Act 1921.

**Clause 25: Transfer of Land Act 1893**

This clause amends section 81U(3) of the Transfer of Land Act 1893 to update the definition of "stamped". This amendment is necessary due to a change to the definition of "stamped" by the Stamp Amendment Bill 2001.

**Clause 26: Valuation of Land Act 1978**

Subclause (1) identifies that the amendments in this clause are to the Valuation of Land Act 1978.

Subclause (2) amends the definition of “residential equivalent value” in section 31B(1) of the Valuation of Land Act. The amendment updates section 31B(1) with a reference to the new section of the Land Tax Assessment Act 2001 that equates to former section 23AB(1).

Subclause (3) amends section 32(1)(a) and (b) of the Valuation of Land Act by replacing the period within which an objection can be lodged from 42 days to 60 days. This ensures consistency with the period for which objections can be lodged to non-valuation land tax matters under the Taxation Administration Bill.

Subclause (4) amends section 33(1) of the Valuation of Land Act in a similar manner to the amendment made by subclause (3).

**Division 2 – Amendments relating to the Road Traffic Act 1974*****Subdivision 1 – Amendments if this Act commences first*****Clause 27: Road Traffic Act 1974**

This clause amends section 24(2a)(b)(ii) of the Road Traffic Act 1974 to amend the manner in which the stamp duty payable on motor vehicle licences is referred to. At present, it refers to duty assessed by the Director General under Part III C of the Stamp Act. The amendment is necessary due to changes in the assessment provisions, primarily the movement of most assessing powers to the Taxation Administration Bill 2001. The provision will now refer to the amount of duty payable under the Stamp Act, rather than the specific manner of assessment.

**Clause 28: Road Traffic Amendment Act 2000**

Subclause (1) identifies that the amendments in this clause are to the Road Traffic Amendment Act 2000.

Subclause (2) amends section 9 of the Road Traffic Amendment Act 2000 to remove subparagraph (1)(b)(ii) and insert a new subparagraph. The need for this amendment arises because stamp duty is also payable on the renewal of a licence if the renewal does not fall under the exemption in item 9(2) of the Third Schedule to the Stamp Act.

Subclause (3) repeals Part 3 Division 3. Part 3 Division 3 of the Road Traffic Amendment Act amends Part III C of the Stamp Act. If the amendments contained in the Stamp Amendment Bill 2001, repealing and replacing Part III C, come into operation before the relevant provisions of the Road Traffic Amendment Act, the

amendments in Part 3 Division 3 of that Act will no longer be required.

**Clause 29: Road Traffic Amendment (Vehicle Licensing) Act 2001**

Subclause (1) identifies that the amendments in this clause are to the Road Traffic Amendment (Vehicle Licensing) Act 2001.

Subclause (2) amends the table to section 23(1) of the Road Traffic Amendment (Vehicle Licensing) Act. The table amends item section 17(1) of the Road Traffic Act 1974 by deleting the word "issue" and replacing it with "grant", in the two places that it occurs. However, the amendments to section 17(1) contained in clause 28(2) of this Bill result in the word "issue" only occurring once.

Subclause (3) repeals Part 3 Division 4. Part 3 Division 4 of the Road Traffic Amendment (Vehicle Licensing) Act amends Part III C of the Stamp Act. If the amendments contained in the Stamp Amendment Bill 2001, repealing and replacing Part III C, come into operation before the relevant provisions of the Road Traffic Amendment (Vehicle Licensing) Act, the amendments in Part 3 Division 4 of that Act will no longer be required.

***Subdivision 2 – Amendments if Road Traffic Amendment Act 2000 commences before this Act***

**Clause 30: Road Traffic Act 1974**

This clause amends section 17(1)(b)(ii) of the Road Traffic Act 1974 to change the manner in which the stamp duty payable on motor vehicle licences is referred to. At present, it refers to duty assessed by the Director General under Part III C of the Stamp Act. The amendment is necessary due to changes in the assessment provisions, primarily the movement of most assessing powers to the Taxation Administration Bill 2001. The provision will now refer to the amount of duty payable under the Stamp Act, rather than the specific manner of assessment.

**Clause 31: Road Traffic Amendment (Vehicle Licensing) Act 2001**

Subclause (1) identifies that the amendments in this clause are to the Road Traffic Amendment (Vehicle Licensing) Act 2001.

Subclause (2) amends the table to section 23(1) of the Road Traffic Amendment (Vehicle Licensing) Act. The table amends section 17(1) of the Road Traffic Act 1974 by deleting the word "issue" and replacing it with "grant", in the two places that it occurs. However, the amendments to section 17(1) contained in clause 28(2) of this Bill result in the word "issue" only occurring once.

Subclause (3) repeals Part 3 Division 4. Part 3 Division 4 of the Road Traffic Amendment (Vehicle Licensing) Act amends Part III C

of the Stamp Act. If the amendments contained in the Stamp Amendment Bill 2001, repealing and replacing Part IIIC, come into operation before the relevant provisions of the Road Traffic Amendment (Vehicle Licensing) Act, the amendments in Part 3 Division 4 of that Act will no longer be required.

***Subdivision 3 - Amendments if Road Traffic Amendment Act 2000  
and Road Traffic Amendment (Vehicle Licensing) Act 2001  
commence before this Act***

**Clause 32: Road Traffic Act 1974**

This clause amends section 17(1)(b)(ii) of the Road Traffic Act 1974 to change the manner in which the stamp duty payable on motor vehicle licences is referred to. At present, it refers to duty assessed by the Director General under Part IIIC of the Stamp Act. The amendment is necessary due to changes in the assessment provisions, primarily the movement of most assessing powers to the Taxation Administration Bill 2001. The provision will now refer to the amount of duty payable under the Stamp Act, rather than the specific manner of assessment.

**PART 4 – TRANSITIONAL PROVISIONS**

**Division 1 - Interpretation**

**Clause 33: Definitions**

This clause provides the meanings of a number of terms used in the transitional provisions contained in this Part. Explanations of the terms have not been included on the basis that the terms themselves are self explanatory.

**Division 2 – General transitional provisions**

**Clause 34: General transitional arrangements**

This clause sets out the operation of the transitional arrangements that apply generally as a result of the Taxation Administration Bill.

Subclause (1) provides that section 37(1) of the Interpretation Act 1984, which contains the general provisions that apply when an Act is repealed, does not apply in relation to the repeal of an "old Act", which is a term defined in clause 33. However, there is an exception for section 37(a) and (b) of the Interpretation Act.

Paragraph (a) provides that the repeal of an Act does not revive anything not in force or existing at the time at which the repeal takes effect.

Paragraph (b) provides that the repeal of an Act does not affect the previous operation of the repealed Act or anything duly done or suffered under that Act. These provisions still apply despite the operation of subclause (1).

Subclause (2) provides that the repeal of an old Act does not affect the matters referred to in paragraphs (a) to (d).

Paragraph (a) provides that the repeal does not affect any right, interest, title, power or privilege created, acquired, accrued, established or exercisable or any status or capacity existing prior to the repeal.

Paragraph (b) provides that the repeal does not affect any duty, obligation, liability or burden of proof imposed, created or incurred prior to the repeal.

Paragraph (c) provides that the repeal does not affect any penalty or forfeiture incurred or liable to be incurred in respect of an offence committed against the old Act. However, this paragraph is subject to section 11 of The Criminal Code, which provides:

“A person cannot be punished for doing or omitting to do an act, unless the act or omission constituted an offence under the law in force when it occurred, nor unless doing or omitting to do the act under the same circumstances would constitute an offence under the law in force at the time when he is charged with the offence.”

The paragraph is also subject to section 10 of the Sentencing Act 1995, which provides:

“If the statutory penalty for an offence changes between the time when the offender committed it and the time when the offender is sentenced for it, the lesser statutory penalty applies for the purposes of sentencing the offender.”

Paragraph (d) provides that the repeal of an old Act does not affect any investigation, legal proceeding or remedy in respect of any of the matters described in subclause (2)(a) to (c).

Subclause (3) operates subject to subclauses (4) and (5). Subclause (3) provides that the matters in:

- subclause (2)(a) or (b) may be exercised or enforced;
- subclause (2)(c) may be imposed and enforced; and
- subclause (2)(d) may be instituted, continued or enforced,

as if the substantive provisions of the old Act (as defined in clause 33) had not been repealed, were a taxation Act for the purposes of the Taxation Administration Act and had been amended to make any modifications necessary to allow this clause to have effect. This ensures that all matters, unless otherwise specified in subclause (4) and (5), operate as if the Taxation Administration Act were always in operation.

Subclause (4) overrides the general operation of subclause (3) in the area of objections, appeals or other legal proceedings ("action") that began under an old Act and were not finally determined before the commencement day.

Specifically, this means that the following matters apply as if this Act, the Taxation Administration Act and the other taxation Acts (as defined in the Taxation Administration Bill) had not commenced:

- the action can be continued;
- interest payable on the result of the objection or appeal can be applied and paid;
- any penalty can be imposed and enforced; and
- any decision, order or determination made in the action has effect and can be enforced.

It should be noted in the case of an objection, that finalisation of the objection is considered to be "finally determined". If the objection is disallowed after the commencement day, the above provisions of the old Act will apply under this subclause. However, if the taxpayer decides to take the objection decision on appeal, the appeal will be subject to the Taxation Administration Bill and associated legislation on the basis that the appeal had not begun until after the commencement day.

Subclause (5) applies to ensure that where any matter mentioned in subclause (3) has a time limit associated with it, then the time limit under the old Act applies if that period is longer than the corresponding period under the Taxation Administration Act or other taxation Act.

Subclause (6) preserves the period for the institution of prosecution action under an old Act if that period was shorter than the 5 years allowed under clause 98 of the Taxation Administration Bill.

Subclause (7) provides an interpretation provision in respect of references to the Stamp Act to clarify that "the repeal of the Act" actually means the Stamp Act prior to the commencement of the Stamp Amendment Bill.

**Clause 35: Commissioner not to increase tax liability**

This clause ensures that the Commissioner cannot make a reassessment to increase the amount of tax payable under the Taxation Administration Bill in relation to matters occurring before the commencement day, if he would not have been able to make that reassessment under the old Act.



This only affects stamp duty reassessments, as the reassessment power in the Stamp Act commenced on 6 July 2000. From the 1991 decision of the Supreme Court in the case of *Venture Management Limited v Commissioner of State Taxation (WA)* to that date, the Commissioner only made reassessments to increase the amount of duty payable with the consent of the taxpayer or where the original assessment was based on false or misleading information.

The time period for reassessments to increase the amount of tax payable are otherwise consistent with the 5 year period provided in the Taxation Administration Bill.

**Clause 36: Delegations**

This clause ensures that all delegations made prior to the commencement day by the Commissioner to authorise staff to perform certain functions remain valid as if they were made under clause 10 of the Taxation Administration Bill. Although it is intended to systematically update all delegations, the process will take some time to complete and this provision ensures that the appropriate powers remain valid over that period.

**Division 3 – Debits tax**

**Clause 37: Certificates of exemption from tax (Debits Tax Assessment Act 1990, s. 11)**

This clause provides certain transitional arrangements relevant to exemption certificates.

Subclause (1) provides that a certificate issued under section 11 of the Debits Tax Assessment Act 1990 remains in force as if it were a certificate issued under section 10 of the Debits Tax Assessment Act 2001. This ensures that all persons in receipt of a certificate for exempt and excluded debits do not have to reapply for a certification and be charged debits tax until that certificate is granted.

Subclause (2) limits the retrospectivity of refunds in respect of certificates that apply before the date of issue. This phases in the extended period on downward reassessments, ensuring that a person, who was only entitled to a retrospective certificate for three years prior to the commencement day, cannot apply after the commencement day and receive a five year refund.

**Division 4 – Land tax**

**Clause 38: Exemptions for certain home unit owners (Land Tax Assessment Act 1976, s. 19)**

This clause operates to preserve the requirements of any assessment raised under section 19 of the Land Tax Assessment Act 1976. The equivalent clause 16 of the Land Tax Assessment

Act 2001 is taken to apply as if the assessment had been made under that section. This provision ensures that persons assessed under section 19 do not have to reapply under section 16 for the assessment provisions to operate.

**Clause 39: Inner city residential property rebate (Land Tax Assessment Act 1976, s. 23AB)**

This clause operates to ensure that a person who has been relieved (under section 23AB(7) of the Land Tax Assessment Act 1976) of the obligation to apply for the rebate on an annual basis, can still rely on that authorisation by the Commissioner as if it had been made under clause 28(4) of the Land Tax Assessment Act 2001.

**Clause 40: Land tax relief Acts**

This clause preserves the operation of the Land Tax Relief Act 1991 and the Land Tax Relief Act 1992, despite the repeal of the Land Tax Assessment Act 1976 and amendment of section 41 of the Metropolitan Region Town Planning Scheme Act.

**Division 5 – Pay-roll tax**

**Clause 41: Treatment of certain contributions (Pay-roll Tax Assessment Act 1971, Sch. 2 cl. 5)**

This clause ensures that a superannuation contribution that is in respect of services performed or rendered before 1 July 1997, is excluded from being a superannuation benefit for the purposes of pay-roll tax.

**Clause 42: Reassessments and refunds (Pay-roll Tax Assessment Act 1971, s. 19)**

This clause ensures that the more restrictive refund provisions of section 19 of the Pay-roll Tax Assessment Act 1971 continue to operate in respect of wages paid or payable before the commencement of the Taxation Administration Act. Under those provisions, the Commissioner is not obliged to make a refund of overpaid tax unless an application in the approved form is made within two years after the overpayment of the tax.

**Division 6 – Stamp duty**

**Clause 43: Adhesive stamps (Stamp Act 1921, s. 15, 21 and 23)**

This clause sets out transitional arrangements in relation to the phasing out of adhesive stamps as a stamp duty payment mechanism.

Subclause (1) provides that despite the repeal of section 15 of the Stamp Act by the Stamp Amendment Bill, the section continues in force for 12 months after the commencement day in relation to adhesive stamps that were affixed before the commencement

day. This period is consistent with the limitation on refunds associated with spoiled stamps under section 15 of the Stamp Act.

Subclause (2) allows sections 21 and 23 of the Stamp Act to continue for a period of three months from the commencement day, despite the repeal of these sections by the Stamp Amendment Bill. The three month extension of this provision applies to adhesive stamps affixed to instruments before the commencement day. Sections 21 and 23 set out arrangements for the cancellation of adhesive stamps.

Subclause (3) provides that if adhesive stamps have been affixed to an instrument and cancelled in accordance with the Stamp Act, the instruments to which the stamps have been affixed are deemed to be endorsed under proposed section 17C of the Stamp Act. This ensures that the instruments continue to be stamped within the meaning of the Act after the amendments in the Stamp Amendment Bill take effect.

**Clause 44: Printing of “Stamp Duty Paid” on cheques (Stamp Act 1921, s. 52)**

This clause contains transitional arrangements that apply to the stamping of cheques.

Subclause (1) provides that an authorisation granted under section 52 of the Stamp Act continues after the commencement day as if the authorisation had been granted under the special tax return arrangements of the Taxation Administration Bill (Division 2 Part 5).

Subclause (2) provides that any requirement that applied to a person under section 52 of the Stamp Act before the commencement day continues as a condition of a special tax return arrangement after the commencement day. This provision applies whether the requirement was imposed under the Stamp Act or as a condition of the authorisation.

**Clause 45: First home owners – reassessment (Stamp Act 1921, s. 75AG)**

This clause limits the application period for a refund of duty under section 75AG in respect of property transfers occurring before the commencement day. This phases in the extended period for applications, and hence refunds under this section. It ensures that a person who was only entitled to apply for a refund within 12 months of the date of stamping of the contract prior to the commencement day, cannot apply after the commencement day and receive a refund due to the extension of the application period.

**Clause 46: Reassessment of duty on grant or transfer of vehicle licences (Stamp Act 1921, s. 76C(18) and (19), 76CA(3a) and 76CB(9))**

This clause phases in the extended application and refund periods for certain measures under Part III C of the Stamp Act.

Subclause (1) provides that this clause applies in relation to a grant or transfer of a licence that occurred before the commencement day.

Subclause (2) overrides clause 17(1) of the Taxation Administration Bill to ensure that an application for a refund of duty paid on the:

- grant of a licence where no vehicle licence fee was payable under the Road Traffic Act; or
- transfer if no vehicle licence fee would have been payable under the Road Traffic Act,

cannot be made more than 15 months after the licence was granted or transferred. It ensures that a person, who was only entitled to apply for a refund within 15 months of the dates mentioned above prior to the commencement day, cannot apply after the commencement day and receive the refund due to the extension of the application period.

Subclause (3) provides the same limitation as provided in subclause (2) in respect of an application made under section 76CA of the old Act. This section applies to no change in beneficial ownership transfers of motor vehicle licences. The limit on this application has been extended from 12 months to five years.

Subclause (4) provides the same limitation as provided in subclause (2) in respect of an application made under section 76CB of the old Act. This section applies to a duty concession on the transfer of specialised equipment between cab chassis vehicles. The limit on this application has been extended from 12 months to five years.

**Clause 47: Alternative to stamping individual insurance policies (Stamp Act 1921, s. 95A)**

This clause contains transitional arrangements that apply to the stamping of insurance policies by return, rather than individual stamping.

Subclause (1) provides that a permission granted under section 95A of the Stamp Act continues after the commencement day as if the permission had been granted under the special tax return arrangements of the Taxation Administration Bill (Division 2 Part 5).

Subclause (2) provides that any requirement that applied to a person under section 95A of the Stamp Act before the

commencement day continues as a condition of a special tax return arrangement after the commencement day. This provision applies whether the requirement was imposed under the Stamp Act or as a condition of the permission.

**Clause 48: Workers' compensation insurance (Stamp Act 1921, s. 97 and item 16 of the Second Schedule)**

This clause phases in the extended application and refund periods for reassessments of duty under the workers' compensation insurance provisions of the Stamp Act.

Subclause (1) overrides clause 17(1) of the Taxation Administration Bill to ensure that an application for a reassessment of duty incorrectly paid under item 16(1)(a)(i), instead of item 16(1)(a)(ii), cannot be made more than 2 years after the beginning of the insurance policy's cover period.

Subclause (2) ensures that references to the Pay-roll Tax Assessment Act in item 16(1)(a)(i)(A) of the Second Schedule to the Stamp Act operate to cover both the 1971 and 2001 Act and relevant sections.

**Clause 49: Payment of duty by returns (Stamp Act 1921, s. 112V)**

This clause contains transitional arrangements that apply to the stamping of instruments under special permission from the Commissioner.

Subclause (1) provides that a permission granted under section 112V of the Stamp Act continues after the commencement day as if the permission had been granted under the special tax return arrangements of the Taxation Administration Bill (Division 2 Part 5).

Subclause (2) provides that any requirement that applied to a person under section 95A of the Stamp Act before the commencement day continues as a condition of a special tax return arrangement after the commencement day. This provision applies whether the requirement was imposed under the Stamp Act or as a condition of the permission.