

Duties Amendment Regulations 2023

SL 2023/12

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Duties Amendment Regulations 2023*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

These regulations amend the *Duties Regulations 2008*.

4. Regulation 4 amended

- (1) Before regulation 4(1) insert:

- (1A) In this regulation —

asset-backed securitisation arrangement means a unit trust scheme under which the profits, distributions of capital, or income in which beneficiaries participate arise or arises from the acquisition, holding, management or disposal of financial assets;

financial asset means any of the following —

- (a) a loan, including any security for the loan;
- (b) a credit card account;
- (c) a hire-purchase agreement;
- (d) a chattel lease, whether finance or operating;
- (e) any rights of a lender or bailor that are —
 - (i) usually conferred in relation to a financial asset referred to in paragraphs (a) to (d); or
 - (ii) incidental to a financial asset referred to in paragraphs (a) to (d);

fixed infrastructure has the meaning given in section 91A(1) of the Act;

fixed to land financial asset means dutiable property that is both —

- (a) an estate or interest in fixed infrastructure; and
- (b) a financial asset.

(2) In regulation 4(1):

- (a) in paragraph (g)(ii) delete “value.” and insert:

value;

- (b) after paragraph (g) insert —

- (h) a declaration of trust over dutiable property if —

- (i) the dutiable property subject to the declaration of trust includes fixed to land financial assets and does not include any other dutiable property (except for fixed infrastructure connected with those fixed to land financial assets or chattels); and
- (ii) the declaration of trust is for the purposes of creating an asset-backed securitisation arrangement;

- (i) a transfer of, or an agreement for the transfer of, dutiable property if —

- (i) the dutiable property includes fixed to land financial assets and does not include any other dutiable property (except for fixed infrastructure connected with those fixed to land financial assets or chattels); and
- (ii) the transfer, or agreement, directly relates to the creation or winding up of an asset-backed securitisation arrangement;

- (j) a transfer of, or an agreement for the transfer of, dutiable property if —

- (i) the dutiable property includes fixed to land financial assets and does not include any other dutiable property (except for fixed infrastructure connected with those fixed to land financial assets or chattels); and
- (ii) the transfer is to, or the agreement is for the transfer to, an asset-backed securitisation arrangement.

(3) After regulation 4(4) insert:

- (5) Subregulation (1)(h), (i) and (j) apply to a transaction that occurs on or after 13 June 2019.

5. Regulation 4AAA inserted

After regulation 4A insert:

4AAA. Excluded classes of right (Act s. 91A(4))

- (1) In this regulation —
retirement village licence means a residence contract (as defined in the *Retirement Villages Act 1992* section 3(1)) that takes the form of a licence.
- (2) A right under a retirement village licence is, despite section 91A(1) of the Act, excluded from the definitions of *fixed infrastructure access right* and *fixed infrastructure control right* in that section.
- (3) Subregulation (2) applies to a transaction that occurs on or after 13 June 2019.

N. HAGLEY, Clerk of the Executive Council.
