

Duties Amendment (Off-the-Plan Concession and Foreign Persons Exemptions) Bill 2023

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Western Australia

LEGISLATIVE ASSEMBLY

**Duties Amendment (Off-the-Plan Concession
and Foreign Persons Exemptions) Bill 2023**

A Bill for

An Act to amend the *Duties Act 2008*.

The Parliament of Western Australia enacts as follows:

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1 **1. Short title**

2 This is the *Duties Amendment (Off-the-Plan Concession and*
3 *Foreign Persons Exemptions) Act 2023*.

4 **2. Commencement**

5 This Act comes into operation as follows —

6 (a) sections 1 and 2 — on the day on which this Act
7 receives the Royal Assent;

8 (b) the rest of the Act — on the day after that day.

9 **3. Act amended**

10 This Act amends the *Duties Act 2008*.

11 **4. Section 205ZA amended**

12 (1) Before section 205ZA(1) insert:

13

14 (1A) In this section —

15 *substantial refurbishment* does not include minor
16 works to a building or part of a building.

17

18 (2) Delete section 205ZA(2)(a) and (b) and insert:

19

20 (a) the person liable to pay foreign transfer duty on
21 the transaction or an associate of the person
22 intends to —

23 (i) construct or complete the construction
24 of 10 or more dwellings on the parcel of
25 land; or

1 (ii) provide 10 or more dwellings on the
2 parcel of land by carrying out, or
3 completing the carrying out of,
4 substantial refurbishment of a building,
5 or part of a building, that is not capable
6 of being used solely or dominantly as a
7 place of residence;

8 and

9

10 (3) In section 205ZA(3):

11 (a) in paragraph (a) delete “construct,” and insert:

12

13 construct —

14

15 (b) delete paragraphs (b) and (c) and insert:

16

17 (b) a dwelling the person or associate intends to
18 provide by carrying out substantial
19 refurbishment of a building, or part of a
20 building — if all licences, approvals,
21 registrations, exemptions and other kinds of
22 authorisation necessary to carry out the
23 refurbishment for that dwelling or another
24 dwelling on the parcel of land are issued,
25 granted or obtained; or

26 (c) a dwelling the person or associate intends to
27 complete the construction of — if that dwelling
28 or another dwelling on the parcel of land,
29 construction of which is completed by the
30 person or associate, is ready for occupation as a
31 place of residence; or

32 (d) a dwelling the person or associate intends to
33 provide by completing the carrying out of
34 substantial refurbishment of a building, or part

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1 of a building — if that dwelling, or another
2 dwelling on the parcel of land for which
3 substantial refurbishment is completed by the
4 person or associate, is ready for occupation as a
5 place of residence.
6

7 **5. Section 205ZB amended**

8 Delete section 205ZB(2)(a).

9 **6. Section 205ZO amended**

10 (1) Before section 205ZO(1) insert:
11

12 (1A) In this section —
13 *substantial refurbishment* does not include minor
14 works to a building or part of a building.
15

16 (2) Delete section 205ZO(1)(a) and (b) and insert:
17

- 18 (a) when the acquisition occurs the residential
19 landholder or a linked entity in respect of the
20 landholder is entitled to a parcel of land and the
21 landholder, linked entity or an associate of the
22 landholder intends to —
- 23 (i) construct or complete the construction
24 of 10 or more dwellings on the parcel of
25 land; or
- 26 (ii) provide 10 or more dwellings on the
27 parcel of land by carrying out, or
28 completing the carrying out of,
29 substantial refurbishment of a building,
30 or part of a building, that is not capable

1 of being used solely or dominantly as a
2 place of residence;

3 and
4

5 (3) In section 205ZO(2):

6 (a) in paragraph (a) delete “construct,” and insert:

7

8 construct —

9

10 (b) delete paragraphs (b) and (c) and insert:

11

12 (b) a dwelling the landholder, linked entity or
13 associate intends to provide by carrying out
14 substantial refurbishment of a building, or part
15 of a building — if all licences, approvals,
16 registrations, exemptions and other kinds of
17 authorisation necessary to carry out the
18 refurbishment for that dwelling or another
19 dwelling on the parcel of land are issued,
20 granted or obtained; or

21 (c) a dwelling the landholder, linked entity or
22 associate intends to complete the construction
23 of — if that dwelling or another dwelling on the
24 parcel of land, construction of which is
25 completed by the landholder, linked entity or
26 associate, is ready for occupation as a place of
27 residence; or

28 (d) a dwelling the landholder, linked entity or
29 associate intends to provide by completing the
30 carrying out of substantial refurbishment of a
31 building, or part of a building — if that
32 dwelling, or another dwelling on the parcel of
33 land for which substantial refurbishment is
34 completed by the landholder, linked entity or

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1 associate, is ready for occupation as a place of
2 residence.
3

4 **7. Section 205ZP amended**

5 Delete section 205ZP(1)(a) and (b) and insert:
6

7 (a) when the acquisition occurs, the residential
8 landholder or a linked entity in respect of the
9 landholder is entitled to a parcel of land and the
10 landholder, linked entity or an associate of the
11 landholder intends to subdivide or complete
12 subdividing the parcel of land for the purpose
13 of a person constructing 10 or more dwellings
14 on the land; and
15

16 **8. Chapter 6A inserted**

17 After section 266D insert:
18

19 **Chapter 6A — Off-the-plan concession for**
20 **transfer duty and foreign transfer duty**

21 **266E. Terms used**

22 In this Chapter —

23 *cancelled transaction* has the meaning given in
24 section 107(1);

25 *community titles (building) scheme* has the meaning
26 given in the *Community Titles Act 2018* section 11(7);

27 *concessional off-the-plan agreement* has the meaning
28 given in section 266F;

- 1 **concession amount**, for a concessional off-the-plan
2 agreement, means the concession amount for the
3 agreement determined under sections 266L to 266N;
- 4 **concession day**, in relation to a concessional
5 off-the-plan agreement, has the meaning given in
6 section 266H;
- 7 **dutiable value** has the meaning given in section 9;
- 8 **lot** —
- 9 (a) in relation to a strata scheme — means a lot in a
10 strata scheme as defined in the *Strata Titles*
11 *Act 1985* section 3(1); or
- 12 (b) in relation to a community titles (building)
13 scheme — has the meaning given in the
14 *Community Titles Act 2018* section 3(1);
- 15 **multi-tiered scheme** means a strata scheme or a
16 community titles (building) scheme, other than a strata
17 scheme or community titles (building scheme) in which
18 no part of a floor of a lot or part of a lot in a building
19 forms or joins the ceiling of another lot or part of a lot
20 in a building;
- 21 **new residential unit or apartment** has the meaning
22 given in section 266G(1) and (2);
- 23 **Off-the-Plan Duty Rebate Scheme** means the
24 administrative scheme for the payment of rebates on
25 duty known as the Off-the-Plan Duty Rebate Scheme;
- 26 **strata scheme** has the meaning given in the *Strata*
27 *Titles Act 1985* section 9;
- 28 **unadjusted duty amount**, in relation to a concessional
29 off-the-plan agreement, has the meaning given in
30 section 266I.

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266F. Concessional off-the-plan agreement

- (1) An agreement for the transfer of dutiable property is a ***concessional off-the-plan agreement*** if the agreement is —
- (a) an agreement for the purchase, from the owner of land to be subdivided by the registration of a multi-tiered scheme or an amendment of a multi-tiered scheme, of a lot in the scheme on which there will be a new residential unit or apartment; and
 - (b) entered into before development for the subdivision commences; and
 - (c) entered into in the period beginning on 23 October 2019 and ending on 30 June 2025.
- (2) An agreement (the ***new agreement***) for the transfer of dutiable property is also a ***concessional off-the-plan agreement*** if the new agreement is —
- (a) an agreement for the purchase, from the owner of land to be subdivided by the registration of a multi-tiered scheme or an amendment of a multi-tiered scheme, of a lot in the scheme on which there will be a new residential unit or apartment; and
 - (b) substantially similar in effect to an earlier cancelled transaction that —
 - (i) was a concessional-off-the-plan agreement under subsection (1); and
 - (ii) was between all of the same parties as the parties to the new agreement, except that the seller was different;
- and

- 1 (c) entered into after development for the
2 subdivision commences, but before
3 development for the subdivision is completed.
- 4 (3) Despite subsections (1) and (2), an agreement to which
5 either of those subsections applies is not a
6 ***concessional off-the-plan agreement*** —
- 7 (a) if a rebate has been paid in relation to the
8 agreement under the Off-the-Plan Duty Rebate
9 Scheme; or
- 10 (b) if —
- 11 (i) development for the subdivision of the
12 land by the registration of the
13 multi-tiered scheme, or the amendment
14 of the multi-tiered scheme, is completed
15 before 31 August 2023; and
- 16 (ii) the eligibility criteria for payment of a
17 rebate under the Off-the-Plan Duty
18 Rebate Scheme are not satisfied in
19 relation to the agreement;
- 20 or
- 21 (c) if the agreement is a replacement transaction
22 (as defined in section 107(1)) in relation to a
23 cancelled transaction; or
- 24 (d) if the agreement is a subsale transaction (as
25 defined in section 107(1)) in relation to a
26 cancelled transaction that was a concessional
27 off-the-plan agreement; or
- 28 (e) if —
- 29 (i) the agreement is between all of the same
30 parties as the parties to, and is
31 substantially similar in effect to, an
32 earlier cancelled transaction; and

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- 1 (ii) in the opinion of the Commissioner, the
2 sole or dominant purpose of any party in
3 entering into the agreement is to obtain
4 a rebate, or a higher amount of rebate,
5 under the Off-the-Plan Duty Rebate
6 Scheme.
- 7 (4) For the purposes of subsection (3)(b)(ii), the eligibility
8 criteria for payment of a rebate under the Off-the-Plan
9 Duty Rebate Scheme are taken to be the criteria set out
10 in the application form entitled “Form FDA49 —
11 Off-the-Plan Rebate: Pre-construction Contract” as
12 published on the Commissioner’s website on
13 31 August 2023.
- 14 (5) The Commissioner must ensure that the form referred
15 to in subsection (4) remains published on the
16 Commissioner’s website.
- 17 **266G. New residential unit or apartment**
- 18 (1) For the purposes of sections 266F(1)(a) and (2)(a), a
19 ***new residential unit or apartment*** is a building, or part
20 of a building, that —
- 21 (a) may lawfully be used as a place of residence;
22 and
- 23 (b) in the Commissioner’s opinion, is suitable to be
24 used as a place of residence; and
- 25 (c) is intended to be used solely or dominantly as a
26 place of residence; and
- 27 (d) is not an existing building or part of an existing
28 building.

- 1 (2) Despite subsection (1), a building or part of a building
2 is not a ***new residential unit or apartment*** if it is —
3 (a) intended to be used as a hotel, motel, hostel,
4 lodging house, boarding house or serviced
5 apartment; or
6 (b) of a prescribed class.
- 7 (3) For the purposes of subsection (1)(d), an ***existing***
8 ***building*** is a building that has already been constructed
9 when development for the subdivision referred to in
10 section 266F(1)(a) or (2)(a) (as the case requires)
11 commences, whether or not refurbishment of the
12 building is undertaken as part of that development.

13 **266H. Concession day for agreement**

- 14 (1) The ***concession day*** for a concessional off-the-plan
15 agreement to which section 266F(1) applies is —
16 (a) if subsection (2) does not apply — the day on
17 which the agreement is entered into; or
18 (b) if subsection (2) applies — the day on which
19 the cancelled transaction referred to in
20 subsection (2) is entered into.
- 21 (2) This subsection applies to a concessional off-the-plan
22 agreement to which section 266F(1) applies (the ***new***
23 ***agreement***) if the agreement is substantially similar in
24 effect to an earlier cancelled transaction that —
25 (a) was a concessional off-the-plan agreement
26 under section 266F(1); and
27 (b) was between all of the same parties as the
28 parties to the new agreement, except that the
29 seller was different.
- 30 (3) If there is more than 1 cancelled transaction of the kind
31 referred to in subsection (2) in relation to a
32 concessional off-the-plan agreement, the reference in

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- 1 subsection (1)(b) to the cancelled transaction is a
2 reference to the earliest of those cancelled transactions.
- 3 (4) The **concession day** for a concessional off-the-plan
4 agreement to which section 266F(2) applies is the day
5 on which the cancelled transaction referred to in
6 section 266F(2)(b) is entered into.
- 7 (5) If there is more than 1 cancelled transaction of the kind
8 referred to in section 266F(2)(b) in relation to a
9 concessional off-the-plan agreement, the reference in
10 subsection (4) to the cancelled transaction is a
11 reference to the earliest of those cancelled transactions.

12 **266I. Unadjusted duty amount for agreement**

13 The **unadjusted duty amount** for a concessional
14 off-the-plan agreement is —

- 15 (a) if foreign transfer duty is not payable on the
16 agreement — the amount of transfer duty that
17 would be payable on the agreement if it were
18 not a concessional off-the-plan agreement; or
- 19 (b) if foreign transfer duty is payable on the
20 agreement — the total amount of transfer duty
21 and foreign transfer duty that would be payable
22 on the agreement if it were not a concessional
23 off-the-plan agreement.

24 **266J. Determining when development for subdivision of
25 land commences and is completed**

- 26 (1) This section applies in determining for the purposes of
27 this Chapter when development for the subdivision of
28 land by the registration of a multi-tiered scheme, or an
29 amendment of a multi-tiered scheme, commences and
30 is completed.
- 31 (2) Development commences when relevant construction
32 works commence on the land.

-
- 1 (3) In subsection (2) —
- 2 *relevant construction works* —
- 3 (a) means excavation or works associated with the
- 4 construction of a building or structure that is
- 5 necessary for the subdivision; but
- 6 (b) does not include excavation or works consisting
- 7 of —
- 8 (i) demolishing an existing building or
- 9 structure; or
- 10 (ii) clearing a site for development; or
- 11 (iii) installing temporary fencing or
- 12 structures, transportable buildings or
- 13 advertising materials.
- 14 (4) Development is completed when the land is subdivided
- 15 by registration of the multi-tiered scheme, or the
- 16 amendment of the multi-tiered scheme, under the
- 17 *Strata Titles Act 1985* section 11 or the *Community*
- 18 *Titles Act 2018* section 14 (as the case requires).
- 19 **266K. Reduction of duty on concessional off-the-plan**
- 20 **agreement**
- 21 (1) The amount of transfer duty and (if applicable) foreign
- 22 transfer duty payable on a concessional off-the-plan
- 23 agreement is to be reduced by the concession amount
- 24 for the agreement in accordance with this section.
- 25 (2) If foreign transfer duty is not payable on the
- 26 agreement, the amount of transfer duty payable on the
- 27 agreement is to be reduced by the concession amount.
- 28 (3) If foreign transfer duty is payable on the agreement, the
- 29 duty payable is to be reduced as follows —
- 30 (a) first, the amount of transfer duty payable on the
- 31 agreement is to be reduced by the concession
- 32 amount, or by so much of the concession

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- 1 amount as is necessary to reduce the amount of
2 transfer duty payable to zero;
- 3 (b) second, if there is a remainder of the concession
4 amount after the amount of transfer duty
5 payable is reduced to zero — the foreign
6 transfer duty payable on the agreement is to be
7 reduced by the remainder.

8 **266L. Concession amount**

- 9 (1) Subject to sections 266M(2) and 266N(2)(b), the
10 concession amount for a concessional off-the-plan
11 agreement is the lesser of the following —
- 12 (a) \$50 000;
- 13 (b) an amount calculated by —
- 14 (i) determining the applicable concession
15 percentage under the Table according to
16 the concession day of the agreement and
17 the dutiable value of the agreement; and
- 18 (ii) multiplying that percentage by the
19 unadjusted duty amount for the
20 agreement.

21 **Table**

Item	Concession day	Dutiable value	Concession percentage (%)
1.	23 October 2019 to 23 October 2021	Any dutiable value	75
2.	24 October 2021 to 31 May 2022	Any dutiable value	50

Item	Concession day	Dutiable value	Concession percentage (%)
3.	1 June 2022 to 10 May 2023	\$500 000 or less	100
4.	1 June 2022 to 10 May 2023	More than \$500 000 but less than \$600 000	X calculated under subsection (2)
5.	1 June 2022 to 10 May 2023	\$600 000 or more	50
6.	11 May 2023 to 30 June 2025	\$650 000 or less	100
7.	11 May 2023 to 30 June 2025	More than \$650 000 but less than \$750 000	Y calculated under subsection (3)
8.	11 May 2023 to 30 June 2025	\$750 000 or more	50

1 (2) The calculation for the purposes of item 4 in the Table
2 to subsection (1) is as follows —

3
$$X = 100 - \left(\frac{V - 500\,000}{100} \times 0.05 \right)$$

4 where —

5 V is the dutiable value of the concessional
6 off-the-plan agreement.

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1 (3) The calculation for the purposes of item 7 in the Table
2 to subsection (1) is as follows —

3
$$Y = 100 - \left(\frac{V - 650\,000}{100} \times 0.05 \right)$$

4 where —

5 V is the dutiable value of the concessional
6 off-the-plan agreement.

7 **266M. Concession amount for concessional off-the-plan**
8 **agreement relating to 2 or more properties**

9 (1) This section applies to a concessional off-the-plan
10 agreement that is an agreement for the purchase of 2 or
11 more lots (the **relevant properties**) in a multi-tiered
12 scheme, on each of which there will be a new
13 residential unit or apartment.

14 (2) The concession amount for the concessional
15 off-the-plan agreement is the total of the concession
16 amounts for each of the relevant properties determined
17 under subsection (3).

18 (3) The concession amounts for the relevant properties are
19 determined as follows —

- 20 (a) first, apportion the dutiable value of the
21 concessional off-the-plan agreement between
22 each of the relevant properties as decided by
23 the Commissioner;
- 24 (b) second, apportion the unadjusted duty amount
25 for the agreement between each of the relevant
26 properties according to the proportion that the
27 dutiable value apportioned to that relevant
28 property under paragraph (a) bears to the
29 dutiable value of the agreement;

- 1 (c) third, determine a concession amount for each
2 of the relevant properties under section 266L as
3 if —
4 (i) that relevant property were the subject
5 of a separate concessional off-the-plan
6 agreement; and
7 (ii) the dutiable value of that agreement
8 were the amount apportioned to that
9 relevant property under paragraph (a);
10 and
11 (iii) the unadjusted duty amount for that
12 agreement were the amount apportioned
13 to that relevant property under
14 paragraph (b).

15 **266N. Aggregation of transactions**

- 16 (1) Subsection (2) applies if under section 37 —
17 (a) 2 or more concessional off-the-plan agreements
18 are aggregated and treated as a single dutiable
19 transaction; or
20 (b) 1 or more concessional off-the-plan agreements
21 and 1 or more other dutiable transactions are
22 aggregated and treated as a single dutiable
23 transaction.
24 (2) In determining the duty payable on the aggregated
25 transactions —
26 (a) first, under section 37, determine and apportion
27 between the aggregated transactions the amount
28 of transfer duty that would be payable on the
29 aggregated transactions if none of the
30 transactions were a concessional off-the-plan
31 agreement;
32 (b) second, determine a concession amount under
33 section 266L (or, if applicable, sections 266L

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- 1 and 266M) for each of the concessional
2 off-the-plan agreements, treated as a separate
3 transaction, as if the unadjusted duty amount
4 for the agreement were —
- 5 (i) if foreign transfer duty is not payable on
6 the agreement — the amount (the
7 ***apportioned transfer duty amount***) of
8 transfer duty apportioned to the
9 agreement as referred to in
10 paragraph (a); or
- 11 (ii) if foreign transfer duty is payable on the
12 agreement — the total of the
13 apportioned transfer duty amount and
14 the amount of foreign transfer duty that
15 would be payable on the agreement if it
16 were not a concessional off-the-plan
17 agreement;
- 18 (c) third, for each of the concessional off-the-plan
19 agreements, reduce in accordance with
20 section 266K the amount of transfer duty and
21 (if applicable) foreign transfer duty payable by
22 the concession amount for that agreement
23 determined under paragraph (b), as if the
24 amount of transfer duty payable on the
25 agreement were the apportioned transfer duty
26 amount.
- 27 (3) A concessional off-the-plan agreement is not an
28 exempt transaction for the purposes of section 37(3)(c)
29 solely because the transfer duty payable on the
30 agreement is reduced to zero under this Chapter.
- 31 **266O. Application for off-the-plan concession**
- 32 (1) An application for assessment or reassessment of the
33 liability to duty of a concessional off-the-plan
34 agreement under this Chapter must be made in the

- 1 approved form no later than 12 months after the day on
2 which the agreement is completed.
- 3 (2) For the purposes of this Chapter, the Taxation
4 Administration Act section 17 applies as if —
- 5 (a) despite subsection (1) of that section, a
6 taxpayer is not entitled to apply for a
7 reassessment of the liability to duty of a
8 concessional off-the-plan agreement under this
9 Chapter more than 12 months after the day on
10 which the agreement is completed; and
- 11 (b) despite subsection (4) of that section, the
12 Commissioner can make a reassessment of the
13 liability to duty of a concessional off-the-plan
14 agreement under this Chapter on an application
15 by a taxpayer only if the application was made
16 within that time.
17

18 **9. Schedule 3 Division 12 inserted**

19 At the end of Schedule 3 insert:
20

21 **Division 12 — Provisions for *Duties Amendment***
22 ***(Off-the-Plan Concession and Foreign Persons Exemptions)***
23 ***Act 2023***

24 **75. Terms used**

25 In this Division —

26 ***commencement day*** means the day on which the *Duties*
27 *Amendment (Off-the-Plan Concession and Foreign Persons*
28 *Exemptions) Act 2023* section 3 comes into operation.

- 1 **76. Provisions relating to amendments to Chapter 3A**
- 2 (1) In this clause —
- 3 ***amended exemption provisions*** means sections 205ZA,
4 205ZB, 205ZO and 205ZP, as amended by the *Duties*
5 *Amendment (Off-the-Plan Concession and Foreign Persons*
6 *Exemptions) Act 2023* sections 4 to 7;
- 7 ***relevant exempt transaction or acquisition*** means a foreign
8 dutiabale transaction or an acquisition that meets the
9 requirements for an exemption under an amended
10 exemption provision if the transaction or acquisition
11 occurs —
- 12 (a) on or after 1 January 2023; or
- 13 (b) before 1 January 2023 if —
- 14 (i) in the case of a transaction to which
15 section 205ZA applies — the requirement
16 in section 205ZA(2)(c) becomes satisfied on
17 on or after that day; or
- 18 (ii) in the case of a transaction to which
19 section 205ZB applies — the requirement in
20 section 205ZB(2)(c) becomes satisfied on
21 or after that day; or
- 22 (iii) in the case of an acquisition to which
23 section 205ZO applies — the requirement
24 in section 205ZO(1)(c) becomes satisfied
25 on or after that day; or
- 26 (iv) in the case of an acquisition to which
27 section 205ZP applies — the requirement in
28 section 205ZP(1)(c) becomes satisfied on or
29 after that day.
- 30 (2) The amended exemption provisions apply to the imposition
31 of duty on a relevant exempt transaction or acquisition, even
32 if the transaction or acquisition occurred before
33 commencement day.

- 1 (3) If an assessment of duty payable on a relevant transaction or
2 acquisition was made before commencement day, the
3 Commissioner may, on application or on the
4 Commissioner's own initiative, reassess the duty payable on
5 the transaction or acquisition in accordance with the
6 amended exemption provisions.
- 7 (4) Despite whichever of sections 205ZA(5), 205ZB(3),
8 205ZO(4) and 205ZP(2) is applicable, an application for
9 reassessment referred to in subclause (3) may be made in the
10 approved form on or before the later of the following —
- 11 (a) the day on or before which the application would,
12 but for this subclause, be required to be made under
13 section 205ZA(5), 205ZB(3), 205ZO(4) or
14 205ZP(2) (whichever is applicable);
- 15 (b) the last day of the period of 12 months beginning on
16 commencement day.
- 17 (5) Subclauses (3) and (4) apply despite the Taxation
18 Administration Act section 17.
- 19 (6) For the purposes of this clause, when an acquisition occurs
20 is to be determined under section 176 as applied by
21 section 205ZE(1).

22 **77. Provisions relating to Chapter 6A**

- 23 (1) In this clause —
24 *concessional off-the-plan agreement* has the meaning given
25 in section 266F;
26 *pre-commencement period* means the period beginning on
27 23 October 2019 and ending immediately before
28 commencement day.
- 29 (2) Chapter 6A applies to the imposition of duty on a
30 concessional off-the-plan agreement even if the agreement
31 was entered into in the pre-commencement period.
- 32 Notes for this subclause:
- 33 1. An agreement entered into before the pre-commencement
34 period is not a concessional off-the-plan agreement under
35 section 266F.

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2. Under section 266F(3), certain agreements are excluded from being concessional off-the-plan agreements, including —
 - (a) agreements in relation to which a rebate has been paid under the Off-the-Plan Duty Rebate Scheme (see section 266F(3)(a)); and
 - (b) agreements that were not eligible for a rebate under the Off-the-Plan Duty Rebate Scheme where development for the relevant subdivision of land is completed before 31 August 2023 (see section 266F(3)(b)).
 - (3) If an assessment of duty payable on a concessional off-the-plan agreement was made before commencement day, the Commissioner may, on application or on the Commissioner’s own initiative, reassess the duty payable on the agreement in accordance with Chapter 6A.
 - (4) Despite section 266O, an application for reassessment referred to in subclause (3) may be made in the approved form on or before the later of the following —
 - (a) the last day of the period that applies under section 266O(1);
 - (b) the last day of the period of 5 years beginning on the day on which the original assessment was made;
 - (c) the last day of the period of 12 months beginning on commencement day.
 - (5) Subclauses (3) and (4) apply despite the Taxation Administration Act section 17.

