

Revenue Laws Amendment Bill 2011

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Western Australia

LEGISLATIVE ASSEMBLY

(As amended during consideration in detail)

Revenue Laws Amendment Bill 2011

A Bill for

An Act to amend the following Acts —

- **the *Duties Act 2008*;**
- **the *First Home Owner Grant Act 2000*;**
- **the *Land Tax Assessment Act 2002*;**
- **the *Pay-roll Tax Assessment Act 2002*;**
- **the *Rates and Charges (Rebates and Deferments) Act 1992*;**
- **the *Stamp Act 1921*;**
- **the *Taxation Administration Act 2003*.**

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary

1. Short title

This is the *Revenue Laws Amendment Act 2011*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) the heading to Part 2 and Part 2 Divisions 1 and 2 — are deemed to have come into operation on 1 December 2011;
- (c) the heading to Part 5 and Part 5 Divisions 1 and 2 — are deemed to have come into operation on 1 July 2011;
- (d) the heading to Part 8 and sections 40 and 42(4) — are deemed to have come into operation on 1 July 2009;
- (e) Parts 3, 4, 6 and 7 and the rest of Parts 2, 5 and 8 — on the day after assent day.

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Part 2 — Duties Act 2008 amended

Division 1 — Preliminary

3. Act amended

This Part amends the *Duties Act 2008*.

**Division 2 — Amendments about winding up of corporations
and unit trust schemes**

4. Section 29 amended

(1) In section 29(2):

(a) in paragraph (a) in the definition of the variable “A” in subparagraph (ii)(II) delete “shareholder” and insert:

shareholder, or a person related to the shareholder,

(b) in paragraph (b) in the definition of the variable “A” in subparagraph (ii)(II) delete “unit holder” and insert:

unit holder, or a person related to the unit holder,

(2) In section 29(3) insert in alphabetical order:

person related, to a shareholder or unit holder, means that the person and the shareholder or unit holder are related persons within the meaning of section 162(1)(a) to (g);

(3) After section 29(3) insert:

(4A) For the purposes of paragraph (a)(ii)(II) or (b)(ii)(II) of the definition of the variable “A” in subsection (2), the

Revenue Laws Amendment Bill 2011

Part 2 Duties Act 2008 amended

Division 2 Amendments about winding up of corporations and unit trust schemes

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1 Commissioner may exclude part or all of the amount of
2 any liability that a person related to a shareholder or
3 unit holder, as the case requires, has assumed or
4 discharged if the Commissioner is satisfied that it is
5 appropriate to do so having regard to the application of
6 subsection (2) to all other transfers of corporation or
7 unit trust scheme property in respect of the same
8 corporation or unit trust scheme.
9

10 **5. Section 194 amended**

11 (1) In section 194(5)(b)(ii) delete “unit holder” and insert:

12

13 unit holder, or a person related to the shareholder or unit holder,
14

15 (2) In section 194(6) insert in alphabetical order:

16

17 *person related*, to a shareholder or unit holder, means
18 that the person and the shareholder or unit holder are
19 related persons within the meaning of section 162(1)(a)
20 to (g);
21

22 (3) After section 194(6) insert:

23

24 (7A) For the purposes of subsection (5)(b)(ii), the
25 Commissioner may exclude part or all of the amount of
26 any liability that a person related to a shareholder or
27 unit holder, as the case requires, has assumed or
28 discharged if the Commissioner is satisfied that it is
29 appropriate to do so having regard to the application of
30 subsection (5) to all relevant acquisitions occurring as a
31 consequence of the winding up.
32

1 **Division 3 — Other amendments to *Duties Act 2008***

2 **6. Section 107 amended**

3 (1) In section 107(2) delete “not, and will not, be carried” and
4 insert:

5
6 not been, and will not be, carried
7

8 (2) After section 107(6) insert:

9
10 (7) For the purposes of this section, in relation to an
11 agreement for the transfer of dutiable property, the
12 *Taxation Administration Act 2003* section 17 applies as
13 if —

14 (a) despite subsection (1) of that section, a person
15 is not entitled to apply for a reassessment —

16 (i) more than 5 years after the original
17 assessment was made; or

18 (ii) more than 12 months after the day on
19 which the agreement became a
20 cancelled transaction,

21 whichever is the later; and

22 (b) despite subsection (4) of that section, the
23 Commissioner may only make a reassessment
24 on an application if the application was made
25 within that time.
26

27 **7. Section 142 amended**

28 (1) Delete section 142(1)(b)(ii) and insert:

29
30 (ii) otherwise — \$600 000,

31 and includes a transaction where, due to the
32 operation of section 42(2) or (4), duty is not

1 chargeable on the transfer of dutiable property
2 the subject of the transaction.
3

4 (2) In section 142(2)(c) delete “transaction.” and insert:
5

6 transaction,

7 and includes a transaction where, due to the operation
8 of section 42(2) or (4), duty is not chargeable on the
9 transfer of dutiable property the subject of the
10 transaction.
11

12 **8. Section 279 replaced**

13 Delete section 279 and insert:
14

15 **279. Use of transaction records in civil proceedings**

16 (1) Unless a transaction record for a dutiable transaction is
17 duty endorsed, then, other than in respect of criminal
18 proceedings, the transaction record is not available for
19 use in any proceedings before a court or tribunal.

20 (2) Subsection (1) does not apply to a transaction record —

21 (a) where the person that produces the transaction
22 record is the person liable to pay the duty —

23 (i) if the transaction record has been
24 transmitted to the Commissioner; or

25 (ii) if the court or tribunal is satisfied that
26 the transaction record will be
27 transmitted to the Commissioner in
28 accordance with arrangements approved
29 by the court or tribunal;

30 or

- 1 (b) where the person that produces the transaction
2 record is not the person liable to pay the
3 duty —
- 4 (i) if the name and address of the person so
5 liable and the transaction record have
6 been transmitted to the Commissioner;
7 or
- 8 (ii) if the court or tribunal is satisfied that
9 the name and address of the person so
10 liable and the transaction record will be
11 transmitted to the Commissioner in
12 accordance with arrangements approved
13 by the court or tribunal.
- 14 (3) Subsection (1) does not apply to —
- 15 (a) a duty endorsed duplicate of a transaction
16 record for a dutiable transaction; or
- 17 (b) an unexecuted copy of an instrument that
18 effects a dutiable transaction or an instrument
19 that evidences a dutiable transaction if a court
20 or tribunal is satisfied that a transaction record
21 for the dutiable transaction is duty endorsed.
22

1 **Part 3 — *First Home Owner Grant Act 2000* amended**

2 **9. Act amended**

3 This Part amends the *First Home Owner Grant Act 2000*.

4 **10. Section 13 amended**

5 (1) In section 13(2)(b) delete “subsection (3)” and insert:

6

7 subsection (6A)(a)

8

9 (2) Delete section 13(3).

10 (3) In section 13(5)(b) after “Commissioner” insert:

11

12 under subsection (6A)(b)

13

14 (4) After section 13(5) insert:

15

16 (6A) The Commissioner —

17 (a) may approve of the applicant complying with
18 subsection (1) for a period of less than
19 6 months if, in the Commissioner’s opinion,
20 there are good reasons why the applicant cannot
21 comply with subsection (1) for a period of
22 6 months; and

23 (b) may approve of the applicant complying with
24 subsection (4) within a period of more than
25 12 months if, in the Commissioner’s opinion,
26 there are good reasons why the applicant cannot
27 comply with subsection (4) within a period of
28 12 months.

29

1 (5) After section 13(6) insert:
2

3 (7) The Commissioner may exercise a power under
4 subsection (6A) or (6) at any time including at a time
5 when the applicant has not complied with a residence
6 requirement.

7 (8) If the Commissioner exercises a power under
8 subsection (6A), the required residence period or
9 take-up period, as the case requires, is taken always to
10 have been the period approved by the Commissioner.

11 (9) If the Commissioner exercises a power under
12 subsection (6), the applicant is taken always to have
13 been exempt from the residence requirements.
14

15 (6) After section 13(6)(a) insert:
16

17 and
18

19 **11. Section 54A inserted**

20 After section 53 insert:
21

22 **54A. Recovery from garnishee**

23 (1) In this section —

24 *liable person* means a person who is liable under
25 section 53(2).

26 (2) The Commissioner may serve a garnishee notice on a
27 person (the *garnishee*) if the Commissioner believes on
28 reasonable grounds that the garnishee —

29 (a) holds or may receive money for or on account
30 of a liable person; or

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- 1 (b) is liable or may become liable to pay money to
2 a liable person; or
- 3 (c) has authority to pay money to a liable person.
- 4 (3) A garnishee notice is a notice —
- 5 (a) requiring the garnishee to pay money in the
6 garnishee’s possession or control to which the
7 liable person is or becomes entitled to the
8 Commissioner up to the amount of a liability
9 stated in the notice; and
- 10 (b) fixing a time for payment (which cannot be
11 before the time the liable person becomes
12 entitled to the money).
- 13 (4) The Commissioner may serve a garnishee notice even
14 though the liable person’s entitlement to the money
15 may be subject to unfulfilled conditions.
- 16 (5) However, a garnishee notice served on the employer of
17 a liable person can require the garnishee to pay to the
18 Commissioner the wages payable by the garnishee to
19 the liable person in respect of a period only to the
20 extent of the amount by which the amount of the wages
21 exceeds the amount of average earnings for that period
22 calculated on the basis of statistics published in respect
23 of the period by the government statistician.
- 24 (6) The Commissioner must serve a copy of the garnishee
25 notice on the liable person.
- 26 (7) If the liability to which a garnishee notice relates is
27 discharged wholly or partly before the time for
28 payment under the notice and the discharge or partial
29 discharge affects the amount to be recovered from the
30 garnishee, the Commissioner must, by notice served on
31 the garnishee and the liable person —
- 32 (a) inform them of that fact; and

- 1 (b) state whether and, if so, how the garnishee's
2 obligation under the garnishee notice is affected
3 by the discharge or partial discharge of the
4 liability.
- 5 (8) A garnishee who does not comply with a garnishee
6 notice commits an offence.
7 Penalty: a fine of \$20 000.
- 8 (9) A garnishee who is under an obligation to pay money
9 to the liable person is taken to have satisfied that
10 obligation to the extent of the payment made under the
11 garnishee notice.
12

1 **Part 4 — *Land Tax Assessment Act 2002* amended**

2 **12. Act amended**

3 This Part amends the *Land Tax Assessment Act 2002*.

4 **13. Section 24A amended**

5 In section 24A(4) delete “individual must” and insert:

6

7 Commissioner may require the individual to

8

9 **14. Section 25A amended**

10 In section 25A(4) delete “individual must” and insert:

11

12 Commissioner may require the individual to

13

14 **15. Section 27A amended**

15 In section 27A(4) delete “owner must” and insert:

16

17 Commissioner may require the owner to

18

1 **Part 5 — Pay-roll Tax Assessment Act 2002 amended**

2 **Division 1 — Preliminary**

3 **16. Act amended**

4 This Part amends the *Pay-roll Tax Assessment Act 2002*.

5 **Division 2 — Amendments about shares and options**

6 **17. Section 9BA amended**

7 In section 9BA(1) delete “the value of which is taken to be
8 wages” and insert:

9
10 that constitutes wages

11
12 **18. Section 9DA amended**

13 Delete section 9DA(1) and (2) and insert:

14
15 (1) For the purposes of this Act —

16 **wages** include the grant of a share or an option to an
17 employee by an employer in respect of services
18 performed by the employee if the share or option —

19 (a) is an ESS interest within the meaning of the
20 *Income Tax Assessment Act 1997*
21 (Commonwealth) section 83A-10; and

22 (b) is granted to the employee under an employee
23 share scheme within the meaning of that
24 section.

25 Note: A grant of a share or an option to an employee by an employer that is
26 not an ESS interest will be taxable as a fringe benefit under
27 Subdivision 2.

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Part 5 Pay-roll Tax Assessment Act 2002 amended

Division 2 Amendments about shares and options

s. 19

- 1 (2) A share or an option is granted to a person if —
- 2 (a) another person transfers the share or option to
- 3 that person (other than, in the case of a share,
- 4 by issuing the share to that person); or
- 5 (b) in the case of a share — another person allots
- 6 the share to that person; or
- 7 (c) in the case of an option — another person
- 8 confers the option on, or otherwise creates the
- 9 option in, that person; or
- 10 (d) the person otherwise acquires a legal interest in
- 11 the share or option from another person; or
- 12 (e) the person acquires a beneficial interest in the
- 13 share or option from another person.
- 14 (3A) To avoid doubt, if an employee acquires a right to be
- 15 granted a share or an option, or some other material
- 16 benefit, at the employer's election, the share or option
- 17 is not granted until the employer elects to grant the
- 18 share or option.
- 19

20 **19. Section 9DB amended**

- 21 (1) Delete section 9DB(2) and insert:
- 22
- 23 (2) The *vesting day* in respect of a share is the earlier of
- 24 the following days —
- 25 (a) the day on which the share vests in the
- 26 employee (that is, when any conditions
- 27 applying to the grant of the share have been met
- 28 and the employee's legal or beneficial interest
- 29 in the share cannot be rescinded);
- 30 (b) the day at the end of the period of 7 years from
- 31 the day on which the share is granted to the
- 32 employee.
- 33

- 1 (2) In section 9DB(3):
2 (a) in paragraph (b) delete “vest in him or her.” and insert:
3
4 vested in the employee;
5
6 (b) after paragraph (b) insert:
7
8 (c) the day at the end of the period of 7 years from
9 the day on which the option is granted to the
10 employee.
11

12 **20. Section 9DC amended**

- 13 (1) Delete section 9DC(1)(a) and insert:
14
15 (a) an employer grants a share or an option to an
16 employee; and
17
18 (2) Delete section 9DC(2)(a) and insert:
19
20 (a) an employer grants a share or an option to an
21 employee; and
22

23 **21. Section 9DD amended**

- 24 (1) Delete section 9DD(1) and insert:
25
26 (1) In this section —
27 ***Commonwealth income tax provisions*** means the
28 *Income Tax Assessment Act 1997* (Commonwealth)
29 section 83A-315 and the regulations made for the
30 purposes of that section.

31 Note: See the *Income Tax Assessment Regulations 1997* (Commonwealth)
32 Division 83A for the relevant regulations.
33

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Part 5 Pay-roll Tax Assessment Act 2002 amended

Division 2 Amendments about shares and options

s. 21

- 1 (2) In section 9DD(2) delete “taken to be wages under this
2 Subdivision is the market value” and insert:
3
4 is the value
5
- 6 (3) Delete section 9DD(3) and (4) and insert:
7
- 8 (3) The value of a share or an option is —
9 (a) the market value; or
10 (b) the amount determined as provided for by the
11 Commonwealth income tax provisions.
- 12 (4) The employer may elect the method by which the value
13 of a share or an option is determined in any return
14 lodged under this Act.
- 15 (5) However, the Commissioner may determine the
16 method by which the value of a share or an option is
17 determined if the grant of the share or option is not
18 included as wages in a return lodged by an employer as
19 required by this Act.
- 20 (6) In determining the market value of a share or an option,
21 anything that would prevent or restrict conversion of
22 the share or option to money is to be disregarded.
- 23 (7) The Commonwealth income tax provisions apply with
24 the following modifications, and any other necessary
25 modifications —
26 (a) the value of an option is to be determined as if
27 it were a right to acquire a beneficial interest in
28 a share;
29 (b) a reference to the acquisition of a beneficial
30 interest in a share or right is to be read as a
31 reference to the grant of a share or an option.
32

1 **22. Section 9DE amended**

- 2 (1) In section 9DE(1) delete “the value of which is taken to be
3 wages under this Subdivision”.
- 4 (2) In section 9DE(2)(a) delete “employee the value of which is
5 taken to be wages under this Subdivision; and” and insert:
6
- 7 employee; and
8

9 **23. Section 9DF replaced**

10 Delete section 9DF and insert:
11

12 **9DF. Grant of share under exercise of option**

13 The grant of a share by an employer does not constitute
14 wages for the purposes of this Act if —

- 15 (a) the employer is required to grant the share as a
16 consequence of the exercise of an option by a
17 person; and
- 18 (b) the grant of the option to the person constitutes
19 wages for the purposes of this Act.
20

21 **24. Section 9DG amended**

22 (1) Delete section 9DG(1) and insert:
23

- 24 (1) For the purposes of this Act —
25 *wages* include the grant of a share or an option by a
26 company to a director of the company who is not an
27 employee of the company by way of remuneration for
28 the appointment or services of the director.
29

Revenue Laws Amendment Bill 2011

Part 5 Pay-roll Tax Assessment Act 2002 amended

Division 2 Amendments about shares and options

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1 (2) In section 9DG(2) delete “the purposes of subsection (1),” and
2 insert:

3

4 that purpose,

5

6 (3) After section 9DG(3) insert:

7

8 (4) However, if wages referred to in this section are fringe
9 benefits, the value of the wages is to be determined in
10 accordance with Subdivision 2 and not this
11 Subdivision.

12

13 **25. Schedule 1 amended**

14 After Schedule 1 clause 3 insert:

15

16 **Division 2 — Provisions consequent on enactment of**
17 ***Revenue Laws Amendment Act 2011 Part 5 Division 2***

18 **4. Assessment and payment of pay-roll tax in relation to**
19 **employee shares and options**

20 Anything done or omitted to be done by an employer in
21 connection with the assessment and payment of pay-roll tax,
22 in respect of a month occurring after June 2009 and before
23 July 2011, that would have been validly done or omitted to
24 be done had the amendments made to this Act by the
25 *Revenue Laws Amendment Act 2011 Part 5 Division 2* been
26 in force, is taken to have been validly done or omitted.

27 Note: This provision validates a decision by an employer to treat the grant of
28 a share or an option to an employee that is not an ESS interest as a
29 fringe benefit under Part 2 Division 2A Subdivision 2 and to determine
30 the value of those fringe benefits in accordance with those provisions,
31 rather than by reference to Part 2 Division 2A Subdivision 4.

- 1 **5. Determination of vesting day and value of employee**
2 **shares and options**
- 3 (1) In this clause —
- 4 *assessment amendments* means the amendments made by
5 the *Revenue Laws Amendment Act 2011* sections 19 and 21;
6 *new section 9DA* means section 9DA as amended by the
7 *Revenue Laws Amendment Act 2011* section 18;
8 *old section 9DA* means section 9DA as in force immediately
9 before 1 July 2011;
10 *relevant day* has the meaning given in section 9DA(4).
- 11 (2) Part 2 Division 2A Subdivision 4 continues to apply in
12 respect of a share or an option granted before 1 July 2011
13 that constituted wages under old section 9DA, whether or
14 not the grant of the share or option would constitute wages
15 under new section 9DA, if the relevant day in relation to the
16 grant of the share or option is not a day occurring before
17 1 July 2011.
- 18 Note: For example, a share granted before 1 July 2011 that is not an
19 ESS interest continues to be treated as wages under Part 2
20 Division 2A Subdivision 4 if the vesting day for the share did not occur
21 before 1 July 2011 and the employer did not elect to treat the day of
22 the grant as the relevant day.
- 23 (3) Sections 9DB and 9DD as amended by the assessment
24 amendments apply in respect of any such share or option.
- 25 (4) Accordingly, the vesting day and the value of the share or
26 option are to be determined in accordance with those
27 sections as amended by the assessment amendments.
- 28 (5) This clause does not apply in respect of a share or an option
29 granted before 1 July 2011 if the liability for pay-roll tax in
30 respect of the grant is determined in accordance with Part 2
31 Division 2A Subdivision 2 (as permitted by clause 4).

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Part 5 Pay-roll Tax Assessment Act 2002 amended

Division 3 Other amendments to Pay-roll Tax Assessment Act 2002

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1 **6. Shares and options granted on or after 1 July 2011 and**
2 **before *Revenue Laws Amendment Act 2011* received the**
3 **Royal Assent**
4 Subject to the *Taxation Administration Act 2003*
5 section 17(4), if an employer granted a share or an option to
6 a person —
7 (a) on or after 1 July 2011; and
8 (b) before the *Revenue Laws Amendment Act 2011*
9 received the Royal Assent,
10 the Commissioner must make any reassessment necessary to
11 give effect to this Act as amended by the *Revenue Laws*
12 *Amendment Act 2011* Part 5 Division 2.
13

14 **26. Glossary amended**

15 In the Glossary delete the definition of *share* and insert:

16
17 *share* means a share in a company and includes a stapled
18 security;
19

20 **Division 3 — Other amendments to *Pay-roll Tax Assessment***
21 ***Act 2002***

22 **27. Section 25 amended**

23 After section 25(1) insert:

24
25 (2A) The Commissioner may register an employer, although
26 the employer has not applied for registration under
27 section 24, if it appears to the Commissioner that the
28 employer is, or is likely to become, liable to pay
29 pay-roll tax.

- 1 (2B) If the Commissioner registers an employer under
2 subsection (2A), the Commissioner must give the
3 employer notice of the registration.
- 4 (2C) The Commissioner is taken always to have been
5 entitled to register an employer on his or her own
6 initiative under this Act or the *Pay-roll Tax Assessment*
7 *Act 1971*, and any such registration before the coming
8 into operation of the *Revenue Laws Amendment*
9 *Act 2011* section 27 is, and is taken always to have
10 been, a valid and effective registration.
11

12 **28. Section 33 amended**

13 Delete section 33(1) and insert:
14

- 15 (1) A person has, or persons have together, a controlling
16 interest in a business carried on by a corporation if —
- 17 (a) the person, or each of the persons, is a director
18 of the corporation and the person is, or the
19 persons are together, entitled to exercise more
20 than 50% of the voting power at meetings of
21 the directors of the corporation; or
- 22 (b) a director that is, or directors that are together,
23 entitled to exercise more than 50% of the
24 voting power at meetings of the directors of the
25 corporation is or are under an obligation,
26 whether formal or informal, to act in
27 accordance with the directions, instructions or
28 wishes of the person or of those persons acting
29 together.
30

Revenue Laws Amendment Bill 2011

Part 5 Pay-roll Tax Assessment Act 2002 amended

Division 3 Other amendments to Pay-roll Tax Assessment Act 2002

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1 **29. Section 36 amended**

2 Delete section 36(2) and insert:

3

4 (2) If 2 or more members of a group (called a *smaller*
5 *group* for the purposes of subsection (3)) have together
6 a controlling interest in a business, all the members of
7 the group and the person or persons who carry on the
8 business together constitute one group for the purposes
9 of this Act.
10

11 **30. Section 41A amended**

12 In section 41A(4) delete “employee’s normal rate of pay.” and
13 insert:

14

15 rate of pay per pay period that the employee would
16 ordinarily be paid, irrespective of the actual period of
17 leave.

18 Note: For example, the exemption may apply to wages paid or payable for a
19 28 week period of maternity leave if the wages are paid at half the rate
20 at which the wages would normally be paid or payable to the
21 employee.
22

1 **Part 6 — *Rates and Charges (Rebates and Deferments)***
2 ***Act 1992* amended**

3 **31. Act amended**

4 This Part amends the *Rates and Charges (Rebates and*
5 *Deferments) Act 1992*.

6 **32. Section 3 amended**

7 (1) In section 3(1) insert in alphabetical order:

8

9 *senior’s card department* means the department of the
10 Public Service that is administratively responsible for
11 issuing and cancelling senior’s cards on behalf of the
12 State;

13

14 (2) In section 3(1) in the definition of *senior’s card* delete
15 paragraph (b) and insert:

16

17 (b) is issued to the holder by the senior’s card
18 department;

19

20 **33. Section 5 amended**

21 In section 5 delete “Director of the Office of Seniors’ Interests
22 in the State.” and insert:

23

24 chief executive officer of the senior’s card department.

25

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1 **34. Section 6 amended**

2 (1) In section 6(3):

3 (a) after “payable to that person,” insert:

4

5 or that the person is entitled to be provided with
6 treatment,

7

8 (b) delete paragraph (a) and insert:

9

10 (a) to a person, valid for 5 years, if satisfied that —

11 (i) the person is receiving a pension to
12 which section 23(2) applies; or

13 (ii) the person meets the criteria referred to
14 in section 23(4A)(a); or

15 (iii) the person is receiving the Special Rate
16 Disability Pension referred to in
17 section 23(4A)(b); or

18 (iv) the person is entitled to be provided
19 with the treatment referred to in
20 section 23(4A)(c),

21 regardless of the income or assets of that
22 person; and

23

24 **35. Section 23 amended**

25 After section 23(3) insert:

26

27 (4A) Subject to this Act, a person is eligible to apply to the
28 administrative authority to have their entitlement in
29 relation to any land registered if a prescribed charge is
30 payable on that land, on sufficient evidence of
31 eligibility being accepted by the administrative
32 authority under section 26, so long as under the

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Military Rehabilitation and Compensation Act 2004
(Commonwealth) that person —

- (a) meets the criteria listed in section 199(1) of that Act; or
- (b) is receiving a Special Rate Disability Pension under Chapter 4 Part 6 of that Act instead of compensation worked out under Chapter 4 Part 4 Division 2 of that Act; or
- (c) under section 284 of that Act, is entitled to be provided with treatment under Chapter 6 Part 3 of that Act,

regardless of the income or assets of that person.

36. Section 26 amended

In section 26(1)(c)(ii) delete “23(3)” and insert:

23(3), 23(4A)

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Part 7 — *Stamp Act 1921* amended

37. Act amended

This Part amends the *Stamp Act 1921*.

38. Section 8 amended

In section 8(2) after “Except” insert:

in section 20 and

39. Section 20 amended

After section 20(8) insert:

(9A) For the purposes of subsection (8), in respect of a matter included in a general conditional contract that has not been, and will not be, carried into effect, the *Taxation Administration Act 2003* section 17 applies as if —

(a) despite subsection (1) of that section, a person is not entitled to apply for a reassessment —

(i) more than 5 years after the original assessment was made; or

(ii) more than 12 months after cancellation day,

whichever is the later; and

(b) despite subsection (4) of that section, the Commissioner may only make a reassessment on an application if the application was made within that time.

(9B) Subsection (9A) applies in relation to a matter included in a general conditional contract only if the day on which the contract is rescinded, annulled, abandoned or

1 otherwise terminated without completion is on or after
2 the day on which the *Revenue Laws Amendment*
3 *Act 2011* section 39 comes into operation.
4

1 **Part 8 — Taxation Administration Act 2003 amended**

2 **40. Act amended**

3 This Part amends the *Taxation Administration Act 2003*.

4 **41. Section 43 amended**

5 In section 43(2ab) delete “Treasurer —” and insert:

6

7 Minister —

8

9 **42. Section 76 amended**

10 (1) Delete section 76(1) and insert:

11

12 (1) As from the time it becomes payable under the *Land*
13 *Tax Assessment Act 2002* section 7(1), land tax is a
14 charge on the land for which the tax is payable —

15 (a) whether or not an assessment notice has been
16 issued for the tax; and

17 (b) whether or not the tax is due for payment; and

18 (c) whether or not a memorial of the charge has
19 been registered; and

20 (d) whether or not the land is disposed of,

21 but ceases to be such a charge when it is paid.

22

23 (2) Delete section 76(4).

24 (3) Delete section 76(6) and insert:

25

26 (6) If there is a disposition of the land before the tax is
27 paid, the new owner becomes jointly liable with the

1 taxpayer to pay the tax except to the extent
2 section 80(3) provides otherwise.

3

4 (4) In section 76(7)(b) delete “unimproved” (each occurrence) and
5 insert:

6

7 taxable

8

9 **43. Section 80 replaced**

10 Delete section 80 and insert:

11

12 **80. Certificate as to charge to secure unpaid land tax**

13 (1) An owner of land or a person intending to purchase
14 land may apply to the Commissioner for a certificate as
15 to the matters in subsection (2).

16 (2) On receiving such an application, the Commissioner
17 must issue a certificate that —

18 (a) states whether, on the date of the certificate,
19 there is a charge on the land under section 76;
20 and

21 (b) if there is such a charge and it relates to land
22 tax for which an assessment notice has been
23 issued, states the amount of unpaid land tax
24 secured by the charge as at that date; and

25 (c) if there is such a charge and it relates to land
26 tax for which an assessment notice has not been
27 issued, estimates the amount of land tax that
28 will be assessed.

29 (3) If —

30 (a) a certificate issued under subsection (2) states
31 there is a charge on the land under section 76

s. 44

- 1 and states the amount of unpaid land tax
2 secured by the charge and does not estimate an
3 amount of land tax that will be assessed; and
4 (b) the amount of land tax payable in respect of the
5 land increases or decreases,
6 then any new owner who under section 76(6) is jointly
7 liable for unpaid land tax is liable for not more than the
8 amount stated in the certificate.
9 (4) If a certificate issued under subsection (2) estimates the
10 amount of land tax that will be assessed —
11 (a) the certificate does not prevent the
12 Commissioner from assessing an amount of
13 land tax different to the estimate; and
14 (b) the amount of land tax assessed, even if it is
15 different to that estimated, is the amount in
16 respect of which a charge on the land arises
17 under section 76; and
18 (c) the amount of land tax assessed, even if it is
19 different to that estimated, is the amount for
20 which any new owner is jointly liable under
21 section 76(6).
22 (5) The prescribed fees are payable for the issue of a
23 certificate under subsection (2).
24

25 **44. Section 114 amended**

26 Delete section 114(3)(c) and insert:
27

- 28 (c) the disclosure of information or material to —
29 (i) an officer of the department of the
30 Public Service principally assisting the
31 Minister to administer this Act; or

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(ii) an officer of the department of the
Public Service principally assisting the
Treasurer;

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