

**Second Reading**

**The Hon. GREG PEARCE** (Minister for Finance and Services, and Minister for the Illawarra) [9.55 p.m.]: I move:

That this bill be now read a second time.

The purpose of the State Revenue Legislation Further Amendment Bill 2012 is to maintain legislation governing taxes and grants administered by the Office of State Revenue. The bill continues the practice of regular revision of State Revenue legislation to address anomalies, respond to court and tribunal decisions and deal with changes in business practice. While some of these amendments are minor or technical, it is important to keep pace with changes to the commercial and legal environment and to adopt best practice from other states. The bill makes substantive amendments to four Acts as well as amendments in the nature of statute law revision. I seek leave to incorporate the remainder of my second reading speech in *Hansard*.

**Leave granted.**

I will deal first with the amendments to the Duties Act 1997.

The Duties Act contains provisions intended to ensure that dealings in partnership interests are subject to duty where the partnership holds dutiable property such as land in New South Wales. If a partner retires but the partnership continues, it is common for the retiring partner to be paid out the value of his or her interest, and the retiring partner's interest in the partnership assets is effectively transferred to the continuing partners.

Although the partnership interest is dutiable property for the purposes of assessing duty, doubt has now been cast on whether these transactions are subject to duty. This is because the retirement or death of a partner, or the admission of a new partner, effects a technical dissolution of the partnership even when the continuing partners agree that the partnership will not be dissolved.

The bill addresses this uncertainty by providing that the retirement, death or admission of a partner will be deemed to effect a transfer of a partnership interest.

The bill also extends the provisions allowing a credit for duty paid on a related transaction over partnership land. If a separate transfer of land held by the partnership is also subject to ad valorem duty, the duty payable on the partnership interest will be reduced to the extent necessary to prevent double duty.

The amendments to the partnership provisions are in part the result of a High Court decision, and the bill includes two other duties changes that have resulted from court decisions.

In the first matter, the High Court held that mining tenements were not interests in land for the purposes of the Western Australian duties provisions. While mining leases and mineral claims are specifically included by definition as interests in land in New South Wales the

decision has cast doubt over whether that includes plant affixed to the land subject to the mining leases or claims.

The bill therefore clarifies the definition of land to provide certainty.

The second matter relates to transfers of property from the trustee of a wholly owned sub-trust of a managed investment scheme to a custodian for the trustee of the scheme. A Victorian appeal court judgement has created uncertainty as to the application of the concessional trust provisions to these transfers. The bill therefore provides for concessional duty of \$50 on these transfers.

The Duties Act currently provides certain concessions in relation to entities listed on the Australian Securities Exchange or on other members of the World Federation of Exchanges. The New Zealand Exchange is no longer a member of the World Federation of Exchanges, and as a result transactions in entities listed on the New Zealand Exchange are potentially liable to duty rates higher than those listed on the Australian Securities Exchange. The bill provides for entities listed on the New Zealand Exchange to be treated as listed entities.

Another amendment to the Duties Act is an exemption from duty for the purchase of new heavy vehicle trailers, including dollies, which was announced by the Government on 18 July.

For too long, heavy vehicle operators have realised the savings to be had by registering their vehicles and trailers in neighbouring States. This exemption will see New South Wales come into line with Queensland and Victoria, which for a number of years have charged less or no stamp duty for heavy vehicle trailers.

Combined with registration charge concessions for small heavy vehicle operators, which took effect on 1 September, this stamp duty exemption for new heavy vehicle trailers sends the freight industry a strong message that the Government is determined to reduce costs for New South Wales businesses.

The bill also contains two minor amendments to provisions in the Duties Act dealing with declarations of trust over marketable securities and transfers of company title dwellings. Both amendments are made in anticipation of the abolition of duty on marketable securities transactions from 1 July next year, but do not alter the substantive effect of the provisions.

The bill makes amendments to the Health Insurance Levies Act 1982 as a consequence of changes to the publications of the Australian Statistician. The current provisions require annual adjustment of the health insurance levy on 1 February each year, based on statistics published by the Australian Statistician concerning changes in the consumer price index for Sydney and average weekly earnings.

In future, average weekly earnings statistics are to be published on a biannual basis, rather than on a quarterly basis, and the amendments reflect this change. The annual adjustment of the levy has to be delayed because the Australian Bureau of Statistics will not publish the annual weekly earnings figures for the December quarter until February each year.

In case of future changes to the way in which the Australian Statistician publishes these statistics, the amendments also permit the annual percentage change for a particular year to

be prescribed by order of the Governor if the Minister certifies that it is necessary to do so because the statistical information required to calculate the health insurance rate is not available.

The bill contains three amendments to the Regional Relocation (Home Buyers Grant) Act 2011 to clarify and extend eligibility for the grant.

The Regional Relocation Grant was established to implement the Government's election commitment to provide financial assistance to people who relocate from the metropolitan area to regional New South Wales. The grant is payable when, among other things, the applicant disposes of a home in the metropolitan area that was used and occupied as the applicant's principal place of residence and purchases a home in a regional area to be used as the applicant's principal place of residence.

Various provisions in the Act acknowledge that the metropolitan home and the regional home will not necessarily be owned solely by the person who lives there, and it was intended that the grant is payable if at least one of the purchasers is eligible.

Cases have arisen where an application is technically ineligible because not all of the joint owners are relocating from the metropolitan home. The bill corrects this anomaly by providing that only one applicant must comply with the relocation requirement when there are multiple applicants.

The second amendment will extend the grant to the purchase of vacant land on which the purchaser intends to build a home. The grant currently applies to the purchase of a completed home or to a purchase off the plan but does not extend to the purchase of vacant land, even if the applicant intends to build and occupy the home immediately after purchase.

Consistent with duties concessions in relation to new homes, the value of the vacant land must not exceed \$450,000, as opposed to the maximum value of \$600,000 for completed homes, and the laying of foundations for the home must commence within six months of completion of the land purchase or such longer period as is allowed by the Chief Commissioner of State Revenue.

Thirdly, the bill extends eligibility for the grant to persons acquiring a regional home under a long-term lease.

The grant was initially limited to people who will be owners of the land which is the site of a regional home. However, a person who purchases a home in a retirement village often only acquires a long-term lease, usually for a consideration substantially equivalent to the purchase price that would be payable to acquire the freehold.

The bill therefore extends the types of transaction that are eligible for the Regional Relocation Grant to include the purchase of a long-term lease that the Chief Commissioner is satisfied provides a degree of permanency and security of tenure equivalent to ownership. The Chief Commissioner would consider matters such as the term of the lease and the consideration payable for the grant or transfer of the lease when determining whether the lease is eligible.

The amendments to the Regional Relocation (Home Buyers Grant) Act will apply

retrospectively from commencement of the grant scheme on 1 July 2011. The Office of State Revenue has been administering the scheme in anticipation of these amendments to ensure that earlier applicants are assessed for their entitlement to the grant on the basis of the proposed amendments.

The bill also includes an amendment to the Taxation Administration Act 1996, to clarify the Chief Commissioner's power to make a compromise assessment of a tax liability as part of a settlement of a dispute that is subject to an objection or an appeal to the Administrative Decisions Tribunal or court.

Such settlements can avoid costly and time-consuming litigation in cases where there is uncertainty about relevant facts or about the application of the legislation to the facts of the particular case.

Finally, the bill contains statute law revision amendments to the Land Tax Management Act 1956, the State Owned Corporations Act 1989 and the Taxation Administration Act 1996, including updating references to various offices, departments and authorities.

The amendments contained in the State Revenue Legislation Further Amendment Bill 2012 were the subject of consultation with industry and professional bodies.

The amendments will provide greater clarity and certainty for taxpayers in complying with State revenue legislation and will extend eligibility for the Regional Relocation Grant. I commend the bill to the House.