

Passed by both Houses



New South Wales

State Revenue Legislation Further Amendment (No 2) Bill 2001

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2001*



New South Wales

State Revenue Legislation Further Amendment (No 2) Bill 2001

Act No , 2001

An Act to make miscellaneous amendments to certain State revenue legislation;
and for other purposes.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:**1 Name of Act**

This Act is the *State Revenue Legislation Further Amendment (No 2) Act 2001*.

2 Commencement

- (1) This Act commences on the date of assent, except as provided by this section.
- (2) The following provisions commence, or are taken to have commenced, on the dates indicated:
 - Schedule 1 [1] on 1 July 2001
 - Schedule 1 [2] on 1 July 1998
 - Schedule 1 [19], [20] and [21] on 1 January 2002
 - Schedule 1 [24] on 8 October 1999
 - Schedule 3 [2] on 13 December 2000
 - Schedule 4 on 1 January 2002
- (3) Schedule 2 commences on a day or days to be appointed by proclamation.

3 Amendment of Acts

The Acts specified in Schedules 1 to 4 are amended as set out in those Schedules.

4 Repeals

- (1) The *Petroleum Products Subsidy Act 1965* is repealed.
- (2) The *Petroleum Products Subsidy Regulation 1998* is repealed.

Schedule 1 Amendment of Duties Act 1997

(Section 3)

[1] Section 11 What is “dutiable property”?

Omit section 11 (2) (b). Insert instead:

- (b) an interest in shares, or an interest in units in a unit trust scheme, if:
 - (i) the shares or units are quoted on the Australian Stock Exchange or a recognised stock exchange, or
 - (ii) the interest is quoted on the Australian Stock Exchange or a recognised stock exchange.

[2] Section 33A

Insert after section 33:

33A Shares in share management fisheries

The rate of duty chargeable on dutiable transactions in respect of shares in a share management fishery (within the meaning of the *Fisheries Management Act 1994*) is 60 cents per \$100, or part, of the dutiable value of the shares.

[3] Section 65 Exemptions from duty

Insert after section 65 (10):

- (11) **Financial agreements**
No duty is chargeable under this Chapter on a financial agreement made under section 90B, 90C or 90D of the *Family Law Act 1975* of the Commonwealth.

[4] Section 68 Exemptions—break-up of marriages and domestic relationships

Omit section 68 (1) (a). Insert instead:

- (a) the property is transferred, or agreed to be sold or transferred, to the parties to a marriage that is dissolved or annulled, or in the opinion of the Chief Commissioner has broken down irretrievably, or to either of them, or to a child or children of either of them, and

[5] Section 68 (1) (b) (i)

Omit the subparagraph. Insert instead:

- (i) a financial agreement made under section 90B, 90C or 90D of the *Family Law Act 1975* of the Commonwealth that, under that Act, is binding on the parties to the agreement, or

[6] Section 68 (1) (b) (iia)

Omit the subparagraph. Insert instead:

- (iia) an agreement that the Chief Commissioner is satisfied has been made for the purpose of dividing matrimonial property as a consequence of the dissolution, annulment or breakdown of the marriage, or

[7] Section 68 (1) (b) (iii)

Omit “such document or order”. Insert instead “such agreement or order”.

[8] Section 68 (4)–(4B)

Omit section 68 (4). Insert instead:

(4) Refunds—break-up of marriage

If:

- (a) ad valorem duty was paid on a transfer, or an agreement for the sale or transfer, of matrimonial property to the parties to a marriage or to either of them, or to a child or children of either of them, and

- (b) the transfer or agreement was effected as referred to in section 68 (1) (b), and
- (c) the marriage has been dissolved or annulled or has broken down irretrievably,

the Chief Commissioner must reassess the transfer or agreement and refund the duty paid.

(4A) Refunds—break-up of domestic relationship

If:

- (a) ad valorem duty was paid on a transfer, or an agreement for the sale or transfer, of relationship property to the parties to a domestic relationship or to either of them, or to a child or children of either of them, and
- (b) the transfer or agreement was effected as referred to in section 68 (2) (b), and
- (c) the domestic relationship has been terminated,

the Chief Commissioner must reassess the transfer or agreement and refund the duty paid.

(4B) Evidence of exemption

A party to a marriage or domestic relationship may provide a statement to the Chief Commissioner, in the form of a statutory declaration, to the effect that:

- (a) in the case of a marriage:
 - (i) the party intends to apply for a dissolution or annulment of the marriage, or
 - (ii) the parties to the marriage have separated, and there is no reasonable likelihood of cohabitation being resumed, or
- (b) in the case of a domestic relationship, the domestic relationship has been terminated.

The Chief Commissioner is required to have regard to any such statement in exercising his or her functions under this section.

(4C) Power to require other evidence

Subsection (4B) does not limit the functions of the Chief Commissioner under section 72 of the *Taxation Administration Act 1996*.

[9] Section 119 Exemptions

Omit section 119 (1) (e). Insert instead:

- (e) if the interest was acquired by the parties to a marriage that is dissolved or annulled, or in the opinion of the Chief Commissioner has broken down irretrievably, or by either of them, or by a child or children of them, as a result of a transfer made in accordance with:
 - (i) a financial agreement made under section 90B, 90C or 90D of the *Family Law Act 1975* of the Commonwealth that, under that Act, is binding on the parties to the agreement, or
 - (ii) an order of a court under that Act, or
 - (iii) an agreement that the Chief Commissioner is satisfied has been made for the purpose of dividing matrimonial property as a consequence of the dissolution, annulment or breakdown of the marriage, or

[10] Section 119 (1) (f)

Omit “in accordance with”.

Insert instead “as a result of a transfer made in accordance with”.

[11] Section 119 (2)

Omit the subsection. Insert instead:

- (2) If:
 - (a) duty was paid on the acquisition of matrimonial property by the parties to a marriage or by either of them, or by a child or children of either of them, and
 - (b) the interest acquired was acquired as a result of a transfer made in accordance with an agreement or order referred to in section 119 (1) (e) (i), (ii) or (iii), and
 - (c) the marriage has been dissolved or annulled or has broken down irretrievably,the person who paid the duty is entitled to a refund of it.

(2A) If:

- (a) duty was paid on the acquisition of relationship property by the parties to a domestic relationship or by either of them, or by a child or children of either of them, and
 - (b) the interest acquired was acquired as a result of a transfer made in accordance with an order or agreement referred to in section 119 (1) (f) (i) or (ii), and
 - (c) the domestic relationship has been terminated,
- the person who paid the duty is entitled to a refund of it.

[12] Section 119 (4)

Insert after section 119 (3):

- (4) A party to a marriage or domestic relationship may provide a statement to the Chief Commissioner, in the form of a statutory declaration, to the effect that:
 - (a) in the case of a marriage:
 - (i) the party intends to apply for a dissolution or an annulment of the marriage, or
 - (ii) the parties to the marriage have separated, and there is no reasonable likelihood of cohabitation being resumed, or
 - (b) in the case of a domestic relationship, the domestic relationship has been terminated.

The Chief Commissioner is required to have regard to any such statement in exercising his or her functions under subsection (1) (e) or (f).

- (4A) Subsection (4) does not limit the functions of the Chief Commissioner under section 72 of the *Taxation Administration Act 1996*.

[13] Section 119 (5)

Omit the definition of *Family Law Act*.

[14] Section 220 Refinancing of loans

Omit section 220 (9). Insert instead:

- (9) If an original borrower dies, or is a party to a marriage that has been dissolved or annulled or, in the opinion of the Chief Commissioner, has broken down irretrievably or is party to a de facto relationship that, in the opinion of the Chief Commissioner, has been terminated, the remaining borrower is, or the remaining borrowers are, taken to be the same borrower or the same person for the purposes of subsection (1) or (2).
- (10) A party to a marriage or de facto relationship may provide a statement to the Chief Commissioner, in the form of a statutory declaration, to the effect that:
 - (a) in the case of a marriage:
 - (i) the party intends to apply for a dissolution or an annulment of the marriage, or
 - (ii) the parties to the marriage have separated, and there is no reasonable likelihood of cohabitation being resumed, or
 - (b) in the case of a de facto relationship, the de facto relationship has been terminated.

The Chief Commissioner is required to have regard to any such statement in exercising his or her functions under subsection (9).

- (11) Subsection (10) does not limit the functions of the Chief Commissioner under section 72 of the *Taxation Administration Act 1996*.

[15] Section 267 Exemptions

Omit section 267 (6). Insert instead:

- (6) **Vehicles transferred by certain court orders—parties to a marriage**
Duty under this Chapter is not chargeable in respect of an application to transfer the registration of a motor vehicle registered in the names of the parties to a marriage that has been dissolved or annulled, or is proved to the satisfaction of the Chief Commissioner to have broken down irretrievably, or in the name of either of them to the extent that the vehicle was,

at the time the application was made, matrimonial property, if the application was made as a result of or in accordance with:

- (a) a financial agreement made under section 90B, 90C or 90D of the *Family Law Act 1975* of the Commonwealth that, under that Act, is binding on the parties to the agreement, or
- (b) an order of a court under that Act, or
- (c) an agreement that the Chief Commissioner is satisfied has been made for the purpose of dividing matrimonial property as a consequence of the dissolution, annulment or breakdown of the marriage.

[16] Section 267 (9) and (10)

Insert after section 267 (8):

(9) **Evidence of exemption—break-up of marriage or domestic relationship**

A party to a marriage or domestic relationship may provide a statement to the Chief Commissioner, in the form of a statutory declaration, to the effect that:

- (a) in the case of a marriage:
 - (i) the party intends to apply for a dissolution or an annulment of the marriage, or
 - (ii) the parties to the marriage have separated, and there is no reasonable likelihood of cohabitation being resumed, or
- (b) in the case of a domestic relationship, the domestic relationship has ceased.

The Chief Commissioner is required to have regard to any such statement in exercising his or her functions under subsection (6) or (7).

(10) **Power to require other evidence of exemption**

Subsection (9) does not limit the functions of the Chief Commissioner under section 72 of the *Taxation Administration Act 1996*.

[17] Section 287 Form of stamps to be used

Insert after section 287 (2):

- (3) Without limiting subsection (2), the Chief Commissioner may approve arrangements for the stamping of an instrument by means of the endorsement on the instrument of a number, or other information, issued by the Chief Commissioner in respect of the instrument (as referred to in section 289A).

[18] Section 289A

Insert after section 289:

289A Stamping by means of endorsement

- (1) An instrument is duly stamped if it is endorsed in accordance with an arrangement, approved by the Chief Commissioner under Division 2 of Part 6 of the *Taxation Administration Act 1996*, under which:
 - (a) information concerning an instrument (rather than the instrument itself) is lodged with the Chief Commissioner, and
 - (b) the information is used by the Chief Commissioner to assess the duty payable on the instrument, and
 - (c) a number, or other information, is issued by the Chief Commissioner, in respect of the instrument, for endorsement on the instrument.
- (2) Section 297 applies in respect of an instrument endorsed in accordance with an arrangement referred to in this section as if the instrument had been stamped by the Chief Commissioner, and section 42 (3) of the *Taxation Administration Act 1996* does not apply.
- (3) However, the endorsement of an instrument in accordance with an arrangement referred to in this section does not affect any liability for payment of the duty in relation to the instrument under this Act.

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- (4) A notice of assessment or statement of confirmation issued by the Chief Commissioner in relation to the assessment of an instrument as referred to in this section may include any of the information provided to the Chief Commissioner on which the assessment of the instrument was based.

[19] Section 290 Adhesive stamps

Insert “, but only if they were first executed before 1 January 2002” after “the following instruments” in section 290 (1).

[20] Section 291 Licences to deal in stamps

Omit the section.

[21] Section 292 Refunds—spoiled and unused stamps

Insert after section 292 (3):

- (4) An application under this section must be made before 1 January 2003.
- (5) A refund under this section is not available in respect of any application made on or after that date.

[22] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

State Revenue Legislation Further Amendment (No 2) Act 2001
(to the extent that it amends this Act)

[23] Schedule 1

Insert at the end of Schedule 1, with appropriate Part and clause numbering:

Part Provisions consequent on enactment of State Revenue Legislation Further Amendment (No 2) Act 2001

Financial agreements

A reference in section 65 (11), 68 (1) (b) (i), 119 (1) (e) (i) or 267 (6) (a) to a financial agreement made under section 90B,

90C or 90D of the *Family Law Act 1975* of the Commonwealth extends to a financial agreement made under any of those provisions of the *Family Law Act 1975* of the Commonwealth before the date of assent to the *State Revenue Legislation Further Amendment Act (No 2) 2001*.

Transfers to index trusts

- (1) For the purposes of section 66 (9) of this Act, as in force immediately before its repeal by the *Intergovernmental Agreement Implementation (GST) Act 2000* on 1 July 2001, the definition of ***index trust***, as set out in the Dictionary to this Act immediately before 1 July 2001, is taken to have included the following bodies, on and from the date specified below in relation to the body concerned:
 - (a) Index Shares Fund—2 March 2001,
 - (b) streetTRACKS50 exchange traded fund—1 April 2001,
 - (c) Barclays Australian Listed Property Index Fund—3 May 2001.
- (2) Accordingly, the exemption formerly provided for by section 66 (9) is taken to have extended to those bodies on and from the date specified in relation to the body concerned in subclause (1).

Note. The exemption related to transfers of marketable securities to an index trust in exchange for units in the trust. The exemption was repealed as a consequence of the abolition of duty on transfers of quoted marketable securities.
- (3) Anything done by or on behalf of the Chief Commissioner before the commencement of this clause, that would have been validly done had this clause been in force at the time that it was done, is validated.

Abolition of use of adhesive stamps

- (1) A licence issued under section 291, before its repeal by the *State Revenue Legislation Further Amendment (No 2) Act 2001*, is taken to be cancelled on the repeal of that section, unless sooner cancelled by the Chief Commissioner.

- (2) A person must not sell or deal in adhesive stamps issued by or on behalf of the Chief Commissioner for use under section 290.

Maximum penalty: 100 penalty units.

- (3) Subclause (2) takes effect on 1 January 2002.

[24] Dictionary

Insert “or section 42A” after “section 42” in the definition of *complying superannuation fund*.

[25] Dictionary, definition of “related body corporate”

Omit “*Corporations Law*”.

Insert instead “*Corporations Act 2001* of the Commonwealth”.

Schedule 2 Amendment of land tax legislation

(Section 3)

2.1 Amendment of Land Tax Act 1956 No 27

[1] Section 3AH Levy of land tax after 31 December 1999

Omit “subsection (2)” from section 3AH (1).
Insert instead “subsections (2) and (2A)”.

[2] Section 3AH (2A)

Insert after section 3AH (2):

(2A) In respect of the taxable value of all the land owned by a person at midnight on 31 December in any year (commencing with the year in which section 25A of the Principal Act commences) where:

- (a) the land is subject to a fixed trust within the meaning of section 25A of the Principal Act, and
- (b) the trust is classified as a non-concessional trust for land tax purposes under that section,

land tax for the period of 12 months commencing on 1 January in the next succeeding year is to be charged, levied, collected and paid as referred to in subsection (1) at the rate of 1.7 cents for each \$1 of the taxable value.

2.2 Amendment of Land Tax Management Act 1956 No 26

[1] Section 9A

Omit the section. Insert instead:

9A Concession for unutilised land value

- (1) This section applies to land if an unutilised value allowance (as ascertained under Division 3 of Part 7) is entered in the Register in respect of the land.
- (2) For the purpose of assessing land tax, the land value of the land is to be reduced by the unutilised value allowance.
- (3) However, if the land is sold or otherwise disposed of or it ceases to be used or occupied solely as the site of a single dwelling-house, a person whose liability to pay land tax in respect of the land has been assessed in accordance with this section must, within 1 month, inform the Chief Commissioner of the date on which the land was sold or otherwise disposed of or ceased to be so used or occupied.
- (4) Liability for land tax in respect of the year in which the land is sold, disposed of, or ceases to be used or occupied solely as the site of a single dwelling-house, and in each of the preceding years (up to a maximum of 4 preceding years) in which the person's liability to pay land tax was assessed in accordance with this section is to be reassessed as if subsection (2) had not applied to the land.
- (5) For the purposes of section 9 (3) (c) of the *Taxation Administration Act 1996*, any such reassessment is authorised to be made more than 5 years after the initial assessment.
- (6) Any such re-assessment is not a relevant land tax assessment for the purposes of section 35 (1) (b) of the *Valuation of Land Act 1916* if it is based on the same land value on which the original land tax assessment was based (before the reduction was made under subsection (2) of this section).
- (7) In this section, *single dwelling-house* has the same meaning as in Division 2 of Part 8 of Chapter 15 of the *Local Government Act 1993*.

[2] Section 10 Land exempted from tax

Insert after section 10 (1F):

(1FA) For the purposes of subsection (1) (r), if the owner of land dies and the land is used and occupied as the principal place of residence of:

- (a) a person using and occupying the land under a right of occupancy created by the will of that owner, or
- (b) a person (other than a tenant) who resided with that owner immediately before his or her death and who continues to use and occupy the land with the permission of the deceased person's personal representative, or of any other person, granted under a power or right conferred by the will of that owner,

then the person who so uses and occupies the land is taken to be the owner of the land, but only while that use and occupation continues.

[3] Section 10A Residential use and occupation—concession on death of owner

Insert after section 10A (4):

(5) For the purposes of this section, if the deceased is a registered proprietor under the *Real Property Act 1900* in respect of his or her interest in the land, the deceased's interest in the land is taken to vest in another person when that other person is registered as the proprietor of that interest under that Act.

[4] Sections 10M–10O

Omit the sections.

[5] Section 10R Retirement villages and nursing homes—exemption/reduction

Insert before the definition of *nursing home* in section 10R (1):

aged care establishment means:

- (a) any building or any part of a building used or intended to be used for the provision of residential care, within the meaning of the *Aged Care Act 1997* of the

Commonwealth, by an approved provider under that Act, or

- (b) any building or any part of a building used or intended to be used for the provision of respite care, within the meaning of the *Aged Care Act 1997* of the Commonwealth, by an approved provider under that Act.

[6] Section 10R (1)

Omit the definition of *retirement village* from section 10R (1).

Insert instead:

retirement village has the same meaning as in the *Retirement Villages Act 1999*.

[7] Section 10R (2)

Omit the subsection. Insert instead:

- (2) Land is exempt from taxation under this Act if the land is used and occupied as any of the following, or any combination of the following, and for no other purpose:
 - (a) an aged care establishment,
 - (b) a retirement village,
 - (c) a nursing home.

[8] Section 10R (4)

Omit “a retirement village, or a retirement village and a nursing home”.

Insert instead “an aged care establishment, a retirement village or a nursing home”.

[9] Section 10T Concession for unoccupied land intended to be owner’s principal place of residence

Omit section 10T (2) (a).

[10] Section 25

Omit the section. Insert instead:

25 Equitable owner

- (1) The owner of any equitable estate or interest in land is liable in respect of land tax as if he or she were the legal owner of the estate or interest and land tax is to be assessed accordingly.
- (2) For that purpose:
 - (a) the owner of the legal estate is taken to be the primary taxpayer and the owner of the equitable estate is taken to be the secondary taxpayer, and
 - (b) there is to be deducted from the land tax payable by the secondary taxpayer in respect of the land such amount (if any) as is necessary to prevent double taxation.
- (3) This section does not apply in respect of land that is subject to a trust if the trust is a fixed trust (within the meaning of section 25A) that is classified under that section as a non-concessional trust for land tax purposes.
- (4) This section is subject to the other provisions of this Act, in particular sections 25A and 26.

25A Classification of trust as a non-concessional trust

- (1) The Chief Commissioner must classify a fixed trust as a non-concessional trust for land tax purposes if an application for that classification is duly made by the trustee of the fixed trust.
- (2) The Chief Commissioner may also classify a fixed trust as a non-concessional trust for land tax purposes on the Chief Commissioner's own motion.
- (3) A classification of a fixed trust as a non-concessional trust has effect in respect of any assessment of land tax liability (being an initial assessment of land tax liability) that is made on or after the date on which the trust is classified as a non-concessional trust, and does not affect any assessment of land tax liability made before that classification.

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- (4) However, if an application for classification is duly made by the trustee within the period allowed for the lodging of an objection to a notice of assessment of land tax liability (being a notice that relates to an initial assessment of land tax liability):
- (a) the classification of the trust as a non-concessional trust is taken to extend to the land tax year in respect of which that notice of assessment was issued, and
 - (b) liability for that land tax is to be re-assessed accordingly.
- (5) The Chief Commissioner must revoke the classification of a fixed trust as a non-concessional trust if an application for revocation is duly made by the trustee of the fixed trust.
- (6) The Chief Commissioner may also revoke the classification on the Chief Commissioner's own motion.
- (7) The revocation has effect in respect of any assessment of land tax liability (being an initial assessment of land tax liability) that is made on or after the date on which the classification is revoked, and does not affect any assessment of land tax liability that was made before that revocation.
- (8) However, if an application for revocation is duly made by the trustee within the period allowed for the lodging of an objection to a notice of assessment of land tax liability (being an initial assessment of land tax liability):
- (a) the revocation of the classification by the Chief Commissioner is taken to extend to the land tax year in respect of which that notice of assessment was issued, and
 - (b) liability for land tax is to be re-assessed accordingly.
- (9) An application under this section is to be made in a form approved by the Chief Commissioner, and is to include such supporting information as the form requires.
- (10) The Chief Commissioner may, despite anything to the contrary in this section, reject an application under this section if it is made in contravention of the trust deed or other document that declares the trust concerned.

(11) In this section:

fixed trust means any trust (other than a special trust) where the whole or any part of the trust property comprises land.

[11] Section 26

Omit the section. Insert instead:

26 Purchaser and vendor

- (1) If land under the provisions of the *Real Property Act 1900* is the subject of an agreement for sale that has not been completed by transfer of the land, the person who is registered as the proprietor of the land under the *Real Property Act 1900* is taken, for the purposes of this Act, to be the owner of the land, to the exclusion of the liability of the purchaser.
- (2) If land, not being land under the provisions of the *Real Property Act 1900*, is the subject of an agreement for sale that has not been completed by conveyance of the land, the vendor of the land is taken, for the purposes of this Act, to be the owner of the land, to the exclusion of the liability of the purchaser.
- (3) Despite subsections (1) and (2), the purchaser under the agreement for sale is taken, for the purposes of this Act, to be the owner of the land (to the exclusion of the liability of the registered proprietor or vendor) if:
 - (a) under the terms of the agreement for sale the purchaser is entitled to exclusive possession of the land and is entitled to receive, if the land is let to a tenant, any rents and profits derived from the tenancy, and
 - (b) the purchaser has taken possession of the land.
- (4) In this section:

agreement for sale means an agreement for sale of land that is in force.

[12] Sections 30, 31 and 32

Omit the sections.

[13] Section 62I Purpose and interpretation of Division

Omit “Postponement of part of land tax attributable to unutilised value” from section 62I (1).

Insert instead “Concession for unutilised land value”.

[14] Schedule 2 Savings and transitional provisions

Insert at the end of clause 1A (1):

State Revenue Legislation Further Amendment (No 2) Act 2001
(to the extent that it amends this Act)

[15] Schedule 2

Insert at the end of the Schedule (with appropriate Part and clause numbering):

Part Provisions consequent on enactment of State Revenue Legislation Further Amendment (No 2) Act 2001

Postponement of land tax attributable to unutilised value

- (1) The former section 9A continues to apply in respect of land tax payable for a tax year commencing on or before 1 January 2001, subject to this clause.
- (2) The new section 9A extends to a tax year commencing on or before 1 January 2001 if:
 - (a) a person postponed the payment of land tax under former section 9A in any assessment made in respect of such a tax year, and
 - (b) the person did not cease to be entitled to the postponement of land tax under former section 9A before that date.
- (3) For the purpose of applying the new section 9A to such a person, the person is taken to have had their liability for land tax in that year, and in the previous year or years in which payment of the land tax was postponed, assessed in accordance with the new section 9A.

(4) In this clause:

former section 9A means section 9A as in force immediately before its substitution by the *State Revenue Legislation Further Amendment (No 2) Act 2001*.

new section 9A means section 9A as substituted by the *State Revenue Legislation Further Amendment (No 2) Act 2001*.

Repeal of certain provisions

The repeal of sections 10M–10O, and sections 30, 31 and 32, by the *State Revenue Legislation Further Amendment (No 2) Act 2001* does not affect the application of those sections to or in respect of a tax year commencing before the repeal of those sections and does not affect any existing liability for land tax.

Amendments to section 10R

The amendments made to section 10R by the *State Revenue Legislation Further Amendment (No 2) Act 2001* apply in respect of a land tax year commencing on or after the commencement of those amendments, despite section 10R (5).

Schedule 3 Amendment of Taxation Administration Act 1996

(Section 3)

[1] Section 82 Permitted disclosures—to particular persons

Insert after section 82 (e) (viii f):

(viii g) the Director-General of the Department of Transport, for the purposes of administration of the *Parking Space Levy Act 1992*, or

[2] Section 106CA

Insert after section 106C:

106CA Refunds of tax

The Chief Commissioner is to make such refund of tax already paid as is necessary to give effect to a decision of the Hardship Review Board under this Division.

[3] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

State Revenue Legislation Further Amendment (No 2) Act 2001
(to the extent that it amends this Act)

Schedule 4 Amendment of Unclaimed Money Act 1995

(Section 3)

[1] Section 8A

Insert after section 8:

8A Enterprise must first make reasonable efforts to ensure owner is paid money

- (1) An enterprise that holds any money of a kind referred to in section 8 in an account referred to in section 7 (1) must make reasonable efforts:
 - (a) to identify and locate the owner of the money, and
 - (b) to ensure that the money is paid to the owner of the money.

Maximum penalty: 50 penalty units.

- (2) Money held by an enterprise in an account is not unclaimed money (despite section 7) unless, after making reasonable efforts and after a reasonable period has passed, the enterprise is unable to ensure that the money is paid to the owner of the money.
- (3) This section does not apply in respect of any money that is not unclaimed money because of section 9.

[2] Section 9 Certain money not unclaimed money

Omit section 9 (3). Insert instead:

- (3) For the purposes of this Act, money is not unclaimed money if:
 - (a) the money is, or is of a class, prescribed by the regulations as exempt from the operation of this Act, or
 - (b) the money is held by an enterprise that is, or is of a class, prescribed by the regulations as exempt from the operation of this Act, or
 - (c) the amount of money in the account concerned does not exceed \$20.

[3] Section 10 Return and payment of unclaimed money to Chief Commissioner

Omit section 10 (1). Insert instead:

- (1) An enterprise that holds unclaimed money on 30 June in any year must, within 4 months after that date (or such longer period as the Chief Commissioner may in a particular case allow), lodge with the Chief Commissioner a return relating to that money in a form approved by the Chief Commissioner.
- (1A) If, after 30 June and before the enterprise lodges the return with the Chief Commissioner, the enterprise pays any unclaimed money to the owner of the unclaimed money, the return must contain such particulars relating to the amounts so paid as are required by the form.
- (1B) The enterprise, when lodging the return, must pay to the Chief Commissioner an amount equal to the sum of the unclaimed money specified in the return less the sum of amounts paid by the enterprise and specified in accordance with subsection (1A).

[4] Section 10 (3)

Insert “, (1A) or (1B)” after “subsection (1)”.

[5] Section 24 Chief Commissioner may repay unclaimed money to owner

Omit section 24 (3) and (4).

[6] Section 26A

Insert after section 26:

26A Recovery of money wrongly paid

- (1) If money is paid under this Part to a person who is not the owner of the money, the Chief Commissioner is entitled to recover the money from the person to whom it was paid (unless prevented from doing so by operation of the *Limitation Act 1969*.)
- (2) The Chief Commissioner is to pay money recovered under this section into the Consolidated Fund.

State Revenue Legislation Further Amendment (No 2) Bill 2001

Schedule 4 Amendment of Unclaimed Money Act 1995

[7] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

State Revenue Legislation Further Amendment (No 2) Act 2001
(to the extent that it amends this Act)