



New South Wales

# Revenue, Fines and Other Legislation Amendment Bill 2023

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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,*

*, 2023*



New South Wales

## **Revenue, Fines and Other Legislation Amendment Bill 2023**

Act No \_\_\_\_\_, 2023

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

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

*Assistant Speaker of the Legislative Assembly.*

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**The Legislature of New South Wales enacts—**

**1 Name of Act**

This Act is the *Revenue, Fines and Other Legislation Amendment Act 2023*.

**2 Commencement**

This Act commences on the date of assent to this Act.

## Schedule 1 Amendment of Duties Act 1997 No 123

### [1] Section 8A Vesting of land in New South Wales by statute law

Insert after section 8A(5)—

- (6) A division of a corporation (the *dividing corporation*) in circumstances where the dividing corporation does not continue in existence and 2 or more other corporations (the *new corporations*) result as a consequence of the division is taken to be a vesting in each new corporation by statute law of the land in New South Wales of the dividing corporation that is held by the new corporation as a result of the division.
- (7) A division of a corporation (the *dividing corporation*) in circumstances where the dividing corporation continues in existence and 1 or more other corporations (the *new corporations*) result as a consequence of the division is taken to be a vesting in each new corporation by statute law of the land in New South Wales of the dividing corporation that is held by the new corporation as a result of the division.

### [2] Section 12 When does a liability for duty arise?

Omit section 12(4). Insert instead—

- (4) An electronic registry instrument is taken to be first executed—
  - (a) if the instrument is digitally signed by a subscriber within the meaning of the *Electronic Conveyancing National Law (NSW)*—on the date the instrument is first digitally signed by the subscriber, or
  - (b) otherwise—when the Chief Commissioner first receives information relating to the instrument.

### [3] Section 25 Aggregation of dutiable transactions

Omit section 25(1)(a).

### [4] Section 31 Effect of alteration in purchase price

Insert after section 31(2)—

- (3) The amount of duty assessed or reassessed in accordance with this section must be calculated at the rate applicable under this chapter when the agreement for the sale or transfer was first executed.

### [5] Section 54A Transfers in relation to managed investment schemes

Omit section 54A(7) and (8). Insert instead—

- (7) Duty of \$50 is chargeable for a transfer of dutiable property arising from the deregistration of a managed investment scheme from the custodian of a trustee that was, immediately before the deregistration, the responsible entity of the scheme, to the trustee.
- (8) In this section, a reference to a wholly owned sub-trust of a managed investment scheme includes—
  - (a) a sub-trust that is part of a chain of sub-trusts—
    - (i) that starts with a wholly owned sub-trust of a managed investment scheme, and
    - (ii) in which a link in the chain is formed if the sub-trust wholly owns the next sub-trust in the chain, and
  - (b) a sub-trust in which all of the units are owned, in any combination, by—

- (i) the managed investment scheme, and
- (ii) 1 or more other wholly owned sub-trusts of the managed investment scheme.

**Example for paragraph (b)**— Managed Investment Scheme A owns 100% of the units in Sub-trust B. Managed Investment Scheme A owns 80% of the units in Sub-trust C. Sub-trust B owns the remaining 20% of units in Sub-trust C. Sub-trust C is a wholly owned sub-trust of Managed Investment Scheme A.

- (9) A sub-trust is taken to be a *wholly owned* sub-trust of a managed investment scheme or sub-trust (the *controlling trust*) if—
- (a) the units in the sub-trust are wholly owned by the trustee of the controlling trust in the trustee’s capacity as trustee of the controlling trust, or
  - (b) for a wholly owned sub-trust referred to in subsection (8)(b)—the units in the sub-trust owned by the trustee of any of the controlling trusts are owned by the trustee in the trustee’s capacity as trustee of the controlling trust.

**Example for paragraph (b)**— Managed Investment Scheme A owns 100% of the units in Sub-trust B. Managed Investment Scheme A owns 80% of the units in Sub-trust C. The trustee of Sub-trust B owns the remaining 20% of units in Sub-trust C in the trustee’s capacity as trustee for Sub-trust B. Sub-trust C is taken to be a wholly owned sub-trust of both Managed Investment Scheme A and Sub-trust B.

**[6] Section 55 Property vested in an apparent purchaser**

Insert after section 55(1B)—

- (1C) This section applies to the legal personal representative of an apparent purchaser or real purchaser who has died in the same way as it applies to an apparent purchaser or real purchaser.

**[7] Section 58 Establishment of a trust relating to unidentified property and non-dutiable property**

Insert after section 58(2)—

- (2A) For subsections (1) and (2), an instrument that is electronically signed under the *Electronic Transactions Act 2000* is taken to have been executed in New South Wales if—
- (a) for a trustee of the trust that is a corporation—the trustee’s registered office or principal place of business is in New South Wales, or
  - (b) for a trustee of the trust that has an ABN—the trustee’s registered business address is in New South Wales, or
  - (c) otherwise—the principal place of residence of the trustee of the trust is in New South Wales.

**[8] Section 58(7)**

Insert after section 58(6)—

- (7) In this section—  
*ABN* means the ABN (Australian Business Number) within the meaning of the *A New Tax System (Australian Business Number) Act 1999* of the Commonwealth.

**[9] Section 61 Transfers of property in connection with persons changing superannuation funds**

Omit “becoming a member of, or otherwise becoming” from section 61(1)(b).

Insert instead “being or becoming a member of, or otherwise being or becoming”.

**[10] Section 61(1B) and (1C)**

Insert after section 61(1A)—

- (1B) This section does not apply to a relevant transfer if—
- (a) the dutiable property transferred, or agreed to be transferred, has a value that is more than the value of the benefits to which the person is entitled—
    - (i) at the time of the transfer or agreement to transfer, and
    - (ii) in respect of the superannuation fund for which the person ceases to be entitled to benefits, or
  - (b) consideration is given for dutiable property transferred or agreed to be transferred except as provided in subsection (1A)(d) and (e).
- (1C) For subsection (1B)(b), an undertaking by the trustee of a superannuation fund to provide rights and benefits to a person in accordance with the rules of the superannuation fund is not consideration.

**[11] Section 280A**

Insert after section 280—

**280A Registered native title body corporates**

- (1) Duty under this Act is not chargeable on a transfer of property to a registered native title body corporate if the transfer is in accordance with an indigenous land use agreement.
- (2) In this section—
  - indigenous land use agreement* has the same meaning as in the *Native Title Act 1993* of the Commonwealth.
  - registered native title body corporate* has the same meaning as in the *Native Title Act 1993* of the Commonwealth.

**[12] Section 305 Valuation of property**

Omit the section.

**[13] Schedule 1 Savings, transitional and other provisions**

Insert at the end of the schedule, with appropriate part and clause numbering—

**Part Provisions consequent on enactment of Revenue, Fines and Other Legislation Amendment Act 2023**

**Application of amendments**

- (1) The amendments made to this Act, sections 8A and 25 by the *Revenue, Fines and Other Legislation Amendment Act 2023* do not apply in relation to—
  - (a) a transaction that occurred before the commencement date, or

- (b) a transaction that occurred after the commencement date if the transaction occurs in conformity with a transaction that occurred before the commencement date.
- (2) The amendments made to this Act, sections 12 and 58 by the *Revenue, Fines and Other Legislation Amendment Act 2023* do not apply in relation to—
  - (a) an instrument made before the commencement date, or
  - (b) an instrument made after the commencement date if the instrument is made in conformity with an instrument made before the commencement date.
- (3) In this clause—  
***commencement date*** means the date of assent to the *Revenue, Fines and Other Legislation Amendment Act 2023*.

## Schedule 2 Amendment of Fines Act 1996 No 99

- [1] **Section 38 Circumstances in which person issued with penalty reminder notice for vehicle or vessel offence is not liable to pay penalty**  
Insert “driving or” after “person who was” wherever occurring in section 38(1)(a) and (3E).
- [2] **Section 38(2)**  
Insert “driving or” after “person”.
- [3] **Section 38(3C)**  
Insert “driving or” after “person was”.
- [4] **Section 38(3F)**  
Insert “driving or” after “as the person”.
- [5] **Section 38(3G)**  
Insert after section 38(3F)—  
(3G) A person must not offer or agree to have the person’s nomination details used in an approved nomination notice relating to a vehicle or vessel offence if the person was not driving or in charge of the vehicle or vessel at all relevant times relating to the offence.  
Maximum penalty—  
(a) if the offence relates to a vehicle or vessel registered or owned otherwise than in the name of an individual—100 penalty units, or  
(b) otherwise—50 penalty units.
- [6] **Section 62, heading**  
Omit “Time for service”. Insert instead “Service”.
- [7] **Section 62(2)**  
Insert at the end of the section—  
(2) Despite subsection (1), notice of a fine enforcement order made in relation to a fine defaulter that is a body corporate is taken to be served by post on the body corporate if the fine enforcement order is returned as being undelivered to the sender after being sent to the body corporate at the registered office of the body corporate.
- [8] **Section 99A Definitions**  
Insert “, in New South Wales or another State or Territory,” after “following” in the definition of *work and development order*.
- [9] **Section 99A, definition of “work and development order”, paragraph (f)**  
Omit “if the person is under 25 years of age,”.
- [10] **Section 99A(2)**  
Insert at the end of the section—  
(2) A reference in this section to a person or body includes a reference to a person or body residing or located in a State or Territory other than New South Wales.



**[11] Section 99B Making an order**

Insert after section 99B(1)—

- (1A) A work and development order may be made in relation to a person who is a resident of a State or Territory other than New South Wales.

**[12] Section 101 Unpaid fines may be written off**

Insert after section 101(4)—

- (5) When writing off a fine defaulter's unpaid fine under this section, the Commissioner may write off, in whole or in part, an unenforced unpaid fine that the fine defaulter is liable to pay, on the grounds specified in subsection (1A).
- (6) If the Commissioner writes off an unenforced unpaid fine under subsection (5), the fine defaulter is taken to have paid the amount payable under the penalty notice for the purposes of the *Road Transport Act 2013*, section 31(2)(b).
- (7) Subsection (4) extends to an unenforced unpaid fine written off under subsection (5).
- (8) If enforcement action is commenced against a fine defaulter in relation to an unenforced unpaid fine that is reinstated under subsection (4), notice of a fine enforcement order is taken to have been served on the fine defaulter when the unenforced unpaid fine was written off.
- (9) In this section—  
*unenforced unpaid fine* means an unpaid fine in relation to which a fine enforcement order has not been made, and includes an unpaid amount payable under a penalty notice.

**[13] Section 117A Disclosure of information by Commissioner**

Insert after section 117A(1)(a3)—

- (a4) to the Chief Executive Officer of Service NSW, or

**[14] Section 129**

Insert after section 128—

**129 False or misleading information**

A person must not, for the purposes of this Act, give the Commissioner, an authorised officer or another person engaged in the administration of this Act, whether orally or in writing, information or a document that the person knows to be false or misleading in a material particular.

Maximum penalty—100 penalty units.

## Schedule 3 Amendment of Government Sector Finance Act 2018 No 55

### [1] Section 5.7 Act of grace payments

Insert after section 5.7(3)—

- (3A) If a term or condition of a nominated act of grace payment is contravened by the recipient of the payment, the payment may be recovered from the recipient by the Chief Commissioner of State Revenue under the *Taxation Administration Act 1996* as if the payment is an amount of unpaid tax under that Act.
- (3B) The *Taxation Administration Act 1996*, Part 8 and Part 9, Division 2 apply in relation to a person to whom a nominated act of grace payment is made, with the following modifications—
  - (a) a reference to a taxpayer must be read as a reference to a person to whom a nominated act of grace payment is made,
  - (b) a reference to a tax liability must be read as a reference to compliance with the terms and conditions of a nominated act of grace payment,
  - (c) a reference to a taxation law, including in relation to the functions of an authorised officer or tax officer, must be read as the terms and conditions of a nominated act of grace payment.

### [2] Section 5.7(7)

Insert after section 5.7(6)—

- (7) In this section—  
*nominated act of grace payment* means an act of grace payment nominated by the Chief Commissioner of State Revenue by notice published in the Gazette.

### [3] Schedule 1 Savings, transitional and other provisions

Insert at the end of the schedule, with appropriate part and clause numbering—

## Part Provision consequent on enactment of Revenue, Fines and Other Legislation Amendment Act 2023

### Application of amendments

- (1) Section 5.7, as amended by the amendment Act, applies to an act of grace payment made to a person before the commencement date.
- (2) The Chief Commissioner of State Revenue may nominate an act of grace payment (a *nominated act of grace payment*) for section 5.7, as amended by the amendment Act, even if the act of grace payment was made to a person before the commencement date.
- (3) Despite subclause (2), section 5.7(3B), to the extent it applies the *Taxation Administration Act 1996*, Part 8 in relation to a person whom a nominated act of grace payment is made, does not apply to an act of grace payment made before the commencement date.
- (4) In this clause—  
*amendment Act* means the *Revenue, Fines and Other Legislation Amendment Act 2023*.  
*commencement date* means the date of assent to the amendment Act.

## **Schedule 4      Amendment of Land Tax Management Act 1956 No 26**

**[1] Section 10 Land exempted from tax**

Omit section 10(1)(g)(ii).

**[2] Section 10(1)(s)**

Insert after section 10(1)(r1)—

(s) land used solely as a site for a school registered under the *Education Act 1990*,

**[3] Section 62J Land that is eligible to have unutilised value ascertained**

Omit section 62J(1)(c).

**[4] Schedule 1A Principal place of residence exemption**

Omit “his or her” wherever occurring in clauses 6(1) and (2)(a) and 10(1)(b).

Insert instead “the owner’s”.

**[5] Schedule 1A, clauses 6(5), 7(1)(b) and (3A), 8(4), 9(1) and (3)(c)(i) and 12(6)(a) and (b)**

Omit “his or her” wherever occurring. Insert instead “the person’s”.

**[6] Schedule 1A, clause 6(7)(a)**

Omit “his or her”. Insert instead “the person’s or member’s”.

**[7] Schedule 1A, clause 9(5)**

Omit “his or her”. Insert instead “the deceased’s”.

**[8] Schedule 1A, clause 10A(5)**

Omit “his or her”. Insert instead “the Chief Commissioner’s”.

## Schedule 5 Amendment of Payroll Tax Act 2007 No 21

### [1] Section 74A

Insert after section 74—

#### 74A Groups arising from former entities

- (1) An entity (the *successor*) and a former entity constitute a group if the successor and the former corporation are or were both sufficiently influenced by the same other person (the *third party*).
- (2) For this section, a successor or former corporation is *sufficiently influenced* by a third party if the successor or former corporation is accustomed or under an obligation, whether formal or informal, or might reasonably be expected, to act in accordance with the directions, instructions or wishes of the third party.
- (3) Subsection (2) applies whether the directions, instructions or wishes are, or might reasonably be expected to be, communicated directly or indirectly through another person.
- (4) The Chief Commissioner may determine that an entity and a former entity who would, but for the determination, be a member of a group under subsection (1) are not part of a group if the Chief Commissioner is satisfied the influence of the third party is not, or was not, intended to avoid tax or other commercial obligations.
- (5) In this section—  
*entity* includes—
  - (a) a person, and  
**Note—** Under the *Interpretation Act 1987*, Schedule 4, a person includes an individual, a corporation and a body corporate or politic.
  - (b) a company, and
  - (c) a trustee of a trust.*former entity* includes—
  - (a) a corporation that is in administration or being wound up, if the Chief Commissioner is satisfied the Chief Commissioner will not be able to recover from the corporation the amount the Chief Commissioner is entitled to recover from the corporation, and
  - (b) a corporation that is deregistered under the *Corporations Act 2001* of the Commonwealth, Chapter 5A, and
  - (c) a person who was a trustee of a trust but is not longer a trustee of the trust, whether or not the trust is dissolved.

### [2] Section 79 Exclusion of persons from groups

Insert after section 79(7)—

- (8) This section does not apply to a person who is a member of a group to which section 74A applies.

### [3] Section 81 Joint and several liability

Insert after section 81(5)—

- (6) Each member of a group constituted under section 74A is liable jointly and severally for an amount payable under the Act by the former corporation,

within the meaning of that section, even if the amount became payable by the former corporation before the group was constituted.

## Schedule 6 Amendment of Police Act 1990 No 47

### Section 211H

Insert after section 211G—

#### 211H Exchange of information

- (1) The Commissioner may enter into an arrangement (an *information sharing arrangement*) with the Commissioner of Fines Administration for the purposes of sharing or exchanging relevant information.
- (2) The information to which an information sharing arrangement may relate is limited to information that assists the NSW Police Force to exercise law enforcement or investigative functions under this Act or another Act.
- (3) Subject to the information sharing arrangement and despite another Act or law, each party to the arrangement is authorised—
  - (a) to request and receive relevant information from another party to the arrangement, and
  - (b) to disclose relevant information to another party to the arrangement.
- (4) A reference in this section to the Commissioner of Fines Administration includes another person engaged in the administration of the *Fines Act 1996*.
- (5) To avoid doubt, nothing in this section restricts or prohibits the disclosure of information otherwise authorised by this Act or another Act.
- (6) In this section—

*relevant information* means information obtained in connection with the administration of or execution of the *Fines Act 1996* held by—

  - (a) the NSW Police Force, or
  - (b) the Commissioner of Fines Administration.

## **Schedule 7      Amendment of Property Tax (First Home Buyer Choice) Act 2022 No 60**

**[1]    Schedule 2 Calculating property tax**

Insert “not” after “does” in section 5(4).

**[2]    Schedule 6 Dictionary**

Omit “section 31(3)” from the definition of *unpaid property tax*.

Insert instead “section 38(2)”.

## **Schedule 8      Amendment of State Debt Recovery Act 2018 No 11**

### **Section 118**

Insert after section 117—

#### **118    False or misleading information**

A person must not, for the purposes of this Act, give the Chief Commissioner, an authorised officer or another person engaged in the administration of this Act, whether orally or in writing, information or a document that the person knows to be false or misleading in a material particular.

Maximum penalty—100 penalty units.



## **Schedule 9      Amendment of Taxation Administration Act 1996 No 97**

**[1] Section 7 Purpose of Act and relationship with other taxation laws**

Insert after section 7(3)(h1)—

- (h2) the prohibition on the use of confidential tax information, and

**[2] Section 9 Reassessment**

Omit “the initial assessment” from section 9(3)(a). Insert instead “an assessment”.

**[3] Section 9(3)(b)**

Omit “than the Chief Commissioner would otherwise have assessed it”.

**[4] Sections 10(1), 41(1), 48(1), 49(2), 51, 52, 53(1), 57 and 72(8)**

Omit “100 penalty units” wherever occurring. Insert instead “250 penalty units”.

**[5] Section 17A**

Insert after section 17—

**17A Valuation of property**

- (1) The Chief Commissioner may, for the purpose of making an assessment of the tax liability of a taxpayer—
- (a) require the taxpayer, by written notice, to provide evidence of the value of property that the Chief Commissioner considers appropriate, or
  - (b) obtain a valuation of property from a person the Chief Commissioner is satisfied is suitably qualified to provide evidence of the value of property, or
  - (c) rely on a valuation of property prepared for any purpose by a person the Chief Commissioner is satisfied is suitably qualified to provide evidence of the value of property.
- (2) The Chief Commissioner may recover from the taxpayer the cost of obtaining a valuation of property under subsection (1)(b) if—
- (a) the value of the property in the valuation obtained by the Chief Commissioner differs from the value of the property provided by the taxpayer by at least 10%, or
  - (b) the taxpayer fails to comply with a written notice given to the taxpayer under subsection (1)(a) within 60 days after the notice is issued.

**[6] Section 19 Offset of refund against other liability**

Insert after section 19(1)(c)—

- (d) a fine, within the meaning of the *Fines Act 1996*, payable by the taxpayer.

**[7] Section 50 Inclusion of false or misleading information**

Omit “Maximum penalty—100 penalty units.”. Insert instead—

Maximum penalty—

- (a) 500 penalty units for a first offence, or
- (b) 1,000 penalty units for a second or subsequent offence.

**[8] Sections 54 and 58**

Omit “100 penalty units” wherever occurring. Insert instead “500 penalty units”.

**[9] Sections 55 and 56**

Omit “Maximum penalty—100 penalty units.” wherever occurring. Insert instead—  
Maximum penalty—

- (a) 500 penalty units for a first offence, or
- (b) 1,000 penalty units or 2 years imprisonment, or both, for a second or subsequent offence.

**[10] Section 82 Permitted disclosures—to particular persons**

Omit section 82(k)(xia). Insert instead—

- (xia) the Secretary of the Department of Enterprise, Investment and Trade,
- (xii) the Chief Executive Officer of Service NSW,

**[11] Section 58A**

Insert after section 58—

**58A Tax evasion**

A person must not, by a deliberate act or omission, evade or attempt to evade tax.

Maximum penalty—500 penalty units or imprisonment for 2 years, or both.

**[12] Section 61A**

Insert after section 61—

**61A Exceptions for general practitioners during relevant period**

- (1) During the relevant period, the Chief Commissioner must not conduct an audit of—
  - (a) a general practitioner’s compliance with the *Payroll Tax Act 2007*, or
  - (b) compliance with the *Payroll Tax Act 2007* by an entity with whom a general practitioner has a practice arrangement, to the extent amounts paid or payable by the entity relate to the general practitioner.
- (2) Also, if a tax default by a general practitioner occurs before or during the relevant period—
  - (a) in calculating, under Part 5, the interest payable by the general practitioner, no interest is payable in relation to a day that is within the relevant period, and
  - (b) the general practitioner is not liable under Part 5 to pay—
    - (i) for a tax default that occurs during the relevant period—penalty tax in relation to the tax default, or
    - (ii) for a tax default that occurred before the relevant period—any penalty tax in relation to the tax default that was not paid before the relevant period.
- (3) Subsection (2) does not entitle a person to a refund of interest or penalty tax paid before the relevant period.
- (4) This section applies despite section 61 or another provision of a taxation law.

(5) In this section—

**general practitioner** means a medical practitioner who, under the *Health Practitioner Regulation National Law*, holds registration as a general practitioner.

**practice arrangement** has the same meaning as in the *Health Practitioner Regulation National Law (NSW)*.

**relevant period** means the period—

- (a) starting on the day on which the *Revenue, Fines and Other Legislation Amendment Act 2023* commences, and
- (b) ending on the day that is 12 months after the day that Act commences.

**[13] Section 82(k1)**

Insert after section 82(k)—

- (k1) to the Secretary of the Treasury for the purposes of assisting the Treasurer in the exercise of the Treasurer's functions under—
  - (i) the *Government Sector Finance Act 2018* in relation to the Budget, or
  - (ii) other Acts, or

**[14] Section 84 Prohibition on secondary disclosures of information**

Insert at the end of section 84—

- (2) This section does not limit the operation of section 85AA.

**[15] Section 85AA**

Insert after section 85—

**85AA Disclosure of confidential tax information**

- (1) A person must not knowingly or recklessly disclose or use confidential tax information.  
Maximum penalty—
  - (a) for an individual—10,090 penalty units, or
  - (b) otherwise—50,450 penalty units.
- (2) Subsection (1) does not apply to the disclosure or use of confidential tax information—
  - (a) by a public sector agency, unless the Chief Commissioner has prohibited the disclosure or use, or
  - (b) with the prior written consent of the Chief Commissioner, or
  - (c) in accordance with a confidentiality agreement with the Chief Commissioner, or
  - (d) if otherwise authorised or required by law.
- (3) A person must not knowingly conceal, or attempt to conceal, the disclosure or use of confidential information in contravention of subsection (1).  
Maximum penalty—
  - (a) for an individual—10,090 penalty units, or
  - (b) otherwise—50,450 penalty units.
- (4) If the Chief Commissioner suspects a person has contravened subsection (1) or (3), whether or not the person has been charged with or convicted of an

offence under the subsection, the Chief Commissioner may report the suspected contravention to a professional association or body the Chief Commissioner considers to be relevant to the person.

- (5) Also, if a person is convicted of an offence against subsection (1) or (3), the Chief Commissioner may publish, in the way decided by the Chief Commissioner, information about the offence that the Chief Commissioner considers appropriate.
- (6) In this section—
- confidential tax information***—
- (a) means information that—
- (i) by its nature is confidential, or
  - (ii) is designated as confidential tax information by the Chief Commissioner, or
  - (iii) is specified to be confidential tax information under a confidentiality agreement with the Chief Commissioner, but
- (b) does not include—
- (i) information in the public domain, unless the information came into the public domain because of an unauthorised disclosure or use, or
  - (ii) information designated by the Chief Commissioner to be information to which this section does not apply, or
  - (iii) information about the taxation affairs of a particular taxpayer.

**[16] Section 90 Objections lodged out of time**

Omit section 90(1). Insert instead—

- (1) The Chief Commissioner may permit a person to lodge an objection after the 60-day period referred to in section 89, but no later than 5 years after—
- (a) the date of service of the notice of the initial assessment, or
  - (b) the date on which the decision referred to in section 86(1)(b) is served on the taxpayer.

**[17] Section 106F What is a tax avoidance scheme?**

Insert after section 106F(3)—

- (3A) For Division 3, a scheme that results in, or may reasonably result in, the constitution of a group under the *Payroll Tax Act 2007*, section 74A is taken to be a tax avoidance scheme.

**Note—** Under the *Payroll Tax Act 2007*, section 74(4), the Chief Commissioner may determine that an entity and a former entity that are influenced by a third party do not constitute a group if the Chief Commissioner is satisfied the influence of the third party on the entity and a former entity is not, or was not, intended to avoid tax.

**[18] Section 107 Means and time of payment**

Omit section 107(1)–(1B). Insert instead—

- (1) Tax must be paid to the Chief Commissioner using a method approved by the Chief Commissioner.

## Schedule 10 Amendment of Unclaimed Money Act 1995 No 75

### [1] Section 3 Definitions

Insert in alphabetical order—

*applicant* means a person who applies under section 17 for the repayment of unclaimed money paid to the Chief Commissioner.

### [2] Section 9 Certain money not unclaimed money

Insert after section 9(2)—

- (2A) Money held by an enterprise in an account is not unclaimed money if the enterprise, or an officer of an enterprise that is not a natural person, knows or has reason to believe that the account has not been operated on for the period specified in section 7(1) because of a dispute between 1 or more persons about who the owner of the money is.

### [3] Section 12

Omit section 12. Insert instead—

#### 12 Publication of information relating to unclaimed money

- (1) The Chief Commissioner must publish sufficient information about the existence of each sum of unclaimed money paid to the Chief Commissioner under this Act if—
- (a) the amount exceeds \$100 or another amount prescribed by the regulations, and
  - (b) the identity of the owner of the money is known.
- (2) The Chief Commissioner may also publish sufficient information about the existence of each sum of unclaimed money if—
- (a) the amount—
    - (i) does not exceed \$100 and is specified in a return under section 10(1AA) and paid to the Chief Commissioner, or
    - (ii) is paid to the Treasurer under the *Legal Profession Uniform Law Application Act 2014*, section 14 or the *Trustee Companies Act 1964*, section 26, and
  - (b) the identity of the owner of the money is known.
- (3) The Chief Commissioner may determine how information is published under this section.
- Example—** Information may be published on Revenue NSW's website.
- (4) In this section—
- sufficient information* means information the Chief Commissioner considers sufficient to give reasonable notice of sums of unclaimed money.

### [4] Section 14 Definition

Omit the section.

### [5] Section 17 Application for repayment

Omit section 17(2). Insert instead—

- (2) An application must be made in a form approved by the Chief Commissioner.

- (3) The Chief Commissioner may require an applicant to provide, within a specified period, further information or documents the Chief Commissioner reasonably requires to properly consider and determine the application.
- (4) The Chief Commissioner may refuse to determine an application if the applicant does not comply with a requirement under subsection (3).

**[6] Section 26A Recovery of money wrongly paid**

Insert after section 26A(1)—

- (1A) The Chief Commissioner must give the person written notice requiring the person to repay the money to the Chief Commissioner within the period, of at least 21 days, specified in the notice.

**[7] Section 26A(3)**

Insert after section 26A(2)—

- (3) Money recoverable from a person under this section is taken to be an amount of unpaid tax for the purposes of the *Taxation Administration Act 1996*, sections 46–47E and 71–80, with the following modifications—
  - (a) a reference to a taxpayer is to be read as a reference to the person from whom the money is recoverable,
  - (b) a reference to a taxation law is to be read as a reference to this Act,
  - (c) a reference to a tax is to be read as a reference to money payable to the Chief Commissioner under this Act,
  - (d) a reference to a tax liability, including a corporate tax liability, is to be read as a reference to the liability of the person to repay money to the Chief Commissioner under this Act,
  - (e) a reference to a notice of assessment is to be read as a reference to a notice issued by the Chief Commissioner under subsection (1A).

**[8] Section 26B**

Insert after section 26A—

**26B Offset of repayment to other debts**

Instead of repaying unclaimed money to the owner of the money under section 24, the Chief Commissioner may apply the amount that would otherwise be repaid to meet the following—

- (a) a tax debt or other amount payable by the owner under a taxation law, within the meaning of the *Taxation Administration Act 1996*,
- (b) a grant debt, within the meaning of the *State Debt Recovery Act 2018*, payable by the owner, whether or not a debt recovery order has been made under that Act against the owner for the debt,
- (c) a referable debt, within the meaning of the *State Debt Recovery Act 2018*, payable by the owner, if a debt recovery order has been made against the owner for the debt,
- (d) a fine, within the meaning of the *Fines Act 1996*, payable by the owner.

**[9] Part 4A**

Insert after Part 4—

## **Part 4A Objections and reviews**

### **Division 1 Objections**

#### **26C Objections**

- (1) An applicant who is dissatisfied with the Chief Commissioner's determination of the applicant's application under section 17 may lodge a written objection with the Chief Commissioner.
- (2) The objection must specify the grounds for the objection fully and in detail.
- (3) The applicant has the onus of proving the objection.
- (4) An objection must be lodged with the Chief Commissioner not later than 60 days after the notice of determination is given to the applicant under section 21.
- (5) To avoid doubt, an applicant may not lodge an objection in relation to a decision by the Chief Commissioner to refuse to determine an application.

#### **26D Objections lodged out of time**

- (1) The Chief Commissioner may permit an applicant to lodge an objection after the end of the 60-day period specified in section 26C(4).
- (2) The applicant must provide written notice of the circumstances and reasons for the failure to lodge the objection within the 60-day period.
- (3) The Chief Commissioner may—
  - (a) grant permission unconditionally or subject to conditions, or
  - (b) refuse permission.
- (4) The Chief Commissioner must give the applicant notice of the Chief Commissioner's decision.
- (5) The Chief Commissioner must give reasons for—
  - (a) imposing conditions on the permission, or
  - (b) refusing permission.

#### **26E Determination of objection**

- (1) The Chief Commissioner must determine an objection by—
  - (a) allowing the objection in whole or in part, or
  - (b) disallowing the objection.
- (2) The Chief Commissioner may determine an objection that is the subject of an application for review under Division 2 at any time before the hearing of the application for review commences.
- (3) If the Chief Commissioner delegates the functions conferred by this section, the delegate who considers the objection must be a different person from, and not subordinate to, the person who made the determination against which the objection is lodged.

#### **26F Suspension of determination**

- (1) The Chief Commissioner may suspend the determination of an objection for a period during which the applicant, or another person having information relevant to the objection, fails to provide information relevant to the objection requested by the Chief Commissioner.

- (2) The Chief Commissioner must give the applicant written notice of a suspension under subsection (1).

**26G Notice of determination**

- (1) The Chief Commissioner must give notice to the applicant of the determination of the objection.
- (2) The Chief Commissioner must give reasons for—
  - (a) allowing the objection in part only, or
  - (b) disallowing the objection.
- (3) The reasons for a determination of an objection in relation to which the Civil and Administrative Tribunal has jurisdiction under Division 2 to review must set out the matters referred to in the *Administrative Decisions Review Act 1997*, section 49(3) in relation to the determination.
- (4) The notice must also inform the applicant of the applicant's right to make an application for review under Division 2.

**Division 2      Reviews**

**26H Review by Civil and Administrative Tribunal**

- (1) An applicant may apply to the Civil and Administrative Tribunal (the ***Tribunal***) for an administrative review under the *Administrative Decisions Review Act 1997* of a decision of the Chief Commissioner that has been the subject of an objection under Division 1 if—
  - (a) the applicant is dissatisfied with the Chief Commissioner's determination of the objection, or
  - (b) the Chief Commissioner has not determined the applicant's objection within 90 days after the objection was lodged, not including a period of suspension under section 26F.
- (2) An applicant who has applied to the Supreme Court under section 26I for a review of a decision may not apply to the Tribunal under this section in relation to the same decision.
- (3) However, the applicant may apply to the Tribunal, if the earlier application is withdrawn with the approval of the Supreme Court, for the purposes of enabling the Tribunal to deal with the matter.
- (4) The following provisions of the *Administrative Decisions Review Act 1997* do not apply to an application made under this section—
  - (a) Chapter 3, Part 2,
  - (b) section 55(3)–(6).
- (5) For the purposes of the *Administrative Decisions Review Act 1997*, section 58 (1)(a)—
  - (a) the obligation of the Chief Commissioner to lodge a statement of reasons with the Tribunal in relation to an application is limited to providing the Tribunal with a statement of reasons only in relation to the matters arising from the grounds specified in the application, and
  - (b) if one of the grounds specified in the application relates to a matter raised in an objection determined by the Chief Commissioner—the Chief Commissioner may rely on reasons previously given to the applicant by the Chief Commissioner under section 26G in explanation of the part of the determination to which the objection related.



**26I Review by Supreme Court**

- (1) An applicant may apply to the Supreme Court for a review of a decision of the Chief Commissioner that has been the subject of an objection under Division 1 if—
  - (a) the applicant is dissatisfied with the Chief Commissioner's determination of the objection, or
  - (b) the Chief Commissioner has not determined the applicant's objection within 90 days after the objection was lodged, not including a period of suspension under section 26F.
- (2) An applicant who has applied to the Civil and Administrative Tribunal under section 26H for administrative review of a decision may not apply to the Supreme Court under this section in relation to the same decision.
- (3) However, the applicant may apply to the Supreme Court, if the earlier application is withdrawn with the approval of the Civil and Administrative Tribunal, for the purposes of enabling the Supreme Court to deal with the matter.
- (4) A review by the Supreme Court is taken to be an appeal for the purposes of the *Supreme Court Act 1970* and the regulations and rules made under that Act, except as otherwise provided by that Act or those regulations or rules.

**26J Time for making application for review**

- (1) An application for review following a determination by the Chief Commissioner of an objection must be made not later than 60 days after the notice of the Chief Commissioner's determination of the objection is issued.
- (2) The court or tribunal to which the application is to be made may allow a person to apply for a review after the 60-day period.
- (3) An application for review following a failure of the Chief Commissioner to determine an objection within the relevant 90-day period may be made at any time after the end of the period.

**26K Provisions relating to applications for review**

- (1) An application for review following a failure of the Chief Commissioner to determine an objection must not be made unless the applicant has given written notice of the proposed application to the Chief Commissioner not less than 14 days before making the application.
- (2) The applicant's and respondent's cases on an application for review are not limited to the grounds of the objection.
- (3) The applicant has the onus of proving the applicant's case in an application for review.
- (4) If the applicant or respondent appeals against a decision of the Civil and Administrative Tribunal in an application for review to an Appeal Panel of the Tribunal, the applicant in the application for review continues to bear the onus of proving the applicant's case in the appeal if the Appeal Panel grants leave for the appeal to extend to a review of the merits of the decision.

**26L Powers of court or tribunal on review**

- (1) The court or tribunal dealing with the application for review may do one or more of the following—
  - (a) confirm or revoke the determination to which the application relates,

- (b) make a determination in place of the determination to which the application relates,
  - (c) order the applicant to repay unclaimed money to the Chief Commissioner,
  - (d) remit the matter to the Chief Commissioner for determination in accordance with the decision of the court or tribunal,
  - (e) make other further orders as to costs or otherwise as the court or tribunal thinks fit.
- (2) This section does not limit the application of the following provisions in relation to an application for review before the Civil and Administrative Tribunal—
- (a) the *Administrative Decisions Review Act 1997*, Chapter 3, Part 3, Division 3,
  - (b) the *Civil and Administrative Tribunal Act 2013*, section 60.

**26M Giving effect to decision on review**

- (1) Within 60 days after the decision on the review becomes final, the Chief Commissioner must take action that is necessary to give effect to the decision.
- (2) If no appeal against the decision on the review is made within 30 days after the day on which the decision is made, the decision on the review is taken, for the purposes of this section, to have become final at the end of the 30-day period.

## **Schedule 11 Amendment of Valuation of Land Act 1916 No 2 relating to property tax**

**[1] Section 35 Time for lodging objection**

Insert “or *Property Tax (First Home Buyer Choice) Act 2022*” after “*Land Tax Management Act 1956*” in section 35(1)(b).

**[2] Section 35(1)(b) and (2)**

Insert “or property tax assessment” after “land tax assessment” wherever occurring.

**[3] Section 35(2)**

Insert “or property tax” after “reassessment of land tax”.

**[4] Section 35AA**

Insert “and property tax valuations” after “land tax valuations” in the heading.

**[5] Section 35AA**

Insert “or *Property Tax (First Home Buyer Choice) Act 2022*” after “*Land Tax Management Act 1956*” in section 35AA(1).

**[6] Section 35AA(1) and (4)**

Insert “or property tax assessment” after “land tax assessment” wherever occurring.

## Schedule 12 Amendment of Valuation of Land Act 1916 No 2 relating to provision and use of information

### [1] Section 71A

Insert after section 71—

#### 71A Registrar-General to give information to Valuer-General

- (1) Relevant information received by the Registrar-General under this Act or another Act—
  - (a) must be given by the Registrar-General to the Valuer-General, and
  - (b) may be received by the Valuer-General.

**Note—**Section 78A provides for the use of the information by the Valuer-General, including the sale or other disclosure of the information.

- (2) In this section—

**relevant information** means—

- (a) information contained in a notice of an event lodged with the Registrar-General as referred to in section 71(2), or
- (b) information contained in a dealing, application or instrument accompanying a notice referred to in paragraph (a), or
- (c) any other information contained in a notice, dealing, application or other instrument relating to a transaction or other event involving land.

### [2] Section 78A

Omit the section. Insert instead—

#### 78A Use of information given to the Valuer-General

- (1) The Valuer-General may—
  - (a) use applicable information for a purpose connected with the Valuer-General's functions, or
  - (b) sell applicable information to a person, or

**Example—**The Valuer-General may sell relevant information to a property information on-seller.

- (c) make applicable information publicly available free of charge.

- (2) Subsection (1) does not apply to prescribed applicable information.

- (3) In this section—

**applicable information**—

- (a) means relevant information, within the meaning of section 71A(2), given to the Valuer-General under that section, and
- (b) includes relevant information that is, or may be, personal information within the meaning of the *Privacy and Personal Information Protection Act 1998*.

### [3] Schedule 2 Savings, transitional and other provisions

Insert after clause 20—

## **Part 8 Provision consequent on enactment of Revenue, Fines and Other Legislation Amendment Act 2023**

### **21 Disclosure and use of information**

Sections 71A and 78A (the *relevant sections*), as inserted or substituted by the *Revenue, Fines and Other Legislation Amendment Act 2023*, extend to the giving, receipt, use, sale or other provision of information referred to in the relevant sections before the commencement of this clause.

## Schedule 13 Amendment of First Home Owner Grant and Shared Equity Act 2000 No 21

### [1] Section 24H Payments into and out of Fund

Insert after section 24H(1)(a)—

- (a1) all money appropriated by Parliament to the Treasurer for the general purposes of the Government and directed by the Treasurer to be paid into the Fund,

### [2] Schedule 1 Savings, transitional and other provisions

Insert after clause 22—

## Part 15 Provision consequent on Revenue, Fines and Other Legislation Amendment Act 2023

### 23 Validation of payments into NSW Shared Equity Scheme Fund

- (1) Payments, before the commencement, of amounts into the Fund by the Department of Customer Service that in total constituted the relevant amount are taken to have been, and always to have been, validly made.
- (2) To avoid doubt, the payment, before the commencement, of an amount out of the Fund that constituted part of the relevant amount is taken to have been, and always to have been, validly made.
- (3) In this clause—

*commencement* means the commencement of this clause.

*Fund* has the same meaning as in Part 2A of this Act.

*relevant amount* means the amount of \$42,077,194 transferred from the Treasury to the Department of Customer Service under the Treasurer's determination.

*Treasurer's determination* means the determination of the Treasurer under the *Government Sector Finance Act 2018*, section 4.9, dated 31 January 2023, authorising the transfer of amounts from the Treasury to the Department of Customer Service.