

LEGISLATIVE COUNCIL

State Revenue Legislation Amendment Bill 2014

Second print

Proposed amendments

No. 1 Page 3, Schedule 1. Insert after line 1:

[1] Section 8 Imposition of duty on certain transactions concerning dutiable property

Insert at the end of section 8 (1) (c), before the notes:

, and

- (d) a transfer of an option to purchase land in New South Wales that is taken to occur under section 9B.

[2] Section 9B

Insert after section 9A:

9B Transfer of option occurring on nomination or other change

- (1) A transfer of an option to purchase land in New South Wales is taken to occur if, for valuable consideration:
- (a) the option holder nominates another person to exercise the option, or
 - (b) the option holder nominates another person as purchaser or transferee of the land the subject of the option on or before the exercise of the option, or
 - (c) the option holder agrees to a novation of the option, or otherwise relinquishes his or her rights under the option, so that another person obtains a right to purchase the land.
- (2) For the purpose of charging duty under this Chapter on a transfer referred to in subsection (1) (a) or (b):
- (a) the option is taken to be transferred when the nomination is made, and
 - (b) the person nominated is taken to be the transferee of the option (and a reference in this Act to a transferee includes a reference to such a person).
- (3) For the purpose of charging duty under this Chapter on a transfer referred to in subsection (1) (c):

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- (a) the option is taken to be transferred when the option holder agrees to the novation or otherwise relinquishes his or her rights under the option, and
 - (b) the person who obtains a right to exercise the option is taken to be the transferee of the option (and a reference in this Act to a transferee includes a reference to such a person).
- (4) This section applies regardless of when the option is exercisable.
 - (5) For the purposes of this section, anything done by a person under a power of appointment or other authority granted by an option holder is taken to have been done by the option holder.
 - (6) Subsection (1) (b) does not apply to a nomination made by an option holder acting as purchaser of the land.
 - (7) In this section:
option holder, in relation to an option to purchase land in New South Wales, means a person who has a right to purchase the land under the option (whether or not that right has crystallised).

[3] Section 22 What is the consideration for the transfer of dutiable property?

Insert after section 22 (3):

- (4) The consideration for a transfer of land in New South Wales that occurs on the exercise of an option to purchase the land is taken to include the amount or value of the consideration provided by the transferee for the option (whether for its grant, transfer, exercise or otherwise).
Note. This section extends to an agreement for sale or transfer of dutiable property. Under sections 8 and 9 such agreements are treated as transfers of dutiable property.

[4] Section 23 What is the “unencumbered value” of dutiable property?

Insert after section 23 (2):

- (2A) The *unencumbered value* of an interest in land arising because of a mining tenement or petroleum tenement is to be determined having regard to any information about the land, as if the information were an attribute of the land.

No. 2 Page 3, Schedule 1. Insert after line 5:

[2] Section 64D

Insert after section 64C:

64D Transfers made on exercise of option to purchase land

The duty chargeable in respect of a transfer of land in New South Wales that occurs on the exercise of an option to purchase the land is to be reduced by the amount of duty (if any) paid by the transferee on the transfer of the option to the transferee.

No. 3 Page 4, Schedule 1 [6]. Insert after line 33:

109 Amendments relating to options

- (1) Section 9B, as inserted by the amending Act, extends to an option granted before the commencement of that section.
- (2) Section 22 (4), as inserted by the amending Act, extends to consideration provided for an option before the commencement of that subsection.

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- (3) Section 64D, as inserted by the amending Act, extends to options granted or transferred before the commencement of that section.

No. 4 Page 5, Schedule 1 [6], line 10. Insert “or to clause 4 of the Dictionary” after “Chapter 4”.

No. 5 Page 5, Schedule 1. Insert after line 10:

[7] Dictionary

Insert in alphabetical order in clause 1:

mining tenement means a mining lease, mineral claim, assessment lease, exploration licence or opal prospecting licence under the *Mining Act 1992*.

petroleum tenement means:

- (a) a petroleum title within the meaning of the *Petroleum (Onshore) Act 1991*, or
- (b) a licence, permit, lease, access authority or special prospecting authority under the *Petroleum (Offshore) Act 1982*.

No. 6 Page 5, Schedule 1. Insert after line 30:

[9] Dictionary, clause 4

Omit the clause. Insert instead:

4 Interests in land

- (1) For the purposes of this Act, a mining tenement or petroleum tenement is taken to give the holder of the mining tenement or petroleum tenement an interest in the land to which it relates.
- (2) To avoid doubt, the land includes anything that, under the authority of the mining tenement or petroleum tenement (whether direct or indirect), is fixed to the land the subject of the mining tenement or petroleum tenement and that would be a part of the land (as a fixture) if the mining tenement or petroleum tenement were an estate in fee simple in the land.
- (3) A carbon sequestration right within the meaning of Division 4 of Part 6 of the *Conveyancing Act 1919* does not give rise to an interest in land.