

**State Revenue Legislation Amendment Bill 2015 (Proof)****State Revenue Legislation Amendment Bill 2015**

Extract from NSW Legislative Council Hansard and Papers Tuesday 17 November 2015 (Proof).

**Second Reading**

**The Hon. SARAH MITCHELL** (Parliamentary Secretary) [3.16 p.m.], on behalf of the Hon. Niall Blair: I move:  
That this bill be now read a second time.

I seek leave to incorporate the second reading speech in *Hansard*.

**Leave granted.**

The State Revenue Legislation Amendment Bill 2015 introduces significant reforms to the administration of fines and taxes by the Office of State Revenue [OSR].

The main reform is contained in amendments to the Road Transport Act 2013 and the Fines Act 1996 to provide for universal electronic nomination for penalty notices issued for camera-recorded traffic offences and parking offences.

The OSR issues penalty notices and manages subsequent processes in relation to camera-recorded offences under the Road Transport Act 2013, including the issue of penalty reminder notices under the Fines Act 1996.

Because parking offences or speed or red light camera offences are detected without identifying the driver or person in charge of the vehicle, the "responsible person for the vehicle", usually the registered operator, is deemed to have committed the offence. These offences are known as operator-onus offences.

However, the responsible person is required to nominate the person who was in charge of the vehicle at the time of the offence to allow liability to be effectively transferred to the actual offender.

The OSR processes between 350,000 and 400,000 nomination notices annually. Currently, individuals can only nominate by way of statutory declaration under the Oaths Act 1900, but corporations can nominate electronically. The current requirement for nominations to be made by statutory declaration adds little value to the process, because verifying signatures in such a high volume process is not practical. The overwhelming majority of nominations contain correct information about the driver.

The reform will extend the benefits of electronic nomination to all road users, including small companies and individuals. This will provide a simpler, faster and more convenient service available 24/7 through a Service NSW mobile app and the Service NSW and OSR websites.

To ensure the integrity of this process, the nominator will be required to provide sufficient identification information to verify the accuracy of the nomination, such as the date of birth and driver licence number of the nominated driver.

The OSR will also continue its successful practice of prosecuting people who make a false nomination. The bill doubles the maximum penalty for that offence, in recognition of the seriousness of attempting to avoid liability for the offence, especially where the offence incurs driver licence demerit points.

Statutory declarations will still be required for evidentiary purposes if a matter goes to court.

The bill also adds a littering offence relating to vehicles to the nomination process under the Fines Act to integrate that offence into existing OSR processes.

The bill makes one other improvement to the Fines Act 1996 to provide a simpler means of mitigating hardship caused by a strict application of enforcement processes.

One of the civil enforcement powers of the OSR is to make garnishee orders, which require a financial institution to transfer funds from a fine defaulter's account. More than 500,000 bank garnishee orders will be issued by the OSR this financial year.

In a small number of cases, withdrawal of the funds can result in hardship to the account holder. The bill authorises the OSR to refund to the account holder amounts received under garnishee orders if the OSR is satisfied that the person has suffered or may suffer hardship as a result of the transfer. The refund would not affect the person's liability to pay the relevant fines, which would continue to be

subject to recovery action by the OSR.

The bill also contains three amendments to State revenue legislation to improve tax administration and to modernise two exemptions from duties.

The bill removes an anomaly in the Taxation Administration Act 1996 whereby a taxpayer may be entitled to a refund of self-assessed tax going back more than five years. Where the OSR assesses the taxpayer, the right to a refund is generally limited to five years from the date of the initial assessment. It appears the five-year limit may not apply to taxpayers who self-assess and pay tax without receiving an assessment from the OSR.

Most payroll taxpayers self-assess. Refunds of overpayments totalling several million dollars are made each year, arising from tribunal and court decisions or mistakes by taxpayers in self-assessing their tax liabilities. If the five-year limit on refunds does not apply to taxpayers who self-assess, the cost of refunding overpayments would increase substantially.

In addition, taxpayers and the OSR would need to keep records of self-assessed tax payments for an indefinite period. The State's exposure to refund overpaid self-assessed taxes would be limited only by the taxpayer's capacity to provide adequate evidence of overpayments. The bill therefore makes it clear that the five-year limit applies from the date on which a return is assessed by the Chief Commissioner.

Finally, the bill includes two amendments to the Duties Act 1997.

Registered clubs under the Registered Clubs Act 1976 operate for the benefit of members and the local community. A transfer of property to give effect to the amalgamation of two clubs is already exempt from duty.

In 2012 the Registered Clubs Act 1976 was amended to require clubs to de-amalgamate prior to an amalgamation. A duty exemption should have been provided at that time. In October 2014, the Government made a commitment to "review the rules regarding club amalgamations and de-amalgamations with a view to streamlining both processes and allowing clubs to merge and de-merge as their local situation requires".

The bill provides an exemption from duty for transfers arising from the de-amalgamation of clubs, together with the transfer of club premises and car parks in association with amalgamations and de-amalgamations, with effect from 2012.

A concessional rate of landholder duty applies to the acquisition of 90 per cent or more of a listed entity. An exemption from marketable securities duty also applies to transfers of quoted securities of listed entities. An entity is listed if its securities are quoted on the Australian Securities Exchange or an exchange of the World Federation of Exchanges. The London Stock Exchange and the New York Stock Exchange have ceased to be members of the World Federation. The bill includes those exchanges as exchanges to which the concessional rate of landholder duty and exemption from marketable security duty apply, effective from when the exchanges ceased membership of the World Federation.

The State Revenue Legislation Amendment Bill 2015 is part of an ongoing process of reform of fines and revenue legislation.

The reform to allow for universal electronic nomination will provide a simpler, faster and more convenient way for the overwhelming majority of road users who wish to comply with penalty notice nomination procedures.

I commend the bill to the House.