



New South Wales

State Revenue Legislation Amendment Bill 2015

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to extend existing exemptions from duty for transactions relating to amalgamations of registered clubs to de-amalgamations of registered clubs and related transfers of club premises and car parks,
- (b) to update references to stock exchanges so that concessions applicable to other stock exchanges will apply in the case of entities or securities listed or quoted on the London Stock Exchange (including AIM) and the New York Stock Exchange,
- (c) to modernise procedures for nomination of persons in charge of vehicles or vessels who have committed offences by persons who would otherwise be responsible for the offences and to make other amendments relating to nominations,
- (d) to enable refunds, in cases of hardship, of payments under garnishee orders issued against fine defaulters,
- (e) to clarify the status of calculations of self-assessed tax liability by the Chief Commissioner of State Revenue.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act, other than the amendments exempting registered clubs from duty for de-amalgamation transactions. Those amendments are taken to have commenced on

20 January 2012, the date of the commencement of the de-amalgamation provisions authorising the transactions.

Schedule 1 Amendment of Duties Act 1997 No 123

Schedule 1 [1] exempts from duty a transfer, or agreement for the sale or transfer, of dutiable property to give effect to an amalgamation or de-amalgamation, or both, of a registered club. Currently, the exemption applies only to amalgamations. An exemption is also conferred for the transfer, or an agreement for the sale or transfer, of the premises or car park of a club for the purposes of an amalgamation or de-amalgamation, or both. The proposed amendment is taken to have commenced on the date of the commencement of the de-amalgamation provisions authorising the transactions.

Schedule 1 [3], [4], [7] and [8] include separate references to the London Stock Exchange (including AIM) and the New York Stock Exchange in the definitions of *listed company*, *listed trust*, *private company* and *recognised stock exchange*. Previously, references to those bodies were captured by references in those definitions to the World Federation of Exchanges, a body to which the London Stock Exchange and the New York Stock Exchange no longer belong. The amendments will have the effect of re-applying concessional and other provisions of the *Duties Act 1997* that previously applied to things listed or quoted on those exchanges. **Schedule 1 [2]** provides that the definitions are taken to have always referred to those exchanges.

Schedule 1 [5] and [6] insert definitions of *London Exchange* and *New York Exchange*.

Schedule 2 Amendment of Fines Act 1996 No 99

Schedule 2 [1] inserts a definition of *vehicle or vessel offence*.

Schedule 2 [2] makes it clear that any action taken against a person's driver licence as a result of demerit points action resulting from a penalty notice is to be reversed if the penalty notice is withdrawn, and that any licence affected as a consequence, is to be restored by Roads and Maritime Services (*RMS*) from the date of withdrawal of the penalty notice (subject to any other matters that affect the licence).

Schedule 2 [3] and [4] modernise the process for nomination of the person who was in charge of a vehicle or vessel when an offence was committed for the purpose of proceedings being taken against that person rather than the owner of or other responsible person for the vehicle or vessel who was issued with a penalty notice for the offence. The nomination notice approved by the Commissioner of Fines Administration (the *Commissioner*) will now be able to be used by individuals rather than a statutory declaration being required. A statutory declaration may be required to be given by a responsible person who supplies a nomination notice to verify nominations contained in that notice.

Schedule 2 [4] also substitutes the offence relating to giving a false nomination in a nomination notice and increases penalties for offences. The new offence reflects the corresponding offence under the *Road Transport Act 2013* and, in particular, does not require the person committing the offence to know that the information is false.

Schedule 2 [5] omits repealed offences from the list of vehicle and vessel offences for which a nomination may be given. **Schedule 2 [9]** inserts a provision that continues the application of the nomination provision to enforcement proceedings for those offences.

Schedule 2 [6] adds offences relating to the deposit of litter from a motor vehicle or a trailer attached to a motor vehicle to the list of vehicle and vessel offences for which a nomination may be made.

Schedule 2 [7] requires the Commissioner to seek a review of a decision to issue a penalty notice for a vehicle or vessel offence before annulling a penalty notice enforcement order for the offence, if a nomination notice nominating a person who was in charge of the vehicle or vessel is given to the Commissioner. It does not matter if the nomination notice was given outside the time required

for providing it. The effect of the amendment is to provide an alternative to referral to the Local Court on annulment, as a review may result in the withdrawal of the penalty notice enforcement order and the order ceasing to have effect.

Schedule 2 [8] enables the Commissioner to refund to a fine defaulter an amount paid to the Commissioner under a fine defaulter garnishee order. The refund may be paid on application by the fine defaulter, or on the Commissioner's own motion, if the Commissioner thinks it appropriate to do so on the grounds of hardship. A refund will not affect the liability for the debt concerned.

Schedule 2 [9] inserts savings and transitional provisions consequent on the enactment of the proposed Schedule.

Schedule 3 Amendment of Road Transport Act 2013 No 18

Schedule 3 [1] and [4]–[7] modernise the process for nomination of the person who was in charge of a vehicle when a camera recorded or parking offence was committed for the purpose of proceedings being taken against that person rather than the owner of or other responsible person for the vehicle who was issued with a penalty notice for the offence. The relevant nomination document approved by RMS will now be able to be used by individuals rather than a statutory declaration being required. A statutory declaration may be required to be given by a responsible person who supplies a relevant nomination document to verify nominations contained in that document.

Schedule 3 [2] and [3] increase the maximum penalty that may be imposed for making a false nomination in a relevant nomination document from \$11,000 to \$22,000 for corporations and from \$5,500 to \$11,000 for individuals.

Schedule 3 [8] imposes an additional penalty of \$5,500 for the offence of failing to provide a statutory declaration verifying nominations contained in a relevant nomination document, if committed by an individual. Currently, only corporations can be required to provide such a statutory declaration.

Schedule 4 Amendment of Taxation Administration Act 1996 No 97

Schedule 4 [1] confirms that a calculation by the Chief Commissioner of State Revenue of the tax liability of a person on the basis of a payroll tax return is an assessment of tax liability. One consequence of this is that the time limits for objections to assessments, and for reassessments, will apply to those matters from the date of the calculation. The effect of the provision may be extended by regulation to other kinds of tax liabilities.

Schedule 4 [2] preserves the operation of a court decision insofar as it is inconsistent with the amendment made by **Schedule 4 [1]**.