



New South Wales

State Revenue Legislation Amendment (Surcharge) Bill 2017

Explanatory note

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

Overview of Bill

The object of this Bill is to make amendments to the *Duties Act 1997*, the *Land Tax Act 1956* and the *Land Tax Management Act 1956* for the following purposes:

- (a) to provide for exemption from and refunds of surcharge purchaser duty and surcharge land tax payable in respect of residential land by a foreign person that is an Australian corporation when the land is used for the construction of new homes or is subdivided and sold for the purposes of the construction of new homes,
- (b) to provide that the small business declaration required for the purposes of the small business exemption from duty on an insurance policy is to be provided in a manner approved by the Chief Commissioner (replacing the current requirement that it be provided in writing),
- (c) to enact consequential savings and transitional provisions.

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 a day or days to be appointed by proclamation except for the amendment referred to in paragraph (b) of the Overview, which is to commence on the date of assent.

Clause 3 repeals an amending Act. Amendments made by that Act have commenced except for amendments to the *Duties Act 1997* and the *Land Tax Act 1956* about new home development by Australian-based developers that are foreign persons, which will not be commenced and which are dealt with differently in the proposed Act.

Schedule 1 Amendment of Duties Act 1997 No 123

Australian-based developers that are foreign persons

Schedule 1 [1] (proposed section 104ZJA, which replaces an uncommenced section inserted by the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2017*) provides for refunds and exemption from surcharge purchaser duty on transfers of residential land to a foreign transferee when the transferee is an Australian corporation and:

- (a) a new home is constructed on the land and sold without the home having been used or occupied before it is sold, or
- (b) the land is subdivided and sold for the purposes of new home construction.

Small business exemption

Schedule 1 [2] (amends section 259C (2)) provides that the small business declaration required for the purposes of the small business exemption from duty on an insurance policy is to be provided in a manner approved by the Chief Commissioner (replacing the current requirement that the declaration be provided in writing).

Savings and transitional

Schedule 1 [3] (amends Schedule 1) omits a transitional provision that will be redundant as a consequence of new section 104ZJA replacing an uncommenced section inserted by the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2017*.

Schedule 1 [4] (proposed Part 48 in Schedule 1) extends the operation of new section 104ZJA to transfers that occur before the commencement of the section and provides a mechanism for the refund of surcharge purchaser duty already paid.

Schedule 2 Amendment of Land Tax Act 1956 No 27

Australian-based developers that are foreign persons

Schedule 2 [3] (proposed section 5C, which replaces an uncommenced section inserted by the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2017*) provides for refunds and exemption from surcharge land tax payable on residential land owned by a foreign person that is an Australian corporation if:

- (a) a new home is constructed on the land and sold without the home having been used or occupied before it is sold, or
- (b) the land is subdivided and sold for the purposes of new home construction.

Miscellaneous amendments

Schedule 2 [1] (amends section 2A) includes definitions of terms used in new section 5C and an existing section.

Schedule 2 [2] (amends section 5A) makes a consequential amendment.

Schedule 3 Amendment of Land Tax Management Act 1956 No 26

Schedule 3 [1] (amends Schedule 2) omits a transitional provision that will be redundant as a consequence of new section 5C of the *Land Tax Act 1956* replacing an uncommenced section inserted by the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2017*.

Schedule 3 [2] (proposed Part 32 in Schedule 2) provides that new section 5C of the *Land Tax Act 1956* is to apply in respect of the 2017 and subsequent land tax years.