



New South Wales

Trustee Companies Amendment Bill 2000

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Trustee Companies Act 1964*:

- (a) to enable a trustee company to recover from clients amounts of goods and services tax (*GST*) payable in respect of services supplied by the trustee company, and
- (b) to make it clear that restrictions relating to the acquisition of relevant interests in shares in a trustee company do not apply to an acquisition of interests in shares by the trustee company in itself, and
- (c) to enable savings and transitional regulations to be made.

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 amendments relating to the recovery of GST costs on 1 July 2000 and for the commencement of the other amendments on the date of assent.

Clause 3 is a formal provision giving effect to the amendments to the *Trustee Companies Act 1964* set out in Schedule 1.

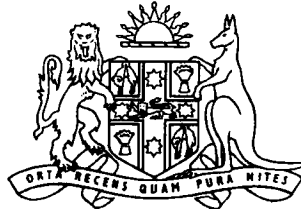
Schedule 1 [1] inserts definitions of *GST* and *New Tax System Price Exploitation law*.

Schedule 1 [2] inserts proposed section 19F. The proposed section enables a trustee company to charge, or recover, the amount of any GST payable in respect of services supplied by it as a trustee company. That amount is in addition to other fees or charges that may be charged by the trustee company. The limits on other fees or charges do not prevent the amount of GST being recovered, however it is made clear that the amount recoverable remains subject to other law preventing price exploitation. The charging of amounts for GST before the commencement of the proposed section is validated if it would have been valid if the proposed section had been in force.

Schedule 1 [3] makes it clear that the restrictions on the acquisition of more than a prescribed percentage of shares by a person in a trustee company do not apply to acquisitions by the trustee company of shares in itself or that result in a trustee company acquiring shares in itself. The restriction currently applies where, as a result of an acquisition of shares, a person is entitled to a certain percentage of the voting shares in a company. A person is entitled to voting shares if the person has a relevant interest in those shares within the meaning of the *Companies (Acquisition of Shares) (New South Wales) Code*. Since the commencement of the *Corporations (New South Wales) Act 1990* this includes a reference to the corresponding provisions of the *Corporations Law*. Consequently, provisions of the *Corporations Law* that provide that a body corporate may acquire a relevant interest in its own securities may apply to trustee companies. This may include a situation where, under that Law, a body corporate is taken to have acquired an interest in itself if another person (such as a director) acquires an interest in shares.

Schedule 1 [4] enables savings and transitional regulations to be made.

First print



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New South Wales

Trustee Companies Amendment Bill 2000

No. , 2000

A Bill for

An Act to amend the *Trustee Companies Act 1964* to enable trustee companies to include provision for the goods and services tax in certain fees and charges, and with respect to interests in shares in trustee companies; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Trustee Companies Amendment Act 2000</i> .	3
2 Commencement	4
(1) Except as provided by subsection (2), this Act commences on the date of assent.	5 6
(2) Schedule 1 [1] and [2] commence on 1 July 2000.	7
3 Amendment of Trustee Companies Act 1964 No 6	8
The <i>Trustee Companies Act 1964</i> is amended as set out in Schedule 1.	9

Schedule 1 Amendments

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(3) This section has effect despite any other provision of this Act, or of any regulation made under this Act, limiting an amount that may be charged or recovered by a trustee company.	1 2 3
(4) The charging, or recovery, by a trustee company of an amount of GST payable before the commencement of this section in respect of services supplied or to be supplied by it as a trustee company is validated if that amount could have been charged or recovered had this section been in force.	4 5 6 7 8
[3] Section 31A Restriction on acquisition of shares	9
Insert at the end of section 31A:	10
(15) Despite any provision of this or any other Act or law, this section does not apply to an acquisition of shares by a trustee company in itself or that results in a trustee company acquiring shares in itself.	11 12 13 14
(16) Subsection (15) applies to any acquisition of shares whether occurring before or after the commencement of that subsection. A person is not guilty of an offence under this section in respect of any acquisition of shares in a trustee company, as referred to in that subsection, that occurred before that commencement.	15 16 17 18 19 20
[4] Section 37A	21
Insert after section 37:	22
37A Savings and transitional regulations	23
(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:	24 25 26
<i>Trustee Companies Amendment Act 2000</i>	27
(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	28 29 30
(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:	31 32 33

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Amendments

Schedule 1

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- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or 1
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 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication. 4
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