

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 Duties Act 1997 to make further provision in relation to the NSW Home Builders Bonus (the duty exemption and concession scheme established by the State Revenue Legislation Amendment Act 2010).

The Bill:

- (a) revises requirements relating to the commencement of construction of a new home and removes requirements relating to the completion of construction, and
- (b) extends the pre-construction duty exemption to certain off the plan purchases that are made after construction has commenced, and
- (c) makes provision generally for the application of the scheme to off the plan purchases that are entered into for the purpose of replacing an earlier agreement.

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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 1 July 2010.

Schedule 1 Amendment of Duties Act 1997 No 123

Commencement and completion requirements

Schedule 1 [2] removes completion requirements that must be complied with for an off the plan purchase or vacant land purchase to be eligible for a duty concession or exemption under the NSW Home Builders Bonus scheme (the scheme). Under the amendment, it will no longer be necessary for the off the plan purchase, or the construction of the new home, to be completed within a specified time.

Schedule 1 [1] relocates and revises an existing requirement that, for a vacant land purchase, the laying of the foundations for the home must commence within 26 weeks. As a result of the amendments, the 26 weeks will start from the date the agreement for sale or transfer is completed (rather than the date the agreement is entered into), or the date the transfer occurs.

Pre-construction duty exemption

The general rule for the pre-construction duty exemption under the scheme is that the exemption only applies where construction of the new home has not commenced.

Construction commences when the laying of the foundations of the new home, or of the building in which it is located, begins.

Schedule 1 [3] provides that a pre-construction duty exemption applies to an off the plan purchase that is approved under the scheme if the off the plan purchase replaces another off the plan purchase that was approved under the scheme and to which the pre-construction duty exemption applied. In such a case it will not matter that construction of the new home has commenced.

Schedule 1 [4] enables the pre-construction duty exemption to be applied in cases where a new home is to be constructed as part of a staged development, and construction of the foundations of the building in which the new home is located has already commenced. A new home is to be constructed as part of a staged development if the new home is part of a development that will comprise 2 or more multi-storey buildings that have common foundations, and which are to be constructed in separate stages. In such a case, construction of the new home is taken to begin when construction of the first residential level of the relevant building begins.

Schedule 1 [5] provides that a pre-construction duty exemption also applies to an off the plan purchase that is approved under the scheme if:

(a) construction of the new home commenced when the land was owned by a person who is not the vendor under the off the plan purchase, and
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(b) no more than 25% of the construction work required to construct the new home, or the building in which it is located, has been completed, and

(c) no construction work in relation to the new home has been carried out between the date that the vendor acquired the land and the date the off the plan purchase was entered into.

Replacement agreements

Schedule 1 [6] provides that an application may be made under the scheme in relation to an off the plan purchase entered into on or after 1 July 2012 if the off the plan purchase replaces an off the plan purchase that was approved under the scheme.

Schedule 1 [7] provides that, for the purposes of the scheme, an off the plan purchase replaces another off the plan purchase only if the agreements concerned relate to substantially the same property and have the same purchaser or purchasers.