

[STATE ARMS]

New South Wales

Duties Amendment (Managed Investments) Bill 1998

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 provide that ad valorem duty is not chargeable in respect of the following:

- (a) a transfer of dutiable property to a responsible entity (within the meaning of the *Corporations Law*) if the transfer was made for the purpose of complying with the new Commonwealth regulatory regime for certain investment schemes (introduced by the proposed *Managed Investments Act 1998* of the Commonwealth),
- (b) certain instruments that amend or vary an instrument that establishes a scheme subject to that new regulatory regime, namely, a managed investment scheme (within the meaning of the *Corporations Law*).

Concessional duty of \$10 is to be chargeable in these circumstances.

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 commencement of the proposed *Managed Investments Act 1998* of the Commonwealth. The Commonwealth Act is to commence immediately after all the items in Schedules 1, 2, 3 and 4 of the *Company Law Review Act 1997* of the Commonwealth have commenced.

Clause 3 is a formal provision giving effect to the amendments to the *Duties Act 1997* set out in Schedule 1.

Transfers of dutiable property to a responsible entity

Section 54 of the *Duties Act 1997* charges a concessional rate of duty in respect of certain transfers of dutiable property to trustees. **Schedule 1 [2]** inserts section 54 (4) to provide that the section applies in respect of certain transfers of dutiable property to a responsible entity (within the meaning of the *Corporations Law*), if the Chief Commissioner is satisfied that the transfer is necessary to enable a scheme subject to the new Commonwealth regulatory regime to comply with that regime. **Schedule 1 [1]** defines *responsible entity*.

Amendment or variation of instrument establishing a managed investment scheme

Section 59 of the *Duties Act 1997* charges a concessional rate of duty in respect of certain instruments that amend or vary an instrument that establishes a public unit trust scheme. All public unit trust schemes are schemes that are subject to the new Commonwealth regulatory regime, namely, managed investment schemes within the meaning of the *Corporations Law*. **Schedule 1 [3]** extends section 59 to apply to *all* managed investment schemes that comply with the requirements of the new regime. A minor amendment has also been made to omit obsolete paragraphs from the section.