



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.

First print



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New South Wales

Duties Amendment (Managed Investments) Bill 1998

No. , 1998

A Bill for

An Act to amend the *Duties Act 1997* to provide that ad valorem duty is not chargeable in respect of a transfer of dutiable property made for the purpose of complying with the Commonwealth regulatory regime for certain investment schemes (introduced by the proposed *Managed Investments Act 1998* of the Commonwealth); and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Duties Amendment (Managed Investments) Act 1998*.

2 Commencement

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This Act commences or is taken to have commenced on the date of commencement of the *Managed Investments Act 1998* of the Commonwealth.

3 Amendment of Duties Act 1997 No 123

The *Duties Act 1997* is amended as set out in Schedule 1. 10

Schedule 1 Amendments

(Section 3)

[1] Section 54 Change in trustees

Insert in alphabetical order in section 54 (1):

responsible entity means a responsible entity within the meaning of the *Corporations Law*. 5

[2] Section 54 (4)

Insert after section 54 (3):

- (4) Duty of \$10 is chargeable in respect of a transfer of dutiable property to a responsible entity if the Chief Commissioner is satisfied that the transfer is a necessary consequence of an undertaking to which Division 11 of Part 9.11 of the *Corporations Law* applies becoming a registered scheme within the meaning of that Division. 10

[3] Section 59 15

Omit the section. Insert instead:

59 Instrument relating to managed investment scheme

- (1) Duty of \$10 is chargeable in respect of an instrument that:
- (a) amends, varies or replaces an instrument that establishes a managed investment scheme, and 20
 - (b) does not transfer, or have the effect of transferring, any dutiable property to a person who does not hold units in the scheme, and
 - (c) does not have the effect of reducing the number of persons who hold units in the scheme. 25

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Schedule 1 Amendments

- (2) In this section, a *managed investment scheme* means a managed investment scheme within the meaning of the *Corporations Law* that complies with Chapter 5C of that Law.