I certify that this is a copy of the authorised version of this Act as at 9 October 2026, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 9 October 2026.

K Woodward
Chief Parliamentary Counsel
Dated 13 October 2026

TASMANIA

DUTIES ACT 2001

No. 15 of 2001

CONTENTS

CHAPTER 1 – PRELIMINARY

PART 1 – ADMINISTRATION

1. Short title
2. Commencement

PART 2 – GENERAL

3. Interpretation
4. Meaning of child for purpose of definition of *related person*
4A. Meaning of foreign corporation
4B. Meaning of foreign trust
4C. Presumption in respect of corporations and trusts
5. Act read together with *Taxation Administration Act 1997*

CHAPTER 2 – TRANSACTIONS CONCERNING DUTIABLE PROPERTY

PART 1 – INTRODUCTION AND OVERVIEW

6. Imposition of duty on certain transactions concerning dutiable property
7. Imposition of duty on dutiable transactions that are not transfers
8. What form must a dutiable transaction take?
9. What is dutiable property?
10. When does a liability for duty arise?
11. Who is liable to pay the duty?
12. The liability of joint tenants
13. Necessity for written instrument or written statement
14. Lodging written instrument or written statement with Commissioner
15. When must duty be paid?
16. No double duty
17. What is the rate of duty?

PART 2 – DUTIABLE VALUE

18. What is the dutiable value of dutiable property?
19. What is the consideration for the transfer of dutiable property?
20. What is the unencumbered value of dutiable property?
21. Arrangements that reduce the dutiable value
22. Aggregation of dutiable transactions
23. Apportionment – dutiable property and other property
24. Certain transactions concerning leases of commercial property
25. Partnership interests
26. Partitions
27. Effect of alteration in purchase price
28. Entitlements of joint purchasers

PART 3 – RATES OF DUTY

29. General rate

PART 3A – ADDITIONAL DUTY ON CERTAIN DUTIABLE TRANSACTIONS INVOLVING FOREIGN PERSONS

30. Meaning of primary production property

30A. Meaning of residential property

30AA. Determinations in relation to use of land

30B. Dutiable transactions relating to more than one parcel of land

30C. Additional duty chargeable for foreign purchasers of residential property

30D. Duty in respect of change of land to residential property

30DA. Reassessment of duty if premises cease to be residential premises

30E. Additional duty chargeable for foreign purchasers of primary production property

30F. Duty in respect of change of land to primary production property

30G. Concessions

30H. Reassessment of duty if transferee becomes a foreign person

30HA. Reassessment of duty if natural person transferee is no longer foreign person

30HB. Reassessment of duty if trust is taken to not be foreign trust

30HC. Reassessment of duty for certain developers of property

30I. Dutiable transactions before 1 July 2018

30J. Exemption relating to dwellings used as principal residences in certain circumstances

30K. Refund relating to duty paid on vacant land where principal residences are built in certain circumstances

30L. Determination that transferee not a foreign person

30M. Circumstances in which transferee not a foreign person

PART 4 – SPECIAL PROVISIONS

31. Interim payment of duty

32. Purchasers of dutiable property under Help to Buy arrangement

[33. *Repealed*]

34. Transfer arising from mortgage of land

35. Vesting order

36. Applications to bring land under *Land Titles Act 1980*

PART 4A – TRANSACTIONS TREATED AS SUBSALES OF LAND

Division 1 – Introduction

36A. Definitions

Division 2 – Transfers involving additional consideration

36B. Application of Division

36BA. Application to put and call options

36C. How duty is charged on transfer

36D. Dutiable value of transactions

36E. When does liability to duty arise?

36F. Who is liable to pay duty?

36G. Exemptions and concessions

Division 3 – Miscellaneous

36H. Provisions for determining consideration

36I. Parties required to provide information to Commissioner

PART 5 – CONCESSIONAL RATES OF DUTY

Division 1 – Trusts

37. Change in trustees

38. Transfers in relation to managed investment schemes

39. Property vested in an apparent purchaser

40. Transfers back from a nominee

41. Property passing to beneficiaries

[42. *Repealed*]

43. Instrument relating to managed investment scheme

Division 2 – Superannuation

[44. *Repealed*]

45. Transfer of property from one superannuation fund to another

46. Transfers between trustees and custodians of superannuation funds or trusts

Division 2A – First home buyer duty concession

46A. Interpretation of Division 2A

46B. Extension of eligible period

46C. Eligible first home buyer

46D. Eligible transaction

46E. First home buyer duty concession

46F. Residence requirements

46G. Reassessment of duty

46H. Refund provisions

46I. Anticipatory duty concessions

Division 2B – Pensioner duty concession

46J. Interpretation of Division 2B

46K. Extension of eligible period

46L. Eligible pensioner

46M. Eligible transaction

46N. Pensioner duty concession if home sold before eligible transaction

46O. Pensioner duty concession if home sold after eligible transaction

46P. Reassessment of duty

46Q. Refund provisions

46R. Anticipatory duty concessions

Division 2C – Pre-completion duty concession

46S. Interpretation of Division 2C

46T. Extension of eligible period

46U. Eligible buyer

46V. Eligible dwelling

46W. Eligible transaction

46X. Pre-completion duty concession

46Y. Reassessment of duty

46Z. Refund provisions

Division 3 – Miscellaneous

47. Deceased estates

48. Conversion of lots to strata title

49. Duty where no change of beneficial ownership

50. Adjustment of dutiable value of transfer on a company wind-up

[51. *Repealed*]

PART 6 – EXEMPTIONS

Division 1 – Exemptions in general

52. Exemptions from duty

53. Exemptions relating to various transactions

53A. Exemptions – Help to Buy arrangements

54. Exemptions relating to special disability trusts

55. Exemptions – transfers to partners in a marriage or relationship

56. Exemptions – break-down of marriages

56A. Exemptions – break-down of de facto relationships

57. Exemptions – personal relationships

57A. Partial exemptions

57AA. Exemptions – certain vestings

57B. Exemptions – certain financing arrangements

Division 2 – First home buyer duty exemption

57C. Interpretation of Division 2

57D. Extension of eligible period

57E. Eligible first home buyer

57F. Eligible transaction

57G. First home buyer duty exemption

57H. Residence requirements

57I. Reassessment of exemption

57J. Refund provisions

CHAPTER 3 – CERTAIN TRANSACTIONS TREATED AS TRANSFERS

PART 1 – PRELIMINARY

58. Overview

59. Interpretation of Chapter 3

[59A. *Repealed*]

60. Provisions relating to trusts

61. Meaning of *landholder*, *private landholder* and *public landholder*

62. What are the *land holdings* of a landholder

63. What are the goods of a landholder, unit trust scheme or company

PART 2 – CHARGING OF DUTY ON ACQUISITIONS OF INTERESTS OF LANDHOLDERS

63A. Interpretation of Part 2

63B. Landholdings that include more than one parcel of land

64. When does a liability for duty arise

65. What is a *relevant acquisition*

66. What are *interests* and *significant interests* in landholders

67. How an interest may be *acquired*

68. Acquisition statements

69. When must duty be paid

70. Who is liable to pay the duty

71. How duty is charged on relevant acquisitions – private landholders

71A. Additional duty for acquisition by foreign person – private landholders

72. How duty is charged on relevant acquisitions – public landholders

72A. Additional duty for foreign acquisition – public landholders

72B. Reassessment of duty if acquirer becomes a foreign person

72C. Acquisitions before 1 July 2018

PART 3 – CHARGING OF DUTY ON ACQUISITIONS MADE BY TRUSTEES

73. Application of Part

74. Meaning of *beneficial owner*

75. Beneficial owners liable for duty on acquisition in landholders

PART 3A – GENERAL PRINCIPLES TO BE APPLIED UNDER THIS CHAPTER

76. Constructive ownership of land holdings and other property: linked entities

77. Constructive ownership of land holdings and other property: discretionary trusts

78. Inclusion of land holdings and goods recently transferred

79. Agreements for sale or transfer of land

80. Agreements for sale or issue of shares or units in landholder

81. Valuation of property

82. Maximisation of entitlements on distribution of property

PART 3B – EXEMPTIONS, CONCESSIONS AND REFUNDS

83. General exemptions

84. Restricted exemptions for acquisition securing financial accommodation

84A. Concessions generally

84B. Refunds

PART 4 – ACQUISITION OF LAND USE ENTITLEMENTS BY ALLOTMENT OF SHARES OR ISSUE OF UNITS

84C. Interpretation of Part 4

84D. Land use entitlement that relates to dual-use land

85. When does a liability for duty arise?

86. When must duty be paid?

87. Who is liable to pay the duty?

88. Acquisition of land use entitlement

89. Form of statement

90. Assessment of duty

91. Additional duty if foreign person acquires land use entitlement
92. Duty in respect of change of land to residential property
93. Duty in respect of change of land to primary production property
94. Reassessment of duty if acquirer becomes a foreign person

[**PART 5 –** *Repealed*
95. *Repealed*]
96. *Repealed*]
97. *Repealed*]

[**CHAPTER 4 –** *Repealed*

98 - 114. *REPEALED*]

[**CHAPTER 5 –** *Repealed*

115 - 137. *REPEALED*]

[**CHAPTER 6 –** *Repealed*

138 - 161. *REPEALED*]

CHAPTER 7 – INSURANCE

PART 1 – GENERAL INSURANCE
162. Imposition of duty
163. What is general insurance?
164. What is a premium in relation to general insurance?
165. When is a premium paid?
166. What duty is payable?
167. Who is liable to pay the duty?
168. Circumstances in which duty is payable by the insured person
169. Records to be kept
170. Refunds where premiums are returned

PART 2 – LIFE INSURANCE
171. Imposition of duty
172. What is life insurance?

173. Obligation to make out and execute a policy of life insurance

174. What duty is payable?

175. Who is liable to pay the duty?

176. Circumstances in which duty is payable by the insured person

177. Refund on cancellation of policy of life insurance

PART 3 – HOW IS DUTY PAID BY AN INSURER?

178. Who is an insurer?

179. Insurers must be registered

180. Application for registration

181. Cancellation of registration by the Commissioner

182. Cessation of business and cancellation of registration by the insurer

183. Register of insurers

184. Monthly returns and payment of duty

185. Recovery of duty by registered insurer

PART 4 – APPORTIONMENT

Division 1 – Apportionment of premiums and other amounts between Australian jurisdictions

186. Application of Division 1

187. Schedule of Apportionment

188. Apportionment in practice

Division 2 – Apportionment of premiums and other amounts as between different types of insurance

189. Apportionment between different types of insurance

PART 5 – EXEMPT INSURANCE

190. What insurance is exempt from duty?

PART 6 – MISCELLANEOUS

191. Effect on contract of insurance of failure to comply with this Chapter

CHAPTER 8 – MOTOR VEHICLE REGISTRATION

PART 1 – INTRODUCTION AND OVERVIEW

192. Imposition of duty

193. Lodgment of statement of dutiable value

194. Failure to register or give notice

195. Who is liable to pay the duty?

196. When does duty become payable?

196A. Effect of failure to pay duty

197. What is the rate of duty?

198. What is the dutiable value of a motor vehicle?

PART 2 – CIRCUMSTANCES IN WHICH DUTY NOT CHARGEABLE

199. Exemptions

200. Avoidance of double duty – duty paid in a corresponding Australian jurisdiction

201. No change in beneficial ownership

202. Reassessment of duty – repossession of stolen motor vehicle

203. Refund if contract, arrangement or agreement cancelled

PART 3 – TRADING STOCK, DEMONSTRATOR VEHICLES AND COURTESY VEHICLES

203A. Interpretation of Part 3

204. Exemptions for motor dealers and traders

205. Application for exemption certificate

206. Grant or refusal of application

207. Form of exemption certificate

208. Period of exemption certificate

209. Notification of changes

210. Renewal of exemption certificate

211. Grant or refusal of renewal of application

212. Suspension and cancellation of exemption certificate

213. Continuing use of exemption certificate

[214. *Repealed*]

215. Improperly obtaining exemption

216. Notification if exemption ceases to apply in relation to motor vehicle

[217. *Repealed*]

218. Record of exemption certificates

CHAPTER 9 – MISCELLANEOUS DUTIES

PART 1 – DUPLICATES AND REPLICAS

219. Duplicates or counterparts

220. Replicas

PART 2 – MISCELLANEOUS DUTIES

221. Motor accident premium certificates

[222 - 224. *Repealed*]

CHAPTER 10 – GENERAL EXEMPTIONS FROM DUTY

PART 1 – INTERGENERATIONAL RURAL TRANSFERS

225. Intergenerational rural transfers

226. Subsequent liability for duty in certain circumstances

PART 1A – CORPORATE RECONSTRUCTION TRANSACTIONS AND CORPORATE CONSOLIDATION TRANSACTIONS

226A. Interpretation of Part 1A

226B. Meaning of *corporate group*

226C. Meaning of *corporate reconstruction transaction*

226D. Meaning of *corporate consolidation transaction*

226E. Exemptions for corporate reconstruction transaction and corporate consolidation transaction

226F. Applications for exemptions

226G. Refund provisions

226H. Revocation of exemption

PART 2 – MISCELLANEOUS EXEMPTIONS

227. Miscellaneous exemptions

[227A. *Repealed*]

227B. Instruments issued for purpose of creating, issuing or marketing mortgage-backed securities

227C. Loan-backed securities

CHAPTER 11 – MISCELLANEOUS

PART 1 – STAMPING INSTRUMENTS

228. Provision of stamps

229. Limitation on use of designated stamps

230. Form of stamps to be used

231. Stamping of instruments

232. When is an instrument duly stamped?

233. Adhesive stamps

234. Licences to deal in stamps

235. Refunds – spoiled and unused stamps

236. Reassessments – failed instruments

237. Instruments to be separately charged with duty in certain cases

238. Execution of instruments

239. Stamping of instruments after execution

240. Stamping taken to constitute an assessment

241. Copies of instruments

242. Calculation of time

PART 2 – ENFORCEMENT

243. Registration of instruments

244. Electronic conveyancing

[245. *Repealed*]

246. Receipt of instruments in evidence

247. Valuation of property

248. Assessment where consideration inadequate

249. Ascertainment of value of certain interests

250. Impounding of instruments

PART 3 – MISCELLANEOUS

251. Application of Act

[252 - 253. *Repealed*]

254. Recognised stock exchanges

255. Duty paid under former Act

256. Stamping under former Act

257. Regulations

258. Administration of Act

259. Savings and transitional provisions

259A. Savings and transitional provisions consequent on *Taxation and Related Legislation (Miscellaneous Amendments) Act 2008*

259B. Transitional provisions consequent on *Duties Amendment Act 2009*

259C. Transitional provisions consequent on repeal of *Revenue Legislation (Miscellaneous Amendments) Act 2002*

259D. Savings and transitional provisions consequent on repeal of *Revenue Measures Act 2005*

259E. Transitional provisions consequent on the enactment of Part 2 of the *Revenue Measures Act 2012*

259F. Savings and transitional provisions consequent on enactment of *Duties Amendment (Landholder and Corporate Reconstruction and Consolidation) Act 2016*

259G. Transitional provisions consequent on commencement of *Duties Amendment Act 2020*

259H. Savings provision consequent on *Taxation and Related Legislation (Miscellaneous Amendments) Act 2026*

260. . . . . .

261. *Stamp Duties Act 1931* repealed

262. *Stamp Duties Regulations 1998* rescinded

SCHEDULE 1 – SAVINGS AND TRANSITIONAL PROVISIONS

SCHEDULE 2 – . . . . . .

DUTIES ACT 2001

No. 15 of 2001

An Act to create and charge a number of duties

[Royal Assent 26 April 2001]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

CHAPTER 1 – PRELIMINARY

PART 1 – ADMINISTRATION

1. Short title

This Act may be cited as the *Duties Act 2001*.

2. Commencement

This Act commences on 1 July 2001.

PART 2 – GENERAL

3. Interpretation

In this Act –

Act imposing duty means –

(a) a corresponding Act; or

(b) an Act to which the *Taxation Administration Act 1997* applies;

advance means an advance referred to in section 140;

annuity has the meaning given by section 174(6);

application to register a motor vehicle means –

(a) an application under the *Vehicle and Traffic Act 1999* to register a motor vehicle; and

(b) an application under the *Vehicle and Traffic Act 1999* to transfer the registration of a motor vehicle;

approved means approved by the Commissioner;

associated person means a person who is associated with another person in

accordance with any of the following provisions:

(a) persons are associated persons if they are related persons;

(b) natural persons are associated persons if they are partners in a partnership to which the *Partnership Act 1891* applies;

(c) private companies are associated persons if common shareholders have a significant interest, within the meaning given by section 66, in each private company;

(d) trustees are associated persons if any person is a beneficiary common to the trusts (not including a public unit trust scheme) of which they are trustees;

(e) a private company and a trustee are associated persons if a related body corporate of the company (within the meaning of the Corporations Act) is a beneficiary of the trust (not including a public unit trust scheme) of which the trustee is a trustee;

(ea) public companies are associated persons if common shareholders have a majority shareholding in each company;

(f) a public company and another person are associated persons if the person is a subsidiary of that public company;

(fa) a company and the trustee of a unit trust scheme are associated persons if the shares in the company and the units in the unit trust scheme cannot be traded except as a single security;

(fb) trustees of 2 or more unit trust schemes are associated persons if the units in the unit trust schemes cannot be traded except as a single security;

(g) persons are associated persons if they are acting in concert;

Australian citizen has the same meaning as in the *Australian Citizenship Act 2007* of the Commonwealth;

Australian jurisdiction means a State or Territory of the Commonwealth;

Australian register has the same meaning as in the Corporations Act;

Australian Securities Exchange means the Australian Securities Exchange Limited;

bankrupt includes applying to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounding with

creditors or making an assignment of remuneration for their benefit;

beneficiary of a discretionary trust means a person referred to in section 77(1);

building includes –

(a) a part of a building; and

(b) a building attached to or conjoined with another building; and

(c) a flat or home unit;

call option means a right, conferred by an agreement or arrangement, to acquire dutiable property;

call option assignment means the assignment of a right, under a put and call option, to acquire dutiable property;

caring partner, in relation to a person, means the person who is in a caring relationship with that person, being a caring relationship that –

(a) is the subject of a deed of relationship registered under Part 2 of the *Relationships Act 2003*; or

(b) is declared to exist by virtue of a declaration of the Supreme Court in force under Part 7 of that Act;

certificate of premium paid means a certificate referred to in section 221(1);

charge includes impose;

Commissioner means the Commissioner of State Revenue appointed as such under the *Taxation Administration Act 1997*;

company title dwelling means a separate dwelling in a building containing more than one separate dwelling situated on land in Tasmania owned or leased by a company in which shares issued by the company are owned by persons who, by virtue of the ownership of their shares, have an exclusive right to occupy a part of the building;

complying approved deposit fund means an entity that is a complying approved deposit fund in accordance with section 43 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth;

complying superannuation fund means –

(a) an entity that is a complying superannuation fund in accordance with section 42 or 42A of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth; and

(b) an exempt public sector superannuation scheme within the meaning of that Act;

corporation means a body corporate, whether incorporated in this jurisdiction or elsewhere;

corresponding Act means an Act of another Australian jurisdiction that corresponds to this Act;

day-procedure centre means premises at which a person is admitted for medical treatment and discharged on the same day, but does not include –

(a) such premises conducted by or on behalf of the State or the Commonwealth; or

(b) a hospital or other health service conducted by or on behalf of the State or the Commonwealth; or

(c) a private hospital; or

(d) a residential care service;

declaration of trust means a declaration of trust referred to in section 6(3);

de facto relationship has the same meaning as in the *Family Law Act 1975* of the Commonwealth;

de facto relationship property means –

(a) property of the parties to a de facto relationship or of either of them; or

(b) property held by a related person of the parties to a de facto relationship or of either of them; or

(c) any estate or interest in the property referred to in paragraph (a) or (b) of this definition;

discretionary trust means a trust under which the vesting of the whole or any part of the capital of the trust estate, or the whole or any part of the income from that capital, or both –

(a) is required to be determined by a person either in respect of the identity of the beneficiaries, or the quantum of interest to be taken, or both; or

(b) will occur if a discretion conferred under the trust is not exercised; or

(c) has occurred but under which the whole or any part of that capital or the whole or any part of that income, or both, will be divested from any person or persons in whom it is vested if a discretion

conferred under the trust is exercised;

dutiable property has the meaning given by section 9;

dutiable proportion means a proportion referred to in section 149(2);

dutiable transaction has the meaning given by section 6(2);

dutiable value, in relation to dutiable property, has the meaning given by section 18;

dutiable value, in relation to a motor vehicle, has the meaning given by section 198;

eligible rollover fund means an entity that is an eligible rollover fund in accordance with section 242 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth and includes an entity the trustee of which is satisfied will be an eligible rollover fund within 12 months after the date on which a liability to duty arises (or would otherwise arise);

exemption certificate means a certificate of exemption in force under Part 3 of Chapter 8;

farming company means a company –

(a) the shares of which are not quoted on the Australian

Securities Exchange or a recognised stock exchange; and

(b) that has assets including farming property;

farming property means –

(a) land used solely or principally for the business of primary production; or

(b) personal property which is used solely or principally in connection with the business of primary production;

financial corporation has the meaning given by section 154(4);

foreign corporation – see section 4A;

foreign natural person means a natural person who is not an Australian citizen or a permanent resident;

foreign person means the following:

(a) a foreign corporation (other than as a trustee acting in its capacity as trustee);

(b) a foreign natural person (other than as a trustee acting in its capacity as trustee);

(c) a foreign trustee acting in its capacity as trustee;

foreign trust – see section 4B;

foreign trustee means a person who holds, agrees to hold, or has acquired, dutiable property on trust for a foreign trust;

general insurance has the meaning given by section 163;

general insurer means a person referred to in section 178(2);

GST has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth except that it includes notional GST of the kind for which payments may be made under section 7 of the *National Taxation Reform (Commonwealth-State Relations) Act 1999* by a person who is a State entity within the meaning of that Act;

heavy vehicle has the same meaning as in the *Heavy Vehicle National Law (Tasmania) Act 2013*, but does not include a camper van within the meaning of that Act;

Help to Buy arrangement has the same meaning as in the *Help to Buy Act 2024* of the Commonwealth;

home –

(a) subject to paragraph (b), means a private dwelling and includes a private dwelling which is a company title dwelling and a

farming property on which a private dwelling is erected; and

(b) for the purposes of Divisions 2A and 2B of Part 5 of Chapter 2, and Division 2 of Part 6 of Chapter 2, has the same meaning as in the *First Home Owner Grant Act 2000*;

Housing Australia has the same meaning as in the *Housing Australia Act 2018* of the Commonwealth;

instrument includes a written document and a written statement;

insurance includes assurance;

insurance against accident means insurance referred to in section 172(2);

insurance intermediary means –

(a) a person who arranges contracts of insurance in Tasmania –

(i) for reward; or

(ii) as an agent for a person carrying on a business of insurance; or

(b) a financial services licensee (as defined in section 761A of the *Corporations Act 2001* of the Commonwealth) whose licence covers the arrangement of

contracts of insurance as an agent for a person carrying on a business of insurance; or

(c) a regulated principal (as defined in section 1430 of the *Corporations Act 2001* of the Commonwealth) when carrying on business as an insurance broker as regulated by Subdivision D of Division 1 of Part 10.2 of that Act;

insurer has the meaning given by section 178(1);

interest includes an estate or proprietary right;

land includes a stratum;

land use entitlement means an entitlement to occupy land within Tasmania conferred through an ownership of shares in a company or an ownership of units in a unit trust scheme, or a combination of a shareholding or ownership of units together with a lease or licence;

lease means –

(a) a lease of land in Tasmania or an agreement for a lease of land in Tasmania; or

(b) an agreement (such as a licence) by which a right to use land in Tasmania at any time and for any

purpose is conferred on or acquired by a person;

licensed motor vehicle trader means a person who holds a motor vehicle trader licence under the *Motor Vehicle Traders Act 2011*;

life company has the same meaning as in the *Life Insurance Act 1995* of the Commonwealth;

life insurance has the meaning given by section 172(1);

loan-backed security means –

(a) an instrument or property creating, conferring or comprising a right or interest (whether described as a unit, bond or otherwise) of, or on, a beneficiary in a scheme under which any profit, distribution of capital or income in which beneficiaries participate arises from the acquisition, holding, management or disposal of a pool of loans, or any instrument which evidences such a right or interest; or

(b) a debt security –

(i) the payments under which by the person that issues or makes the instrument

are derived substantially from the acquisition, holding, management or disposal of a pool of loans; and

(ii) that is secured by a mortgage or charge over a pool of loans; or

(c) an instrument of a class or description of instruments or property of a class or description of property prescribed to be a loan-backed security;

majority shareholder in a company means –

(a) in the case of a company the voting shares in which are not divided into classes, a person entitled to not less than 50% of those shares; and

(b) in the case of a company the voting shares in which are divided into classes, a person entitled to not less than 50% of the shares in one of those classes;

managed investment scheme means a managed investment scheme within the meaning of Chapter 5C of the Corporations Act, and includes a public unit trust scheme;

market value, in relation to a motor vehicle, means the amount for which the motor vehicle might reasonably be sold, free of encumbrances, on the open market;

marriage includes a purported marriage that is void;

matrimonial property means –

(a) property of the parties to a marriage or of either of them; or

(b) property held by a related person of the parties to a marriage or of either of them; or

(c) any estate or interest in the property referred to in paragraph (a) or (b) of this definition;

medical establishment means –

(a) a day-procedure centre; or

(b) a private hospital; or

(c) a residential care service;

mineral tenement has the meaning it has in the *Mineral Resources Development Act 1995*;

mortgage –

(a) subject to paragraph (b), has the meaning given by section 139; and

(b) for the purposes of sections 227A and 227C and the definitions of "mortgage-backed security" and "pool of mortgages", means a mortgage of any estate or interest in land, including a leasehold estate or interest in land, whether the land is situated in Tasmania or elsewhere, and includes a charge over any such land;

mortgage-backed security means –

(a) an interest in a trust that entitles the holder of, or beneficial owner under, the interest –

(i) to the whole or any part of the rights or entitlements of a mortgagee and any other rights or entitlements in respect of a mortgage or any money payable by the mortgagor under the mortgage (whether the money is payable to the holder or beneficial owner on the same terms and conditions as under the mortgage or not); or

(ii) to the whole or any part of the rights or entitlements of a mortgagee and any other rights or entitlements in respect of a pool of mortgages or any money payable by mortgagors under those mortgages (whether the money is payable to the holder or beneficial owner on the same terms and conditions as under the mortgages or not); or

(iii) to payments that are derived substantially or to any prescribed extent from the income or receipts of a pool of mortgages –

and that, in addition, may entitle the holder or beneficial owner to a transfer or assignment of the mortgage or mortgages; or

(b) a debt security (whether or not in writing), the payments under which by the person who issues or makes the debt security are derived substantially or to a prescribed extent from the income or receipts of a pool of mortgages; or

(c) any of the following:

(i) an interest in a trust creating, conferring or comprising a right or interest (whether described as a unit, bond or otherwise) of, or on, a beneficiary in a scheme under which any profit or income in which the beneficiaries participate arises from the acquisition, holding, management or disposal of prescribed property, or any instrument that evidences such a right or interest;

(ii) a security (whether or not in writing), the payments under which by the person who issues or makes the security are derived substantially from the income or receipts of prescribed property;

(iii) an interest in a trust, a debt security (whether or not in writing), an instrument or property that creates an interest in or charge over an interest in a trust, a debt security

(whether or not in writing) or other instrument or property to which paragraph (a) or (b) or subparagraph (i) or (ii) of this paragraph applies –

but does not include an instrument or property comprising –

(d) a mortgage; or

(e) the transfer of a mortgage; or

(f) a declaration of trust; or

(g) an instrument of a class or description of instruments or property of a class or description of property prescribed not to be a mortgage-backed security;

motor dealer means a person carrying on the business of dealing in motor vehicles;

motor vehicle means a motor vehicle or trailer within the meaning of the *Vehicle and Traffic Act 1999*;

motor vehicle trader licence has the same meaning as in the *Motor Vehicle Traders Act 2011*;

new motor vehicle means a motor vehicle that has not previously been registered under the *Vehicle and Traffic Act 1999* or the law of another Australian jurisdiction;

partnership interest has the meaning given by section 9(1)(i);

party to a de facto relationship means a person who lives, or has lived, in a de facto relationship;

party to a marriage includes a person who was a party to a marriage that was dissolved or annulled in Australia or elsewhere;

passenger vehicle means a passenger vehicle referred to in section 197(4);

permanent resident means –

(a) the holder of a permanent visa within the meaning of the *Migration Act 1958* of the Commonwealth; or

(b) a New Zealand citizen who is the holder of a special category visa within the meaning of the *Migration Act 1958* of the Commonwealth;

personal relationship has the same meaning as in the *Relationships Act 2003*;

policy of mortgage insurance means a policy of mortgage insurance referred to in section 171(3);

pool of mortgages means a pool or collection of assets –

(a) that is comprised solely of mortgages; or

(b) that is comprised substantially or to a prescribed extent of mortgages or of money paid pursuant to mortgages (whether or not that money has been invested in prescribed property) or of money (whether or not that money has been invested in prescribed property) if the primary investment policy is to invest in mortgages, but that may also contain either or both of the following:

(i) prescribed property;

(ii) any other property that forms part of the pool or collection of assets for the purpose of issuing or making a mortgage-backed security in relation to the pool of mortgages;

pooled superannuation trust means an entity that is a pooled superannuation trust in accordance with section 44 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth;

premium, in relation to general insurance, means a premium referred to in section 164;

primary production means –

(a) the cultivation of land for the purpose of selling the produce of the cultivation; or

(b) the maintenance of animals for the purpose of selling them or their natural increase or bodily produce; or

(c) the keeping of bees for the purpose of selling their honey; or

(d) the production from a nursery; or

(e) the propagation for sale of mushrooms or flowers; or

(f) an undertaking relating to planting or tending trees with a view to selling the trees or timber obtained from those trees; or

(g) the breeding of horses;

private company means a company –

(a) that is not limited by shares; or

(b) whose shares are not quoted on the Australian Securities Exchange or a recognised stock exchange;

private hospital means premises at which a person is provided for fee, gain or reward with medical, surgical or other treatment,

or accommodation for the purposes of such treatment, and with ancillary nursing care but does not include –

(a) such premises conducted by or on behalf of the State or the Commonwealth; or

(b) a day-procedure centre; or

(c) a residential care service;

private unit trust scheme means a unit trust scheme that is not a public unit trust scheme;

property means real property and personal property;

property transferred includes property referred to in Column 2 of the table in section 7;

public company means a public company within the meaning of the Corporations Act;

public unit trust scheme means a unit trust scheme –

(a) any of the units of which are listed for quotation on the Australian Securities Exchange or on a recognised stock exchange; or

(b) that is an undertaking to which Division 11 of Part 11.2 of the

Corporations Law (as continued in effect by section 1408 of the *Corporations Act 2001* of the Commonwealth) applies and in respect of which –

(i) some or all of the units have been offered to the public; and

(ii) no fewer than 50 persons hold units in it; or

(c) that was (or would have been) exempted from the requirements of Part 7.12 of the Corporations Law (as in force immediately before its repeal) and in respect of which –

(i) some or all of the units have been offered to the public; and

(ii) no fewer than 50 persons hold units in it; or

(d) that is a managed investment scheme within the meaning of Chapter 5C of the *Corporations Act 2001* of the Commonwealth and in respect of which –

(i) some or all of the units have been offered to the public; and

(ii) no fewer than 50 persons hold units in it; or

(e) that, in the opinion of the Commissioner, will satisfy paragraph (a), (b), (c) or (d) within 12 months after the Commissioner gives written notice of that opinion to a person who has requested the Commissioner to express that opinion in relation to the unit trust scheme;

put and call option means an agreement or arrangement that provides for both a call option and a put option in respect of the same dutiable property;

put option means a right, conferred by an agreement or arrangement, to require a person to acquire dutiable property;

recognised stock exchange means –

(a) the London Stock Exchange; or

(b) the New York Stock Exchange; or

(c) NZX Limited, also known as the New Zealand Stock Exchange; or

(d) a stock exchange that is, or in respect of which its operator is, a member of the World Federation of Exchanges; or

(e) a stock exchange declared to be a recognised stock exchange under section 254;

Recorder of Titles means the person appointed as Recorder of Titles under section 4(1) of the *Land Titles Act 1980*;

registered insurer means an insurer registered under Part 3 of Chapter 7;

related body corporate has the same meaning as in the Corporations Act;

related corporation has the meaning given by section 154(4);

related person means a person who is related to another person in accordance with any of the following provisions:

(a) natural persons are related persons if –

(i) one is the spouse or caring partner of the other; or

(ii) the relationship between them is that of a grandparent and grandchild, a parent and child, brothers, sisters, or brother and sister;

(b) private companies are related persons if they are related bodies

corporate within the meaning of the Corporations Act;

(c) a natural person and a private company are related persons if the natural person is a majority shareholder or director of the company or of another private company that is a related body corporate of the company within the meaning of the Corporations Act;

(d) a natural person and a trustee are related persons if the natural person is a beneficiary of the trust (not being a public unit trust scheme) of which the trustee is a trustee;

(e) a private company and a trustee are related persons if the company, or a majority shareholder or director of the company, is a beneficiary of the trust (not being a public unit trust scheme) of which the trustee is a trustee;

relationship property, in relation to a personal relationship, means –

(a) property of the parties to the personal relationship or of either of them; or

(b) property held by a related person of the parties to the personal relationship or of either of them; or

(c) any estate or interest in the property referred to in paragraph (a) or (b) of this definition;

relative means a person referred to in section 225(3);

replica has the meaning given by section 220(4);

residential care service means premises where accommodation and personal care or nursing are provided to an elderly person who is not a member of the immediate family of the proprietor of the service, but does not include a service providing accommodation for persons otherwise living independently, even though the provision of accommodation may or may not include domestic services such as the preparation of meals, cleaning services and laundry services;

responsible entity, in relation to a managed investment scheme, has the same meaning as in the Corporations Act;

right, in relation to shares or units, means any right (whether actual, prospective or contingent) of a person to have shares or units issued by a company or trust to the

person, whether or not on payment of money or for other consideration, but does not include a convertible note;

shares includes rights to shares;

significant relationship has the same meaning as in the *Relationships Act 2003*;

special disability trust has the meaning it has in section 1209L of the *Social Security Act 1991* of the Commonwealth;

spouse, in relation to a person, includes the person who is in a significant relationship with that person;

surrogate child, in relation to another person, means a person –

(a) who is a child of the other person by virtue of the operation of section 26(1) of the *Surrogacy Act 2012*, or a law, of another State or a Territory or a foreign country, that corresponds to that Act; and

(b) who has not ceased to be a child of the other person under that Act or law;

Tasmanian company means –

(a) a company incorporated or taken to be incorporated under the

Corporations Act that is taken to be registered in Tasmania; or

(b) any other body corporate that is incorporated under a Tasmanian Act;

trailer means a trailer as defined in the *Vehicle and Traffic Act 1999*;

transferee includes a person referred to in Column 3 of the table in section 7;

unencumbered value has the meaning given by section 20;

unit, in relation to a unit trust scheme, means –

(a) a right or interest (whether described as a unit or a sub-unit or otherwise) of a beneficiary under the scheme; or

(b) a right to any such right or interest;

unit trust scheme means any arrangements made for the purpose, or having the effect, of providing, for persons having funds available for investment, facilities for the participation by them, as beneficiaries under a trust, in any profits, income or distribution of assets arising from the acquisition, holding, management or disposal of any property whatever pursuant to the trust;

4. Meaning of child for purpose of definition of *related person*

For the purpose of the definition of *related person* in section 3, a person is the child of another person if the person is –

(a) a natural child of the other person who has not ceased to be a child of the person by virtue of the operation of section 26(1) of the *Surrogacy Act 2012* or a law, of another State or a Territory or a foreign country, that corresponds to that Act; or

(b) a step-child of the person; or

(c) an adopted child of the person; or

(d) a surrogate child of the person.

4A. Meaning of foreign corporation

(1) In this section –

potential voting power has the same meaning as in section 22 of the *Foreign Acquisitions and Takeovers Act 1975* of the Commonwealth;

voting power has the same meaning as in the *Foreign Acquisitions and Takeovers Act 1975* of the Commonwealth.

(2) For the purposes of this Act, a corporation is a foreign corporation if it is –

(a) incorporated outside Australia; or

(b) a corporation in which foreign persons have a significant interest.

(3) For the purposes of subsection (2)(b), foreign persons have a significant interest in a corporation if, taking their interests in aggregate, one or more foreign persons –

(a) are in a position to control 50% or more of the voting power in the corporation; or

(b) are in a position to control 50% or more of the potential voting power in the corporation; or

(c) have an interest in 50% or more of the issued shares in the corporation.

(4) For the purposes of subsection (3), a reference to control of the voting power in a corporation is a reference to control that is direct or indirect, including control that is exercisable as a result, or by means, of arrangements or practices, whether or not having legal or equitable force, and whether or not based on legal or equitable rights.

(5) For the purposes of subsection (3), to determine how much potential voting power a person is in a position to control at a particular time, section 22(3) of the *Foreign Acquisitions and Takeovers Act 1975* of the Commonwealth is to be applied.

4B. Meaning of foreign trust

(1) For the purposes of this Act, a foreign trust is a trust in which foreign persons have a substantial interest in the trust estate.

(2) For the purposes of subsection (1), foreign persons have a substantial interest in a trust estate if, taking their interests in aggregate, one or more foreign persons have a beneficial interest of 50% or more in the capital of the estate of the trust.

(3) If, under the terms of a trust, a trustee has a power or discretion as to the distribution of the capital of the trust estate to a person or a member of a class of persons, any such person is taken to have a beneficial interest in the maximum percentage of the capital of the trust estate that the trustee is empowered to distribute to that person.

(4) If a trust is a self managed superannuation fund, within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, then, for the purposes of subsection (1), a member of the fund is taken to have a beneficial interest in the capital of the fund, to be calculated as the amount to which the member would be entitled on transfer of the member's membership to another self managed superannuation fund.

(5) For the purposes of subsection (4), a reference to a member of a superannuation fund includes a reference to a beneficiary of the fund.

(6) If a trust is established by a testamentary instrument, then, for the purposes of subsection (1), a beneficiary of the trust is taken to have a beneficial interest in the capital of the trust, to be calculated as the amount to which the beneficiary would be entitled were the estate fully administered.

4C. Presumption in respect of corporations and trusts

For the purposes of the definition of foreign person –

(a) all corporations are taken to be foreign corporations; and

(b) all trusts are taken to be foreign trusts –

unless the Commissioner is satisfied under section 4A, 4B, 30HB, 30L or 30M that the corporation or trust is not a foreign corporation or a foreign trust.

5. Act read together with *Taxation Administration Act 1997*

This Act is to be read together with the *Taxation Administration Act 1997*.

CHAPTER 2 – TRANSACTIONS CONCERNING DUTIABLE PROPERTY

PART 1 – INTRODUCTION AND OVERVIEW

6. Imposition of duty on certain transactions concerning dutiable property

(1) This Chapter charges duty on –

(a) a transfer of dutiable property; and

(b) the following transactions:

(i) . . . . . .

(ii) a declaration of trust;

(iii) a grant or surrender of an interest in land in Tasmania;

(iv) a foreclosure of a mortgage over dutiable property;

(v) . . . . . .

(vi) any other transaction that results in a change of beneficial ownership of dutiable property; and

(c) a vesting of dutiable property –

(i) by, or expressly authorised under, a statute of this State or any other

jurisdiction, whether in Australia or elsewhere; or

(ii) by, or under, an order of a court of this State or any other jurisdiction, whether in Australia or elsewhere.

(2) Such a transfer, transaction or vesting is a dutiable transaction for the purposes of this Act.

(2A) For the purposes of, but without limiting, subsection (1)(c)(i) –

(a) property is vested by or under a statute if the statute vests the property in an entity that is the successor in law to or continuation of, or the same entity as, the entity in which the property was formerly vested; but

(b) property is not vested by or under a statute on the registration of a company under Part 5B.1 of Chapter 5B of the Corporations Act.

(3) In this Chapter –

declaration of trust means any declaration (other than by a will or testamentary instrument) that any identified property vested or to be vested in the person making the declaration is or is to be held in trust for the person or persons, or the purpose or purposes, mentioned in the declaration although the beneficial owner of the property, or the person entitled to

appoint the property, may not have joined in or assented to the declaration;

transfer includes an assignment and an exchange.

7. Imposition of duty on dutiable transactions that are not transfers

(1) The duty charged by this Chapter on a dutiable transaction referred to in section 6(1)(b) or (c) is to be charged as if each such dutiable transaction were a transfer of dutiable property.

(2) Accordingly, for the purpose of charging duty under this Chapter, in relation to a dutiable transaction specified in Column 1 of the following Table –

(a) the property specified opposite the dutiable transaction in Column 2 is taken to be the property transferred (and a reference in this Act to property transferred includes a reference to such property); and

(b) the person specified opposite the dutiable transaction in Column 3 is taken to be the transferee of the dutiable property (and a reference in this Act to a transferee includes a reference to such a person); and

(c) the transfer of the dutiable property is taken to have occurred at the time specified opposite the dutiable

transaction in Column 4 (and a reference in this Act to the time at which a transfer occurs includes a reference to such a time).

Column 1 Dutiable transaction	**Column 2 Property transferred**	**Column 3 Transferee**	**Column 4 When transfer occurs**
declaration of trust	the property vested or to be vested in the declarant	the person declaring the trust	when the declaration is made
grant or surrender	the granted or surrendered property	the person to whom the property is granted or surrendered	when the grant or surrender takes place
foreclosure	the mortgaged property	the mortgagee	when the foreclosure order is made
vesting by or as a consequence of court order	the vested property	the person in whom the property is vested	when the vesting occurs
vesting by or as a consequence of statute	the vested property	the person in whom the property is vested	when the vesting occurs
giving, granting or issue of licence	the licence	the person to whom the licence is issued	when the licence is issued

Column 1 Dutiable transaction	Column 2 Property transferred	Column 3 Transferee	Column 4 When transfer occurs
any other transaction that results in a change in beneficial ownership of dutiable property	the property the beneficial ownership of which is changed (but only to the extent of the change in beneficial ownership)	the person who obtains the beneficial ownership or whose beneficial ownership is increased	when beneficial ownership changes

8. What form must a dutiable transaction take?

It is immaterial whether or not a dutiable transaction is effected by a written instrument or by any other means, including electronic means.

9. What is dutiable property?

(1) Dutiable property is any of the following:

(a) land in Tasmania;

(b) a mineral tenement;

(c) fixtures to land or a mineral tenement;

(d) a land use entitlement;

(e - h) . . . . . .

(i) a partnership interest, being an interest in a partnership that has partnership

property that is dutiable property elsewhere referred to in this section;

(j) goods in Tasmania, if the subject of an arrangement that includes a dutiable transaction over any dutiable property elsewhere referred to in this section, not including the following:

(i) goods that are stock-in-trade;

(ii) materials held for use in manufacture;

(iii) goods under manufacture;

(iv) livestock;

(v) a registered motor vehicle that is not exempted from motor tax under the *Vehicle and Traffic Act 1999* or the *Transport Act 1981*;

(k) an option to purchase dutiable property;

(l) an interest in any dutiable property referred to in the preceding paragraphs of this section, except to the extent that –

(i) it arises as a consequence of the ownership of a unit in a unit trust scheme and is not a land use entitlement; or

(ii) it is, or is attributable to, an option over dutiable property.

(iii) . . . . . .

(2 - 3) . . . . . .

10. When does a liability for duty arise?

A liability for duty charged by this Chapter arises when a dutiable transaction occurs.

11. Who is liable to pay the duty?

Duty charged by this Chapter is payable by the transferee, unless this Chapter requires another person to pay the duty.

12. The liability of joint tenants

For the purpose of assessing duty charged by this Chapter, joint tenants of dutiable property are taken to hold the dutiable property as tenants in common in equal shares.

13. Necessity for written instrument or written statement

(1) If a dutiable transaction that is liable to *ad valorem* duty under this Chapter is not effected by a written instrument, the transferee must make a written statement in a form approved by the Commissioner.

(2) The written statement must be made within 3 months after the liability arises.

(3) Subject to a special arrangement approved under Part 6 of the *Taxation Administration Act 1997*, if a dutiable transaction is completed or

evidenced by a written instrument within 3 months after the date on which the dutiable transaction occurs, the requirement to lodge a statement and pay duty in respect of the statement may be satisfied by the lodgement of and payment of duty on the written instrument within 3 months after the date on which the dutiable transaction occurs.

14. Lodging written instrument or written statement with Commissioner

Subject to a special arrangement approved under Part 6 of the *Taxation Administration Act 1997*, a transferee who is liable to pay duty in respect of a dutiable transaction must, within 3 months after the liability arises, lodge with the Commissioner –

(a) the written instrument that effects the dutiable transaction or, if there is more than one such written instrument, each one of them as provided by section 16(1); or

(b) the written statement made in compliance with section 13.

15. When must duty be paid?

A tax default does not occur for the purposes of the *Taxation Administration Act 1997* if duty is paid within 3 months after the liability to pay the duty arises.

16. No double duty

(1) If a dutiable transaction is effected by more than one instrument, one instrument is to be stamped with the duty payable on the dutiable transaction and each other instrument is to be stamped with nil duty payable.

(2) If a dutiable transaction is effected electronically (in accordance with the *Electronic Transactions Act 2000*) in whole or in part and duty has been paid, no further duty is payable in respect of an instrument or electronic transaction that forms part of the dutiable transaction.

(3) No duty is chargeable under this Chapter on a transfer to a trustee of dutiable property subject to a declaration of trust if *ad valorem* duty has been paid on the declaration of trust in respect of the same dutiable property.

(4) No duty is chargeable under this Chapter on a declaration of trust that declares the same trusts as those upon and subject to which the same dutiable property was transferred to the person declaring the trust if *ad valorem* duty has been paid on the transfer.

17. What is the rate of duty?

Duty is charged on the dutiable value of the dutiable property subject to the dutiable transaction at the relevant rate set out in Part 3.

PART 2 – DUTIABLE VALUE

18. What is the dutiable value of dutiable property?

(1) The dutiable value of dutiable property that is subject to a dutiable transaction is the greater of –

(a) the consideration (if any) for the dutiable transaction (being the amount of a monetary consideration or the value of a non-monetary consideration, or both); and

(b) the unencumbered value of the dutiable property.

(2) The dutiable value of dutiable property transferred by way of foreclosure is the unencumbered value of the dutiable property and not the value of the debt secured by the mortgaged property.

(3 - 4) . . . . . .

19. What is the consideration for the transfer of dutiable property?

(1) The consideration for the transfer of dutiable property is taken to include the amount or value of all encumbrances, whether certain or contingent, subject to which the dutiable property is transferred.

(2) Subject to the grant of an application under subsection (5), if, as part of an arrangement involving a dutiable transaction over dutiable property agreed by an agreement for sale (the ***relevant agreement***) –

(a) the transferor or an associated person of the transferor effects improvements (the ***relevant improvements***) to the dutiable property after the relevant agreement was entered into; and

(b) the relevant improvements –

(i) involve the construction on the dutiable property of a single home (other than a flat, home unit or other similar building) that –

(A) may be lawfully occupied as a place of residence; and

(B) is intended for occupation as a place of residence; and

(ii) are, or will be, work within the meaning of the *Building Act 2016*; and

(c) there is not, at the time of the relevant agreement, a building on the dutiable property that may be lawfully occupied as a place of residence –

the consideration for the dutiable transaction does not include the consideration relating to the relevant improvements performed on the dutiable property after the relevant agreement but before the dutiable transaction.

(3) For the purposes of subsection (2), the following do not constitute improvements in relation to a dutiable property:

(a) works that are –

(i) necessary for, or related to, preparation of the site, on which a single home is to be constructed on the dutiable property, to enable the construction to occur; and

(ii) preliminary to the construction of the single home –

including but not limited to works consisting of excavation (other than excavation for the purposes of enabling footings for the single home to be established), levelling of land or the removal of vegetation;

(b) underground infrastructure, and the installation of underground infrastructure, on the dutiable property, including but not limited to underground infrastructure for the purposes of the provision of electricity, water, sewerage or telecommunications services.

(4) A transferee in respect of a dutiable transaction may apply, in the approved form, to the Commissioner to determine that consideration for the dutiable transaction does not include the consideration relating to the relevant improvements performed on the dutiable property after the relevant agreement but before the dutiable transaction.

(5) If the Commissioner is satisfied that the requirements of subsection (2)(a), (b) and (c) have been met in relation to the dutiable property that is the subject of the dutiable transaction, the Commissioner may grant the application made under subsection (4) in relation to that transaction.

(6) Despite the Commissioner granting an application under subsection (5), the transferee in relation to the application may apply to the Commissioner to have the grant of the application revoked.

20. What is the unencumbered value of dutiable property?

(1) The unencumbered value of dutiable property is the amount for which the property might reasonably have been sold in the open market or as calculated by sections 247 and 248(2) and (2A), as may be appropriate –

(a) in the case of a transfer of dutiable property on a sale of the property, at the time the agreement for sale was entered into; or

(b) in any other case, at the time the dutiable transaction occurred –

free from any encumbrance to which the property was subject at that time.

(2) . . . . . .

(3) If, before land is transferred to a transferee, the transferee has made improvements to the land, the unencumbered value of the land is to be determined as if those improvements had not been made.

21. Arrangements that reduce the dutiable value

(1) In determining the dutiable value of dutiable property under this Part, any interest, agreement or arrangement (other than an encumbrance) granted or made in respect of the dutiable property that has the effect of reducing the dutiable value is to be disregarded, subject to subsection (2).

(2) An interest, agreement or arrangement is not to be disregarded if the Commissioner is satisfied that it was not granted or made as part of an arrangement or scheme with a collateral purpose of reducing the duty otherwise payable on the dutiable transaction.

(3) In considering whether or not he or she is satisfied for the purposes of subsection (2), the Commissioner may have regard to –

(a) the duration of the interest, agreement or arrangement before the dutiable transaction; and

(b) whether the interest, agreement or arrangement has been granted to or made with an associated person; and

(c) whether there is any commercial efficacy to the granting of the interest or the making of the agreement or arrangement other than to reduce duty; and

(d) any other matters the Commissioner considers relevant.

22. Aggregation of dutiable transactions

(1) Dutiable transactions relating to separate items of dutiable property, or separate parts of, or interests in, dutiable property are to be aggregated and treated as a single dutiable transaction if –

(a) either –

(i) in the case of dutiable transactions that are transfers on a sale of an item or part of dutiable property, the agreements for sale are entered into within 12 months; or

(ii) in any other case, the dutiable transactions occur within 12 months; and

(b) the transferee is the same or the transferees are associated persons; and

(c) the dutiable transactions together form, evidence, give effect to or arise from what is, substantially, one arrangement relating to all of the items or parts of, or interests in, the dutiable property.

(2) Dutiable transactions are not to be aggregated under this section if the Commissioner is satisfied that it would not be just and reasonable to do so in the circumstances.

(2A) In considering whether or not he or she is satisfied for the purposes of subsection (2), it is just and reasonable for the Commissioner to determine that it is appropriate to aggregate a gift that is interdependent with, or forms substantially part of one arrangement with, a transaction of value.

(3) The dutiable value of aggregated dutiable property is the sum of the dutiable values of the items or parts of, or the interests in, the dutiable property as at the time at which each dutiable transaction occurs.

(4) The amount of duty payable in accordance with this section is to be reduced by the amount of any *ad valorem* duty paid on a prior dutiable transaction that is, or prior dutiable transactions that are, aggregated in accordance with this section.

(5) Duty may be apportioned to the instruments effecting or evidencing the dutiable transactions,

or may be charged in accordance with section 16(1), as determined by the Commissioner.

(6) Subject to a special arrangement approved under Part 6 of the *Taxation Administration Act 1997*, a transferee to whom this section applies must disclose to the Commissioner, in writing, at or before the time at which an instrument or statement relating to the dutiable transactions is lodged for stamping, details known to the transferee of –

(a) all of the items or parts of, or interests in, the dutiable property included or to be included in the arrangement referred to in subsection (1); and

(b) the consideration for each item or part of, or interest in, that dutiable property.

Penalty: Fine not exceeding 100 penalty units.

(7) . . . . . .

23. Apportionment – dutiable property and other property

(1) If a dutiable transaction relates to dutiable property and property that is not dutiable property, it is chargeable with duty under this Chapter only to the extent that it relates to dutiable property.

(2) If a dutiable transaction relates to different types of dutiable property for which different rates of

duty are chargeable under this Chapter, the dutiable transaction is chargeable with duty under this Chapter as if a separate dutiable transaction had occurred in relation to each such type of dutiable property.

24. Certain transactions concerning leases of commercial property

(1) The Commissioner, if satisfied that it would not be just and reasonable in the circumstances to charge duty on the dutiable value of all the dutiable property in a dutiable transaction, which transaction –

(a) consists of a grant, surrender or transfer of a lease of a commercial property; and

(b) involves goods that are dutiable property in accordance with section 9(1)(j) –

may disregard the value of all or any of the goods in determining the dutiable value of the property.

(2) For the purposes of subsection (1), a lease of a commercial property is a lease in respect of real property that is to be used for the purposes of a business, whether or not there are premises on the property that may be used in whole or in part as a residence.

(3) The Commissioner may only exercise the discretion referred to in subsection (1) if satisfied that the dutiable transaction was not

structured for the purpose of reducing or avoiding the payment of duty.

25. Partnership interests

(1) The dutiable value of a partnership interest is to be determined in accordance with the following formula:

$$DV = A \times \frac{X}{Y}$$

where –

DV is the dutiable value;

A is the value of the partnership interest, or so much of the consideration for the dutiable transaction as relates to the partnership interest, whichever is the greater;

X is the unencumbered value of all dutiable property of the partnership;

Y is the unencumbered value of all assets of the partnership.

(2) If the property of a partnership includes a land-related asset and an interest in the land-related asset is transferred as a result of the transfer of a partnership interest, the unencumbered value of all dutiable property of the partnership ("X" in subsection (1)) is to be reduced by the unencumbered value of the land-related asset, but only if ad valorem duty has been paid or is payable on the transfer of the interest in the land-

related asset or if the transfer of the interest in the land-related asset is exempt from duty.

(3) For the purposes of subsection (2), each of the following items of dutiable property is a land-related asset:

(a) land in Tasmania;

(b) a land use entitlement;

(c) an interest in an item of dutiable property referred to in paragraph (a) or (b).

26. Partitions

(1) For the purposes of this section, a partition occurs when property (some or all of which is dutiable property) that is held by persons jointly (as joint tenants or tenants in common) and beneficially is transferred or agreed to be transferred to one or more of those persons.

(2) For the purposes of this section and sections 14 and 16, a partition is taken to be a single dutiable transaction.

(3) The dutiable value of a partition is to be determined in accordance with the following formula:

$$DV = A \times \frac{X}{Y}$$

where –

DV is the dutiable value;

A is the sum of the amounts by which the unencumbered value of the property transferred or agreed to be transferred to a person exceeds the unencumbered value of the interest held by the person in that property immediately before the partition, or the sum of any consideration for the partition paid by any of the parties, whichever is the greater;

X is the unencumbered value of all dutiable property the subject of the partition;

Y is the unencumbered value of all property the subject of the partition.

(4) . . . . . .

(5) The minimum duty chargeable on a transaction that effects a partition is $50.

(6) Duty charged by this section is payable by the persons making the partition or any one or more of them.

27. Effect of alteration in purchase price

If, after an agreement for the sale of dutiable property is entered into and before the property is transferred –

(a) the consideration under the agreement is reduced and the reduced consideration is not less than the unencumbered value of the dutiable property when the consideration was reduced; or

(b) the consideration under the agreement is reduced because the parties have agreed not to transfer some of the dutiable property previously agreed to be transferred and the reduced consideration is not less than the unencumbered value of the dutiable property that remained to be transferred when the consideration was reduced; or

(c) the consideration under the agreement is increased and the dutiable value when the consideration was increased is greater than the dutiable value when the agreement was entered into –

the Commissioner must assess or reassess the liability to duty of the transfer in accordance with the change in the consideration.

28. Entitlements of joint purchasers

(1) If any property is agreed to be purchased by 2 or more persons otherwise than as joint tenants, the agreement for the purchase is to specify the part to be taken by each purchaser.

(2) In the absence of such a specification referred to in subsection (1), the purchasers are taken to have purchased the property in equal shares.

PART 3 – RATES OF DUTY

29. General rate

(1) The rate of duty chargeable on a dutiable transaction is as follows:

The dutiable value of the dutiable property subject to the dutiable transaction	Rate of duty
Not more than $3 000	$50
More than $3 000 but not more than $25 000	$50 plus $1.75 for every $100, or part, by which the dutiable value exceeds $3 000
More than $25 000 but not more than $75 000	$435 plus $2.25 for every $100, or part, by which the dutiable value exceeds $25 000
More than $75 000 but not more than $200 000	$1 560 plus $3.50 for every $100, or part, by which the dutiable value exceeds $75 000
More than $200 000 but not more than $375 000	$5 935 plus $4 for every $100, or part, by which the dutiable value exceeds $200 000
More than $375 000 but not more than $725 000	$12 935 plus $4.25 for every $100, or part, by which the dutiable value exceeds $375 000
More than $725 000	$27 810 plus $4.50 for every $100, or part, by which the dutiable value exceeds $725 000

(2) This rate applies unless other provision is made by this Chapter.

PART 3A – ADDITIONAL DUTY ON CERTAIN DUTIABLE TRANSACTIONS INVOLVING FOREIGN PERSONS

30. Meaning of primary production property

For the purposes of this Part, primary production property means the following:

(a) land in Tasmania that –

(i) is capable of being lawfully used solely or primarily for primary production purposes; or

(ii) a person intends to develop so the land is capable of being lawfully used solely or primarily for primary production purposes;

(b) an option to purchase land, to the extent that the option to purchase land relates to land referred to in paragraph (a);

(c) a land use entitlement, to the extent that the land use entitlement relates to land referred to in paragraph (a);

(d) a partnership interest, being an interest in a partnership that has partnership property, to the extent that the partnership property relates to –

(i) land referred to in paragraph (a); or

(ii) an option to purchase land referred to in paragraph (b); or

(iii) a land use entitlement referred to in paragraph (c);

(e) goods in Tasmania on which duty is chargeable under Part 1 if –

(i) those goods are dutiable property in accordance with section 9(1)(j); and

(ii) those goods are part of an arrangement involving a dutiable transaction over land referred to in paragraph (a); and

(iii) the use of the goods can be directly linked to, or is incidental to the use, or intended use, for primary production purposes, of, all or part of the land referred to in paragraph (a).

30A. Meaning of residential property

(1) For the purposes of this Part, residential property means the following:

(a) land in Tasmania –

(i) which is vacant land on which a building may be lawfully built and occupied as a place of residence so that the land is

capable of being lawfully used solely or primarily for residential purposes; or

(ii) which is capable of being lawfully used solely or primarily for residential purposes; or

(iii) which includes a building, or part of a building, that a person intends to have refurbished or extended so the land is capable of being lawfully used solely or primarily for residential purposes; or

(iv) on which a person intends to have a building constructed so the land is capable of being lawfully used solely or primarily for residential purposes; or

(v) in respect of which a person has undertaken or intends to undertake land development for the purposes of –

(A) constructing a building so the land is capable of being lawfully used solely or primarily for residential purposes; or

(B) enabling another person to construct a building so the land is capable of

being lawfully used solely or primarily for residential purposes;

(b) an option to purchase land, to the extent that the option to purchase land relates to land referred to in paragraph (a);

(c) a land use entitlement, to the extent that the land use entitlement relates to land referred to in paragraph (a);

(d) a partnership interest, being an interest in a partnership that has partnership property, to the extent that the partnership property relates to –

(i) land referred to in paragraph (a); or

(ii) an option to purchase land referred to in paragraph (b); or

(iii) a land use entitlement referred to in paragraph (c);

(e) goods in Tasmania on which duty is chargeable under Part 1 if –

(i) those goods are dutiable property in accordance with section 9(1)(j); and

(ii) those goods are part of an arrangement involving a dutiable

transaction over land referred to in paragraph (a); and

(iii) the use of the goods can be directly linked to, or is incidental to the use, or intended use, for residential purposes, of, all or part of the land referred to in paragraph (a).

(2) Despite subsection (1), residential property does not include land on which a building is being lawfully used solely, or primarily, as one of the following premises:

(a) a commercial establishment whose primary purpose is to offer short-term accommodation, or lodging, to persons for consideration;

(b) a hostel or boarding house;

(c) premises that are primarily used, to provide residential accommodation, by or on behalf of –

(i) a school, within the meaning of the *Education Act 2016*; or

(ii) TasTAFE, within the meaning of the *Education Act 2016*; or

(iii) an institution within the meaning of the *Higher Education Funding Act 1988* of the Commonwealth;

(d) a residential care service, within the meaning of the *Land Tax Act 2000*;

(e) a retirement village, within the meaning of the *Land Tax Act 2000*.

(3) For the purposes of subsection (2), premises that are short stay premises, within the meaning of the *Short Stay Accommodation Act 2019*, are not commercial establishments.

30AA. Determinations in relation to use of land

(1) The Commissioner may make a determination that, for the purposes of section 30, land is, or will be, capable of being lawfully used primarily for primary production purposes if the Commissioner is satisfied, on reasonable grounds, that at least 50% of the land is, or will be, capable of being used for such a purpose, whether or not the land is, or will be, capable of use for another purpose.

(2) The Commissioner may make a determination that, for the purposes of section 30A, land is, or will be, capable of being lawfully used primarily for residential purposes if the Commissioner is satisfied, on reasonable grounds, that at least 50% of the land is, or will be, capable of being used for such a purpose, whether or not the land is, or will be, capable of use for another purpose.

30B. Dutiable transactions relating to more than one parcel of land

For the purposes of calculating duty under this Part, if a dutiable transaction relates to more than one parcel of land, each parcel of land is taken to be a separate item of dutiable property.

30C. Additional duty chargeable for foreign purchasers of residential property

(1) This section applies to a dutiable transaction if –

(a) the dutiable transaction relates to dutiable property that is residential property; and

(b) a transferee who is liable to pay duty in respect of the dutiable transaction is a foreign person.

(2) In addition to the duty otherwise chargeable under Part 1, duty is also chargeable on the dutiable transaction at a rate of 8% of the dutiable value of the residential property.

(2A) Despite subsection (2), if –

(a) duty is chargeable under this section on a dutiable transaction; and

(b) the dutiable transaction is the result of a written agreement for sale that was entered into before 1 April 2020 –

the duty chargeable on the dutiable transaction under subsection (2) is chargeable at a rate of 3% of the dutiable value of the residential property.

(3) Duty under subsection (2) is to be charged only on the proportion of the dutiable value of the residential property that is the same as the proportion of the interest acquired in the residential property by a foreign person or foreign persons.

(4) Except as provided by Division 11 of Part 9 of the *Local Government Act 1993*, if a liability to duty arises under this section on a dutiable transaction that relates to land that is residential property in accordance with section 30A(a), that liability is a first charge on that land in priority to all mortgages, rates, charges, liens and encumbrances.

30D. Duty in respect of change of land to residential property

(1) This section applies to a dutiable transaction if –

(a) duty was charged on the dutiable transaction under Chapter 2; and

(b) a transferee who was liable to pay duty in respect of the dutiable transaction –

(i) was a foreign person at the time of the dutiable transaction; or

(ii) became a foreign person within the 3-year period after the dutiable transaction; and

(c) within the 3-year period after the dutiable transaction, dutiable property that was the subject of the dutiable transaction became residential property.

(2) This section does not apply to a dutiable transaction if, at the time the dutiable property referred to in subsection (1)(c) became residential property, the transferee referred to in subsection (1)(b) did not own an interest in the dutiable property.

(3) A transferee referred to in subsection (1)(b) must, within 14 days of the dutiable property referred to in subsection (1)(c) becoming residential property, notify the Commissioner in an approved form of that fact, if the dutiable property has become residential property within the period specified in subsection (1)(c).

Penalty: Fine not exceeding 100 penalty units.

(4) If the Commissioner becomes aware that dutiable property referred to in subsection (1)(c) has become residential property within the period specified in that subsection, the Commissioner must reassess the duty payable on the dutiable transaction as if, at the time the dutiable transaction occurred, that dutiable property was residential property.

(5) If –

(a) the dutiable property referred to in subsection (1)(c) was primary production property; and

(b) as a consequence of a reassessment under subsection (4), duty is chargeable on that property under this section –

the amount of duty payable under this section on the dutiable transaction is to be reduced by the amount of duty (if any) previously paid in respect of that property under section 30E.

(6) Despite section 10, if duty is charged as a consequence of a reassessment under subsection (4), liability for that duty arises when the dutiable property referred to in subsection (1)(c) becomes residential property.

30DA. Reassessment of duty if premises cease to be residential premises

(1) This section applies to the transferee for a dutiable transaction in relation to dutiable property if –

(a) at the time of the dutiable transaction, the dutiable property was dutiable property to which subsection (2) applies; and

(b) within 12 months after the dutiable transaction, the dutiable property ceases to be residential property because premises situated on the dutiable

property become premises to which section 30A(2) relates.

(2) This subsection applies to dutiable property at the time of a dutiable transaction if, at that time, the dutiable property was residential property only by reason that a building on the dutiable property that had, within the 12-month period before that time, been used solely, or primarily, as premises to which section 30A(2) relates, was not being used solely, or primarily, as such premises.

(3) A transferee to whom this section applies may apply to the Commissioner, in writing, to reassess the duty payable under this Part on a dutiable transaction in relation to dutiable property as if, at the time at which the dutiable transaction occurred, the dutiable property was not residential property because premises situated on the dutiable property were premises to which section 30A(2) applies.

(4) A transferee may only apply for a reassessment under subsection (3) if the transferee has not transferred all, or any part, of the property that was the subject of the dutiable transaction.

(5) If the Commissioner receives an application under subsection (3) in respect of a dutiable transaction in relation to dutiable property and the Commissioner is satisfied that the transferee is a transferee to whom this section applies, the Commissioner must –

(a) reassess the duty payable under this Part on the dutiable transaction as if, at the time at which the dutiable transaction occurred, the dutiable property was not residential property because premises situated on the dutiable property were premises to which section 30A(2) applies; and

(b) refund any amount of duty paid in respect of the dutiable transaction that is in excess of the amount so reassessed.

(6) If dutiable property to which this section applies becomes residential property again within the 3-year period after the relevant dutiable transaction, section 30D(2), (3), (4) and (6) apply to the dutiable transaction as if a reference to subsection (1)(c) were a reference to this subsection.

30E. Additional duty chargeable for foreign purchasers of primary production property

(1) This section applies to a dutiable transaction if –

(a) the dutiable transaction relates to dutiable property that is primary production property; and

(b) a transferee who is liable to pay duty in respect of the dutiable transaction is a foreign person.

(2) In addition to the duty otherwise chargeable under Part 1, duty is also chargeable on the dutiable transaction at a rate of 1.5% of the dutiable value of the primary production property.

(2A) Despite subsection (2), if –

(a) duty is chargeable under this section on a dutiable transaction; and

(b) the dutiable transaction is the result of a written agreement for sale that was entered into before 1 April 2020 –

the duty chargeable on the dutiable transaction under subsection (2) is chargeable at a rate of 0.5% of the dutiable value of the primary production property.

(3) Duty under subsection (2) is to be charged only on the proportion of the dutiable value of the primary production property that is the same as the proportion of the interest acquired in the primary production property by a foreign person or foreign persons.

(4) Except as provided by Division 11 of Part 9 of the *Local Government Act 1993*, if a liability to duty arises under this section on a dutiable transaction that relates to land that is primary production property in accordance with section 30(a), that liability is a first charge on that land in priority to all mortgages, rates, charges, liens and encumbrances.

30F. Duty in respect of change of land to primary production property

(1) This section applies to a dutiable transaction if –

(a) duty was charged on the dutiable transaction under Chapter 2; and

(b) a transferee who was liable to pay duty in respect of the dutiable transaction –

(i) was a foreign person at the time of the dutiable transaction; or

(ii) became a foreign person within the 3-year period after the dutiable transaction; and

(c) within the 3-year period after the dutiable transaction, dutiable property that was the subject of the dutiable transaction became primary production property.

(2) This section does not apply to a dutiable transaction if the dutiable property referred to in subsection (1)(c) was residential property at the time of the dutiable transaction.

(3) This section does not apply to a dutiable transaction if, at the time the dutiable property referred to in subsection (1)(c) became primary production property, the transferee referred to in subsection (1)(b) did not own an interest in the dutiable property.

(4) A transferee referred to in subsection (1)(b) must, within 14 days of the dutiable property referred to in subsection (1)(c) becoming primary production property, notify the Commissioner in an approved form of that fact, if the dutiable property has become primary production property within the period specified in subsection (1)(c).

Penalty: Fine not exceeding 100 penalty units.

(5) If the Commissioner becomes aware that dutiable property referred to in subsection (1)(c) has become primary production property within the period specified in that subsection, the Commissioner must reassess the duty payable on the dutiable transaction as if, at the time the dutiable transaction occurred, that dutiable property was primary production property.

(6) Despite section 10, if duty is charged as a consequence of a reassessment under subsection (5), liability for that duty arises when the dutiable property referred to in subsection (1)(c) becomes primary production property.

30G. Concessions

(1) Duty is not chargeable on a dutiable transaction under this Part if the dutiable transaction attracted a duty concession under Part 5.

(2) Subsection (1) does not apply in respect of a dutiable transaction if the dutiable transaction attracted a duty concession under section 50.

30H. Reassessment of duty if transferee becomes a foreign person

(1) This section applies to a dutiable transaction if –

(a) the dutiable transaction related to dutiable property that was residential property or primary production property; and

(b) a transferee who was liable to pay duty in respect of the dutiable transaction became a foreign person within the 3-year period after the dutiable transaction.

(2) This section does not apply to a dutiable transaction if, at the time the transferee referred to in subsection (1)(b) became a foreign person, the transferee referred to in subsection (1)(b) did not own an interest in the dutiable property.

(3) A transferee to whom subsection (1)(b) applies must, within 14 days after becoming a foreign person, give notice of that fact to the Commissioner in an approved form.

Penalty: Fine not exceeding 100 penalty units.

(4) If the Commissioner becomes aware that a transferee referred to in subsection (1)(b) has become a foreign person within the period

specified in that subsection, the Commissioner must reassess the duty payable on the dutiable transaction as if, at the time the dutiable transaction occurred, that transferee was a foreign person.

(5) Despite section 10, if duty is charged as a consequence of a reassessment under subsection (4), liability for that duty arises when the transferee referred to in subsection (1)(b) becomes a foreign person.

30HA. Reassessment of duty if natural person transferee is no longer foreign person

(1) This section applies to the transferee for a dutiable transaction if –

(a) at the time of the dutiable transaction, the transferee was a foreign natural person; and

(b) within 6 months after the dutiable transaction, the transferee ceases to be a foreign natural person.

(2) A transferee to whom this section applies may apply to the Commissioner, in writing, to reassess the duty payable under this Part on a dutiable transaction as if, at the time the dutiable transaction occurred, the transferee was not a foreign person.

(3) A transferee may only apply for a reassessment under subsection (2) if the transferee has not

transferred all, or any part, of the property that was the subject of the dutiable transaction.

(4) If the Commissioner receives an application under subsection (2) in respect of a dutiable transaction and the Commissioner is satisfied that the transferee is a transferee to whom this section applies, the Commissioner must –

(a) reassess the duty payable under this Part on the dutiable transaction as if, at the time the dutiable transaction occurred, the transferee was not a foreign person; and

(b) refund any amount of duty paid in respect of the dutiable transaction that is in excess of the amount so reassessed.

(5) If a transferee to whom this section applies becomes a foreign person again within the 3-year period after the relevant dutiable transaction, section 30H(2), (3), (4) and (5) apply to the dutiable transaction as if a reference to subsection (1)(b) in section 30H were a reference to this subsection.

30HB. Reassessment of duty if trust is taken to not be foreign trust

(1) Despite section 4B, a trust is not a foreign trust in respect of a dutiable transaction if –

(a) at the time of the dutiable transaction the trust was a foreign trust; and

(b) under the terms of the trust deed, a trustee has a power or discretion referred to in section 4B(3) in respect of the distribution of the capital of the trust estate; and

(c) a trustee of the trust, in his or her capacity as trustee, was a transferee in respect of the dutiable transaction; and

(d) the trust deed for the trust is amended –

(i) if the dutiable transaction occurred before the *Duties Amendment Act 2020* received the Royal Assent, no later than 6 months after that Royal Assent; or

(ii) if the dutiable transaction occurred on or after the *Duties Amendment Act 2020* received the Royal Assent, within 6 months after the dutiable transaction; and

(e) as a result of the amendment to the trust deed, the trust is not a foreign trust; and

(f) a trustee of the trust has not –

(i) transferred or distributed to a foreign person; or

(ii) entered into an agreement to transfer or distribute to a foreign person –

all, or any part of, the dutiable property that was the subject of the dutiable transaction.

(2) If a trust is not a foreign trust in respect of a dutiable transaction by virtue of subsection (1), the transferee may apply to the Commissioner, in writing, to reassess the duty payable under this Part on the dutiable transaction.

(3) If the Commissioner receives an application under subsection (2) in respect of a dutiable transaction and the Commissioner is satisfied that the relevant trust is not a foreign trust in respect of the dutiable transaction, the Commissioner must –

(a) reassess the duty payable under this Part on the dutiable transaction as if, at the time the dutiable transaction occurred, the trust was not a foreign trust; and

(b) refund any amount of duty paid in respect of the dutiable transaction that is in excess of the amount so reassessed.

(4) If –

(a) a trust is not a foreign trust in respect of a dutiable transaction by virtue of subsection (1); and

(b) the trust becomes a foreign trust again within the 3-year period after the dutiable transaction –

section 30H(2), (3), (4) and (5) apply to the dutiable transaction as if a reference in section 30H to a transferee referred to in subsection (1)(b) were a reference to each trustee of the trust.

30HC. Reassessment of duty for certain developers of property

(1) In this section –

occupancy permit has the same meaning as in the *Building Act 2016*;

relevant dwelling means a dwelling where –

(a) the dwelling is situated on land, within Tasmania, that is acquired by a person (the ***relevant person***) on or after 1 July 2022; and

(b) on or after that date –

(i) the laying of the foundations of the dwelling occurred; or

(ii) if no foundations are to be laid in respect of the dwelling, an equivalent act determined by the Commissioner occurred in

respect of the dwelling; and

(c) the completed dwelling is capable of being lawfully used solely, or primarily, for residential purposes; and

(d) an occupancy permit is first issued, to the relevant person, in respect of the dwelling within 3 years after the relevant person acquired the land on which the dwelling is situated;

Tasmania-based foreign developer, in respect of a financial year, means a foreign person who operates a business –

(a) that acquires land within Tasmania with the aim of developing the land; and

(b) of which at least 80% of the wages of management and administration staff of the business are taxable wages within the meaning of the *Payroll Tax Act 2008*, in that year; and

(c) that operates in Tasmania for the majority of its business hours in that year.

(2) A person may apply to the Commissioner, in writing, to reassess the duty payable by the

person under this Part, for a specified financial year, in relation to a dutiable transaction consisting of an acquisition of land, if –

(a) the person is a Tasmania-based foreign developer in respect of the financial year; and

(b) the person, or the business by virtue of which the person is a Tasmania-based foreign developer for the purposes of this section, has –

(i) been issued with occupancy permits, in that year, in respect of at least 10 relevant dwellings on the land; and

(ii) paid duty under this Part in respect of the dutiable transaction consisting of the acquisition of the land on which one or more of those relevant dwellings are situated.

(3) If the Commissioner receives an application under subsection (2) from a person in respect of a financial year, in relation to a dutiable transaction consisting of an acquisition of land, the Commissioner must –

(a) reassess the duty payable under this Part by the person, in respect of the dutiable transaction, as at the time at which the transaction was made, as if the person were not a foreign person; and

(b) refund any amount of duty paid by the person under this Part, in respect of the dutiable transaction, that is in excess of the amount so reassessed in relation to that dutiable transaction.

(4) If a Tasmania-based foreign developer has paid duty under this Part in relation to a dutiable transaction consisting of an acquisition of a parcel of land and a relevant dwelling is situated on a portion, of that land, that –

(a) is recorded in a single certificate of title within the meaning of the *Land Tax Act 2000*; or

(b) is a lot or area of common property, of a strata scheme within the meaning of the *Strata Titles Act 1998*; or

(c) was created by the division of the land in a manner that is identified, or recognised, in another way –

the Commissioner is to reassess, under subsection (3), in accordance with subsection (5), the amount of duty payable.

(5) The reassessment under subsection (3) of duty payable in respect of a dutiable transaction consisting of an acquisition of land is, if subsection (4) applies in relation to one or more portions of the land, to be determined by –

(a) reassessing the duty payable under this Part in respect of all of the land of which

the portion of land is, or the portions of land are, part; and

(b) calculating the percentage, of all of the land, that consists of the portion of land or portions of land; and

(c) reducing the amount of duty payable in respect of the land under this Part by the percentage calculated under paragraph (b) for the portion of land or the portions of land.

(6) The Commissioner may only refund, under subsection (3), an amount of duty paid by a Tasmania-based foreign developer if the Commissioner is satisfied that the developer complied with all of the relevant requirements of the Foreign Investment Review Board, established by the Commonwealth Government, that apply in respect of the acquisition of the land for which duty is being reassessed under subsection (3).

30I. Dutiable transactions before 1 July 2018

For the avoidance of doubt, duty is not chargeable on a dutiable transaction under this Part if the dutiable transaction occurred before 1 July 2018.

30J. Exemption relating to dwellings used as principal residences in certain circumstances

(1) Duty is not chargeable under this Part on a dutiable transaction if –

(a) the dutiable transaction is the acquisition of property which is residential land that has an existing dwelling on it; and

(b) as a result of the dutiable transaction, the whole of the property is or will be held by the parties to a marriage or significant relationship, or by caring partners, as joint tenants or as tenants in common in equal shares; and

(c) only one transferee for the transaction is a foreign natural person; and

(d) the property is to be the principal place of residence for both transferees for the dutiable transaction within the 6-month period after the transaction.

(2) If a dutiable transaction meets the requirements of subsection (1), and duty has been paid under this Part on the transaction, the Commissioner must –

(a) reassess the duty payable under this Part on the dutiable transaction; and

(b) refund any amount of duty paid in respect of the dutiable transaction that is in excess of the amount so reassessed.

(3) Despite subsection (1), a transferee must notify the Commissioner, in writing, as soon as practicable after becoming aware that –

(a) a transferee is not intending, or both transferees are not intending, to use the property as a principal place of residence; or

(b) a transferee has not, or both transferees have not, used the property as a principal place of residence –

within the 6-month period after the relevant dutiable transaction.

(4) If the Commissioner becomes aware that a transferee, for a dutiable transaction referred to in subsection (1), has not used the property acquired under the dutiable transaction as a principal place of residence within the 6-month period after the dutiable transaction, the Commissioner must reassess the duty payable on the dutiable transaction under this Part as if, at the time the dutiable transaction occurred, this section did not apply to the dutiable transaction.

(5) Despite subsection (4), a transferee for a dutiable transaction to be reassessed under that subsection may apply to the Commissioner, in writing, for the duty on the dutiable transaction not to be so reassessed.

(6) After considering an application under subsection (5), the Commissioner may decide that there are reasonable grounds not to reassess

duty on a dutiable transaction in accordance with subsection (4).

(7) Despite section 10, if duty is charged as a consequence of a reassessment under subsection (4), liability for that duty arises 6 months after the dutiable transaction occurred.

30K. Refund relating to duty paid on vacant land where principal residences are built in certain circumstances

(1) If –

(a) a dutiable transaction is for the acquisition of residential land that is vacant land; and

(b) duty was paid under this Part on the dutiable transaction; and

(c) as a result of the dutiable transaction, the whole of the property is or will be held by the parties to a marriage or significant relationship, or by caring partners, as joint tenants or as tenants in common in equal shares; and

(d) only one transferee for the transaction is a foreign person; and

(e) within 2 years after the dutiable transaction –

(i) a dwelling is built on the property; and

(ii) the dwelling is the principal place of residence for both transferees for the dutiable transaction; and

(f) once the property is held by both transferees as joint tenants, or as tenants in common in equal shares, as required under paragraph (c), the property is so held by the transferees until the dwelling becomes the principal place of residence for both transferees in accordance with paragraph (e)(ii) –

a transferee may apply to the Commissioner, in writing, for a refund of the amount of duty paid under this Part on the dutiable transaction.

(2) If the Commissioner receives an application under subsection (1) and the Commissioner is satisfied that the dutiable transaction meets the requirements of that subsection, the Commissioner must –

(a) reassess the duty payable under this Part on the dutiable transaction as if, at the time the dutiable transaction occurred, both transferees were not a foreign person; and

(b) refund any amount of duty paid in respect of the dutiable transaction that is in excess of the amount so reassessed.

30L. Determination that transferee not a foreign person

(1) A transferee who –

(a) is a foreign person for the purposes of this Part; and

(b) as a result of being a foreign person, is liable to pay duty under this Part on a dutiable transaction –

may apply to the Commissioner, in writing, for the Commissioner to determine that the transferee is not to be taken to be a foreign person for the purposes of this Part.

(2) After considering an application under subsection (1), the Commissioner may –

(a) determine that the transferee is not a foreign person, for the purposes of this Part, in respect of the relevant dutiable transaction; or

(b) refuse the application.

(3) If the Commissioner determines under subsection (2)(a) that a transferee is not a foreign person in respect of a dutiable transaction and duty has been paid under this Part in respect of the transaction, the Commissioner must –

(a) reassess the duty payable under this Part on the dutiable transaction as if, at the time the dutiable transaction occurred,

the transferee was not a foreign person; and

(b) refund any amount of duty paid in respect of the dutiable transaction that is in excess of the amount so reassessed.

(4) A decision of the Commissioner under subsection (2) is a non-reviewable decision within the meaning of the *Taxation Administration Act 1997*.

(5) If a determination under subsection (2)(a), in relation to a dutiable transaction, was made based on false or misleading information provided as part of an application under subsection (1), the Commissioner –

(a) may revoke the determination; and

(b) if the determination was revoked under paragraph (a), is to reassess the relevant dutiable transaction as if the determination had not been made.

30M. Circumstances in which transferee not a foreign person

(1) The Commissioner may publish, in a manner that is freely available to members of the public, circumstances in which a transferee is not to be taken to be a foreign person for the purposes of this Part.

(2) While the circumstances published by the Commissioner under subsection (1), and in force in accordance with subsection (3), apply in relation to a transferee, the transferee is not a foreign person for the purposes of this Part.

(3) For the purposes of this section, circumstances published by the Commissioner under subsection (1) are only in force while they remain so published.

(4) If –

(a) the circumstances published by the Commissioner under subsection (1), and in force in accordance with subsection (3), apply in relation to a transferee in respect of a dutiable transaction; and

(b) the transferee has paid duty under this Part in respect of the dutiable transaction –

the transferee may apply to the Commissioner, in writing, for a refund of the amount of duty paid by the transferee under this Part in respect of the dutiable transaction.

(5) If the Commissioner receives an application under subsection (4) and the Commissioner is satisfied that the circumstances published by the Commissioner under subsection (1), and in force in accordance with subsection (3), apply in relation to a transferee, the Commissioner must –

(a) reassess the duty payable under this Part on the dutiable transaction as if, at the time the dutiable transaction occurred, the transferee was not a foreign person; and

(b) refund any amount of duty paid in respect of the dutiable transaction that is in excess of the amount so reassessed.

PART 4 – SPECIAL PROVISIONS

31. Interim payment of duty

(1) If the full dutiable value of dutiable property subject to a dutiable transaction cannot, in the Commissioner's opinion, be immediately ascertained, the Commissioner may make an assessment by way of estimate under section 21(2) of the *Taxation Administration Act 1997*.

(2) The written instrument or the written statement required by section 13 may be stamped "interim stamp only".

(3) The person liable to pay duty is to obtain and provide to the Commissioner, within 3 months of the date of the interim assessment of duty, evidence acceptable to the Commissioner of the dutiable value of the dutiable property and –

(a) is to resubmit the written instrument or written statement to the Commissioner for further assessment; and

(b) the Commissioner must reassess the duty payable on the dutiable transaction.

(4) If no further duty is payable, the interim stamp is to be cancelled and any amount paid in excess of the amount assessed is to be refunded.

(5) If further duty is payable, liability for the further duty arises when the notice of assessment issues, despite section 10.

(6) On payment of the balance of the duty (and any interest or penalty tax), the written instrument or the written statement required by section 13 is to be stamped with the amount of the balance and marked to indicate that duty has been duly paid.

(7) The Commissioner may extend the time or period for ascertaining the dutiable value and resubmitting a transaction for further assessment.

(8) A tax default is taken to have occurred for the purposes of the *Taxation Administration Act 1997* if the person liable to pay duty fails to obtain evidence acceptable to the Commissioner of the dutiable value of the dutiable property and resubmit the transaction to the Commissioner for further assessment within 3 months of the date of the interim assessment of duty, subject to subsection (7).

32. Purchasers of dutiable property under Help to Buy arrangement

For the purposes of assessing the duty chargeable under this Chapter, including the application of any exemptions or concessions, on a transfer of land to a person who purchases the land under a Help to Buy arrangement, no account is to be taken of any interest the Commonwealth or Housing Australia has in the land.

33. . . . . .

34. Transfer arising from mortgage of land

If a mortgage also operates as a conveyance of the equity, right of redemption or reversion of the property comprised in the instrument to or in trust for, and according to the direction of, the purchaser, it is chargeable with duty as a transfer under this Chapter, but, if the equity or right of redemption or reversion is thereby conveyed or limited in any other manner, it is not chargeable with duty under this Chapter.

35. Vesting order

(1) Subject to subsection (4), a vesting order under the *Land Titles Act 1980* is chargeable with the same duty as a transfer of the land the subject of the application as if the dutiable value of the land was the value calculated by multiplying the capital value of the real property as determined under the *Valuation of Land Act 2001* by an amount representing the latest estimated trend in capital values as advised by the Valuer-General before the date of the dutiable transaction relating to that property.

(2) Subsection (1) does not apply if the person applying for the vesting order has paid *ad valorem* duty in respect of the acquisition of land to which the vesting order relates or the acquisition by the person applying was exempt from duty.

(3) The person liable to pay the duty is the applicant.

(4) For the purposes of subsection (1), if, before land is vested in the person applying for the vesting order, the applicant has made improvements to the land, the dutiable value of the land is to be determined as if those improvements had not been made.

36. Applications to bring land under *Land Titles Act 1980*

(1) An application to bring land under the *Land Titles Act 1980* is chargeable with the same duty as on a vesting order under that Act if the applicant has not paid *ad valorem* duty on a transfer of the land.

(2) The person liable to pay the duty is the applicant.

PART 4A – TRANSACTIONS TREATED AS SUBSALES OF LAND

Division 1 – Introduction

36A. Definitions

(1) In this Part –

associate of a person means an associated person of that person;

consideration means the amount of a monetary consideration or the value of a non-monetary consideration;

excluded costs means –

(a) legal costs or other fees or charges, including reasonable selling agents' fees and any statutory fees or charges; and

(b) survey or valuation payments; and

(c) GST other than in circumstances where an input tax credit or reduced input tax credit is available; and

(d) any other costs that, in the Commissioner's opinion, were reasonably incurred –

(i) if the subsequent purchaser obtained the

transfer right from the first purchaser, by the first purchaser as part of the sale contract; or

(ii) if the subsequent purchaser obtained the transfer right from another subsequent purchaser, by that other subsequent purchaser or an associate of that other subsequent purchaser in order for that other subsequent purchaser to obtain a transfer right;

first purchaser –

(a) for the purposes of Division 2, has the meaning given in section 36B(1)(a); and

(b) for the purposes of Division 3, has the meaning given in section 36I(1)(a);

sale agreement has the meaning given in section 36B(1)(a);

subsequent purchaser has the meaning given in section 36B(1)(b);

subsequent transaction has the meaning given in section 36B(3);

transfer right has the meaning given in section 36B(1)(b);

vendor –

(a) for the purposes of Division 2, has the meaning given in section 36B(1)(a); and

(b) for the purposes of Division 3, has the meaning given in section 36I(1)(a).

(2) For the purposes of this Part –

(a) if a person who has a transfer right obtains an increased transfer right by a subsequent transaction, the person is a subsequent purchaser in relation to that subsequent transaction only to the extent of the increase in the transfer right; and

(b) if, by a subsequent transaction, a person retains a transfer right and another person obtains a transfer right, that other person is a subsequent purchaser in relation to that subsequent transaction only to the extent of the transfer right obtained by that other person.

Division 2 – Transfers involving additional consideration

36B. Application of Division

(1) This Division applies to a transfer of dutiable property referred to in section 9 if –

(a) a person (the "**vendor**") enters into an agreement (the "**sale agreement**") to sell or transfer the property to another person (the "**first purchaser**"); and

(b) any of the following persons (a "**subsequent purchaser**") obtains the right (a "**transfer right**") to have the property or any part of it transferred, on completion of the sale agreement, to the subsequent purchaser:

(i) a person other than the first purchaser;

(ii) the first purchaser and a person other than the first purchaser;

(iii) if there is more than one first purchaser, one or more of the first purchasers in different proportions from those in the sale agreement; and

(c) a subsequent purchaser or an associate of the subsequent purchaser gives or agrees to give additional consideration in order for the subsequent purchaser to obtain the transfer right; and

(d) the vendor transfers the property or any part of it to a subsequent purchaser.

(2) It is immaterial whether a subsequent purchaser obtains a transfer right –

(a) by way of an assignment, nomination, novation or otherwise; or

(b) from the first purchaser or from another subsequent purchaser.

(3) Each assignment, nomination, novation or other arrangement by which a subsequent purchaser obtains a transfer right is called a "**subsequent transaction**".

(4) In this section –

additional consideration for a transfer right means any consideration given or agreed to be given by a subsequent purchaser or an associate of the subsequent purchaser in order for the subsequent purchaser to obtain the transfer right, other than reimbursement of excluded costs, and –

(a) if the subsequent purchaser obtained the transfer right from the first purchaser, the additional consideration is the amount that exceeds the consideration given or agreed to be given to the vendor by the first purchaser under the sale agreement in respect of the property that is the subject of the transfer right; or

(b) if the subsequent purchaser obtained the transfer right from another subsequent purchaser, the additional consideration is the amount that exceeds the

consideration given or agreed to be given by that other subsequent purchaser or an associate of that other subsequent purchaser in order for that other subsequent purchaser to obtain a transfer right, to the extent that the consideration relates to the first-mentioned transfer right.

36BA. Application to put and call options

(1) This Division applies to a put and call option as if –

(a) the put and call option were a sale agreement under section 36B(1)(a); and

(b) the person who enters the put and call option as the person who has the right to purchase the dutiable property were the first purchaser under section 36B(1)(a); and

(c) the person who enters the put and call option as the person who has the right to sell the dutiable property were the vendor under section 36B(1)(a); and

(d) where a right to acquire dutiable property, or part of dutiable property, under a put and call option is obtained by another person, that other person were a subsequent purchaser under paragraph (b) of section 36B(1) and that

right were a transfer right under that paragraph.

(2) For the purposes of section 36B(1)(b), the completion of the put and call option is upon the transfer of the dutiable property following the exercise of either the put or call rights under the option.

(3) For the purposes of section 36D(1)(a), the consideration given or agreed to be given under the put and call option includes the consideration given or agreed to be given to obtain the put and call option and any consideration payable on the exercise of the put and call option.

(4) For the purposes of section 36D(2)(a), the consideration given or agreed to be given to obtain the transfer right includes any consideration payable on the exercise of the put and call option.

36C. How duty is charged on transfer

(1) Duty on a transfer to which this Division applies is not charged in respect of the transfer from the vendor to the transferee, but is charged separately and distinctly on –

(a) the dutiable value of the sale agreement as if it had been completed by the first purchaser; and

(b) the dutiable value of the subsequent transaction by which the final subsequent purchaser obtained the transfer right; and

(c) if there were any other subsequent transactions, the dutiable value of each of those transactions.

(2) Duty is charged at the rate set out in Part 3 on the dutiable value referred to in section 36D.

(3) If a subsequent purchaser or an associate of a subsequent purchaser has not given or agreed to give additional consideration in order to obtain a transfer right and –

(a) if the subsequent purchaser obtained the transfer right from the first purchaser, duty is not chargeable under this Division on the sale agreement to the extent of the transfer right obtained by the subsequent purchaser; or

(b) in the case of a subsequent transaction referred to in subsection (1)(c), duty is not chargeable under this Division on the subsequent transaction, by which the subsequent purchaser obtained the transfer right, to the extent of the transfer right obtained by the subsequent purchaser.

(4) Subsection (3)(b) applies only where a subsequent purchaser obtained a transfer right from another subsequent purchaser.

36D. Dutiable value of transactions

(1) For the purposes of this Division, the dutiable value of the sale agreement referred to in section 36C(1)(a) is the greater of –

(a) the consideration given or agreed to be given under the sale agreement; and

(b) the amount for which the property might reasonably have been sold if it had been sold, free from encumbrances, in the open market on the date on which the sale agreement was entered into, or as calculated by sections 247 and 248(2) and (2A), as may be appropriate.

(2) For the purposes of this Division, the dutiable value of a subsequent transaction referred to in section 36C(1)(b) or (c) is the greater of the following:

(a) the consideration given or agreed to be given by the subsequent purchaser or an associate of the subsequent purchaser in order for the subsequent purchaser to obtain the transfer right under the transaction, other than excluded costs;

(b) the amount for which the property might reasonably have been sold if it had been sold, free from encumbrances, in the open market on the date on which the sale agreement was entered into or as calculated by sections 247 and 248(2) and (2A), as may be appropriate.

(3) If a subsequent purchaser has obtained a transfer right in the circumstances referred to in section 36A(2), the value of the subsequent transaction for the purposes of subsection (2)(b) is to be calculated only to the extent of the transfer right obtained by the subsequent purchaser under that subsequent transaction.

36E. When does liability to duty arise?

A liability for duty charged by this Division arises when the transfer occurs.

36F. Who is liable to pay duty?

(1) Duty charged by this Division is payable –

(a) in the case of duty referred to in section 36C(1)(a), by the first purchaser; or

(b) in the case of duty referred to in section 36C(1)(b) or (c), by the subsequent purchaser who obtains a transfer right under the relevant subsequent transaction.

(2) A transferee who pays duty payable by another person under this Division may recover the amount of that duty as a debt due to the transferee from the other person.

36G. Exemptions and concessions

(1) Duty is not chargeable under section 36C(1)(a) if the sale agreement would be exempt from duty under this Chapter if it were a transfer of dutiable property to the first purchaser.

(2) If the first purchaser would be entitled to a concession under this Chapter if the sale agreement were a transfer to the first purchaser, the first purchaser is entitled to that concession in respect of duty charged under section 36C(1)(a).

(3) Duty is not chargeable under section 36C(1)(b) or (c) if the subsequent transaction would be exempt from duty under this Chapter if it were a transfer of dutiable property to the subsequent purchaser who obtains the transfer right under the subsequent transaction.

(4) If a subsequent purchaser would be entitled to a concession under this Chapter if the subsequent transaction were a transfer to the subsequent purchaser, the subsequent purchaser is entitled to that concession in respect of duty charged under section 36C(1)(b) or (c).

Division 3 – Miscellaneous

36H. Provisions for determining consideration

(1) This section applies for the purpose of determining in Division 2 –

(a) the consideration given or agreed to be given under a sale agreement; or

(b) the consideration given or agreed to be given to obtain a transfer right under a subsequent transaction.

(2) The consideration is taken to include the amount or value of all encumbrances, whether certain or contingent, subject to which the property would be transferred in accordance with, or as contemplated by, the relevant transaction.

36I. Parties required to provide information to Commissioner

(1) This section applies if –

(a) a person (the "**vendor**") enters into an agreement to sell or transfer any dutiable property referred to in section 9 to another person (the "**first purchaser**"), or an option is granted in respect of that property to or by the first purchaser; and

(b) the transfer executed by the vendor transfers the property or any part of it not to the first purchaser but to another person (the "**transferee**").

(2) The transferee must give the Commissioner a statutory declaration in the approved form, containing the details required by the Commissioner for the purposes of determining any liability of the transferee or any other person to duty under this Chapter.

(3) If the Commissioner considers it necessary for the purposes of determining liability to duty under this Chapter, the Commissioner may require any person he or she reasonably believes may be liable to duty to give the Commissioner a statutory declaration in the approved form, containing the details required by the Commissioner.

PART 5 – CONCESSIONAL RATES OF DUTY

Division 1 – Trusts

37. Change in trustees

(1) In this section –

new trustee means a trustee appointed in substitution for a trustee or a trustee appointed in addition to a trustee or trustees;

responsible entity means a responsible entity within the meaning of the Corporations Act;

special trustee means –

(a) The Public Trustee; and

(b) a trustee company within the meaning of the *Trustee Companies Act 1953*; and

(c) a corporation constituted under the law of another Australian jurisdiction that, in the Commissioner's opinion, corresponds in that jurisdiction to The Public Trustee or a trustee company referred to in paragraph (b); and

(d) the trustees of a fund that is a complying superannuation fund within the meaning of section 267

of the *Income Tax Assessment Act 1936* of the Commonwealth or that, in the opinion of the trustees, will become a complying superannuation fund within 12 months after the execution of –

(i) an instrument appointing a new trustee; or

(ii) an instrument by which a trustee retires without a new trustee being appointed in place of the retiree.

(2) Duty of $50 is chargeable in respect of a transfer of dutiable property to a special trustee as a consequence of the retirement of a trustee or the appointment of a new trustee.

(3) Duty of $50 is chargeable in respect of a transfer of dutiable property to a person other than a special trustee if the Commissioner is satisfied that the transfer is made solely –

(a) because of the retirement of a trustee, the appointment of a new trustee or other change in trustees; and

(b) in order to vest the property in the trustees for the time being entitled to hold it.

(4) If the Commissioner becomes aware that a transfer in respect of which duty was chargeable

under subsection (3) was not a transfer of the kind referred to in that subsection, the Commissioner may reassess that transfer for the duty that would otherwise be payable.

(5) Duty of $50 is chargeable in respect of a transfer of property as a consequence of the retirement of a responsible entity of a managed investment scheme or the appointment of a new responsible entity of a managed investment scheme if the Commissioner is satisfied that the only beneficial interest acquired by a person in relation to the property as a result of the transfer is a beneficial interest acquired by the replacement or new responsible entity solely because of its appointment as responsible entity for the scheme.

(6) Duty of $50 is chargeable in respect of a transfer of dutiable property to a responsible entity if the Commissioner is satisfied that the transfer is necessary to enable an undertaking that existed before the commencement of Chapter 5C of the Corporations Law to become a registered scheme within the meaning of Division 11 of Part 11.2 of the Corporations Law (as continued in effect by section 1408 of the Corporations Act).

38. Transfers in relation to managed investment schemes

(1) Duty of $50 is chargeable in respect of a transfer of dutiable property from –

(a) a responsible entity of a managed investment scheme; or

(b) a person who held the dutiable property as a trustee of a prescribed interest scheme within the meaning of the Corporations Law as in force immediately before 1 July 1998 when the scheme became a registered scheme within the meaning of Division 11 of Part 11.2 of the Corporations Law (as continued in effect by section 1408 of the Corporations Act) –

to a custodian or agent of the responsible entity as custodian or agent of the scheme in which the transferor held the dutiable property.

(2) Duty of $50 is chargeable in respect of a transfer of dutiable property from the custodian of the responsible entity of a managed investment scheme to the responsible entity.

39. Property vested in an apparent purchaser

(1) Duty of $50 is chargeable in respect of –

(a) a declaration of trust made by an apparent purchaser in respect of identified dutiable property –

(i) vested in the apparent purchaser upon trust for the real purchaser who provided the consideration for the purchase of the dutiable property; or

(ii) to be vested in the apparent purchaser upon trust for the real purchaser, if the Commissioner is satisfied that the consideration for the purchase of the dutiable property has been or will be provided by the real purchaser; or

(b) a transfer of dutiable property from an apparent purchaser to the real purchaser if –

(i) the dutiable property is property, or part of property, vested in the apparent purchaser upon trust for the real purchaser; and

(ii) the real purchaser provided the consideration for the purchase of the dutiable property and for any improvements made to the dutiable property after the purchase.

(2) For the purposes of subsection (1), consideration provided by a person other than the real purchaser is taken to have been provided by the real purchaser if the Commissioner is satisfied that the consideration was provided as a loan and has been or will be repaid by the real purchaser.

(3) This section applies whether or not there has been a change in the legal description of the dutiable property between the purchase of the property by the apparent purchaser and the transfer to the real purchaser.

Note: For example, if the dutiable property is land, this section continues to apply if there is a change in the legal description of the dutiable property as a consequence of the subdivision of the land.

(4) In this section –

purchase includes an allotment.

40. Transfers back from a nominee

(1) If –

(a) dutiable property that was transferred to a person to be held by that person as trustee for the transferor is transferred back to the transferor by the trustee; and

(b) no person other than the transferor has had a beneficial interest in the dutiable property (other than the trustee's right of indemnity) between its transfer to the trustee and its transfer back to the transferor –

the duty chargeable on the transfer of the dutiable property back to the transferor is $50.

(2) If duty of $50 has been paid on a transfer under subsection (1), the initial transfer to the trustee is also chargeable with duty of $50.

(3) The Commissioner must reassess the initial transfer and refund any duty paid in excess of $50 if an application for a refund is made within –

(a) 3 years after the initial assessment; or

(b) 12 months after the transfer back to the original transferor; or

(c) 3 years after the payment of duty pursuant to a special arrangement for the lodging of returns and payment of tax under Part 6 of the *Taxation Administration Act 1997* –

whichever is the later.

(4) In this section,

trustee includes a trustee appointed in substitution for a trustee or a trustee appointed in addition to a trustee or trustees.

41. Property passing to beneficiaries

Duty of $50 is chargeable under this Chapter in respect of a transfer of dutiable property that is subject to a trust ("the principal trust") to a beneficiary of the principal trust if –

(a) the beneficiary was a beneficiary when the property, or what was substantially the same property, was first vested in a trustee of the principal trust; and

(b) the transfer is –

(i) to the beneficiary absolutely; or

(ii) to the beneficiary as trustee of another trust ("the second trust") of which all the beneficiaries are natural persons who were beneficiaries of the second trust when the property, or what was substantially the same property, was first vested in a trustee of the principal trust; and

(c) the duty charged by this Act in respect of the first vesting of the property, or what was substantially the same property, in a trustee of the principal trust has been paid.

42. . . . . .

43. Instrument relating to managed investment scheme

(1) . . . . . .

(2) Duty of $50 is chargeable in respect of a declaration of trust –

(a) made by a trustee in respect of dutiable property that, immediately before the trust is declared, is held by the trustee as trustee of the prescribed interest scheme within the meaning of the Corporations Law as in force immediately before 1 July 1998; and

(b) to hold the dutiable property on trust for the responsible entity of the managed investment scheme.

Division 2 – Superannuation

44. . . . . .

45. Transfer of property from one superannuation fund to another

(1) This section applies to the transfer of dutiable property from one superannuation fund to another where –

(a) the transfer is made from a complying superannuation fund or from a fund that was a complying superannuation fund within the period of 12 months before the transfer was made; and

(b) the transfer is made to a complying superannuation fund or to a superannuation fund that, in the opinion of the trustees, will be a complying superannuation fund within 12 months after the transfer is made; and

(c) the transfer occurs in connection with a person's ceasing to be a member of, or otherwise ceasing to be entitled to benefits in respect of, the fund from which the dutiable property is transferred and the person's becoming a member of, or otherwise becoming entitled to

benefits in respect of, the fund to which the dutiable property is transferred.

(2) The duty chargeable on a transfer to which this section applies is $50.

(3) An application for an assessment of duty in accordance with this section is to be accompanied by the following:

(a) a brief explanation of the background to the transfer and the entitlements to be extinguished and created;

(b) copies of the governing rules of the complying superannuation funds concerned;

(c) a statement of the property to be transferred;

(d) a copy of each instrument relating to the transfer;

(e) a statutory declaration from a trustee (or a director of a corporate trustee) of each of the superannuation funds concerned stating that, in the opinion of the trustee (or director), the fund will be a complying superannuation fund within 12 months after the transfer occurs.

(4) The Commissioner may require further information.

(5) In this section,

complying superannuation fund includes a complying approved deposit fund and an eligible rollover fund.

46. Transfers between trustees and custodians of superannuation funds or trusts

(1) This section applies to the following dutiable transactions:

(a) a transfer of, or an agreement to transfer, dutiable property from a trustee of –

(i) a complying superannuation fund; or

(ii) a pooled superannuation trust; or

(iii) a fund or trust that, in the opinion of the trustees, will be a complying superannuation fund or a pooled superannuation trust within 12 months after the transfer takes effect –

to a custodian of the trustee of the fund or trust, where there is no change in the beneficial ownership of the property;

(b) a transfer of, or an agreement to transfer, dutiable property from a custodian of a trustee of –

(i) a complying superannuation fund; or

(ii) a pooled superannuation trust; or

(iii) a fund or trust that, in the opinion of the trustees, will be a complying superannuation fund or a pooled superannuation trust within 12 months after the transfer takes effect –

to a trustee of the fund or trust, where there is no change in the beneficial ownership of the property;

(c) a transfer of, or an agreement to transfer, dutiable property from a custodian of a trustee of –

(i) a complying superannuation fund; or

(ii) a pooled superannuation trust; or

(iii) a fund or trust that, in the opinion of the trustees, will be a complying superannuation fund or a pooled superannuation trust within 12 months after the transfer takes effect –

to another custodian of the trustee of the fund or trust, where there is no change in the beneficial ownership of the property.

(2) The duty chargeable on a dutiable transaction to which this section applies is $50.

(3) In this section,

complying superannuation fund includes a complying approved deposit fund and an eligible rollover fund.

Division 2A – First home buyer duty concession

46A. Interpretation of Division 2A

In this Division –

eligible first home buyer – see section 46C;

eligible period means the period commencing on 7 February 2018 and ending on 30 June 2024;

eligible transaction – see section 46D;

established home means a home other than a new home;

new home has the same meaning as in the *First Home Owner Grant Act 2000*;

owner has the same meaning as in the *First Home Owner Grant Act 2000*;

residence requirement means a requirement that a person occupy an established home as his or her principal place of residence in accordance with section 46F(1).

46B. Extension of eligible period

(1) The Minister, by order and on one or more occasions, may extend the eligible period by

omitting the date on which the period ends and substituting a new date.

(2) Section 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to an order under subsection (1) as if the order were regulations within the meaning of that Act.

(3) An order under subsection (1) –

(a) is a statutory rule for the purposes of the *Rules Publication Act 1953*; and

(b) is not an instrument of a legislative character for the purposes of the *Subordinate Legislation Act 1992*.

46C. Eligible first home buyer

(1) For the purposes of this Division, a person is an eligible first home buyer if the Commissioner is satisfied that the person –

(a) is a natural person; and

(b) has attained the age of 18 years; and

(c) subject to subsection (3), is an Australian citizen or a permanent resident.

(2) The Commissioner may exempt a person from the requirement in subsection (1)(b), in respect of a transfer of land on which an established home is situated, if the Commissioner is satisfied that –

(a) the person will comply with the residence requirement in relation to that home; and

(b) the transfer of land to the person does not form part of a scheme to circumvent requirements affecting eligibility for a duty concession under section 46E.

(3) If, in respect of an eligible transaction, there is more than one transferee and one of the transferees is an Australian citizen or a permanent resident, it is not necessary for the other transferees to be Australian citizens or permanent residents.

(4) A person is not an eligible first home buyer if –

(a) the person or the person's spouse has previously been the owner of a home in Tasmania or a home in any other State or a Territory; or

(b) the person or the person's spouse has previously been paid a first home owner grant under the *First Home Owner Grant Act 2000*; or

(c) a previous transfer of property to that person or to the person's spouse attracted a duty concession under this Division.

46D. Eligible transaction

(1) For the purposes of this Division, an ***eligible transaction*** means a transfer of land on which an

established home is situated if that transfer meets the following requirements:

(a) the transfer occurs within the eligible period;

(b) each of the transferees is an eligible first home buyer;

(c) the Commissioner is satisfied that each of the transferees intends to meet the residence requirement in relation to the established home;

(d) the dutiable value of the dutiable property does not exceed the prescribed amount or, if no amount is prescribed, $600 000.

(2) Subsection (1)(b) does not apply in relation to a transfer of land on which an established home is situated if the Commissioner is satisfied that there are good reasons why a transferee is not an eligible first home buyer.

46E. First home buyer duty concession

The duty chargeable on an eligible transaction is 50% of the duty that would be chargeable, at the rate specified in section 29, on a transfer of the dutiable property.

46F. Residence requirements

(1) If duty was charged on a transfer of land in accordance with section 46E, each transferee

must occupy the established home situated on that land as his or her principal place of residence for a continuous period of at least 6 months (or any lesser period approved by the Commissioner under subsection (2)) commencing –

(a) within the 12-month period immediately after the eligible transaction; or

(b) within such longer period as is approved by the Commissioner.

(2) The Commissioner may approve a lesser period of occupation of an established home under subsection (1) if the Commissioner is satisfied that there are good reasons why the transferee cannot comply with the requirement to occupy the home for 6 months.

(3) A decision to approve a lesser period of occupation of an established home under subsection (2), or to approve a longer period before occupation is commenced under subsection (1)(b), may be made at any time before the Commissioner makes a reassessment of duty under section 46G(2) on the transfer of the land on which that established home is situated.

(4) The Commissioner may, in respect of an eligible transaction, exempt a transferee (***the non-complying transferee***) from the requirements of this section if –

(a) the transferee is one of 2 or more joint transferees; and

(b) at least one of the transferees complies with the residence requirement; and

(c) there are, in the Commissioner's opinion, good reasons to exempt the non-complying transferee from the residence requirement.

(5) If duty was charged on a transfer of land in accordance with section 46E, each transferee must retain his or her interest in that land until the residence requirement has been satisfied.

(6) If –

(a) duty was charged on a transfer of land in accordance with section 46E; and

(b) a transferee fails to comply with subsection (1) or (5) –

the transferee must give written notice of that fact to the Commissioner within 14 days after the failure to comply.

Penalty: Fine not exceeding 100 penalty units.

46G. Reassessment of duty

(1) If the Commissioner becomes aware that a dutiable transaction in respect of which duty was charged in accordance with section 46E did not satisfy the requirements of section 46D, the Commissioner may reassess the duty that would otherwise be payable in respect of that transaction, having regard to the amount of duty that may already have been paid.

(2) If –

(a) duty was charged on a transfer of land in accordance with section 46E; and

(b) the Commissioner becomes aware that a transferee failed to comply with the requirements of section 46F –

the Commissioner may reassess the duty that would otherwise be payable in respect of that dutiable transaction as if the transaction was not an eligible transaction, having regard to the amount of duty that may already have been paid.

46H. Refund provisions

If the Commissioner is satisfied that a dutiable transaction attracts a duty concession under section 46E, the Commissioner is to refund any amount of duty paid in relation to the relevant dutiable transaction that exceeds the amount of the duty payable taking into account that duty concession.

46I. Anticipatory duty concessions

(1) An eligible first home buyer is not entitled to a refund under section 46H in respect of an eligible transaction if, before the day on which the *Taxation Related Legislation (Housing Availability and Payroll Relief) Act 2018* receives the Royal Assent –

(a) the eligible first home buyer received a refund of duty or a payment or benefit in relation to that dutiable transaction; and

(b) the refund of duty, payment or benefit was made under a deed of grant in anticipation of this Division applying to that dutiable transaction.

(2) For the avoidance of doubt, if, before the day on which the *Taxation Related Legislation (Housing Availability and Payroll Relief) Act 2018* receives the Royal Assent, a refund of duty, payment or benefit was made under a deed of grant in anticipation of this Division applying to a dutiable transaction, that refund of duty, payment or benefit is taken to be a duty concession under this Division, attracted to an eligible transaction to which this Division applies.

Division 2B – Pensioner duty concession

46J. Interpretation of Division 2B

In this Division –

eligible pensioner – see section 46L;

eligible period means the period commencing on 10 February 2018 and ending on 30 June 2025;

eligible property, in relation to an eligible transaction, means the dutiable property

that is the subject of the eligible transaction;

eligible transaction – see section 46M;

former property, in relation to a person, means land in Tasmania on which was situated a home that the person occupied as his or her principal place of residence;

owner has the same meaning as in the *First Home Owner Grant Act 2000*.

46K. Extension of eligible period

(1) The Minister, by order and on one or more occasions, may extend the eligible period by omitting the date on which the period ends and substituting a new date.

(2) Section 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to an order under subsection (1) as if the order were regulations within the meaning of that Act.

(3) An order under subsection (1) –

(a) is a statutory rule for the purposes of the *Rules Publication Act 1953*; and

(b) is not an instrument of a legislative character for the purposes of the *Subordinate Legislation Act 1992*.

46L. Eligible pensioner

(1) For the purposes of this Division, a person is an eligible pensioner if the Commissioner is satisfied that –

(a) the person has attained the age of 60 years; and

(b) the person is –

(i) the holder of a Pensioner Concession Card under a relevant Act of the Commonwealth; or

(ii) the holder of a Seniors Health Card within the meaning of the *Social Security Act 1991* of the Commonwealth; or

(iii) in receipt of a special rate pension under the *Veterans' Entitlements Act 1986* of the Commonwealth.

(2) A person is not an eligible pensioner if a previous transfer of dutiable property to that person, or to that person's spouse, attracted a duty concession under this Division.

46M. Eligible transaction

For the purposes of this Division, an ***eligible transaction*** means a transfer of land on which a home is situated if that transfer meets the following requirements:

(a) a transferee is an eligible pensioner;

(b) the Commissioner is satisfied that the eligible pensioner intends to occupy the home as his or her principal place of residence for a continuous period of at least 6 months commencing within –

(i) the 12-month period immediately after the transfer; or

(ii) such longer period as is approved by the Commissioner;

(c) the dutiable value of the dutiable property does not exceed the prescribed amount or, if no amount is prescribed, $600 000.

46N. Pensioner duty concession if home sold before eligible transaction

(1) This section applies in relation to an eligible transaction if –

(a) a transferee who is an eligible pensioner transferred a former property within –

(i) the 6-month period immediately before the eligible transaction; and

(ii) the eligible period; and

(b) the former property referred to in paragraph (a) was the eligible pensioner's principal place of residence

for the 6-month period (or any lesser period approved by the Commissioner under subsection (2)) immediately before he or she transferred that former property; and

(c) the dutiable value of the former property referred to in paragraph (a) (as at the time of its transfer) is greater than the dutiable value of the eligible property (as at the time of the eligible transaction); and

(d) the ownership of the eligible property is in the same name or names as the ownership of the former property of the transferee, referred to in paragraph (a), before its transfer as referred to in that paragraph.

(2) The Commissioner may approve a lesser period under subsection (1)(b) if the Commissioner is satisfied that there are good reasons why the former property was not the principal place of residence for the eligible pensioner for the 6-month period immediately before he or she transferred the former property.

(3) The duty chargeable on the eligible transaction is 50% of the duty that would be chargeable, at the rate specified in section 29, on a transfer of the dutiable property.

(4) Subsection (1)(d) does not apply in relation to an eligible transaction if the Commissioner is satisfied that there are good reasons why the

ownership of the eligible property is not in the same name or names as the ownership of the former property.

(5) This section does not apply to an eligible transaction if the eligible pensioner, or the eligible pensioner's spouse, at the time of the eligible transaction was the owner of a home in Tasmania or a home in any other State or a Territory (other than the eligible property).

46O. Pensioner duty concession if home sold after eligible transaction

(1) This section applies in relation to an eligible transaction if –

(a) a transferee who is an eligible pensioner transferred a former property within –

(i) the 6-month period immediately after the eligible transaction; and

(ii) the eligible period; and

(b) the former property referred to in paragraph (a) was the eligible pensioner's principal place of residence for the 6-month period (or any lesser period approved by the Commissioner under subsection (2)) immediately before –

(i) he or she transferred that former property; or

(ii) the eligible transaction; and

(c) the dutiable value of the former property referred to in paragraph (a) (as at the time of its transfer) is greater than the dutiable value of the eligible property (as at the time of the eligible transaction); and

(d) the ownership of the eligible property is in the same name or names as the ownership of the former property of the transferee referred to in paragraph (a), before its transfer as referred to in that paragraph.

(2) The Commissioner may approve a lesser period under subsection (1)(b) if the Commissioner is satisfied that there are good reasons why the former property was not the eligible pensioner's principal place of residence for the period specified in that subsection.

(3) The duty chargeable on the eligible transaction is 50% of the duty that would be chargeable, at the rate specified in section 29, on a transfer of the dutiable property.

(4) Subsection (1)(d) does not apply in relation to an eligible transaction if the Commissioner is satisfied that there are good reasons why the ownership of the eligible property is not in the same name or names as the ownership of the former property.

(5) This section does not apply to an eligible transaction if the eligible pensioner, or the eligible pensioner's spouse, at the time of the

eligible transaction was the owner of a home in Tasmania or a home in any other State or a Territory (other than the former property or the eligible property).

46P. Reassessment of duty

If the Commissioner becomes aware that a dutiable transaction, in respect of which duty was charged in accordance with this Division, did not satisfy the requirements of this Division in relation to that dutiable transaction, the Commissioner may reassess the duty that would otherwise be payable in respect of that transaction, having regard to the amount of duty that may already have been paid.

46Q. Refund provisions

If the Commissioner is satisfied that an eligible transaction attracts a duty concession under section 46N(3) or section 46O(3), the Commissioner is to refund any amount of duty paid in relation to the relevant dutiable transaction that exceeds the amount of the duty payable taking into account that rate of duty.

46R. Anticipatory duty concessions

(1) An eligible pensioner is not entitled to a refund under section 46Q in respect of an eligible transaction if, before the day on which the *Taxation Related Legislation (Housing*

Availability and Payroll Relief) Act 2018 receives the Royal Assent –

(a) the eligible pensioner received a refund of duty or a payment or benefit in relation to that dutiable transaction; and

(b) the refund of duty, payment or benefit was made under a deed of grant in anticipation of this Division applying to that dutiable transaction.

(2) For the avoidance of doubt, if, before the day on which the *Taxation Related Legislation (Housing Availability and Payroll Relief) Act 2018* receives the Royal Assent, a refund of duty, payment or benefit was made under a deed of grant in anticipation of this Division applying to a dutiable transaction, that refund of duty, payment or benefit is taken to be a duty concession under this Division, attracted to an eligible transaction to which this Division applies.

Division 2C – Pre-completion duty concession

46S. Interpretation of Division 2C

In this Division –

eligible buyer – see section 46U;

eligible dwelling – see section 46V;

eligible period means the period commencing on 1 July 2024 and ending on 30 June 2026;

eligible transaction – see section 46W.

46T. Extension of eligible period

(1) The Minister, by order and on one or more occasions, may extend the eligible period by omitting the date on which the period ends and substituting a new date.

(2) Sections 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to an order under subsection (1) as if the order were regulations within the meaning of that Act.

(3) An order under subsection (1) –

(a) is a statutory rule for the purposes of the *Rules Publication Act 1953*; and

(b) is not an instrument of a legislative character for the purposes of the *Subordinate Legislation Act 1992*.

46U. Eligible buyer

(1) For the purposes of this Division, a person is an eligible buyer if the Commissioner is satisfied that the person –

(a) is a natural person; and

(b) has attained the age of 18 years; and

(c) subject to subsection (3), is an Australian citizen or permanent resident.

(2) The Commissioner may exempt a person from the requirement in subsection (1)(b), in respect of a transfer of land on which an eligible dwelling is situated, if the Commissioner is satisfied that the transfer of land to the person does not form part of a scheme to circumvent requirements affecting eligibility for a duty concession under section 46X.

(3) If, in respect of an eligible transaction, there is more than one transferee and at least one of the transferees is an Australian citizen or permanent resident, it is not necessary for the other transferees to be Australian citizens or permanent residents.

46V. Eligible dwelling

(1) In this section –

conjoined, in respect of a dwelling, means a dwelling that shares, with another dwelling, a wall that –

(a) forms part of both dwellings; and

(b) separates the dwellings;

Register has the same meaning as in the *Land Titles Act 1980*;

strata scheme has the same meaning as in the *Strata Titles Act 1998*.

(2) For the purposes of this Division, the following dwellings are eligible dwellings:

(a) a dwelling that is situated on land that comprises a lot in a strata scheme;

(b) a dwelling which is situated on land described in a folio of the Register that is conjoined with one or more other dwellings that are all situated on land described in one or more other folios of the Register;

(c) a dwelling in relation to which the Commissioner has made a determination under subsection (3) that the dwelling is an eligible dwelling.

(3) Despite subsection (2)(a) and (b), the Commissioner may determine, for the purposes of this Division –

(a) that a dwelling is an eligible dwelling; or

(b) that a dwelling is not an eligible dwelling.

(4) A decision of the Commissioner under subsection (3) is a non-reviewable decision within the meaning of the *Taxation Administration Act 1997*.

46W. Eligible transaction

(1) In this section –

occupancy permit means an occupancy permit, within the meaning of the *Building Act 2016*, for the purposes of residential occupancy of a dwelling.

(2) For the purposes of this Division, an ***eligible transaction*** means a transfer of land on which an eligible dwelling is situated if that transfer meets the following requirements:

(a) each transferee is an eligible buyer;

(b) the transfer is in relation to an eligible dwelling in respect of which an application for an occupancy permit has not been granted at the time at which the agreement for sale is executed in relation to the eligible dwelling;

(c) the agreement for sale of the eligible dwelling is executed during the eligible period;

(d) the dutiable value of the transfer does not exceed the prescribed amount or, if no amount is prescribed, $750 000;

(e) the transfer of the land on which the eligible dwelling is situated occurs before the fifth anniversary of the end of the eligible period;

(f) the transfer is not a transfer to which section 19(2) has been applied in determining the dutiable value of the transfer of the dutiable property;

(g) the transfer has not attracted another duty concession, or duty exemption, under this Chapter;

(h) a grant authorised under the *First Home Owner Grant Act 2000* has not been paid in relation to the agreement for sale in respect of the transfer.

46X. Pre-completion duty concession

(1) The duty chargeable on an eligible transaction is 50% of the duty that would be chargeable, at the rate specified in section 29, on a transfer of the dutiable property.

(2) If a duty concession is applied in respect of a transfer under this Division, a grant under the *First Home Owner Grant Act 2000* is not payable in relation to the agreement for sale in respect of the transfer.

46Y. Reassessment of duty

If the Commissioner becomes aware that a dutiable transaction, in respect of which duty was charged in accordance with section 46X, did not satisfy the requirements of section 46W in relation to that dutiable transaction, the Commissioner may reassess the duty that would otherwise be payable in respect of that transaction, having regard to the amount of duty that may already have been paid.

46Z. Refund provisions

If the Commissioner is satisfied that an eligible transaction attracts a duty concession under section 46X, the Commissioner is to refund any

amount of duty paid in relation to the relevant dutiable transaction that exceeds the amount of the duty payable taking into account that duty concession.

Division 3 – Miscellaneous

47. Deceased estates

(1) Subject to section 53(j), duty of $50 is chargeable in respect of a transfer of dutiable property not made for valuable consideration by the legal personal representative of a deceased person to a beneficiary, being –

(a) a transfer made under and in conformity with the trusts contained in the will of the deceased person or arising on an intestacy; or

(b) a transfer of property the subject of a trust for sale contained in the will of the deceased person; or

(c) a transfer of property in accordance with an order made under the *Testator's Family Maintenance Act 1912*.

(1A) Subject to section 53(j), if –

(a) a transfer of dutiable property is made to a beneficiary by the legal personal representative of a deceased person; and

(b) the transfer is made under, but only partially in conformity with, the trusts

contained in the will of the deceased person or arising on an intestacy –

the dutiable value of the dutiable property is to be reduced by the value of so much of the transfer as is made in conformity with the trusts and is not made for valuable consideration.

(1B) Despite subsection (1A), the minimum amount payable on a transfer to which the subsection applies is $50.

(2) No duty is payable in respect of –

(a) a consent by a legal personal representative of a deceased person to a transmission application by a beneficiary; or

(b) a transmission application to a devisee who is also the sole legal personal representative.

48. Conversion of lots to strata title

The duty chargeable on the transfer of a lot within the meaning of the *Strata Titles Act 1998* is $50 if the Commissioner is satisfied that –

(a) the transferee, immediately before registration of the strata plan, held a land use entitlement in respect of the land or part of the land the subject of the strata plan; and

(b) the transfer is part of an arrangement under which the transferee will take an

interest in the lot similar in effect to and in substitution for the interest the transferee had under the land use entitlement immediately before registration of the strata plan.

49. Duty where no change of beneficial ownership

The duty chargeable on a transfer of dutiable property is $50 if the Commissioner is satisfied there is no change in the beneficial ownership of the property.

50. Adjustment of dutiable value of transfer on a company wind-up

(1) If a transfer of dutiable property is made to a shareholder in the course of a distribution of assets of a company because of the winding-up of the company, the dutiable value of the dutiable property is to be reduced by –

(a) if the shareholder is not a creditor of the company, the value of the shareholder's entitlement in the undistributed assets of the company immediately before the transfer; or

(b) if the shareholder is a creditor of the company, the amount (if any) by which the value of the shareholder's entitlement in the undistributed assets of the company immediately before the transfer exceeds the amount owed by the company to the shareholder as a creditor.

(2) Notwithstanding subsection (1), the minimum amount payable on the transfer of dutiable property to a shareholder is $50.

(3) Subsection (1) does not apply to the extent of any debt owed by the company to the shareholder that was converted to equity in the company within a 12 month period before the winding-up of the company.

(4) The provisions of this section do not apply to a distribution to a shareholder who was not a shareholder for at least 12 months immediately prior to the notice of appointment of liquidator being given under section 537 of the Corporations Act.

51. . . . . .

PART 6 – EXEMPTIONS

Division 1 – Exemptions in general

52. Exemptions from duty

A dutiable transaction is exempt from duty under this Chapter if it is, or occurs as a consequence of any of the following:

(a) the appointment of a receiver or trustee in bankruptcy;

(b) the appointment of a liquidator;

(c) the transfer of dutiable property for no consideration to a former bankrupt from the estate of the former bankrupt;

(d) a dutiable transaction over dutiable property arising from the discharge or transfer of a mortgage or declaration of trust over a mortgage (and a reference in this paragraph to a mortgage includes a reference to a charge and an interest in a mortgage);

(e) a dutiable transaction comprising –

(i) a transfer by way of discharge of mortgage; or

(ii) a transfer by way of mortgage (not being a transfer by way of mortgage of land, or an estate or interest in land, under the *Land Titles Act 1980*), if duty as on a

mortgage has been paid in respect of an instrument evidencing the mortgage or the instrument is exempt from, or is not liable to, duty;

(f) subject to section 34, the grant of a mortgage.

53. Exemptions relating to various transactions

Duty is not chargeable under this Chapter on the following:

(a) a transfer of dutiable property to give effect to the incorporation of an association or the amalgamation of 2 associations pursuant to the *Associations Incorporation Act 1964*;

(b) a transfer of dutiable property consequent on an incorporated association under the *Associations Incorporation Act 1964* becoming a prescribed body corporate as provided for by that Act;

(c) a transfer of dutiable property as specified in section 9(1)(i) or (j) but does not include land, made between persons who are relatives if the relative is –

(i) a child or grandchild; or

(ii) a parent or grandparent; or

(iii) a brother or sister; or

(iv) a spouse or caring partner; or

(v) a spouse or caring partner of a child, grandchild, brother or sister;

(d) a lease, excluding premiums of more than $3 000 paid for or in connection with the grant, transfer or surrender of the lease;

(e) . . . . . .

(f) a transfer of personal property to a gallery conducted by a council or to the Board of Trustees of the Tasmanian Museum and Art Gallery, for the purpose of exhibiting, free of charge to the public, that property as a work of art in that gallery;

(g) . . . . . .

(h) any instrument relating to the vesting of land in the Aboriginal Land Council of Tasmania under section 27(1) of the *Aboriginal Lands Act 1995*;

(ha) any instrument relating to the transfer of land to the Aboriginal Land Council of Tasmania by way of gift, bequest or devise and declared to be Aboriginal land under section 35A of the *Aboriginal Lands Act 1995*;

(i) any instrument required as a result of any variation or change made to any folio of

the Register pursuant to section 12 of the *Abt Railway Development Act 1999*;

(j) an assent given under section 36(1) of the *Administration and Probate Act 1935* in relation to the vesting of real estate;

(k) the transfer of any property pursuant to section 18 of the *Crime (Confiscation of Profits) Act 1993*;

(l) any gift, bequest or devise acquired by the Allport Library and Museum of Fine Arts Management Committee under section 20 of the *Libraries Act 1984* or by the State Library and Archives Trust under section 17 of the *Libraries Act 1984*;

(m) any gift, bequest or devise accepted or acquired by the Minister responsible for the administration of the *Archives Act 1983* or the State Archivist under section 9 of that Act;

(n) a dutiable transaction for no consideration that is solely –

(i) in furtherance of any charitable, religious or educational purpose; or

(ii) to or in favour of any corporation or association that is incorporated or associated for any such purpose;

(o) an endorsement of a grant consequent on the surrender of land under section 59 of the *Crown Lands Act 1976*;

(p) a surrender of a forestry right, within the meaning of the *Forestry Rights Registration Act 1990*.

53A. Exemptions – Help to Buy arrangements

Duty is not chargeable under this Chapter on a change in any interest in land purchased under a Help to Buy arrangement resulting from an owner of the land paying money to the Commonwealth or Housing Australia under the arrangement.

54. Exemptions relating to special disability trusts

Duty is not chargeable under this Chapter on –

(a) a declaration of trust over property that is to be held by the trustee in the trustee's capacity as trustee for a special disability trust; or

(b) a transfer of dutiable property to the trustee of a special disability trust for the purpose of the trust –

if the Commissioner is satisfied that –

(c) the property is land on which is situated a dwelling that is to be used by the beneficiary of the trust as his or her main place of residence; or

(d) the property is goods that are situated on land referred to in paragraph (c) or that are to be used on such land by the beneficiary of the trust.

55. Exemptions – transfers to partners in a marriage or relationship

(1) No duty is chargeable under this Chapter on a transfer, or an agreement for the sale or transfer, of dutiable property if it is proved to the satisfaction of the Commissioner that –

(a) as a result of the transfer or agreement, the whole of the property is or will be held by the parties to a marriage or significant relationship, or by caring partners, as joint tenants or as tenants in common in equal shares; and

(b) the dutiable property –

(i) is land that has erected on it a private dwelling house and was solely or principally used, as at the date of transfer, as the principal place of residence of the parties to the marriage or significant relationship, or of the caring partners; or

(ii) . . . . . .

(iii) is shares that confer an entitlement to exclusive possession of a company title

dwelling that was solely or principally used, as at the date of transfer, as the principal place of residence of the parties to the marriage or significant relationship, or of the caring partners; and

(c) both the transferor and the transferee are the parties to the marriage or significant relationship, or are the caring partners, or one of them and no other person is a party to the transfer.

(1A) If –

(a) *ad valorem* duty was paid on a transfer of vacant land; and

(b) as a result of the transfer, the whole of the property is held by the parties to a marriage or significant relationship, or by caring partners, as joint tenants or as tenants in common in equal shares; and

(c) the parties to the marriage or significant relationship, or the caring partners, within 2 years from the date of the transfer referred to in paragraph (a), use the land as the site of a private dwelling house that is solely or principally used as their principal place of residence; and

(d) both the transferor and the transferee are the parties to the marriage or significant relationship, or are the caring partners, or

one of them and no other person is a party to the transfer –

the Commissioner must reassess the transfer and refund the duty paid.

(2) In this section –

private dwelling house includes a lot, within the meaning of the *Strata Titles Act 1998*, used as a place of residence.

56. Exemptions – break-down of marriages

(1) No duty is chargeable under this Chapter on a transfer, or an agreement for the sale or transfer, of matrimonial property if –

(a) the property is transferred, or agreed to be sold or transferred, to the parties to a marriage that is dissolved or annulled (or in the opinion of the Commissioner has irretrievably broken down) or to either of them, or to a child of the marriage under the age of 18; and

(b) the transfer or agreement is effected by or in accordance with –

(i) a document registered or approved under the *Family Law Act 1975* of the Commonwealth; or

(iaa) an award made in family law arbitration within the meaning of that Act, whether or not the

award is registered under section 13H of that Act; or

(ia) a financial agreement made under section 90B, 90C or 90D of that Act; or

(ii) an order of a court under that Act; or

(iii) the purchase of the property at a public auction held in accordance with such a document, award, agreement or order.

(2) No duty is chargeable under this Chapter on a dutiable transaction to the extent that –

(a) for the purposes of or ancillary to a transfer referred to in subsection (1), it transfers a share that is matrimonial property to a person not a party to the relevant marriage in order to comply with a requirement of or prescribed under the Corporations Act; or

(b) it is a declaration of trust, by the transferee of a share transferred as referred to in paragraph (a), for the benefit of a party to the marriage.

(3) If *ad valorem* duty has been paid on a transfer or agreement to which subsection (1) applies, the Commissioner must reassess the transfer or agreement and refund the duty paid.

(4) In this section –

child of the marriage includes –

(a) a child of either or both of the parties to the marriage; and

(b) a trustee of such a child.

56A. Exemptions – break-down of de facto relationships

(1) No duty is chargeable under this Chapter on a transfer, or an agreement for the sale or transfer, of de facto relationship property if –

(a) the property is transferred, or agreed to be sold or transferred, to the parties to a de facto relationship that has been terminated, or to either of them, or to a child of the relationship who is under the age of 18; and

(b) the transfer or agreement is effected by or in accordance with –

(i) a document registered or approved under the *Family Law Act 1975* of the Commonwealth; or

(ia) an award made in family law arbitration within the meaning of that Act, whether or not the award is registered under section 13H of that Act; or

(ii) a financial agreement made under section 90UB, 90UC or 90UD of that Act; or

(iii) an order of a court under that Act; or

(iv) the purchase of the property at a public auction held in accordance with such a document, award, agreement or order.

(2) No duty is chargeable under this Chapter on a dutiable transaction to the extent that –

(a) for the purposes of or ancillary to a transfer referred to in subsection (1), it transfers a share that is de facto relationship property to a person not a party to the relevant de facto relationship in order to comply with a requirement of or prescribed under the Corporations Act; or

(b) it is a declaration of trust, by the transferee of a share transferred as referred to in paragraph (a), for the benefit of a party to the de facto relationship.

(3) If *ad valorem* duty has been paid on a transfer or agreement to which subsection (1) applies, the Commissioner must reassess the transfer or agreement and refund the duty paid.

(4) In this section –

child of the relationship includes –

(a) a child of either or both of the parties to the relationship; and

(b) a trustee of such a child.

57. Exemptions – personal relationships

(1) No duty is chargeable under this Chapter on a transfer, or an agreement for the sale or transfer, of relationship property if –

(a) the property is transferred or agreed to be sold or transferred to the partners to a personal relationship that is terminated, or to either of them, or to a child of the relationship who is under the age of 18; and

(b) the transfer or agreement –

(i) is effected by or in accordance with an order made under the *Relationships Act 2003* or a prescribed agreement; or

(ii) is executed for the purpose of, or in accordance with, such an order or prescribed agreement; or

(iii) effects the purchase, at a public auction, of property, that immediately before the auction, was relationship property, where the auction is held to comply with any such order or prescribed agreement.

(2) No duty is chargeable under this Chapter on a dutiable transaction to the extent that –

(a) for purposes of or ancillary to a transfer referred to in subsection (1), it transfers a share that is relationship property to a person not a party to the relevant personal relationship in order to comply with a requirement of or prescribed under the Corporations Act; or

(b) it is a declaration of trust, by the transferee of a share transferred as referred to in paragraph (a), for the benefit of a party to the personal relationship.

(2A) If –

(a) *ad valorem* duty was paid on a transfer, or agreement for the sale or transfer, of relationship property to the parties to a personal relationship or to either of them, or to a child of the relationship who is under the age of 18; and

(b) the transfer or agreement for the sale or transfer of relationship property is effected by or in accordance with –

(i) a document registered or approved under the *Relationships Act 2003*; or

(ii) an order of the court under that Act; or

(iii) a prescribed agreement; or

(iv) a purchase, at a public auction, of property that, immediately before the auction, was relationship property, where the public auction is held to comply with any such document, prescribed agreement or order; and

(c) the Commissioner is satisfied that the personal relationship has been terminated –

the Commissioner must reassess the transfer or agreement and refund the duty paid.

(3) In this section –

child of the relationship means –

(a) a child of either or both of the parties to the relationship; and

(b) a trustee of such a child;

prescribed agreement means an agreement that is –

(a) a personal relationship agreement or separation agreement within the meaning of the *Relationships Act 2003*; and

(b) in accordance with paragraphs (b), (c), (d) and (e) of section 62(1) of the *Relationships Act 2003*.

57A. Partial exemptions

(1) No duty is chargeable under this Chapter on a transfer to a council of real property that is –

(a) to be used as a public road; or

(b) a park or garden used for recreational purposes for which the council will normally provide free public access.

(2) However, if any part of the real property so transferred is not to be used as –

(a) a public road; or

(b) a park or garden for recreational purposes for which the council will normally provide free public access –

the dutiable value of the transfer is to be reduced by the value of the real property, inclusive of capital improvements, to be used for the purposes referred to in paragraphs (a) and (b).

(3) If, within 24 months after the transfer, or a longer period approved by the Commissioner if the Commissioner is satisfied that exceptional circumstances exist, real property that was to be used for a purpose referred to in subsection (1)(a) is not being used for that purpose, the Commissioner must reassess the duty chargeable on the transfer as if, at the time of the transfer, an exemption provided by this section did not apply.

(4) In this section –

public road includes adjacent or adjoining land used for an ancillary purpose, including associated structures or works.

57AA. Exemptions – certain vestings

No duty is chargeable under this Chapter on a vesting of dutiable property if –

(a) it is a vesting of dutiable property in a legal personal representative of a deceased person or under section 12 of the *Administration and Probate Act 1935*; or

(b) it is a vesting, under the *Associations Incorporation Act 1964*, of dutiable property in an incorporated association; or

(c) it is a vesting, under the *Strata Titles Act 1998*, of common property in a body corporate on the registration of a strata plan under that Act; or

(d) it is a vesting of dutiable property under section 28 of the *Strata Titles Act 1998* by virtue of the cancellation of a strata plan.

57B. Exemptions – certain financing arrangements

(1) No duty is chargeable under this Chapter in respect of a transaction, relating to dutiable property, that is a second transaction within the meaning of subsection (2) or (3).

(2) This subsection applies if a natural person and an authorised deposit-taking institution enter into an agreement where –

(a) the natural person, acting as agent for the authorised deposit-taking institution, and a third party enter into an agreement for sale in relation to real property (the ***relevant property***); and

(b) in accordance with the agreement for sale referred to in paragraph (a), the relevant property is transferred from the third party to the authorised deposit-taking institution (the ***first transaction***); and

(c) at the same time as the first transaction, the authorised deposit-taking institution and the natural person enter into an agreement for sale in relation to the relevant property; and

(d) in accordance with the agreement for sale referred to in paragraph (c), the authorised deposit-taking institution transfers the relevant property to the natural person for consideration (the ***second transaction***).

(3) This subsection applies if a natural person and an authorised deposit-taking institution enter into an agreement where –

(a) the natural person, acting as agent for the authorised deposit-taking institution, and a third party enter into an agreement for

sale in relation to real property (the ***relevant property***); and

(b) in accordance with the agreement for sale referred to in paragraph (a), the relevant property is transferred from the third party to both the authorised deposit-taking institution and the natural person (the ***first transaction***) in the percentages specified in the agreement; and

(c) at the same time as the first transaction, the authorised deposit-taking institution and the natural person enter into an agreement where the natural person is to purchase such percentage of the relevant property as is owned by the authorised deposit-taking institution; and

(d) in accordance with the agreement referred to in paragraph (c), the authorised deposit-taking institution transfers, in one or more transactions, the relevant property to the natural person for consideration (the ***second transaction***).

(4) No duty is chargeable under this Chapter in respect of a transaction, relating to dutiable property, that is a first transaction, or a second transaction, within the meaning of subsection (5).

(5) This subsection applies if –

(a) a natural person and an authorised deposit-taking institution enter into any

of the agreements referred to in subsection (2) or (3) (the ***relevant agreement***); and

(b) the authorised deposit-taking institution transfers the dutiable property to another authorised deposit-taking institution (the ***first transaction***) on the condition that the other authorised deposit-taking institution complies with the terms of the relevant agreement; and

(c) in accordance with the relevant agreement, the other authorised deposit-taking institution transfers the dutiable property to the natural person (the ***second transaction***).

(6) No duty is chargeable under this Chapter in respect of a transfer (the ***relevant transfer***), of an interest, held by an authorised deposit-taking institution in accordance with an agreement referred to in subsection (2), (3)or (5), if –

(a) before the agreement has been completed, a natural person, referred to in subsection (2), (3)or (5), respectively, who held an interest under the agreement, has died; and

(b) the relevant transfer is made to another natural person, to whom the interest, under the agreement, of the natural person has been transferred by virtue of –

(i) a testamentary gift; or

(ii) the right of survivorship; or

(iii) the *Administration and Probate Act 1935*.

Division 2 – First home buyer duty exemption

57C. Interpretation of Division 2

In this Division –

eligible first home buyer – see section 57E;

eligible period means the period commencing on 18 February 2024 and ending on 30 June 2026;

eligible transaction – see section 57F;

established home means a home other than a new home;

new home has the same meaning as in the *First Home Owner Grant Act 2000*;

owner has the same meaning as in the *First Home Owner Grant Act 2000*;

residence requirement means a requirement that a person occupy an established home as the person's principal place of residence in accordance with section 57H(1).

57D. Extension of eligible period

(1) The Minister, by order and on one or more occasions, may extend the eligible period by omitting the date on which the period ends and substituting a new date.

(2) Sections 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to an order under subsection (1) as if the order were regulations within the meaning of that Act.

(3) An order under subsection (1) –

(a) is a statutory rule for the purposes of the *Rules Publication Act 1953*; and

(b) is not an instrument of a legislative character for the purposes of the *Subordinate Legislation Act 1992*.

57E. Eligible first home buyer

(1) For the purposes of this Division, a person is an eligible first home buyer if the Commissioner is satisfied that the person –

(a) is a natural person; and

(b) has attained the age of 18 years; and

(c) subject to subsection (3), is an Australian citizen or a permanent resident.

(2) The Commissioner may exempt a person from the requirement in subsection (1)(b), in respect of a transfer of land on which an established

home is situated, if the Commissioner is satisfied that –

(a) the person will comply with the residence requirement in relation to that home; and

(b) the transfer of land to the person does not form part of a scheme to circumvent requirements affecting eligibility for duty not to be chargeable under section 57G.

(3) If, in respect of an eligible transaction, there is more than one transferee and at least one of the transferees is an Australian citizen or a permanent resident, it is not necessary for the other transferees to be Australian citizens or permanent residents.

(4) A person is not an eligible first home buyer if –

(a) the person or the person's spouse has previously been the owner of a home in Tasmania or a home in any other State or a Territory; or

(b) the person or the person's spouse has previously been paid a first home owner grant under the *First Home Owner Grant Act 2000*; or

(c) a previous transfer of property to that person or to the person's spouse attracted a duty concession under Division 2A of Part 5; or

(d) no duty was charged on a previous transfer of property to that person or to the person's spouse under this Division.

57F. Eligible transaction

(1) For the purposes of this Division, an ***eligible transaction*** means a transfer of land on which an established home is situated if that transfer meets the following requirements:

(a) the transfer occurs within the eligible period;

(b) each of the transferees is an eligible first home buyer;

(c) the Commissioner is satisfied that each of the transferees intends to meet the residence requirement in relation to the established home;

(d) the dutiable value of the dutiable property does not exceed the prescribed amount or, if no amount is prescribed, $750 000.

(2) Subsection (1)(b) does not apply in relation to a transfer of land on which an established home is situated if the Commissioner is satisfied that there are good reasons why a transferee is not an eligible first home buyer.

57G. First home buyer duty exemption

Duty is not chargeable under this Chapter on an eligible transaction.

57H. Residence requirements

(1) If duty is not chargeable on a transfer of land in accordance with section 57G, each transferee must occupy the established home situated on that land as the person's principal place of residence for a continuous period of at least 6 months (or any lesser period approved by the Commissioner under subsection (2)) commencing –

(a) within the 12-month period immediately after the eligible transaction; or

(b) within such longer period as is approved by the Commissioner.

(2) The Commissioner may approve a lesser period of occupation of an established home under subsection (1) if the Commissioner is satisfied that there are good reasons why the transferee cannot comply with the requirement to occupy the home for 6 months.

(3) A decision to approve a lesser period of occupation of an established home under subsection (2), or to approve a longer period before occupation is commenced under subsection (1)(b), may be made at any time before the Commissioner makes a reassessment

of duty under section 57I on the transfer of the land on which that established home is situated.

(4) The Commissioner may, in respect of an eligible transaction, exempt a transferee (the ***non-complying transferee***) from the requirements of this section if –

(a) the transferee is one of 2 or more joint transferees; and

(b) at least one of the transferees complies with the residence requirement; and

(c) there are, in the Commissioner's opinion, good reasons to exempt the non-complying transferee from the residence requirement.

(5) If duty is not chargeable on a transfer of land in accordance with section 57G, each transferee must retain the person's interest in that land until the residence requirement has been satisfied.

(6) If –

(a) duty is not chargeable on a transfer of land in accordance with section 57G; and

(b) a transferee fails to comply with subsection (1) or (5) –

the transferee must give written notice of that fact to the Commissioner within 14 days after the failure to comply.

Penalty: Fine not exceeding 100 penalty units.

57I. Reassessment of exemption

(1) If the Commissioner becomes aware that a dutiable transaction for a transfer of land, in respect of which duty was not chargeable in accordance with section 57G, did not satisfy the requirements of section 57F, the Commissioner may reassess the duty that would otherwise be payable in respect of that transaction.

(2) If –

(a) duty is not chargeable on a transfer of land in accordance with section 57G; and

(b) the Commissioner becomes aware that a transferee failed to comply with the requirements of section 57H –

the Commissioner may reassess the duty that would otherwise be payable in respect of that dutiable transaction as if the transaction was not an eligible transaction.

57J. Refund provisions

If the Commissioner is satisfied that no duty is payable in respect of a dutiable transaction under section 57G, the Commissioner is to refund any amount of duty paid in relation to the relevant dutiable transaction.

CHAPTER 3 – CERTAIN TRANSACTIONS TREATED AS TRANSFERS

PART 1 – PRELIMINARY

58. Overview

(1) This Chapter charges duty on certain transactions that are not dutiable transactions.

(2) Duty is chargeable under this Chapter on a relevant acquisition in a landholder at the rate, or a portion of the rate, specified under section 29, for a transfer of dutiable property.

59. Interpretation of Chapter 3

(1) In this Chapter –

acquisition statement means a statement prepared and lodged in accordance with section 68;

acquisition statement period means the 3-year period of an acquisition statement referred to in section 68(6) or the longer period referred to in section 68(7), as appropriate;

concessional acquisition means a concessional acquisition within the meaning of section 84A;

exempt acquisition means an exempt acquisition within the meaning of section 83 or 84;

goods, of a landholder, has the meaning given by section 63;

interest, in a landholder, has the meaning given by section 66;

land holding has the meaning given by section 62;

linked entity has the meaning given by –

(a) section 76(2) in relation to a private unit trust scheme or private company; or

(b) section 76(3) in relation to a public unit trust scheme or listed company;

listed company means a company any of the shares of which are quoted on the Australian Securities Exchange, or any other recognised stock exchange;

person includes a landholder;

private landholder has the meaning given by section 61(2);

public landholder has the meaning given by section 61(3);

relevant acquisition has the meaning given by section 65;

significant interest, in a landholder, has the meaning given by section 66.

(2) In this Chapter, a reference to a marketable security in relation to another jurisdiction is a reference to a marketable security within the meaning of the corresponding Act of that jurisdiction.

59A. . . . . .

60. Provisions relating to trusts

(1) Any land or goods held on trust by –

(a) a trustee of a unit trust scheme in its capacity as a trustee; or

(b) a custodian of a trustee of a unit trust scheme in its capacity as a custodian; or

(c) a sub-custodian of a custodian of a trustee of a unit trust scheme in its capacity as a sub-custodian –

are taken to be held by the unit trust scheme.

(2) Any act done by –

(a) a trustee of a unit trust scheme in its capacity as a trustee; or

(b) a custodian of a trustee of a unit trust scheme in its capacity as a custodian; or

(c) a sub-custodian of a custodian of a trustee of a unit trust scheme in its capacity as a sub-custodian –

is taken, where appropriate, to have been done by the unit trust scheme.

(3) If a landholder is a unit trust scheme, any act to be done by the landholder is to be done by any of the following:

(a) the trustee of the unit trust scheme in its capacity as a trustee;

(b) a custodian of the trustee of the unit trust scheme in its capacity as a custodian;

(c) a sub-custodian of a custodian of the trustee of the unit trust scheme in its capacity as a sub-custodian.

61. Meaning of *landholder*, *private landholder* and *public landholder*

(1) For the purposes of this Chapter, a landholder is –

(a) a private unit trust scheme; or

(b) a public unit trust scheme; or

(c) a private company; or

(d) a listed company –

that has land holdings in Tasmania with a total unencumbered value of $500 000 or more.

(2) A landholder is a private landholder if the landholder is a private unit trust scheme or private company.

(3) A landholder is a public landholder if the landholder is a public unit trust scheme or a listed company.

62. What are the *land holdings* of a landholder

(1) For the purposes of this Chapter and subject to this section, a land holding is an interest in land other than –

(a) the interest of a mortgagee, chargee or other secured creditor; or

(b) a *profit a prendre*.

(2) An interest in land is a land holding of a unit trust scheme only to the extent that the interest is held by the trustee of the unit trust scheme in its capacity as trustee of the scheme, by a custodian of the trustee of the unit trust scheme in its capacity as custodian or by a sub-custodian of the custodian of the trustee of the unit trust scheme in its capacity as sub-custodian.

(3) An interest in land is not a land holding of a company if the company holds the land on trust, but only if the company is not a beneficiary of the trust.

(4) If a company holds land on trust and is also a beneficiary of the trust, the Commissioner may determine that the interest of the company in the

land as trustee is not a land holding of the company and, if the Commissioner so determines, that interest of the company in the land as trustee is not a land holding of the company.

(5) For the purposes of this Chapter –

(a) an interest in a mineral tenement is taken to be an interest in land; and

(b) an interest in a pipeline, within the meaning of the *Gas Industry Act 2019*, is taken to be an interest in land.

(6) If a private company, listed company, private unit trust scheme or public unit trust scheme has an entitlement to or interest in land, a thing that is fixed to the land is taken to be part of the land for the purposes of determining the extent of the company or unit trust scheme's land holdings for the purposes of this Chapter.

(7) A thing that is fixed to the land is not to be taken to be part of the land for the purposes of subsection (6) if the Commissioner is satisfied that it would not be just and reasonable to do so in the circumstances.

(8) If –

(a) a private company, listed company, private unit trust scheme or public unit trust scheme has an entitlement to, or interest in, a thing that is fixed to the land; and

(b) that entitlement or interest is, or purports to be, separate from the ownership of the rest of the land –

the private company, listed company, private unit trust scheme or public unit trust scheme is to be regarded as having an interest in land for the purposes of this Chapter to the extent of its entitlement to, or interest in, the thing.

(9) In this section –

thing that is fixed to the land means any thing that is fixed to the land (including a thing that, under the direct or indirect authority of a mineral tenement, is fixed to land that is the subject of that mineral tenement), whether or not the thing –

(a) constitutes a fixture at law; or

(b) is owned separately from the land; or

(c) is notionally severed or considered to be legally separate from the land as a result of the operation of any other Act or law.

63. What are the goods of a landholder, unit trust scheme or company

(1) In this Chapter –

goods does not include the following:

(a) goods that are stock-in-trade;

(b) materials held for use in manufacture;

(c) goods under manufacture;

(d) livestock;

(e) a registered motor vehicle that is not exempt from motor tax under the *Vehicle and Traffic Act 1999* or the *Transport Act 1981*.

(2) For the purposes of this Chapter, goods are goods of a landholder, unit trust scheme or company –

(a) if the landholder, unit trust scheme or company has any interest in the goods, other than an interest as mortgagee, chargee or other secured creditor; but

(b) only to the extent of that interest.

(3) Goods are goods of a unit trust scheme only to the extent that the interest in the goods is held by the trustee of the unit trust scheme in its capacity as trustee of the scheme, by a custodian of the trustee of the unit trust scheme in its capacity as custodian or by a sub-custodian of the custodian of the trustee of the unit trust scheme in its capacity as sub-custodian.

(4) Goods are not goods of a company if the interest the company has in the goods is held on trust and the company is not a beneficiary of the trust.

(5) If a company holds goods on trust and is also a beneficiary of the trust, the Commissioner may determine that the interest of the company in the goods as trustee is not an interest of the company in the goods and, if the Commissioner so determines, the interest of the company in the goods as trustee is not an interest of the company in the goods.

PART 2 – CHARGING OF DUTY ON ACQUISITIONS OF INTERESTS OF LANDHOLDERS

63A. Interpretation of Part 2

In this Part –

primary production property means the following property:

(a) land holdings of a landholder if that land holding relates to an interest in land and that land is primary production property in accordance with section 30(a);

(b) goods of a landholder if –

(i) duty is chargeable on the value of those goods under section 71 or 72; and

(ii) the use of the goods can be directly linked to, or is incidental to the use, or intended use, of, all or part of the land referred to in paragraph (a) for primary production purposes;

residential property means the following property:

(a) land holdings of a landholder if that land holding relates to an interest in land and that land is residential property in accordance with section 30A(a);

(b) goods of a landholder if –

(i) duty is chargeable on the value of those goods under section 71 or 72; and

(ii) the use of the goods can be directly linked to, or is incidental to the use, or intended use, of, all or part of the land referred to in paragraph (a) for residential purposes.

63B. Landholdings that include more than one parcel of land

For the purposes of calculating duty under this Part, if land holdings held by a landholder include more than one parcel of land, each parcel of land is taken to be a separate item of property.

64. When does a liability for duty arise

A liability for duty charged by this Part arises when a relevant acquisition is made.

65. What is a *relevant acquisition*

(1) For the purposes of this Chapter, a person makes a relevant acquisition if the person –

(a) acquires an interest in a landholder –

(i) that is of itself a significant interest in the landholder; or

(ii) that, when aggregated with other interests in the landholder held by the person or an associated person, results in an aggregation that amounts to a significant interest in the landholder; or

(b) having a significant interest, or an interest described in paragraph (a)(ii), in a landholder, acquires a further interest in the landholder.

(2) However, an acquisition of an interest in a private landholder under an arrangement that results in the private landholder ceasing to be a private landholder is not a relevant acquisition because of subsection (1)(a)(ii).

(3) If a trustee acquires or holds an interest in a landholder and the trustee is a trustee for 2 or more trusts, any interests in the landholder acquired or held by the trustee for different trusts are to be treated as if they were acquired or held independently by separate trustees.

(4) If a person acquires or holds an interest in a landholder otherwise than as a trustee (the

personal interest) but also acquires or holds another interest in the landholder as trustee (the ***trust interest***) but is not also a beneficiary under that trust, the personal interest is to be treated as if it were –

(a) acquired or held independently of the trust interest; and

(b) acquired or held by a different person from the person who acquires or holds the trust interest.

(5) If a life company acquires or holds an interest in a landholder, any interests in the landholder acquired or held by the life company for different statutory funds are to be treated as if they were acquired or held independently by separate life companies.

(6) If a life company acquires or holds an interest in a landholder otherwise than for a statutory fund (the ***first interest***) but also acquires or holds another interest in the landholder for a statutory fund (the ***second interest***), the first interest is to be treated as if it were –

(a) acquired or held independently of the second interest; and

(b) acquired or held by a different person from the life company who acquires or holds the second interest.

(7) For the purpose of avoiding doubt, subsections (3), (4), (5) and (6) do not affect –

(a) the definition of *associated person* in section 3; or

(b) the operation of subsection (1)(a)(ii) or Part 3.

(8) In this section –

statutory fund has the same meaning as in section 29 of the *Life Insurance Act 1995* of the Commonwealth.

66. What are *interests* and *significant interests* in landholders

(1) For the purposes of this Chapter, a person has an interest in a landholder if the person, in the event of a distribution of all the property of the landholder, would be entitled (otherwise than as a creditor of the landholder or other person to whom the landholder is liable) to any of the property distributed.

(2) A person who has an interest in a landholder has a significant interest in the landholder if the person, in the event of a distribution of all the property of the landholder (disregarding any distribution to meet the liabilities of the landholder) immediately after the interest was acquired, would be entitled (disregarding any entitlement that he or she would have to a distribution of property as a creditor or other person to whom the landholder is liable) to –

(a) in the case of a private landholder, 50% or more of the property distributed; or

(b) in the case of a public landholder, 90% or more of the property distributed.

67. How an interest may be *acquired*

(1) For the purposes of this Chapter, a person acquires an interest in a landholder if the person obtains an interest, or the person's interest increases, in the landholder regardless of how it is obtained or increased.

(2) Without limiting subsection (1), a person may acquire an interest in a landholder in the following ways:

(a) a purchase, gift or issue of a unit or share;

(b) a cancellation, redemption or surrender of a unit or share;

(c) an abrogation or alteration of a right pertaining to a unit or share;

(d) a payment of an amount owing for a unit or share;

(e) a declaration of trust over units or shares;

(f) a statutory vesting of units or shares;

(g) if the person holds an interest in the landholder (whether or not as trustee for another person) and the capacity in which the person holds the interest changes (including if there is a change in

the beneficial ownership of an interest held by a person as trustee).

(3) A person may acquire an interest in a landholder without acquiring units or shares in the landholder.

68. Acquisition statements

(1) A person who has made a relevant acquisition must prepare a statement and lodge it with the Commissioner within 3 months after the relevant acquisition is made.

Penalty: Fine not exceeding 50 penalty units.

(2) If a person makes a relevant acquisition as a result of the aggregation of the interests of the person with one or more associated persons –

(a) subsection (1) applies not only to the person but also to each such associated person; but

(b) compliance with subsection (1) by the person or any such associated person is taken to be sufficient compliance with that subsection by the person and each such associated person.

(3) The statement is to be prepared in an approved form and must contain the following information:

(a) the name and address of the person who has acquired the interest;

(b) in relation to each interest acquired, the date on which it was acquired;

(c) if the relevant acquisition results from the aggregation of the interests of associated persons, particulars of the interests acquired by the person and any associated persons;

(d) particulars of the total interest of the person and any associated person in the landholder at that date;

(e) such other information as the Commissioner may require.

(4) The statement must also contain additional information consisting of the unencumbered value of all land holdings and goods in Tasmania of the landholder as at the date of the relevant acquisition and, if the landholder is a private landholder, as at the date of acquisition of each interest acquired in the landholder during the statement period.

(4A) In the case of a relevant acquisition to which section 71A or 72A applies, the statement must also contain the following information:

(a) the name of the foreign person who made the relevant acquisition and, if the landholder is a private landholder, the name of the foreign person who made the acquisition in the landholder during the statement period;

(b) the value of all residential property and primary production property of the landholder as at the date of the relevant acquisition and, if the landholder is a private landholder, as at the date of acquisition of each interest acquired in the landholder during the statement period.

(5) The additional information referred to in subsection (4) is not required in relation to any exempt acquisition or concessional acquisition.

(6) The statement period is the period commencing 3 years before the date of the relevant acquisition and ending on the date of the relevant acquisition.

(7) However, if the relevant acquisition is related to an acquisition of an interest in the landholder that was made before the start of that 3-year period (the ***earlier acquisition***), the statement period is the period commencing on the date that earlier acquisition was made (or, if there is more than one, the first of them) and ending on the date of the relevant acquisition.

(8) For the purposes of subsection (7), a relevant acquisition is related to another acquisition of an interest in the landholder if both acquisitions are part of an arrangement to acquire interests in the landholder.

(9) If a statement in relation to a relevant acquisition is not prepared and lodged in accordance with subsection (1), the Commissioner may prepare,

in relation to the relevant acquisition, a statement for the purposes of that subsection and any statement so prepared is to be taken for the purposes of this section to be the acquisition statement in relation to the relevant acquisition.

(10) In preparing a statement under subsection (9), the Commissioner may take into account any information available to the Commissioner and may make estimates based on that information.

69. When must duty be paid

A tax default does not occur for the purposes of the *Taxation Administration Act 1997* if duty is paid within 3 months after the liability to pay the duty arises.

70. Who is liable to pay the duty

(1) Duty chargeable under this Part is payable by the person who makes the relevant acquisition, except as provided by subsection (2).

(2) If a relevant acquisition results from the aggregation of the interests of associated persons, the person who made the relevant acquisition and the associated person are jointly and severally liable for payment of the duty.

71. How duty is charged on relevant acquisitions – private landholders

(1) If an acquisition statement that discloses a relevant acquisition in a private landholder does

not disclose any other acquisitions during the statement period, duty is chargeable, at the rate specified in section 29 on a dutiable transaction, on the amount calculated by multiplying the unencumbered value of all land holdings and goods of the landholder in Tasmania (calculated at the date of acquisition of the interest acquired) by the proportion of that value represented by the interest acquired in the relevant acquisition.

(2) Despite subsection (1), duty is not chargeable under this section on a relevant acquisition referred to in that subsection if the acquisition is an exempt acquisition.

(3) Despite subsection (1), duty is not chargeable as specified in that subsection on a relevant acquisition referred to in that subsection if that acquisition is also a concessional acquisition, but is chargeable at the relevant concessional rate of duty under Part 5 of Chapter 2.

(4) If a relevant acquisition results from the aggregation of the interests of associated persons, the reference in subsection (1) to the interest acquired includes a reference to any interests acquired by associated persons.

(5) If an acquisition statement disclosing a relevant acquisition in a private landholder also discloses one or more other acquisitions during the statement period, duty is chargeable, at the rate specified in section 29 on a dutiable transaction, on the aggregate of the amounts severally calculated, in the manner provided by

subsection (1), in respect of each interest required to be disclosed in the statement.

(6) For the purpose of calculating duty under this section –

(a) if the acquisition statement discloses one or more other acquisitions referred to in subsection (5) and the relevant acquisition is an exempt acquisition, the value of the land and goods for the relevant acquisition is taken to be zero; and

(b) if the acquisition statement discloses one or more other acquisitions and the relevant acquisition is a concessional acquisition –

(i) the value of the land and goods for the relevant acquisition is taken to be zero; and

(ii) the relevant concessional amount of duty under Part 5 of Chapter 2 is to be added to the amount of duty otherwise chargeable under this section; and

(c) if any of the other acquisitions referred to in subsection (5) occurred when the landholder did not own land in Tasmania, the value of any goods that the landholder held at the time of that other acquisition is taken to be zero; and

(d) if any of the other acquisitions referred to in subsection (5) is an exempt acquisition, the value of the land and goods acquired for that other acquisition is taken to be zero; and

(e) if any of the other acquisitions referred to in subsection (5) is a concessional acquisition –

(i) the value of the land and goods acquired for that other acquisition is taken to be zero; and

(ii) the relevant concessional amount of duty under Part 5 of Chapter 2 is to be added to the amount of duty otherwise chargeable under this section.

(7) Duty chargeable under this section is to be reduced by the sum of the duty paid, or payable, under this Chapter in respect of an acquisition, during the acquisition statement period, by the person or any associated person of an interest in the same landholder, but only in proportion to the extent to which the duty paid, or payable, is attributable to the amount of the duty payable under this section.

(8) Duty chargeable under this section is to be reduced by an amount (if any) calculated in accordance with the following formula:

$$\frac{A}{B} \times C$$

where –

A is the unencumbered value of the land holdings and goods in Tasmania of the landholder at the time the acquisition was made; and

B is the unencumbered value of all property of the landholder at that time; and

C is any marketable securities duty paid or payable under a law of another Australian jurisdiction in relation to the relevant acquisition.

(9) If a relevant acquisition is made owing to the aggregation of the interests of associated persons, but the Commissioner is satisfied that the associated persons acquired their respective interests independently and for no common purpose, the Commissioner may assess and charge duty on each separate acquisition without aggregating the interests of the person who made it with the interests of associated persons.

(10) This section is subject to Parts 3A and 3B.

71A. Additional duty for acquisition by foreign person – private landholders

(1) This section applies to a relevant acquisition in a private landholder if –

(a) a person liable to pay duty on the relevant acquisition is a foreign person; and

(b) the property of the private landholder includes residential property or primary production property (or both).

(2) In addition to the duty otherwise chargeable under section 71, duty is also chargeable in accordance with this section.

(3) If an acquisition statement that discloses a relevant acquisition in a private landholder does not disclose any other acquisitions during the statement period, duty is chargeable –

(a) in respect of residential property held by the landholder, at the rate specified in section 30C on a dutiable transaction, on the amount calculated by multiplying the unencumbered value of all residential property of the landholder (calculated at the date of acquisition of the interest acquired) by the proportion of that value represented by the interest acquired by a foreign person or foreign persons in the relevant acquisition; and

(b) in respect of primary production property held by the landholder, at the rate specified in section 30E on a dutiable transaction, on the amount calculated by multiplying the unencumbered value of all primary production property of the landholder (calculated at the date of acquisition of the interest acquired) by the proportion of that value represented by the interest acquired in the relevant

acquisition by a foreign person or foreign persons.

(4) Despite subsection (3), duty is not chargeable under this section on a relevant acquisition referred to in that subsection if the acquisition is –

(a) an exempt acquisition; or

(b) a concessional acquisition.

(5) Subsection (4)(b) does not apply to an acquisition that is a concessional acquisition by virtue of the application of a duty concession under section 50.

(6) If an acquisition statement disclosing a relevant acquisition in a private landholder also discloses one or more other acquisitions during the statement period, duty is chargeable –

(a) in respect of residential property held by the landholder, at the rate specified in section 30C on a dutiable transaction, on the aggregate of the amounts severally calculated, in the manner provided in subsection (3)(a), in respect of each interest required to be disclosed in the statement; and

(b) in respect of primary production property held by the landholder, at the rate specified in section 30E on a dutiable transaction, on the aggregate of the amounts severally calculated, in the manner provided by subsection (3)(b), in

respect of each interest required to be disclosed in the statement.

(7) For the purpose of calculating duty under this section –

(a) if the acquisition statement discloses one or more other acquisitions referred to in subsection (6) and the relevant acquisition is an exempt acquisition, the value of residential property and primary production property for the relevant acquisition is taken to be zero; and

(b) if the acquisition statement discloses one or more other acquisitions referred to in subsection (6) and the relevant acquisition is a concessional acquisition, the value of residential property and primary production property for the relevant acquisition is taken to be zero; and

(c) if any of the other acquisitions referred to in subsection (6) is an exempt acquisition, the value of residential property and primary production property acquired for that other acquisition is taken to be zero; and

(d) if any of the other acquisitions referred to in subsection (6) is a concessional acquisition, the value of residential property and primary production property acquired for that other acquisition is taken to be zero.

(8) Subsections (7)(b) and (d) do not apply to an acquisition that is a concessional acquisition by virtue of the application of a duty concession under section 50.

(9) Duty chargeable under this section is to be reduced by the sum of the duty paid, or payable, under this Part in respect of an acquisition, during the acquisition statement period, by the person of an interest in the same landholder, but only in proportion to the extent to which the duty paid, or payable, is attributable to the amount of the duty payable under this section.

(10) If –

(a) a person liable to pay duty on a relevant acquisition is a foreign person; and

(b) the acquisition statement disclosing the relevant acquisition also discloses one or more other acquisitions during the statement period –

the person referred to in paragraph (a) is taken to have been a foreign person at the time of the other acquisitions referred to in paragraph (b).

72. How duty is charged on relevant acquisitions – public landholders

(1) If an acquisition statement discloses a relevant acquisition in a public landholder, the duty chargeable on the relevant acquisition is 10% of the duty that would be chargeable, at the rate specified in section 29 on a transfer of dutiable

property, on a transfer of all the land holdings and goods of the landholder in Tasmania (calculated as if the transfer had occurred at the date of the relevant acquisition).

(2) For the purposes of subsection (1), the dutiable value of all the land holdings and goods of the landholder as referred to in that subsection is the unencumbered value of those land holdings and goods at the date of the relevant acquisition.

(3) If an acquisition disclosed in an acquisition statement is an exempt acquisition or a concessional acquisition –

(a) the duty chargeable under this section is to be calculated after deducting from the dutiable value of the land holdings and goods the proportion of the dutiable value represented by the interest acquired in the exempt acquisition or concessional acquisition; and

(b) in the case of a concessional acquisition, the relevant concessional amount of duty under Part 5 of Chapter 2 is to be added to the amount of duty otherwise chargeable under this section.

(4) Duty chargeable under this section is to be reduced by an amount (if any) calculated in accordance with the following formula:

$$\frac{A}{B} \times C$$

where –

A is the unencumbered value of the land holdings and goods in Tasmania of the landholder at the time the acquisition was made; and

B is the unencumbered value of all property of the landholder at that time; and

C is any marketable securities duty paid or payable under a law of another Australian jurisdiction in relation to the relevant acquisition.

(5) If duty is chargeable in respect of a relevant acquisition made by a person in a public landholder, no duty is chargeable in respect of any further acquisition made by that person in that landholder.

(6) This section is subject to Parts 3A and 3B of this Chapter.

72A. Additional duty for foreign acquisition – public landholders

(1) This section applies to a relevant acquisition in a public landholder if –

(a) a person liable to pay duty on the relevant acquisition under section 72 is a foreign person; and

(b) the land holdings of the public landholder include residential property or primary production property (or both).

(2) In addition to the duty otherwise chargeable under section 72, duty is also chargeable in accordance with this section.

(3) If an acquisition statement discloses a relevant acquisition in a public landholder, duty is chargeable –

(a) in respect of residential property held by the landholder, at the rate specified in section 30C on a dutiable transaction, on a transfer of all the residential property of the landholder (calculated as if the transfer had occurred at the date of the relevant acquisition); and

(b) in respect of primary production property held by the landholder, at the rate specified in section 30E on a dutiable transaction, on a transfer of all the primary production property of the landholder (calculated as if the transfer had occurred at the date of the relevant acquisition).

(4) For the purposes of subsection (3)(a), the dutiable value of all residential property of the landholder is calculated by multiplying the unencumbered value of all residential property of the landholder by the proportion of that value represented by the interest acquired in the landholder by a foreign person or foreign persons.

(5) For the purposes of subsection (3)(b), the dutiable value of all primary production property

of the landholder is calculated by multiplying the unencumbered value of all primary production property of the landholder by the proportion of that value represented by the interest acquired in the landholder by a foreign person or foreign persons.

(6) If an acquisition disclosed in an acquisition statement is an exempt acquisition or a concessional acquisition, the duty chargeable under this section is to be calculated after deducting from the dutiable value of residential property and primary production property the proportion of the dutiable value represented by the interest acquired in the exempt acquisition or concessional acquisition.

(7) If duty is chargeable in respect of a relevant acquisition made by a person in a public landholder, no duty is chargeable in respect of any further acquisition made by that person in that landholder.

72B. Reassessment of duty if acquirer becomes a foreign person

(1) This section applies to a relevant acquisition in a private landholder or a public landholder if –

(a) at the time the relevant acquisition occurred, the land holdings of the landholder included residential property or primary production property (or both); and

(b) within the 3-year period after the relevant acquisition, a person liable to pay duty in respect of the relevant acquisition became a foreign person.

(2) This section does not apply to a relevant acquisition in a private landholder or a public landholder if, at the time the person referred to in subsection (1)(b) became a foreign person –

(a) the person did not own an interest in the landholder; or

(b) the landholder did not hold an interest in the land holdings referred to in subsection (1)(a).

(3) A person referred to in subsection (1)(b) must, within 14 days after becoming a foreign person, give notice of that fact to the Commissioner in an approved form.

Penalty: Fine not exceeding 100 penalty units.

(4) If the Commissioner becomes aware that a person referred to in subsection (1)(b) has become a foreign person within the period specified in that subsection, the Commissioner must reassess the duty payable on the relevant acquisition as if, at the time the relevant acquisition occurred, the person was a foreign person.

(5) Despite section 64, if duty is charged as a consequence of a reassessment under subsection (4), liability for that duty arises when

the person referred to in subsection (1)(b) becomes a foreign person.

72C. Acquisitions before 1 July 2018

(1) Duty is not chargeable under section 71A or 72A in respect of a relevant acquisition of an interest in a landholder if the relevant acquisition occurred before 1 July 2018.

(2) If –

(a) a relevant acquisition in a private landholder occurs on or after 1 July 2018; and

(b) the acquisition statement disclosing the relevant acquisition in the private landholder also discloses one or more other acquisitions that occurred before 1 July 2018 –

the value of the residential property and primary production property for the other acquisitions referred to in paragraph (b) is, for the purposes of section 71A, taken to be zero.

(3) If –

(a) a relevant acquisition in a public landholder occurs on or after 1 July 2018; and

(b) the acquisition statement disclosing the relevant acquisition in the public landholder also discloses one or more

other acquisitions that occurred before 1 July 2018 –

the duty chargeable under section 72A is to be calculated after deducting from the dutiable value of the residential property and primary production property the proportion of the dutiable value represented by the interest acquired before 1 July 2018.

PART 3 – CHARGING OF DUTY ON ACQUISITIONS MADE BY TRUSTEES

73. Application of Part

(1) This Part applies for the purposes of determining a liability for duty under this Chapter where a person acquires or holds an interest in a landholder as bare trustee for another person.

(2) In this Part, a bare trustee includes a custodian, other than –

(a) a custodian of a trustee of a unit trust scheme in its capacity as a custodian; and

(b) a sub-custodian of a custodian of a trustee of a unit trust scheme in its capacity as a sub-custodian.

74. Meaning of *beneficial owner*

(1) If a person who acquires or holds an interest in a landholder acquires or holds that interest as bare trustee for another person, the other person is a beneficial owner of that interest in the landholder.

(2) If a person who is a beneficial owner of an interest in a landholder (whether as a result of subsection (1) or as a result of one or more applications of this subsection) holds that interest as bare trustee for another person, that other person is also a beneficial owner of that interest in the landholder.

(3) For the purposes of this Part, the ultimate beneficial owner of an interest in a landholder is any beneficial owner of the interest in the landholder who does not hold that interest as bare trustee for another person.

75. Beneficial owners liable for duty on acquisition in landholders

(1) Any interest in a landholder that is acquired or held by a person (the ***legal owner***) as bare trustee for another person is taken, for the purposes of this Chapter, to have been acquired by, or to be held by, the ultimate beneficial owner of the interest in the landholder, rather than the legal owner.

(2) Accordingly, the ultimate beneficial owner of an interest acquired by the legal owner will be liable to lodge an acquisition statement, and to pay any duty chargeable under this Chapter, in respect of any relevant acquisition made as a result of that acquisition by the legal owner.

(3) For the purpose of determining whether an acquisition is a relevant acquisition, section 65 applies as if a reference to a person who acquires or holds an interest in a landholder were a reference to the ultimate beneficial owner of the interest, rather than the legal owner.

(4) For the purposes of subsection (3), the acquisition is to be aggregated with other interests held by the ultimate beneficial owner of the interest and any associated person of the ultimate beneficial owner of the interest.

PART 3A – GENERAL PRINCIPLES TO BE APPLIED UNDER THIS CHAPTER

76. Constructive ownership of land holdings and other property: linked entities

(1) In addition to any interest in land or other property that it may hold in its own right, a private unit trust scheme, public unit trust scheme, private company or listed company is taken, for the purposes of this Chapter, to hold an interest in land or other property held by a linked entity of the private unit trust scheme, public unit trust scheme, private company or listed company.

(2) A linked entity of a private unit trust scheme or a private company (the ***principal entity***) means a private unit trust scheme or a private company that is part of a chain of private unit trust schemes or private companies –

(a) which includes the principal entity; and

(b) which is comprised of one or more links; and

(c) in which a link exists if a private unit trust scheme or a private company would be entitled to receive not less than 50% of the unencumbered value of the property of another private unit trust scheme or private company in the event of a distribution of all the property of the private unit trust scheme or private company; and

(d) which does not include, in any of the links between the private unit trust scheme or private company and the principal entity, a public unit trust scheme or a listed company.

(3) A linked entity of a public unit trust scheme or a listed company (the ***principal entity***) means a unit trust scheme or a company that is part of a chain of unit trust schemes or companies –

(a) which includes the principal entity; and

(b) which is comprised of one or more links; and

(c) in which a link exists if a unit trust scheme or company would be entitled to receive not less than 50% of the unencumbered value of the property of another unit trust scheme or company in the event of a distribution of all the property of the unit trust scheme or company.

(4) The value, for duty purposes, of the interest in land or other property that a private unit trust scheme, public unit trust scheme, private company or listed company (being a principal entity) is taken, by this section, to hold because of a holding by a linked entity is that portion of the interest's unencumbered value to which the unit trust scheme or company would be entitled (without regard to any liabilities of the linked entity or any other person in the ownership

chain) in the event of a distribution of all the property of each entity in the chain of entities.

77. Constructive ownership of land holdings and other property: discretionary trusts

(1) A person, or a person of a class of persons, in the favour of whom or which, by the terms of a discretionary trust, capital which is the subject of the trust may be applied –

(a) in the event of the exercise of a power or discretion in favour of the person or class; or

(b) in the event that a discretion conferred under the trust is not exercised –

is, for the purposes of this section, a beneficiary of the trust.

(2) A beneficiary of a discretionary trust is taken to own or be otherwise entitled to all of the property which is the subject of the trust unless the Commissioner determines otherwise.

(3) For the purposes of this Chapter, any property that is the subject of a discretionary trust is taken to be the subject of any other discretionary trust –

(a) that is; or

(b) any trustee of which (in the capacity of trustee) is –

a beneficiary of it.

(4) Subsection (3) extends to apply to property that is the subject of a discretionary trust only by the operation of that subsection.

78. Inclusion of land holdings and goods recently transferred

(1) In determining the land holdings or goods of a private unit trust scheme or private company, the land holdings or goods of the scheme or company are taken to include any land holdings or goods of the scheme or company, or of a linked entity of the scheme or company, that were recently transferred –

(a) to the person who has made the acquisition in the scheme or company; or

(b) to a person who was an associated person of the person referred to in paragraph (a) when the acquisition occurred and also was an associated person of the person referred to in paragraph (a) when the transfer of the land holding or goods occurred.

(2) For the purposes of subsection (1), a land holding or goods are ***recently transferred*** if the land holding or goods are transferred within 12 months before the acquisition is made.

(3) Subsection (1) does not apply if, after considering the circumstances of the acquisition, the Commissioner determines that it is just and reasonable in the circumstances that the subsection should not apply.

(4) The duty chargeable under this Chapter on the acquisition is to be reduced by the proportion of the amount of *ad valorem* duty (if any) paid under Chapter 2 in respect of the transfer of the land holding or goods that is the same as the proportion of the value of the interest acquired in the scheme or company.

(5) In this section, a reference to a transfer, in relation to a land holding or goods, includes a reference to any dutiable transaction that effects a change in the beneficial ownership of the land holding or goods in favour of the person referred to in subsection (1)(a) or (b).

79. Agreements for sale or transfer of land

(1) For the purposes of this Chapter, the transferor and the transferee under an uncompleted agreement for the sale or transfer of land or of goods, or of both land and goods, are taken to be separately entitled to the whole of that land or those goods, or of that land and those goods.

(2) If duty is charged on an acquisition that relates to a land holding, or a land holding and goods, to which subsection (1) applies, the Commissioner may defer all or part of the payment of duty under section 59 of the *Taxation Administration Act 1997*.

(3) If –

(a) at the time of acquisition of an interest by a person in a landholder that necessitates the lodgement of an acquisition

statement under this Chapter, the landholder was the transferor under an uncompleted agreement for the sale or transfer of land or of goods, or of both land and goods; and

(b) the person acquiring that interest in the landholder, or an associated person of that person, is not also the transferee of the sale or transfer of land or of goods, or of both land and goods, under that agreement; and

(c) that agreement is subsequently completed –

the Commissioner is to assess or reassess the statement as though the land or goods, or land and goods, which are the subject of the agreement were not, at the time of the acquisition concerned, a land holding or goods, or a land holding and goods, of the landholder.

(4) If the statement is reassessed under subsection (3), any amount paid in excess of the amount reassessed is to be refunded.

(5) If –

(a) at the time of acquisition of an interest by any person in a landholder that necessitates the lodgement of an acquisition statement under this Chapter, the landholder was the transferee under an uncompleted agreement for the sale or transfer of land or of goods, or of both land and goods; and

(b) the agreement is subsequently rescinded, annulled or otherwise terminated without completion –

the Commissioner is to assess or reassess the statement as though the land or goods, or land and goods, which are the subject of the agreement were not, at the time of the acquisition concerned, a land holding or goods, or a land holding and goods, of the landholder.

(6) If the statement is reassessed under subsection (5), any amount paid in excess of the amount reassessed is to be refunded.

(7) In this section, a reference to a landholder includes a reference to a linked entity of the landholder.

80. Agreements for sale or issue of shares or units in landholder

(1) For the purposes of this Chapter, if an agreement is made to purchase or issue a unit or share in a landholder, then, on and from the agreement liability date –

(a) the purchaser or person to whom the unit or share is to be issued is taken to have an entitlement to a distribution of property of the landholder in the event of a distribution of all the property of the landholder (as if the purchase or interest acquired by the person were registered on the agreement liability date); and

(b) in the case of an agreement to purchase a share or unit, the registered interest of the vendor in the unit or share is to be disregarded; and

(c) the purchaser or person to whom a share or unit is to be issued, under an agreement for the sale or issue of a share or unit in a landholder, acquires an interest in the landholder on the agreement liability date.

(2) In subsection (1) –

agreement liability date means the date on which the first of the following occurs:

(a) the agreement is completed;

(b) the necessary transfer or title documents are delivered to the person acquiring the share or unit;

(c) the consideration for the purchase or issue is paid.

(3) This section does not apply in respect of shares or units in a public landholder.

81. Valuation of property

(1) Subject to this Chapter, the provisions of this Act for ascertaining the value of transfers of dutiable property chargeable with *ad valorem* duty extend to an acquisition statement under

this Chapter and the unencumbered value of land holdings and goods mentioned in it.

(2) In determining the unencumbered value of land holdings or goods under this Chapter, any arrangement made in respect of the land holdings or goods that has the effect of reducing the unencumbered value is to be disregarded, subject to subsection (3).

(3) An arrangement is not to be disregarded if the Commissioner is satisfied that the arrangement was not made as part of an arrangement or scheme with a collateral purpose of reducing the duty otherwise payable in relation to the relevant acquisition.

(4) In considering whether or not he or she is satisfied for the purposes of subsection (3), the Commissioner may have regard to –

(a) the duration of the arrangement before the relevant acquisition; and

(b) whether the arrangement has been made with an associated person; and

(c) whether there is any commercial efficacy to the making of the arrangement other than to reduce duty; and

(d) any other matters the Commissioner considers relevant.

82. Maximisation of entitlements on distribution of property

(1) This section applies to any calculation, for the purposes of this Chapter, of the entitlement of a person (the ***interested person***) to participate in a distribution of the property of a landholder.

(2) A calculation is to be made based, firstly, on a distribution carried out in accordance with the constitution of the landholder, and with any law relevant to the distribution, as in force at the time of distribution, and the entitlement of the interested person is to be evaluated accordingly.

(3) Next, a calculation is to be made as if a distribution had been carried out after the interested person, and any other person whom the interested person has power to direct with respect to such a distribution or who is, in relation to the interested person, an associated person, had exercised all powers and discretions exercisable by them by reason of having acquired an interest in the landholder concerned –

(a) to effect or compel an alteration to the constitution of the landholder; and

(b) to vary the rights conferred by units or shares in the landholder; and

(c) to effect or compel the substitution or replacement of units or shares in the landholder with other units or shares in it –

in such a manner as would maximise the value of the entitlement, and the entitlement of the interested person is to be evaluated accordingly.

(4) The results obtained by the evaluations of the interested person's entitlement in accordance with subsections (2) and (3) are then to be compared, and whichever evaluation results in a greater entitlement is the evaluation of the entitlement to be used for the purposes of this Chapter unless the Commissioner, being satisfied that the application of this subsection in the particular case would be inequitable, determines that the evaluation that results in the lesser entitlement is the evaluation to be so used.

(5) The evaluation in accordance with subsections (2) and (3) that results in the lesser entitlement is to be used for the purposes of this Chapter if the Commissioner so determines under subsection (4).

PART 3B – EXEMPTIONS, CONCESSIONS AND REFUNDS

83. General exemptions

(1) An acquisition of an interest in a landholder (whether a relevant acquisition or other acquisition) is an exempt acquisition for the purposes of this Chapter if the Commissioner is satisfied that the acquisition, had it been a dutiable transaction, would have been exempt or not chargeable with duty under Chapter 2.

(2) For the purposes of subsection (1) –

(a) shares or units which are the subject of the acquisition are taken to be the dutiable property of the landholder, or part of the dutiable property, based on the proportion of those shares or units to the total number of shares or units in the landholder; and

(b) the person whose interest in the landholder increases as a result of the acquisition is taken to be the transferee; and

(c) the person whose interest in the landholder decreases as a result of the acquisition is taken to be the transferor; and

(d) the acquisition, however made, is taken to be a dutiable transaction.

84. Restricted exemptions for acquisition securing financial accommodation

(1) An acquisition of an interest in a landholder (whether a relevant acquisition or other acquisition) is an exempt acquisition for the purposes of this Chapter if –

(a) the acquisition is disclosed in an acquisition statement; and

(b) the person lodging the acquisition statement informs the Commissioner, at the time the statement is lodged, that the acquisition is effected for the purpose of securing financial accommodation; and

(c) the Commissioner is satisfied that the acquisition is effected for that purpose.

(2) An exempt acquisition referred to in subsection (1) ceases to be an exempt acquisition on the expiration of the period of 5 years after the day on which the interest in the landholder is acquired, or such longer period as may be determined by the Commissioner in the particular case, if the interest concerned is not, within that period or longer period –

(a) re-acquired by the person from whom it was acquired; or

(b) in the case of an acquisition by way of mortgage, conveyed by the mortgagee to a third person in exercise of the mortgagee's power of sale.

(3) A person is not required to lodge an acquisition statement with the Commissioner in respect of a re-acquisition referred to in subsection (2)(a).

84A. Concessions generally

(1) An acquisition of an interest in a landholder (whether a relevant acquisition or other acquisition) is a concessional acquisition for the purposes of this Chapter if the Commissioner is satisfied that the acquisition, had it been a dutiable transaction, would have attracted a concessional rate of duty under Part 5 of Chapter 2.

(2) For the purposes of subsection (1) –

(a) shares or units which are the subject of the acquisition are taken to be the dutiable property of the landholder, or part of the dutiable property, based on the proportion of those shares or units to the total number of shares or units in the landholder; and

(b) the person whose interest in the landholder increases as a result of the acquisition is taken to be the transferee; and

(c) the person whose interest in the landholder decreases as a result of the acquisition is taken to be the transferor; and

(d) the acquisition, however made, is taken to be a dutiable transaction.

84B. Refunds

If –

(a) an acquisition is an exempt acquisition; or

(b) a concession has been granted under this Chapter in relation to an acquisition –

the Commissioner is to refund any amount of duty paid in relation to the relevant acquisition that exceeds the amount of the duty payable after taking into account the exemption or concession.

PART 4 – ACQUISITION OF LAND USE ENTITLEMENTS BY ALLOTMENT OF SHARES OR ISSUE OF UNITS

84C. Interpretation of Part 4

In this Part –

goods does not include the following:

(a) goods that are stock-in-trade;

(b) materials held for use in manufacture;

(c) goods under manufacture;

(d) livestock;

(e) a registered motor vehicle that is not exempt from motor tax under the *Vehicle and Traffic Act 1999* or the *Transport Act 1981*;

primary production property means the following property:

(a) land that is primary production property in accordance with section 30(a);

(b) goods that are the subject of a land use entitlement if the use of the goods can be directly linked to, or is incidental to the use, or intended use, of, all or part of the

land referred to in paragraph (a) for primary production purposes;

residential property means the following property:

(a) land that is residential property in accordance with section 30A(a);

(b) goods that are the subject of a land use entitlement if the use of the goods can be directly linked to, or is incidental to the use, or intended use, of, all or part of the land referred to in paragraph (a) for residential purposes.

84D. Land use entitlement that relates to dual-use land

If a land use entitlement relates to property that is both residential property and primary production property, for the purposes of calculating duty under this Part, that land use entitlement is taken to only relate to residential property unless the Commissioner is satisfied that there are good reasons why the land use entitlement is to relate to primary production property only.

85. When does a liability for duty arise?

A liability for duty charged by this Part arises when a land use entitlement is acquired by an

allotment of shares or an issue of units to any person.

86. When must duty be paid?

A tax default does not occur for the purposes of the *Taxation Administration Act 1997* if duty is paid within 3 months after the liability to pay the duty arises.

87. Who is liable to pay the duty?

Duty chargeable under this Part is payable by the person who acquires the land use entitlement.

88. Acquisition of land use entitlement

(1) A person who acquires a land use entitlement by an allotment of shares or an issue of units must lodge a statement (an "acquisition statement") with the Commissioner in respect of the entitlement.

(2) The statement must be lodged within 3 months after the entitlement is so acquired.

89. Form of statement

An acquisition statement required to be lodged by a person is to be in a form approved by the Commissioner and is to contain the following information:

(a) the name and address of the person;

(b) the name of the relevant company or unit trust;

(c) the date on which the land use entitlement was acquired;

(d) the consideration paid by the person for the relevant shares or units;

(e) such other information as may be required by the Commissioner.

90. Assessment of duty

An acquisition statement, in relation to the acquisition of a land use entitlement, that is required to be lodged with the Commissioner under section 88 is chargeable with duty at the rate of duty set out in section 29 on the dutiable value of the land use entitlement acquired.

91. Additional duty if foreign person acquires land use entitlement

(1) This section applies if –

(a) a land use entitlement is acquired by an allotment of shares, or an issue of units, to a foreign person; and

(b) the land use entitlement relates to residential property or primary production property.

(2) In addition to the duty otherwise chargeable under section 90, duty is also chargeable under this section –

(a) in the case of a land use entitlement relating to residential property, at the rate of duty set out in section 30C on the dutiable value of the land use entitlement acquired; and

(b) in the case of a land use entitlement relating to primary production property, at the rate of duty set out in section 30E on the dutiable value of the land use entitlement acquired.

(3) Duty under subsection (2) is to be charged only on the proportion of the dutiable value of the land use entitlement that is the same as the proportion of the land use entitlement acquired by a foreign person or foreign persons.

(4) A foreign person who acquires a land use entitlement by an allotment of shares or an issue of units is to disclose the following information to the Commissioner in the acquisition statement:

(a) that the person is a foreign person;

(b) the extent, if any, to which the land use entitlement relates to residential property or primary production property;

(c) the value of the residential property or primary production property referred to in paragraph (b).

92. Duty in respect of change of land to residential property

(1) This section applies to the acquisition of a land use entitlement if –

(a) duty was charged on the acquisition under section 90; and

(b) a person who acquired the land use entitlement –

(i) was a foreign person at the time of the acquisition; or

(ii) became a foreign person within the 3-year period after the acquisition; and

(c) within the 3-year period after the acquisition, the property to which the land use entitlement related became residential property.

(2) This section does not apply to the acquisition of a land use entitlement if, at the time the property became residential property –

(a) the person referred to in subsection (1)(b) did not own the land use entitlement; or

(b) the land use entitlement did not relate to the property referred to in subsection (1)(c).

(3) A person referred to in subsection (1)(b) must, within 14 days of the property to which the land use entitlement relates becoming residential property, notify the Commissioner in an approved form of that fact, if the property to which the land use entitlement relates becomes residential property within the period specified in subsection (1)(c).

Penalty: Fine not exceeding 100 penalty units.

(4) If the Commissioner becomes aware that the property to which the land use entitlement relates has become residential property within the period specified in subsection (1)(c), the Commissioner must reassess the duty payable on the acquisition of the land use entitlement as if, at the time the acquisition occurred, the land use entitlement related to residential property.

(5) If the property referred to in subsection (1)(c) was primary production property before it became residential property, the amount of duty payable under section 91(2)(a) is to be reduced by the amount of duty (if any) previously paid in respect of the acquisition of the land use entitlement under section 91(2)(b).

(6) Despite section 85, if duty is charged as a consequence of a reassessment under subsection (4), liability for that duty arises when

the property referred to in subsection (1)(c) becomes residential property.

93. Duty in respect of change of land to primary production property

(1) This section applies to the acquisition of a land use entitlement if –

(a) duty was charged on the acquisition under section 90; and

(b) a person who acquired the land use entitlement –

(i) was a foreign person at the time of the acquisition; or

(ii) became a foreign person within the 3-year period after the acquisition; and

(c) within the 3-year period after the acquisition, the property to which the land use entitlement related became primary production property.

(2) This section does not apply to the acquisition of a land use entitlement if the property referred to in subsection (1)(c) was residential property at the time of that acquisition.

(3) This section does not apply to the acquisition of a land use entitlement if at the time the property referred to in subsection (1)(c) became primary production property –

(a) the person referred to in subsection (1)(b) did not own the land use entitlement; or

(b) the land use entitlement did not relate to the land referred to in subsection (1)(c).

(4) A person referred to in subsection (1)(b) must, within 14 days of the property to which the land use entitlement relates becoming primary production property, notify the Commissioner in an approved form of that fact, if the property to which the land use entitlement relates becomes primary production property within the period specified in subsection (1)(c).

Penalty: Fine not exceeding 100 penalty units.

(5) If the Commissioner becomes aware that the property to which the land use entitlement relates has become primary production property within the period specified in subsection (1)(c), the Commissioner must reassess the duty payable on the acquisition of the land use entitlement as if, at the time the acquisition occurred, the land use entitlement related to primary production property.

(6) Despite section 85, if duty is charged as a consequence of a reassessment under subsection (5), liability for that duty arises when the property referred to in subsection (1)(c) becomes primary production property.

94. Reassessment of duty if acquirer becomes a foreign person

(1) This section applies to the acquisition of a land use entitlement relating to residential property or primary production property if –

(a) at the time the acquisition occurred, a person who acquired the land use entitlement was not a foreign person; and

(b) within the 3-year period after the time the acquisition occurred, the person referred to in paragraph (a) became a foreign person.

(2) This section does not apply to the acquisition of a land use entitlement if, at the time the person referred to in subsection (1)(b) became a foreign person –

(a) the person did not own the land use entitlement; or

(b) the land use entitlement did not relate to the same land as it related to at the time it was acquired by that person.

(3) If a person referred to in subsection (1)(a) becomes a foreign person within the period specified in subsection (1)(b), that person must, within 14 days after becoming a foreign person, give notice of that fact to the Commissioner in an approved form.

Penalty: Fine not exceeding 100 penalty units.

(4) If the Commissioner becomes aware that a person referred to in subsection (1)(a) has become a foreign person within the period specified in subsection (1)(b), the Commissioner must reassess the duty payable on the acquisition of the land use entitlement as if, at the time the acquisition occurred, that person was a foreign person.

(5) Despite section 85, if duty is charged as a consequence of a reassessment under subsection (4), liability for that duty arises when the person referred to in subsection (1)(a) becomes a foreign person.

PART 5 – . . . . . .

95. . . . . .

96. . . . . .

97. . . . . .

CHAPTER 4 – . . . . . .

98 - 114. . . . . .

CHAPTER 5 – . . . . . .

115 - 137. . . . . .

CHAPTER 6 – . . . . . .

138 - 161. . . . . .

CHAPTER 7 – INSURANCE

PART 1 – GENERAL INSURANCE

162. Imposition of duty

(1) This Part charges duty on the amount of the premium paid in relation to a contract of insurance that effects general insurance (whether or not it also effects other kinds of insurance).

(2) The amount of duty is required to be paid each time a premium is paid in relation to a contract of insurance that effects general insurance.

163. What is general insurance?

(1) General insurance is any kind of insurance that is applicable to –

(a) property in Tasmania; or

(b) a risk, contingency or event concerning an act or omission that, in the normal course of events, may occur within, or partly within, Tasmania –

or both.

(2) Notwithstanding subsection (3), general insurance includes insurance effected in respect of trauma or a disabling or incapacitating injury, sickness, condition or disease regardless of how, or by whom, the insurance is effected.

(3) General insurance does not include life insurance or insurance that is exempt from duty by Part 5.

164. What is a premium in relation to general insurance?

(1) Premium, in relation to general insurance, means the total consideration given to an insurer or an insurance intermediary by or on behalf of the insured person to effect insurance without deductions for any amounts paid or payable, or allowed or allowable, by way of commission or discount to an insurance intermediary.

(2) Premium includes a fire service levy paid or payable in connection with insurance by an insurer or any other person.

(3) Premium does not include –

(a) an amount paid to an insurance intermediary by the insured person as a fee, provided that the amount can be clearly identified as a fee; or

(b) an amount of duty under this or a corresponding Act.

(4) It is immaterial where the amount is paid or where the insurance is effected.

165. When is a premium paid?

(1) A premium, or an instalment of a premium, is paid for the purposes of this Chapter when the first of the following events occurs:

(a) the premium or instalment is received by the insurer or insurance intermediary;

(b) an account of the insurer or insurance intermediary is credited with the amount of the premium or instalment.

(2) A premium or instalment of a premium (apart from the case where the premium or instalment is received directly by an insurer or an insurance intermediary) is taken to have been received by an insurer or an insurance intermediary if it is received by another person on the insurer's or insurance intermediary's behalf.

166. What duty is payable?

The amount of duty chargeable on the premium paid in relation to a contract of insurance is 10% of the amount of the premium.

167. Who is liable to pay the duty?

The insurer is liable to pay the duty, except as provided by section 168.

168. Circumstances in which duty is payable by the insured person

(1) This section applies to a person who obtains, effects or renews any general insurance as an insured person with a person who is not a registered insurer.

(2) A person to whom this section applies must, within 21 days after the end of the month in which the premium relating to the insurance is paid to an insurer (not being a registered insurer) or insurance intermediary –

(a) lodge with the Commissioner a return in the approved form containing such particulars and information as to the premium and the insurance as the Commissioner may require; and

(b) pay to the Commissioner as duty the amount calculated in accordance with section 166.

(3) A person to whom this section applies is taken to have complied with this section if the person's duty under this section is discharged by another person acting on the person's behalf.

(4) The payment of a periodic premium in respect of disability income insurance that is continued, but not renewed, on the payment of the premium is taken to effect the insurance for the purposes of this section.

169. Records to be kept

A person to whom section 168 applies must maintain records that contain information as to –

(a) the nature and location of the property insured; and

(b) the nature and location of each risk, contingency or event insured; and

(c) the amount of the premiums paid in relation to each contract of insurance.

170. Refunds where premiums are returned

(1) A general insurer or a person to whom section 168 applies is entitled to a refund of duty if the general insurer refunds, or there is refunded to the person, the whole or a part of a dutiable premium in respect of the contract of insurance for which duty has been paid.

(2) The refund is the duty paid on the amount of the premium refunded.

(3) A general insurer to whom duty is refunded may apply the amount of the refund to offset any other payment required to be made under this Chapter by the general insurer.

PART 2 – LIFE INSURANCE

171. Imposition of duty

This Part charges duty on a policy of life insurance.

172. What is life insurance?

(1) Life insurance is any insurance or assurance in respect of –

(a) a life or lives; or

(b) an event or contingency relating to or depending on a life or lives –

of a person whose principal place of residence is, or persons whose principal places of residence are, in Tasmania at the time that the policy that effects the insurance is issued, but does not include insurance against accident.

(2) Insurance against accident is any insurance under which payment is agreed to be made on the death of a person only from accident or violence or otherwise than from a natural cause or as compensation for personal injury.

(3) A policy of mortgage insurance is a temporary policy of life insurance effected by, or on behalf of, a borrower to provide insurance in the event of the death of the borrower for the repayment of a loan taken out by the borrower.

173. Obligation to make out and execute a policy of life insurance

A life company must, on or before the twenty-first day of each month –

(a) make out and execute a policy of life insurance for each contract or agreement for life insurance effected by or on behalf of the life company in the preceding month; and

(b) endorse the policy in the manner approved by the Commissioner.

174. What duty is payable?

(1) The amount of duty chargeable on a policy of life insurance, other than a temporary or term insurance policy, or a mortgage insurance policy is –

(a) if the sum insured does not exceed $2 000, 10 cents per $200, or part, of the sum insured; or

(b) if the sum insured exceeds $2 000, $1 plus 20 cents per $200, or part, of the sum insured that exceeds $2 000.

(2) The amount of duty chargeable on a temporary or term insurance policy is 5% of the first year's premium on the policy.

(3) The amount of duty chargeable on a mortgage insurance policy is 2% of the premium on the policy.

(4) In determining the sum insured by a policy of life insurance, any additional amount payable under the policy in the event of the insured dying as the result of an accident is to be disregarded.

(5) The amount of duty chargeable on an annuity –

(a) issued, created or sold by a life company; or

(b) purchased by a person from a life company –

is $50.

(6) For the purposes of subsection (5) a contract is an annuity if it satisfies the following requirements:

(a) the contract provides for the periodic payment of money to the annuitant in fee for life or for a specified term of years as an annual or more frequent entitlement;

(b) the periodic payment is a sum certain expressed as a dollar amount, but may be varied according to a predetermined formula;

(c) the periodic payments are not derived from the money paid for the contract but are derived solely from the contract and comprise income and not the repayment of capital.

175. Who is liable to pay the duty?

The person issuing the policy of life insurance is liable to pay the duty, except as provided by section 176.

176. Circumstances in which duty is payable by the insured person

(1) This section applies to a person (not being a registered insurer) who effects a policy of life insurance as an insured person with a person who is not a registered insurer.

(2) A person to whom this section applies must, within 21 days after the end of the month in which the policy of life insurance was effected –

(a) lodge with the Commissioner a return in the approved form containing such particulars and information as the Commissioner may require; and

(b) pay to the Commissioner as duty the amount calculated in accordance with section 174.

(3) A person to whom this section applies is taken to have complied with this section if the person's duty under this section is discharged by another person acting on the person's behalf.

177. Refund on cancellation of policy of life insurance

(1) If a premium is refunded to a person because the person cancels a policy of life insurance within

30 days after receiving the policy, a person who has paid duty in respect of the policy is entitled to a refund of the duty paid on the amount of the premium refunded.

(2) A life company that is refunded duty may apply the amount of the refund to offset any other payment required to be made by the life company under this Chapter.

PART 3 – HOW IS DUTY PAID BY AN INSURER?

178. Who is an insurer?

(1) An insurer is –

(a) a life company that writes life insurance; or

(b) a general insurer.

(2) A general insurer is a person –

(a) who writes general insurance; and

(b) who does so otherwise than as an insurance intermediary; and

(c) who is authorised as a general insurer under the *Insurance Act 1973* of the Commonwealth.

179. Insurers must be registered

An insurer must be registered under this Part.

Penalty: Fine not exceeding 100 penalty units.

180. Application for registration

The Commissioner must register an insurer who applies in the approved form for registration under this Part.

181. Cancellation of registration by the Commissioner

(1) The Commissioner may, by written notice, cancel an insurer's registration under this Part –

(a) if the insurer's authorisation under the *Insurance Act 1973* of the Commonwealth is terminated; or

(b) if the insurer is made bankrupt or, being a company, is wound up; or

(c) if the insurer is convicted of an offence under an Act imposing duty; or

(d) if the insurer's registration was made in error or as a consequence of a false or misleading statement made in relation to the application for registration; or

(e) if the Commissioner is of the opinion that the insurer has ceased to write general insurance in Tasmania; or

(f) if the insurer ceases to be a life company; or

(g) for any other reason the Commissioner thinks sufficient.

(2) A cancellation of registration has effect from the date specified for the purpose by the Commissioner in the notice of cancellation.

182. Cessation of business and cancellation of registration by the insurer

(1) A registered insurer who ceases to write insurance business in Tasmania must –

(a) give written notice of that fact to the Commissioner; and

(b) lodge the return required to be lodged under this Part; and

(c) pay the duty payable in connection with the return on or before the twenty-first day of the month after which the notice is given.

Penalty: Fine not exceeding 100 penalty units.

(2) The notice cancels the insurer's registration under this Part on the day on which it is received by the Commissioner.

183. Register of insurers

(1) The Commissioner must keep a register of the insurers who are registered under this Part.

(2) Anyone may inspect the register without charge at the Commissioner's principal office during the hours that the office is open to the public.

184. Monthly returns and payment of duty

A registered insurer must, on or before the twenty-first day of each month –

(a) lodge with the Commissioner a return in the approved form showing –

(i) the total amount of all premiums for general insurance paid to the registered insurer in the preceding month other than exempt insurance under Part 5; and

(ii) the total duty payable on policies of life insurance (excluding temporary or term insurance, mortgage insurance and annuities dutiable under section 174(4)) effected in the preceding month other than exempt insurance under Part 5; and

(iii) the total amount of all first year's premiums for temporary or term life insurance received by or on behalf of the registered insurer in the preceding month other than exempt insurance under Part 5; and

(iv) the total amount of all premiums in respect of policies of mortgage insurance received by or on behalf of the registered insurer in the preceding month other than exempt insurance under Part 5; and

(v) the total amount of all annuities effected in the preceding month at the nominal $50 rate; and

(b) pay to the Commissioner as duty the amounts determined in accordance with sections 166 and 174.

185. Recovery of duty by registered insurer

(1) A registered insurer may require a person by whom a premium is payable to the insurer to pay the insurer an amount equal to the duty chargeable.

(2) The requirement is duly made if it is contained in a written request that is given to the person and that specifies the amount of the duty.

(3) If the amount is not paid, the insurer may recover it as a debt.

PART 4 – APPORTIONMENT

Division 1 – Apportionment of premiums and other amounts between Australian jurisdictions

186. Application of Division 1

(1) This Division applies to a contract of insurance –

(a) that insures –

(i) property in Tasmania as well as property in another place; or

(ii) a risk, contingency or event concerning an act or omission that, in the normal course of events, may occur within, or partly within, Tasmania as well as within, or partly within, another place –

or both; or

(b) that insures –

(i) lives; or

(ii) any event or contingency relating to or depending on lives –

or both, of persons whose principal places of residence are variously in Tasmania or another place at the time the policy is issued.

(2) It is the intention of this Division –

(a) to provide the means for apportioning premiums paid and other amounts in relation to a contract of insurance having regard to the principle in sections 163 and 172; and

(b) to avoid multiple duty as between Australian jurisdictions; and

(c) to give Australian jurisdictions their appropriate share of duty by means of the apportionment.

187. Schedule of Apportionment

(1) The Commissioner, from time to time, may adopt a Schedule of Apportionment for the purpose of apportioning premiums and other amounts in relation to insurance in accordance with this Division.

(2) The Schedule of Apportionment may be developed in consultation with any person the Commissioner considers suitable.

188. Apportionment in practice

(1) A premium or an amount is to be apportioned in accordance with the Schedule of Apportionment adopted for the time being, except as provided by this section.

(2) An insurer or an insured person may apply in writing to the Commissioner to apportion a premium or an amount on a basis other than that provided by the Schedule of Apportionment.

(3) The Commissioner may apportion the premium or amount on the basis referred to in subsection (2).

(4) In particular, if the Commissioner is not satisfied that a premium paid or another amount in relation to a contract of insurance has been properly apportioned for each risk insured, the Commissioner may determine the apportionment, reassess the liability to duty and charge duty accordingly.

Division 2 – Apportionment of premiums and other amounts as between different types of insurance

189. Apportionment between different types of insurance

(1) This section applies to apportionment between different types of insurance that are relevant to determining liability for duty, such as general insurance, life insurance and insurance that is exempt from duty.

(2) This section does not apply to the apportionment of a premium or another amount between Tasmania and another place, as provided for under Division 1.

(3) If the Commissioner is not satisfied that a premium paid or another amount in relation to a contract of insurance that effects different types of insurance has been properly apportioned, the Commissioner may determine the apportionment, reassess the liability to duty and charge duty accordingly.

PART 5 – EXEMPT INSURANCE

190. What insurance is exempt from duty?

The following insurances are exempt from duty under this Chapter:

(a) insurance covering only property of the Crown;

(b) insurance effected by a separate policy in a distinct sum against loss by fire on the tools, implements of work or labour owned by any working mechanic, artificer, handcrafter or labourer;

(c) medical benefits insurance, being insurance effected by a contract of insurance that is issued by a private health insurer within the meaning of the *Private Health Insurance Act 2007* of the Commonwealth and that provides hospital benefits or medical benefits (or both), whether or not other benefits are also provided;

(d) insurance required under section 97 of the *Workers Rehabilitation and Compensation Act 1988*;

(e) insurance effected under the *Motor Accidents (Liabilities and Compensation) Act 1973*;

(f) insurance in respect of the hull of a floating vessel used primarily for commercial purposes;

(g) insurance in respect of the freight of goods;

(h) reinsurance (being a contract or contracts between 2 parties by which one party indemnifies the other against liability or payment under a contract or contracts of insurance or reinsurance);

(ha) insurance taken out by a self-insurer, within the meaning of the *Workers Rehabilitation and Compensation Act 1988*, to indemnify himself or herself against liability or payment in relation to workers compensation claims;

(i) insurance taken out by the University of Tasmania;

(j) insurance taken out by the Commission for the Conservation of Antarctic Marine Living Resources;

(k) insurance taken out by the licensee, proprietor, governors, trustee, committee of management or resident manager of a medical establishment for or in connection with the purposes of the medical establishment;

(l) a cover note in respect of life insurance in pursuance of which a duly stamped

policy is issued within 3 months of the date of the cover note;

(m) a policy of life insurance under which the sum insured does not exceed $200;

(n) insurance effected by a separate policy in a distinct sum against a claim for public liability;

(o) insurance in a distinct sum against a claim for public liability included in a package of insurance other than in a domestic policy covering home or contents or both home and contents.

PART 6 – MISCELLANEOUS

191. Effect on contract of insurance of failure to comply with this Chapter

A failure to comply with this Chapter does not render a contract of insurance illegal or invalid.

CHAPTER 8 – MOTOR VEHICLE REGISTRATION

PART 1 – INTRODUCTION AND OVERVIEW

192. Imposition of duty

This Chapter charges duty on –

(a) an application to register a motor vehicle under the *Vehicle and Traffic Act 1999* if –

(i) the vehicle has not previously been registered under that Act; or

(ii) the person in whose name the vehicle is to be registered differs (or the persons in whose names the motor vehicle is to be registered differ) from the person or persons in whose name or names the vehicle was last registered; or

(b) a notice of a change of beneficial ownership of a motor vehicle given under the *Vehicle and Traffic Act 1999*.

(c) . . . . . .

193. Lodgment of statement of dutiable value

(1) A person who is required by law to make an application to register a motor vehicle under the

Vehicle and Traffic Act 1999 or give a notice of a change of beneficial ownership must lodge with the application for registration or the notice a statement of the dutiable value of the vehicle, unless the application or notice is not chargeable with duty under this Chapter.

Penalty: Fine not exceeding 100 penalty units.

(2) If –

(a) under section 204, a person was, when an application to register a motor vehicle was made, not required to pay duty in relation to the application to register; and

(b) the motor vehicle has, under section 204(4), ceased to be exempted under section 204(1) from duty –

the person must, within 14 days, lodge with the Commissioner a statement, in relation to the motor vehicle, of the dutiable value of the motor vehicle as at the time the application to register the motor vehicle was made.

Penalty: Fine not exceeding 100 penalty units.

194. Failure to register or give notice

If the Commissioner is satisfied that a person has failed to make an application to register a motor vehicle, to give a notice in relation to the vehicle as required under section 216, or to give a notice of a change of beneficial ownership as required

by the *Vehicle and Traffic Act 1999*, the Commissioner may –

(a) determine the dutiable value of the motor vehicle as at the date the person became the owner or operator of the vehicle; and

(b) assess the duty payable by that person as if an application had been lodged or a notice had been given by that person under that Act; and

(c) issue a notice of assessment to that person.

195. Who is liable to pay the duty?

Duty is payable by –

(a) the applicant for registration of the motor vehicle; or

(b) in the case of a change in beneficial ownership of a motor vehicle, the person acquiring the beneficial ownership; or

(c) in the case where a reassessment of tax liability is made under section 19 of the *Taxation Administration Act 1997* in respect of an application to register a motor vehicle lodged by a motor dealer or a licensed motor vehicle trader, the motor dealer or licensed motor vehicle trader.

196. When does duty become payable?

Duty becomes payable on –

(a) the date on which –

(i) the motor vehicle is registered or the registration is transferred in pursuance of the relevant application; or

(ii) a notice of a change in beneficial ownership is lodged with the Registrar of Motor Vehicles; or

(ab) the day 14 days after the day, if any, on which the motor vehicle has, under section 204(4), ceased to be exempted under section 204(1) from duty; or

(b) the date specified in a notice of assessment issued under section 194.

196A. Effect of failure to pay duty

A failure to pay duty when it becomes payable under section 196 is a tax default for the purposes of the *Taxation Administration Act 1997*.

197. What is the rate of duty?

(1) The rate of duty is $3 per $100, or part, of the dutiable value of the motor vehicle, except as provided by subsections (2), (3), (3A) and (3B).

(2) The rate of duty for a motor vehicle that is a passenger vehicle is as follows:

(a) if the dutiable value of the passenger vehicle does not exceed $35 000, $3 per $100, or part;

(b) if the dutiable value of the passenger vehicle exceeds $35 000 but does not exceed $40 000, $1 050 plus $11 for every $100 or part of $100 of the dutiable value of the passenger vehicle that exceeds $35 000;

(c) if the dutiable value of the passenger vehicle exceeds $40 000, for every $100 or part of $100 of that dutiable value, $4.

(3) The rate of duty applicable to a heavy vehicle the dutiable value of which does not exceed $2 000 or to a motor vehicle the dutiable value of which does not exceed $600 is $20.

(3A) Despite subsection (2), the rate of duty for a new motor vehicle, other than a heavy vehicle, for which a manufacturer's fleet discount has been provided is $3.50 per $100, or part, of the dutiable value of the new motor vehicle.

(3B) The rate of duty for a heavy vehicle is $1.00 per $100, or part, of the dutiable value of the heavy vehicle.

(4) A passenger vehicle is a motor vehicle, other than a heavy vehicle or motor cycle, that is –

(a) constructed principally for the carriage of passengers; or

(b) designed principally for the conveyance of not more than 9 adult persons, including the driver, and is constructed either on a truck chassis or with special features for off-road operation.

(5) A passenger vehicle does not include a motor vehicle that –

(a) has a utility or panel van type body in which the forward part of the body form and the greater part of the mechanical equipment are the same as those in a passenger vehicle manufactured by the manufacturer of the motor vehicle; or

(b) is constructed for the carriage of passengers and equipped to seat more than 9 adult persons, including the driver.

(6) A manufacturer's fleet discount in respect of a motor vehicle is a discount –

(a) that is given to the purchaser of the motor vehicle by the manufacturer of the motor vehicle; and

(b) that is deducted from the normal retail price of the motor vehicle; and

(c) that is not available to the general public.

198. What is the dutiable value of a motor vehicle?

(1) The dutiable value of a registered motor vehicle is –

(a) the consideration in money or money's worth given for the acquisition of the vehicle; or

(b) the market value of the vehicle at the time of acquisition of the vehicle or lodgement of a notice of change of beneficial ownership of the vehicle –

whichever is the greater.

(1A) The dutiable value of a new motor vehicle is the consideration in money or money's worth given for the acquisition of the motor vehicle, if the Commissioner is satisfied that the consideration is adequate in relation to the value of that motor vehicle.

(2) The dutiable value of a motor vehicle in any other case is –

(a) the consideration in money or money's worth given for the acquisition of the vehicle; or

(b) the market value of the vehicle at the time of application to register the vehicle –

whichever is the greater.

(3) The dutiable value of a motor vehicle does not include –

(a) a premium paid for extended warranty insurance; or

(b) the value of any equipment transferred from another vehicle registered or previously registered in the name of the applicant which it replaces; or

(c) the value of any independently operated equipment that is unrelated to the use of the vehicle for transportation.

PART 2 – CIRCUMSTANCES IN WHICH DUTY NOT CHARGEABLE

199. Exemptions

(1) Duty under this Chapter is not chargeable in respect of the following:

(a) an application to register a motor vehicle or a notice of a change of beneficial ownership of a motor vehicle made by the personal representative of a deceased person to register a motor vehicle in the name of a person to whom it is bequeathed in the last will of the deceased person or who is beneficially entitled to it under the *Intestacy Act 2010*;

(ab) an application to register a motor vehicle, or a notice of a change of beneficial ownership of a motor vehicle, if –

(i) the application is made, or the notice is given, by an executor of the estate of a deceased person, to register a motor vehicle in the name of a person to whom it is bequeathed in a will of the deceased person; and

(ii) the executor is specified in the will; and

(iii) there is a statutory declaration by the executor to the effect that, to the best of the executor's knowledge, the will is the last will of the deceased person and the executor is an executor specified in the will;

(b) an application to register a motor vehicle or a notice of a change of beneficial ownership of a motor vehicle if –

(i) the person is in the business of financing the purchase or use of motor vehicles; and

(ii) the vehicle was repossessed by, or voluntarily surrendered to, the person; and

(iii) the person, in the course of that business, does not dispose of any such vehicles except by public tender or public auction or through a motor dealer;

(c) an application to register a motor vehicle or a notice of a change of beneficial ownership of a motor vehicle registered in the names of the parties to a marriage or in the name of either of them to the extent that the vehicle was, at the time the application was made or notice lodged, matrimonial property, if it is proved to the satisfaction of the Commissioner that –

(i) the marriage is dissolved or annulled (whether before or after the certificate of registration is issued) or the marriage has irretrievably broken down; and

(ii) the application or notice was made for the purposes of or in accordance with an instrument registered or approved under the *Family Law Act 1975* of the Commonwealth, a financial agreement made under section 90B, 90C or 90D of that Act or an order of a court under that Act;

(ca) an application to register a motor vehicle, or a notice of a change of beneficial ownership of a motor vehicle registered in the names of the parties to a de facto relationship or in the name of either of them, to the extent that the vehicle was, at the time the application was made or notice lodged, de facto relationship property, if it is proved to the satisfaction of the Commissioner that –

(i) the de facto relationship has been terminated (whether before or after the certificate of registration is issued); and

(ii) the application or notice was made for the purposes of or in accordance with an instrument registered or approved under the

Family Law Act 1975 of the Commonwealth, a financial agreement made under section 90UB, 90UC or 90UD of that Act or an order of a court under that Act;

(d) an application to register a motor vehicle or a notice of a change of beneficial ownership of a motor vehicle registered in the names of the partners to a personal relationship which has terminated or in the name of either of them, to the extent that the vehicle was, at the time the application was made or notice lodged, relationship property, and it is made for the purpose of or in connection with an order under the *Relationships Act 2003*;

(da) a notice of change of beneficial ownership of a motor vehicle if the person who has acquired the beneficial ownership is, or was immediately before the acquisition, the registered operator of the vehicle under a lease agreement;

(db) an application to register a motor vehicle, or a notice of change of beneficial ownership of a motor vehicle, if –

(i) the motor vehicle –

(A) is a light vehicle, within the meaning of the *Vehicle and Traffic Act 1999*, other than a trailer

or agricultural machine; and

(B) uses one or more electric motors for propulsion; and

(C) is fuelled from a hydrogen fuel cell, an off-vehicle electrical power source, a battery or an electric generator; and

(D) is not fitted with an internal combustion engine that provides either propulsion or a fuel source for an electric propulsion system; and

(ii) the application is made, or notice is lodged –

(A) on or after 1 July 2021 but before 1 July 2023; or

(B) on or after 1 July 2023 but before 1 January 2024 and is in respect of a new motor vehicle for which the contract of sale was entered into before 25 May 2023;

(e) an application to register a motor vehicle or a notice of change of beneficial ownership of a motor vehicle that relates

to a motor vehicle that is exempt from motor tax under the *Vehicle and Traffic Act 1999* or the *Transport Act 1981*;

(ea) the acquisition of a registered motor vehicle by a person who is in the bona fide business of motor vehicle wrecking, where the Commissioner is satisfied that –

(i) the acquisition is for the sole purpose of wrecking the motor vehicle in the course of that business; and

(ii) the motor vehicle will never be re-registered;

(f) an application for transfer of registration of a motor vehicle made by a shareholder to register the motor vehicle in the name of the shareholder if –

(i) the transfer is in the course of a distribution of assets of a company because of the winding-up or deregistration of the company; and

(ii) the distribution is in accordance with the shareholder's entitlement in the undistributed assets of the company immediately before the application to transfer;

(g) an application to register a trailer, or a notice of change of beneficial ownership

of a trailer, if the trailer is constructed principally for use as a dwelling.

(1A) In subsection (1)(da) –

lease agreement means an agreement by which a right to use a motor vehicle at any time and for any purpose is conferred on or acquired by a person.

(2) Subsection (1)(f) does not apply to a distribution to a shareholder who was not a shareholder for at least 12 months immediately prior to the notice of appointment of liquidator being lodged under section 537 of the Corporations Act.

200. Avoidance of double duty – duty paid in a corresponding Australian jurisdiction

Duty is not chargeable in respect of an application to register a motor vehicle in Tasmania if –

(a) at the time the application was made, the motor vehicle is or was registered by the person making the application under the law of an Australian jurisdiction that corresponds to the *Vehicle and Traffic Act 1999*; and

(b) duty was paid in that jurisdiction in respect of the registration.

201. No change in beneficial ownership

No duty is chargeable in respect of an application to register a motor vehicle where –

(a) the Commissioner is satisfied there is no change in beneficial ownership and that duty has been previously paid on an application to register the motor vehicle by or on behalf of the beneficial owner of the vehicle in this or a corresponding Australian jurisdiction; or

(b) in prescribed circumstances.

202. Reassessment of duty – repossession of stolen motor vehicle

(1) Duty is not chargeable on an application for registration of a motor vehicle that has been repossessed from a person because, before the person acquired it, it had been stolen.

(2) If requested by a person who has paid duty on an application for registration to which subsection (1) applies, the Commissioner must assess or reassess the duty accordingly.

203. Refund if contract, arrangement or agreement cancelled

The Commissioner, on application by a person who paid duty in respect of the registration of a motor vehicle, the transfer of registration of a motor vehicle or a notice of a change of beneficial ownership may refund to the person

the duty paid if the person cancelled any contract, arrangement or agreement under which that motor vehicle was acquired within 3 months of the acquisition.

PART 3 – TRADING STOCK, DEMONSTRATOR VEHICLES AND COURTESY VEHICLES

203A. Interpretation of Part 3

(1) For the purposes of this Part, a motor vehicle is used as a demonstrator vehicle if –

(a) the motor vehicle is available for prospective purchasers of a motor vehicle of the same make to test drive; and

(b) it is used in accordance with paragraph (a) and is not otherwise used except –

(i) as a courtesy vehicle; or

(ii) for the display of an advertisement on the relevant motor vehicle if the advertisement relates solely to a motor dealing business of the person registering or transferring the registration of the motor vehicle; or

(iii) by sales staff (being persons whose job involves the sale of that make of motor vehicle) in order to familiarise themselves with the motor vehicle; or

(iv) for sale after it has been used as a demonstrator vehicle.

(2) For the purposes of this Part, a motor vehicle is used as a courtesy vehicle if –

(a) the motor vehicle is lent or available to be lent without charge to customers of the person registering or transferring the registration of the motor vehicle while the motor vehicles of those customers are being serviced or repaired; and

(b) it is used in accordance with paragraph (a) and is not otherwise used except –

(i) as a demonstrator vehicle; or

(ii) for the display of an advertisement on the relevant motor vehicle if the advertisement relates solely to a motor dealing business of the person registering or transferring the registration of the motor vehicle; or

(iii) by sales staff (being persons whose job involves the sale of that make of motor vehicle) in order to familiarise themselves with the motor vehicle; or

(iv) for sale after it has been used as a courtesy vehicle.

(3) For the purposes of this Part, a motor vehicle is not to be taken to be used for a use other than the use for which it was acquired by reason only that

the person who acquired the motor vehicle lends the motor vehicle to a charity that uses it for charitable purposes.

(4) In subsection (3) –

charitable purpose means any purpose that in the opinion of the Commissioner is charitable;

charity means an institution that is a religious, scientific, charitable or public educational institution exempted by or under the *Income Tax Assessment Act 1936* of the Commonwealth from the payment of income tax under that Act.

204. Exemptions for motor dealers and traders

(1) Duty under this Chapter is not payable by –

(a) a licensed motor vehicle trader in respect of an application to register a motor vehicle; or

(b) a motor dealer in respect of an application to register a motor vehicle that is of a type specified in an exemption certificate held by the motor dealer –

if the motor vehicle is acquired for an exempted use under subsection (2), an appropriate record is made under subsection (3) in relation to the motor vehicle and the motor vehicle has not,

under subsection (4), ceased to be exempted under this subsection from duty.

(2) A motor vehicle is acquired for an exempted use if the motor vehicle –

(a) is a new motor vehicle and it is acquired for use as a demonstrator vehicle or as a courtesy vehicle, or for use both as a demonstrator vehicle and as a courtesy vehicle; or

(b) is a used motor vehicle and it is acquired for resale in the ordinary course of business; or

(c) is acquired, by the holder of an exemption certificate, or by a licensed motor vehicle trader who is a wholesaler, for sale to –

(i) other holders of exemption certificates; or

(ii) other licensed motor vehicle traders; or

(iii) motor dealers in other States or in Territories.

(3) An appropriate record is made in relation to a motor vehicle if the holder of the exemption certificate or the licensed motor vehicle trader records the unique identifying number of the exemption certificate or motor vehicle trader licence on the application to register the motor vehicle.

(4) A motor vehicle ceases to be exempted under subsection (1) from duty if –

(a) the motor vehicle is a new motor vehicle, it was acquired for use as a demonstrator vehicle or as a courtesy vehicle (or both) and –

(i) it is used for another use; or

(ii) within 12 months after it is registered under the *Vehicle and Traffic Act 1999* it has, by the odometer, travelled a distance of more than 15 000 kilometres since the day it was registered; or

(b) it is not sold within 12 months after it is registered under the *Vehicle and Traffic Act 1999* or a longer period specified by the Commissioner in a determination under subsection (6) in relation to the motor vehicle; or

(c) the motor vehicle is a used motor vehicle, it is acquired for resale in the ordinary course of business and it is used for a use other than resale; or

(d) the motor vehicle is acquired, by the holder of an exemption certificate, or by a licensed motor vehicle trader who is a wholesaler, for sale to –

(i) other holders of exemption certificates; or

(ii) other licensed motor vehicle traders; or

(iii) motor dealers in other States or in Territories –

and it is used for a use other than for such a sale.

(5) A holder of an exemption certificate or a licensed motor vehicle trader may, before the end of the period of 12 months after a motor vehicle is registered under the *Vehicle and Traffic Act 1999*, apply to the Commissioner for a determination that a real attempt to sell the vehicle has been made.

(6) If the Commissioner receives an application under subsection (5) in relation to a motor vehicle, the Commissioner may determine –

(a) that a real attempt to sell the motor vehicle has been made; and

(b) a period in which, if the motor vehicle is sold within the period, subsection (4)(b) is to be taken not to apply in relation to the motor vehicle.

205. Application for exemption certificate

(1) A motor dealer may apply to the Commissioner for a certificate certifying that the dealer is exempt from paying duty under this Act in respect of specified types of motor vehicles.

(2) An application is to be –

(a) in an approved form; and

(b) accompanied by the prescribed fee.

(3) The Commissioner may require an applicant to provide any further information the Commissioner considers necessary to decide the application.

206. Grant or refusal of application

(1) The Commissioner may –

(a) grant the application for an exemption certificate in full or in part and subject to any conditions the Commissioner considers appropriate; or

(b) refuse to grant the application.

(2) The Commissioner may grant an application for an exemption certificate only if satisfied that the applicant –

(a) is a motor dealer; and

(ab) is not a licensed motor vehicle trader and is not dealing in motor vehicles within the meaning of the *Motor Vehicle Traders Act 2011*; and

(b) has complied with any applicable provision of the *Second-hand Dealers and Pawnbrokers Act 1994*; and

(c) is not prohibited from carrying on business as a second-hand dealer under that Act; and

(d) has obtained any relevant approvals from the relevant council; and

(e) operates or intends to operate as a motor dealer on a continuing basis; and

(f) is not acting on behalf of another person who is not eligible to hold the certificate.

(3) If the Commissioner refuses to grant the application, the Commissioner, by notice in writing, is to advise the applicant of –

(a) the refusal to grant the application; and

(b) the reasons for that refusal; and

(c) the right of the applicant to object to the Commissioner's decision under the *Taxation Administration Act 1997*.

207. Form of exemption certificate

An exemption certificate is to –

(a) be in an approved form; and

(b) be issued in the name of the person carrying on the business; and

(c) specify the type of motor vehicle to which it relates; and

(d) specify the conditions to which it is subject; and

(e) specify the purpose for which it was acquired; and

(f) specify the expiry date of the certificate; and

(g) include a unique identifying number.

208. Period of exemption certificate

An exemption certificate is in force for a period, not exceeding 12 months, as specified in the certificate.

209. Notification of changes

(1) The holder of an exemption certificate must notify the Commissioner –

(a) of any change of address; and

(b) if the holder ceases to carry on the business of dealing in motor vehicles; and

(c) if the holder is prohibited from carrying on that business under any other Act.

Penalty: Fine not exceeding 100 penalty units.

(2) The holder of the exemption certificate must forward the certificate to the Commissioner for endorsement as soon as practicable after an event referred to in subsection (1) occurs.

Penalty: Fine not exceeding 100 penalty units.

210. Renewal of exemption certificate

(1) The holder of an exemption certificate may apply to the Commissioner for renewal of the certificate.

(2) An application for renewal is to be –

(a) in an approved form; and

(b) accompanied by the prescribed fee; and

(c) lodged no later than 2 months before the expiry of the certificate.

(3) If a holder fails to make an application within the period specified in subsection (2)(c) or within any other period the Commissioner may allow –

(a) the exemption certificate is taken to be cancelled as at its expiry date; and

(b) the Commissioner, by written notice, is to advise the Registrar of Motor Vehicles of the cancellation; and

(c) the holder must forward the exemption certificate to the Commissioner within 14 days after that expiry date.

211. Grant or refusal of renewal of application

(1) The Commissioner may –

(a) grant an application for the renewal of an exemption certificate subject to any conditions the Commissioner considers appropriate; or

(b) refuse to grant the application for renewal if not so satisfied.

(2) The Commissioner may grant the application for renewal only if satisfied as to the matters specified in section 206(2).

(3) If the Commissioner refuses to grant the application for renewal, the Commissioner, by notice in writing, is to –

(a) advise the holder of the exemption certificate of –

(i) the refusal to grant the application for renewal; and

(ii) the reasons for that refusal; and

(iii) the right of the holder to object to the Commissioner's decision under the *Taxation Administration Act 1997*; and

(b) advise the Registrar of Motor Vehicles of the refusal to grant that application.

212. Suspension and cancellation of exemption certificate

(1) The Commissioner may cancel an exemption certificate if satisfied that the holder –

(a) has ceased to be a motor dealer; or

(b) is prohibited from carrying on the business of a motor dealer under any other Act; or

(c) has not complied with any condition of the exemption certificate or any provision of this Chapter, the consequences of which, in the opinion of the Commissioner, justify the cancellation; or

(d) has used or attempted to use the certificate to obtain an exemption that is not available; or

(e) is a licensed motor vehicle trader or is dealing in motor vehicles within the meaning of the *Motor Vehicle Traders Act 2011*.

(2) The Commissioner may suspend an exemption certificate for a specified period if satisfied that the holder has not complied with any condition of the exemption certificate or any provision of this Act.

(3) The Commissioner, by written notice, is to advise the holder of an exemption certificate and the Registrar of Motor Vehicles of any suspension or cancellation.

(4) On receipt of the notice, the holder must forward the exemption certificate to the Commissioner within 14 days after the receipt.

Penalty: Fine not exceeding 100 penalty units.

(5) Duty is payable in relation to any vehicle acquired through the use of an exemption certificate which has been cancelled under this section or taken to be cancelled under section 210(3)(a) if the former holder of that certificate of exemption has not disposed of the vehicle within 3 months of the date of cancellation or any longer period the Commissioner may allow.

213. Continuing use of exemption certificate

The holder of an exemption certificate who makes an application for renewal under section 210 before the certificate expires continues to be exempted from paying duty in respect of the types of vehicles specified in the certificate until whichever of the following occurs first:

(a) the end of a period of 3 months, or any further period the Commissioner determines, after that expiry;

(b) if the application is refused before that expiry, the date of the refusal.

214. . . . . .

215. Improperly obtaining exemption

A person must not use, or attempt to use, an exemption certificate, or a motor vehicle trader

licence, to obtain an exemption in relation to a motor vehicle if the vehicle is not a vehicle that is acquired for an exempted use within the meaning of section 204(2).

Penalty: Fine not exceeding 100 penalty units.

216. Notification if exemption ceases to apply in relation to motor vehicle

(1) The holder of an exemption certificate or a licensed motor vehicle trader must notify the Commissioner within 14 days if a motor vehicle, acquired by the holder or trader, becomes a motor vehicle that has ceased under section 204(4) to be exempted under section 204(1) from duty.

Penalty: Fine not exceeding 100 penalty units.

(2) A notification is to be –

(a) in a form approved by the Commissioner; and

(b) lodged with the Commissioner.

(3 - 4) . . . . . .

217. . . . . .

218. Record of exemption certificates

The Commissioner is to –

(a) keep records of all certificates of exemption granted or renewed under this Part; and

(b) make a summary of those records available for public inspection during normal business hours.

CHAPTER 9 – MISCELLANEOUS DUTIES

PART 1 – DUPLICATES AND REPLICAS

219. Duplicates or counterparts

(1) Subject to subsection (2), no duty is chargeable on a duplicate or counterpart of an instrument that effects a dutiable transaction.

(2) A duplicate or counterpart of an instrument that effects a dutiable transaction is not to be stamped as a duplicate or counterpart unless the proper duty has been paid on that instrument.

(3) If the proper duty has not been paid on the instrument referred to in subsection (1), the person liable to pay the duty is the person liable to pay the duty on that instrument.

220. Replicas

(1) Duty of $50 is chargeable on a replica.

(2) The persons liable to pay the duty are the parties to the replica or any one or more of them.

(3) A replica that is duly stamped is to be marked in such manner as the Commissioner thinks fit to denote that it is a replica.

(4) In this section,

replica means an instrument that –

(a) is executed to replace; and

(b) contains the same terms as, but no other terms than, those contained in –

a previously executed instrument that has been lost, spoiled or destroyed and that, in the Commissioner's opinion, has been duly stamped.

PART 2 – MISCELLANEOUS DUTIES

221. Motor accident premium certificates

(1) A certificate or other document issued for the purpose of the *Motor Accidents (Liabilities and Compensation) Act 1973* that acknowledges the receipt of a premium paid under that Act in respect of a motor vehicle is a certificate of premium paid notwithstanding that it is also issued for other purposes.

(2) Duty is chargeable on a certificate of premium paid.

(3) The amount of duty payable for a certificate of premium paid is –

(a) $20, if the certificate of premium paid is issued in respect of –

(i) the registration of a vehicle for a period of 12 months; or

(ii) a short term unregistered vehicle permit issued under the *Vehicle and Traffic Act 1999*; or

(b) if the certificate of premium paid is issued in respect of the registration of a vehicle for a period of less than 12 months (the ***registration period***), the following amount:

$$A = \frac{B}{C} \times D$$

where –

A is the duty payable for the certificate of premium paid;

B is the number of days in the registration period;

C is the number of days in the 12-month period that commences on the day on which the registration period commences;

D is $20.

(3A) The person liable to pay the duty in respect of a certificate of premium paid issued in respect of a motor vehicle is the registered operator, of that vehicle, within the meaning of the *Motor Accidents (Liabilities and Compensation) Act 1973*.

(4) The amount of duty payable must be denoted on the certificate of premium paid.

(5) A certificate of premium paid is not duly stamped until the duty in respect of the certificate has been paid.

(6) The Motor Accidents Insurance Board or its agent is to –

(a) furnish to the Commissioner any returns required with regard to the certificates of premium paid issued; and

(b) pay duty received in respect of certificates of premium paid to the

Commissioner in any manner and at any time notified by the Commissioner.

222 - 224. . . . . .

CHAPTER 10 – GENERAL EXEMPTIONS FROM DUTY

PART 1 – INTERGENERATIONAL RURAL TRANSFERS

225. Intergenerational rural transfers

(1) Duty under this Act is not chargeable on a transfer of an interest in real property, whether for consideration or not, and which includes personal property used solely or principally in connection with the business of primary production, to the extent that the Commissioner is satisfied that the transfer of the interest –

(a) relates to land that –

(i) is currently used, and which will continue to be used, in the business of primary production; and

(ii) is primary production land within the meaning of section 7 of the *Land Tax Act 2000*; and

(b) does not arise from any arrangement or scheme devised to evade the payment of duty by taking the benefit of this exemption; and

(c) is from –

(i) a natural person to a relative of the person at the time of the transfer; or

(ia) a natural person to a trustee of a trust if –

(A) each beneficiary of the trust is individually named in the relevant trust deed and is a relative of the person at the time of the transfer; and

(B) the trust deed may not be amended to add a beneficiary who is not a relative of the person; or

(ii) a company to a trustee of a trust if –

(A) each beneficiary of the trust is individually named in the relevant trust deed and is a relative of each shareholder of the company at the time of the transfer; and

(B) the trust deed may not be amended to add a beneficiary who is not a relative of each shareholder; or

(iia) a natural person to a company (other than as trustee) of which all the shareholders are relatives of the person at the time of the transfer; or

(iii) a company to a natural person and all the shareholders of the company are relatives of the person at the time of the transfer; or

(iiia) a company (other than as a trustee) to another company (other than as trustee) of which all the shareholders are relatives of all the shareholders of the first-mentioned company at the time of the transfer; or

(iv) a trustee of a trust to a person who is, at the time of the transfer, a relative of all those named beneficiaries of the trust who are natural persons; or

(v) a trustee of a trust to a trustee of another trust if –

(A) each beneficiary of the other trust is individually named in the relevant trust deed and is, at the time of the transfer, a relative of each named beneficiary of the first-

mentioned trust who is a natural person; and

(B) the trust deed for the other trust may not be amended to add a beneficiary who is not a relative of each named beneficiary of the first-mentioned trust who is a natural person; or

(vi) a trustee of a trust to a company (other than as trustee) of which all the shareholders are relatives, at the time of the transfer, of all those named beneficiaries of the trust who are natural persons.

(1A) The Commissioner may be satisfied of the matter specified in subsection (1)(c)(ia), (ii), (iv), (v) or (vi) if the relevant trust deed meets the requirements of that subparagraph –

(a) at the time of the transfer; or

(b) within the 6-month period after the transfer, or a longer period approved by the Commissioner.

(1B) The transferee may apply to the Commissioner, in writing, for a reassessment of the duty payable under this Act on the transfer.

(1C) If the Commissioner receives a reassessment application and is satisfied that duty is not chargeable under this Act on the transfer, the Commissioner must –

(a) reassess the duty payable under this Act as if, at the time of the transfer or before the end of a period that applies under subsection (1A)(b), the Commissioner was satisfied of the matters set out in subsection (1); and

(b) refund the amount of duty paid in respect of the transfer that is in excess of the reassessed amount.

(2) Duty is not chargeable under Chapter 3 on a relevant acquisition, within the meaning of section 65, of an interest in a farming company to the extent of the unencumbered value of the company's farming property, if the interest is transferred from a person specified in a subparagraph of subsection (1)(c) to a person specified in the same subparagraph.

(3) A relative of a person is –

(a) a lineal descendant of the person; or

(b) an adopted child, a natural child or a step-child of the person; or

(ba) a surrogate child of the person; or

(c) a lineal ancestor of the person; or

(d) a brother, sister, nephew, niece, aunt or uncle of the person; or

(e) the spouse or caring partner of the person or of a person referred to in paragraph (a), (b), (ba), (c) or (d); or

(f) an adopted child, natural child, step-child or surrogate child of a person referred to in paragraph (a), (b), (ba), (c), (d) or (e) or the spouse or caring partner of that child.

(4) For the purposes of this section –

(a) a reference to a relative of a person is to be taken to include a reference to the person himself or herself; and

(b) a transfer from a deceased estate may be taken to be a transfer from the deceased person; and

(c) the death of a person does not alter the relationship between that person and any other person.

226. Subsequent liability for duty in certain circumstances

(1) If the Commissioner, after being satisfied as required under section 225, becomes aware that a transfer of an interest in real property in respect of which duty was not chargeable under that section was not a transfer of an interest referred to in that section, the Commissioner may assess that transfer for the duty that would otherwise be payable.

(2) Duty is chargeable on a transfer referred to in section 225 if any of the following occurs:

(a) a person who is not a relative of the transferor –

(i) becomes entitled to a share or interest in the trust, whether that share or interest is vested or contingent; or

(ii) otherwise benefits from the trust;

(b) the transferor gains control of the trust.

(3) The transferee must lodge with the Commissioner a statement in an approved form within one month after any event referred to in subsection (2) occurs and pay the duty that would be assessed in respect of that transaction.

Penalty: Fine not exceeding 100 penalty units.

(4) Section 19(3) of the *Taxation Administration Act 1997* does not apply to this section.

PART 1A – CORPORATE RECONSTRUCTION TRANSACTIONS AND CORPORATE CONSOLIDATION TRANSACTIONS

226A. Interpretation of Part 1A

(1) In this Part –

corporate consolidation transaction has the meaning given by section 226D;

corporate group has the meaning given by section 226B;

corporate reconstruction transaction has the meaning given by section 226C;

corporation includes a unit trust scheme;

security, of a corporation, means –

(a) for a corporation other than a company limited by guarantee or a unit trust scheme, an issued share in the corporation; or

(b) for a company limited by guarantee, the amount guaranteed by each member of the company; or

(c) for a unit trust scheme, an issued unit in the scheme.

(2) A reference in this Part to anything done by or held by a unit trust scheme (including any voting control held by a unit trust scheme) includes a reference to anything done by or held by –

(a) a trustee of the unit trust scheme in its capacity as a trustee; and

(b) a custodian of a trustee of the unit trust scheme in its capacity as a custodian; and

(c) a sub-custodian of a custodian of a trustee of the unit trust scheme in its capacity as a sub-custodian.

226B. Meaning of *corporate group*

(1) For the purposes of this Part, a corporate group consists of a parent corporation and its subsidiaries.

(2) A corporation is the parent corporation of another corporation (which is the subsidiary of the first corporation) if the first corporation, directly or indirectly –

(a) holds at least 90% of the securities of the other corporation; and

(b) holds voting control over the other corporation.

(2A) Subsection (2)(a) does not apply to a company limited by guarantee.

(3) The first corporation holds voting control over the other corporation if the first corporation has the ability to cast, or control the casting of, at least 90% of the maximum number of votes that may be cast at a general meeting of that corporation (other than votes to which a person is entitled under the provisions of a debenture or of a trust deed that secures the issue of a debenture).

(4) The corporate group for a corporation, all of the securities of which cannot be traded except as a single security with the securities of one or more other corporations, includes all of those other corporations and their subsidiaries.

(5) A corporation that is a unit trust scheme is taken to be a member of a corporate group for the purposes of a corporate reconstruction transaction if the transaction is between the trustee of the unit trust scheme, acting as trustee of the scheme, and another corporation that is a member of the same corporate group as the unit trust scheme.

(6) A corporation is not a member of a corporate group for the purposes of a corporate reconstruction transaction if the corporation is acting in the capacity of trustee of –

(a) a unit trust scheme that is not a member of the same corporate group as the other party to the transaction; or

(b) a discretionary trust; or

(c) a trust (not being a unit trust scheme) for any person who is not a member of the corporate group.

226C. Meaning of *corporate reconstruction transaction*

(1) For the purposes of this Part, a corporate reconstruction transaction means –

(a) a transfer of dutiable property between corporations that are members of the same corporate group; or

(b) a surrender of an interest in land by a corporation to a corporation that is a member of the same corporate group; or

(c) a vesting of dutiable property if the dutiable property was held, immediately before the vesting, and continues to be held, immediately after the vesting, by corporations that are members of the same corporate group; or

(d) an acquisition of an interest in a landholder, within the meaning of Chapter 3, by a corporation if the interest is acquired from another corporation that is a member of the same corporate group; or

(e) an application, under the *Vehicle and Traffic Act 1999*, to register a motor vehicle as a result of a transfer of the

vehicle between corporations that are members of the same corporate group; or

(f) a notice, under the *Vehicle and Traffic Act 1999*, of a change of beneficial ownership of a motor vehicle between corporations that are members of the same corporate group.

(2 - 4) . . . . . .

226D. Meaning of *corporate consolidation transaction*

(1) For the purposes of this Part, a corporate consolidation transaction means an acquisition of an interest in a landholder, within the meaning of Chapter 3, that –

(a) is made for the purpose of interposing a corporation (the ***head corporation***) between another corporation (the ***affected corporation***) and the holders of the affected corporation's securities; and

(b) is a transfer or acquisition of securities of –

(i) the affected corporation by the head corporation for which the only consideration given by the head corporation is the issue or transfer of its securities to the person from whom the affected corporation's securities were transferred or acquired; or

(ii) the head corporation by a holder of securities of the affected corporation.

(2) An acquisition of an interest in a landholder is taken not to be a corporate consolidation transaction if, immediately before the acquisition occurred, the head corporation held any –

(a) dutiable property; or

(b) motor vehicle; or

(c) interest in a corporation, other than an interest in the affected corporation, or a subsidiary of the affected corporation, acquired only for the purposes of the transaction.

(3) An acquisition of an interest in a landholder is taken not to be a corporate consolidation transaction unless, immediately after the issue or transfer of the head corporation's securities –

(a) each person who holds those securities (a ***security holder***) is a person who held securities of the affected corporation immediately before the securities of the affected corporation were transferred to or acquired by the head corporation; and

(b) the proportion of those securities held by each security holder is the same as the proportion of the securities of the affected corporation held by each

security holder before the issue or transfer.

(4 - 6) . . . . . .

226E. Exemptions for corporate reconstruction transaction and corporate consolidation transaction

(1) Duty under this Act is not chargeable on a transaction if the Commissioner is satisfied, on application by a party to the transaction, that –

(a) the transaction is a corporate reconstruction transaction or a corporate consolidation transaction; and

(b) the transaction, or the series of transactions of which the transaction is a part, is undertaken for the purpose of one or more of the following:

(iaa) establishing a corporate group;

(i) changing the structure of a corporate group;

(ii) changing the holding of assets within a corporate group; and

(c) the transaction, or the series of transactions of which the transaction is a part –

(i) is not undertaken for a purpose of avoiding or reducing duty under

this Act on another transaction; and

(ii) is not undertaken for the sole or dominant purpose of avoiding or reducing a liability for tax, other than duty under this Act, under a law of an Australian jurisdiction.

(2) In this section –

transaction means –

(a) a transfer of dutiable property; or

(b) a surrender of an interest in land; or

(c) a vesting of dutiable property; or

(d) an acquisition of an interest in a landholder, within the meaning of Chapter 3; or

(e) an application, under the *Vehicle and Traffic Act 1999*, to register a motor vehicle; or

(f) a notice, under the *Vehicle and Traffic Act 1999*, of a change of the beneficial ownership of a motor vehicle.

226F. Applications for exemptions

(1) An application for an exemption from duty for a corporate reconstruction transaction or a corporate consolidation transaction is to be made to the Commissioner –

(a) in the approved form; and

(b) not before the date of the transaction.

(2) The Commissioner may grant an exemption with or without conditions.

(3) The Commissioner must reassess any duty payable on a transaction if an exemption is granted.

226G. Refund provisions

If an exemption from duty for a corporate reconstruction transaction, or a corporate consolidation transaction, is granted under section 226F, the Commissioner must refund any amount of duty paid that exceeds the amount of the duty payable after taking into account the exemption.

226H. Revocation of exemption

(1) The Commissioner may revoke an exemption granted under this Part in relation to a transaction if –

(a) . . . . . .

(b) the exemption was granted based on false or misleading information provided to the Commissioner by the corporate group or a member of the group.

(2) . . . . . .

(3) The Commissioner must assess the duty payable on a corporate reconstruction transaction, or corporate consolidation transaction, for which an exemption is revoked.

(4) Each member (at the date of the transaction) of the corporate group to which the transaction relates is jointly and severally liable to pay the duty chargeable on the transaction.

(5) . . . . . .

PART 2 – MISCELLANEOUS EXEMPTIONS

227. Miscellaneous exemptions

(1) Duty is not chargeable in respect of the following:

(a) any instrument made by the Department responsible for the administration of the *Health Service Establishments Act 2006* in respect of the grant, purchase, transfer, mortgage or lease of any land if duty on that instrument would otherwise be payable by that Department;

(b) any instrument made in respect of the mortgage or lease of any land by, to, or with the licensee, proprietor, governors, trustees, committee of management, or resident manager of a medical establishment not for or in connection with the acquisition of a medical establishment if duty on that instrument would otherwise be payable by that medical establishment;

(c) any instrument made by, to, or with the University of Tasmania in respect of the grant, purchase, conveyance, transfer, mortgage, or lease of any land if duty on that instrument would otherwise be payable by the University of Tasmania;

(d) any instrument on which duty would otherwise be payable by a person constituted, established or appointed

under an Act or under the Royal prerogative to administer or control any department, business, undertaking or public institution on behalf of the State who is exempted by proclamation from the payment of all duties under this Act;

(e) any instrument in respect of loans made for the purpose of the *Farm Water Development Act 1985*;

(f) any instrument in respect of loans made for the purpose of the *King and Flinders Islands (Power) Financial Assistance Act 1984*;

(g) any instrument in respect of financial assistance made for the purpose of the *Rural Adjustment Act 1995*;

(h) . . . . . .

(i) any agreement made under section 17(2) of the *Forest Practices Act 1985*;

(ia) any agreement entered into under Part 5 of the *Land Use Planning and Approvals Act 1993*;

(j) any instrument effecting a purchase of a replacement property or any mortgage in respect of that property to replace affected property purchased by the Crown under section 10(1) of the *Rosetta Landslip Act 1992* provided that the agreement to purchase the replacement property is entered into within a period

of 12 months immediately after the purchase of that affected property by the Crown;

(ja) a duplicate instrument required under the *Land Titles Act 1980*, if the original instrument or a copy of the original instrument has been duly stamped;

(k) any permit, licence, pipeline licence or access authority within the meaning of the *Petroleum (Submerged Lands) Act 1982*, any instrument effecting the transfer of such a licence or authority or any instrument relating to any legal or equitable interest in such a licence or authority;

(l) any instrument for effecting a surrender of any land to the Crown.

(2) A person who is liable to pay duty in respect of any instrument or transaction is exempted from the payment of the duty if –

(a) the instrument or transaction relates to any action, matter or proceeding in respect of which legal aid is provided under section 51 of the *Legal Aid Commission Act 1990*; and

(b) the person was eligible to receive legal assistance under such a scheme.

227A. . . . . .

227B. Instruments issued for purpose of creating, issuing or marketing mortgage-backed securities

Duty under this Act is not chargeable on an instrument that, in the opinion of the Commissioner, was executed for the purpose of creating, issuing or marketing mortgage-backed securities.

227C. Loan-backed securities

(1) Duty is not chargeable in respect of an instrument that is, or effects, any of the following:

(a) the issue or making of a loan-backed security;

(b) the transfer or assignment of, or other dealing in, a loan-backed security;

(c) an instrument that, in the Commissioner's opinion, was executed for the purpose of creating, issuing or marketing loan-backed securities;

(d) a mortgage over the interest of a person in a pool of loans, being a mortgage relating to loan-backed securities issued by the person to secure the repayment of financial accommodation provided to the person;

(e) a policy of insurance covering any or all assets in a pool of loans acquired or held for the purpose of issuing loan-backed securities, but only so far as the instrument relates to loan-backed securities.

CHAPTER 11 – MISCELLANEOUS

PART 1 – STAMPING INSTRUMENTS

228. Provision of stamps

The Commissioner may provide stamps or such other equipment as may be required for –

(a) stamping instruments; or

(b) otherwise denoting the payment of duty –

in accordance with the provisions of this Act.

229. Limitation on use of designated stamps

(1) A stamp that by its terms is limited to an instrument of a specified kind must not be used for an instrument of a different kind.

Penalty: Fine not exceeding 100 penalty units.

(2) An instrument of a specified kind for which a particular stamp is specified is taken not to be duly stamped unless it is stamped with the stamp so specified.

230. Form of stamps to be used

(1) An instrument that is required to be stamped by this Act is to be stamped by means of an impressed stamp.

(2) Another form of stamping may be used if its use is authorised by this Act or the Commissioner.

231. Stamping of instruments

(1) Subject to subsection (3), the Commissioner must stamp an instrument in respect of which duty is chargeable under this Act, or that effects or evidences a dutiable transaction, and that has been lodged for stamping with the Commissioner if the duty, and any interest or penalty tax under Part 5 of the *Taxation Administration Act 1997*, is paid in full.

(2) If this Act provides that no duty is chargeable on an instrument, the Commissioner may endorse it as he or she sees fit.

(3) If an instrument is lodged with the Commissioner for stamping and the person who lodged it is authorised to deal with that instrument in accordance with the conditions of an approval given under Part 6 of the *Taxation Administration Act 1997*, the Commissioner may –

(a) assess the duty payable in respect of the instrument and stamp it if the duty, and any interest or penalty tax, under Part 5 of the *Taxation Administration Act 1997*, payable in respect of the instrument has been paid in full; or

(b) return the instrument to the person who lodged it.

(4) If the Commissioner makes an assessment of duty and stamps an instrument under subsection (3)(a), the Commissioner in his or her discretion may charge an administrative fee under section 118A of the *Taxation Administration Act 1997*.

232. When is an instrument duly stamped?

An instrument is duly stamped if it is stamped in accordance with this Act or section 53(1) of the *Taxation Administration Act 1997*.

233. Adhesive stamps

(1) An adhesive stamp may be used to stamp the following instruments:

(a) a superannuation instrument to which section 44 applies;

(b - c) . . . . . .

(d) any other instrument for which, under a taxation law within the meaning of the *Taxation Administration Act 1997*, tax may be denoted by use of an adhesive stamp.

(2) An instrument that may be stamped by use of an adhesive stamp is not duly stamped unless –

(a) an adhesive stamp for the appropriate amount of duty is attached to the instrument; and

(b) the adhesive stamp is cancelled by marking the date of its cancellation on its face in such a way as to render it incapable of being used for any other instrument.

(3) An adhesive stamp that has been attached to an instrument and cancelled must not be removed from the instrument except by the Commissioner after an application for a refund of the duty denoted by the stamp has been approved.

Penalty: Fine not exceeding 100 penalty units.

234. Licences to deal in stamps

(1) The Commissioner may, on such terms and conditions as are determined by the Commissioner, grant a licence to a person to sell stamps.

(2) The licence must include the name and address of the licensee.

(3) The Commissioner may sell stamps to a licensee at such commission discount as may be determined by the Commissioner.

(4) The Commissioner may cancel a licence granted under this section at any time by giving notice of the cancellation to the licensee.

(5) A person who is not licensed under this section must not sell or deal in stamps.

Penalty: Fine not exceeding 100 penalty units.

235. Refunds – spoiled and unused stamps

(1) A person may apply to the Commissioner for a refund of the value of adhesive stamps that have become spoiled or useless.

(2) The spoiled or useless stamps must be produced to the Commissioner.

(3) If an adhesive stamp is erroneously placed on a document, an application for a refund may be made as if the stamp were spoiled.

236. Reassessments – failed instruments

(1) An instrument that fails in its intended operation and becomes useless is not chargeable with duty under this Act.

(2) The Commissioner must make a reassessment of duty in respect of such an instrument if an application for a reassessment is made within –

(a) 3 years after the initial assessment; or

(b) 12 months after the instrument has failed; or

(c) 3 years after the payment of duty pursuant to a special arrangement for the lodging of returns and payment of tax under Part 6 of the *Taxation Administration Act 1997* –

whichever is the later.

(3) The instrument in respect of which the application is made must be produced to the Commissioner unless the Commissioner dispenses with its production.

237. Instruments to be separately charged with duty in certain cases

An instrument that contains or relates to several distinct matters for which different duties are chargeable under this Act is to be separately and distinctly charged with duty in respect of each such matter, as if each matter were expressed in a separate instrument.

238. Execution of instruments

(1) For the purposes of this Act, an instrument is taken to be first executed the first time that it is signed and sealed, or signed (as the case may be) by any party to it.

(2) However, a contract made by acceptance of an offer contained in an instrument is taken to be first executed when the offer is accepted.

(3) If an instrument is ineffective by reason of a failure of the necessary parties to execute it, a refund may be made of any money paid for stamping.

239. Stamping of instruments after execution

(1) Except where otherwise expressly provided by this or another Act, a person liable with respect

to any instrument chargeable with duty or any dutiable transaction must cause the instrument, or an instrument that effects or evidences the transaction, to be duly stamped or, in accordance with the provisions of this Act, marked "interim stamp only" within 6 months after it was first executed.

Penalty: Fine not exceeding 100 penalty units.

(2) For the purposes of this section, a written statement that is required to be stamped is taken to be first executed when the transaction to which the statement relates occurs.

240. Stamping taken to constitute an assessment

For the purposes of this Act, the stamping of an instrument (excluding a return) by the Commissioner is taken to be evidence of an assessment of the duty payable under this Act in respect of the instrument.

241. Copies of instruments

(1) A copy of an original instrument is chargeable with duty as if it had been executed in the same way as the original instrument and had been first executed at the same time as the original instrument unless the Commissioner is satisfied –

(a) that the original instrument has been duly stamped; or

(b) that a copy of the original instrument has been duly stamped in accordance with this section.

(2) If a copy of an original instrument is duly stamped in accordance with the section, the original instrument is taken to be duly stamped.

(3) In this section –

copy of an original instrument means an unexecuted instrument in which, in the Commissioner's opinion, the matter contained in the original instrument is wholly or substantially reproduced, whether or not the matter reproduced has the same appearance as the matter contained in the original instrument, but does not include a replica within the meaning of section 220;

original instrument means an instrument that is chargeable with duty otherwise than under this section.

242. Calculation of time

(1) This section applies to the calculation of a period of time for the purpose of determining when the payment of duty is due under this Act.

(2) A month is taken to be a period commencing at the beginning of a day of one of the 12 named months (within the meaning of the *Acts Interpretation Act 1931*) and ending –

(a) at the end of the corresponding day of the next named month; or

(b) if there is no such corresponding day, at the end of the next named month.

(3) A period of 2 or more months is taken to be a period commencing at the beginning of a day of one of the 12 named months (within the meaning of the *Acts Interpretation Act 1931*) and ending –

(a) at the end of the corresponding day of the last named month within the period; or

(b) if there is no such corresponding day, at the end of that named month.

(4) Section 29 (except subsection (1)) of the *Acts Interpretation Act 1931* applies to the calculation of a period of time to which this section applies.

PART 2 – ENFORCEMENT

243. Registration of instruments

(1) A person must not register, record, enrol or accept for any purpose an instrument that effects in whole or in part a dutiable transaction, or an instrument that is chargeable with duty, unless –

(a) the instrument is duly stamped; or

(b) the instrument is endorsed by the Commissioner or endorsed in a manner approved by the Commissioner.

Penalty: Fine not exceeding 100 penalty units.

(2) Nothing in any other Act is to be taken to prevent or prohibit an instrument being, for the purposes of this Act –

(a) stamped; or

(b) endorsed by the Commissioner or endorsed in a manner approved by the Commissioner.

244. Electronic conveyancing

(1) Details in relation to a proposed conveyancing transaction may be entered into TRO by –

(a) an ELNO, by means of an approved ELN; or

(b) the Commissioner; or

(c) a person who is authorised under an approval to have an electronic conveyancing document taken to be endorsed under section 53(1)(b) of the *Taxation Administration Act 1997* in accordance with subsection (5).

(2) There may be issued to an approved ELNO by TRO –

(a) a unique identifying number (a ***verification number***), generated by TRO, in relation to –

(i) a proposed conveyancing transaction in relation to which details have been entered into TRO under subsection (1); and

(ii) an electronic conveyancing document that effects the proposed conveyancing transaction; and

(b) an estimation (an ***estimation of duty***), generated by TRO, of the duty that would be payable under this Act in relation to the proposed conveyancing transaction if it were a dutiable transaction.

(3) At any time before an electronic conveyancing document that effects a proposed conveyancing transaction is executed, a verification number, or an estimation of duty, in relation to the proposed conveyancing transaction may be revoked by the

removal from TRO of any reference to the number or the estimation, respectively.

(4) A verification number or an estimation of duty, the issue of such a number or estimation and a failure to issue, or revocation of, such a number or estimation is not a decision or assessment, or evidence of a decision or assessment, for the purposes of this Act or the *Taxation Administration Act 1997*.

(5) If –

(a) an electronic conveyancing document that contains a verification number is executed; and

(b) the electronic conveyancing document, or a notice that the document has been executed, is received from an approved ELNO by the Recorder of Titles –

the electronic conveyancing document is taken to have been endorsed under section 53(1)(b) of the *Taxation Administration Act 1997* in accordance with the conditions of the approval that relates to the document.

(6) In this section –

approval means an approval under Division 2 of Part 6 of the *Taxation Administration Act 1997*;

approved ELNO means an ELNO that has been approved under the *Electronic*

Conveyancing National Law (Tasmania) Act;

conveyancing transaction means a transfer of land, a change in the beneficial interest in land, or an acquisition of land, that is, or, if it were effected, would be, a dutiable transaction;

digital signature, in relation to an electronic conveyancing document, means encrypted electronic data intended for the exclusive use of a particular person as a means of identifying that person as a person who signs the document;

digitally signed, in relation to an electronic conveyancing document, means include in the document a digital signature;

electronic conveyancing document means an electronic document, containing a verification number, by which a conveyancing transaction is, if the document is executed, effected, or would, if the document were executed, be effected;

ELN has the same meaning as Electronic Lodgement Network has in the *Electronic Conveyancing National Law (Tasmania) Act*;

ELNO has the same meaning as Electronic Lodgement Network Operator has in the *Electronic Conveyancing National Law (Tasmania) Act*;

estimation of duty means an estimation of duty, issued under subsection (2)(b), that has not been revoked under subsection (3);

executed, in relation to an electronic conveyancing document, means executed in accordance with section 238, including by being digitally signed;

proposed conveyancing transaction means a conveyancing transaction in respect of which an electronic conveyancing document, by which the transaction is to be effected, has not been executed;

TRO means an electronic database system that is approved by the Commissioner for the purposes of this section;

verification number means a verification number, issued under subsection (2)(a), that has not been revoked under subsection (3).

245. . . . . .

246. Receipt of instruments in evidence

(1) An instrument that effects a dutiable transaction or is chargeable with duty under this Act is not available for use in law or equity for any purpose and may not be presented in evidence in a court or tribunal exercising civil jurisdiction unless –

(a) it is duly stamped; or

(b) it is endorsed by the Commissioner or in a manner approved by the Commissioner.

(2) A court or tribunal may admit in evidence an instrument that effects a dutiable transaction, or is chargeable with duty in accordance with the provisions of this Act, and that does not comply with subsection (1) –

(a) if the instrument is after its admission transmitted to the Commissioner in accordance with arrangements approved by the court or tribunal; or

(b) if (where the person who produces the instrument is not the person liable to pay the duty) the name and address of the person so liable is forwarded, together with the instrument, to the Commissioner in accordance with arrangements approved by the court or tribunal.

(3) A court or tribunal may admit in evidence an unexecuted copy of an instrument that effects a dutiable transaction, or is chargeable with duty in accordance with the provisions of this Act, if the court or tribunal is satisfied that –

(a) the instrument of which it is a copy is duly stamped, or is endorsed in a manner approved by the Commissioner; or

(b) the copy is duly stamped under section 241.

247. Valuation of property

(1) The Commissioner may require a person who is liable to duty determined with reference to the value of property to provide a declaration by a competent valuer as to the unencumbered value of the property or to provide such other evidence of that value as the Commissioner thinks fit.

(2) The Commissioner may assess duty in accordance with the value so declared.

(3) The Commissioner may have property valued if not satisfied with the value so declared or if a property value is not provided as requested and may assess duty on the basis of the valuation.

(4) The Commissioner may recover the cost of obtaining a value under this section from the person liable to pay the duty.

248. Assessment where consideration inadequate

(1) If the Commissioner is of the opinion that the consideration shown in an agreement for the sale, transfer or exchange of any real property (or an interest in real property) is inadequate with respect to the value of that real property or interest, the Commissioner may assess the duty payable on the dutiable transaction, or on the agreement or other instrument, by treating the unencumbered value of the relevant real property determined in accordance with subsection (2) or (2A) as the dutiable value for the sale, transfer or exchange of that property.

(2) If the relevant real property is not vacant land, the unencumbered value of the relevant real property is the value calculated by multiplying the capital value of the real property as determined under the *Valuation of Land Act 2001* by an amount representing the latest estimated trend in capital values as advised by the Valuer-General before the date of the dutiable transaction relating to that real property.

(2A) If the relevant real property is vacant land, the unencumbered value of the relevant real property is the value calculated by multiplying the capital value of the real property as determined under the *Valuation of Land Act 2001* by the adjustment factor determined by the Valuer-General under section 50A of the *Valuation of Land Act 2001* and applicable as at the date of the dutiable transaction.

(3) The Commissioner may assess the duty payable on the unencumbered value of the relevant real property determined by the Valuer-General as at the date of the dutiable transaction, or the relevant acquisition within the meaning of section 65, if –

(a) the Commissioner is unable to determine the value of real property as provided by subsection (2) or (2A); or

(b) a party to the agreement, transfer, assignment or similar instrument so requests.

(4) If the Valuer-General determines the unencumbered value of relevant real property for the purpose of subsection (3) and charges the Commissioner a fee for that determination, the Commissioner may recover that fee from the person who is liable to pay duty in respect of any dutiable transaction or instrument referred to in this section.

(5) A person who is liable to pay duty in respect of a dutiable transaction or instrument referred to in this section may object to the unencumbered value of the relevant real property as determined under subsection (2) or (2A) in accordance with Part 10 of the *Taxation Administration Act 1997* by providing the Commissioner with a declaration by a competent valuer as to the unencumbered value of the real property.

(6) If the Commissioner determines an objection referred to in subsection (5), the Commissioner may –

(a) determine the value of the real property by treating as the unencumbered value of the real property the value declared in the declaration provided under subsection (5); or

(b) if not satisfied with the value of the real property declared in the declaration provided under subsection (5) –

(i) have the property valued; and

(ii) determine the value of the real property by treating as the

unencumbered value of the real property the value declared in the declaration provided under subparagraph (i).

(7) The Commissioner may recover the cost of a valuation obtained under subsection (6)(b) from the transferee.

249. Ascertainment of value of certain interests

If it is necessary for the purpose of assessing duty under this Act to ascertain the value of –

(a) any estate or annuity or interest for the life of any person; or

(b) any estate or annuity or interest determinable on or subject to any contingency or the happening of any event; or

(c) any estate or annuity or interest in remainder expectant on the death of any person or expectant on or subject to any contingency or the happening of any event –

regard may be had in ascertaining the value of any such property to the death of the person having the life estate or annuity or interest or the happening of the contingency or event at any time before the assessment of duty is actually made.

250. Impounding of instruments

(1) The Commissioner may impound any instrument that ought to be but is not stamped or is insufficiently stamped.

(2) The Commissioner may retain any impounded instrument until the duty or any interest or penalty tax, or all such amounts, have been paid.

PART 3 – MISCELLANEOUS

251. Application of Act

(1) This Act does not require a servant or agent of the Crown, acting as such, to pay any duty imposed under this Act.

(2) For the purpose of subsection (1), a Government Business Enterprise, within the meaning of the *Government Business Enterprises Act 1995* –

(a) is not the Crown; and

(b) is not taken to be acting on behalf of the Crown only because it is a Government Business Enterprise.

252 - 253. . . . . .

254. Recognised stock exchanges

The Minister, by order published in the *Gazette*, may declare a stock exchange to be a recognised stock exchange for the purpose of this Act.

255. Duty paid under former Act

If an assessment or reassessment of duty under this Act is required to take into consideration another amount of duty paid, a reference in this Act to duty includes a reference to duty within the meaning of the former Act that has been paid in accordance with that Act.

256. Stamping under former Act

An instrument is duly stamped for the purposes of this Act if, immediately before the commencement day, it was duly stamped for the purposes of the former Act.

257. Regulations

(1) The Governor may make regulations for the purpose of this Act.

(2) Regulations may be made so as to apply differently according to any matter, condition, limitation, restriction, exception or circumstance specified in the regulations.

(3) The Governor may make regulations of a savings or transitional nature consequent on the enactment of this Act;

(4) Regulations under subsection (3) may take effect from the commencement of this Act or a later day.

258. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

(a) the administration of this Act is assigned to the Treasurer; and

(b) the department responsible to the Treasurer in relation to the administration

of this Act is the Department of Treasury and Finance.

259. Savings and transitional provisions

The provisions in Schedule 1 have effect.

259A. Savings and transitional provisions consequent on *Taxation and Related Legislation (Miscellaneous Amendments) Act 2008*

(1) In this section –

commencement day means the day on which the *Taxation and Related Legislation (Miscellaneous Amendments) Act 2008*, other than Part 5 , commences;

loan agreement means an agreement made in accordance with section 253 in respect of a loan under section 252 that is in force immediately before the commencement day;

section 252 means section 252 of this Act as in force immediately before the commencement day;

section 253 means section 253 of this Act as in force immediately before the commencement day.

(2) On and after the commencement day –

(a) a loan agreement continues in force until it is completed or otherwise ends or is terminated according to its terms; and

(b) sections 252 and 253 continue to apply in respect of that loan agreement as if they had not been repealed by the *Taxation and Related Legislation (Miscellaneous Amendments) Act 2008*.

259B. Transitional provisions consequent on *Duties Amendment Act 2009*

Any obligation to pay or refund duty under this Act immediately before the commencement of the *Duties Amendment Act 2009* continues on and after that commencement until it is discharged in accordance with the provisions of this Act as in force immediately before the commencement of the *Duties Amendment Act 2009*.

259C. Transitional provisions consequent on repeal of *Revenue Legislation (Miscellaneous Amendments) Act 2002*

(1) Any word or expression used in this section has the same meaning as in this Act, as in force immediately before the commencement of the *Revenue Legislation (Miscellaneous Amendments) Act 2002*.

(2) A reference in this section to a provision of this Act is to be taken to be a reference to the provision as in force immediately before the

commencement of the *Revenue Legislation (Miscellaneous Amendments) Act 2002*.

(3) After 1 July 2002 –

(a) a lessor is not required to produce to the Commissioner a lease instrument for periodic assessment at any estimate date determined by the Commissioner under section 108 of this Act; and

(b) any additional duty that would have been payable if the periodic assessment had been made is not payable; and

(c) any refund of duty that would have been payable if the periodic assessment had been made is not payable.

(4) If duty has been paid or a liability to duty exists on a lease before 1 July 2002 and an application for a reassessment of duty paid on a lease instrument has been made under section 112 of this Act on or after 23 May 2002, the Commissioner may refuse to grant a refund of any duty that would have been refundable if this subsection, or section 32(3) of the *Revenue Legislation (Miscellaneous Amendments) Act 2002*, had not been enacted, if satisfied that, at any time after the termination of the lease, the lessee or an associated person has occupied the leased property, or substantially the same property, with the agreement, express or implied, of the lessor other than as a result of the sale of the property to the lessee or associated person.

(5) A refund of duty is not payable on an application for a reassessment of duty paid on a lease instrument that is lodged under section 113 of this Act on or after 23 May 2002.

259D. Savings and transitional provisions consequent on repeal of *Revenue Measures Act 2005*

(1) Notwithstanding the repeal of Chapter 6 of this Act by the *Revenue Measures Act 2005*, the Commissioner may recover from a mortgagor any mortgage duty that relates to a mortgage executed, or an advance or further advance made, before 1 July 2007 and that was unpaid at that day.

(2) For the purposes of subsection (1), the *Taxation Administration Act 1997* is to be read as if Chapter 6 of this Act had not been repealed.

(3) Notwithstanding the amendments to this Act effected by Part 6 of the *Revenue Measures Act 2005*, the Commissioner may recover any duty that relates to a transaction entered into before 1 July 2008 involving the dutiable property referred to in section 9(1)(g), (h) or (i) of this Act (as in force immediately before that day) and that was unpaid at that day.

(4) For the purposes of subsection (3), the *Taxation Administration Act 1997* is to be read as if the amendments to this Act effected by Part 6 of the *Revenue Measures Act 2005* had not been made.

259E. Transitional provisions consequent on the enactment of Part 2 of the *Revenue Measures Act 2012*

(1) If one or more transactions which were liable for duty prior to 1 October 2012 are to be aggregated with one or more transactions which are liable for duty on or after 1 October 2012 in accordance with section 22 or under section 71, the duty chargeable on the transaction or transactions liable for duty on or after 1 October 2012 is to be calculated in accordance with the following formula:

$$DP = (B - A) \times \left(\frac{D}{T}\right) + A$$

where –

DP is the duty payable;

B is the duty calculated on the dutiable value of the aggregated transactions in accordance with the general rate of duty that was in effect on 1 October 2012;

A is the duty calculated on the dutiable value of the aggregated transactions in accordance with the general rate of duty that was in effect on 30 September 2012;

D is the dutiable value of the aggregated transaction or transactions that are liable for duty on or after 1 October 2012;

T is the total dutiable value of the aggregated transactions.

(2) For the purposes of sections 22(4) and 71(3), the duty payable in accordance with section 22 or under section 71 is taken to be the duty chargeable in accordance with this section.

259F. Savings and transitional provisions consequent on enactment of *Duties Amendment (Landholder and Corporate Reconstruction and Consolidation) Act 2016*

(1) For the purposes of determining –

(a) whether a relevant acquisition in a landholder is made on or after the commencement day; and

(b) the duty chargeable on a relevant acquisition under Chapter 3 –

an acquisition of any interest in the landholder before the commencement day is to be taken into account in accordance with Chapter 3.

(2) If an acquisition of any interest in a landholder before the commencement day is taken into account for the purposes of determining whether a relevant acquisition in the landholder is made on or after the commencement day, the acquisition statement in relation to that relevant acquisition is to disclose that earlier acquisition.

(3) If an acquisition of an interest in a private landholder made before the commencement day (the ***pre-commencement day acquisition***) has been taken into account in determining whether a relevant acquisition in the private landholder

has been made on or after the commencement day, then, in determining the unencumbered value of the land and goods of the landholder in relation to the pre-commencement day acquisition (for the purpose of calculating the duty chargeable in relation to the relevant acquisition), the landholder is taken not to hold goods in Tasmania.

(4) The former Chapter 3 continues to apply in relation to a former relevant acquisition in a land-rich private corporation made before the commencement day.

(5) The former Chapter 3 continues to apply in relation to a prescribed acquisition made in a land-rich private corporation before the commencement day if that acquisition is not taken into account for the purpose of determining whether a relevant acquisition in a private landholder is made on or after the commencement day.

(6) For the purpose of determining whether a relevant acquisition in a public landholder is made on or after the commencement day, an acquisition of any interest in the public landholder made before the commencement day is to be taken into account in accordance with Chapter 3.

(7) If an acquisition of an interest in a public landholder made before the commencement day has been taken into account in determining whether a relevant acquisition in the public landholder has been made on or after the

commencement day, then that pre-commencement day acquisition is taken to be an exempt acquisition for the purpose of determining the duty chargeable under Chapter 3 in relation to the relevant acquisition.

(8) Duty is not chargeable in relation to a relevant acquisition in a public landholder made on or after the commencement day if the person's intention to make the relevant acquisition was announced, before the commencement day, to the Australian Securities Exchange, or any other recognised stock exchange, on which the landholder is listed.

(9) For the purposes of section 71(7), any duty paid or payable in respect of an acquisition under the former Chapter 3 is taken to have been paid or be payable under Chapter 3 of this Act.

(10) In this section, unless a contrary intention appears –

acquisition statement has the same meaning as in Chapter 3;

commencement day means the day on which the *Duties Amendment (Landholder and Corporate Reconstruction and Consolidation) Act 2016* commences;

former Act means this Act as in force immediately before the commencement day;

former Chapter 3 means Chapter 3 of the former Act;

former relevant acquisition means a relevant acquisition, within the meaning of the former Act, made before the commencement day;

interest, in relation to a landholder, has the same meaning as in Chapter 3;

landholder has the same meaning as in Chapter 3;

land-rich private corporation has the same meaning as in the former Chapter 3;

prescribed acquisition means an acquisition within the meaning of the former Act, other than a former relevant acquisition;

private landholder has the same meaning as in Chapter 3;

public landholder has the same meaning as in Chapter 3;

relevant acquisition has the same meaning as in Chapter 3.

259G. Transitional provisions consequent on commencement of *Duties Amendment Act 2020*

If –

(a) a payment was made to a transferee in respect of a dutiable transaction, for which duty was paid under Part 3A of Chapter 2, in anticipation of Part 4 of the

Duties Amendment Act 2020 receiving the Royal Assent; and

(b) the payment is up to, or equal to, the amount of duty that the transferee would be eligible to have refunded, in respect of the dutiable transaction, after the *Duties Amendment Act 2020* received the Royal Assent –

the payment is taken for the purposes of this Act to be a refund, to the extent of the amount of the payment, of the duty paid under Part 3A of Chapter 2 in respect of the dutiable transaction.

259H. Savings provision consequent on *Taxation and Related Legislation (Miscellaneous Amendments) Act 2026*

(1) A person is not entitled to a reassessment, in accordance with section 30HC, of the duty payable by the person under Part 3A in relation to a previous financial year as a result of the amendment made to that section by the amending Act.

(2) The Commissioner is not to reassess the duty payable, or refund an amount of duty paid, by the person in relation to a previous financial year as a result of the amendment made to that section by the amending Act.

(3) Section 30HC, as in force immediately before the commencement of section 24 of the amending Act, continues to apply in relation to a previous financial year.

(4) In this section –

amending Act means the *Taxation and Related Legislation (Miscellaneous Amendments) Act 2026*;

previous financial year means a financial year preceding the financial year commencing on 1 July 2026.

260. *See Schedule 2.*

261. *Stamp Duties Act 1931* repealed

The *Stamp Duties Act 1931* is repealed.

262. *Stamp Duties Regulations 1998* rescinded

The *Stamp Duties Regulations 1998* are rescinded.

SCHEDULE 1 – SAVINGS AND TRANSITIONAL PROVISIONS

Section 259

1. Interpretation

In this Schedule –

commencement day means the day on which this Act commences;

former Act means the *Stamp Duties Act 1931*.

1A. References to sections and terms

(1) A reference to a section of this Act is a reference to that section as in force on the commencement day.

(2) If a word or term used in this Schedule was defined in or had a meaning within this Act, or a part of this Act, as in force on the commencement day, that meaning applies, if appropriate, to that word or term as used in this Schedule.

2. Provisions relating to dutiable property

(1) Section 22 extends to dutiable transactions at least one of which occurred before the commencement day and at least one of which occurred on or after the commencement day if –

(a) they occurred within 12 months; and

(b) the other provisions of that section are satisfied.

(2) Section 40 extends to –

(a) a transfer of property that is dutiable property to a trustee; and

(b) the payment of duty on that transfer –

before the commencement day if the transfer back to the transferor occurs on or after that day.

(3) Without limiting section 255, the reference in section 41(c) to duty charged by this Act includes a reference to duty charged under the former Act.

(4) . . . . . .

(5) Section 56(3) extends to a payment of *ad valorem* duty made before the commencement day under the former Act.

3. Provisions relating to certain transactions treated as transfers

(1) In section 71 –

(a) a reference to a period of 3 years is a reference to any such period starting before the commencement day and ending on or after the commencement day; and

(b) a reference to duty paid under this Act includes a reference to duty paid under the former Act; and

(c) a reference to duty paid under that section includes a reference to duty paid under Division 1 of Part IV of the former Act.

(2) An interest acquired before the commencement day in a land holding corporation in which the unencumbered value of the real property under section 35(1)(b) of the former Act was less than $1 million at the date of the relevant acquisition is to be disregarded for the purpose of calculating duty under this Act.

4 - 6. . . . . . .

7. Provisions relating to insurance

(1) A person who, immediately before the commencement day, is a person approved under section 12A of the former Act is, on that day, taken to be registered as an insurer.

(2) A policy of life insurance stamped under item 33 of Schedule 2 to the former Act is not chargeable with duty under Chapter 7.

8 - 9. . . . . . .

10. Stamping under former Act

(1) Section 15 of the former Act applies to an instrument first executed but not stamped or insufficiently stamped before the commencement day.

(2) Section 70(3) of the former Act applies to an agreement for the sale of a business or a contract of sale first executed but not stamped or insufficiently stamped before the commencement day.

11. Contracts of sale

Section 70(10) of the former Act applies to a contract for the sale, conveyance or transfer of land that is executed before the commencement day.

12. Objections

An objection made under section 21 of the former Act and not determined before the commencement day is, on and after that day, to be determined under the former Act.

13. Appeals

An appeal made under section 22 of the former Act and not determined before the commencement day is, on and after that day, to be determined under the former Act.

14. Approved persons

A person who, immediately before the commencement day, was a person approved under section 12A of the former Act is, on that day, taken to be an approved person under Division 2 of Part 6 of the *Taxation Administration Act 1997*.

15. . . . . . .

16. Obligation to pay duty

(1) Any obligation to pay duty under the former Act in force immediately before the commencement day continues on and after that day until it is discharged.

(2) The amount of duty payable in respect of an obligation referred to in subclause (1) is to be calculated, where applicable, in accordance with Schedule 4 to the former Act as if that Act had not been repealed.

17. . . . . . .

18. Powers of Commissioner and authorised officers

(1) The Commissioner may exercise any power referred to in Division IA or Division 4 of Part III of the former Act in relation to any obligation

referred to in clause 16 as if that Act had not been repealed.

(2) An authorised officer referred to in clause 17 may exercise any power referred to in Division 3A of Part III of the former Act in relation to any obligation referred to in clause 16 as if that Act had not been repealed.

SCHEDULE 2

The amendments effected by Section 260 and this Schedule have been incorporated into the authorised version of the appropriate Acts.

NOTES

The foregoing text of the *Duties Act 2001* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 9 October 2026 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
Duties Act 2001	No. 15 of 2001	1.7.2001
Duties Amendment Act 2001	No. 121 of 2001	1.7.2001 (ss. 4, 7-15 and 24)
Taxation Legislation (Miscellaneous Amendments and Repeal) Act 2002	No. 60 of 2002	1.7.2001 (ss. 3, 4(b) and 14)
Taxation and Related Legislation (Miscellaneous Amendments) Act 2004	No. 36 of 2004	1.7.2001 (Part 3)
Taxation and Related Legislation (Miscellaneous Amendments) Act 2016	No. 43 of 2016	1.7.2001 (Part 3)
Corporations (Consequential Amendments) Act 2001	No. 42 of 2001	15.7.2001
Duties Amendment Act 2001	No. 121 of 2001	17.12.2001 (ss. 5, 6, 16, 19-23, 25, and 26) 1.3.2002 (ss. 17 and 18)
Valuation of Land Act 2001	No. 102 of 2001	28.6.2002
Revenue Legislation (Miscellaneous Amendments) Act 2002	No. 24 of 2002	1.7.2002
Evidence (Consequential Amendments) Act 2001	No. 80 of 2001	1.7.2002
Taxation Legislation (Miscellaneous Amendments and Repeal) Act 2002	No. 60 of 2002	1.7.2002 (ss. 4(a), 4(c), 5-10, 12-13, 15-21) 19.12.2002 (ss. 11)
Relationships (Consequential Amendments) Act 2003	No. 45 of 2003	1.1.2004
Duties Amendment (First Home Owner Concession) Act 2004	No. 20 of 2004	20.5.2004
Duties Amendment Act 2005	No. 19 of 2005	20.5.2004

Act	Number and year	Date of commencement
State and Local Government Financial Reform Act 2003	No. 65 of 2003	1.7.2004
Taxation and Related Legislation (Miscellaneous Amendments) Act 2004	No. 36 of 2004	1.7.2004 (Part 4) 1.12.2004 (Part 2)
Revenue Measures Act 2005	No. 22 of 2005	24.1.2005 (Part 2) 19.5.2005 (Part 3)
Aboriginal Lands Amendment Act (No. 2) 2005	No. 25 of 2005	21.7.2005
Taxation and Related Legislation (Miscellaneous Amendments) Act 2006	No. 3 of 2006	26.6.2006 (Part 2)
Revenue Measures Act 2005	No. 22 of 2005	1.7.2006 (Part 4)
Taxation Legislation (Miscellaneous Amendments) Act 2006	No. 40 of 2006	18.12.2006 (Part 2)
Valuation of Land Amendment Act 2006	No. 39 of 2006	1.1.2007
Taxation Legislation (Miscellaneous Amendments) Act 2006	No. 40 of 2006	1.1.2007 (Part 3)
Revenue Measures Act 2005	No. 22 of 2005	1.7.2007 (Part 5)
Taxation and Related Legislation (Miscellaneous Amendments) Act 2006	No. 3 of 2006	1.7.2007 (Part 3)
Revenue Measures Act 2007	No. 18 of 2007	1.10.2007
Taxation and Related Legislation (Miscellaneous Amendments) Act 2008	No. 8 of 2008	2.5.2008
Revenue Measures Act 2005	No. 22 of 2005	1.7.2008 (Part 6)
Taxation and Related Legislation (Miscellaneous Amendments) Act (No. 2) 2008	No. 46 of 2008	1.7.2008 (Part 3)
Taxation and Related Legislation (Miscellaneous Amendments) Act 2010	No. 6 of 2010	8.10.2008 (Part 3)
Taxation and Related Legislation (Miscellaneous Amendments) Act (No. 2) 2008	No. 46 of 2008	18.11.2008 (Part 2)
Duties Amendment Act 2009	No. 35 of 2009	1.7.2009
Taxation Legislation (Miscellaneous Amendments) Act 2009	No. 82 of 2009	11.12.2009
Taxation and Related Legislation (Miscellaneous Amendments) Act 2010	No. 6 of 2010	9.7.2010 (Part 2)

Act	Number and year	Date of commencement
Intestacy Act 2010	No. 19 of 2010	1.1.2011
Taxation Concessions and Rebates Act 2011	No. 21 of 2011	16.6.2011 (Part 2)
Taxation and Related Legislation (Miscellaneous Amendments) Act 2011	No. 14 of 2011	28.6.2011
Health Service Establishments Act 2006	No. 17 of 2006	1.10.2011
Taxation and Related Legislation (Miscellaneous Amendments) Act (No. 2) 2011	No. 47 of 2011	7.12.2011
Taxation Concessions and Rebates Act 2011	No. 21 of 2011	16.12.2011 (Part 3)
Motor Vehicle Traders Act 2011	No. 23 of 2011	1.4.2012
Revenue Measures Act 2012	No. 23 of 2012	1.10.2012
Taxation Legislation (Miscellaneous Amendments) Act 2012	No. 40 of 2012	22.11.2012
Taxation Legislation (Miscellaneous Amendments) Act 2014	No. 21 of 2014	22.11.2012 (Part 3)
Surrogacy (Consequential Amendments) Act 2012	No. 31 of 2012	1.5.2013
Taxation Relief Act 2013	No. 22 of 2013	1.7.2013
Taxation and Related Legislation (Miscellaneous Amendments) Act 2013	No. 41 of 2013	21.10.2013
Taxation Legislation (Miscellaneous Amendments) Act 2014	No. 21 of 2014	21.10.2013 (Part 4)
Heavy Vehicle National Law (Tasmania) Act 2013	No. 30 of 2013	10.2.2014
Taxation Legislation (Miscellaneous Amendments) Act 2014	No. 21 of 2014	9.12.2014 (Part 2)
Duties Amendment (Motor Vehicle Industry Red Tape Reduction) Act 2016	No. 34 of 2016	7.10.2016
Taxation and Related Legislation (Miscellaneous Amendments) Act 2016	No. 43 of 2016	31.10.2016 (Part 2)
Duties Amendment (Landholder and Corporate Reconstruction and Consolidation) Act 2016	No. 56 of 2016	6.12.2016
Building (Consequential Amendments) Act 2016	No. 12 of 2016	1.1.2017
Taxation and Related Legislation (Miscellaneous Amendments) Act 2017	No. 10 of 2017	8.5.2017 (Part 2) 1.7.2017 (Part 3)
Taxation and Grants Legislation	No. 24 of 2017	1.7.2017

Act	Number and year	Date of commencement
(Housing Construction Amendments) Act 2017		
Taxation Related Legislation (Housing Availability and Payroll Relief) Act 2018	No. 5 of 2018	7.2.2018 (Part 7) 10.2.2018 (Part 8)
Tasmanian Museum and Art Gallery Act 2017	No. 40 of 2017	14.2.2018
Taxation Related Legislation (Housing Availability and Payroll Relief) Act 2018	No. 5 of 2018	1.7.2018 (Part 6)
Duties Amendment Act 2022	No. 18 of 2022	1.7.2018
Duties Amendment Act 2020	No. 3 of 2020	1.7.2018
Duties (Concession Extension) Order 2019	S.R. 2019, No. 2	30.1.2019
Duties (Concession Extension) Order (No. 2) 2019	S.R. 2019, No. 29	5.6.2019
Duties Amendment Act 2020	No. 3 of 2020	30.3.2020 1.4.2020
Duties (Concession Extension) Order 2020	S.R. 2020, No. 26	9.4.2020
Gas (Consequential Amendments) Act 2019	No. 3 of 2019	3.2.2021
Treasury Miscellaneous (Cost of Living and Affordable Housing Support) Act 2021	No. 8 of 2021	16.3.2021 1.7.2021 1.9.2021
Treasury Miscellaneous (Affordable Housing and Youth Employment Support) Act 2022	No. 8 of 2022	1.1.2022
Duties Amendment Act 2022	No. 18 of 2022	1.7.2022
Duties (Concession Extension) Order 2023	S.R. 2023, No. 24	31.5.2023
Taxation and Miscellaneous Amendments Act 2023	No. 13 of 2023	1.7.2023
Taxation Legislation (Affordable Housing and Employment Support) Act 2024	No. 5 of 2024	18.2.2024
Taxation Legislation (Miscellaneous Amendments) Act 2024	No. 9 of 2024	1.7.2024
Taxation Legislation (Affordable Housing and Employment Support) Act 2024	No. 5 of 2024	1.7.2024
Help to Buy (Commonwealth Powers) Act 2026	No. 4 of 2026	5.6.2026
Taxation and Related Legislation (Miscellaneous Amendments) Act	No. 19 of 2026	1.7.2026 Part 3

Act	Number and year	Date of commencement
2026		
		9.10.2026 Part 2

TABLE OF AMENDMENTS

Provision affected	How affected
Section 3	Amended by No. 121 of 2001, s. 4, No. 60 of 2002, s. 4, No. 42 of 2001, Sched. 1, No. 24 of 2002, s. 4, No. 45 of 2003, Sched. 1, No. 36 of 2004, s. 4, No. 3 of 2006, s. 4, No. 40 of 2006, s. 4, No. 18 of 2007, s. 4, No. 8 of 2008, s. 4, No. 22 of 2005, s. 15, No. 6 of 2010, s. 8, No. 46 of 2008, s. 4, No. 82 of 2009, s. 5, No. 47 of 2011, s. 4, No. 23 of 2011, Sched. 1, No. 40 of 2012, s. 4, No. 31 of 2012, s. 8, No. 30 of 2013, Sched. 1, No. 56 of 2016, s. 4, No. 10 of 2017, s. 6, No. 5 of 2018, s. 28, No. 5 of 2018, s. 18, No. 5 of 2024, s. 6, No. 4 of 2026, Sched. 1 and No. 19 of 2026, s. 5
Section 4	Repealed by No. 60 of 2002, s. 5 Inserted by No. 46 of 2008, s. 5 Substituted by No. 31 of 2012, s. 9
Section 4A	Inserted by No. 5 of 2018, s. 19
Section 4B	Inserted by No. 5 of 2018, s. 19 Amended by No. 18 of 2022, s. 4
Section 4C	Inserted by No. 5 of 2018, s. 19 Amended by No. 3 of 2020, s. 10
Section 6	Amended by No. 42 of 2001, Sched. 1, No. 60 of 2002, s. 6, No. 36 of 2004, s. 5, No. 8 of 2008, s. 5, No. 46 of 2008, s. 6, No. 35 of 2009, s. 4 and No. 10 of 2017, s. 7
Section 7	Amended by No. 35 of 2009, s. 5 and No. 43 of 2016, s. 4
Section 9	Amended by No. 24 of 2002, s. 5, No. 40 of 2006, s. 5, No. 22 of 2005, s. 16, No. 46 of 2008, s. 17, No. 46 of 2008, s. 7 and No. 47 of 2011, s. 5
Section 10	Substituted by No. 35 of 2009, s. 6
Section 13	Amended by No. 40 of 2006, s. 17 and No. 19 of 2026, s. 6
Section 14	Amended by No. 40 of 2006, s. 18
Section 16	Amended by No. 36 of 2004, s. 20, No. 46 of 2008, s. 8 Substituted by No. 35 of 2009, s. 7 Amended by No. 14 of 2011, s. 4
Section 18	Amended by No. 60 of 2002, s. 7 and No. 22 of 2005, s. 17
Section 19	Amended by No. 35 of 2009, s. 8, No. 41 of 2013, s. 4, No. 12 of 2016, Sched. 1, No. 24 of 2017, s. 4 and No. 9 of 2024, s. 4
Section 20	Amended by No. 35 of 2009, s. 9
Section 21	Substituted by No. 36 of 2004, s. 6

Provision affected	How affected
Section 22	Amended by No. 24 of 2002, s. 6, No. 40 of 2006, s. 19, No. 35 of 2009, s. 10 and No. 6 of 2010, s. 4
Section 24	Repealed by No. 22 of 2005, s. 18
	Inserted by No. 47 of 2011, s. 6
Section 25	Amended by No. 40 of 2006, s. 6
	Repealed by No. 22 of 2005, s. 18
	Inserted by No. 46 of 2008, s. 18
Section 26	Amended by No. 22 of 2005, s. 19 and No. 41 of 2013, s. 5
Section 27	Substituted by No. 35 of 2009, s. 11
Section 29	Amended by No. 23 of 2012, s. 4 and No. 41 of 2013, s. 6
Part 3A of Chapter 2	Inserted by No. 5 of 2018, s. 20
Section 30	Repealed by No. 24 of 2002, s. 7
	Inserted by No. 20 of 2004, s. 4
	Amended by No. 22 of 2005, s. 6, No. 21 of 2011, s. 4
	Repealed by No. 21 of 2011, s. 7
	Inserted by No. 5 of 2018, s. 20
Section 30A	Inserted by No. 19 of 2005, s. 4
	Amended by No. 22 of 2005, s. 7, No. 21 of 2011, s. 5
	Repealed by No. 21 of 2011, s. 8
	Inserted by No. 5 of 2018, s. 20
	Amended by No. 18 of 2022, s. 5
Section 30AA	Inserted by No. 18 of 2022, s. 8
Section 30B	Inserted by No. 5 of 2018, s. 20
Section 30C	Inserted by No. 5 of 2018, s. 20
	Amended by No. 3 of 2020, s. 7
Section 30D	Inserted by No. 5 of 2018, s. 20
Section 30DA	Inserted by No. 18 of 2022, s. 6
Section 30E	Inserted by No. 5 of 2018, s. 20
	Amended by No. 3 of 2020, s. 8
Section 30F	Inserted by No. 5 of 2018, s. 20
Section 30G	Inserted by No. 5 of 2018, s. 20
Section 30H	Inserted by No. 5 of 2018, s. 20
Section 30HA	Inserted by No. 3 of 2020, s. 11
Section 30HB	Inserted by No. 3 of 2020, s. 11
Section 30HC	Inserted by No. 18 of 2022, s. 9
	Amended by No. 19 of 2026, s. 24
Section 30I	Inserted by No. 5 of 2018, s. 20
Section 30J	Inserted by No. 3 of 2020, s. 12
Section 30K	Inserted by No. 3 of 2020, s. 12
Section 30L	Inserted by No. 3 of 2020, s. 12
Section 30M	Inserted by No. 3 of 2020, s. 12
	Amended by No. 18 of 2022, s. 10
Section 31	Amended by No. 46 of 2008, s. 9
Section 32	Repealed by No. 35 of 2009, s. 12
	Inserted by No. 4 of 2026, Sched. 1
Section 33	Amended by No. 60 of 2002, s. 8
	Repealed by No. 35 of 2009, s. 12
Section 34	Substituted by No. 35 of 2009, s. 13
Section 35	Amended by No. 102 of 2001, Sched. 2, No. 3 of 2006, s. 5

Provision affected	How affected
	and No. 46 of 2008, s. 10
Part 4A of Chapter 2	Inserted by No. 35 of 2009, s. 14
Division 1 of Chapter 2	Inserted by No. 35 of 2009, s. 14
Section 36A	Amended by No. 14 of 2011, s. 5
Division 2 of Chapter 2	Inserted by No. 35 of 2009, s. 14
Section 36B	Amended by No. 14 of 2011, s. 6
Section 36BA	Inserted by No. 41 of 2013, s. 7
Section 36D	Amended by No. 14 of 2011, s. 7
Division 3 of Chapter 2	Inserted by No. 35 of 2009, s. 14
Section 37	Amended by No. 42 of 2001, Sched. 1, No. 24 of 2002, s. 8, No. 36 of 2004, s. 7 and No. 41 of 2013, s. 8
Section 38	Amended by No. 42 of 2001, Sched. 1 and No. 41 of 2013, s. 9
Section 39	Amended by No. 46 of 2008, s. 11 and No. 41 of 2013, s. 10
Section 40	Amended by No. 24 of 2002, s. 9, No. 60 of 2002, s. 9, No. 41 of 2013, s. 11
Section 41	Substituted by No. 60 of 2002, s. 10 Amended by No. 41 of 2013, s. 12
Section 42	Amended by No. 24 of 2002, s. 10 and No. 41 of 2013, s. 13 Repealed by No. 10 of 2017, s. 8
Section 43	Amended by No. 41 of 2013, s. 14 and No. 10 of 2017, s. 9
Section 44	Amended by No. 41 of 2013, s. 15 Repealed by No. 10 of 2017, s. 10
Section 45	Amended by No. 24 of 2002, s. 11 and No. 41 of 2013, s. 16
Section 46	Amended by No. 24 of 2002, s. 12 Substituted by No. 60 of 2002, s. 11 Amended by No. 41 of 2013, s. 17
Division 2A of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 29
Section 46A of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 29
Section 46A	Amended by S.R. 2019, No. 2, S.R. 2019, No. 29, S.R. 2020, No. 26, No. 8 of 2022, s. 4 and S.R. 2023, No. 24
Section 46B of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 29
Section 46C of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 29

Provision affected	How affected
Section 46D of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 29
Section 46D	Amended by No. 8 of 2021, s. 4 and No. 8 of 2022, s. 5
Section 46E of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 29
Section 46F of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 29
Section 46G of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 29
Section 46H of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 29
Section 46I of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 29
Division 2B of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 31
Section 46J of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 31
Section 46J	Amended by S.R. 2019, No. 2, S.R. 2019, No. 29, S.R. 2020, No. 26, No. 8 of 2022, s. 6, S.R. 2023, No. 24 and No. 5 of 2024, s. 4
Section 46K of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 31
Section 46L of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 31
Section 46M of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 31
Section 46M	Amended by No. 8 of 2021, s. 5 and No. 8 of 2022, s. 7
Section 46N of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 31
Section 46O of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 31
Section 46P of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 31
Section 46Q of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 31

Provision affected	How affected
Section 46R of Part 5 of Chapter 2	Inserted by No. 5 of 2018, s. 31
Division 2C of Part 5 of Chapter 2	Inserted by No. 9 of 2024, s. 5
Section 46S of Part 5 of Chapter 2	Inserted by No. 9 of 2024, s. 5
Section 46T of Part 5 of Chapter 2	Inserted by No. 9 of 2024, s. 5
Section 46U of Part 5 of Chapter 2	Inserted by No. 9 of 2024, s. 5
Section 46V of Part 5 of Chapter 2	Inserted by No. 9 of 2024, s. 5
Section 46W of Part 5 of Chapter 2	Inserted by No. 9 of 2024, s. 5
Section 46X of Part 5 of Chapter 2	Inserted by No. 9 of 2024, s. 5
Section 46Y of Part 5 of Chapter 2	Inserted by No. 9 of 2024, s. 5
Section 46Z of Part 5 of Chapter 2	Inserted by No. 9 of 2024, s. 5
Section 47	Amended by No. 24 of 2002, s. 13, No. 8 of 2008, s. 6, No. 41 of 2013, s. 18, No. 21 of 2014, s. 5 and No. 19 of 2026, s. 7
Section 48	Amended by No. 41 of 2013, s. 19
Section 49	Substituted by No. 24 of 2002, s. 14 Amended by No. 41 of 2013, s. 20
Section 50	Amended by No. 42 of 2001, Sched. 1, No. 24 of 2002, s. 15, No. 41 of 2013, s. 21 and No. 21 of 2014, s. 6
Section 51	Repealed by No. 24 of 2002, s. 16
Division 1 of Part 6 of Chapter 2	Heading inserted by No. 5 of 2024, s. 7
Section 53	Amended by No. 60 of 2002, s. 12, No. 45 of 2003, Sched. 1, No. 65 of 2003, s. 4, No. 36 of 2004, s. 8, No. 22 of 2005, s. 4, No. 25 of 2005, s. 22, No. 3 of 2006, s. 6, No. 8 of 2008, s. 7, No. 22 of 2005, s. 20, No. 46 of 2008, s. 19, No. 40 of 2012, s. 5, No. 21 of 2014, s. 8, No. 41 of 2013, s. 22, No. 21 of 2014, s. 10 and No. 40 of 2017, Sched. 4

Provision affected	How affected
Section 53A	Inserted by No. 4 of 2026, Sched. 1
Section 54	Amended by No. 42 of 2001, Sched. 1 Repealed by No. 24 of 2002, s. 17 Inserted by No. 3 of 2006, s. 7 Repealed by No. 35 of 2009, s. 15 Inserted by No. 47 of 2011, s. 7
Section 55	Amended by No. 60 of 2002, s. 13, No. 45 of 2003, Sched. 1, No. 36 of 2004, s. 9 and No. 6 of 2010, s. 5
Section 56	Amended by No. 42 of 2001, Sched. 1, No. 121 of 2001, s. 5, No. 3 of 2006, s. 8, No. 14 of 2011, s. 8, No. 43 of 2016, s. 5 and No. 19 of 2026, s. 8
Section 56A	Inserted by No. 6 of 2010, s. 9 Amended by No. 14 of 2011, s. 9, No. 43 of 2016, s. 6 and No. 19 of 2026, s. 9
Section 57	Amended by No. 42 of 2001, Sched. 1, No. 45 of 2003, Sched. 1, No. 36 of 2004, s. 10, No. 14 of 2011, s. 10 and No. 19 of 2026, s. 10
Section 57A	Inserted by No. 40 of 2012, s. 6 Amended by No. 19 of 2026, s. 11
Section 57AA	Inserted by No. 43 of 2016, s. 9
Section 57B	Inserted by No. 18 of 2022, s. 11
Division 2 of Part 6 of Chapter 2	Inserted by No. 5 of 2024, s. 8
Section 57C of Part 6 of Chapter 2	Inserted by No. 5 of 2024, s. 8
Section 57D of Part 6 of Chapter 2	Inserted by No. 5 of 2024, s. 8
Section 57E of Part 6 of Chapter 2	Inserted by No. 5 of 2024, s. 8
Section 57F of Part 6 of Chapter 2	Inserted by No. 5 of 2024, s. 8
Section 57G of Part 6 of Chapter 2	Inserted by No. 5 of 2024, s. 8
Section 57H of Part 6 of Chapter 2	Inserted by No. 5 of 2024, s. 8
Section 57I of Part 6 of Chapter 2	Inserted by No. 5 of 2024, s. 8
Section 57J of Part 6 of Chapter 2	Inserted by No. 5 of 2024, s. 8
Part 1 of Chapter 3	Substituted by No. 56 of 2016, s. 5
Division 1 of Part	Repealed by No. 56 of 2016, s. 5

Provision affected	How affected
2 of Chapter 3	
Section 58	Substituted by No. 56 of 2016, s. 5
Section 59	Substituted by No. 56 of 2016, s. 5
	Amended by No. 19 of 2026, s. 12
Section 59A	Inserted by No. 3 of 2006, s. 9
	Repealed by No. 56 of 2016, s. 5
Section 60	Amended by No. 42 of 2001, Sched. 1 and No. 8 of 2008, s. 8
	Substituted by No. 56 of 2016, s. 5
Section 61	Amended by No. 47 of 2011, s. 8
	Substituted by No. 56 of 2016, s. 5
Section 62	Amended by No. 42 of 2001, Sched. 1
	Substituted by No. 56 of 2016, s. 5
	Amended by No. 3 of 2019, s. 4
Section 63	Substituted by No. 56 of 2016, s. 5
Division 2 of Part 2 of Chapter 3	Repealed by No. 56 of 2016, s. 5
Part 2 of Chapter 3	Substituted by No. 56 of 2016, s. 5
Section 63A	Inserted by No. 5 of 2018, s. 21
Section 63B	Inserted by No. 5 of 2018, s. 21
Section 64	Amended by No. 8 of 2008, s. 9
	Substituted by No. 56 of 2016, s. 5
Division 3 of Part 2 of Chapter 3	Repealed by No. 56 of 2016, s. 5
Section 65	Substituted by No. 56 of 2016, s. 5
Section 66	Substituted by No. 56 of 2016, s. 5
Section 67	Substituted by No. 56 of 2016, s. 5
Section 68	Substituted by No. 56 of 2016, s. 5
	Amended by No. 5 of 2018, s. 22
Section 69	Substituted by No. 56 of 2016, s. 5
Section 70	Substituted by No. 56 of 2016, s. 5
Section 71	Amended by No. 24 of 2002, s. 18
	Substituted by No. 56 of 2016, s. 5
Division 4 of Part 2 of Chapter 3	Repealed by No. 56 of 2016, s. 5
Section 71A	Inserted by No. 5 of 2018, s. 23
Section 72	Amended by No. 42 of 2001, Sched. 1, No. 121 of 2001, s. 6, No. 45 of 2003, Sched. 1, No. 6 of 2010, s. 10 and No. 14 of 2011, s. 11
	Substituted by No. 56 of 2016, s. 5
Section 72A	Inserted by No. 5 of 2018, s. 24
Section 72B	Inserted by No. 5 of 2018, s. 24
Section 72C	Inserted by No. 5 of 2018, s. 24
Part 3 of Chapter 3	Repealed by No. 24 of 2002, s. 20
	Substituted by No. 56 of 2016, s. 5
Section 73	Substituted by No. 56 of 2016, s. 5
Section 74	Substituted by No. 56 of 2016, s. 5

Provision affected	How affected
Section 75	Amended by No. 24 of 2002, s. 19
	Substituted by No. 56 of 2016, s. 5
Part 3A of Chapter 3	Inserted by No. 56 of 2016, s. 5
Section 76	Substituted by No. 56 of 2016, s. 5
Section 77	Substituted by No. 56 of 2016, s. 5
Section 78	Amended by No. 42 of 2001, Sched. 1
	Repealed by No. 24 of 2002, s. 20
	Substituted by No. 56 of 2016, s. 5
	Amended by No. 19 of 2026, s. 13
Section 79	Repealed by No. 24 of 2002, s. 20
	Substituted by No. 56 of 2016, s. 5
Section 80	Repealed by No. 24 of 2002, s. 20
	Substituted by No. 56 of 2016, s. 5
Section 81	Repealed by No. 24 of 2002, s. 20
	Substituted by No. 56 of 2016, s. 5
Section 82	Repealed by No. 24 of 2002, s. 20
	Substituted by No. 56 of 2016, s. 5
Part 3B of Chapter 3	Inserted by No. 56 of 2016, s. 5
Section 83	Repealed by No. 24 of 2002, s. 20
	Substituted by No. 56 of 2016, s. 5
Section 84	Repealed by No. 24 of 2002, s. 20
	Substituted by No. 56 of 2016, s. 5
Section 84A	Inserted by No. 56 of 2016, s. 5
Section 84B	Inserted by No. 56 of 2016, s. 5
Section 84C	Inserted by No. 5 of 2018, s. 25
Section 84D	Inserted by No. 5 of 2018, s. 25
Section 85	Amended by No. 24 of 2002, s. 21
Section 90	Substituted by No. 8 of 2008, s. 10
	Amended by No. 56 of 2016, s. 6
Section 91	Repealed by No. 24 of 2002, s. 22
	Inserted by No. 40 of 2006, s. 7
	Amended by No. 35 of 2009, s. 16
	Repealed by No. 41 of 2013, s. 23
	Inserted by No. 5 of 2018, s. 26
Section 92	Repealed by No. 24 of 2002, s. 22
	Inserted by No. 40 of 2006, s. 7
	Repealed by No. 41 of 2013, s. 23
	Inserted by No. 5 of 2018, s. 26
Section 93	Repealed by No. 24 of 2002, s. 22
	Inserted by No. 40 of 2006, s. 7
	Repealed by No. 41 of 2013, s. 23
	Inserted by No. 5 of 2018, s. 26
Section 94	Repealed by No. 24 of 2002, s. 22
	Inserted by No. 40 of 2006, s. 7
	Repealed by No. 41 of 2013, s. 23
	Inserted by No. 5 of 2018, s. 26
Part 5 of Chapter 3	Repealed by No. 24 of 2002, s. 22
	Inserted by No. 40 of 2006, s. 7

Provision affected	How affected
	Repealed by No. 41 of 2013, s. 23
Division 1 of Part 5 of Chapter 3	Inserted by No. 40 of 2006, s. 7
	Repealed by No. 41 of 2013, s. 23
Division 2 of Part 5 of Chapter 3	Inserted by No. 40 of 2006, s. 7
	Repealed by No. 41 of 2013, s. 23
Division 3 of Part 5 of Chapter 3	Inserted by No. 40 of 2006, s. 7
	Repealed by No. 41 of 2013, s. 23
Section 95	Repealed by No. 24 of 2002, s. 22
	Inserted by No. 40 of 2006, s. 7
	Repealed by No. 41 of 2013, s. 23
Division 4 of Part 5 of Chapter 3	Inserted by No. 40 of 2006, s. 7
	Repealed by No. 41 of 2013, s. 23
Section 96	Repealed by No. 24 of 2002, s. 22
	Inserted by No. 40 of 2006, s. 7
	Repealed by No. 41 of 2013, s. 23
Division 5 of Part 5 of Chapter 3	Inserted by No. 40 of 2006, s. 7
	Repealed by No. 41 of 2013, s. 23
Section 97	Repealed by No. 24 of 2002, s. 22
	Inserted by No. 40 of 2006, s. 7
	Repealed by No. 41 of 2013, s. 23
Chapter 4	Repealed by No. 24 of 2002, s. 23
Part 1 of Chapter 4	Repealed by No. 24 of 2002, s. 23
Section 98	Repealed by No. 24 of 2002, s. 23
Section 99	Repealed by No. 24 of 2002, s. 23
Section 100	Repealed by No. 24 of 2002, s. 23
Section 101	Repealed by No. 24 of 2002, s. 23
Section 102	Repealed by No. 24 of 2002, s. 23
Section 103	Repealed by No. 24 of 2002, s. 23
Section 104	Repealed by No. 24 of 2002, s. 23
Part 2 of Chapter 4	Repealed by No. 24 of 2002, s. 23
Section 105	Repealed by No. 24 of 2002, s. 23
Section 106	Repealed by No. 24 of 2002, s. 23
Part 3 of Chapter 4	Repealed by No. 24 of 2002, s. 23
Section 107	Repealed by No. 24 of 2002, s. 23
Section 108	Repealed by No. 24 of 2002, s. 23
Section 109	Repealed by No. 24 of 2002, s. 23
Section 110	Repealed by No. 24 of 2002, s. 23
Part 4 of Chapter 4	Repealed by No. 24 of 2002, s. 23
Section 111	Repealed by No. 24 of 2002, s. 23
Section 112	Repealed by No. 24 of 2002, s. 23
Section 113	Repealed by No. 24 of 2002, s. 23
Section 114	Repealed by No. 24 of 2002, s. 23
Chapter 5	Repealed by No. 24 of 2002, s. 23
Part 1 of Chapter	Repealed by No. 24 of 2002, s. 23

Provision affected	How affected
5	
Section 115	Repealed by No. 24 of 2002, s. 23
Section 116	Repealed by No. 24 of 2002, s. 23
Section 117	Repealed by No. 24 of 2002, s. 23
Section 118	Repealed by No. 24 of 2002, s. 23
Section 119	Repealed by No. 24 of 2002, s. 23
Section 120	Repealed by No. 24 of 2002, s. 23
Section 121	Repealed by No. 24 of 2002, s. 23
Section 122	Repealed by No. 24 of 2002, s. 23
Section 123	Repealed by No. 24 of 2002, s. 23
Section 124	Repealed by No. 24 of 2002, s. 23
Section 125	Repealed by No. 24 of 2002, s. 23
Section 126	Repealed by No. 24 of 2002, s. 23
Section 127	Repealed by No. 24 of 2002, s. 23
Part 2 of Chapter 5	Repealed by No. 24 of 2002, s. 23
Section 128	Repealed by No. 24 of 2002, s. 23
Section 129	Repealed by No. 24 of 2002, s. 23
Section 130	Repealed by No. 24 of 2002, s. 23
Section 131	Repealed by No. 24 of 2002, s. 23
Section 132	Repealed by No. 24 of 2002, s. 23
Section 133	Repealed by No. 24 of 2002, s. 23
Section 134	Repealed by No. 24 of 2002, s. 23
Part 3 of Chapter 5	Repealed by No. 24 of 2002, s. 23
Section 135	Repealed by No. 24 of 2002, s. 23
Section 136	Repealed by No. 24 of 2002, s. 23
Section 137	Repealed by No. 24 of 2002, s. 23
Chapter 6	Repealed by No. 22 of 2005, s. 12
Part 1 of Chapter 6	Repealed by No. 22 of 2005, s. 12
Section 138	Repealed by No. 22 of 2005, s. 12
Section 139	Repealed by No. 22 of 2005, s. 12
Section 140	Repealed by No. 22 of 2005, s. 12
Section 141	Repealed by No. 22 of 2005, s. 12
Section 142	Amended by No. 121 of 2001, s. 7, No. 60 of 2002, s. 14 and No. 36 of 2004, s. 18
	Repealed by No. 22 of 2005, s. 12
Section 143	Repealed by No. 22 of 2005, s. 12
Section 144	Amended by No. 22 of 2005, s. 9
	Repealed by No. 22 of 2005, s. 12
Section 145	Substituted by No. 121 of 2001, s. 8
	Repealed by No. 22 of 2005, s. 12
Section 146	Amended by No. 42 of 2001, Sched. 1
	Repealed by No. 22 of 2005, s. 12
Part 2 of Chapter 6	Repealed by No. 22 of 2005, s. 12
Section 147	Amended by No. 121 of 2001, s. 9, No. 36 of 2004, s. 11 and No. 22 of 2005, s. 10
	Repealed by No. 22 of 2005, s. 12

Provision affected	How affected
Section 148	Repealed by No. 22 of 2005, s. 12
Section 149	Amended by No. 121 of 2001, s. 10 and No. 42 of 2001, Sched. 1
	Repealed by No. 22 of 2005, s. 12
Section 150	Amended by No. 121 of 2001, s. 11 and No. 36 of 2004, s. 12
	Repealed by No. 22 of 2005, s. 12
Section 151	Amended by No. 121 of 2001, s. 12
	Repealed by No. 22 of 2005, s. 12
Section 152	Repealed by No. 22 of 2005, s. 12
Section 153	Amended by No. 121 of 2001, s. 13
	Repealed by No. 22 of 2005, s. 12
Part 3 of Chapter 6	Repealed by No. 22 of 2005, s. 12
Section 154	Amended by No. 42 of 2001, Sched. 1
	Repealed by No. 22 of 2005, s. 12
Section 155	Repealed by No. 22 of 2005, s. 12
Section 156	Repealed by No. 22 of 2005, s. 12
Section 157	Amended by No. 121 of 2001, s. 14, No. 60 of 2002, s. 15, No. 45 of 2003, Sched. 1 and No. 36 of 2004, s. 13
	Repealed by No. 22 of 2005, s. 12
Part 4 of Chapter 6	Repealed by No. 22 of 2005, s. 12
Section 158	Repealed by No. 22 of 2005, s. 12
Section 159	Amended by No. 80 of 2001, Sched. 1
	Repealed by No. 22 of 2005, s. 12
Section 160	Repealed by No. 22 of 2005, s. 12
Section 161	Repealed by No. 22 of 2005, s. 12
Section 163	Amended by No. 3 of 2006, s. 14
Section 165	Amended by No. 6 of 2010, s. 6
Section 166	Amended by No. 23 of 2012, s. 5
Section 167	Amended by No. 121 of 2001, s. 15
Section 174	Amended by No. 41 of 2013, s. 24
Section 178	Amended by No. 3 of 2006, s. 10
Section 181	Amended by No. 8 of 2008, s. 11
Section 184	Amended by No. 41 of 2013, s. 25
Section 190	Amended by No. 24 of 2002, s. 24, No. 8 of 2008, s. 12 and No. 41 of 2013, s. 26
Section 192	Amended by No. 40 of 2006, s. 8, No. 8 of 2008, s. 13 and No. 34 of 2016, s. 4
Section 193	Amended by No. 34 of 2016, s. 5
Section 194	Amended by No. 34 of 2016, s. 6
Section 195	Amended by No. 34 of 2016, s. 7
Section 196	Amended by No. 121 of 2001, s. 16 and No. 34 of 2016, s. 8
Section 196A	Inserted by No. 40 of 2006, s. 9
Section 197	Amended by No. 121 of 2001, s. 17 and No. 18 of 2007, s. 5

Provision affected	How affected
Section 198	Amended by No. 121 of 2001, s. 18 and No. 19 of 2026, s. 14
Section 199	Amended by No. 121 of 2001, s. 19 Substituted by No. 60 of 2002, s. 16 Amended by No. 45 of 2003, Sched. 1, No. 36 of 2004, s. 14, No. 8 of 2008, s. 14, No. 6 of 2010, s. 11, No. 46 of 2008, s. 12, No. 19 of 2010, s. 50, No. 22 of 2013, s. 4, No. 10 of 2017, s. 4, No. 8 of 2021, s. 7 and No. 13 of 2023, s. 4
Section 203	Amended by No. 121 of 2001, s. 20
Part 3 of Chapter 8	Heading amended by No. 34 of 2016, s. 9
Section 203A	Inserted by No. 34 of 2016, s. 10
Section 204	Amended by No. 40 of 2006, s. 10 Substituted by No. 23 of 2011, Sched. 1 and No. 34 of 2016, s. 10
Section 206	Amended by No. 23 of 2011, Sched. 1
Section 207	Amended by No. 40 of 2006, s. 11
Section 212	Amended by No. 23 of 2011, Sched. 1
Section 214	Amended by No. 3 of 2006, s. 11 Substituted by No. 40 of 2006, s. 12 Amended by No. 23 of 2011, Sched. 1 Repealed by No. 34 of 2016, s. 11
Section 215	Amended by No. 23 of 2011, Sched. 1 Substituted by No. 34 of 2016, s. 12
Section 216	Amended by No. 40 of 2006, s. 13, No. 23 of 2011, Sched. 1 and No. 34 of 2016, s. 13
Section 217	Amended by No. 40 of 2006, s. 14 and No. 23 of 2011, Sched. 1 Repealed by No. 34 of 2016, s. 14
Section 219	Amended by No. 60 of 2002, s. 17 Substituted by No. 36 of 2004, s. 21 Amended by No. 46 of 2008, s. 13
Section 220	Amended by No. 46 of 2008, s. 14 and No. 41 of 2013, s. 27
Section 221	Amended by No. 23 of 2012, s. 6 and No. 8 of 2021, s. 9
Section 222	Amended by No. 121 of 2001, s. 21 Repealed by No. 24 of 2002, s. 25
Section 223	Amended by No. 121 of 2001, s. 22 Repealed by No. 24 of 2002, s. 25
Section 224	Repealed by No. 24 of 2002, s. 25
Section 225	Amended by No. 45 of 2003, Sched. 1, No. 8 of 2008, s. 15, No. 47 of 2011, s. 9, No. 31 of 2012, s. 10, No. 41 of 2013, s. 28, No. 21 of 2014, s. 11, No. 56 of 2016, s. 7 and No. 19 of 2026, s. 15
Section 226	Amended by No. 41 of 2013, s. 29
Part 1A of Chapter 10	Inserted by No. 56 of 2016, s. 8
Section 226A of Chapter 10	Inserted by No. 56 of 2016, s. 8

Provision affected	How affected
Section 226A	Amended by No. 19 of 2026, s. 16
Section 226B of Chapter 10	Inserted by No. 56 of 2016, s. 8
Section 226B	Amended by No. 19 of 2026, s. 17
Section 226C of Chapter 10	Inserted by No. 56 of 2016, s. 8
Section 226C	Amended by No. 19 of 2026, s. 18
Section 226D of Chapter 10	Inserted by No. 56 of 2016, s. 8
Section 226D	Amended by No. 19 of 2026, s. 19
Section 226E of Chapter 10	Inserted by No. 56 of 2016, s. 8
Section 226E	Amended by No. 19 of 2026, s. 20
Section 226F of Chapter 10	Inserted by No. 56 of 2016, s. 8
Section 226G of Chapter 10	Inserted by No. 56 of 2016, s. 8
Section 226H of Chapter 10	Inserted by No. 56 of 2016, s. 8
Section 226H	Amended by No. 19 of 2026, s. 21
Section 227	Amended by No. 121 of 2001, s. 23, No. 60 of 2002, s. 18, No. 3 of 2006, s. 12, No. 8 of 2008, s. 16 and No. 17 of 2006, Sched. 3
Section 227A	Inserted by No. 121 of 2001, s. 24 Repealed by No. 22 of 2005, s. 13
Section 227B	Inserted by No. 121 of 2001, s. 24
Section 227C	Inserted by No. 121 of 2001, s. 24
Section 231	Substituted by No. 36 of 2004, s. 15 Amended by No. 40 of 2006, s. 20
Section 233	Amended by No. 36 of 2004, s. 16
Section 236	Amended by No. 60 of 2002, s. 19
Section 243	Substituted by No. 60 of 2002, s. 20 and No. 10 of 2017, s. 11
Section 244	Repealed by No. 24 of 2002, s. 26 Inserted by No. 10 of 2017, s. 12
Section 245	Repealed by No. 24 of 2002, s. 26
Section 247	Amended by No. 8 of 2008, s. 17 and No. 46 of 2008, s. 15
Section 248	Amended by No. 102 of 2001, Sched. 2, No. 40 of 2006, s. 15, No. 39 of 2006, s. 34, No. 43 of 2016, s. 7 and No. 56 of 2016, s. 9
Section 251	Amended by No. 60 of 2002, s. 21
Section 252	Amended by No. 121 of 2001, s. 25 Repealed by No. 8 of 2008, s. 18
Section 253	Repealed by No. 8 of 2008, s. 18
Section 259A	Inserted by No. 8 of 2008, s. 19
Section 259B	Inserted by No. 35 of 2009, s. 17
Section 259C	Inserted by No. 47 of 2011, s. 10
Section 259D	Inserted by No. 47 of 2011, s. 10

Provision affected	How affected
Section 259E	Inserted by No. 23 of 2012, s. 7
Section 259F	Inserted by No. 56 of 2016, s. 10 Amended by No. 19 of 2026, s. 22
Section 259G	Inserted by No. 3 of 2020, s. 5
Section 259H	Inserted by No. 19 of 2026, s. 25
Schedule 1	Amended by No. 121 of 2001, s. 26, No. 24 of 2002, s. 27, No. 41 of 2013, s. 30 and No. 56 of 2016, s. 11