



New South Wales

State Revenue Legislation Amendment Act 2008 No 67

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Acts	2
4 Repeal of Acts and instrument	2
5 Repeal of Act	2
Schedule 1 Amendment of Duties Act 1997 No 123	3
Schedule 2 Amendment of First Home Owner Grant Act 2000 No 21	14
Schedule 3 Amendment of Health Insurance Levies Act 1982 No 159	17
Schedule 4 Amendment of Land Tax Management Act 1956 No 26	18
Schedule 5 Amendment of Payroll Tax Act 2007 No 21	22
Schedule 6 Amendment of Taxation Administration Act 1996 No 97	24
Schedule 7 Amendment of Unclaimed Money Act 1995 No 75	27



New South Wales

State Revenue Legislation Amendment Act 2008 No 67

Act No 67, 2008

An Act to make miscellaneous amendments to certain State revenue legislation.
[Assented to 2 July 2008]

The Legislature of New South Wales enacts:**1 Name of Act**

This Act is the *State Revenue Legislation Amendment Act 2008*.

2 Commencement

- (1) This Act commences on the date of assent to this Act, except as provided by subsection (2).
- (2) The following provisions commence, or are taken to have commenced, on the dates indicated:
 - (a) Schedule 1 [23] and [33]—the date on which the Bill for the *State Revenue Legislation Amendment Act 2008* is introduced in the Legislative Assembly,
 - (b) Schedule 5 [1]–[3]—1 July 2008.

3 Amendment of Acts

The Acts specified in Schedules 1–7 are amended as set out in those Schedules.

4 Repeal of Acts and instrument

The following Acts and instrument are repealed:

Debits Tax Act 1990 No 112

Stamp Duties Act 1920 No 47

Taxation Administration Regulation 2003

5 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendment of Duties Act 1997 No 123

(Section 3)

- [1] **Section 8 Imposition of duty on certain transactions concerning dutiable property**
Omit the note at the end of section 8 (3).
- [2] **Section 13 Who is liable to pay duty?**
Omit the note at the end of the section.
- [3] **Section 30 Partitions**
Insert after section 30 (5):
- (6) **Anti-avoidance criteria**
This section does not apply in respect of a partition if the Chief Commissioner is satisfied that the partition is part of a scheme to avoid duty on an exchange of land that was not jointly held by the parties before the scheme was entered into.
- [4] **Section 32A Premium rate for residential land with dutiable value exceeding \$3,000,000**
Omit section 32A (4), and the note to the subsection. Insert instead:
- (4) For the purpose of subsection (3) (a), land does not cease to be regarded as land on which there is one single dwelling, or one flat, merely because the land is also used or is capable of being used for the purpose of one other residential occupancy, if that residential occupancy is an excluded residential occupancy.
- [5] **Section 32A (6)**
Insert in alphabetical order:
- excluded residential occupancy* means:
- (a) one room, or
 - (b) one suite of rooms (not being a flat) each room of which all occupants of the suite are entitled to occupy, or
 - (c) one flat, or
 - (d) one suite of rooms (not being a flat) each room of which all occupants of the suite are entitled to occupy, and one room, or
 - (e) one flat and one room, or
 - (f) 2 rooms, each of which is separately occupied.

[6] Section 63 Deceased estates

Omit “not made for valuable consideration” in section 63 (a).

[7] Section 63 (a) (ii)

Omit “and”. Insert instead “or”.

[8] Section 63 (a) (iii)

Insert after section 63 (a) (ii):

- (iii) an appropriation of the property of the deceased person (as referred to in section 46 of the *Trustee Act 1925*) in or towards satisfaction of the beneficiary’s entitlement under the trusts contained in the will of the deceased person or arising on intestacy, and

[9] Section 63 (2) and (3)

Insert at the end of section 63:

- (2) If a transfer of dutiable property is made by a legal personal representative of a deceased person to a beneficiary under an agreement (whether or not in writing) between the beneficiary and one or more other beneficiaries to vary the trusts contained in a will of the deceased person or arising on intestacy, the dutiable value of the dutiable property is to be reduced by the portion of the dutiable value that is referable to the dutiable property to which the beneficiary had an entitlement arising under the trusts contained in the will or arising on intestacy.
- (3) Section 25 does not apply to a dutiable transaction to which subsection (2) applies.

[10] Section 64 Conversion of land use entitlement to different form of title

Omit “at the time” from section 64 (c) (i).

Insert instead “on the transaction by which”.

[11] Section 64AA

Insert after section 64:

64AA Enlargement of the term in land into fee simple

The duty chargeable on the enlargement of a term in land into a fee simple under section 134 of the *Conveyancing Act 1919* is \$10 if:

-
- (a) the Chief Commissioner is satisfied that the grant of the term in the land, and subsequent enlargement, are not part of a scheme to avoid duty on a transfer of land, and
 - (b) one of the following applies:
 - (i) ad valorem duty was paid by the transferee on the transaction by which the term in the land was acquired,
 - (ii) section 55, 57 or 63 applied to the acquisition of the term in the land, and duty was paid as provided for by the section that applied,
 - (iii) no duty was chargeable on the acquisition of the term in the land by the transferee because of section 68.

[12] Section 65 Exemptions from duty

Omit “under that Act” wherever occurring in section 65 (5).

Insert instead “under the *Legal Profession Act 2004*”.

[13] Section 65 (17)

Insert after section 65 (16):

(17) Pharmacists’ body corporate

No duty is chargeable under this Chapter on the transfer of, or an agreement to transfer, dutiable property in the following cases:

- (a) dutiable property of a partnership carrying on the business of a pharmacist before the commencement of section 25 of the *Pharmacy Practice Act 2006* that is transferred or agreed to be transferred to a pharmacists’ body corporate (within the meaning of that Act), if the members of the partnership immediately before the transfer or agreement is first executed are all directors and shareholders of the pharmacists’ body corporate and there are no other directors or shareholders of that pharmacists’ body corporate,
- (b) dutiable property of a pharmacist carrying on the business of a pharmacist before the commencement of section 25 of the *Pharmacy Practice Act 2006* that is transferred or agreed to be transferred to a pharmacists’ body corporate (within the meaning of that Act), if the pharmacist is the sole director and shareholder of that pharmacists’ body corporate.

- [14] Section 66 Exemptions—marketable securities**
Omit “listed for quotation” from section 66 (9A) (a). Insert instead “quoted”.
- [15] Section 74 Eligible agreements or transfers**
Insert “or, if the property is a parcel of land on which 2 or more homes are built, or are being built, for that part of the land that is an exclusive occupancy” after “property” in section 74 (2).
- [16] Section 74 (4)**
Insert after the note to section 74 (3):
- (4) For the purposes of this section, land is an *exclusive occupancy* only if the Chief Commissioner is satisfied that the person acquiring the land will be entitled to occupy a home that is built, or being built, on the land as a place of residence to the exclusion of other persons who occupy or are to occupy the other home or homes built or being built on the parcel of land.
- [17] Section 99 Transfer by special trust to corporation**
Omit “and disposal” from section 99 (2).
- [18] Chapter 4 Transactions concerning land-related property—vendor duty**
Omit the Chapter.
- [19] Chapter 4A, heading**
Omit “and disposal”.
- [20] Section 163 Overview**
Omit “or ‘vendor duty transactions’ under Chapter 4” and the second paragraph of the note.
- [21] Section 163A Meaning of “landholder” and related expressions**
Omit section 163A (2) and (3).
- [22] Section 163D What are “interests” and “significant interests” in landholders?**
Omit “For the purposes of Part 2 only, an” from section 163D (3).
Insert instead “An”.

[23] Section 163G How may an interest be “acquired”?

Insert after section 163G (2) (d):

- (e) if the person holds an interest in the land rich 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).

Note. For example, the capacity in which a person holds a unit or share in a land rich landholder changes if the person declares a trust in respect of the unit or share.

[24] Chapter 4A, Part 3 Charging of duty on disposals of interests in land rich landholders

Omit the Part.

[25] Section 163T Constructive ownership of land holdings and other property: linked entities

Omit “listed” wherever occurring in section 163T (2) (a) (iv) and (b).

Insert instead “quoted”.

[26] Section 163T (2), note

Omit the note.

[27] Section 163V Effect of uncompleted agreements

Omit “or disposal” from the note at the end of section 163V (1).

[28] Sections 163W and 163X

Omit “acquisition or disposal” wherever occurring.

Insert instead “acquisition”.

[29] Sections 163W and 163X

Omit “or disposal statement” wherever occurring.

[30] Section 163Y Valuation of property

Omit “or disposal statement” and “or relevant disposal” wherever occurring.

[31] Section 163Z Use of valuations prepared within 12-month period before disposal

Omit the section.

[32] Section 163ZB Exempt transactions

Omit “or disposal”, “or disposed of” and “disposal or” wherever occurring.

[33] Section 163ZB (1) (i)

Insert “and the Chief Commissioner is satisfied that the acquisition is not part of a scheme to avoid duty under this Chapter” after “New South Wales”.

[34] Section 163ZD Duty concession: disposals securing financial accommodation

Omit the section.

[35] Chapter 4A, Part 6 Further exemptions and concessions for disposal duty

Omit the Part.

[36] Chapter 9, Part 3, heading

Omit the heading. Insert instead:

Part 3 Miscellaneous exemptions and reductions

[37] Section 270A

Insert after section 270:

270A Reduction in dutiable value—modified vehicles for people with disabilities

- (1) Duty on an application to register a motor vehicle is to be charged as provided for by this section if:
 - (a) the application is made by a person with a disability or the motor vehicle is used by or to transport a person with a disability, and
 - (b) modifications (*user modifications*) have been made to the vehicle to enable a person with a disability to drive the vehicle or to enable a person with a disability to be transported in the vehicle.
- (2) The duty chargeable on the application is to be charged on the lesser of the following:
 - (a) the dutiable value of the motor vehicle reduced by the value of the user modifications,
 - (b) the dutiable value of the motor vehicle determined without regard to the user modifications.

-
- (3) The value of the user modifications is the consideration in money or money's worth given for the user modifications.

[38] Section 275 Charitable and benevolent bodies

Omit "(other than vendor duty)" from section 275 (1).

[39] Section 275 (2)

Omit the subsection.

[40] Section 275 (2A)

Omit "or disposal".

[41] Section 275 (3), definition of "exempt charitable or benevolent body"

Omit "any society or institution" wherever occurring.

Insert instead "any body corporate, society, institution or other organisation".

[42] Section 275 (3), definition of "exempt charitable or benevolent body"

Omit paragraph (b) (ii).

[43] Section 275 (3), definition of "exempt charitable or benevolent body"

Insert at the end of paragraph (b):

, or

- (c) any person acting in the person's capacity as trustee for a body corporate, society, institution or other organisation referred to in paragraph (a) or (b).

[44] Section 275A Partial exemption for certain transactions by charitable and benevolent bodies

Insert "or a lease," after "agreement for the sale or transfer," in section 275A (1).

[45] Section 275A (2)

Omit the subsection.

[46] Section 275A (3)

Omit the subsection.

[47] Section 275A (5)

Omit "or disposal" wherever occurring.

- [48] Section 275A (7), definition of “charitable or benevolent body”**
Omit “society or institution”.
Insert instead “body corporate, society, institution or other organisation”.
- [49] Sections 288 and 288A, notes**
Omit the notes.
- [50] Section 290 Adhesive stamps**
Omit the section.
- [51] Section 292 Refunds—spoiled and unused stamps**
Omit the section.
- [52] Section 293 Reassessments—failed instruments**
Omit “and Part 4 of Chapter 4 for refunds of vendor duty on failed instruments” from the note.
- [53] Section 297**
Omit the section. Insert instead:
- 297 Stamping taken to constitute assessment**
- (1) For the purposes of the *Taxation Administration Act 1996*, the stamping of an instrument by the Chief Commissioner is taken to constitute an assessment of the duty payable under this Act in respect of the instrument or the dutiable transaction effected or evidenced by that instrument.
 - (2) If the Chief Commissioner does not issue a notice of assessment at the time that the instrument is stamped, the stamped instrument is taken, for the purposes of the *Taxation Administration Act 1996*, to be a notice of assessment.
Note. The *Taxation Administration Act 1996* provides that an objection to an assessment must be lodged within 60 days of service of the notice of assessment (unless late lodgment is permitted by the Chief Commissioner).
- [54] Section 301 Registration of transactions and instruments**
Omit section 301 (2), and the note to that subsection.
- [55] Schedule 1 Savings, transitional and other provisions**
Insert at the end of clause 1 (1):
State Revenue Legislation Amendment Act 2008

[56] **Schedule 1, Part 28**

Insert after Part 27:

**Part 28 Provisions consequent on enactment of
State Revenue Legislation Amendment Act
2008**

66 Repeal of vendor duty and other obsolete provisions

An amendment made to this Act by the *State Revenue Legislation Amendment Act 2008* does not affect any liability for duty under this Act that arose before the commencement of that amendment, and this Act, as in force before that amendment, continues to have effect in respect of any such liability.

67 Repeal of Stamp Duties Act 1920

- (1) The repeal of the *Stamp Duties Act 1920* by the *State Revenue Legislation Amendment Act 2008* does not affect any liability for duty that arose before that repeal, and that Act, as in force immediately before that repeal, continues to have effect in respect of any such liability, subject to this clause.
- (2) If, immediately before the repeal of the *Stamp Duties Act 1920*, a lease to which section 78D of that Act applies has one or more redetermination dates that have not yet occurred:
 - (a) the Chief Commissioner must, on the first redetermination date to occur on or after the repeal of the *Stamp Duties Act 1920* (the **final redetermination date**), make a final estimate of the total rent payable for the term of the lease, and
 - (b) the lease is chargeable with duty under that Act as if that final estimate were the total rent payable for the term of the lease, and
 - (c) section 78D (2) (e) of the *Stamp Duties Act 1920* applies in respect of that redetermination, and
 - (d) no further redetermination of the duty payable in respect of the lease is to be made.
- (3) For the purposes of this clause, a **redetermination date** means a date on which the Chief Commissioner is required under section 78D of the *Stamp Duties Act 1920*, as in force immediately before its repeal, to make a redetermination of the duty payable in respect of a lease (or would have been required to do so if that Act had not been repealed).

- (4) Section 78D (2) (c) of the *Stamp Duties Act 1920*, as in force immediately before its repeal, continues to apply only to the final redetermination date and to any redetermination date that occurred before the final redetermination date.
- (5) A reference in any Act or in any instrument made under any Act to the *Stamp Duties Act 1920* is to be read as including a reference to the *Duties Act 1997*.
- (6) A reference in any other instrument to the *Stamp Duties Act 1920* is to be read as including a reference to the *Duties Act 1997* unless a contrary intention appears.

68 Changes to concessions

- (1) The amendment to section 30 made by the *State Revenue Legislation Amendment Act 2008* does not apply in respect of a transfer or agreement to transfer dutiable property first executed before the commencement of the amendment.
- (2) The amendments to section 63 made by the *State Revenue Legislation Amendment Act 2008* do not apply in respect of a transfer of dutiable property made before the commencement of those amendments.

[57] Schedule 2 Principal place of residence exemption—concessions

Omit the Schedule.

[58] Dictionary

Omit the definitions of *commercial hire business*, *heritage building*, *hire of goods*, *hire purchase agreement*, *hiring charges*, *land-related property*, *special hiring agreement* and *vendor duty transaction*.

[59] Dictionary, definition of “listed trust”

Omit “listed for quotation”. Insert instead “quoted”.

[60] Dictionary, definition of “quoted”

Omit the definition. Insert instead:

quoted, in relation to any shares, units in a unit trust scheme or interests in such shares or units, includes:

- (a) shares, units or interests that have stopped being quoted on a stock exchange merely because they belong to a class of shares, units or interests the quotation of which has been suspended, unless the body that issued the shares, units or interests has ceased to be included in the official list of the stock exchange, and

-
- (b) shares, units or interests that comprise a stapled security that is quoted on a stock exchange.

[61] Dictionary, definition of “recognised stock exchange”

Omit “Stock Exchange of Newcastle”.

Insert instead “National Stock Exchange”.

Schedule 2 Amendment of First Home Owner Grant Act 2000 No 21

(Section 3)

[1] Section 5 Ownership of land and homes

Omit “subsection (4)” from section 5 (3). Insert instead “sections 6C and 6D”.

[2] Section 5 (4) and (5)

Omit the subsections.

[3] Sections 6C and 6D

Insert after section 6B:

6C Building of home on land owned by another

- (1) If a person enters into a comprehensive building contract to build, or builds or has built, a free-standing home on land in which the person does not have a relevant interest, the provisions of this Act apply in respect of the building of the free-standing home as if the person did have such a relevant interest.
- (2) If a person enters into a comprehensive building contract to build, or builds or has built, at the person’s own expense, an attached home on land in which the person does not have a relevant interest, the provisions of this Act apply in respect of the building of the attached home as if the person did have such a relevant interest.
- (3) Accordingly, a person may apply for a first home owner grant in respect of the building of such an attached home or free-standing home.
- (4) This section applies in respect of the building of a home only if the owner of the estate in fee simple in the land on which the home is built has consented to the occupation of the home by the applicant for the first home owner grant on completion of the home or the applicant has a right, under a lease, licence or other arrangement, to occupy the home on completion.
- (5) In this section:
attached home means a home which includes a kitchen, a bathroom, a living area and a bedroom or a combined bedroom living area and which is part of, or connected to, a building that contains another home.
free-standing home means a home that is not part of, or connected to, a building that contains another home.

6D Purchase of manufactured home

- (1) If a person purchases a manufactured home and intends to use it as a place of residence on land which the person has a right to occupy under a lease, licence or other arrangement but in which the person does not have a relevant interest:
- (a) this Act applies as if the person had a relevant interest in the land and were an owner builder building a home on the land, and
 - (b) the commencement date of the transaction is taken to be the date of the contract to purchase the manufactured home, and
 - (c) the transaction is taken to be completed when the manufactured home is ready for occupation as a place of residence on land that the person has a right to occupy.
- (2) In this section:
manufactured home has the same meaning as it has in the *Local Government Act 1993*.

[4] Section 15 All interested persons to join in application

Omit section 15 (2) (a). Insert instead:

- (a) in a case to which section 6C or 6D applies—a person who is the owner of the estate in fee simple in the land on which the home is built or situated,

[5] Section 15 (2) (e)

Insert after section 15 (2) (d):

- (e) a person whose ownership share in the relevant home does not exceed 5% (a *small interest holder*), but only if, in a case where there is more than one small interest holder, the total ownership share of all small interest holders in the relevant home does not exceed 5%.

[6] Section 49 Proceedings for offences

Omit “2 years” from section 49 (2). Insert instead “3 years”.

[7] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

State Revenue Legislation Amendment Act 2008

[8] Schedule 1, Part 6

Insert after Part 5:

**Part 6 Provisions consequent on enactment of
State Revenue Legislation Amendment Act
2008**

10 Application of amendments

- (1) An amendment to this Act made by the *State Revenue Legislation Amendment Act 2008* applies in relation to applications for the first home owner grant that are made on or after the commencement of that amendment.
- (2) The amendment made to section 49 by the *State Revenue Legislation Amendment Act 2008* does not apply in respect of an offence alleged to have been committed before the commencement of that amendment (and section 49, as in force immediately before that amendment, continues to apply in respect of any such offence).

Schedule 3 Amendment of Health Insurance Levies Act 1982 No 159

(Section 3)

Section 16B Contributors

Omit section 16B (3). Insert instead:

- (3) A reference in subsection (2) (b) to the dependants of a person includes a reference to the spouse of the person and to any other person who is a dependent child (within the meaning of section 10AA of the *Health Insurance Act 1973* of the Commonwealth) in relation to the person.

Schedule 4 Amendment of Land Tax Management Act 1956 No 26

(Section 3)

[1] Section 3 Definitions

Omit “, but does not include a single dwelling” from the definition of *flat* in section 3 (1).

[2] Section 3 (1), definition of “Residential unit”

Omit paragraph (b). Insert instead:

- (b) is used and occupied as a principal place of residence, and for no other purpose, by a person who is a joint owner (otherwise than as a trustee) of the parcel of land on which the building is erected and who has entered into an arrangement with the other joint owners of that land under which the person has the exclusive right to occupy that flat (whether jointly with one or more of the co-owners or not).

[3] Section 3 (1), definition of “single dwelling”

Omit the definition.

[4] Section 3 (3)

Omit “definitions of *flat* and *single dwelling*”.

Insert instead “definition of *flat*”.

[5] Section 9C Reduction in land value for flats on mixed development land or mixed use land

Insert “9D or” after “land to which section” in section 9C (7).

[6] Section 9D Reduction in land value for single dwellings on mixed use land

Omit “9C or” from section 9D (10).

[7] Section 9D (11)

Insert in alphabetical order:

single dwelling has the same meaning as it has in Division 5A of Part 1B of the *Valuation of Land Act 1916*.

[8] Section 10 Land exempted from tax

Omit “(not being a building society within the meaning of section 10G)” from section 10 (1) (g) (iii).

[9] Section 10 (4) and (5)

Insert after section 10 (3):

(4) Subsection (1) (g) (iii), and the other provisions of this section as they relate to that subparagraph, apply in respect of premises comprised in a strata lot as if those premises were a building erected on the site of the strata lot (and a reference to a building is to be construed as a reference to the strata lot).

(5) In this section:

strata lot means a lot under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

[10] Schedule 1A Principal place of residence exemption

Insert in alphabetical order in clause 1 (1):

strata lot means a lot under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

[11] Schedule 1A, clause 2 (1) (b)

Omit the paragraph. Insert instead:

(b) a strata lot or, subject to this Schedule, land comprised of 2 or more strata lots.

[12] Schedule 1A, clause 3 (1) (a)

Omit “lots within a strata plan”. Insert instead “strata lots”.

[13] Schedule 1A, clause 4 (4)

Insert after clause 4 (3):

(4) If land is comprised of 2 or more lots or strata lots, the excluded residential occupancy must be located on a lot or strata lot that is also used and occupied by the owner of the land for residential purposes.

[14] Schedule 1A, clause 10B

Insert after clause 10A:

10B Concession for multiple-occupancy land

(1) This clause applies if land owned by one person, or by 2 or more joint owners, is the site of a flat that is used and occupied by the owner, or by one of them, as a principal place of residence, and there is also situated on the land one or more other flats that are

used, or adapted for use, as a separate occupation to that of the owner (not being an excluded residential occupancy that may be disregarded under clause 4).

- (2) Section 9C applies in respect of the land as if the land were mixed use land.
- (3) For the purposes of applying Division 5A of Part 1B of the *Valuation of Land Act 1916* to the land, a reference in that Division to that part of the land that is occupied or used for non-residential purposes is to be read as a reference to that part of the land that is adapted for use as a separate occupation to that of the owner (and which is not an excluded residential occupancy that may be disregarded under clause 4).
- (4) This clause does not apply to land comprised of one or more strata lots.

[15] Schedule 1A, clauses 13 and 14

Insert after clause 12:

13 Application of exemption to residence comprised of 2 or more lots (other than strata lots)

- (1) The principal place of residence exemption does not extend to a parcel of residential land that is comprised of 2 or more lots of land, and that is used and occupied by the owner of the lots (or by one of them) as a principal place of residence, unless:
 - (a) the lots are adjoining, and
 - (b) the lots are owned by the same person or, if any of the lots are jointly owned, the lots are all jointly owned by the same persons, and
 - (c) the lots are the site of a single residence (excluding any additional residential occupancy that may be disregarded under clause 4).
- (2) For the purposes of this clause:
 - (a) separate lots are not to be regarded as adjoining merely because one lot has a single corner point on its boundary that is common to the boundary of another lot, and
 - (b) separate buildings erected on separate lots are not to be regarded as a single residence if the buildings are separately occupied or capable of being used for separate occupation.
- (3) This clause does not apply to land comprised of 2 or more strata lots.

14 Application of exemption to residence comprised of 2 or more lots in a strata plan

- (1) The principal place of residence exemption does not extend to land that is comprised of 2 or more strata lots, and that is used and occupied by the owner of the lots (or by one of them) as a principal place of residence, unless:
 - (a) the strata lots (excluding any ancillary lot) have adjoining walls or floors, and
 - (b) the strata lots are owned by the same person or, if any of the strata lots are jointly owned, the strata lots are all jointly owned by the same persons, and
 - (c) the strata lots comprise a single residence (excluding any additional residential occupancy that may be disregarded under clause 4).
- (2) For the purposes of this clause, 2 or more strata lots are not to be regarded as comprising a single residence unless there is internal access between all the strata lots (other than any ancillary lot), such as internal connecting doors or internal staircases.
- (3) In this clause:

ancillary lot means a strata lot that is used for purposes ancillary to another strata lot and which is not used or adapted for habitation (for example, a garage or storage area).

[16] Schedule 2 Savings and transitional provisions

Insert at the end of clause 1A (1):

State Revenue Legislation Amendment Act 2008

[17] Schedule 2, Part 22

Insert after Part 21:

Part 22 Provisions consequent on enactment of State Revenue Legislation Amendment Act 2008

45 Application of amendments

The amendments made to this Act by the *State Revenue Legislation Amendment Act 2008* apply in respect of a land tax year commencing on or after the date of commencement of the amendments and do not affect any liability for land tax in respect of any land tax year commencing before that date.

Schedule 5 Amendment of Payroll Tax Act 2007 No 21

(Section 3)

[1] Section 48 Non-profit organisations

Omit section 48 (1) (c). Insert instead:

- (c) a non-profit organisation having as its sole or dominant purpose a charitable, benevolent, philanthropic or patriotic purpose (but not including a school, an educational institution, an educational company or an instrumentality of the State).

[2] Section 70 Groups of corporations

Omit section 70 (2) and the note at the end of the section.

[3] Section 74 Smaller groups subsumed by larger groups

Insert at the end of the section (before the note):

- (2) If 2 or more members of a group have together a controlling interest in a business (within the meaning of section 72), all the members of the group and the person or persons who carry on the business together constitute a group.

[4] Schedule 1 Calculation of payroll tax liability for financial year commencing 1 July 2007 and subsequent financial years

Insert in alphabetical order in clause 1:

FY is the number of days in the financial year.

[5] Schedule 1, clauses 4, 5, 8 and 9 (2)

Omit “365” from the formulae, wherever occurring. Insert instead “FY”.

[6] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

State Revenue Legislation Amendment Act 2008

[7] Schedule 3, Part 3

Insert after Part 2:

**Part 3 Provisions consequent on enactment of
State Revenue Legislation Amendment Act
2008**

16 Application of amendments

The amendments made to Schedule 1 by the *State Revenue Legislation Amendment Act 2008* apply to the financial year commencing on 1 July 2007 and any subsequent financial year.

Schedule 6 Amendment of Taxation Administration Act 1996 No 97

(Section 3)

[1] Section 4 Meaning of “taxation laws”

Omit “*Accommodation Levy Act 1997*”, “*Debits Tax Act 1990*” and “*Stamp Duties Act 1920*”.

[2] Section 80A Investigations for the purposes of recognised revenue laws

Omit the definition of *recognised revenue law* from section 80A (5).

Insert instead:

recognised revenue law means a law of the Commonwealth, another State or a Territory that:

- (a) corresponds to a taxation law, or
- (b) is listed in Schedule 2.

[3] Section 80A (6)

Insert after section 80A (5):

- (6) The Governor may, by proclamation, amend Schedule 2 by inserting, omitting or amending any matter.

[4] Section 82 Permitted disclosures—to particular persons

Omit “or” from section 82 (b) (iv).

[5] Section 82 (b) (v)

Insert after section 82 (b) (iv):

- (v) the *Fines Act 1996*, or

[6] Section 82 (k) (xvi)

Omit “or”.

[7] Section 82 (k) (xvii)

Insert after section 82 (k) (xvi):

- (xvii) the Commissioner of NSW Fire Brigades or the Commissioner of the NSW Rural Fire Service, or

[8] Section 97 Review by Supreme Court

Omit section 97 (3).

[9] Section 125 Proceedings for offences

Omit “2 years” from section 125 (2). Insert instead “3 years”.

[10] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

State Revenue Legislation Amendment Act 2008

[11] Schedule 1, Part 7

Insert after Part 6:

Part 7 Provisions arising from enactment of State Revenue Legislation Amendment Act 2008

34 Application of amendments

- (1) The amendments made to section 82 by the *State Revenue Legislation Amendment Act 2008* extend to the disclosure, on or after the commencement of the amendments, of information obtained under or in relation to the administration of a taxation law before the commencement of those amendments.
- (2) The amendment made to section 125 by the *State Revenue Legislation Amendment Act 2008* does not apply in respect of an offence alleged to have been committed before the commencement of that amendment (and section 125, as in force immediately before that amendment, continues to apply in respect of such an offence).

35 Repeal of Debits Tax Act 1990

The repeal of the *Debits Tax Act 1990* does not affect any liability for tax under that Act that arose before that repeal, and that Act, and this Act, as in force immediately before the repeal of the *Debits Tax Act 1990*, continues to apply in respect of any such liability.

36 Repeal of Stamp Duties Act 1920

This Act, as in force immediately before the repeal of the *Stamp Duties Act 1920*, continues to apply in respect of any liability for tax under the *Stamp Duties Act 1920*.

[12] **Schedule 2**

Omit the Schedule. Insert instead:

Schedule 2 Recognised revenue laws

(Section 80A)

Australian Capital Territory

Rates Act 2004

Utilities Act 2000

Utilities (Network Facilities Tax) Act 2006

Commonwealth

A New Tax System (Goods and Services Tax) Act 1999

A New Tax System (Luxury Car Tax) Act 1999

A New Tax System (Wine Equalisation Tax) Act 1999

Fringe Benefits Tax Assessment Act 1986

Fuel Tax Act 2006

Income Tax Assessment Act 1936

Income Tax Assessment Act 1997

International Tax Agreements Act 1953

Petroleum Resource Rent Tax Assessment Act 1987

Product Grants and Benefits Administration Act 2000

Superannuation Guarantee (Administration) Act 1992

Taxation Administration Act 1953

Trust Recoupment Tax Assessment Act 1985

Northern Territory

Fuel Subsidies Act

Queensland

Community Ambulance Cover Act 2003

Fuel Subsidy Act 1997

Tobacco Products (Licensing) Act 1988

South Australia

Petroleum Products Regulation Act 1995

Victoria

Business Franchise (Petroleum Products) Act 1979

Schedule 7 Amendment of Unclaimed Money Act 1995 No 75

(Section 3)

[1] Section 3 Definitions

Omit the definitions of *Commonwealth RSA Act*, *retirement savings account*, *RSA provider*, *superannuation fund* and *superannuation provider*.

Insert in alphabetical order:

public sector superannuation provider means a public sector superannuation provider within the meaning of Part 3A.

[2] Section 3, definition of “officer”

Insert “public sector” before “superannuation provider” wherever occurring.

[3] Section 13A Definitions

Omit the definitions of *approved deposit fund*, *exempt public sector superannuation scheme*, *fund*, *holder*, *member*, *regulated superannuation fund*, *superannuation fund*, *superannuation provider* and *trustee*.

Insert in alphabetical order:

member means a member of a public sector superannuation scheme.

public sector superannuation provider means a trustee of a public sector superannuation scheme.

public sector superannuation scheme means a State or Territory public sector superannuation scheme (within the meaning of section 18 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth) that is established:

- (a) by or under a law of New South Wales, or
- (b) under the authority of the Government of New South Wales or a body constituted by or under a law of New South Wales.

trustee means:

- (a) in relation to a public sector superannuation scheme that is an STC scheme within the meaning of the *Superannuation Administration Act 1996*, the SAS Trustee Corporation, and
- (b) in relation to any other public sector superannuation scheme, the trustee of the scheme within the meaning of section 10 (1) of the Commonwealth Superannuation Act.

[4] Section 13A, definition of “beneficiary”

Omit “superannuation fund”.

Insert instead “public sector superannuation scheme”.

[5] Sections 13B, 13C, 13E, 13F, 13H, 13I and 27–29

Omit “superannuation provider” and “superannuation provider’s” wherever occurring.

Insert instead “public sector superannuation provider” and “public sector superannuation provider’s” respectively.

[6] Section 13B Return and payment of unclaimed superannuation benefits to Chief Commissioner

Omit “the fund” wherever occurring in section 13B (6).

Insert instead “the public sector superannuation scheme”.

[7] Section 13I Discharge of liability

Omit “his or her capacity as”. Insert instead “its capacity as”.

[8] Section 13J Public sector superannuation provider not in breach of trust

Omit “trustee of a superannuation fund”.

Insert instead “public sector superannuation provider”.

[9] Section 13K

Omit the section. Insert instead:

13K Part applies to NSW public sector superannuation schemes

This Part applies to a public sector superannuation scheme of New South Wales and the provisions of this Part apply to the scheme and to the trustee of the scheme despite any provision of any other Act or law.

[10] Section 13L Extra-territorial operation

Omit the section.

[11] Section 27 Application of certain provisions of Taxation Administration Act 1996

Omit “(other than sections 60, 63, 81–85, 111 and 126–128)” from section 27 (1).

Insert instead “(other than the excluded provisions)”.

[12] Section 27 (2)

Omit “or RSA benefit”.

[13] Section 27 (2)

Omit “of the fund or a retirement savings account”.

Insert instead “of the scheme”.

[14] Section 27 (4)

Insert after section 27 (3):

- (4) For the purposes of this section, the *excluded provisions* are the following provisions of the *Taxation Administration Act 1996*:
- (a) Division 2 of Part 7,
 - (b) sections 60 and 63,
 - (c) Divisions 2A and 3 of Part 9,
 - (d) Division 5 of Part 10,
 - (e) sections 111 and 126–128.

[15] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

State Revenue Legislation Amendment Act 2008

[16] Schedule 2, Part 7

Insert after Part 6:

**Part 7 Provisions consequent on enactment of
State Revenue Legislation Amendment Act
2008**

13 Application of amendments

- (1) The amendments made to this Act by the *State Revenue Legislation Amendment Act 2008* (other than the amendments to section 27) are taken to have effect on and from 1 July 2007.
- (2) This Act, as in force immediately before 1 July 2007, continues to apply in respect of any unclaimed superannuation benefits in a fund managed or provided by a superannuation provider before 1 July 2007.

- (3) However, a superannuation provider is, on payment of any such amount to the Commissioner of Taxation in accordance with the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth, discharged from further liability under this Act in respect of the amount.
- (4) Subclause (3) does not apply to a public sector superannuation provider (within the meaning of Part 3A).
- (5) In this clause:
fund and *superannuation provider* have the meanings given by Part 3A of this Act, as in force before its amendment by the *State Revenue Legislation Amendment Act 2008*.

[17] Long title

Omit “to require the publication of information relating to unclaimed money; to provide for a Chief Commissioner of Unclaimed Money and a scheme for determining applications for repayment of unclaimed money;”.

Insert instead “to make provision for the publication of information about, and the repayment of, unclaimed money; to make similar provision in relation to unclaimed superannuation benefits of public sector superannuation schemes;”.

[Agreement in principle speech made in Legislative Assembly on 2 April 2008
Second reading speech made in Legislative Council on 25 June 2008]

BY AUTHORITY