



New South Wales

State Revenue Legislation Amendment Act 2015 No 65

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Duties Act 1997 No 123	3
Schedule 2 Amendment of Fines Act 1996 No 99	5
Schedule 3 Amendment of Road Transport Act 2013 No 18	8
Schedule 4 Amendment of Taxation Administration Act 1996 No 97	9

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *State Revenue Legislation Amendment Act 2015*.

2 Commencement

- (1) This Act commences on the date of assent to this Act, except as provided by subsection (2).
- (2) Schedule 1 [1] is taken to have commenced on 20 January 2012.

Schedule 1 Amendment of Duties Act 1997 No 123

[1] Section 65 Exemptions from duty

Omit section 65 (3). Insert instead:

(3) Registered clubs

No duty is chargeable under this Chapter on any of the following:

- (a) a transfer, or an agreement for the sale or transfer, of dutiable property to give effect to an amalgamation or de-amalgamation, or both, of registered clubs as referred to in Divisions 1A and 1B of Part 2 of the *Registered Clubs Act 1976*,
- (b) a transfer, or an agreement for the sale or transfer, of all or part of any premises or an associated car park occupied by a club to another club for the purposes of any such amalgamation or de-amalgamation, or both,

if any information and documents that may be required by the Chief Commissioner are given to the Chief Commissioner.

[2] Schedule 1 Savings, transitional and other provisions

Insert at the end of the Schedule with appropriate Part and clause numbering:

Part Provisions consequent on enactment of State Revenue Legislation Amendment Act 2015

References to London Exchange and New York Exchange

A reference in the Dictionary to the World Federation of Exchanges is taken, until the date of assent to the *State Revenue Legislation Amendment Act 2015*, to have always included a reference to the London Exchange and the New York Exchange.

[3] Dictionary, clause 1, definition of “listed company”

Insert “, the London Exchange, the New York Exchange” after “the New Zealand Exchange”.

[4] Dictionary, clause 1, definition of “listed trust”

Insert “, the London Exchange, the New York Exchange” after “the New Zealand Exchange”.

[5] Dictionary, clause 1, definition of “London Exchange”

Insert in alphabetical order:

London Exchange means the London Stock Exchange (also known as the LSE) and includes AIM.

[6] Dictionary, clause 1, definition of “New York Exchange”

Insert in alphabetical order:

New York Exchange means the New York Stock Exchange (also known as NYSE).

[7] Dictionary, clause 1, definition of “private company”

Insert “, the London Exchange, the New York Exchange” after “the New Zealand Exchange”.

[8] Dictionary, clause 1, definition of “recognised stock exchange”

Insert after paragraph (ba):

- (bb) the London Exchange, or
- (bc) the New York Exchange, or

Schedule 2 Amendment of Fines Act 1996 No 99

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

vehicle or vessel offence—see section 38.

[2] Section 24G Effect of withdrawal of penalty notice

Omit section 24G (2) (b) (i). Insert instead:

- (i) any action taken to record demerit points against a person in the NSW demerit points register kept under the *Road Transport Act 2013* because of that payment is to be reversed, and any driver licence affected as a consequence of the recording of the demerit points is to be restored (subject to any other matters affecting the licence), by Roads and Maritime Services from the date of the withdrawal of the penalty notice, and

[3] Section 38 Circumstances in which person issued with penalty reminder notice for vehicle or vessel offence is not liable to pay penalty

Omit section 38 (1) (a). Insert instead:

- (a) on or before the due date specified in the penalty reminder notice, gives the appropriate officer for the penalty notice to which the penalty reminder notice relates (or other person or body specified in that notice) an approved nomination notice containing the name and address of some other person who was in charge of the vehicle or vessel concerned at all relevant times relating to the offence, or

[4] Section 38 (2)–(3F)

Omit section 38 (1A)–(3B). Insert instead:

- (2) The Commissioner may approve 1 or more notices (*approved nomination notices*) for use when nominating persons under this section as persons in charge of vehicles or vessels.
- (3) Without limiting subsection (2), the Commissioner may approve notices under that subsection:
 - (a) to be provided in printed or electronic form (or both), and
 - (b) to be used in relation to more than 1 offence involving 1 or more vehicles or vessels, if the person given the penalty reminder notice is a corporation.
- (3A) An appropriate officer for the penalty notice to which the penalty reminder notice relates may, by written notice (a *verification notice*) served on a person who gives an approved nomination notice, require the person to supply a statutory declaration for use in court proceedings verifying any of the information contained in the approved nomination notice that is specified in the verification notice.
- (3B) A person served with a verification notice must supply the required statutory declaration within the period specified in the notice (being a period of not less than 7 days after the date of service).

Maximum penalty: 50 penalty units (in the case of an individual) and 100 penalty units (in the case of a corporation).
- (3C) A statutory declaration that is given for the purposes of this section, if produced in any proceedings against the person named in the declaration in

respect of the vehicle or vessel offence concerned, is admissible and is prima facie evidence that the person was in charge of the vehicle or vessel at all relevant times relating to the offence.

- (3D) A statutory declaration that relates to more than one vehicle or vessel offence is not a statutory declaration under, or for the purposes of, this section unless each of the offences is a camera recorded offence (within the meaning of Division 2 of Part 7.3 of the *Road Transport Act 2013*) detected by the same camera device at approximately the same time.
- (3E) A person must not, in an approved nomination notice given under subsection (1), falsely nominate another person as the person who was in charge of the vehicle or vessel at the time the offence occurred.
Maximum penalty:
(a) if the offence relates to a vehicle or vessel registered or owned otherwise than in the name of an individual—200 penalty units, or
(b) in any other case—100 penalty units.
- (3F) A person falsely nominates another person as the person in charge of a vehicle or vessel for the purposes of subsection (3E) if either a false name or address (or both a false name and address) for the other person is given in an approved nomination notice.

[5] Section 38 (4), definition of “vehicle or vessel offence”

Omit paragraphs (b), (k) and (n).

[6] Section 38 (4), definition of “vehicle or vessel offence”

Insert after paragraph (e):

- (e1) an offence under section 146 of the *Protection of the Environment Operations Act 1997*,

[7] Section 49A Review of penalty notice before annulment

Insert after section 49A (1):

- (1A) Before the Commissioner annuls a penalty notice enforcement order relating to a vehicle or vessel offence, the Commissioner is to seek a review of the decision to issue a penalty notice to which the order applies if an approved nomination notice in relation to the offence (within the meaning of section 38) is given to the Commissioner or the appropriate officer for the penalty notice for the offence.
- (1B) For the purposes of subsection (1A) and the review under this section, it does not matter if the approved nomination notice is not given within the period required by section 38.

[8] Section 77A

Insert after section 77:

77A Garnishee order refunds in case of hardship

- (1) The Commissioner may, on the Commissioner’s own initiative or on the application of a fine defaulter, refund an amount paid to the Commissioner under a garnishee order if the Commissioner thinks it appropriate to do so on the ground of hardship experienced by the fine defaulter or a dependant of the fine defaulter because of payments under the garnishee order.

- (2) A refund does not affect the liability of the fine defaulter for any debt that is the subject of the garnishee order, including for any amount refunded to the fine defaulter.
- (3) This section does not affect any other right of a fine defaulter to seek a review or to apply to the Hardship Review Board under this Act.

[9] Schedule 3 Savings, transitional and other provisions

Insert at the end of the Schedule with appropriate Part and clause numbering:

Part Provisions consequent on enactment of State Revenue Legislation Amendment Act 2015

Definition

In this Part:

amending Act means the *State Revenue Legislation Amendment Act 2015*.

Enforcement action relating to repealed offences

Section 38, as in force immediately before the repeal of paragraphs (b), (k) and (n) of the definition of *vehicle or vessel offence* in section 38 (4), continues to apply in relation to any enforcement action relating to an offence specified in those paragraphs.

Refunds of amounts payable under garnishee orders

Section 77A, as inserted by the amending Act, extends to garnishee orders and payments made under those orders before the commencement of that section.

Schedule 3 Amendment of Road Transport Act 2013 No 18

[1] Section 183 Definitions

Omit the definition of *relevant nomination document* from section 183 (1). Insert instead:

relevant nomination document means:

- (a) in the case of a responsible person served with a penalty notice in relation to a designated offence—an approved nomination document under section 189 (1), or
- (b) in the case of a responsible person served with a court attendance notice in relation to a designated offence—a statutory declaration.

[2] Section 188 Offences relating to nominations

Omit “100 penalty units” from section 188 (2). Insert instead “200 penalty units”.

[3] Section 188 (2), penalty

Omit “50 penalty units”. Insert instead “100 penalty units”.

[4] Section 189 Nominations by responsible persons

Omit “corporations” where firstly occurring in section 189 (1).

Insert instead “responsible persons”.

[5] Section 189 (1)

Omit “the corporations are”. Insert instead “they are”.

[6] Section 189 (3)

Omit the subsection. Insert instead:

- (3) If a responsible person for a vehicle supplies an approved nomination document to an authorised officer for the purpose of section 185 or 186, an authorised officer may, by written notice served on the person (a *verification notice*), require the person to supply a statutory declaration for use in court proceedings that verifies such of the nominations contained in the approved nomination document as are specified in the verification notice.

[7] Section 189 (4)

Omit “corporation”. Insert instead “person”.

[8] Section 189 (4), penalty

Omit “100 penalty units”.

Insert instead “50 penalty units (in the case of an individual) or 100 penalty units (in the case of a corporation)”.

Schedule 4 Amendment of Taxation Administration Act 1996 No 97

[1] Section 8 General power to make assessment

Insert after section 8 (2):

- (3) For the avoidance of doubt, an assessment of tax liability is taken to have been made when the Chief Commissioner calculates the tax liability of a taxpayer based on a return under the *Payroll Tax Act 2007* or any other Act prescribed by the regulations for the purposes of this subsection (whether or not the Chief Commissioner issues a notice of assessment as a result of that calculation or otherwise notifies the taxpayer of the calculation).

[2] Schedule 1 Savings, transitional and other provisions

Insert at the end of the Schedule with appropriate Part and clause numbering:

Part Provisions arising from enactment of State Revenue Legislation Amendment Act 2015

Reassessment

Section 8 (3) of this Act, as inserted by the *State Revenue Legislation Amendment Act 2015*, extends to any calculation of tax liability made by the Chief Commissioner at any time before the commencement of that provision but does not extend to any matter the subject of a decision in *Freelance Global Ltd v Chief Commissioner of State Revenue* [2014] NSWSC 127.

[Second reading speech made in—

Legislative Assembly on 27 October 2015

Legislative Council on 17 November 2015]