



New South Wales

# State Revenue and Fines Legislation Amendment (Miscellaneous) Act 2022 No 16

## Contents

---

		Page
	1 Name of Act	2
	2 Commencement	2
<b>Schedule 1</b>	<b>Amendment of Duties Act 1997 No 123</b>	<b>3</b>
<b>Schedule 2</b>	<b>Amendment of Fines Act 1996 No 99</b>	<b>11</b>
<b>Schedule 3</b>	<b>Amendment of Fines Regulation 2020</b>	<b>16</b>
<b>Schedule 4</b>	<b>Amendment of First Home Owner Grant (New Homes) Act 2000 No 21</b>	<b>17</b>
<b>Schedule 5</b>	<b>Amendment of Land Tax Act 1956 No 27</b>	<b>18</b>
<b>Schedule 6</b>	<b>Amendment of Liquor Act 2007 No 90</b>	<b>20</b>
<b>Schedule 7</b>	<b>Amendment of State Debt Recovery Act 2018 No 11</b>	<b>22</b>
<b>Schedule 8</b>	<b>Amendment of Taxation Administration Act 1996 No 97</b>	<b>24</b>
<b>Schedule 9</b>	<b>Amendment of other legislation</b>	<b>32</b>

---



New South Wales

# **State Revenue and Fines Legislation Amendment (Miscellaneous) Act 2022 No 16**

Act No 16, 2022

---

An Act to make miscellaneous amendments to legislation relating to State revenue and fines; and to amend the *Liquor Act 2007* in relation to the use of outdoor space for dining and performance.  
[Assented to 19 May 2022]

---

**The Legislature of New South Wales enacts—**

**1 Name of Act**

This Act is the *State Revenue and Fines Legislation Amendment (Miscellaneous) Act 2022*.

**2 Commencement**

This Act commences on the following days—

- (a) for Schedule 1[18], [19] and [32]—on a day or days to be appointed by proclamation,
- (b) for Schedule 2[1], [5] and [7]–[13]—on a day or days to be appointed by proclamation,
- (c) otherwise—the date of assent to this Act.

## Schedule 1 Amendment of Duties Act 1997 No 123

### [1] Section 8 Imposition of duty on certain transactions concerning dutiable property

Insert after section 8(1)(b)(viii)—

- (ix) another transaction that results in a change in beneficial ownership of dutiable property, other than an excluded transaction.

### [2] Section 8(2A)

Insert after section 8(2)—

- (2A) Despite subsection (1)(b)(ix), an excluded transaction that results in a change in beneficial ownership of dutiable property is a dutiable transaction if it is part of a scheme or arrangement that, in the Chief Commissioner's opinion, was made with a collateral purpose of reducing the duty otherwise chargeable under this Chapter.

### [3] Section 8(3)

Insert in alphabetical order—

**beneficial ownership** includes ownership of dutiable property by a person as trustee of a trust.

**change in beneficial ownership** includes the following—

- (a) the creation of dutiable property,
- (b) the extinguishment of dutiable property,
- (c) a change in equitable interests in dutiable property,
- (d) dutiable property becoming the subject of a trust,
- (e) dutiable property ceasing to be the subject of a trust.

**excluded transaction** means the following—

- (a) the purchase, gift, allotment or issue of a unit in a unit trust scheme,
- (b) the cancellation, redemption or surrender of a unit in a unit trust scheme,
- (c) the abrogation or alteration of a right relating to a unit in a unit trust scheme,
- (d) the payment of an account owing for a unit in a unit trust scheme,
- (e) the grant, renewal or variation of a lease for no consideration,
- (f) the grant of an easement for no consideration,
- (g) the grant of a profit a prendre for no consideration,
- (h) the provision of a security interest within the meaning of the *Personal Property Securities Act 2009* of the Commonwealth,
- (i) a change in a trustee's right of indemnity,
- (j) the creation of an interest in dutiable property by statute,
- (k) a transaction of a kind prescribed by the regulations,
- (l) a combination of the transactions referred to in paragraphs (a)–(k).

### [4] Section 8AA

Insert after section 8—

**8AA Imposition of duty on acknowledgment of trust**

- (1) This Chapter also charges duty on the making of a statement that—
- (a) purports to be a declaration of trust over dutiable property, but
  - (b) merely has the effect of acknowledging that identified property vested, or to be vested, in the person making the statement is already held, or to be held, in trust for a person or purpose mentioned in the statement.
- (2) For the purpose of charging the duty—
- (a) the making of the statement is taken to be a declaration of trust over dutiable property and, accordingly, is a dutiable transaction, and
  - (b) the property vested, or to be vested, in the person making the statement is taken to be the property transferred, and
  - (c) the person making the statement is taken to be the transferee, and
  - (d) the transfer is taken to occur when the statement is made.

**[5] Section 9 Imposition of duty on dutiable transactions that are not transfers**

Insert at the end of the Table—

another transaction that results in a change in beneficial ownership of dutiable property	the property the beneficial ownership of which is changed	the person who obtains the beneficial ownership or whose beneficial ownership is increased	when beneficial ownership changes
---	---	--	-----------------------------------

**[6] Section 26 Certain transactions concerning goods and other property**

Omit section 26(2).

**[7] Section 49A Purchases “off the plan”**

Omit “off the plan purchaser agreement” from section 49A(1A).

Insert instead “off the plan purchase agreement”.

**[8] Section 49A(1B) and (4), definition of “off the plan purchase agreement”**

Insert “the agreement for” after “completion of” wherever occurring.

**[9] Section 49A(1D)**

Insert after section 49A(1C)—

- (1D) The residence requirement does not apply to a purchaser or transferee if, on the date of the agreement or transfer—
- (a) the purchaser or transferee or, if there are 2 or more of them, at least 1 of the purchasers or transferees is a member of the Permanent Forces of the Australian Defence Force within the meaning of the *Defence Act 1903* of the Commonwealth, and
  - (b) the purchaser or transferee or, if there are 2 or more of them, each of the purchasers or transferees is enrolled to vote in State elections under the *Electoral Act 2017*.

**[10] Section 68 Exemptions—break-up of marriages and other relationships**

Insert after section 68(1A)(b)(ii)—

- (ia) an agreement that the Chief Commissioner is satisfied has been made for the purpose of dividing relationship property as a consequence of the breakdown of the relationship, or

**[11] Section 76 Residence requirement**

Insert after section 76(2)—

- (2A) The Chief Commissioner may give an approval or exemption under this section at any time, even if—
  - (a) the period of 12 months after completion of the agreement or transfer has already expired, or
  - (b) the first home owner’s occupation of the home as a principal place of residence has already ceased.

**[12] Section 104ZJA, heading**

Omit “New home”. Insert instead “Certain”.

**[13] Section 104ZJA(1)(c)**

Insert at the end of section 104ZJA(1)(b)—

, or

- (c) the land has been used by the transferee or a related body corporate, after completion of the transfer, wholly or predominantly for commercial or industrial purposes.

**[14] Section 104ZJA(6)**

Omit the subsection. Insert instead—

- (6) Surcharge purchaser duty may be refunded under this section only if an application for the refund is made—
  - (a) within 12 months after the entitling event, and
  - (b) no later than 10 years after completion of the transfer of the residential-related property to the Australian corporation.

**[15] Section 104ZJA(6A)**

Insert after section 104ZJA(6)—

- (6A) For the purposes of the *Taxation Administration Act 1996*, section 9(3)(c), a reassessment under this section is authorised to be made more than 5 years after the initial assessment.

**[16] Section 104ZJA(8)**

Insert in alphabetical order—

*entitling event* means—

- (a) for a refund under subsection (1)(a)—the completion of the sale of the new home, or
- (b) for a refund under subsection (1)(b)—the issue of the subdivision certificate, or
- (c) for a refund under subsection (1)(c)—the start of the use of the land wholly or predominantly for commercial or industrial purposes.

**[17] Section 163B Exemption—break-up of marriages and other relationships**

Insert after section 163B(1)(b)(ii)—

- (iii) an agreement that the Chief Commissioner is satisfied has been made for the purpose of dividing relationship property as a consequence of the breakdown of the relationship, or

**[18] Section 259 What insurance is exempt from duty?**

Omit section 259(1)(f). Insert instead—

- (f) insurance effected by a contract of insurance issued by a private health insurer, within the meaning of the *Private Health Insurance Act 2007* of the Commonwealth, that covers the provision of—
  - (i) hospital benefits or medical benefits or both, whether or not other benefits are also provided, or
  - (ii) ambulance services, being services relating to the work of rendering first aid to, and the transport of, sick and injured persons,

**[19] Section 259(1)(i)(i)**

Omit “the hull of”.

**[20] Section 267 Exemptions**

Omit “the property of the parties or of either of them” wherever occurring in section 267(6A) and (7).

Insert instead “relationship property”.

**[21] Section 267(6A)(c)**

Insert at the end of section 267(6A)(b)—

, or

- (c) an agreement that the Chief Commissioner is satisfied has been made for the purpose of dividing relationship property as a consequence of the breakdown of the relationship.

**[22] Section 267(6B)**

Omit “the property of a party to a de facto relationship”.

Insert instead “relationship property”.

**[23] Section 267(9)**

Omit “subsection (6) or (7)”. Insert instead “subsections (6)–(7)”.

**[24] Section 267(11)**

Insert after section 267(10)—

- (11) In this section—

*marriage* includes a void marriage.

*matrimonial property* means property in relation to the parties to a marriage or of either of them, within the meaning of the *Family Law Act 1975* of the Commonwealth, including property treated as property in relation to the parties or of either of them as a result of an order made under that Act.

*party* to a marriage includes a person who was a party to a marriage that has been dissolved or annulled, in Australia or elsewhere.

***relationship property***—

- (a) in relation to a de facto relationship, means property in relation to the parties to the de facto relationship or of either of them, within the meaning of the *Family Law Act 1975* of the Commonwealth, including property treated as property in relation to the parties or of either of them as a result of an order made under that Act, or
- (b) in relation to a domestic relationship, means property of the parties to the relationship or of either of them.

**[25] Section 274 Transfer of certain business property between family members**

Omit section 274(1)–(5). Insert instead—

- (1) Duty under this Act is not chargeable in relation to a transfer of land used for primary production, together with other property that is an integral part of the business of primary production, if the Chief Commissioner is satisfied of all the matters specified in subsections (2)–(4).
- (2) Firstly, the Chief Commissioner must be satisfied that the transferor, or the person directing the transferor, is a member of the family of—
  - (a) the transferee, or
  - (b) the person directing the transferee.
- (3) Secondly, the Chief Commissioner must be satisfied that the land was, immediately before the transfer or the date of first execution of the instrument of transfer, land used for primary production in connection with a business carried on, whether alone or with others, by—
  - (a) the transferee, or a member of the family of the transferee, or
  - (b) the person directing the transferee, or a member of the family of the person directing the transferee.
- (4) Thirdly, the Chief Commissioner must be satisfied that the business will continue to be carried on, whether alone or with others, by—
  - (a) the transferee, or
  - (b) the person directing the transferee.
- (4A) For the purposes of this section, the ***person directing*** a transferor or transferee is—
  - (a) for a transferor or transferee acting in the capacity of—
    - (i) executor of a deceased estate—the deceased person, or
    - (ii) trustee of a bare trust—a person who is a named beneficiary of the trust, or
    - (iii) trustee of a self managed superannuation fund—a person who is a member of the fund, or
  - (b) for a transferor or transferee acting in the capacity of trustee of a discretionary trust—a person or persons who are entitled, as takers in default of appointment, to not less than a 25% interest in the capital of the trust, being an entitlement—
    - (i) for a transferor—that existed for at least 3 years before the date of the transfer or that existed from the date of establishment of the trust, or
    - (ii) for a transferee—that exists for at least 3 years after the date of the transfer, or



- (c) for a transferor or transferee acting in the capacity of trustee of a private unit trust scheme—a unit holder or unit holders in the unit trust scheme who hold the units beneficially and are entitled, as unit holders, to not less than 25% of the assets of the unit trust scheme on winding up, being an entitlement—
    - (i) for a transferor—that existed for at least 3 years before the date of the transfer or that existed from the date of establishment of the trust, or
    - (ii) for a transferee—that exists for at least 3 years after the date of the transfer, or
  - (d) for a transferor or transferee that is a proprietary limited company—a shareholder or shareholders in the company who—
    - (i) are beneficially entitled to the shares in the company, and
    - (ii) are entitled to vote at meetings of the company, and
    - (iii) are entitled as shareholders to not less than 25% of the assets of the company on winding up, being an entitlement—
      - (A) for a transferor—that existed for at least 3 years before the date of the transfer or that existed from the date of incorporation of the company, or
      - (B) for a transferee—that exists for at least 3 years after the date of the transfer.
- (4B) For a transfer involving a proprietary limited company or unit trust scheme (a **subsidiary entity**) that is owned by another proprietary limited company or unit trust scheme (the **parent entity**), a person is taken to be a person directing the subsidiary entity if the Chief Commissioner is satisfied that, had the parent entity been the transferor or transferee, as the case requires, the person would be the person directing the parent entity under subsection (4A).
- (5) Except as provided by subsections (4A) and (4B), there are no other cases in which a person is considered to be a person directing a transferor or transferee.

**[26] Section 274(5A)**

Omit “or shares”.

**[27] Section 274(6)**

Insert in alphabetical order—

**transfer** of land includes the following—

- (a) an agreement for the sale or transfer of the land,
- (b) a lease of the land,
- (c) a transfer or assignment of a lease or permit in relation to the land.

**Note**—The Dictionary also defines **transfer** to include an assignment and an exchange.

**transferee** includes lessee and assignee.

**transferor** includes lessor and assignor.

**[28] Chapter 11A Tax avoidance schemes**

Omit the Chapter.

**[29] Section 317**

Omit the section. Insert instead—

**317 Review of amendments by State Revenue and Fines Legislation Amendment (Miscellaneous) Act 2022**

- (1) The Minister must review the amendments made to this Act by the *State Revenue and Fines Legislation Amendment (Miscellaneous) Act 2022* to determine—
  - (a) whether the policy objectives of the amendments remain valid, and
  - (b) whether the terms of the amendments remain appropriate for securing the policy objectives.
- (2) The review must be undertaken as soon as possible after the period of 2 years from the date of assent to the *State Revenue and Fines Legislation Amendment (Miscellaneous) Act 2022*.
- (3) The Minister must table a report on the outcome of the review in each House of Parliament within 12 months after the end of the period of 2 years.

**[30] Schedule 1 Savings, transitional and other provisions**

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

**Part Provisions consequent on State Revenue and Fines Legislation Amendment (Miscellaneous) Act 2022**

**Duty on changes in beneficial ownership**

Section 8(1)(b)(ix) does not apply to a transaction that occurs on or after the commencement of the subparagraph if the transaction occurs in accordance with an agreement or arrangement entered into before the commencement.

**[31] Dictionary**

Omit clause 1, definitions of *listed company* and *listed trust*. Insert in alphabetical order—  
**Chief Commissioner** means the Chief Commissioner of State Revenue under the *Taxation Administration Act 1996*.

**declared stock exchange** means a stock exchange declared for the purposes of this definition by an order, published in the Gazette and in force, of the Minister, or of the Chief Commissioner as the Minister's delegate.

**Note**— Power to make an order includes power to amend or repeal the order—see the *Interpretation Act 1987*, section 43(2).

**listed company** means a company whose shares are quoted on—

- (a) the Australian Securities Exchange, or
- (b) the London Exchange, or
- (c) the New York Exchange, or
- (d) the New Zealand Exchange, or
- (e) a stock exchange that is a member of the World Federation of Exchanges, or
- (f) a declared stock exchange.

**listed trust** means a unit trust scheme whose units are quoted on—

- (a) the Australian Securities Exchange, or
- (b) the London Exchange, or
- (c) the New York Exchange, or
- (d) the New Zealand Exchange, or

- (e) a stock exchange that is a member of the World Federation of Exchanges, or
- (f) a declared stock exchange.

**[32] Dictionary, clause 1, definition of “livestock insurance”**

Insert at the end of the definition—

but does not include insurance covering loss in relation to a pet.

**[33] Dictionary, clause 1, definition of “private company”, paragraph (b)**

Omit the paragraph. Insert instead—

- (b) a company that is limited by shares and whose shares are not quoted on—
  - (i) the Australian Securities Exchange, or
  - (ii) the London Exchange, or
  - (iii) the New York Exchange, or
  - (iv) the New Zealand Exchange, or
  - (v) a stock exchange that is a member of the World Federation of Exchanges, or
  - (vi) a declared stock exchange.

## Schedule 2 Amendment of Fines Act 1996 No 99

### [1] Section 3 Definitions

Omit section 3(1), definition of *visitor driver privileges*. Insert in alphabetical order—  
*road transport legislation*, for Part 4, Division 3, Subdivision 3—see section 70A.  
*visitor driver privileges*, for Part 4, Division 3, Subdivision 3—see section 70A.  
*visitor privileges*, for Part 4, Division 3, Subdivision 3—see section 70A.  
*visitor vehicle privileges*, for Part 4, Division 3, Subdivision 3—see section 70A.

### [2] Section 22 Persons who may deal with penalty notices (appropriate officers)

Omit “so” from section 22(2)(a).

### [3] Section 22(2)(b)(i)

Omit “that Office”. Insert instead “Revenue NSW”.

### [4] Sections 57(1A), 58(1)(e), 103(1)(d), 108L(a), 112D(b), 120(1)(d) and 125(2)

Omit the provisions.

### [5] Section 58 Summary of enforcement procedure

Omit section 58(1)(b) and (c). Insert instead—

#### (b) Licence and registration enforcement action

If the fine is not paid within the period specified, Transport for NSW takes action against the fine defaulter’s driver licence, vehicle registration, visitor privileges or marine safety licence (see Division 3).

#### (c) Civil enforcement

Civil enforcement action in the form of a property seizure order, a garnishee order or the registration of a charge on land owned by the fine defaulter is taken if enforcement action under Division 3 is unavailable or unsuccessful, or if the Commissioner is satisfied that civil enforcement action is preferable (see Division 4).

### [6] Section 58(1)(f)

Omit “order requiring community service work and imprisonment”.

Insert instead “orders requiring community service work”.

### [7] Part 4, Division 3, heading

Omit the heading. Insert instead—

## Division 3 Licence and registration enforcement action

### Subdivision 1 Preliminary

### [8] Section 65 When enforcement action taken under this Division

Omit “with respect to a fine defaulter’s driver licence” from section 65(3).

**[9] Section 65(3A)**

Omit the subsection.

**[10] Part 4, Division 3, Subdivision 2, heading**

Insert after section 65—

**Subdivision 2 Suspension or cancellation of New South Wales driver licence or vehicle registration**

**[11] Sections 66A and 69A**

Omit the sections.

**[12] Part 4, Division 3, Subdivisions 3 and 4**

Insert after section 70—

**Subdivision 3 Suspension of visitor driver and vehicle privileges**

**70A Definitions**

In this Subdivision—

*road transport legislation* has the same meaning as in the *Road Transport Act 2013*.

*visitor driver privileges* means an exemption under road transport legislation that permits a person to drive a motor vehicle in this jurisdiction, even though the person does not hold a driver licence, because the person holds a licence or permit to drive a motor vehicle issued in a place outside this jurisdiction.

*visitor privileges* means—

- (a) visitor driver privileges, or
- (b) visitor vehicle privileges.

*visitor vehicle privileges* means an exemption under road transport legislation that permits a motor vehicle, registered outside this jurisdiction in the name of a person, to be used by the person in this jurisdiction.

**70B Suspension of visitor privileges**

- (1) Transport for NSW must suspend visitor privileges of a fine defaulter against whom it is required to take enforcement action.
- (2) Transport for NSW must suspend visitor privileges even if the Commissioner has, after requiring Transport for NSW to take enforcement action—
  - (a) granted an extension of time for the payment of the fine, or
  - (b) allowed the fine defaulter to pay the fine by instalments.
- (3) Transport for NSW must remove the suspension of visitor privileges if the Commissioner directs it to cease enforcement action in relation to the fine defaulter under this Division.
- (4) The statutory rules under the *Road Transport Act 2013* may make further provision for the suspension of visitor privileges in connection with fine enforcement orders.
- (5) This section does not limit the powers of Transport for NSW in relation to visitor privileges under another Act.

#### **70C Interim restoration of visitor privileges**

- (1) A person may apply to Transport for NSW for restoration of visitor privileges suspended under this Division if—
  - (a) for a penalty notice enforcement order—the person has lodged an application under Part 3, Division 5 to have an application to annul the order determined by the Local Court and the proceedings have not been determined, or
  - (b) for a court fine enforcement order—the person has lodged an appeal against the conviction or sentence in relation to which the fine was imposed, or the person has lodged an application under the *Crimes (Appeal and Review) Act 2001*, Part 2 to annul the conviction or sentence, and the proceedings have not been determined.
- (2) In that case, Transport for NSW must restore visitor privileges by removing the suspension of visitor privileges.
- (3) Restored visitor privileges may be suspended again under this Act following the determination of the proceedings referred to in subsection (1) or in connection with a different fine payable by the person.
- (4) Visitor privileges cannot be restored under this section if visitor privileges have ceased to apply to the person for another reason under the road transport legislation.

#### **Subdivision 4 Suspension or cancellation of New South Wales marine safety licence**

##### **70D Suspension or cancellation of marine safety licences**

- (1) Transport for NSW has the same functions in relation to a boat driving licence or vessel registration certificate as it has under Subdivision 2 in relation to a driver licence or vehicle registration.
- (2) Accordingly, Subdivision 2 extends to a boat driving licence or vessel registration certificate—
  - (a) as if a reference to a driver licence were a reference to a boat driving licence, and
  - (b) as if a reference to vehicle registration were a reference to a vessel registration certificate.
- (3) The regulations may prescribe modifications of Subdivision 2 in its application to a boat driving licence or vessel registration certificate.
- (4) In this section—

***boat driving licence*** means a marine safety licence referred to in the *Marine Safety Act 1998*, section 29(e).

***vessel registration certificate*** means a marine safety licence referred to in the *Marine Safety Act 1998*, section 29(a).

#### **[13] Section 71 When enforcement action taken under this Division**

Omit “to suspend or cancel the driver licence or vehicle registration of the fine defaulter” from section 71(1)(a).

#### **[14] Part 4, Division 6 Imprisonment**

Omit the Division.

**[15] Section 98 Application of civil and other enforcement procedures**

Omit “and Division 6 (Imprisonment)”.

**[16] Section 99 Modification of enforcement procedures**

Omit “(Driver licence or vehicle registration suspension or cancellation)”.

**[17] Section 99A Definitions**

Insert after definition of *approved person*, paragraph (a)—

(a1) a social worker with the qualifications specified by the guidelines, or

**[18] Section 99I Work and development guidelines**

Insert after section 99I(2)(f)—

(f1) the qualifications required for a social worker to be an approved person,

**[19] Section 117 Access to information held by police and government agencies**

Omit section 117(1) and (1A). Insert instead—

(1) Police officers or other members of the NSW Police Force and government agencies are authorised and required to provide the Commissioner, on request, with available information about a fine defaulter’s criminal record, address, email address, phone number, property, date of birth or driver licence number for the purpose of enabling the Commissioner to exercise a function under this Act in relation to the fine defaulter.

**[20] Section 117AA Access to information held by employers**

Omit “for the purposes of the enforcement of a garnishee order (within the meaning of section 73)”.

Insert instead “for the purpose of enabling the Commissioner to exercise a function under this Act in relation to the fine defaulter”.

**[21] Section 117AB Access to and use of information held by credit reporting bodies**

Omit “for the purposes of the Commissioner taking action against the person to enforce payment of a fine” from section 117AB(1).

Insert instead “for the purpose of enabling the Commissioner to exercise a function under this Act in relation to the fine defaulter”.

**[22] Section 117AB(2), definition of “relevant information”, paragraph (c)**

Insert after paragraph (b)—

(c) the contact details of the fine defaulter’s current or last known employer.

**[23] Section 117AC**

Insert after section 117AB—

**117AC Access to information held by authorised deposit-taking institutions**

The Commissioner may require an authorised deposit-taking institution to provide the Commissioner with the following information for the purpose of enabling the Commissioner to decide whether to make a garnishee order in relation to a fine defaulter—

- (a) whether the fine defaulter has an account with the authorised deposit-taking institution,
- (b) if so, the balance of the account.

**[24] Section 119A**

Insert after section 119—

**119A Penalty notices under this Act**

- (1) A fines officer may issue a penalty notice to a person if it appears to the officer that the person has committed an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (2) This Act applies to a penalty notice issued under this section.  
**Note—** If a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to further proceedings for the alleged offence.
- (3) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations, not exceeding the maximum amount of penalty that could be imposed for the offence by a court.
- (4) This section does not limit the operation of another provision of, or made under, this or another Act relating to proceedings that may be taken in relation to offences.
- (5) In this section—  
***fines officer*** means a person referred to in section 22(2)(b).



## **Schedule 3      Amendment of Fines Regulation 2020**

### **Clause 7A**

Insert after clause 7—

#### **7A    Penalty notice offence—the Act, s 119A**

An offence under the Act, section 38(3B) is prescribed as an offence for which a penalty notice may be issued and the amount payable under the penalty notice is—

- (a) in relation to an individual—\$704, or
- (b) in relation to a corporation—
  - (i) for a first offence within the last 5 years—\$1,487, or
  - (ii) for a second or subsequent offence within the last 5 years—\$3,988.

## **Schedule 4      Amendment of First Home Owner Grant (New Homes) Act 2000 No 21**

**[1] Section 13 Eligible transactions**

Omit “contract to purchase a home” from section 13(3)(a).

Insert instead “contract for the purchase of a home”.

**[2] Section 13(3)(b)**

Omit “comprehensive building contract”.

Insert instead “comprehensive home building contract”.

**[3] Section 13(5)(b)**

Omit “contract to have a home built”.

Insert instead “comprehensive home building contract”.

**[4] Section 13AA Types of first home owner grant that are available**

Omit section 13AA(2)(a) and (b). Insert instead—

- (a) a comprehensive home building contract,
- (b) the building of a home by an owner builder.

**[5] Section 13A Eligibility cap**

Omit section 13A(3)(a) and (b). Insert instead—

- (a) for a contract for the purchase of a home—the commencement date, or
- (b) for a comprehensive home building contract—the date the transaction is completed, or
- (c) for the building of a home by an owner builder—the date the transaction is completed.

**[6] Section 18 Amount of grant**

Omit “contract to purchase a home” wherever occurring in section 18(2) and (3)(a).

Insert instead “contract for the purchase of a home”.

**[7] Section 20 Payment in advance, subject to statutory conditions**

Omit section 20(2B).

## Schedule 5 Amendment of Land Tax Act 1956 No 27

**[1] Section 5B Surcharge land tax—residence requirement applying to principal place of residence exemption**

Insert after section 5B(2)—

- (2A) A person does not use and occupy land as the person’s principal place of residence during a period of the person’s physical absence from Australia.
- (2B) The Chief Commissioner may, in exceptional circumstances, waive the requirement in subsection (2A) in relation to a person’s brief physical absence from Australia.

**[2] Section 5C, heading**

Omit “**new home**”. Insert instead “**certain**”.

**[3] Section 5C(1)(c)**

Insert at the end of section 5C(1)(b)—

, or

- (c) the land has been used by the corporation or a related body corporate, before or after the taxing date, wholly or predominantly for commercial or industrial purposes.

**[4] Section 5C(6)**

Omit the subsection. Insert instead—

- (6) Surcharge land tax may be refunded under this section only if an application for the refund is made—
  - (a) within 12 months after the entitling event, and
  - (b) no later than 10 years after completion of the transfer of the residential land to the Australian corporation.
- (6AA) Surcharge land tax may not be refunded under this section if—
  - (a) completion of the transfer of the residential land to the Australian corporation occurred before 21 June 2016, and
  - (b) an application for the refund was not made on or before 21 June 2021.

**[5] Section 5C(6A)**

Insert after section 5C(6AA), as inserted by item [4]—

- (6A) For the purposes of the *Taxation Administration Act 1996*, section 9(3)(c), a reassessment under this section is authorised to be made more than 5 years after the initial assessment.

**[6] Section 5C(7)**

Insert in alphabetical order—

**entitling event** means—

- (a) for a refund under subsection (1)(a)—the completion of the sale of the new home, or
- (b) for a refund under subsection (1)(b)—the issue of the subdivision certificate, or
- (c) for a refund under subsection (1)(c)—the start of the use of the land wholly or predominantly for commercial or industrial purposes.

**[7] Section 5D Surcharge land tax—discretionary trusts**

Omit section 5D(7).

## Schedule 6 Amendment of Liquor Act 2007 No 90

### [1] Section 163 Reporting on licensing and planning alignment

Omit section 163(4). Insert instead—

- (4) The Minister must, by 1 November each year, give a report to the Presiding Officer of each House of Parliament about the Minister's progress in addressing each of the priorities set out in subsection (1) during the previous financial year.
- (4A) This section is repealed at the end of 31 December 2025.

### [2] Section 163A

Insert after section 163—

#### **163A Reporting on implementation of Liquor Amendment (Night-time Economy) Act 2020**

- (1) The Minister must, for financial years 2021–2022 to 2023–2024, give a report to the Presiding Officer of each House of Parliament about the effectiveness of the reduction of fees and the extension of trading hours for dedicated live music and performance venues consequent on the enactment of the *Liquor Amendment (Night-time Economy) Act 2020* and its related legislation.
- (2) The report must be given to the Presiding Officers by 1 November following the end of each financial year concerned.
- (3) The report must include information about the following matters or things—
  - (a) live music and live performance events conducted under Part 12,
  - (b) extended hours for dedicated live music and performance venues under section 12A,
  - (c) any licensing incentives developed or implemented to encourage licensed premises to program live entertainment, being licensing incentives of the kind or similar to those referred to in section 163(1)(b),
  - (d) special entertainment precincts,
  - (e) small live music and performance venues,
  - (f) exempt development for low impact entertainment,
  - (g) the use of loading zones by musicians,
  - (h) the operation of the *Environmental Planning and Assessment Act 1979*, Schedule 8, Part 1 (Playing and performing music),
  - (i) the temporary use of outdoor spaces under section 166,
  - (j) interim small bar authorisations under the *Liquor Regulation 2018*, Part 3, Division 4, Subdivision 1.
- (4) The report must, where possible, include information about the numbers and locations, including the local government areas, of the matters and things referred to in subsection (3) and details of the planning and licensing processes related to those matters and things.
- (5) A copy of a report given to the Presiding Officer of a House of Parliament under this section must be laid before the House within 5 sitting days of the House after it is received by the Presiding Officer.

**[3] Section 165 Definitions**

Omit “on the day that is 12 months after the commencement” from section 165, definition of *prescribed period*, paragraph (b).

Insert instead “at the beginning of 11 December 2023”.

**[4] Section 167 Repeal of Part**

Omit “2022”. Insert instead “2023”.

**[5] Schedule 1 Savings and transitional provisions**

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

**Part Provision consequent on enactment of State Revenue and Fines Legislation Amendment (Miscellaneous) Act 2022**

**Powers of local councils to encourage use of outdoor space**

- (1) Anything done by a local council during the relevant period, that would have been validly done if the *State Revenue and Fines Legislation Amendment (Miscellaneous) Act 2022*, Schedule 6[3] and [4] had commenced before it was done, is taken to have been validly done under section 166.
- (2) In this clause—  
*relevant period* means the period—
  - (a) starting at the beginning of 11 December 2021, and
  - (b) ending on the commencement of this clause.

## **Schedule 7      Amendment of State Debt Recovery Act 2018 No 11**

**[1] Section 4 Public authority—meaning**

Omit section 4(5).

**[2] Section 4A**

Insert after section 4—

**4A Payable—meaning**

- (1) In this Act, a reference to a fee, charge or other amount payable to a public authority includes a reference to a fee, charge or other amount that—
  - (a) is charged or administered by the public authority, and
  - (b) is payable to the Consolidated Fund on recovery or payment.
- (2) To avoid doubt, a fee, charge or other amount may be payable for the purposes of this Act even if the fee, charge or other amount is not a judgment debt.

**[3] Section 7 Referable debt—meaning**

Omit “payable” from section 7(1)(a).

**[4] Section 20 Debt recovery agreements**

Insert after section 20(2)(b)—

- (b1) without limiting paragraph (b), the issue of invoices by the Chief Commissioner, on behalf of the public authority, for fees, charges or other amounts payable to the public authority,

**[5] Section 105 Access to information held by police, NSW government agencies and State owned corporations**

Omit “take debt recovery action against the debtor” from section 105(1).

Insert instead “exercise a function under this Act in relation to the debtor”.

**[6] Section 106 Access to information held by employers**

Omit “for the purposes of taking debt recovery action under this Act” from section 106(1).

Insert instead “for the purpose of enabling the Chief Commissioner to exercise a function under this Act in relation to the debtor”.

**[7] Section 107 Access to and use of information held by credit reporting bodies**

Omit “for the purposes of the Chief Commissioner taking debt recovery action against the debtor” from section 107(1).

Insert instead “for the purpose of enabling the Chief Commissioner to exercise a function under this Act in relation to the debtor”.

**[8] Section 107(2), definition of “relevant information”, paragraph (c)**

Insert after paragraph (b)—

- (c) the contact details of the debtor’s current or last known employer.

**[9] Section 115 Service of notices**

Omit section 115(1)(c). Insert instead—

- (c) in an approved electronic manner, or

**[10] Section 115(3)–(4A)**

Omit section 115(3) and (4). Insert instead—

- (3) For the purposes of this section, an *approved electronic manner* of serving a notice on a person means—
  - (a) sending the notice to a telephone number or email address provided by the person for the purposes of the service of the notice, or
  - (b) providing the person access to the notice via an online notification system if the person consents to the use of the system, or
  - (c) another electronic manner prescribed by the regulations.
- (4) A person may, orally or in writing, provide an email address or telephone number, or consent to the use of an online notification system, for the purpose of being served—
  - (a) a particular notice, or
  - (b) a particular kind of notice, or
  - (c) notices for a particular period, or
  - (d) all notices.
- (4A) This section does not authorise a notice to be served on a person orally.

**[11] Section 115(5)(b)**

Omit the paragraph. Insert instead—

- (b) notice served in an approved electronic manner is taken to be served on a person the next working day after the notice is sent, or after the person is provided access to the notice via an online notification system, unless the person establishes that it was not served within that period.

**[12] Section 115(6)**

Insert in alphabetical order—

*online notification system* means an online system approved by the Chief Commissioner for the purpose of enabling a person to securely access a document by means of a website, mobile telephone or mobile device or by other electronic means.



## Schedule 8 Amendment of Taxation Administration Act 1996 No 97

### [1] Section 7 Purpose of Act and relationship with other taxation laws

Insert after section 7(3)(h)—

- (h1) tax avoidance schemes, and

### [2] Section 27 Amount of penalty tax

Omit section 27(1). Insert instead—

- (1) The amount of penalty payable for a tax default is, subject to this Division—
- (a) 25% of the amount of tax unpaid, or
- (b) if the taxpayer is a significant global entity within the meaning of the *Income Tax Assessment Act 1997* of the Commonwealth—50% of the amount of tax unpaid.

### [3] Section 30 Increase in penalty tax for concealment

Insert after the matter relating to “Failure to take reasonable care but no intentional disregard of the law” in the Table—

Failure to take reasonable care, but no intentional disregard of the law, by significant global entity	50	10	40	60
--	----	----	----	----

### [4] Section 33A

Insert after section 33—

#### 33A Penalty tax relief

- (1) The Chief Commissioner may, in a way the Chief Commissioner thinks fit, publish guidelines on the circumstances in which, or the grounds on which, the Chief Commissioner may determine that no penalty tax is payable in relation to a tax default (*penalty tax relief guidelines*).
- (2) If the Chief Commissioner publishes penalty tax relief guidelines, the Chief Commissioner may determine that no penalty tax is payable in relation to a tax default after considering the guidelines.
- (3) This section does not affect section 27(3).

### [5] Sections 83B and 83C

Insert before section 84—

#### 83B Permitted disclosures—investigation and law enforcement

- (1) The Chief Commissioner may disclose information obtained under or in relation to the administration of a taxation law to an investigative or law enforcement agency to assist the agency to exercise its investigative, complaint handling or law enforcement functions.
- (2) In this section—  
*investigative or law enforcement agency* means a government agency, or a government official, of a State, a Territory or the Commonwealth that has investigative, complaint handling or law enforcement functions.  
*investigative, complaint handling or law enforcement functions* include functions that may result in the agency taking or instituting disciplinary,

criminal or other formal action or proceedings against a person or body under investigation.

**83C Permitted disclosures—tax clearance checks**

- (1) The Chief Commissioner may disclose information about a taxpayer, obtained under or in relation to the administration of a taxation law, to a NSW public agency in connection with the procurement by the NSW public agency of goods or services from the taxpayer.
- (2) In particular, the Chief Commissioner may disclose the following information about a taxpayer, as current at the time of disclosure, to assist the NSW public agency in assessing whether the taxpayer is an appropriate person from whom the NSW public agency should procure goods or services—
  - (a) information about a return that is required to be lodged by the taxpayer with the Chief Commissioner but has not been lodged,
  - (b) information about the taxpayer’s liability to pay tax under a taxation law,
  - (c) without limiting paragraph (a) or (b), information about a return, or tax liability, that is the subject of a special arrangement under section 37,
  - (d) the following information for the previous 5 years—
    - (i) the amount of penalty tax imposed on the taxpayer,
    - (ii) the amount of tax payable by the taxpayer and written off by the Chief Commissioner.
- (3) For the purposes of this section—
  - (a) information about, or in relation to, a taxpayer includes information about, or in relation to, an associated person of the taxpayer, and
  - (b) a person is an *associated person* of a taxpayer if the person is an associated person of the taxpayer for the purposes of the *Duties Act 1997*.

**Note—** See the *Duties Act 1997*, Dictionary, clause 2.
- (4) In this section—

*NSW public agency* means the following—

  - (a) a government sector agency within the meaning of the *Government Sector Employment Act 2013*,
  - (b) a NSW Government agency,
  - (c) another public authority that is constituted by or under an Act or that exercises public functions, other than a State owned corporation,
  - (d) a State owned corporation prescribed by the regulations.

**[6] Part 10A**

Insert after Part 10—

**Part 10A Tax avoidance schemes**

**Division 1 Preliminary**

**106E Object of Part**

The object of this Part is to deter schemes to avoid tax liability.

**106F What is a tax avoidance scheme?**

- (1) For the purposes of this Part, a *tax avoidance scheme* is a scheme that a person, whether alone or with others, enters into, makes or carries out for the sole or dominant purpose of enabling a tax liability to be avoided.
- (2) It does not matter if the scheme is entered into, made or carried out wholly or partly outside New South Wales.
- (3) In determining the sole or dominant purpose for which a scheme is entered into, made or carried out, any purpose related to avoiding a liability for foreign tax must be disregarded.
- (4) In this section—  
*foreign tax* means a duty, tax or other impost imposed under a law of another State, a Territory, the Commonwealth or a jurisdiction outside Australia.

**106G Matters relevant to whether scheme is tax avoidance scheme**

The following matters must be taken into account in determining whether a scheme is a tax avoidance scheme—

- (a) the way in which the scheme was entered into, made or carried out,
- (b) the form and substance of the scheme, including—
  - (i) the legal rights and obligations involved in the scheme, and
  - (ii) the economic and commercial substance of the scheme,
- (c) when the scheme was entered into or made and the length of the period during which the scheme was carried out,
- (d) the purpose of a taxation law, or of a provision of a taxation law, whether or not the purpose is expressly stated,
- (e) the effect that a taxation law would have in relation to the scheme apart from this Part,
- (f) any change in a person's financial position, or other circumstances, that has resulted, will result, or may reasonably be expected to result, from the scheme,
- (g) the nature of any connection, whether of a business, family or other nature, between the person whose tax liability is avoided as a result of the scheme and another person whose financial position or other circumstances have changed, will change, or may reasonably be expected to change, as a result of the scheme,
- (h) the circumstances surrounding the scheme.

**106H Meaning of "scheme"**

- (1) In this Part, a *scheme* means—
  - (a) a trust, contract, agreement, arrangement, understanding, promise or undertaking, including all steps and transactions by which it is carried into effect—
    - (i) whether entered into or made orally or in writing, and
    - (ii) whether express or implied, and
    - (iii) whether or not it is, or is intended to be, enforceable by legal proceedings, or
  - (b) a scheme, plan or proposal, whether implemented or not, or
  - (c) an action, a course of action or a course of conduct.

- (2) A scheme may be a unilateral scheme.
- (3) This Part applies in relation to a part of a scheme in the same way as it applies to a scheme and a reference in this Part to a scheme includes a reference to a part of a scheme.

#### **106I Meaning of “avoid”**

In this Part—

- (a) a reference to avoiding tax, or payment of tax, includes a reference to postponing payment of tax, and
- (b) a reference to avoiding tax liability includes a reference to reducing or postponing tax liability.

### **Division 2 Payment of avoided tax**

#### **106J Payment of tax avoided as a result of tax avoidance scheme**

- (1) A person is liable to pay the amount of tax avoided by the person as a result of a tax avoidance scheme.
- (2) For the purposes of this Part, the *amount of tax avoided* by a person as a result of a tax avoidance scheme is the amount of tax that, if the tax avoidance scheme had not been entered into, made or carried out—
  - (a) would have been payable by the person, or
  - (b) it is reasonable to expect would have been payable by the person, assuming that a reasonable alternative to entering into or making the scheme had been adopted, being an alternative that would have achieved the same economic or commercial result as the scheme, other than the result of avoiding tax.
- (3) The Chief Commissioner may make an assessment, or reassessment, of tax liability on the basis of the person’s liability under this Part to pay an amount of tax avoided by the person.

#### **106K When does a liability to pay avoided tax arise?**

- (1) A liability to pay an amount of tax avoided by a person as a result of a tax avoidance scheme is taken to arise on the date the amount of tax avoided would have been payable if the tax avoidance scheme had not been entered into or made.
- (2) Accordingly, a tax default is taken to have occurred on the date the amount of tax avoided would have been payable if the tax avoidance scheme had not been entered into or made.

**Note—** This means that interest and penalty tax may be charged in addition to the amount of tax avoided.
- (3) This section applies only if the Chief Commissioner issues a notice of assessment, or reassessment, of tax liability on the basis that a scheme is a tax avoidance scheme.

#### **106L Reasons for decision to be given**

A notice of assessment, or reassessment, of tax liability that is issued by the Chief Commissioner on the basis that a scheme is a tax avoidance scheme must be accompanied by a statement of the Chief Commissioner’s reasons for making the assessment or reassessment.

**106M Innocent participants**

- (1) A person is liable under this Part to pay an amount of tax avoided by the person as a result of a tax avoidance scheme whether or not the person entered into, made or carried out the tax avoidance scheme.
- (2) However, a person is not liable to pay an amount of tax avoided by the person as a result of a tax avoidance scheme if the Chief Commissioner is satisfied that the person did not know, and could not reasonably be expected to have known, that the scheme was a tax avoidance scheme.

**Division 3 Promotion of tax avoidance schemes**

**106N Promotion of tax avoidance schemes prohibited**

- (1) A person must not engage in conduct that results in a person being a promoter of a tax avoidance scheme.
- (2) A person is a *promoter* of a tax avoidance scheme if the person markets the scheme or otherwise encourages the growth of the scheme or interest in it.
- (3) However, a person is not a *promoter* of a tax avoidance scheme merely because the person—
  - (a) provides advice about the scheme, or
  - (b) distributes information or material about the scheme prepared by another person.

**106O Civil penalty for promotion of tax avoidance scheme**

- (1) The Supreme Court may, on application by the Chief Commissioner, make an order requiring a person who contravenes section 106N to pay the State a civil penalty not exceeding—
  - (a) 10,090 penalty units for an individual, or
  - (b) 50,450 penalty units for a corporation.
- (2) In deciding what penalty is appropriate for a contravention of section 106N by a person (referred to in subsection (4) as a *promoter*), the Supreme Court may have regard to all matters it considers relevant, including the following—
  - (a) the amount of the consideration received or receivable, directly or indirectly, by the person or associated persons, or both, in relation to the scheme,
  - (b) the deterrent effect the penalty may have,
  - (c) the amount of loss or damage incurred by a person who enters into, makes or carries out the tax avoidance scheme,
  - (d) the nature and extent of the contravention,
  - (e) the circumstances in which the contravention took place, including the deliberateness of the person's conduct and whether there was an honest and reasonable mistake of law,
  - (f) the period over which the conduct extended,
  - (g) whether the person took steps to avoid the contravention,
  - (h) whether the person has previously been found by the Court to have engaged in the same or similar conduct,
  - (i) the degree of the person's cooperation with the Chief Commissioner.

- (3) The debt arising from an order to pay a civil penalty is taken to be a judgment debt.
  - (4) For the purposes of this section, a person is an *associated person* of a promoter of a tax avoidance scheme if the person is an associated person of the promoter for the purposes of the *Duties Act 1997*.
- Note—** See the *Duties Act 1997*, Dictionary, clause 2.

#### **106P When civil penalty not available**

- (1) The Supreme Court must not order a person (the *relevant person*) to pay a civil penalty if the person satisfies the Court—
  - (a) that the conduct in relation to which the proceedings were instituted was due to a reasonable mistake of fact, or
  - (b) that—
    - (i) the conduct in relation to which the proceedings were instituted was due to the act or default of another person, to an accident or to some other cause beyond the relevant person’s control, and
    - (ii) the relevant person took reasonable precautions and exercised due diligence to avoid the conduct.
- (2) The other person referred to in paragraph (1)(b) does not include someone who was an employee or agent of the relevant person when the alleged conduct occurred.
- (3) The Chief Commissioner must not make an application under section 106O for conduct referred to in section 106N in relation to a person’s involvement in a tax avoidance scheme if—
  - (a) the scheme is based on treating a taxation law as applying in a particular way, and
  - (b) that way agrees with—
    - (i) advice given to the person or the person’s agent by or on behalf of the Chief Commissioner, or
    - (ii) a statement in a publication approved in writing by the Chief Commissioner.
- (4) The Chief Commissioner must not make an application under section 106O in relation to a person’s involvement in a tax avoidance scheme more than 6 years after the person last engaged in conduct that resulted in the person or another person being a promoter of the scheme.

#### **106Q Injunctions**

The Supreme Court may, on application by the Chief Commissioner in relation to a person who has engaged, is engaging or is proposing to engage in conduct referred to in section 106N, grant an injunction—

- (a) restraining the person from engaging in the conduct, and
- (b) if, in the Court’s opinion, it is desirable to do so—requiring the person to do something.

#### **106R Voluntary undertakings**

- (1) The Chief Commissioner may accept a written undertaking given by a person for the purposes of this section in connection with furthering the object of this Part.

- (2) The person may withdraw or vary the undertaking at any time, but only with the consent of the Chief Commissioner.
- (3) If the Chief Commissioner considers that the person who gave the undertaking has breached any of its terms, the Chief Commissioner may apply to the Supreme Court for an order under subsection (4).
- (4) If the Court is satisfied that the person has breached a term of the undertaking, the Court may make one or both of the following orders—
  - (a) an order directing the person to comply with the term of the undertaking,
  - (b) another order that the Court considers appropriate.
- (5) The Chief Commissioner may publish a written undertaking given by a person for the purposes of this section in a way the Chief Commissioner thinks fit.

**[7] Section 116 Service of documents by Chief Commissioner**

Omit “or given to” wherever occurring in section 116(1).

**[8] Section 116(1)(d1)**

Omit the paragraph. Insert instead—

- (d1) in an approved electronic manner, or

**[9] Section 116(4)–(7)**

Insert after section 116(3)—

- (4) For the purposes of this section, an *approved electronic manner* of serving a document on a person means—
  - (a) sending the document to a telephone number or email address provided by the person for the purposes of the service of the document, or
  - (b) providing the person access to the document via an online notification system if the person consents to the use of the system, or
  - (c) another electronic manner prescribed by the regulations.
- (5) A person may, orally or in writing, provide an email address or telephone number, or consent to the use of an online notification system, for the purpose of being served—
  - (a) a particular document, or
  - (b) a particular kind of document, or
  - (c) documents for a particular period, or
  - (d) all documents.
- (6) This section does not authorise a document to be served on a person orally.
- (7) In this section—

*online notification system* means an online system approved by the Chief Commissioner for the purpose of enabling a person to securely access a document by means of a website, mobile telephone or mobile device or by other electronic means.

*serve* includes give or send.

**[10] Section 128**

Omit the section. Insert instead—

**128 Review of amendments by State Revenue and Fines Legislation Amendment (Miscellaneous) Act 2022**

- (1) The Minister must review the amendments made to this Act by the *State Revenue and Fines Legislation Amendment (Miscellaneous) Act 2022* to determine—
  - (a) whether the policy objectives of the amendments remain valid, and
  - (b) whether the terms of the amendments remain appropriate for securing the policy objectives.
- (2) The review must be undertaken as soon as possible after the period of 2 years from the date of assent to the *State Revenue and Fines Legislation Amendment (Miscellaneous) Act 2022*.
- (3) The Minister must table a report on the outcome of the review in each House of Parliament within 12 months after the end of the period of 2 years.

**[11] 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 and Fines Legislation Amendment (Miscellaneous) Act 2022**

**Part 10A—tax avoidance schemes**

- (1) Part 10A, as inserted by the *State Revenue and Fines Legislation Amendment (Miscellaneous) Act 2022*, applies to a scheme that is—
  - (a) entered into or made on or after the commencement of the Part, or
  - (b) carried out on or after the commencement of the Part, regardless of when it was first entered into or made.
- (2) However, Part 10A does not apply to tax avoided by a person as a result of a tax avoidance scheme if, apart from the scheme, the tax liability would have arisen before the commencement of the Part.
- (3) A provision of Part 10A that corresponds, or substantially corresponds, to a provision of the duty avoidance provisions extends to a scheme to which the duty avoidance provisions applied immediately before their repeal.
- (4) In this clause—

*duty avoidance provisions* means the *Duties Act 1997*, Chapter 11A.  
*scheme* includes part of a scheme.  
*tax* does not include duty under the *Duties Act 1997*.  
*tax liability* does not include liability for duty under the *Duties Act 1997*.



## **Schedule 9 Amendment of other legislation**

### **9.1 Crimes (Administration of Sentences) Act 1999 No 93**

**[1] Section 3 Interpretation**

Omit “or section 89 of the *Fines Act 1996*” from section 3(1), definition of *intensive correction order*.

**[2] Section 4 Application of Part**

Omit section 4(1)(b).

**[3] Section 4(3)**

Omit “(b),”.

### **9.2 Crimes (Administration of Sentences) Regulation 2014**

**Clause 33 Separation of different classes of inmates**

Omit clause 33(3)(e). Insert instead—

- (e) inmates who are imprisoned as fine defaulters under the laws of the Commonwealth or the Australian Capital Territory.

### **9.3 Crimes (Sentencing Procedure) Act 1999 No 92**

**Section 54 Exclusions from Division**

Omit “the *Fines Act 1996* or” from section 54(b).

[Second reading speech made in—

Legislative Assembly on 23 March 2022

Legislative Council on 10 May 2022]