

[Act 1998 No 63]



New South Wales

## Duties Amendment (Managed Investments) Bill 1998

### Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

#### Overview of Bill

The object of this Bill is to amend the *Duties Act 1997* to provide that ad valorem duty is not chargeable in respect of the following:

- (a) a transfer of dutiable property to a responsible entity (within the meaning of the *Corporations Law*) if the transfer was made for the purpose of complying with the new Commonwealth regulatory regime for certain investment schemes (introduced by the proposed *Managed Investments Act 1998* of the Commonwealth),
- (b) certain instruments that amend or vary an instrument that establishes a scheme subject to that new regulatory regime, namely, a managed investment scheme (within the meaning of the *Corporations Law*).

Concessional duty of \$10 is to be chargeable in these circumstances.

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## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of commencement of the proposed *Managed Investments Act 1998* of the Commonwealth. The Commonwealth Act is to commence immediately after all the items in Schedules 1, 2, 3 and 4 of the *Company Law Review Act 1997* of the Commonwealth have commenced.

**Clause 3** is a formal provision giving effect to the amendments to the *Duties Act 1997* set out in Schedule 1.

### **Transfers of dutiable property to a responsible entity**

Section 54 of the *Duties Act 1997* charges a concessional rate of duty in respect of certain transfers of dutiable property to trustees. **Schedule 1 [2]** inserts section 54 (4) to provide that the section applies in respect of certain transfers of dutiable property to a responsible entity (within the meaning of the *Corporations Law*), if the Chief Commissioner is satisfied that the transfer is necessary to enable a scheme subject to the new Commonwealth regulatory regime to comply with that regime. **Schedule 1 [1]** defines *responsible entity*.

### **Amendment or variation of instrument establishing a managed investment scheme**

Section 59 of the *Duties Act 1997* charges a concessional rate of duty in respect of certain instruments that amend or vary an instrument that establishes a public unit trust scheme. All public unit trust schemes are schemes that are subject to the new Commonwealth regulatory regime, namely, managed investment schemes within the meaning of the *Corporations Law*. **Schedule 1 [3]** extends section 59 to apply to all managed investment schemes that comply with the requirements of the new regime. A minor amendment has also been made to omit obsolete paragraphs from the section.