Passed by both Houses

New South Wales

State Revenue and Other Legislation Amendment (Budget Measures) Bill 2008

Contents

I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2008

New South Wales

State Revenue and Other Legislation Amendment (Budget Measures) Bill 2008

Act No , 2008

An Act to make miscellaneous amendments to certain State revenue and other legislation to implement Budget measures announced by the Treasurer on 11 November 2008, and to give effect to other related measures.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2008*.

2 Commencement

(1) This Act commences on the date of assent, except as provided by subsection (2).

(2) The following provisions commence, or are taken to have commenced, on the dates indicated:

(a) Schedules 1.1 and 3—31 December 2008,

(b) Schedules 1.2, 4, 5, 9 and 13—1 January 2009,

(c) Schedules 6 and 15.3 [6]—1 July 2009,

(d) Schedule 8—1 March 2009,

(e) Schedule 15.3 [5]—1 November 2009.

3 Amendments

The Acts and instruments specified in Schedules 1–15 are amended as set out in those Schedules.

4 Explanatory notes

The matter appearing under the heading "Explanatory note" in any of the Schedules does not form part of this Act.

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(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.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)

1.1 Amendments relating to deferred abolition of duties

[1] Section 11 What is "dutiable property"?

Omit "1 January 2009" from the note to the section.

Insert instead "1 July 2012".

[2] Section 11, note

Omit "1 January 2011". Insert instead "1 July 2012".

[3] Section 26 Certain transactions concerning goods and other property

Omit "1 January 2011" from section 26 (3) and the note to the section, wherever occurring.

Insert instead "1 July 2012".

[4] Section 26A Transactions involving goods and other property that occur on or after 1 July 2012

Omit "1 January 2011" from section 26A (2). Insert instead "1 July 2012".

[5] Section 28 Apportionment—business assets in this and other jurisdictions

Omit "1 January 2011" from section 28 (6) and the note to the section, wherever occurring.

Insert instead "1 July 2012".

[6] Section 34 Abolition of duty on all transfers of marketable securities and commercial fishery shares—effective 1 July 2012

Omit "1 January 2009" from section 34 (1) and (2), wherever occurring.

Insert instead "1 July 2012".

[7] Section 35 Abolition of duty on transfers of business assets—effective 1 July 2012

Omit "1 January 2011" wherever occurring. Insert instead "1 July 2012".

[8] Section 36 Abolition of duty on transfers of licences, permissions and entitlements—effective 1 July 2012

Omit "1 January 2011" wherever occurring. Insert instead "1 July 2012".

[9] Section 37 Anti-avoidance measures

Omit "1 January 2011" wherever occurring. Insert instead "1 July 2012".

[10] Section 65 Exemptions from duty

Omit "1 January 2011" from the notes to section 65 (6) and (7), wherever occurring.

Insert instead "1 July 2012".

[11] Section 66 Exemptions—marketable securities

Omit "1 January 2009" from the note to section 66 (11).

Insert instead "1 July 2012".

[12] Section 124 Abolition of duty charged by this Part—effective 1 July 2012

Omit "1 January 2009" wherever occurring. Insert instead "1 July 2012".

[13] Section 137A Abolition of duty charged by this Part—effective 1 July 2012

Omit "1 January 2009" wherever occurring. Insert instead "1 July 2012".

[14] Section 203A Abolition of mortgage duty—effective 1 July 2012

Omit "1 July 2009" wherever occurring. Insert instead "1 July 2012".

[15] Section 218BA Collateral mortgages—anti-avoidance measure

Omit "1 July 2009" from the note to the section. Insert instead "1 July 2012".

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

Omit "1 January 2009" from the note to section 274 (2).

Insert instead "1 July 2012".

Explanatory note

Item [6] of the proposed amendments in Schedule 1.1 defers (from 1 January 2009 to 1 July 2012) the abolition of duty on the transfer of unquoted marketable securities and commercial fishery shares. Similarly, items [12] and [13] defer, until 1 July 2012, the abolition of duty on an entitlement to voting shares that arises from a capital reduction or rights alteration, and duty on an allotment of shares by direction.

Items [7]–[9] defer (from 1 January 2011 to 1 July 2012) the abolition of duty on the transfer of business assets and statutory licences and permissions.

Item [14] defers (from 1 July 2009 to 1 July 2012) the abolition of mortgage duty. Mortgages associated with owner occupied housing or investment housing remain exempt from mortgage duty.

The remaining items in Schedule 1.1 are consequential changes.

1.2 Amendments relating to flat-rate duties

[1] Section 18 No double duty

Omit "$10" from section 18 (1) and (6A), wherever occurring.

Insert instead "$50".

[2] Section 18 (2)–(6)

Omit "$2" wherever occurring. Insert instead "$10".

[3] Section 30 Partitions

Omit "$10" from section 30 (4). Insert instead "$50".

[4] Section 33 Shares, units, derivatives and interests (marketable securities)

Omit "$10" from section 33 (3). Insert instead "$50".

[5] Sections 53, 54–56, 57, 59 and 59A

Omit "$10" wherever occurring. Insert instead "$50".

[6] Section 58 Establishment of a trust relating to unidentified property and non-dutiable property

Omit "$200" from section 58 (1) and (2), wherever occurring.

Insert instead "$500".

[7] Section 61 Transfers of property in connection with persons changing superannuation funds

Omit "$200" from section 61 (2). Insert instead "$500".

[8] Section 62 Transfers between trustees and custodians of superannuation funds or trusts

Omit "$200" from section 62 (3) (a). Insert instead "$500".

[9] Section 62 (3) (b)

Omit "$2". Insert instead "$10".

[10] Sections 63–64AA

Omit "$10" wherever occurring. Insert instead "$50".

[11] Section 163ZB Exempt transactions

Omit "$10" from section 163ZB (1) (i). Insert instead "$50".

[12] Section 218B Collateral mortgage

Omit "$10" from section 218B (3). Insert instead "$50".

[13] Section 227 Unregistered mortgages protected by caveats (anti-avoidance provision)

Omit "$10" from section 227 (2) (b). Insert instead "$50".

[14] Sections 271 and 273

Omit "$2" wherever occurring. Insert instead "$10".

[15] Section 272 Replicas

Omit "$10" from section 272 (1) (a). Insert instead "$50".

[16] Section 273 (2)

Insert "Chapter 7 (Mortgages) or" after "to".

Explanatory note

The proposed amendments in items [1]–[15] of Schedule 1.2 increase the rate of certain nominal or flat-rate duties, effective 1 January 2009. The changes concerned affect a number of instruments or transactions in respect of which ad valorem duty is not payable, for example, duplicates of instruments on which ad valorem duty has already been paid, certain transfers that attract a concessional rate of duty (transfers relating to trusts, superannuation and deceased estates), and collateral mortgages. The changes are as follows:

(a) if the duty payable is currently $2, it is increased to $10,

(b) if the duty payable is currently $10, it is increased to $50,

(c) if the duty payable is currently $200, it is increased to $500.

Item [16] is a consequential amendment.

1.3 Other amendments

[1] Section 65 Exemptions from duty

Insert after section 65 (17):

(18) **Termination of strata scheme**

No duty is chargeable under this Chapter on the vesting of an estate or interest in land by or as a consequence of the termination of a strata scheme to the extent that the persons who were proprietors of the lots the subject of the strata scheme concerned acquire, on the termination, an interest in the land that was the subject of the strata scheme in proportion to their unit entitlements immediately before the termination.

(19) In subsection (18), a reference to the termination of a strata scheme is a reference to an order under section 51 or 51A of the *Strata Schemes (Freehold Development) Act 1973* terminating a strata scheme under that Act.

(20) **Termination of scheme under Community Land Development Act 1989**

No duty is chargeable under this Chapter on the vesting of an estate or interest in land by or as a consequence of the termination of a scheme to the extent that the persons who were the proprietors in the scheme concerned acquire, on the termination, an interest in the land that was the subject of the scheme in proportion to their unit entitlements immediately before the termination.

(21) In subsection (20), a reference to the termination of a scheme is a reference to an order under section 70 or 72 of the *Community Land Development Act 1989* terminating a scheme under that Act.

[2] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

State Revenue and Other Legislation Amendment (Budget Measures) Act 2008

[3] Schedule 1, Part 30

Insert after Part 29:

Part 30 Provisions consequent on enactment of State Revenue and Other Legislation Amendment (Budget Measures) Act 2008

70 Changes to nominal duties

An amendment made to this Act by Schedule 1.2 to the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2008* applies in respect of any liability for duty that arises on or after 1 January 2009.

71 Exemption for termination of strata and similar schemes

The amendments made to section 65 by the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2008* extend to a vesting of an estate or interest in land as referred to in those amendments that occurred before the date of assent to that

Act if the vesting occurred on or after the day the Bill for the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2008* was introduced into the Legislative Assembly.

Explanatory note

Item [1] of the proposed amendments in Schedule 1.3 provides for a new exemption from duty for a vesting of land, or an interest in land, that occurs as a consequence of the termination of a strata scheme or scheme under the *Community Land Development Act 1989*. The exemption will apply only if the unit holders in the scheme retain, following the termination, an interest in the land the subject of the scheme in proportion to their unit entitlements.

Item [2] of the amendments enables the making of savings and transitional regulations as a consequence of any of the amendments in Schedule 1.

Item [3] of the amendments makes provision for application of some of the proposed amendments to the *Duties Act 1997* in Schedule 1.

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

(Section 3)

[1] Section 13A Special eligible transactions

Omit the section.

[2] Sections 18–18C

Omit sections 18 and 18A. Insert instead:

18 Amount of grant

(1) The amount of the first home owner grant is $7,000 plus the following amounts (if applicable):

(a) if the eligible transaction concerned qualifies for the first home owner boost for new homes, an additional $14,000,

(b) if the eligible transaction concerned qualifies for the first home owner boost for established homes, an additional $7,000,

(c) if the eligible transaction concerned qualifies for the NSW new home buyers supplement, an additional $3,000.

(2) The maximum amount of the first home owner grant is the consideration for the eligible transaction. Accordingly, if the amount calculated under subsection (1) exceeds the consideration for the eligible transaction, the amount of the first home owner grant is the consideration for the eligible transaction.

Note. The maximum amount of the grant will be $24,000 (in the case of an eligible transaction that qualifies for both the first home owner boost for new homes and the NSW new home buyers supplement). If the eligible transaction qualifies only for the first home owner boost for new homes (and not the NSW new home buyers supplement), the maximum grant will be $21,000. If the eligible transaction qualifies only for the NSW new home buyers supplement (and not the first home owner boost), the maximum grant will be $10,000. For eligible transactions relating to established homes that qualify for the first home owner boost for established homes, the maximum amount of the grant will be $14,000. For eligible transactions that do not qualify for either the first home owner boost or the NSW new home buyers supplement, the maximum amount of the grant will remain at $7,000.

18A First home owner boost for new homes

(1) For the purposes of this Act, an eligible transaction qualifies for the first home owner boost for new homes if it qualifies for the first home owner boost for new homes under this section.

(2) An eligible transaction that is a contract for the purchase of a new home (other than a contract for an "off-the-plan" purchase of a new home) qualifies for the first home owner boost for new homes if the contract is made on or after 14 October 2008 and on or before 30 June 2009.

(3) An eligible transaction that is a contract for an "off-the-plan" purchase of a new home qualifies for the first home owner boost for new homes if:

(a) the contract is made on or after 14 October 2008 and on or before 30 June 2009, and

(b) the contract states that the eligible transaction must be completed before 1 January 2011 or, in any other case, the eligible transaction is completed before 1 January 2011 or by such later date as the Chief Commissioner may allow for delay caused by circumstances beyond the control of the parties.

(4) An eligible transaction that is a comprehensive home building contract to have a home built qualifies for the first home owner boost for new homes if:

(a) the contract is made on or after 14 October 2008 and on or before 30 June 2009, and

(b) the laying of the foundations for the home begins within 26 weeks after the contract is made, or any longer period the Chief Commissioner may allow for delay caused by circumstances beyond the control of the parties, and

(c) the building work is completed within 18 months after the date the laying of the foundations for the home begins, or is completed within such longer period as the Chief Commissioner may allow for delay caused by circumstances beyond the control of the parties.

(5) An eligible transaction that is the building of a home by an owner builder qualifies for the first home owner boost for new homes if:

(a) the commencement date of the eligible transaction is on or after 14 October 2008 and on or before 30 June 2009, and

(b) the transaction is completed within 18 months of the commencement date, or is completed within such longer period as the Chief Commissioner may allow for delay caused by circumstances beyond the control of the owner builder.

(6) However, an eligible transaction that is a contract does not qualify for the first home owner boost for new homes if the Chief Commissioner is satisfied that:

(a) the contract replaces a contract made before 14 October 2008, and

(b) the replaced contract was a contract for the purchase of the same home or a comprehensive home building contract to build the same or a substantially similar home.

(7) In this section:

contract for an "off-the-plan" purchase, of a new home, means a contract for the purchase of the home on a proposed lot in an unregistered plan of subdivision of land.

new home means a home that has not been previously occupied or sold as a place of residence, and includes a substantially renovated home and a home built to replace demolished premises.

(8) For the purposes of this section, a home is a ***substantially renovated home*** if:

(a) the sale of the home is, under the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth, a taxable supply as a sale of new residential premises within the meaning of section 40-75 (1) (b) of that Act, and

(b) the home, as renovated, has not been previously occupied or sold as a place of residence.

(9) For the purposes of this section, a home is a ***home built to replace demolished premises*** if:

(a) for an eligible transaction that is a contract for the purchase of a home—the sale of the home is, under the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth, a taxable supply as a sale of new residential premises within the meaning of section 40-75 (1) (c) of that Act, and

(b) for an eligible transaction that is a comprehensive home building contract to have a home built or the building of a home by an owner builder—the home is, under the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth, new residential premises within the meaning of section 40-75 (1) (c) of that Act, and

(c) the home, as built to replace the demolished premises, has not been previously occupied or sold as a place of residence, and

(d) the owner of the home did not occupy the demolished premises as a place of residence before they were demolished.

18B First home owner boost for established homes

(1) For the purposes of this Act, an eligible transaction qualifies for the first home owner boost for established homes if:

(a) the eligible transaction is a contract for the purchase of a home, and

(b) the home is not a new home (within the meaning of section 18A), and

(c) the contract is made on or after 14 October 2008 and on or before 30 June 2009.

(2) However, an eligible transaction that is a contract for the purchase of a home does not qualify for the first home owner boost for established homes if the Chief Commissioner is satisfied that:

(a) the contract replaces a contract made before 14 October 2008, and

(b) the replaced contract was a contract for the purchase of the same home.

18C NSW new home buyers supplement

(1) For the purposes of this Act, an eligible transaction qualifies for the NSW new home buyers supplement if it qualifies for the NSW new home buyers supplement under this section.

(2) An eligible transaction that is a contract for the purchase of a new home (other than a contract for an "off-the-plan" purchase of a new home) qualifies for the NSW new home buyers supplement if the contract is made on or after 11 November 2008 and on or before 10 November 2009.

(3) An eligible transaction that is a contract for an "off-the-plan" purchase of a new home qualifies for the NSW new home buyers supplement if:

(a) the contract is made on or after 11 November 2008 and on or before 10 November 2009, and

(b) the contract states that the eligible transaction must be completed on or before 10 May 2011 or, in any other case, the eligible transaction is completed on or before 10 May 2011 or by such later date as the Chief Commissioner may

allow for delay caused by circumstances beyond the control of the parties.

(4) An eligible transaction that is a comprehensive home building contract to have a home built qualifies for the NSW new home buyers supplement if:

(a) the contract is made on or after 11 November 2008 and on or before 10 November 2009, and

(b) the laying of the foundations for the home begins within 26 weeks after the contract is made, or any longer period the Chief Commissioner may allow for delay caused by circumstances beyond the control of the parties, and

(c) the building work is completed within 18 months after the date the laying of the foundations for the home begins, or is completed within such longer period as the Chief Commissioner may allow for delay caused by circumstances beyond the control of the parties.

(5) An eligible transaction that is the building of a home by an owner builder qualifies for the NSW new home buyers supplement if:

(a) the commencement date of the eligible transaction is on or after 11 November 2008 and on or before 10 November 2009, and

(b) the transaction is completed within 18 months of the commencement date, or is completed within such longer period as the Chief Commissioner may allow for delay caused by circumstances beyond the control of the owner builder.

(6) However, an eligible transaction that is a contract does not qualify for the NSW new home buyers supplement if the Chief Commissioner is satisfied that:

(a) the contract replaces a contract made before 11 November 2008, and

(b) the replaced contract was a contract for the purchase of the same home or a comprehensive home building contract to build the same or a substantially similar home.

(7) In this section:

contract for an "off-the-plan" purchase, of a new home, means a contract for the purchase of the home on a proposed lot in an unregistered plan of subdivision of land.

new home has the same meaning as it has in section 18A.

[3] Section 21 Imposition of conditions by Chief Commissioner

Inset "or a part of the grant" after "repay the grant" in section 21 (2) (b).

[4] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

State Revenue and Other Legislation Amendment (Budget Measures) Act 2008

[5] Schedule 1, Part 7

Insert after Part 6:

Part 7 Provisions consequent on enactment of State Revenue and Other Legislation Amendment (Budget Measures) Act 2008

11 Effective date of amendments

The amendments made to this Act by the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2008* are taken to have effect from 14 October 2008.

12 Saving of effect of repealed provisions

The provisions of this Act with regard to special eligible transactions that had effect immediately before their repeal by the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2008* continue to have effect in respect of anything done or omitted to be done before that repeal, as if they had not been repealed.

Explanatory note

The proposed amendments provide for an increase in the amount of the first home owner grant in respect of certain eligible transactions. The standard amount of the first home owner grant is $7,000 (or the consideration payable in respect of the purchase or construction of a first home, if that amount is less than $7,000). Under the amendments set out in item [2], additional amounts may be paid under 2 separate schemes.

Under the first scheme (known as the first home owner boost), an additional amount of $7,000 may be paid for the purchase of an established home or $14,000 for the purchase or construction of a new home. Accordingly, for transactions that qualify for the first home owner boost, the first home owner grant will be a maximum of $14,000 for the purchase of an established home or $21,000 for the purchase or construction of a new home. To be eligible for the first home owner boost, the contract concerned must be entered into on or after 14 October 2008 and on or before 30 June 2009. In the case of a home being built by an owner builder, the building work must commence on or after 14 October 2008 and on or before 30 June 2009. There are also requirements for the completion of construction works.

Under the second scheme (known as the NSW new home buyers supplement), an additional amount of $3,000 may be paid for the purchase or construction of a new home. Accordingly, for transactions that qualify for both the first home owner boost for new homes and the NSW new home buyers supplement, the first home owner grant will be a maximum of $24,000. If the transaction qualifies only for the NSW new home buyers supplement, the maximum amount of the grant will be $10,000. To be eligible for the NSW new home buyers supplement, the contract concerned must be entered into on or after 11 November 2008 and on or before 10 November 2009. In the case of a home being built by an owner builder, the building work must commence on or after 11 November 2008 and on or before 10 November 2009. There are also requirements for the completion of construction works.

If a transaction does not qualify for either the first home owner boost or the NSW new home buyers supplement, the maximum amount of the grant will remain at $7,000.

Item [1] repeals a provision of the Act relating to special eligible transactions that is now spent.

Item [3] enables the Chief Commissioner of State Revenue to impose conditions on the payment of a first home owner grant requiring the repayment of an amount paid as a first home owner boost or NSW new home buyers supplement if eligibility requirements for the first home owner boost or NSW new home buyers supplement are not complied with.

Item [4] enables savings and transitional regulations to be made as a consequence of the amendments.

Item [5] provides for the amendments to have effect from 14 October 2008. It also provides for the saving of the operation of provisions of the Act relating to special eligible transactions which are repealed by the new provisions.

Schedule 3 Amendment of land tax legislation

(Section 3)

3.1 Land Tax Act 1956 No 27

[1] Section 2A Definitions

Insert in alphabetical order:

non-concessional company means a company classified as a non-concessional company under section 29 of the Principal Act.

premium rate threshold, in relation to a land tax year, means the premium rate threshold for that land tax year as determined in accordance with section 62TBC of the Principal Act.

[2] Section 3AK Levy of land tax after 31 December 2007 and before 31 December 2008

Omit "31 December in any year (commencing with 2007)" from section 3AK (1) and (2), wherever occurring.

Insert instead "31 December 2007".

[3] Section 3AL

Insert after section 3AK:

3AL Levy of land tax after 31 December 2008

(1) In respect of the taxable value of all the land owned by any person at midnight on 31 December in any year (commencing with 2008) there is to be charged, levied, collected and paid under the provisions of the Principal Act and in the manner prescribed under that Act, land tax for the period of 12 months commencing on 1 January in the next succeeding year and at the applicable rate.

(2) For the purposes of this section, the ***applicable rate*** is:

(a) the rate of land tax payable as specified in Part 1 of Schedule 13, except as provided for by paragraphs (b), (c) and (d), or

(b) if the land is subject to a special trust—the rate of land tax payable as specified in Part 2 of Schedule 13, or

(c) if the owner of the land is a non-concessional company and the taxable value of group land holdings of the non-concessional company does not exceed the premium rate threshold—the rate of land tax payable as specified in Part 3 of Schedule 13, or

(d) if the owner of the land is a non-concessional company and the taxable value of group land holdings of the non-concessional company exceeds the premium rate threshold—the rate of land tax payable as specified in Part 4 of Schedule 13.

(3) For the purposes of this section:

(a) a reference to ***group land holdings*** of a non-concessional company is a reference to all land owned (whether jointly or severally) by members of the group of which the non-concessional company is a member on which land tax is payable, and

(b) a reference to a ***group*** is a reference to a group within the meaning of section 29 (7) of the Principal Act.

(4) This section is subject to section 27 (2A) of the Principal Act (which relates to the assessment of land that is the subject of a special trust or that is jointly owned by a non-concessional company).

(5) If the total amount of land tax payable pursuant to this section by any person in any year would, but for this subsection, be less than $100, no land tax is payable.

[4] Schedule 13

Insert after Schedule 12:

Schedule 13 Tax rates from 2009 land tax year

(Section 3AL)

Part 1 General rate (where tax threshold applies)

Taxable value assessed under Principal Act	Rate of land tax payable
is not more than the tax threshold	nil
is more than the tax threshold but not more than the premium rate threshold	$100 plus 1.6 per cent of the amount by which the taxable value exceeds the tax threshold

Taxable value assessed under Principal Act	Rate of land tax payable
is more than the premium rate threshold	$100 plus: (a) 1.6 per cent of the amount by which premium rate threshold exceeds the tax threshold, and (b) 2 per cent of the amount by which the taxable value exceeds the premium rate threshold

Part 2 Land subject to special trust

Taxable value assessed under Principal Act	Rate of land tax payable
is not more than the premium rate threshold	1.6 per cent of the taxable value
is more than the premium rate threshold	1.6 per cent of the premium rate threshold, plus 2 per cent of the amount by which the taxable value exceeds the premium rate threshold

Part 3 Land owned by non-concessional company (group land holdings not exceeding premium rate threshold)

Taxable value assessed under Principal Act	Rate of land tax payable
is any amount	1.6 per cent of the taxable value

Part 4 Land owned by non-concessional company (group land holdings exceeding premium rate threshold)

Taxable value assessed under Principal Act	Rate of land tax payable
is any amount	2 per cent of the taxable value

Explanatory note

Items [3] and [4] of the proposed amendments in Schedule 3.1 introduce a new rate of land tax, which will be applicable to land holdings with a taxable value in excess of a premium rate threshold. The changes apply to the 2009 land tax year and subsequent land tax years.The new premium rate of land tax is 2 per cent, and will apply only in respect of the amount by which the taxable value of the land holdings of a landholder exceeds the premium rate threshold. The existing rate of 1.6 per cent will continue to apply to so much of the taxable value of the land that does not exceed the premium rate threshold but does exceed the tax threshold (if applicable to the landholder). In the case of land that is the subject of a special trust, the existing rate of 1.6 per cent will apply to land holdings with a taxable value not exceeding the premium rate threshold and the premium rate will apply to land holdings with a taxable value exceeding that threshold. If the land is owned by a non-concessional company, land tax will be levied at a flat rate of 1.6 per cent of the taxable value of the land (if the total taxable value of all land holdings of the group of which the non-concessional company is a member do not exceed the premium rate threshold) or at 2 per cent of the taxable value of the land (if the total taxable value of all land holdings of the group of which the non-concessional company is a member exceeds the premium rate threshold).

Item [1] of the amendments provides for a definition of ***premium rate threshold***. Under amendments to the *Land Tax Management Act 1956* the premium rate threshold is initially set at $2,250,000 (for the 2009 land tax year) and after that it will be indexed annually in accordance with movements in the tax threshold. It also provides for a definition of ***non-concessional company***, by reference to section 29 of the *Land Tax Management Act 1956*.

Item [2] of the amendments is a consequential amendment.

3.2 Land Tax Management Act 1956 No 26

[1] Section 29 Related companies

Insert after section 29 (6):

(7) If a company is classified as a non-concessional company, the company, and each of the companies that are related to it, are members of the same group.

[2] Part 7, Division 4A, heading

Insert "**and premium rate threshold**" after "**Tax threshold**".

[3] Section 62TBA Tax threshold—2006 land tax year and subsequent land tax years

Insert "(with an amount of $500 rounded up)" after "$1,000" in section 62TBA (6).

[4] Section 62TBC

Insert after section 62TBB:

62TBC Premium rate threshold—2009 land tax year and subsequent land tax years

(1) The premium rate threshold for the 2009 land tax year is $2,250,000.

(2) The premium rate threshold for the 2010 land tax year and any subsequent land tax year is to be calculated in accordance with the following formula:

$$\frac{T \times P}{B}$$

where:

T is the tax threshold for the land tax year for which the premium rate threshold is being calculated, as determined under section 62TBA.

B is the tax threshold for the land tax year preceding the land tax year for which the premium rate threshold is being calculated, as determined under section 62TBA.

P is the premium rate threshold for the land tax year preceding the land tax year for which the premium rate threshold is being calculated.

(3) A premium rate threshold determined in accordance with this section is to be rounded off to the nearest $1,000 (with an amount of $500 rounded up).

(4) On or before 15 October in each year (commencing with 2009), the Valuer-General is to publish in the Gazette the premium rate threshold for the following land tax year, calculated in accordance with this section.

[5] Schedule 2 Savings and transitional provisions

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

State Revenue and Other Legislation Amendment (Budget Measures) Act 2008

Explanatory note

Item [4] of the amendments to the *Land Tax Management Act 1956* in Schedule 3.2 provides for the initial determination, and subsequent indexation, of the new premium rate threshold (the threshold at which a higher rate of land tax applies). The premium rate threshold is $2,250,000 for the 2009 land tax year. After that, it will be indexed in accordance with movements in the tax threshold.

Item [2] is a consequential amendment.

Item [1] provides for a definition of "group" for the purpose of determining the land tax rate applicable to a non-concessional company. Companies are members of a group if they are related to each other under section 29 of the *Land Tax Management Act 1956*.

Item [3] makes further provision for the rounding of indexed amounts.

Item [5] enables savings and transitional regulations to be made as a consequence of the amendments.

Schedule 4 Amendment of children's services legislation

(Section 3)

4.1 Children and Young Persons (Care and Protection) Act 1998 No 157

[1] Section 220 Regulations

Omit section 220 (b).

[2] Section 220 (r)

Insert after section 220 (q):

Fees

(r) the charging of fees in connection with the administration of the licensing scheme under this Chapter (including the waiver, reduction, deferral and refund of any such fees).

[3] Section 220B Regulations for or with respect to out of school hours care services

Omit section 220B (f), (j) and (s).

[4] Section 220B (zc)

Insert after section 220B (zb):

Fees

(zc) the charging of fees in connection with the administration of the registration scheme under this Chapter (including the waiver, reduction, deferral and refund of any such fees).

Explanatory note

The proposed amendments provide regulation-making power for:

(a) the charging of fees in connection with the administration of the children's service licensing scheme under Chapter 12 of the *Children and Young Persons (Care and Protection) Act 1998* (***the Act***) (including the waiver, reduction, deferral and refund of any such fees), and

(b) the charging of fees in connection with the administration of the out of school hours care services registration scheme under Chapter 12A of the Act (including the waiver, reduction, deferral and refund of any such fees).

The proposed amendments also consequentially repeal existing regulation-making powers relating to fees for probity checks under Chapter 12 of the Act and applications for registration and variation, suspension and revocation of registration under Chapter 12A of the Act.

4.2 Children and Young Persons (Care and Protection—Child Employment) Regulation 2005

[1] Clause 8 Applications for authorities and exemptions (clause 1 of Schedule 2)

Omit "$1,100" from clause 8 (1) (a). Insert instead "$2,200".

[2] Clause 8 (1) (b)

Omit "$550". Insert instead "$1,100".

[3] Clause 8 (1) (c)

Omit "$484". Insert instead "$968".

Explanatory note

The proposed amendments increase fees for an application for an employer's authority or for an exemption from the requirement to hold such an authority, so that the fees apply on a cost recovery basis. The fees relate to applications to employ (within the meaning of section 221 of the *Children and Young Persons (Care and Protection) Act 1998* (***the Act***)) children in:

(a) entertainment, exhibitions, performances or door-to-door sales, as referred to in section 223 (1) of the Act, and

(b) still photographic sessions, as referred to in clause 5 of the *Children and Young Persons (Care and Protection—Child Employment) Regulation 2005*.

Schedule 5 Amendment of Civil Procedure Regulation 2005

(Section 3)

[1] Clause 18

Insert after clause 17:

18 Hearing fees for Supreme Court proceedings

An amendment made by the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2008* to a fee payable under Part 1 of Schedule 1 does not apply to proceedings the hearing of which commenced before 1 January 2009.

[2] Schedule 1 Court fees

Omit "11th" from items 14 and 15 in Column 1 of Part 1 wherever occurring.

Insert instead "2nd".

[3] Schedule 1, Part 1

Omit "$255" and "$510" from Column 2 and Column 3 respectively in the matter relating to item 14.

Insert instead "$345" and "$690", respectively.

[4] Schedule 1, Part 1

Omit "$230" and "$460" from Column 2 and Column 3 respectively in the matter relating to item 15.

Insert instead "$311" and "$622", respectively.

Explanatory note

Currently, parties to civil proceedings in the Supreme Court are required to pay a fee for each half day of a hearing after the 10th day of the hearing. Item [2] of the proposed amendments provides that those fees are now payable from the second day of the hearing.

Item [3] of the proposed amendments increases the fees payable for each half day of a hearing of proceedings by one or more judges from $255 to $345 for an individual and from $510 to $690 for a corporation.

Item [4] of the proposed amendments increases the fees payable for each half day of a hearing of proceedings by an associate judge from $230 to $311 for an individual and from $460 to $622 for a corporation.

Item [1] of the proposed amendments is a transitional provision.

Schedule 6 Amendment of emergency services legislation

(Section 3)

6.1 Fire Brigades Act 1989 No 192

[1] Section 44 Definitions

Insert in alphabetical order in section 44 (1):

fire brigades expenditure, in relation to a specified period, means the aggregate of:

(a) recurrent expenditure incurred during the period for fire brigades, and

(b) capital expenditure incurred during the period for fire brigades, and

(c) recurrent expenditure incurred during the period in respect of the administrative costs of the Department or the Minister under the authority of this Act.

Fund means the New South Wales Fire Brigades Fund constituted under section 64.

[2] Section 44 (2)

Omit the subsection.

[3] Sections 45–48

Omit sections 45–49. Insert instead:

45 Estimate to be prepared by Minister

(1) The Minister must, before or as soon as practicable after the end of a financial year, prepare and:

(a) subject to the concurrence of the Treasurer, adopt an estimate of the probable fire brigades expenditure, and

(b) adopt an estimate of the parts of such expenditure applicable to each fire district,

for the next financial year.

(2) In determining the part of fire brigades capital expenditure applicable to each fire district, the Minister may apply such proportion of the total estimated capital expenditure to each fire district as the Minister thinks fit.

(3) Before preparing the estimate, the Minister is to consider the report and recommendation of the Commissioner in respect of the matters referred to in subsection (1).

(4) The total amount required to be contributed under this Part for a financial year is the amount of the estimate of the probable fire brigades expenditure, subject to this Part.

46 Contributions due and payable within 60 days of assessment

(1) Contributions payable under this Part are due and payable on assessment by the Minister and any such contribution not paid within 60 days of the date of assessment shown on the assessment notice is, unless the Minister otherwise determines, to be increased by 10% of the amount of the contribution payable.

(2) Contributions or any part of contributions not paid by any insurance company or council within 90 days of the date of assessment and all penalties incurred in respect of failure to pay any contribution constitute a debt due and payable to the Minister and are recoverable in any court of competent jurisdiction by the Minister.

47 Times for instalment payments

The contributions payable under this Part (including advance payments) are to be paid on or before 1 July, 1 October, 1 January and 1 April in each financial year, or on or before such other days as the Commissioner may direct and notify to the contributors concerned.

48 Deficits and excesses in contributions

(1) If, in any financial year, the amount received by the Minister from contributions under this Part falls short of the expenditure based on the estimate for that financial year, the deficit is to be added to the estimate of expenditure for the following year and the contributions are to be increased accordingly.

(2) If the amount received by the Minister in any financial year, from contributions under this Part exceeds the expenditure based on the estimate for that financial year, then the excess is to be treated as a credit in favour of the estimated income of the following year and the contributions reduced accordingly.

(3) For the purposes of this section any deficit or excess in respect of any financial year is to be the deficit or excess as certified by the Auditor-General.

[4] Part 5 Contribution to fire brigade costs

Insert before Division 2:

Division 1A Contributions by Treasurer

49A Contributions by Treasurer

(1) Of the amount required to be contributed to the Fund under this Part, the Treasurer must contribute 14.6%.

(2) The Treasurer may, in addition to the contribution to the Fund under subsection (1), from time to time advance such money to the Fund subject to such terms and conditions as the Treasurer may determine.

(3) Any money payable by the Treasurer under this section is to be paid out of money provided by Parliament.

[5] Section 50 Contributions required from councils

Omit "12.3 per cent" wherever occurring. Insert instead "11.7%".

[6] Section 55 Advance payment by insurance companies

Omit "Commissioner" from section 55 (2) and (3) wherever occurring.

Insert instead "Minister".

[7] Section 58 Returns by insurance companies

Omit "prescribed form" from section 58 (2).

Insert instead "form approved by the Commissioner".

[8] Section 58 (5)

Omit "5 penalty units".

Insert instead "1 penalty unit for each day the default continues".

[9] Section 61A Transitional arrangement—special returns by insurance companies (and by certain property owners) for 6 month period ending 30 June 1993

Omit the section.

[10] Section 64

Omit the section. Insert instead:

64 New South Wales Fire Brigades Fund

(1) There is to be established in the Special Deposits Account in the Treasury a New South Wales Fire Brigades Fund into which are to be paid all contributions and other money received under this Part.

(2) There is payable from the Fund:

(a) money to assist in meeting the costs of fire brigades expenditure, and

(b) all money directed to be paid from the Fund by or under this or any other Act.

[11] Schedule 4 Savings and transitional provisions

Insert at the end of clause 2 (1):

State Revenue and Other Legislation Amendment (Budget Measures) Act 2008, but only to the extent that it amends this Act

Explanatory note

Schedule 6.1 amends the *Fire Brigades Act 1989* (the ***FB Act***) to make the existing scheme for contributions to the recurrent and capital expenditure requirements of fire brigades generally consistent with the proposed scheme for the State Emergency Service and the existing scheme for rural fire brigades.

Item [1] amends section 44 of the FB Act to insert definitions of ***fire brigades expenditure*** and ***Fund***.

Item [3] repeals sections 45–49 from, and inserts proposed sections 45–48 into, the FB Act. The new provisions replace the existing general provisions relating to estimates of expenditure to be covered by contributions and payment of contributions. They remove the existing requirement for the Treasurer's concurrence to the Minister's estimate of the expenditure that is applicable to fire districts (see proposed section 45). The amount of contributions is to be the amount determined by the Minister. Proposed sections 46 and 47 contain provisions relating to the assessment and time for payment of instalments. The current adjustment provisions are omitted and replaced by proposed section 48 which provides for shortfalls in contributions to expenditure requirements to be covered by subsequent increased contributions and for excess contributions to be allocated to the payment of subsequent years' expenditure. Item [2] makes a consequential amendment.

Item [4] inserts proposed Division 1A of Part 5 (proposed section 49) into the FB Act to require the Treasurer to contribute 14.6% of the required contributions for fire brigades expenditure.

Item [5] amends section 50 of the FB Act to reduce the contributions of councils to fire districts' expenditure from 12.3% to 11.7%.

Item [6] amends section 55 of the FB Act to confer on the Minister (rather than the Commissioner) the power to fix the percentage of premiums on which advance payments of contributions by insurance companies are to be based. This amendment is consistent with the corresponding provisions of the *Rural Fires Act 1997*.

Item [7] amends section 58 of the FB Act to enable the form of auditor's certificate as to a return by an insurance company about insurance premiums to be approved by the Commissioner rather than prescribed by the regulations.This amendment is consistent with the corresponding provisions of the *Rural Fires Act 1997*.

Item [8] amends section 58 of the FB Act to change the penalty for the offence of an insurance company failing to lodge a return as to insurance premiums or to notify a cessation of notifiable premiums from a maximum penalty of 5 penalty units to a maximum daily penalty of 1 penalty unit.

Item [9] omits a spent transitional provision.

Item [10] substitutes section 64 of the FB Act to establish the New South Wales Fire Brigades Fund. Contributions for fire brigades expenditure are to be paid into the Fund, which is to be used to assist in meeting the costs of fire brigades expenditure.

Item [11] amends Schedule 4 to the FB Act to enable regulations containing savings or transitional provisions to be made consequent on the amendment of the FB Act by the proposed Act.

6.2 Rural Fires Act 1997 No 65

[1] Section 101 Definitions

Insert at the end of paragraph (b) of the definition of ***rural fire brigade expenditure***:

, and

(c) capital expenditure incurred during the period in the exercise of the Commissioner's functions under this Act.

[2] Section 102 New South Wales Rural Fire Fighting Fund

Omit section 102 (3) and (4).

[3] Section 103 Estimate to be prepared by Minister

Omit ", subject to the concurrence of the Treasurer, adopt" from section 103 (1).

[4] Section 103 (1) (a)

Insert "subject to the concurrence of the Treasurer, adopt" before "an estimate".

[5] Section 103 (1) (b)

Insert "adopt" before "an estimate".

[6] Section 103 (3)

Insert after section 103 (2):

(3) In determining the part of rural fire brigade capital expenditure applicable to a council, the Minister may apply such proportion of the total estimated capital expenditure to each council as the Minister thinks fit.

[7] Section 108 Contributions by Treasurer

Omit "13%" from section 108 (1). Insert instead "14.6%".

[8] Section 109 Contributions required from councils

Omit "13.3%" from section 109 (1). Insert instead "11.7%".

[9] Section 109A

Insert after section 109:

109A Advance contribution payment by councils

(1) If the amount required to be contributed by a local government area has not been finally determined by 1 July in any financial year, the council concerned must make an advance contribution payment to the Commissioner pending the making of an estimate for that financial year for all councils.

(2) The advance contribution payment is to be an amount determined by the Commissioner.

(3) When the estimates for all councils are determined, the required contribution for the financial year is to be adjusted by the Commissioner having regard to the amount of the advance contribution payment.

[10] Section 116 Returns by insurance companies

Omit "10 penalty units" from section 116 (4). Insert instead "20 penalty units".

[11] Section 117 Audit of accounts of insurance companies

Omit "5 penalty units" from section 117 (4). Insert instead "50 penalty units".

[12] Section 117A

Insert after section 117:

117A Returns by owners of property

(1) If an insurance company not authorised under a law of the Commonwealth or of a State or Territory to carry on insurance

business holds a risk in respect of property within an area to which this Act applies, the owner of the property must during September in each year, or at such other time as the Commissioner may direct and notify in the Gazette, furnish a return to the Commissioner.

(2) The return must show the amount of the premiums paid by the owner in respect of the property to the company during the previous financial year or such other period as the Commissioner may direct.

(3) A person who fails to lodge a return as required by this section is guilty of an offence.

Maximum penalty: 20 penalty units.

[13] Section 118A

Insert after section 118:

118A Management of unspent funds

Any money remaining to the credit of the Service at the end of a financial year, other than money that is required to be paid to the credit of the Fund, is to be paid into the Service's operating account.

[14] Section 121 Distribution of annual report

Omit the section.

[15] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

State Revenue and Other Legislation Amendment (Budget Measures) Act 2008, but only to the extent that it amends this Act

Explanatory note

Schedule 6.2 amends the *Rural Fires Act 1997* (the ***RF Act***) to make the existing scheme for contributions to the recurrent expenditure requirements of rural fire brigades consistent with the proposed scheme for the State Emergency Service (contained elsewhere in the proposed Act) and makes other amendments.

Item [1] amends section 101 of the RF Act to include capital expenditure in the expenditure to be met by the contributions scheme. This amendment is consistent with the proposed scheme for the State Emergency Service. Item [5] makes a consequential amendment.

Item [2] amends section 102 of the RF Act to remove limitations relating to the quantum of Ministerial expenditure that may be paid under the contributions scheme.

Items [3]–[5] amend section 103 of the RF Act to remove the requirement for the Treasurer's concurrence to the Minister's estimate of the expenditure that is applicable to council areas.

Item [6] amends section 103 of the RF Act to enable the Minister to apportion expenditure applicable to each council, as the Minister thinks fit, for the purposes of determining contributions.

Item [7] amends section 108 of the RF Act to increase the required contribution of the Treasurer to rural fire brigade expenditure from 13% to 14.6%.

Item [8] amends section 109 of the RF Act to reduce the required contribution of councils to rural fire brigade expenditure for their areas from 13.3% to 11.7%.

Item [9] inserts proposed section 109A into the RF Act. The proposed section requires councils to make advance payments of contributions, as determined by the Commissioner of the NSW Rural Fire Service, if the amount of the councils' contributions are not finally determined by 1 July in any financial year. This amendment is consistent with the corresponding provisions of the *Fire Brigades Act 1989*.

Item [10] amends section 116 of the RF Act to change the penalty for the offence of an insurance company lodging a return as to insurance premiums that is false or misleading in a material particular from a maximum penalty of 10 penalty units to a maximum penalty of 20 penalty units. This amendment is consistent with the corresponding provisions of the *Fire Brigades Act 1989*.

Item [11] amends section 117 of the RF Act to change the penalty for offences relating to the audit of accounts of insurance companies from a maximum penalty of 5 penalty units to a maximum penalty of 50 penalty units. This amendment is consistent with the corresponding provisions of the *Fire Brigades Act 1989*.

Item [12] inserts proposed section 117A into the RF Act. The proposed section requires returns to be lodged as to premiums by property owners who are insured by non-regulated insurers. This amendment is consistent with the corresponding provisions of the *Fire Brigades Act 1989*.

Item [13] inserts proposed section 118A into the RF Act. The proposed section requires money remaining to the credit of the NSW Rural Fire Service at the end of a financial year (other than money required to be paid to the New South Wales Rural Fire Fighting Fund) to be paid to the Service's operating fund. This amendment is consistent with the corresponding provisions of the *Fire Brigades Act 1989*.

Item [14] omits a provision relating to the distribution of annual reports of the New South Wales Rural Fire Fighting Fund.

Item [15] amends Schedule 3 to the RF Act to enable regulations containing savings or transitional provisions to be made consequent on the amendment of the RF Act by the proposed Act.

6.3 State Emergency Service Act 1989 No 164

[1] Part 5A

Insert after Part 5:

Part 5A State Emergency Service Fund

Note. This Part requires local government councils and insurance companies to contribute, along with the State Government, to the costs of State Emergency Service expenditure. The total amount required to be contributed is based on estimated State Emergency Service expenditure.

Division 1 Preliminary

24A Definitions

In this Part:

Fund means the State Emergency Service Fund established under section 24B.

insurance company means any body corporate, partnership, association, underwriter or person that or who:

(a) issues or undertakes liability under policies of insurance against loss of or damage to any property situated in New South Wales, or

(b) receives premiums in respect of such policies of insurance on behalf of or for transmission to any body corporate, partnership, association, underwriter or person outside New South Wales.

State Emergency Service expenditure, in relation to a specified period, means the aggregate of:

(a) recurrent expenditure incurred during the period in the exercise of the State Emergency Service's functions under this Act, and

(b) capital expenditure incurred during the period in the exercise of the State Emergency Service's functions under this Act, and

(c) recurrent expenditure incurred during the period in respect of the administrative costs of the Service or the Minister incurred under the authority of this Act.

Division 2 The Fund

24B State Emergency Service Fund

(1) There is to be established in the Special Deposits Account in the Treasury a State Emergency Service Fund into which are to be paid all contributions and other money received under this Part.

(2) There is payable from the Fund:

(a) money to assist in meeting the costs of State Emergency Service expenditure, and

(b) all money directed to be paid from the Fund by or under this or any other Act.

Division 3 Estimates of Fund expenditure and contributions

24C Estimate to be prepared by Minister

(1) The Minister must, before or as soon as practicable after the end of a financial year, prepare and:

(a) subject to the concurrence of the Treasurer, adopt an estimate of the probable State Emergency Service expenditure, and

(b) adopt an estimate of the parts of such expenditure applicable to each area of council,

for the next financial year.

(2) In determining the part of State Emergency Service capital expenditure applicable to a council, the Minister may apply such proportion of that expenditure to each council as the Minister thinks fit.

(3) Before preparing the estimate, the Minister is to consider the report and recommendation of the Director-General in respect of the matters referred to in subsection (1).

(4) The total amount required to be contributed under this Part for a financial year is the amount of the estimate of the probable State Emergency Service expenditure, subject to this Part.

24D Councils to furnish information to Minister

For the purpose of enabling the Minister to prepare the estimates referred to in section 24C a council must, at such times and in such manner as the Director-General may require, furnish to the Director-General such information relating to the Service, SES units or emergency officers, the equipment of the Service and such other matters relating to the organisation of the Service as the Director-General may require.

24E Times for instalment payments

The contributions payable under this Part (including advance payments) are to be paid on or before 1 July, 1 October, 1 January and 1 April in each financial year, or on or before such other days as the Director-General may direct and notify to the contributors concerned.

24F Contributions due and payable within 60 days of assessment

(1) Contributions payable under this Part are due and payable on assessment by the Minister and any such contribution not paid

within 60 days of the date of assessment shown on the assessment notice is, unless the Minister otherwise determines, to be increased by 10% of the amount of the contribution payable.

(2) Contributions or any part of contributions not paid by any insurance company or council within 90 days of the date of assessment and all penalties incurred in respect of failure to pay any contribution constitute a debt due and payable to the Minister and are recoverable in any court of competent jurisdiction by the Minister.

24G Deficits and excesses in contributions

(1) If, in any financial year, the amount received by the Minister from contributions under this Part falls short of the expenditure based on the estimate for that financial year, the deficit is to be added to the estimate of expenditure for the following year and the contributions are to be increased accordingly.

(2) If the amount received by the Minister in any financial year from contributions under this Part exceeds the expenditure based on the estimate for that financial year, then the excess is to be treated as a credit in favour of the estimated income of the following year and the contributions reduced accordingly.

(3) For the purposes of this section any deficit or excess in respect of any financial year is to be the deficit or excess as certified by the Auditor-General.

Division 4 Contributions by Treasurer

24H Contributions by Treasurer

(1) Of the amount required to be contributed to the Fund, the Treasurer must contribute 14.6%.

(2) The Treasurer may, in addition to the contribution to the Fund under subsection (1), from time to time advance such money to the Fund subject to such terms and conditions as the Treasurer may determine.

(3) Any money payable by the Treasurer under this section is to be paid out of money provided by Parliament.

Division 5 Contributions by local government areas

24I Contributions required from councils

(1) Of the amount required to be contributed to the Fund, 11.7% is to be contributed by the councils of each local government area or areas the whole or part of which is within a region.

(2) Funds of a council derived from donations and other voluntary contributions made for the purposes of this Act may not be used towards payments by the council under subsection (1) unless the Minister so approves.

24J Determination of contributions of councils

(1) The contributions of councils are to be determined as follows:

(a) that part of the estimated expenditure applicable to any region that is to be contributed by councils is to be contributed by those councils the areas or any parts of which are within the region,

(b) the total amount of the contribution of any council is to be determined by the Minister.

(2) The amount of the contribution payable by any council may be raised if necessary, and despite any statutory limit of such rates, by an increase of the ordinary rate by such a sum in the dollar as will be sufficient to provide the amount of the contribution, and that increase is for all purposes to be taken to form part of the ordinary rate.

(3) Every council and every officer of the council must, when so required by the Minister, furnish the Minister with all such documents, papers and information as the Minister may require to determine the contribution of the council.

24K Advance contribution payment by councils

(1) If the amount required to be contributed by a local government area has not been finally determined by 1 July in any financial year, the council concerned must make an advance contribution payment to the Director-General pending the making of an estimate for that financial year for all councils.

(2) The advance contribution is to be an amount determined by the Director-General.

(3) When the estimates for all councils are determined, the required contribution for the financial year is to be adjusted by the Director-General having regard to the amount of the advance contribution payment.

Division 6 Contributions by insurance companies

24L Contributions required from insurance companies

Of the total amount required to be contributed to the Fund for a financial year, 73.7% is to be contributed by insurance companies in accordance with this Division.

24M Advance payment by insurance companies

(1) An insurance company must, in each financial year, make an advance payment to the Director-General pending an assessment under section 24F.

(2) The advance payment is to be an amount equal to the percentage fixed by the Minister in respect of that year of the total amount of the premiums subject to contribution under subsection (4) received by or due to the company during the financial year that ended one year before the financial year for which the advance payment is due.

(3) The percentage fixed by the Minister is to be the percentage that will provide the total amount to be contributed under this Part by all insurance companies in respect of all regions in the financial year for which the contribution is required.

(4) The amount of the premiums under any class of policies of insurance specified in Schedule 2 that is to be subject to contribution under this section is as indicated in that Schedule in respect of that class of policies of insurance.

(5) If the Minister is satisfied that at least two-thirds of the insurance companies liable to contribute under this section desire that Schedule 2 be amended in a certain manner, and the Director-General recommends the amendment, the Minister may by notice published in the Gazette, amend that Schedule accordingly.

(6) Any such amendment takes effect from 1 July, or such other date following publication of the notice as the Minister directs in the notice.

24N Definition of "total amount of the premiums"

For the purposes of this Division:

total amount of the premiums includes any brokerage or commission paid or due to be paid or allowed on:

(a) any such premium, or

(b) any bonuses or return premiums allowed in respect of any policy of insurance the subject of any such premium, or

(c) such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance by the company to any other insurance company in New South Wales,

but does not include stamp duty payable in respect of any policy of insurance the subject of any such premium.

24O Adjustments

(1) If an insurance company submits a return under this Division in a financial year, the Director-General is to notify the company of the required contribution in relation to the company for that year assessed in accordance with the following formula:

$$\text{required contribution} = \frac{a \times b}{c}$$

where:

a is the total amount of premiums subject to contribution specified in the return made by the company,

b is the total amount to be contributed under this Division by all insurance companies in respect of the year to which the return relates,

c is the total amount of all premiums subject to contribution specified in returns under this Division made by all insurance companies in respect of that year.

(2) If the required contribution assessed in relation to an insurance company for a financial year is greater than the advance payment required to be made under this Division by the company for that financial year, the company must, not later than 31 December in the financial year in which the assessment is made or such later day as may be approved by the Director-General, pay to the Director-General the amount of the difference between the advance payment and the assessed amount.

(3) If the required contribution is assessed for a financial year in which the company did not make an advance payment under this Division, the company must, not later than 31 December in the

financial year in which the assessment is made or such later day as may be approved by the Director-General, pay the amount assessed to the Director-General.

(4) If the required contribution assessed for a financial year is less than the amount of the advance payment required to be made under this Division by the company for that financial year, the Director-General is to credit the amount of the difference against:

(a) any instalments that remain to be paid in respect of the advance payment for the financial year in which the assessment is made, and

(b) any instalments that will be required to be paid in respect of the advance payment to be made during the following financial year,

in such manner as the Director-General may determine and, if any balance is outstanding at the end of the financial year referred to in paragraph (b), the Director-General is to pay the amount outstanding to the company not later than the next 30 June.

(5) If an insurance company:

(a) is entitled to a credit referred to in subsection (4) in respect of an advance payment under this Division, and

(b) did not receive, and was not entitled to receive, in the financial year in which the advance payment was made, any premium in respect of which it would have been required by this Division to submit a return, and

(c) the liabilities of the company in relation to the contributions under this Part have been discharged,

the Director-General must, as soon as practicable, pay to the company the amount of the credit or, as the case may be, the balance outstanding.

24P Liability of owner where foreign insurer involved

(1) This section applies to a person who is the owner of property in respect of which an insurance company has received a premium referred to in section 24N if the insurance company is not authorised under a law of the Commonwealth or of a State or Territory to carry on insurance business.

(2) The Director-General may notify a person to whom this section applies that the person is to be responsible for the contributions required to be paid by the insurance company under this Part because of premiums received by the company in respect of the person's property, and in such a case:

(a) the person must pay to the Director-General any amounts that would otherwise be payable by the company under this Part in respect of those premiums, and

(b) the provisions of this Division are to apply to the person as if the person were the insurance company that received those premiums, subject to any modification of those provisions required by the regulations.

(3) An owner who fails to pay such an amount within 30 days after it falls due is guilty of an offence.

Maximum penalty: 10 penalty units.

(4) The amount of such a payment may be deducted from any premium recoverable in the State by or on behalf of the company on the issue or renewal of any insurance policy on the property or may be recovered from the company as a debt by the person making the payment.

(5) This section applies whether the premium concerned was received in or outside the State.

24Q Returns by insurance companies

(1) An insurance company must during September in each financial year, or at such other time during the financial year as the Director-General may notify in the Gazette, submit to the Director-General:

(a) a return in the approved form showing the total amount of premiums received by or due to the company for the previous financial year in respect of the insurance against loss of or damage to any property in the State under the classes of policies specified in Schedule 2, and

(b) a certificate in the approved form from an auditor.

(2) An insurance company that ceases to receive, and to be entitled to receive, any premiums in respect of which it would have been required by this section to submit a return must, within 30 days, notify the Director-General accordingly in writing.

(3) If a notification under subsection (2) is received by the Director-General:

(a) before 31 March in a financial year—the company is not discharged from its liability to pay any unpaid instalments of its advance payment under section 24M for that year, or

(b) on or after 31 March in a financial year—the company is not discharged from its liability to pay any unpaid

instalments of its advance payment for that year or its advance payment for the next financial year.

(4) An insurance company is guilty of an offence if it:

(a) fails to lodge a return or notify the Director-General as required by this section, or

(b) lodges a return under this section that is false or misleading in a material particular.

Maximum penalty (subsection (4)):

(a) under paragraph (a)—1 penalty unit for each day the default continues, or

(b) under paragraph (b)—20 penalty units.

24R Returns by owners of property

(1) If an insurance company not authorised under a law of the Commonwealth or of a State or Territory to carry on insurance business holds a risk in respect of property within an area to which this Act applies, the owner of the property must during September in each year, or at such other time as the Director-General may direct and notify in the Gazette, furnish a return to the Director-General.

(2) The return must show the amount of the premiums paid by the owner in respect of the property to the company during the previous financial year or such other period as the Director-General may direct.

(3) A person who fails to lodge a return as required by this section is guilty of an offence.

Maximum penalty: 20 penalty units.

24S Audit of accounts of insurance companies

(1) At the request of the Minister, the Auditor-General may examine and audit, or cause to be examined and audited, the accounts (and any books and documents relating to the accounts) of any insurance company liable to pay contributions under this Part.

(2) The examination and audit is to be in respect of matters relating to or arising out of the provisions of this Part.

(3) The Auditor-General is to forward a report on the audit to the Minister as soon as practicable after it is completed.

(4) It is an offence for a person:

(a) to obstruct the Auditor-General, or any person acting on behalf of the Auditor-General, when exercising functions under this section, or

(b) to fail, without lawful excuse when requested to do so for the purposes of this section by the Auditor-General or a person so acting, to produce any account, book or record in the person's possession or under the person's control, or

(c) to fail to answer any question asked by the Auditor-General or a person so acting, for the purposes of this section.

Maximum penalty: 50 penalty units.

Division 7 Miscellaneous

24T Application of the Fund

(1) Money to the credit of the Fund may be applied by the Treasurer in or towards State Emergency Service expenditure incurred under the authority of this Act.

(2) The Treasurer may pay such money out of the Fund on the certificate of the Minister.

24U Management of unspent funds

Any money remaining to the credit of the State Emergency Service at the end of a financial year, other than money that is required to be paid into the Fund, is to be paid into the Service's operating account.

24V Disposal by councils of equipment purchased from Fund

(1) A council must not sell or dispose of any equipment purchased or constructed wholly or partly from money to the credit of the Fund without the written consent of the Director-General.

(2) There is to be paid to the credit of the Fund:

(a) if the whole of the cost of the purchase or construction of any equipment was met by money to the credit of the Fund:

(i) an amount equal to the proceeds of sale of any such equipment, and

(ii) any amount recovered (whether under a policy of insurance or otherwise) in respect of the damage to, or destruction or loss of, any such equipment, and

(b) if a part only of the cost of the purchase or construction of any equipment was met by money to the credit of the Fund—an amount that bears to the amount that would be required by this subsection to be paid if the whole of that cost had been met by money to the credit of the Fund the same proportion as that part of the cost bears to the whole of that cost.

[2] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

State Revenue and Other Legislation Amendment (Budget Measures) Act 2008, but only to the extent that it amends this Act

[3] Schedule 1

Insert after Part 3:

Part 4 Provisions consequent on State Revenue and Other Legislation Amendment (Budget Measures) Act 2008

11 Insurance contributions

(1) In this clause, ***amending Act*** means the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2008*.

(2) For the purposes of calculating the advance payments under section 24M, as inserted by the amending Act, and the adjustments to be made under section 24O, as so inserted, in respect of an insurance company for the first financial year commencing on 1 July 2009:

(a) the Minister may have regard to the total amount of premiums received by or due to the company during the previous financial year, as disclosed under Part 5 of the *Rural Fires Act 1997*, and

(b) any return furnished by an insurance company or person under that Part during the previous financial year may be taken into account for the purposes of those sections as if it were a return furnished under Part 5A of this Act, as inserted by the amending Act.

(3) This clause is subject to the regulations.

[4] Schedule 2

Insert after Schedule 1:

Schedule 2 Contributions of insurance companies

(Section 24M (4))

Column 1 Classes of policies of insurance			Column 2 Amount of premiums subject to contribution
(1)	Any insurance of property and including consequential loss but not including any insurance of a class specified in items (2)–(8)		80%
(2)	Houseowners and householders, however designated (buildings or contents or both)		50%
(3)	Personal combined on personal jewellery and clothing, personal effects and works of art		10%
(4)	Motor vehicle and motor cycle		2.5%
(5)	Marine and baggage—any insurance confined to maritime perils or confined to risks involving transportation on land or in the air, and including storage incidental to the transportation by sea, land or air, but not including other Static Risks which are to be declared under item (1)		1%
	Note. Static Risks includes all movements of goods and/or stock and/or material associated with processing or storage operations at any situation.		
(6)	(a)	Combined fire and hail on growing crops	1%
	(b)	Livestock	1%
(7)	Aviation hull		Nil
(8)	Any insurance solely covering:		
	(a)	Loss by theft	Nil
	(b)	Plate glass	Nil
	(c)	Machinery—confined to mechanical breakdown and/or consequential loss arising from mechanical breakdown	Nil

Column 1		Column 2
Classes of policies of insurance		**Amount of premiums subject to contribution**
(d)	Explosion or collapse of boiler and pressure vessels—confined to damage other than by fire	Nil

Explanatory note

Schedule 6.3 amends the *State Emergency Service Act 1989* (the ***SES Act***) to provide for a contribution scheme to meet the costs of State Emergency Service recurrent and capital expenditure. Similar schemes are provided for under the FB Act and the RF Act.

Item [1] inserts proposed Part 5A (proposed sections 24A–24V) into the SES Act. The proposed Part establishes a contribution scheme for State Emergency Service expenditure as follows:

(a) Division 1 (proposed section 24A) defines words and expressions used in the proposed Part,

(b) Division 2 (proposed section 24B) establishes the State Emergency Service Fund and requires contributions under the proposed Part to be paid into the Fund,

(c) Division 3 (proposed sections 24C–24G) requires the Minister to prepare and adopt, subject to the concurrence of the Treasurer, estimates of probable State Emergency Service expenditure for the next financial year and of expenditure applicable to council areas. The Division sets out the time for payment of quarterly instalments and imposes penalties for late payment. Shortfalls in expenditure requirements are to be covered by subsequent increased contributions and excess contributions to be allocated to subsequent years' expenditure,

(d) Division 4 (proposed section 24H) requires the Treasurer to contribute 14.6% of State Emergency Service expenditure to the Fund,

(e) Division 5 (proposed sections 24I–24K) requires councils whose area is within a region under the SES Act to contribute 11.7% of State Emergency Service expenditure to the Fund. The Minister is to determine the total contribution of any council and the amount of a council contribution may be paid by increasing the ordinary rate of the council. Councils must make advance payments of contributions, as determined by the Minister, if the amount of the councils' contributions are not finally determined by 1 July in any financial year,

(f) Division 6 (proposed sections 24L–24S) requires insurance companies to contribute 73.7% of State Emergency Service expenditure to the Fund. Companies must make advance payments of contributions pending assessment of contributions and the method of assessing contributions (based on premiums subject to contribution) is set out. A property owner may be personally liable for contributions if not insured by an insurer authorised under Australian law. Returns showing premiums under policies subject to the scheme must be submitted by insurance companies to the Director-General of the State Emergency Service or by owners, if not insured by an insurer authorised under Australian law.The proposed Division also provides for the Auditor-General, at the request of the Minister, to audit the accounts of an insurance company liable to pay contributions under the proposed Part,

(g) Division 7 (proposed sections 24T–24V) provides that the money of the Fund may be applied by the Treasurer in or towards State Emergency Service expenditure incurred under the authority of the SES Act. The proposed Division also requires money remaining to the credit of the Service at the end of a financial year (other than money required to be paid to the Fund) to be paid to the Service's operating account. The proposed Division also prevents a council from disposing of equipment purchased using money from the Fund without the consent of the Director-General of the Service and provides for proceeds of sales to be paid to the Fund.

Item [2] amends Schedule 1 to the SES Act to enable regulations containing savings or transitional provisions to be made consequent on the amendment of the SES Act by the proposed Act.

Item [3] inserts a transitional provision.

Item [4] inserts Schedule 2 into the SES Act. The proposed Schedule sets out the classes of insurance policies and the amount of premiums subject to contribution by the insurance companies. These are consistent with those set out in the RF Act scheme.

Schedule 7 Amendment of Human Tissue Act 1983 No 164

(Section 3)

Section 37A

Insert after section 37:

37A Recovery of costs incurred by the State in connection with the supply of blood and blood products to approved health providers

(1) In this section:

approved health provider means:

(a) a private hospital or day procedure centre licensed under the *Private Hospitals and Day Procedure Centres Act 1988*, or

(b) a private health facility licensed under the *Private Health Facilities Act 2007*, or

(c) an accredited pathology laboratory under the *Health Insurance Act 1973* of the Commonwealth (other than any such laboratory that is under the control of a public health organisation within the meaning of the *Health Services Act 1997*), or

(d) any health provider of a class prescribed by the regulations.

blood product does not include a product that is declared by the regulations not to be a blood product for the purposes of this section.

blood supplier means:

(a) the Australian Red Cross Society, or

(b) any other person or body prescribed by the regulations.

(2) The object of this section is to encourage approved health providers that use blood or blood products supplied by blood suppliers:

(a) to make the best use of available resources of blood and blood products, and

(b) to adopt an appropriate level of financial and performance accountability in relation to the use of those resources,

by enabling the Director-General to recover the costs incurred by the State in connection with the supply of blood and blood products to those health providers.

(3) If an approved health provider is supplied with any blood or blood products by a blood supplier, the health provider is required to pay the Director-General the costs incurred by the State in connection with the supply of the blood or blood products.

(4) The arrangements for paying those costs and the manner in which they are assessed may be determined by the Director-General.

(5) Any amount that is payable under this section is recoverable by the Director-General as a debt due to the State.

(6) For the purposes of facilitating the assessment by the Director-General of the amounts payable by approved health providers under this section, a blood supplier is, in accordance with any written directions by the Director-General, required to provide the Director-General with information relating to the blood and blood products supplied by the blood supplier for use in New South Wales.

(7) For the purposes of this section, the costs incurred by the State in connection with the supply of blood or blood products to an approved health provider includes the costs incurred by the State in collecting, transporting, processing or distributing any such blood or blood products.

(8) This section does not allow an approved health provider to charge a patient for the supply of any blood or blood product to that patient.

(9) However, nothing in this Act prevents an approved health provider that supplies blood or blood products to another approved health provider from recovering from the other health provider any amount that the health provider has paid under this section in relation to that supply.

Explanatory note

The proposed amendment will enable the Director-General of the Department of Health to recover the costs incurred by the State in connection with the supply of blood and blood products by blood suppliers (such as the Australian Red Cross Society) to the private health sector.

Schedule 8 Amendment of Management of Waters and Waterside Lands Regulations—N.S.W.

(Section 3)

[1] Regulation 36A Fee for occupation licence—other than for boatshed or similar business activity

Omit "$330" from Regulation 36A (2) (a) and (b), wherever occurring.

Insert instead "$413".

[2] Regulation 36A (2) (b)

Omit "$111". Insert instead "$138".

[3] Regulation 36A (2) (c)

Omit "$774". Insert instead "$965".

[4] Regulation 36A (2) (c)

Omit "$220". Insert instead "$275".

Explanatory note

The proposed amendments increase the annual fees for classes 1, 2 and 3 occupation licences (commonly referred to as mooring licences) in the Sydney Harbour (Eastern) locality.

Schedule 9 Amendment of Mining Regulation 2003

(Section 3)

[1] Clause 44A Rates of royalty for coal

Omit "7%" from clause 44A (1) (a). Insert instead "8.2%".

[2] Clause 44A (1) (b)

Omit "6%". Insert instead "7.2%".

[3] Clause 44A (1) (c)

Omit "5%". Insert instead "6.2%".

Explanatory Note

The proposed amendments increase the base rate of royalty payable for coal. The new rates will apply from 1 January 2009. The increases are as follows:

(a) from 7% to 8.2% of the value of coal recovered by open cut mining,

(b) from 6% to 7.2% of the value of coal recovered by underground mining,

(c) from 5% to 6.2% of the value of coal recovered by deep underground mining.

Schedule 10 Amendment of Parking Space Levy Act 1992 No 32

(Section 3)

[1] Section 11 Amount of levy

Insert "before the 2009 financial year" after "each subsequent financial year" in section 11 (5).

[2] Section 11 (6) and (7)

Insert after section 11 (5):

(6) The amount of the levy that is payable on 1 September in the 2009 financial year is:

(a) $2,000 for each parking space within a Category 1 area for which the levy is payable, or

(b) $710 for each parking space within a Category 2 area for which the levy is payable.

(7) The amount of the levy that is payable on 1 September in the 2010 financial year and on 1 September in each subsequent financial year is:

(a) for each parking space within a Category 1 area—the CPI adjusted levy for a Category 1 area for the particular financial year concerned, and

(b) for each parking space within a Category 2 area—the CPI adjusted levy for a Category 2 area for the particular financial year concerned.

[3] Section 12A Notice of CPI adjusted levy

Insert after section 12A (2):

(3) This section does not apply in respect of the levy for the 2009 financial year.

[4] Schedule 1 Savings, transitional and other provisions

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

State Revenue and Other Legislation Amendment (Budget Measures) Act 2008

Explanatory note

Item [2] of the proposed amendments increases the parking space levy (with effect from the financial year commencing 1 July 2009) to:

(a) $2,000 per parking space, in the case of a parking space in a Category 1 area (which is comprised of the City of Sydney and parts of North Sydney), and

(b) $710 per parking space, in the case of a parking space in a Category 2 area (which is comprised of parts of Bondi Junction, Chatswood, Parramatta and St Leonards).

The new amount of the levy will be adjusted in accordance with movements in the consumer price index from the 2010 financial year onwards.

Items [1] and [3] are consequential amendments.

Item [4] enables the making of saving and transitional regulations as a consequence of the proposed amendments.

Schedule 11 Amendment of planning legislation

(Section 3)

11.1 Environmental Planning and Assessment Amendment Act 2008 No 36

[1] Schedule 3.1 Amendment of Environmental Planning and Assessment Act 1979

Insert "(or other area of land)" after "growth centre" in proposed section 116F (7) (a) in Schedule 3.1 [6].

[2] Schedule 3.1 [6], note following proposed section 116F (7) (a)

Insert "The other areas of land referred to in this paragraph are former growth centres." after "Fund.".

[3] Schedule 3.1 [7], proposed clause 13 (4)

Insert "(or other area of land)" after "growth centre".

[4] Schedule 3.1 [7], note following proposed clause 13 (4)

Insert "The other areas of land referred to in this subclause are former growth centres." after "Fund.".

[5] Schedule 3.2 Amendment of Growth Centres (Development Corporations) Act 1974 No 49

Insert "(or other area of land)" after "growth centre" in proposed section 25 (3) (a) in Schedule 3.2 [1].

[6] Schedule 3.2 [1], proposed section 25 (8)

Omit the subsection. Insert instead:

(8) The Secretary of the Treasury may delegate any function of the Secretary under this section (other than this power of delegation) to:

(a) in the case of a growth centre that is specified in Schedule 3—the chief executive of the development corporation constituted for the growth centre, or

(b) in the case of any other area of land specified in Schedule 3—the Director-General.

[7] Schedule 3.2 [1], proposed section 26 (1) (b) and (c)

Insert "or other area of land" after "growth centre" wherever occurring.

[8] Schedule 3.2 [2], item 1 of proposed Schedule 3

Omit the item. Insert instead:

1 The land shown edged heavy red on the map entitled "North West Growth Centre—Community Infrastructure Trust Fund Area" and on the map entitled "South West Growth Centre—Community Infrastructure Trust Fund Area", copies of which are deposited in the office of the Department of Planning.

Note. Both these areas of land were formerly listed as growth centres under this Act.

Explanatory note

The proposed amendments in Schedule 11.1 are consequential on the amendments contained elsewhere in this Schedule to the *Growth Centres (Development Corporations) Act 1974* that provide for the abolition of the Growth Centres Commission (the ***GCC***). The growth centres in respect of which the GCC is currently constituted (ie the North West and South West growth centres) will no longer be "growth centres" because of the abolition of the GCC but will, for the purposes of the uncommenced provisions contained in Schedule 3 to the *Environmental Planning and Assessment Amendment Act 2008* that relate to the payment of community infrastructure contributions, be listed as Community Infrastructure Trust Fund areas.

11.2 Environmental Planning and Assessment Regulation 2000

Clause 276 Growth Centres SEPP—release of precinct for urban development and planning process for the precinct

Omit "the Growth Centres Commission," from clause 276 (3).

Explanatory note

The proposed amendment in Schedule 11.2 is consequential on the abolition of the GCC.

11.3 Growth Centres (Development Corporations) Act 1974 No 49

[1] Section 5 Amendment of Schedule 1 (Growth centres and development corporations)

Omit section 5 (6).

[2] Schedule 1 Growth centres and development corporations

Omit the matter relating to the Growth Centres Commission.

[3] Schedule 1A Dissolutions, amalgamations and changes of name or nature of governance

Insert after clause 4 (1) (d):

(d1) the transferee has all the entitlements and obligations of the transferor in relation to those assets, rights and liabilities that the transferor would have had but for the

order giving rise to the transfer, whether or not those entitlements and obligations were actual or potential at the time the order took effect,

[4] Schedule 6 Savings, transitional and other provisions

Insert at the end of clause 3 (1):

State Revenue and Other Legislation Amendment (Budget Measures) Act 2008, to the extent that it amends this Act

[5] Schedule 6, clause 5 (2) (d) and (e)

Omit "(other than the Growth Centres Commission)" wherever occurring.

[6] Schedule 6, clause 5 (2) (f)

Omit the paragraph.

[7] Schedule 6, clause 7

Omit the clause.

[8] Schedule 6, Part 3

Insert after Part 2:

Part 3 State Revenue and Other Legislation Amendment (Budget Measures) Act 2008

8 Interpretation

In this Part:

instrument has the same meaning as in clause 1 of Schedule 1A.

relevant corporation means the corporation constituted under section 8 (1) of the *Environmental Planning and Assessment Act 1979*.

9 Dissolution of Growth Centres Commission

On the commencement of this clause (as inserted by the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2008*):

(a) the Growth Centres Commission is dissolved, and

(b) the chief executive of the Growth Centres Commission ceases to hold office and for that purpose is taken to have been removed from office under section 77 of the *Public Sector Employment and Management Act 2002*, and

(c) the assets, rights and liabilities of the Growth Centres Commission are transferred to the relevant corporation.

10 Transfer of assets, rights and liabilities to relevant corporation

(1) The following provisions have effect in relation to the transfer under clause 9 of the assets, rights and liabilities of the Growth Centres Commission (***the transferor***) to the relevant corporation (***the transferee***):

(a) the assets of the transferor vest in the transferee by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance,

(b) the rights or liabilities of the transferor become by virtue of this clause the rights or liabilities of the transferee,

(c) all proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the transferor or a predecessor of the transferor and pending immediately before the transfer are taken to be proceedings pending by or against the transferee,

(d) any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the transferor is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the transferee,

(e) the transferee has all the entitlements and obligations of the transferor in relation to those assets, rights and liabilities that the transferor would have had but for this clause, whether or not those entitlements and obligations were actual or potential at the time the transfer took effect,

(f) a reference in any instrument made under any Act or in any document of any kind (other than an instrument of appointment) to the Growth Centres Commission or to the chief executive of the Growth Centres Commission is taken to include a reference to:

(i) if the reference is used in relation to the operational functions of the Growth Centres Commission—the Director-General of the Department of Planning, or

(ii) in any other case—the transferee.

(2) For the purpose of subclause (1) (f), the ***operational functions*** of the Growth Centres Commission include functions under this Act, the *Environmental Planning and Assessment Act 1979* or the

Threatened Species Conservation Act 1995, or any other Act, that relate to the following:

(a) promoting, co-ordinating, managing or securing the orderly and economic use and development of the areas of land comprising the former North West and South West Growth Centres (including, but not limited to, matters relating to precinct planning and development contributions),

(b) protecting, conserving or enhancing the environment within those areas of land or any areas that are related to those areas.

(3) The regulations made under clause 3 of this Schedule may provide that a reference in any specified instrument or other document to the Growth Centres Commission is taken to include a reference to:

(a) the relevant corporation, or

(b) the Director-General of the Department of Planning.

(4) Any such regulation has effect despite subclause (1) (f) and may take effect on a date that is earlier than the date of its publication in the Gazette.

(5) The operation of this clause is not to be regarded:

(a) as a breach of contract or confidence or otherwise as a civil wrong, or

(b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or

(c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or

(d) as an event of default under any contract or other instrument.

(6) No attornment to the transferee by a lessee from the transferor is required.

(7) No compensation is payable to any person or body in connection with the transfer.

(8) Duty under the *Duties Act 1997* is not chargeable for or in respect of:

(a) the transfer, or

(b) anything certified by the Minister as having been done in consequence of the transfer (for example, the transfer or conveyance of an interest in land).

11 Transfer of assets and liabilities—validation

(1) Schedule 1A, as amended by the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2008*, extends to any transfer of assets, rights or liabilities, consequent on an order to which that Schedule applies, that was made at any time before the commencement of the amendment.

(2) For that purpose:

(a) the amendment is taken to have been in force when the relevant transfers occurred, and

(b) any such transfer is taken to have been validly made if it could have been made after that commencement.

(3) This clause does not apply to any transfer to the extent that it is affected by any proceedings of a court that were finally determined before that commencement.

(4) For the purposes of this clause, proceedings are not finally determined if:

(a) any period for bringing an appeal as of right in respect of the proceedings has not expired (ignoring any period that may be available by way of extension of time to appeal), or

(b) any appeal in respect of the proceedings is pending (whether or not it is an appeal brought as of right).

Explanatory note

Item [1] of the proposed amendments in Schedule 11.3 removes a provision that prevents a growth centre from being dissolved by order of the Governor under section 5 of the *Growth Centres (Development Corporations) Act 1974* (***the GC Act***) unless the Minister is satisfied that the development corporation for the growth centre has substantially completed its planning and development functions in respect of the growth centre.

Item [2] has the effect of dissolving the Growth Centres Commission (***the GCC***) as a development corporation and abolishing, as growth centres under the GC Act, the areas of land currently comprising the North West and South West Growth Centres. Both these areas of land will still be listed as Community Infrastructure Trust Fund areas under proposed Schedule 3 to the GC Act (to be inserted by the *Environmental Planning and Assessment Amendment Act 2008)*. Items [5]–[7] are consequential on the abolition of the GCC.

Item [3] makes it clear that when an order is made under the GC Act to dissolve a development corporation, the vesting of the dissolved corporation's assets, rights and liabilities in the transferee will include all obligations and entitlements in relation to those assets, rights and liabilities that the dissolved corporation would have had but for the order.

Item [4] enables regulations of a savings and transitional nature to be made as a consequence of the amendments being made by the proposed Act to the GC Act.

Item [8] contains provisions relating to the abolition of the GCC, the transfer of its assets, rights and liabilities to the Ministerial corporation constituted under the *Environmental Planning and Assessment Act 1979* and other matters of a savings or transitional nature.

11.4 State Environmental Planning Policy (Sydney Region Growth Centres) 2006

[1] Clause 3 Interpretation

Insert at the end of the definition of ***growth centre*** in clause 3 (1):

Note. Both of these areas of land are no longer growth centres under the *Growth Centres (Development Corporations) Act 1974* but continue to be referred to as growth centres for the purposes of this Policy.

[2] Clause 4 Consent authority

Omit "(such as the Growth Centres Commission)" from the note at the end of the clause.

[3] Clause 15 Acquisition of land zoned under this Part

Omit ", except as provided by paragraph (b)" from clause 15 (a).

[4] Clause 15 (b)

Omit the paragraph.

[5] Clause 17 Referral to Department of Planning after release of precinct

Omit "Growth Centres Commission" from clause 17 (2) and (3) wherever occurring.

Insert instead "Director-General of the Department of Planning".

[6] Clause 17 (3)

Omit "the Commission". Insert instead "the Director-General".

Explanatory note

The proposed amendments in Schedule 11.4 are consequential on the abolition of the GCC.

11.5 Strata Schemes (Leasehold Development) Act 1986 No 219

Section 4 Definitions

Omit the definition of ***local council*** in section 4 (1). Insert instead:

local council, in relation to land, means:

(a) the council of the area under the *Local Government Act 1993* in which the land is situated, or

(b) if a person is declared by the regulations to be the local council for that land for the purposes of any specified provision of this Act—the person so declared.

Explanatory note

The proposed amendment in Schedule 11.5 has the effect that the Sydney Harbour Foreshore Authority will no longer be the local council for the purposes of issuing strata certificates under section 66 of the *Strata Schemes (Leasehold Development) Act 1986* in relation to certain land vested in that Authority.

Schedule 12 Amendment of private hospitals and day procedure centres legislation

(Section 3)

12.1 Private Hospitals Regulation 1996

[1] Clause 7 Applications for licences

Omit "$775" from clause 7 (b). Insert instead "$5,320".

[2] Clause 9 Annual licence fees

Omit the Table to the clause. Insert instead:

Table

Column 1	Column 2
Number of persons licensed to be accommodated	**Licence fee $**
Fewer than 51	4,690
51–75	5,940
76–100	7,190
101–150	9,690
151–200	10,940
201 or more	12,190

[3] Clause 10 Transfer of licence

Omit "$775" from clause 10 (b). Insert instead "$2,940".

Explanatory note

The proposed amendments in Schedule 12.1 increase licence fees for private hospitals, being application fees for licences, annual licence fees and application fees for the transfer of licences, so that the fees apply on a full cost recovery basis.

The 8-level range of fees in respect of the number of persons licensed to be accommodated in a private hospital has been altered to a 6-level range.

12.2 Day Procedure Centres Regulation 1996

[1] Clause 7 Applications for licences

Omit "$775" from clause 7 (b). Insert instead "$5,320".

[2] Clause 9 Annual licence fees

Omit "$1,415". Insert instead "$4,690".

[3] Clause 10 Transfer of licence

Omit "$775" from clause 10 (b). Insert instead "$2,940".

Explanatory note

The proposed amendments in Schedule 12.2 increase fees for day procedure centres, being application fees for licences, annual licence fees and application fees for the transfer of licences, so that the fees apply on a full cost recovery basis.

Schedule 13 Amendment of Real Property Regulation 2008

(Section 3)

[1] Schedule 1 Fees

Insert after item 8:

8A	On lodgment of a transfer by way of discharge of mortgage where a mortgagee has been recorded as registered proprietor pursuant to section 12B of the Act	92.00
8B	On lodgment of a dealing for registration or recording of a unilateral severance of a joint tenancy pursuant to section 97 of the Act	92.00
8C	On lodgment of a dealing to transfer an estate in land that changes the tenancy or shares of tenants	92.00
8D	On lodgment of a dealing to transfer the ownership of an estate in land pursuant to section 46 of the Act	184.00

[2] Schedule 1, item 11

Omit "92.00". Insert instead "184.00".

Explanatory note

The proposed amendments amend Schedule 1 (Fees) to the *Real Property Regulation 2008* as follows:

(a) to specify a fee of $92 for certain transfers that do not change the ownership of an estate in land (for example, discharging a mortgage by way of transfer, unilaterally severing a joint tenancy or changing the tenancy or shares of tenants),

(b) to introduce a new fee of $184 for lodging a dealing to transfer the ownership of an estate in land pursuant to section 46 of the *Real Property Act 1900*,

(c) to increase from $92 to $184 the fee for lodging an application to dispose of Crown land arising from the closing of a public road under the *Roads Act 1993*.

Schedule 14 Amendment of Victims Support and Rehabilitation Act 1996 No 115

(Section 3)

[1] Section 79 Imposition of compensation levy

Omit "$70" from section 79 (1) (a). Insert instead "$140".

[2] Section 79 (1) (b)

Omit "$30". Insert instead "$60".

[3] Section 80

Insert after section 79:

80 CPI adjustments of compensation levy

(1) The amounts of the levy payable under section 79 (1) are to be adjusted annually, on and from 1 July in each year, in accordance with this section.

(2) The adjusted amounts are to be calculated in accordance with the following formula:

$$A = \frac{L \times C}{B}$$

where:

A is the adjusted amount of the levy.

L is the amount of the levy immediately before it is adjusted.

C is the Sydney CPI number for March in the financial year 2 years before the year for which the adjusted amount is to be determined.

B is the Sydney CPI number for March in the financial year before the financial year for which the adjusted amount is to be determined.

(3) The adjusted amounts are to be rounded up to the nearest dollar.

(4) If the adjusted amounts would be less than the amounts to be adjusted in any year, the amounts are not to be adjusted for that year.

(5) The Minister must publish a notice in the Gazette on or before 1 July in each year specifying the adjusted amounts (if any) determined under this section for the year commencing on 1 July.

(6) In this section:

Sydney CPI number means the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

Explanatory note

The amendments to the *Victims Support and Rehabilitation Act 1996* double the amounts of compensation levy currently payable by persons convicted of offences punishable by imprisonment and dealt with by certain courts and provide for those amounts to be adjusted annually on the basis of increases in the Consumer Price Index (All Groups Index) for Sydney.

Schedule 15 Amendment of environmental protection (waste) legislation

(Section 3)

15.1 Amendment of Protection of the Environment Operations Act 1997 No 156

[1] Schedule 1 Scheduled activities

Omit the definition of ***regulated area*** in clause 50 (1). Insert instead:

> ***regulated area*** means the area comprising the local government areas of Ashfield, Auburn, Ballina, Bankstown City, Bellingen, Blacktown City, Blue Mountains City, Botany Bay City, Burwood, Byron, Camden, Campbelltown City, Canada Bay, Canterbury City, Cessnock City, Clarence Valley, Coffs Harbour City, Dungog, Fairfield City, Gloucester, Gosford City, Great Lakes, Greater Taree City, Hawkesbury City, Holroyd City, Hornsby, Hunter's Hill, Hurstville City, Kempsey, Kiama, Kogarah, Ku-ring-gai, Kyogle, Lake Macquarie City, Lane Cove, Leichhardt, Lismore City, Liverpool City, Maitland City, Manly, Marrickville, Mosman, Muswellbrook, Nambucca, Newcastle City, North Sydney, Parramatta City, Penrith City, Pittwater, Port Macquarie-Hastings, Port Stephens, Randwick City, Richmond Valley, Rockdale City, Ryde City, Shellharbour City, Shoalhaven City, Singleton, Strathfield, Sutherland Shire, City of Sydney, The Hills Shire, Tweed, Upper Hunter Shire, Warringah, Waverley, Willoughby City, Wingecarribee, Wollondilly, Wollongong City, Woollahra and Wyong.

[2] Schedule 2, clause 5A Local council waste reduction and environmental sustainability scheme

Insert ", and improving the environmental sustainability practices and services of," after "waste by" in clause 5A (1).

15.2 Amendment of Protection of the Environment Operations (General) Regulation 1998

Clause 44 Commencement of licensing requirement for existing activities not previously required to be licensed: sec 52 (1)

Insert after clause 44 (3):

(4) The prescribed period after the commencement of the amendment to Schedule 1 to the Act made by the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2008* (to the extent that the amendment makes it necessary for a person

to be authorised by a licence to continue to carry out an activity of composting or waste disposal by application to land for which a licence was not previously required) is 6 months.

15.3 Amendment of Protection of the Environment Operations (Waste) Regulation 2005

[1] Clause 4 Definitions

Insert in alphabetical order in clause 4 (1):

coal washery rejects means the waste resulting from washing coal (including substances such as coal fines, soil, sand and rock resulting from that process).

RRA means the regional regulated area, being the local government areas of Ballina, Bellingen, Blue Mountains City, Byron, Clarence Valley, Coffs Harbour City, Dungog, Gloucester, Great Lakes, Greater Taree City, Kempsey, Kyogle, Lismore City, Muswellbrook, Nambucca, Port Macquarie-Hastings, Richmond Valley, Singleton, Tweed, Upper Hunter Shire and Wollondilly.

[2] Clause 4A Payment of contributions

Insert after clause 4A (3):

(4) For the purposes of section 88 (3) (b) of the Act, and despite subclauses (2) and (3), the period of 26 days after the end of each month is prescribed as the time within which the contribution payable by an occupier under clause 5 (4) is to be paid.

[3] Clause 5

Omit the clause. Insert instead:

5 Contributions payable in relation to scheduled waste facilities where adequate records kept

(1) For the purposes of section 88 (2) of the Act, the following contributions are prescribed as the contributions required to be paid by the occupiers of scheduled waste facilities in respect of waste other than trackable liquid waste:

(a) the SMA amount for the year in which the waste is received for each tonne of waste:

(i) that is received in that year at a scheduled waste facility located in the SMA, or

(ii) that is received in that year at a scheduled waste facility located in the ERA but that has been generated in the SMA, or

(iii) that is received in that year at a scheduled waste facility located outside the SMA and the ERA but that has been generated in, or generated from waste (including liquid waste) generated in, the SMA,

(b) the ERA amount for the year in which the waste is received for each tonne of waste:

(i) that is received in that year at a scheduled waste facility located in the ERA but that has been generated outside the SMA, or

(ii) that is received in that year at a scheduled waste facility located outside the SMA and the ERA but that has been generated in, or generated from waste (including liquid waste) generated in, the ERA,

(c) the RRA amount for the year in which the waste is received for each tonne of waste:

(i) that is received in that year at a scheduled waste facility located in the RRA but that has been generated outside the SMA and the ERA, or

(ii) that is received in that year at a scheduled waste facility located outside the SMA and the ERA but that has been generated in, or generated from waste (including liquid waste) generated in, the RRA.

(2) For the purposes of section 88 (2) of the Act, the contributions required to be paid by an occupier of a scheduled waste facility in respect of trackable liquid waste that is received at the scheduled waste facility are prescribed as:

(a) $38.60 for each tonne of the waste that is received in the period beginning on 1 October 2007 and ending on 30 June 2008, or

(b) for a year beginning on or after 1 July 2008, the TLW amount for that year for each tonne of the waste that is received in that year.

(3) For the purposes of section 88 (5) of the Act, an occupier of a scheduled waste facility is exempt from the requirement to pay contributions in respect of trackable liquid waste that is received at the scheduled waste facility before 1 October 2007.

(4) For the purposes of section 88 (2) of the Act, the contributions required to be paid by an occupier of a scheduled waste facility

used to dispose of coal washery rejects only, in respect of each tonne of coal washery rejects received at the facility, are prescribed as:

(a) $15.00 for each tonne of coal washery rejects received in the period beginning on 1 November 2009 and ending on 30 June 2010, or

(b) for a year beginning on or after 1 July 2010, the Special Levy amount for that year for each tonne of coal washery rejects received in that year.

(5) An occupier of a scheduled waste facility who is required to pay contributions under subclause (4) is not required to pay contributions in respect of the same waste under subclause (1).

(6) The SMA amount is as follows:

(a) $30.40 for the year ending 30 June 2007,

(b) for a year beginning on or after 1 July 2007 and ending on or before 30 June 2016—the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (11),

(c) for a year beginning on or after 1 July 2016—the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (15).

(7) The ERA amount is as follows:

(a) $23.10 for the year ending 30 June 2007,

(b) for a year beginning on or after 1 July 2007 and ending on or before 30 June 2013—the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (12),

(c) for a year beginning on or after 1 July 2013—the SMA amount for that year.

(8) The RRA amount is as follows:

(a) $10.00 for the year ending on 30 June 2010,

(b) for a year beginning on or after 1 July 2010 and ending on or before 30 June 2016—the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (13),

(c) for a year beginning on or after 1 July 2016—the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (15), but where ***T*** in that

formula is the RRA amount, in dollars and cents, for the year previous to the year for which the calculation is being made.

(9) The TLW amount is as follows:

(a) $46.70 for the year ending 30 June 2009,

(b) for a year beginning on or after 1 July 2009 and ending on or before 30 June 2011—the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (14),

(c) for a year beginning on or after 1 July 2011—the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (15), but where ***T*** in that formula is the TLW amount, in dollars and cents, for the year previous to the year for which the calculation is being made.

(10) The Special Levy amount is the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (15), but where T in that formula is:

(a) for a calculation made for the year ending on 30 June 2011—$15.00, or

(b) for a calculation made for a year beginning on or after 1 July 2011—the Special Levy amount, in dollars and cents, for the year previous to the year for which the calculation is being made.

(11) The formula is:

$$D = (N + Q) \times \left(1 + \left(\frac{A - B}{B}\right)\right)$$

where:

D is the amount, in dollars and cents, being calculated.

N is the SMA amount, in dollars and cents, for the year previous to the year for which the calculation is being made.

Q is:

(a) for a calculation made for a year ending on or before 30 June 2009—$7.00, or

(b) for a calculation made for a year beginning on or after 1 July 2009 and ending on or before 30 June 2016—$10.00.

A is the CPI number for the December quarter of the year previous to the year for which the calculation is being made.

B is the CPI number for the December quarter of the year 2 years previous to the year for which the calculation is being made.

(12) The formula is:

$$H = (M + R) \times \left(1 + \left(\frac{A - B}{B}\right)\right)$$

where:

H is the amount, in dollars and cents, being calculated.

M is the ERA amount, in dollars and cents, for the year previous to the year for which the calculation is being made.

R is:

(a) for a calculation made for a year ending on or before 30 June 2009—$7.50, or

(b) for a calculation made for the year ending on 30 June 2010—$10.50, or

(c) for a calculation made for a year beginning on or after 1 July 2010 and ending on or before 30 June 2013—$11.50.

A is the CPI number for the December quarter of the year previous to the year for which the calculation is being made.

B is the CPI number for the December quarter of the year 2 years previous to the year for which the calculation is being made.

(13) The formula is:

$$E = (V + T) \times \left(1 + \left(\frac{A - B}{B}\right)\right)$$

where:

E is the amount, in dollars and cents, being calculated.

V is the RRA amount, in dollars and cents, for the year previous to the year for which the calculation is being made.

T is $10.00.

A is the CPI number for the December quarter of the year previous to the year for which the calculation is being made.

B is the CPI number for the December quarter of the year 2 years previous to the year for which the calculation is being made.

(14) The formula is:

$$G = (P + C) \times \left(1 + \left(\frac{A - B}{B}\right)\right)$$

where:

G is the amount, in dollars and cents, being calculated.

P is the TLW amount, in dollars and cents, for the year previous to the year for which the calculation is being made.

C is:

(a) for a calculation made for the year ending on 30 June 2010—$7.00, or

(b) for a calculation made for the year ending on 30 June 2011—$6.00.

A is the CPI number for the December quarter of the year previous to the year for which the calculation is being made.

B is the CPI number for the December quarter of the year 2 years previous to the year for which the calculation is being made.

(15) The formula is:

$$S = T \times \left(1 + \left(\frac{A - B}{B}\right)\right)$$

where:

S is the amount, in dollars and cents, being calculated.

T is the SMA amount, in dollars and cents, for the year previous to the year for which the calculation is being made.

A is the CPI number for the December quarter of the year previous to the year for which the calculation is being made.

B is the CPI number for the December quarter of the year 2 years previous to the year for which the calculation is being made.

(16) The SMA amount, the ERA amount, the RRA amount, the TLW amount and the Special Levy amount are to be rounded to the nearest 10 cents, and if the amount to be rounded is 5 cents, rounded up.

(17) The amount of the contribution is to be adjusted in accordance with clause 11A.

(18) If, at any time, the Australian Statistician issues a CPI number in substitution for a CPI number previously issued, the issue of the later CPI number is to be disregarded for the purposes of this clause.

[4] Clause 6 Contributions payable in relation to scheduled waste facilities where inadequate records kept

Omit clause 6 (2). Insert instead:

(2) Except as provided by subclauses (2A)–(2C), the contribution payable is the SMA amount calculated:

(a) in accordance with clause 5 (6) for the year in which the EPA makes the determination of the amount of the contribution, and

(b) in relation to each tonne of the waste that is estimated by the EPA under subclause (3) as being at the waste facility concerned when the estimation is made.

(2A) The contribution payable in respect of waste the subject of clause 5 (1) (c) is the RRA amount calculated:

(a) in accordance with clause 5 (8) for the year in which the EPA makes the determination of the amount of the contribution, and

(b) in relation to each tonne of the waste that is estimated by the EPA under subclause (3) as being at the waste facility concerned when the estimation is made.

(2B) The contribution payable in respect of waste the subject of clause 5 (2) is:

(a) if the EPA makes the determination of the amount of the contribution in the period beginning 1 October 2007 and ending on 30 June 2008, $38.60 in relation to each tonne of the waste that is estimated by the EPA under subclause (3) as being at the waste facility concerned when the estimation is made, or

(b) otherwise, the TLW amount calculated:

(i) in accordance with clause 5 (9) for the year in which the EPA makes the determination of the amount of the contribution, and

(ii) in relation to each tonne of the waste that is estimated by the EPA under subclause (3) as being at the waste facility concerned when the estimation is made.

(2C) The contribution payable in respect of waste the subject of clause 5 (4) is:

(a) if the EPA makes the determination of the amount of the contribution in the period beginning 1 November 2009 and ending on 30 June 2010, $15.00 in relation to each tonne

of the waste that is estimated by the EPA under subclause (3) as being at the waste facility concerned when the estimation is made, or

(b) otherwise, the Special Levy amount calculated:

(i) in accordance with clause 5 (10) for the year in which the EPA makes the determination of the amount of the contribution, and

(ii) in relation to each tonne of the waste that is estimated by the EPA under subclause (3) as being at the waste facility concerned when the estimation is made.

[5] Clause 9 Exemption of certain occupiers from requirement to pay contributions

Omit "coal washery rejects," from clause 9 (b).

[6] Clause 11A Deductions from contributions

Omit "the SMA or ERA" from clause 11A (3AA) (a).

Insert instead "the regulated area".

[7] Clause 11A (6)

Insert "in respect of the waste" after "applicable".

[8] Clause 15 Weighbridges

Omit clause 15 (1) (b). Insert instead:

(b) on and from 1 September 2006 until 30 June 2011, if the waste facility receives over 10,000 tonnes of waste (other than liquid waste) in any year, ensure that there is an approved weighbridge installed at the waste facility, and

(c) on and from 1 July 2011, if the waste facility receives over 5,000 tonnes of waste (other than liquid waste) in any year, ensure that there is an approved weighbridge installed at the waste facility.

[9] Clause 43 Special requirements relating to clinical and related waste

Omit "Sydney metropolitan area or extended" from clause 43 (1) (a).

[10] Clause 43 (1) (c)

Omit "extended".

[11] Part 5A, heading

Omit "**performance**". Insert instead "**and sustainability**".

[12] Clause 46A Definitions

Omit "performance" and "***performance***" wherever occurring.

Insert instead "and sustainability" and "***and sustainability***", respectively.

[13] Clause 46A, definitions of "ERA", "RRA" and "SMA"

Insert in alphabetical order:

ERA has the same meaning as in Part 2.

RRA has the same meaning as in Part 2.

SMA has the same meaning as in Part 2.

[14] Clause 46A, definition of "regulated area"

Omit the definition.

[15] Clause 46B Waste and sustainability improvement guidelines

Omit clause 46B (1). Insert instead:

(1) The EPA may, from time to time, issue guidelines establishing waste and sustainability improvement standards to be met by local councils within the regulated area in relation to the use, recovery, recycling, processing and disposal of waste, and improvements in environmental sustainability practices and services.

[16] Clause 46B (1A)

Insert after clause 46B (1):

(1A) A waste and sustainability improvement standard may be expressed to apply to all local councils, or to a particular local council or group of local councils, within the regulated area.

[17] Clause 46B (2)–(4)

Omit "performance" wherever occurring. Insert instead "and sustainability".

[18] Clause 46C Application for waste and sustainability improvement payments

Omit clause 46C (1). Insert instead:

(1) From the year commencing 1 July 2006, a local council within the SMA or the ERA, and from the year commencing 1 July 2009, a local council within the RRA, may each year apply to the

EPA for a waste and sustainability improvement payment in relation to its compliance with the waste and sustainability improvement guidelines.

[19] Clause 46C (2) (a) and (b)

Omit "performance" wherever occurring. Insert instead "and sustainability".

[20] Clause 46D Determination of application

Omit "performance" wherever occurring. Insert instead "and sustainability".

[21] Clause 46E Calculation of amount of waste and sustainability improvement payment

Omit clause 46E (1). Insert instead:

(1) The amount of the waste and sustainability improvement payment to which an eligible council is entitled in a year beginning on or after 1 July 2006 and ending on or before 30 June 2009 is to be calculated in accordance with the following formula:

$$D = (B \times (\$3 \times N)) \times \left(\frac{P}{T}\right)$$

where:

D is the amount of the payment, in dollars and cents.

B is the total amount of household waste, in tonnes, disposed of during the previous year by or on behalf of local councils within the SMA and the ERA (whether or not they are eligible councils) as calculated by the EPA.

N is:

(a) for the year ending 30 June 2007—1, or

(b) for the year ending 30 June 2008—2, or

(c) for the year ending 30 June 2009—3.

P is the population of the local council's local government area.

T is the total population of the local government areas of all eligible councils within the SMA and the ERA.

(1A) The amount of the waste and sustainability improvement payment to which an eligible council is entitled in a year beginning on or after 1 July 2009 and ending on or before 30 June 2016 is to be calculated in accordance with the following formula:

$$F = R \times \left(\frac{P}{T}\right)$$

where:

F is the amount of the payment, in dollars and cents.

R is:

(a) for the year ending 30 June 2010—$19.8 million (if the payment is for a council within the SMA or the ERA) or $1.4 million (if the payment is for a council within the RRA), or

(b) for the year ending 30 June 2011—$26.6 million (if the payment is for a council within the SMA or the ERA) or $2.8 million (if the payment is for a council within the RRA), or

(c) for the year ending 30 June 2012—$32.8 million (if the payment is for a council within the SMA or the ERA) or $2 million (if the payment is for a council within the RRA), or

(d) for the year ending 30 June 2013—$36.2 million (if the payment is for a council within the SMA or the ERA) or $2.5 million (if the payment is for a council within the RRA), or

(e) for the year ending 30 June 2014—$38.8 million (if the payment is for a council within the SMA or the ERA) or $3 million (if the payment is for a council within the RRA), or

(f) for the year ending 30 June 2015—$40.5 million (if the payment is for a council within the SMA or the ERA) or $3.5 million (if the payment is for a council within the RRA), or

(g) for the year ending 30 June 2016—$42.6 million (if the payment is for a council within the SMA or the ERA) or $3.9 million (if the payment is for a council within the RRA).

P is the population of the local council's local government area.

T is the total population of the local government areas of all eligible councils within the SMA and the ERA (if the payment is

for a council within the SMA or the ERA) or within the RRA (if the payment is for a council within the RRA).

[22] Clause 46F

Omit the clause. Insert instead:

46F Payment of waste and sustainability improvement payment

The Director-General of the Department of Environment and Climate Change must pay to an eligible council any waste and sustainability improvement payment to which the council is entitled under this Part.

[23] Clause 51A Exemptions relating to certain waste

Insert at the end of clause 51A (1) (b):

, and

(c) coal washery rejects (within the meaning of Part 2).

[24] Clause 51A (2)

Insert "or class of persons" after "a person".

Explanatory note

The proposed amendments to the *Protection of the Environment Operations (Waste) Regulation 2005* (***the Regulation***):

(a) increase the contributions payable by occupiers of ***scheduled waste facilities*** (being certain waste facilities required to be licensed under the *Protection of the Environment Operations Act 1997* (***the Act***)) in respect of waste (other than trackable liquid waste) that has either been received by such a facility located in the Sydney metropolitan area (the ***SMA***) or the extended regulation area (the ***ERA***) under the Regulation or generated in those areas, by (generally) $10.00 per tonne per annum from 1 July 2009 until 30 June 2016 (adjusted annually in line with the CPI), and provide for the contributions amount to continue to be adjusted annually in line with the CPI in the years following, and

(b) provide for contributions to be payable by occupiers of scheduled waste facilities in respect of waste (other than trackable liquid waste) that has been received by such a facility located (generally) in the Blue Mountains, Wollondilly and North East Coast areas (being the regional regulated area or the ***RRA*** under the Regulation) but generated outside the SMA and ERA, or generated in the RRA but received at such a facility located outside the SMA and the ERA, beginning 1 July 2009 at $10.00 per tonne and increasing by $10.00 per tonne per annum until 30 June 2016 (adjusted annually in line with the CPI), and provide for the contributions amount to continue to be adjusted annually in line with the CPI in the years following, and

(c) (together with amendments to the Act) extend the application of the Waste Performance Improvement Scheme (which currently promotes waste reduction by local councils in the SMA and the ERA and provides for payments to councils in those areas who comply with waste reduction guidelines) to local councils in the RRA and broaden the scope of the Scheme to encompass guidelines relating to environmental sustainability, and

(d) remove the exemption from the requirement to pay contributions in respect of waste (other than trackable liquid waste) that currently applies to occupiers of scheduled waste facilities used to dispose of only coal washery rejects, and instead provide for a separate contribution to be payable by such an occupier in respect of coal washery rejects received at the facility on and from 1 November 2009, being a contribution of $15.00 per tonne (adjusted annually in line with the CPI).

Amendments of a minor, ancillary or consequential nature are also made to the legislation referred to above and the *Protection of the Environment Operations (General) Regulation 1998*, including:

(a) to lower the licence threshold for the scheduled activities of composting and waste disposal by application to land (being activities for which a licence is required under the Act) by including the RRA (in addition to the SMA and ERA) in the term ***regulated area*** that applies for the purposes of delineating those scheduled activities, and

(b) to clarify that waste in respect of which a deduction from contributions may be made by an occupier of a scheduled waste facility must be waste received while the facility is required to be licensed and in respect of which the contributions are payable, and

(c) (effective from 1 July 2011) to lower the amount of waste (from 10,000 tonnes to 5,000 tonnes) that must be received by certain waste facilities before their occupiers are required to install an approved weighbridge at the facility, and

(d) to amend provisions relating to disposal of clinical waste to expressly relate them to the RRA.