



New South Wales

# Duties Amendment (Abolition of Vendor Duty) Bill 2005

## Explanatory note

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

## Overview of Bill

The object of this Bill is to amend the *Duties Act 1997* to abolish vendor duty, and duty on the disposal of interests in land rich companies and trust schemes, on and from 2 August 2005.

## Outline of provisions

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

**Clause 2** provides for the commencement of the proposed Act on 2 August 2005, being the date on which the abolition of vendor duty was first announced.

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

## Schedule 1 Amendments

**Schedule 1 [1]–[4], [7] and [8]** abolish vendor duty, and duty on the disposal of interests in land rich landholders (being companies or trust schemes), on and from 2 August 2005. Vendor duty, and duty on the disposal of interests in land rich

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Explanatory note

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landholders, will continue to be payable in respect of transactions that occurred, or disposals that were made, before the abolition date.

**Schedule 1 [5] and [6]** are an anti-avoidance measure. The object of the provisions is to ensure that persons liable to pay vendor duty before the abolition date do not avoid the payment of that duty by cancelling agreements and entering into replacement agreements with respect to the same property.

**Schedule 1 [9]** provides for the making of savings and transitional regulations.

First print



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New South Wales

# Duties Amendment (Abolition of Vendor Duty) Bill 2005

No. , 2005

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## A Bill for

An Act to amend the *Duties Act 1997* to abolish vendor duty, and duty on the disposal of interests in land rich landholders, on and from 2 August 2005.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Duties Amendment (Abolition of Vendor Duty) Act 2005</i> .	3
<b>2 Commencement</b>	4
This Act is taken to have commenced on 2 August 2005.	5
<b>3 Amendment of Duties Act 1997 No 123</b>	6
The <i>Duties Act 1997</i> is amended as set out in Schedule 1.	7

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<b>Schedule 1</b>	<b>Amendments</b>	1
	(Section 3)	2
<b>[1]</b>	<b>Chapter 4, note</b>	3
	Insert after the heading to Chapter 4:	4
	<b>Note.</b> This Chapter charges duty (known as vendor duty) on certain transactions. Vendor duty was introduced in 2004 and applied to certain transactions occurring on or after 1 June 2004 (see clause 40 of Schedule 1). Vendor duty was abolished on and from 2 August 2005. Accordingly, vendor duty remains chargeable only on certain transactions that occurred before that abolition date.	5 6 7 8 9 10
<b>[2]</b>	<b>Section 145 Introduction</b>	11
	Insert after section 145 (1):	12
	(1A) The duty charged by this Chapter is abolished on and from 2 August 2005. However, the duty remains chargeable on certain dutiable transactions that occurred before 2 August 2005.	13 14 15
<b>[3]</b>	<b>Section 146 Transactions on which vendor duty is charged</b>	16
	Insert “that occurs before 2 August 2005” after “a transfer of land-related property” in section 146 (1) (a).	17 18
<b>[4]</b>	<b>Section 146 (1) (b)</b>	19
	Insert “, but only if the transaction occurs before 2 August 2005” after “the following transactions”.	20 21
<b>[5]</b>	<b>Section 161</b>	22
	Omit the section. Insert instead:	23
<b>161</b>	<b>Cancelled agreements</b>	24
	(1) An agreement for sale or transfer is not liable to vendor duty under this Chapter if the Chief Commissioner is satisfied that:	25 26
	(a) the agreement has been cancelled, and	27
	(b) the agreement was not cancelled to avoid liability for vendor duty by means of a subsequent agreement to transfer (or by means of a transfer of) the same land-related property to the transferee or to any associated person of the transferee on or after 2 August 2005.	28 29 30 31 32
	(2) If vendor duty has been paid on an agreement that is not liable to vendor duty under this Chapter because of this section, the Chief Commissioner must reassess and refund the duty if an application for a refund is made within:	33 34 35 36

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Schedule 1 Amendments

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(a)	5 years after the initial assessment, or	1
(b)	12 months after the agreement is cancelled, whichever is the later.	2 3
(3)	In this section: <i>cancelled</i> means rescinded, annulled or otherwise terminated without completion.	4 5 6
<b>[6]</b>	<b>Section 162 Cancelled transfers</b>	7
	Omit section 162 (1). Insert instead:	8
(1)	A transfer of land-related property that is effected by a written instrument is not liable to vendor duty under this Chapter if the Chief Commissioner is satisfied that:	9 10 11
(a)	the transfer instrument has been cancelled or abandoned, and	12 13
(b)	the transfer instrument was not cancelled or abandoned to avoid liability for vendor duty by means of a subsequent transfer of the same land-related property to the transferee or to any associated person of the transferee on or after 2 August 2005.	14 15 16 17 18
<b>[7]</b>	<b>Section 163 Overview</b>	19
	Insert after “Chapter 4.” in the note to section 163: As vendor duty was abolished on and from 2 August 2005, duty is chargeable under Part 3 only on a disposal by a person of an interest in a land rich landholder that was made before that date.	20 21 22 23
<b>[8]</b>	<b>Section 163N What is a “relevant disposal”?</b>	24
	Insert after section 163N (1):	25
(1A)	However, the disposal is a relevant disposal only if it was made before 2 August 2005.	26 27



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

Insert at the end of clause 1 (1):

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