



New South Wales

# Duties Amendment (Stamp Duty Reduction) Bill 2003

## 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* (the *Principal Act*):

- (a) to reduce in stages from 1 July 2004 the general rate of duty chargeable on dutiable transactions, and
- (b) to remove the distinction in the First Home Plus scheme between the Metropolitan Area and other areas so as to enable persons buying homes in non-metropolitan areas to qualify for the more generous concessions and exemptions under that scheme that are available to persons buying homes in the Metropolitan Area.

## Outline of provisions

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

**Clause 2** provides for the commencement of the proposed Act on the date of assent, except for the amendments relating to the general rate of duty which commence on 1 July 2004.

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

## **Schedule 1 Amendments**

### **Reduction in general rate of duty on dutiable transactions**

**Schedule 1 [1]** substitutes section 32 of the Principal Act to provide for a staged reduction in the general rate of duty under that section over a period from 1 July 2004 until 1 July 2006 so as to reach a maximum reduction of 10 per cent. Duty is reduced by 5 per cent from 1 July 2004 until 1 July 2005, by 7.5 per cent from 1 July 2005 until 1 July 2006 and by 10 per cent from 1 July 2006.

### **First Home Plus scheme**

Division 1 of Part 8 of Chapter 2 to the Principal Act contains the First Home Plus scheme which provides for certain concessional rates of duty or exemptions from duty for persons buying their first home if the value of the home does not exceed a certain value. Currently, that value is \$300,000 for a home in the Metropolitan Area (defined in the Principal Act) and \$250,000 for a home in any other area. If a vacant block is being purchased for a home, the value is not to exceed \$140,000 for a vacant block in the Metropolitan Area and \$110,000 for a vacant block in any other area. **Schedule 1 [2]** amends the scheme to provide that the maximum qualifying value for a home under the scheme is \$300,000 and is \$140,000 for a vacant block, regardless of where the home or block is located.

Section 80 of the Principal Act provides that if a qualifying home or block under the scheme is valued at less than a specified amount, no duty is payable on an agreement to acquire or transfer the home or block. The specified amount is higher for houses or blocks in the Metropolitan Area. That section also provides for a concessional rate of duty to apply to an agreement to acquire or transfer a qualifying home or block where the value of the home or block is above the amount specified for the exemption from duty. The concessional rates are lower for homes and blocks in the Metropolitan Area. **Schedule 1 [6]** substitutes section 80 to remove those distinctions between the Metropolitan Area and other areas so that persons acquiring homes in non-metropolitan areas will be entitled to the same exemptions and concessional rates of duty that currently apply to persons acquiring homes in the Metropolitan Area.

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Section 221 of the Principal Act provides for a concessional rate of duty to apply to certain advances secured by a mortgage of a home or block that qualifies under the First Home Plus scheme or a mortgage in support of such a mortgage. The concessional rates are lower for homes and blocks in the Metropolitan Area. **Schedule 1 [7]** removes those distinctions between the Metropolitan Area and other areas so that persons acquiring homes in non-metropolitan areas will be entitled to the same concessional rates of duty that currently apply to persons acquiring homes in the Metropolitan Area.

**Schedule 1 [3]–[5] and [10]** contain consequential amendments.

**Schedule 1 [8] and [9]** contain savings and transitional provisions.

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Introduced by Mr J G Brogden, MP

First print



New South Wales

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New South Wales

## **Duties Amendment (Stamp Duty Reduction) Bill 2003**

No. , 2003

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### **A Bill for**

An Act to amend the *Duties Act 1997* in relation to the general rate of duty chargeable on a dutiable transaction, and concessional rates of duty and exemptions under the First Home Plus scheme; and for other purposes.

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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 (Stamp Duty Reduction) Act 2003</i> .	3 4
<b>2 Commencement</b>	5
(1) This Act commences on the date of assent to this Act, except as provided by subsection (2).	6 7
(2) Schedule 1 [1] commences on 1 July 2004.	8
<b>3 Amendment of Duties Act 1997 No 123</b>	9
The <i>Duties Act 1997</i> is amended as set out in Schedule 1.	10



**Schedule 1 Amendments**

(Section 3)

**[1] Section 32**

Omit the section. Insert instead:

**32 General rate**

- (1) The rate of duty chargeable on a dutiable transaction is set out in the Table to this subsection and that Table applies to dutiable transactions as follows:
  - (a) Part 1 applies to a dutiable transaction if the liability for duty on the dutiable transaction arises on or after 1 July 2004 but before 1 July 2005,
  - (b) Part 2 applies to a dutiable transaction if the liability for duty on the dutiable transaction arises on or after 1 July 2005 but before 1 July 2006,
  - (c) Part 3 applies to a dutiable transaction if the liability for duty on the dutiable transaction arises on or after 1 July 2006.

**Table**

**Part 1**

Dutiable value of the dutiable property subject to the dutiable transaction	Rate of duty from 1 July 2004 to 30 June 2005
Not more than \$14,000	\$1.19 for every \$100, or part, of the dutiable value
More than \$14,000 but not more than \$30,000	\$166.60 plus \$1.43 for every \$100, or part, by which the dutiable value exceeds \$14,000
More than \$30,000 but not more than \$80,000	\$395.40 plus \$1.66 for every \$100, or part, by which the dutiable value exceeds \$30,000

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Schedule 1 Amendments

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More than \$80,000 but not more than \$300,000	\$1,225.40 plus \$3.33 for every \$100, or part, by which the dutiable value exceeds \$80,000
More than \$300,000 but not more than \$1,000,000	\$8,551.40 plus \$4.28 for every \$100, or part, by which the dutiable value exceeds \$300,000
More than \$1,000,000	\$38,511.40 plus \$5.23 for every \$100, or part, by which the dutiable value exceeds \$1,000,000

**Part 2**

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<b>Dutiable value of the dutiable property subject to the dutiable transaction</b>	<b>Rate of duty from 1 July 2005 to 30 June 2006</b>
Not more than \$14,000	\$1.16 for every \$100, or part, of the dutiable value
More than \$14,000 but not more than \$30,000	\$162.40 plus \$1.39 for every \$100, or part, by which the dutiable value exceeds \$14,000
More than \$30,000 but not more than \$80,000	\$384.80 plus \$1.62 for every \$100, or part, by which the dutiable value exceeds \$30,000
More than \$80,000 but not more than \$300,000	\$1,194.80 plus \$3.24 for every \$100, or part, by which the dutiable value exceeds \$80,000
More than \$300,000 but not more than \$1,000,000	\$8,322.80 plus \$4.16 for every \$100, or part, by which the dutiable value exceeds \$300,000
More than \$1,000,000	\$37,442.80 plus \$5.09 for every \$100, or part, by which the dutiable value exceeds \$1,000,000

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**Part 3**

<b>Dutiable value of the dutiable property subject to the dutiable transaction</b>	<b>Rate of duty from 1 July 2006</b>
Not more than \$14,000	\$1.13 for every \$100, or part, of the dutiable value
More than \$14,000 but not more than \$30,000	\$158.20 plus \$1.35 for every \$100, or part, by which the dutiable value exceeds \$14,000
More than \$30,000 but not more than \$80,000	\$374.20 plus \$1.58 for every \$100, or part, by which the dutiable value exceeds \$30,000
More than \$80,000 but not more than \$300,000	\$1,164.20 plus \$3.15 for every \$100, or part, by which the dutiable value exceeds \$80,000
More than \$300,000 but not more than \$1,000,000	\$8,094.20 plus \$4.05 for every \$100, or part, by which the dutiable value exceeds \$300,000
More than \$1,000,000	\$36,444.20 plus \$4.95 for every \$100, or part, by which the dutiable value exceeds \$1,000,000

(2) The rates of duty imposed by this section apply unless other provision is made by this Chapter.

**Note.** The rates of duty chargeable on dutiable transactions in respect of marketable securities are dealt with in section 33. Concessional rates of duty chargeable on certain dutiable transactions are dealt with in Part 6 of this Chapter.

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<b>[2] Section 74 Eligible agreements or transfers</b>	1
Omit section 74 (3). Insert instead:	2
(3) The dutiable value of the dutiable property that is the subject of the agreement or transfer must be less than:	3
(a) \$300,000 if the property has a private dwelling built on it, or	4
(b) \$140,000 if the property comprises a vacant block of residential land.	5
<b>[3] Section 74, note</b>	6
Omit “ <i>Metropolitan area</i> is defined in the Dictionary.”.	7
<b>[4] Section 77 Eligible mortgages</b>	8
Omit “74 (3) (a) or (b), as the case requires” wherever occurring in section 77 (3) and (4).	9
Insert instead “74 (3) (a)”.	10
<b>[5] Section 77 (4)</b>	11
Omit “74 (3) (c) or (d), as the case requires,”. Insert instead “74 (3) (b)”.	12
<b>[6] Section 80</b>	13
Omit the section. Insert instead:	14
<b>80 Duty payable if application approved</b>	15
(1) If an application concerning an eligible agreement or transfer is approved and the dutiable value of the dutiable property that is the subject of the agreement or transfer is not more than the following amounts, no duty is chargeable on the agreement or transfer:	16
(a) \$200,000 if the property has a private dwelling built on it,	17
(b) \$95,000 if the property comprises a vacant block of residential land.	18
(2) If an application concerning an eligible agreement or transfer is approved and subsection (1) does not apply to the agreement or transfer, duty is chargeable on the agreement or transfer as follows:	19
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- (a) if the property has a private dwelling built on it—at the rate of 8.99% of the dutiable value of the dutiable property that is the subject of the agreement or transfer, less \$17,980.00,
- (b) if the property comprises a vacant block of residential land—at the rate of 7.53% of the dutiable value of the dutiable property that is the subject of the agreement or transfer, less \$7,152.00.

**[7] Section 221 Eligible mortgages under First Home Plus**

Omit section 221 (1). Insert instead:

- (1) Duty is payable in accordance with the following paragraphs on an advance secured by an eligible mortgage under Division 1 of Part 8 of Chapter 2 or a mortgage in support of such an eligible mortgage, but only to the extent that the amount of the advances qualifies under section 77 (3) or (4):
  - (a) if the property has a private dwelling built on it:

<b>Dutiable value of dutiable property subject to the agreement or transfer</b>	<b>Discount on duty</b>
Not more than \$200,000	100%
More than \$200,000 but not more than \$235,000	75%
More than \$235,000 but not more than \$265,000	50%
More than \$265,000 but less than \$300,000	25%

(b) if the property comprises a vacant block of residential land:

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Dutiable value of dutiable property subject to the agreement or transfer	Discount on duty
Not more than \$95,000	100%
More than \$95,000 but not more than \$110,000	75%
More than \$110,000 but not more than \$125,000	50%
More than \$125,000 but less than \$140,000	25%

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

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Insert at the end of clause 1 (1):

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*Duties Amendment (Stamp Duty Reduction) Act 2003*

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**[9] Schedule 1**

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

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**Part Provisions consequent on enactment of Duties Amendment (Stamp Duty Reduction) Act 2003**

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**Application of amendments**

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- (1) In this clause, *amending Act* means the *Duties Amendment (Stamp Duty Reduction) Act 2003*.
- (2) An amendment made by Schedule 1 [2]–[6] to the amending Act applies only to a dutiable transaction if the liability for duty on the dutiable transaction arises (or would but for Division 1 of Part 8 of Chapter 2 arise) after the commencement of the amendment.

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- (3) An amendment made by Schedule 1 [7] to the amending Act applies only to a dutiable transaction if the liability for duty on the dutiable transaction arises (or would but for section 221 arise) after the commencement of the amendment.

**Note.** Division 1 of Part 8 of Chapter 2 and section 221 provide for concessional rates of duty on certain dutiable transactions and exemptions from duty on certain dutiable transactions.

**[10] Dictionary**

Omit the definition of *Metropolitan Area*.

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