

[Act 2000 No 44]



New South Wales

Intergovernmental Agreement Implementation (GST) Bill 2000

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to give effect to the *Intergovernmental Agreement on the Reform of Commonwealth–State Financial Relations* (the *Intergovernmental Agreement*), and
 - (b) to amend various Acts and statutory instruments as a consequence of the imposition by the Commonwealth of the goods and services tax (*GST*).
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Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act on the date of assent, except as provided by the clause.

Clause 3 contains definitions for the purposes of the proposed Act.

Clause 4 provides for the attachment of the Intergovernmental Agreement as a Schedule to the proposed Act, as required by that Agreement. The Agreement comprises Schedule 1 to the proposed Act.

Clause 5 provides for the payment of GST equivalents to the Commonwealth Commissioner of Taxation by State entities that are not otherwise required to pay GST.

Clause 6 enables, as an interim transitional measure, the increase of fees and charges that are regulated by legislation by an amount that does not exceed the amount of GST payable on the supply to which the fee or charge relates and that complies with the ACCC price exploitation guidelines. The clause ceases to have effect on 1 July 2001.

Clause 7 relates to fees and charges, and penalties, that are regulated by legislation and that are varied by reference to the CPI. It enables the Treasurer, as an interim transitional measure, to give a direction reducing the CPI as a consequence of the impact of the GST and requiring the fee or charge to be increased in accordance with the CPI as so reduced. The clause ceases to have effect on 1 July 2003.

Clause 8 is a formal provision giving effect to the amendments, set out in Schedules 2–12, to the following Acts and instruments:

Duties Act 1997

Funeral Funds Act 1979

Liquor Act 1982

Pay-roll Tax Act 1971

Petroleum Products Subsidy Act 1997

Public Lotteries Act 1996

Registered Clubs Act 1976

Retail Leases Act 1994

Sporting Injuries Insurance Act 1978

Stamp Duties Act 1920

Totalizator Act 1997

Workers Compensation Act 1987

Workers Compensation (General) Regulation 1995

Workers' Compensation (Dust Diseases) Act 1942

Workplace Injury Management and Workers Compensation Act 1998

Schedule 1 Intergovernmental Agreement on the Reform of Commonwealth–State Financial Relations

Clause 4 of the Intergovernmental Agreement requires the State of New South Wales to attach the Agreement as a schedule to relevant legislation. Accordingly, the Agreement comprises Schedule 1 to the proposed Act.

Schedule 2 Amendment of Duties Act 1997 No 123

Part 1 of Schedule 2 abolishes duty on transactions involving marketable securities that are quoted on the Australian Stock Exchange or a recognised stock exchange, with effect from 1 July 2001.

At present, under the *Duties Act 1997* dutiable property includes certain shares, units in a unit trust scheme and certain defined interests in shares and units.

The amendments provide that, despite those provisions, the following marketable securities are not dutiable property:

- (a) shares, or units in a unit trust scheme, that are quoted on the Australian Stock Exchange or a recognised stock exchange,
- (b) an interest in shares or units referred to in paragraph (a), whether or not the interest is quoted on the Australian Stock Exchange or a recognised stock exchange.

As quoted marketable securities, and interests in them, will no longer be considered dutiable property, a transaction involving marketable securities will no longer be a dutiable transaction (see Schedule 2 [5]).

The definition of recognised stock exchange is also replaced by the Bill (see Schedule 2 [35]). The amendments provide that a recognised stock exchange means:

- (a) a stock exchange that is a member of the Fédération Internationale des Bourses de Valeurs, or
- (b) the Stock Exchange of Newcastle, or
- (c) a stock exchange that is declared to be a recognised stock exchange by an order of the Minister, published in the Gazette, that is in force.

Other amendments in Part 1 of Schedule 2 are of a consequential or transitional nature.

Part 2 of Schedule 2 contains other GST-related amendments to the *Duties Act 1997*.

In relation to a hire of goods, the *Duties Act 1997* provides that duty is applied to the amount of the hiring charges. The Bill amends that Act to provide that a hiring charge is not to include any GST payable on the supply to which the hire of goods relates so as to avoid double taxation (see Schedule 2 [36]).

In relation to motor vehicle registration, the *Duties Act 1997* provides that duty is payable on the dutiable value of the motor vehicle at the time the vehicle is registered. The Bill amends that Act to provide that the dutiable value does not include GST if the supply of the vehicle is GST-free under the Commonwealth GST legislation because the vehicle is for use by a disabled person.

Schedule 3 Amendment of Funeral Funds Act 1979 No 106

The *Funeral Funds Act 1979* is amended to enable funeral funds to remit GST in respect of pre-paid funerals purchased after 1 December 1999 and that are performed on or after 1 July 2000.

The Act is also generally amended to facilitate the payment of GST.

Schedule 4 Amendment of Liquor Act 1982 No 147

The Intergovernmental Agreement states in clause 5 (viii) that “The States and Territories will adjust their gambling tax arrangements to take account of the impact of the GST on gambling operators.”

Explanatory note

Schedule 4 amends the *Liquor Act 1982* to reduce from 1 July 2000, by the equivalent amount of GST, the annual marginal tax rates for hotel gaming machine operations as follows:

Profit (\$)	Current marginal rates (%)	Proposed marginal rates (%)
Up to 25,000	15.0	5.91
25,001–400,000	25.0	15.91
400,001–1 million	35.0	25.91
In excess of 1 million	40.0	30.91

Schedule 5 Amendment of Pay-roll Tax Act 1971 No 22

Schedule 5 amends the *Pay-roll Tax Act 1971* to provide that, if GST is payable on a contract the consideration for which includes amounts that are wages (or are taken to be wages) for pay-roll tax purposes, the amount representing GST is to be excluded from the pay-roll tax base.

Schedule 6 Amendment of Petroleum Products Subsidy Act 1997 No 112

Part 1 of Schedule 6 amends the *Petroleum Products Subsidy Act 1997* to remove the requirement to provide subsidies on the sale of diesel fuel for off-road use, including marine purposes, from 1 July 2000.

Part 2 of Schedule 6 provides for the repeal of the Part of the Act (Part 4—Sales of diesel fuel for off-road use) that provides for off-road subsidies on the fifth anniversary of the date of assent to the Act, namely 9 December 2002.

Schedule 7 Amendment of Public Lotteries Act 1996 No 86

Currently under the *Public Lotteries Act 1996*, general duty and licence duty are paid as a percentage of the subscriptions to public lotteries. The Act is amended to provide that “player loss” may be used as an alternative basis for payment of duty.

Explanatory note

Player loss is defined to be the difference between the subscriptions and the outgoings for the public lottery.

Schedule 8 Amendment of Registered Clubs Act 1976 No 31

In accordance with the Intergovernmental Agreement, Schedule 8 amends the *Registered Clubs Act 1976* to reduce from 1 July 2000, by the equivalent amount of GST, the annual marginal tax rates for club gaming machine operations as follows:

Profit (\$)	Current marginal rates (%)	Proposed marginal rates (%)
Up to 100,000	0.00	0.00
100,001–200,000	1.00	0.00
200,001–1 million	20.00	10.91
In excess of 1 million	26.25	17.16

Schedule 9 Amendment of Retail Leases Act 1994 No 46

Schedule 9 amends the *Retail Leases Act 1994*:

- to provide that a lessor's outgoings may include GST payable in respect of a lease
- to provide that "turnover" in respect of a retail shop lease does not include the amount paid or payable by the lessee as GST
- to validate certain agreements that were made by lessors before the commencement of the amendments in so far as they provide for the payment by or recovery from the lessee of any GST payable in respect of the lease and in so far as they comply with the ACCC price exploitation guidelines.

Schedule 10 Amendment of Stamp Duties Act 1920 No 47

In order to give effect to the Intergovernmental Agreement, Schedule 10 amends the *Stamp Duties Act 1920* to abolish financial institutions duty from 1 July 2001.

Schedule 11 Amendment of Totalizator Act 1997 No 45

For wagering on races, the *Totalizator Act 1997* is amended to reduce the tax rate on off-course and on-course totalizators from 28.2% to 19.11%.

Schedule 12 Amendment of workers compensation and sporting injuries legislation

Schedule 12.1 amends the *Workers Compensation Act 1987*:

- to insert a definition of GST (Schedule 12.1 [1])
- to provide that the “premium income” in relation to contributions payable by an insurer is to include any amount comprising or attributable to GST (Schedule 12.1 [2])
- to provide that a policy of insurance does not cover an employer’s liability for GST payable on the settlement of a claim (Schedule 12.1 [3] and [15])
- to clarify the liability to GST of certain penalty payments (Schedule 12.1 [4]–[6] and [8]–[13])
- to provide that an employer’s record of the wages of an employee is not required to include a record of any GST component in a payment to a worker (Schedule 12.1 [7])
- to appoint WorkCover, from 30 June 2000 until 1 July 2003, as the agent and attorney of employers solely for the purpose of notifying insurers of any entitlement (and the extent of any entitlement) that an employer may have to an input tax credit for a premium paid by the employer for a policy of insurance issued by the insurer (Schedule 12.1 [14])
- to enable the making of regulations of a savings and transitional nature as a consequence of the imposition of the GST (Schedule 12.1 [16] and [17]).

Explanatory note

Schedule 12.2 amends the *Workers Compensation (General) Regulation 1995*. The form of insurance policy prescribed by that Regulation is amended to provide that a policy of insurance does not cover an employer's liability for GST payable on the settlement of a claim.

Schedule 12.3 amends the *Workplace Injury Management and Workers Compensation Act 1998*:

- to insert a definition of GST (Schedule 12.3 [1])
- to provide that the "premium income" in relation to contributions payable by an insurer is to include any amount comprising or attributable to GST (Schedule 12.3 [2])
- to clarify the liability to GST of certain penalty payments (Schedule 12.3 [3], [7]–[9] and [11]–[14])
- to provide that a policy of insurance does not cover an employer's liability for GST payable on the settlement of a claim (Schedule 12.3 [4])
- to provide for the application of GST in relation to premiums paid for, and liabilities under, policies of insurance (Schedule 12.3 [5] and [6])
- to provide that an employer's record of the wages of an employee is not required to include a record of any GST component in a payment to a worker (Schedule 12.3 [10]).

Schedule 12.4 amends the *Workers' Compensation (Dust Diseases) Act 1942* to extend the power to make regulations under that Act of a savings and transitional nature so as to enable the making of regulations that may be necessary or convenient as a consequence of the enactment to date, and the on-going enactment, by the Commonwealth of GST legislation. Any such regulations may have effect despite the provisions of the Act and they may be given a retrospective effect (subject to the usual safeguards that preserve the rights of private citizens). Any such regulation ceases to have effect on 1 July 2003 (unless it is sooner revoked or otherwise ceases to have effect) and the special regulation-making power cannot be used after 1 July 2003.

Schedule 12.5 amends the *Sporting Injuries Insurance Act 1978* in the same manner.