



New South Wales

# State Revenue Legislation Amendment Bill 2011

## Explanatory note

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

## Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Duties Act 1997*:
  - (i) to extend the duty concession for transfers of property, and to provide for a new concession, in connection with persons changing superannuation funds, and
  - (ii) to provide for an exemption from duty in relation to special disability trusts under the *Veterans' Entitlements Act 1986* of the Commonwealth, and
  - (iii) for law revision purposes,
- (b) to amend the *First Home Owner Grant Act 2000* to make further provision in relation to the recovery of certain amounts required to be paid under that Act.

## 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 to the proposed Act.

## **Schedule 1      Amendment of Duties Act 1997 No 123**

**Schedule 1 [1]** extends an existing duty concession that applies to certain transfers of dutiable property that are made in connection with a person changing superannuation funds. The amendment provides for payment of duty at the concessional rate of \$500 (or the ad valorem rate, if lower) on a transfer of marketable securities from the trustee of a superannuation fund, or a custodian of the trustee of a superannuation fund, to a life company or custodian for a life company if the transfer is made in consideration of the issue of a policy of life insurance in connection with changing superannuation funds.

**Schedule 1 [3]** establishes a duty concession that applies to certain transfers of shares or units in a unit trust scheme that are made in connection with a person changing superannuation funds. The duty concession applies to acquisitions of interests in landholders. It is similar to the duty concession that applies to transfers of dutiable property that are made in connection with a person changing superannuation funds. Duty is charged at the concessional rate of \$500.

**Schedule 1 [6]** extends a provision that exempts from duty instruments establishing, or transferring property to, special disability trusts within the meaning of the *Social Security Act 1991* of the Commonwealth. It also extends a provision that specifies that duty of \$50 is chargeable in respect of a transfer of dutiable property to a trustee of a special disability trust within the meaning of that Act. The amendment extends these provisions to special disability trusts within the meaning of the *Veterans' Entitlements Act 1986* of the Commonwealth.

**Schedule 1 [2]** updates a reference to the *Workplace Relations Act 1996* of the Commonwealth, which has been replaced by the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth.

**Schedule 1 [4]** enables savings and transitional regulations to be made as a consequence of the enactment of the proposed Act.

**Schedule 1 [5]** provides for transitional matters.

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

**Schedule 2 [1]** provides that the liability of an applicant for a first home owner grant to pay certain amounts under that Act is a first charge on that applicant's interest in the home for which the first home owner grant is sought. **Schedule 2 [2]** provides that once a caveat lodged by the Chief Commissioner of State Revenue in respect of the home is recorded in the Register kept under the *Real Property Act 1900*, the charge has priority over all other encumbrances except land tax. **Schedule 2 [3]** makes it clear that these provisions apply despite section 42 of the *Real Property*

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*Act 1900*, which states that the registered proprietor of an interest in land holds the interest free of any interests that are not recorded in a folio of the Register kept under that Act.

**Schedule 2 [4]** enables savings and transitional regulations to be made as a consequence of the enactment of the proposed Act.

**Schedule 2 [5]** provides for transitional matters.



First print



New South Wales

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New South Wales

# State Revenue Legislation Amendment Bill 2011

No. , 2011

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**A Bill for**

An Act to make miscellaneous amendments to certain State revenue legislation.

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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>State Revenue Legislation Amendment Act 2011</i> .	3
<b>2 Commencement</b>	4
This Act commences on the date of assent to this Act.	5



<b>Schedule 1</b>	<b>Amendment of Duties Act 1997 No 123</b>	1
<b>[1]</b>	<b>Section 61 Transfers of property in connection with persons changing superannuation funds</b>	2 3
	Insert after section 61 (1A) (d):	4
	(e) a transfer of, or an agreement to transfer, marketable securities from the trustee of a superannuation fund or a custodian of the trustee of a superannuation fund to a life company or custodian for a life company if the transfer is made in consideration of the issue, by the life company, of a policy of life insurance to the trustee of the superannuation fund of which the person has become a member.	5 6 7 8 9 10 11 12
<b>[2]</b>	<b>Section 65 Exemptions from duty</b>	13
	Omit “Commonwealth <i>Workplace Relations Act 1996</i> ” from section 65 (2) (a).	14
	Insert instead “ <i>Fair Work (Registered Organisations) Act 2009</i> of the Commonwealth”.	15 16
<b>[3]</b>	<b>Section 163FA</b>	17
	Insert after section 163F:	18
<b>163FA</b>	<b>Concession for acquisitions in connection with persons changing superannuation funds</b>	19 20
	(1) This section applies to a relevant acquisition that results wholly from a relevant transfer and occurs in connection with a person:	21 22
	(a) ceasing to be a member of, or otherwise ceasing to be entitled to benefits in respect of, a superannuation fund that is a complying superannuation fund or was a complying superannuation fund within the period of 12 months before the acquisition was made, and	23 24 25 26 27
	(b) becoming a member of, or otherwise becoming entitled to benefits in respect of, another superannuation fund that is also a complying superannuation fund or will, in the opinion of the trustees of both funds concerned, be a complying superannuation fund within 12 months after the acquisition is made.	28 29 30 31 32 33
	(2) For the purposes of this section, each of the following is a <b>relevant transfer</b> :	34 35
	(a) a transfer of property from a trustee of a superannuation fund, or a custodian of the trustee, to the trustee of another	36 37

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Schedule 1 Amendment of Duties Act 1997 No 123

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	superannuation fund, or to a custodian of the trustee of another superannuation fund,	1 2
(b)	a transfer of property from a trustee of a superannuation fund to a custodian of the trustee, or from a custodian of the trustee of a superannuation fund to the trustee,	3 4 5
(c)	a transfer of a share or a unit in a unit trust scheme from the trustee of a pooled superannuation trust, made in exchange for a redemption of units in the trust, to the trustee of a superannuation fund, or a custodian of the trustee of a superannuation fund,	6 7 8 9 10
(d)	a transfer of a share or a unit in a unit trust scheme from the trustee of a superannuation fund, or a custodian of the trustee of a superannuation fund, made in exchange for the issue of units in a pooled superannuation trust, to a trustee of the pooled superannuation trust,	11 12 13 14 15
(e)	a transfer of a share or a unit in a unit trust scheme from a life company or custodian for a life company to the trustee of a superannuation fund or a custodian of the trustee of a superannuation fund if the transfer is made in consideration of the surrender or termination, by the trustee of the superannuation fund of which the person has ceased to be a member, of a policy of life insurance issued by the life company,	16 17 18 19 20 21 22 23
(f)	a transfer of a share or a unit in a unit trust scheme from the trustee of a superannuation fund or a custodian of the trustee of a superannuation fund to a life company or custodian for a life company if the transfer is made in consideration of the issue, by the life company, of a policy of life insurance to the trustee of the superannuation fund of which the person has become a member.	24 25 26 27 28 29 30
(3)	The duty chargeable under this Chapter on a relevant acquisition to which this section applies is \$500.	31 32
(4)	In this section, <i>complying superannuation fund</i> includes a complying approved deposit fund and an eligible rollover fund.	33 34
<b>[4]</b>	<b>Schedule 1 Savings, transitional and other provisions</b>	35
	Insert at the end of clause 1 (1):	36
	<i>State Revenue Legislation Amendment Act 2011</i>	37

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<b>[5] Schedule 1</b>	1
Insert at the end of the Schedule with appropriate Part and clause numbering:	2
<b>Part Provisions consequent on enactment of State Revenue Legislation Amendment Act 2011</b>	3
	4
	5
<b>Amendment relating to transfers in connection with persons changing superannuation funds</b>	6
	7
The amendment made to section 61 by the <i>State Revenue Legislation Amendment Act 2011</i> is taken to apply in respect of dutiable transactions occurring on or after 1 July 2010.	8
	9
	10
<b>Amendment relating to acquisitions in connection with persons changing superannuation funds</b>	11
	12
The amendment made to Chapter 4 by the <i>State Revenue Legislation Amendment Act 2011</i> applies only in respect of a relevant acquisition made on or after the commencement of that Act.	13
	14
	15
	16
<b>Amendment relating to special disability trusts</b>	17
The amendment made to the Dictionary by the <i>State Revenue Legislation Amendment Act 2011</i> applies only in respect of dutiable transactions occurring on or after the commencement of that Act.	18
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	21
<b>[6] Dictionary</b>	22
Omit the definition of <i>special disability trust</i> from clause 1. Insert instead:	23
<i>special disability trust</i> means a special disability trust within the meaning of the <i>Social Security Act 1991</i> of the Commonwealth or the <i>Veterans' Entitlements Act 1986</i> of the Commonwealth.	24
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<b>Schedule 2</b>	<b>Amendment of First Home Owner Grant Act 2000 No 21</b>	1
		2
<b>[1] Section 46 Power to recover certain amounts</b>		3
Insert “first” after “liability is a” in section 46 (3).		4
<b>[2] Section 46 (3AA)</b>		5
Insert after section 46 (3A):		6
(3AA) Once the caveat is recorded in the Register kept under the <i>Real Property Act 1900</i> , the charge has priority over all other encumbrances except land tax under the <i>Land Tax Management Act 1956</i> .		7
		8
		9
		10
<b>[3] Section 46 (8)</b>		11
Insert after section 46 (7):		12
(8) The provisions of this section have effect despite anything contained in section 42 of the <i>Real Property Act 1900</i> .		13
		14
<b>[4] Schedule 1 Savings, transitional and other provisions</b>		15
Insert at the end of clause 1 (1):		16
<i>State Revenue Legislation Amendment Act 2011</i>		17

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<b>[5] Schedule 1, Part 10</b>	1
Insert after Part 9:	2
<b>Part 10 Provisions consequent on enactment of State Revenue Legislation Amendment Act 2011</b>	3 4 5
<b>17 Liability to repay certain amounts a first charge</b>	6
The amendments to section 46 made by the <i>State Revenue Legislation Amendment Act 2011</i> do not apply in respect of an eligible transaction that has a commencement date that is before 1 October 2011.	7 8 9 10