

# State Revenue Legislation Further Amendment Act 2009 No 51

[2009-51]



New South Wales

## Status Information

### Currency of version

Repealed version for 2 July 2009 to 1 October 2009 (accessed 16 November 2024 at 3:16)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Act was repealed by sec 30C of the [Interpretation Act 1987 No 15](#) with effect from 10.2.2009.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 2 July 2009

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# State Revenue Legislation Further Amendment Act 2009 No 51



New South Wales

An Act to make miscellaneous changes to certain State revenue and other legislation.

## 1 Name of Act

This Act is the *State Revenue Legislation Further Amendment Act 2009*.

## 2 Commencement

- (1) This Act commences on the date of assent to this Act, except as provided by subsection (2).
- (2) The following provisions commence, or are taken to have commenced, on the date indicated:
  - (a) Schedule 3—30 June 2009,
  - (b) Schedules 1.1-1.4, 1.5 [1]-[12] and [26], 5, 6, 7.3 and 7.4—1 July 2009,
  - (c) Schedule 1.5 [28]-[31]—1 October 2009.

## 3 Explanatory notes

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

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

### 1.1-1.4

(Repealed)

### 1.5 Other amendments

[1]-[27] (Repealed)

#### [28] Section 243 What duty is payable?

Omit “**disability income insurance**” from the heading to section 243 (1).

Insert instead “**trauma or disability insurance**”.

**[29] Section 243 (1)**

Omit “or a policy of disability income insurance”.

Insert instead “a trauma policy, a TPD policy or a disability income policy”.

**[30] Section 243 (4)**

Omit the subsection. Insert instead:

- (4) **Trauma or disability insurance** The amount of duty chargeable on a trauma policy, a TPD policy or a disability income policy is 5% of the premium paid to effect the insurance.

**[31] Section 243 (5)**

Insert in alphabetical order:

**disability income policy** means a policy of insurance under which an amount is payable as a replacement of income in the event of the disablement of the insured by accident or sickness.

**TPD policy** means a policy of insurance under which an amount is payable in the event of the total and permanent disablement of the insured by accident or sickness.

**trauma policy** means a policy of insurance under which an amount is payable in the event of the insured being found to have a stated condition or disease.

**[32]-[43] (Repealed)**

**Explanatory note**

**Business assets**

Items [1]-[7] clarify the provisions of the *Duties Act 1997* relating to the charging of duty in respect of a transfer of business assets. The amendments make it clear that duty is chargeable in respect of a transfer of the goodwill of a business when goods have been supplied or services have been provided by the business in New South Wales in the previous 12 months. It will no longer be necessary for there to have been a sale of goods or services by the business (that is, the provisions extend to goods supplied, or services provided, whether or not for consideration). Also, the provision of services that a business is contractually obliged to provide can fall within the ambit of the provisions.

**Nominal duties**

Item [8] requires a minimum duty of \$10, instead of \$50, to be charged in respect of a transfer of shares of a corporation that is not the legal or beneficial owner of land in New South Wales.

Item [9] requires a transfer of marketable securities that is chargeable with duty at the concessional rate of \$50 to be charged with ad valorem duty, if the ad valorem duty would be less than \$50. This is subject to a minimum duty of \$10 being payable.

Item [11] allows a nominal duty of \$50 to be charged in respect of a transfer of dutiable property from a sub-custodian of a

custodian of a responsible entity of a managed investment scheme to the custodian of the responsible entity of a managed investment scheme.

Item [12] requires a transaction made in connection with a deceased estate that is chargeable with duty at the concessional rate of \$50 to be charged with ad valorem duty, if the ad valorem duty would be less than \$50. This is subject to a minimum duty of \$10 being payable.

#### **Insurance duty**

Item [26] requires an emergency service levy to be treated as a part of the premium of an insurance policy, for duty purposes.

Items [28]-[31] clarify that a duty of 5% of the premium is payable on life insurance that is trauma or disability insurance.

#### **Application of Act to Crown**

Items [38] and [42] replace the current arrangements for specifying which (if any) Crown bodies are liable to pay duty under the [Duties Act 1997](#). In general the Crown in right of New South Wales is not required to pay duty under the Act. However, the Act currently allows the Governor to make an order applying the Act to specified persons or bodies (whether statutory or otherwise), so that those persons or bodies do not benefit from a duty exemption. The amendments remove the power to make such an order. Instead, the Crown bodies that are required to pay duty will now be specified in a Schedule to the Act. Item [39] enables the Schedule to be amended by proclamation of the Governor.

The Crown bodies which are required to pay duty (and which are already required to pay duty) are Forests NSW, the State Transit Authority of New South Wales and the Sydney Harbour Foreshore Authority.

#### **Law revision amendments**

Item [10] clarifies a reference to property, so that it applies to dutiable property only.

Items [13]-[17] update provisions relating to liquor licences, as a consequence of the repeal of the [Liquor Act 1982](#) and its replacement by the [Liquor Act 2007](#).

Items [18]-[25] and [33]-[37] update certain duty exemptions that apply in respect of transactions that are made as a consequence of the termination of a de facto relationship, to reflect the fact that financial settlements made in connection with the breakdown of a de facto relationship are now made under the [Family Law Act 1975](#) of the Commonwealth, rather than under State law. Item [43] replaces the definition of "de facto relationship" so that it is consistent with the Commonwealth law.

Items [27] and [32] update references to a Commonwealth health services law, as a consequence of changes to Commonwealth law.

#### **Savings and transitional matters**

Item [40] enables savings and transitional regulations to be made as a consequence of the amendments.

Item [41] contains particular savings and transitional provisions, that clarify the application of the amendments made to the [Duties Act 1997](#) by the Schedule. Most of the amendments in Schedule 1.5 have effect from 1 July 2009. The amendments relating to de facto relationships have effect from 1 March 2009 (when the relevant changes were made to Commonwealth law). The more particular provisions relating to landholder duty, mortgage duty and tax avoidance schemes are explained in the explanatory note relating to the amendments concerned in the Subschedules above.

## **Schedules 2-7 (Repealed)**