

Queensland



**REVENUE AND OTHER
LEGISLATION
AMENDMENT ACT 1997**

Act No. 74 of 1997

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Queensland



**Revenue and Other Legislation Amendment
Act 1997**

Act No. 74 of 1997

An Act to amend certain Acts administered by the Treasurer

[Assented to 1 December 1997]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Revenue and Other Legislation Amendment Act 1997*.

Commencement

2. Part 3 commences on 29 June 1998.

PART 2—AMENDMENT OF FINANCIAL INTERMEDIARIES ACT 1996

Act amended in pt 2

3. This part amends the *Financial Intermediaries Act 1996*.

Amendment of s 65 (Objects)

4.(1) Section 65(1)(a), ‘for the member’s own use’—
omit.

(2) Section 65(1)(b), ‘existing’—
omit.

(3) Section 65(1)(c), ‘of a residential loan’—
omit, insert—

‘or consolidation of residential loans’.

PART 3—AMENDMENT OF LAND TAX ACT 1915

Act amended in pt 3

5. This part amends the *Land Tax Act 1915*.

Amendment of s 3 (Definitions)

6. Section 3, definition “**unimproved value**”—

omit, insert—

‘**“unimproved value”** see sections 3C and 3CA.’.

Insertion of new s 3CA

7. After section 3C—

insert—

‘References to unimproved value of subdivided land in certain cases

‘**3CA.(1)** This section applies to a parcel of land if—

- (a) the parcel is 1 of the parts into which land has been subdivided; and
- (b) the person who subdivided the land (the “**subdivider**”) was, when the land was subdivided—
 - (i) an approved subdivider for the land; and
 - (ii) the owner of the parcel; and
- (c) the parcel was vacant land when the land was subdivided; and
- (d) at midnight on the 30 June immediately preceding the discount year for the parcel—
 - (i) the subdivider is still the owner of the parcel; and
 - (ii) the parcel is still vacant land.

‘**(2)** Subsection (3) applies to the parcel for levying land tax on the parcel for the discount year for the parcel.

‘**(3)** A reference to the unimproved value of the parcel that applies for the

discount year is a reference to the value that, apart from this subsection, would be the unimproved value of the parcel applying for the discount year, discounted by 40%.

‘(4) Nothing in this section applies for levying land tax on the parcel for a financial year other than the discount year for the parcel.

‘(5) For this section, land is taken to be subdivided when a plan of subdivision under the *Land Title Act 1994* is registered under that Act.¹

‘(6) In this section—

“**approved subdivider**”, of land, means a person who has been issued an approved subdivider’s certificate for the land.

“**approved subdivider’s certificate**”, for land, see *Valuation of Land Act 1944*, section 96A(1).²

“**discount year**”, for a parcel of land that is 1 of the parts into which land has been subdivided, means the financial year immediately following the financial year in which the land was subdivided.’.

PART 4—AMENDMENT OF STAMP ACT 1894

Act amended in pt 4 and schedule

8. This part and the schedule amend the *Stamp Act 1894*.

Amendment of s 31BA (Options—marketable securities)

9.(1) Section 31BA, heading—

omit, insert—

‘**Options—marketable securities and share rights**’.

(2) Section 31BA(1), after ‘marketable security’—

¹ The *Land Title Act 1994*, section 49A deals with the registration of plans of subdivision.

² *Valuation of Land Act 1944*, section 96A (Approved subdivider’s certificate)

insert—

‘or right in respect of shares’.

(3) Section 31BA(2) and (3), after ‘marketable security’—

insert—

‘or right’.

(4) Section 31BA(4), definition “**option**”, after ‘marketable securities’—

insert—

‘or rights in respect of shares’.

Amendment of s 54AB (Duty payable where no dutiable instrument)

10.(1) Section 54AB(1)—

insert—

‘(c) a transaction that—

- (i) involves a person who has an estate or interest in property of a kind mentioned in paragraph (a); and
- (ii) results in a trust restriction being imposed on, or removed from, the person in relation to the property.’.

(2) Section 54AB, after subsection (1A)—

insert—

‘**(1AB)** For subsection (1)(c), a trust restriction is imposed on a person in relation to property in which the person has an estate or interest if—

- (a) the person’s estate or interest is held otherwise than as trustee and the person starts to hold the estate or interest as trustee; or
- (b) the person’s estate or interest is held as trustee of a trust and the person starts to hold the estate or interest as trustee of another trust.

‘**(1AC)** For subsection (1)(c), a trust restriction is removed from a person in relation to property in which the person has an estate or interest if the person’s estate or interest is held as trustee of a trust and the person stops holding the estate or interest as trustee of the trust.’.

(3) Section 54AB(2)—

insert—

‘(c) in the case of a transaction of the kind specified in subsection (1)(c)—with duty under schedule 1, under the heading ‘Conveyance or transfer’, paragraph (4) on the full unencumbered value of the estate or interest mentioned in paragraph (c)(i) of the subsection;’.

(4) Section 54AB(2), ‘subsection (1), prepare’—

omit, insert—

‘subsection (1) or is a person involved in a transaction mentioned in subsection (1)(c), prepare’.

(5) Section 54AB(3), ‘subsection (1)’—

omit, insert—

‘subsection (1)(a) or (b)’.

(6) Section 54AB—

insert—

‘(3A) For a statement prepared under subsection (2) for a transaction specified in subsection (1)(c) (the “**trust transaction**”)—

- (a) the statement is taken for this Act to be an instrument of conveyance of the estate or interest mentioned in subsection (1)(c), to the extent to which subsection (3) does not apply to the property comprising the estate or interest because of the transaction, or a transaction of which the trust transaction forms a part; and
- (b) the instrument is taken to have been signed by each person required to prepare a statement for the trust transaction.’.

(7) Section 54AB(4A), after ‘subsection (3)’—

insert—

‘or (3A)’.

Amendment of s 56FK (Statement chargeable with duty)**11. Section 56FK—***insert—*

‘(12) If land to which the corporation is entitled at the time of the relevant acquisition includes land (the “**subject land**”) being sold or transferred under a contract or agreement for sale or transfer that is subsequently completed—

- (a) the subject land is to be disregarded—
 - (i) in determining whether the corporation is a land-holder within the meaning of section 56FL; and
 - (ii) in the calculation of the dutiable value; and
- (b) the commissioner must make the necessary reassessments and refunds of duty.

‘(13) However, subsection (12) applies only if the commissioner is satisfied the contract or agreement for the subject land was not entered into, or was not part of a scheme or arrangement entered into, for the purpose of defeating the object of the prescribed provisions.’.

Amendment of s 56FL (Corporations to which the prescribed provisions apply)**12.(1) Section 56FL(5), from ‘subsection (2), any’—***omit, insert—*

‘subsection (2)—

- (a) any contract or agreement under which land of the corporation or a subsidiary is being sold or transferred is to be taken not to have been made; and
- (b) any contract or agreement (whether or not conditional) under which land is being purchased or acquired by the corporation or a subsidiary is to be taken to have been completed.’.

(2) Section 56FL(6)—*omit, insert—*

‘(6) Without limiting the way this section applies to a corporation, for this section—

- (a) a corporation is taken to be entitled to land if the land is being sold or transferred, or purchased or acquired, by the corporation or a subsidiary under a contract or agreement for sale or transfer (whether or not the contract or agreement is conditional); and
- (b) a corporation is taken to be entitled to land or property to the extent that a subsidiary is entitled to the land or property.’

Amendment of s 75 (Allowance in certain circumstances)

13.(1) Section 75—

insert—

‘(2A) In considering an application, the commissioner may, by written notice given to the applicant, require the applicant to give to the commissioner, within the reasonable time stated in the notice, further information about the application the commissioner considers is necessary and reasonable to help the commissioner decide the application.’

(2) Section 75(3), ‘(3) The commissioner’—

omit, insert—

‘(3) If the commissioner is satisfied about the matters mentioned in subsection (3A) in relation to an application, the commissioner ’.

(3) Section 75—

insert—

‘(3A) For subsection (3), the matters relating to an application about which the commissioner is required to be satisfied are—

- (a) that the stamp to which the application relates satisfies a requirement mentioned in subsection (2)(a), (b) or (c); and
- (b) that the application was made within the time mentioned in subsection (2); and
- (c) that the circumstances for making an allowance for a stamp composed by at least 1 of the paragraphs of subsection (5) apply in relation to the application.’

(4) Section 75(5), ‘(5) Subject to’ to ‘following circumstances—’—
omit, insert—

‘(5) The circumstances for making an allowance for a stamp are as follows—’.

(5) Section 75(5)(d)—
omit, insert—

‘(d) where an instrument is void from inception;’.

(6) Section 75(5)(f)—
omit, insert—

‘(f) where—

- (i) the instrument has not had any legal effect but, on having legal effect, would have an unintended effect because of a mistake in its preparation; and
- (ii) the instrument is chargeable with duty under this Act because of the unintended effect;’.

(7) Section 75—
insert—

‘(7) For this section, an instrument is taken to have legal effect only if—

- (a) a right has been exercised under the instrument; or
- (b) an obligation has been carried out under the instrument; or
- (c) the instrument has been relied on in another way.

‘(8) For subsection (5)(f), an instrument has an unintended effect if—

- (a) at the time the instrument was signed, the parties had a specific intention that was to be given effect to by the instrument; and
- (b) the instrument does not give effect to the intention.

‘(9) For subsection (8), the signing of an instrument by the parties is evidence the instrument gives effect to the intention of the parties.’.

Amendment of sch 1 (Stamp duties on instruments)**14.** Schedule 1, Conveyance or transfer, exemptions—*insert—*

‘19.(1) A transfer of a mobile home positioned on a site under a relevant agreement.

‘(2) A transfer of a mobile home not positioned on a site if—

- (a) the mobile home is acquired for positioning on a site; and
- (b) the transfer is not part of a transaction involving a transfer of ownership of land.

‘(3) An assignment of a person’s rights and obligations as occupier under a relevant agreement.

‘(4) In this section, **“mobile home”**, **“occupier”**, **“relevant agreement”** and **“site”** have the respective meanings given by the *Mobile Homes Act 1989*, section 3³.

³ *Mobile Homes Act 1989*, section 3(1)—

“mobile home” means a structure (other than a caravan) prescribed by regulation.

“occupier” means a person who under a relevant agreement is entitled to occupy a mobile home positioned on a site.

“relevant agreement” means an agreement under which a person is entitled—

- (a) to position a mobile home on a site; and
- (b) to occupy the mobile home as the person’s only or principal place of residence.

“site” means land made available for positioning of mobile homes under relevant agreements and includes every part of such land.

SCHEDULE

section 8

MINOR AMENDMENTS OF STAMP ACT 1894**1. Section 31D(1)(a), from ‘particulars’—***omit, insert—*

‘particulars as are prescribed under a regulation; and’.

2. Section 31D(1)(aa)(ii), ‘prescribed’—*omit, insert—*

‘prescribed under a regulation’.

3. Section 31J(4)(a), ‘verified’ to ‘particulars of’—*omit, insert—*

‘showing particulars of’.

4. Section 35B(1)(a), before subparagraph (i), ‘and verified’ to ‘manner’—*omit.***5. Section 35B(1)(a)(i), ‘(i) the’ to ‘particulars’—***omit, insert—*

‘(i) particulars’.

SCHEDULE (continued)

6. Section 35B(1)(a)(iii), ‘(iii) the’ to ‘particulars’—*omit, insert—*

‘(iii) the particulars prescribed under a regulation’.

7. Section 35B(1)(a)(va), ‘(va) the’ to ‘particulars’—*omit, insert—*

‘(va)particulars’.

8. Section 35B(1)(a)(viiia),‘(viiia) the’ to ‘particulars’—*omit, insert—*~~the~~particulars prescribed under a regulation’.**9. Section 35B(1)(a)(ix), ‘(ix) the’ to ‘particulars’—***omit, insert—*

‘(ix) the particulars prescribed under a regulation’.

**10. Section 35B(1AC), definition “short-term discount transaction”,
‘in’ to ‘manner’—***omit, insert—*

‘in the way prescribed under a regulation’.

**11. Section 35B(1AC), definition “short-term loan”, ‘elected in’ to
‘manner to’—***omit, insert—*

‘elected in the way prescribed under a regulation to’.

SCHEDULE (continued)

12. Section 35B(1AC), definition “short-term loan”, ‘declared in’ to ‘period’—

omit, insert—

‘declared in the way, and within the period, prescribed under a regulation’.

13. After section 86—

insert—

‘Declaration about the repealed Revenue Laws Amendment Act (No. 2) 1996, s 34(1)

‘87.(1) To remove doubt, it is declared that the *Revenue Laws Amendment Act (No. 2) 1996*, section 34(1) did not, before its repeal, effect amendments of the following provisions of this Act—

- section 35B(1)(a)(ii)(A), (iv)(A), (vi)(A), (viii)(A) or (x)(B)(2), (C)(2) or (D)
- section 35B(1AC), definitions “short-term discount transaction” and “short-term loan”.

‘(2) Subsection (1) is a law to which the *Acts Interpretation Act 1954*, section 20A applies.⁴

‘(3) This section expires on 31 December 1998.’.

⁴ *Acts Interpretation Act 1954*, s 20A (Repeal does not end saving, transitional or validating effect etc.)