

Queensland



REVENUE LAWS AMENDMENT ACT 2000

Act No. 48 of 2000

Queensland



**REVENUE LAWS AMENDMENT ACT
2000**

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Queensland



Revenue Laws Amendment Act 2000

Act No. 48 of 2000

An Act to amend certain Acts administered by the Treasurer

[Assented to 17 November 2000]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Revenue Laws Amendment Act 2000*.

Commencement

- 2.(1) Section 6(1) is taken to have commenced on 1 July 2000.
- (2) Section 6(2) is taken to have commenced on 28 September 2000.

PART 2—AMENDMENT OF LAND TAX ACT 1915

Act amended in pt 2

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

Amendment of s 26D (Taxpayer may object to assessment)

4. Section 26D(3), ‘subsection (2)(b)’—
omit, insert—
‘subsection (2)(c)’.

PART 3—AMENDMENT OF PAY-ROLL TAX ACT 1971

Act amended in pt 3

5. This part amends the *Pay-roll Tax Act 1971*.

Amendment of s 10 (Exemption from pay-roll tax)

6.(1) Section 10(2)—

insert—

‘(j) to a person who is an apprentice or trainee under the *Vocational Education, Training and Employment Act 1991*, as the apprentice or trainee, for the period of the person’s apprenticeship or traineeship.’.

(2) Section 10(2)(j), as inserted by subsection (1), ‘*Vocational Education, Training and Employment Act 1991*’—

omit, insert—

‘*Training and Employment Act 2000*’.

Amendment of s 16C (Grouping where employees used in another business)

7. Section 16C—

insert—

‘(3) In this section—

- (a) a reference to a business carried on by an employer includes a reference to a business carried on by an employer under a trust; and
- (b) a reference to a business carried on by a person includes a reference to a business carried on by a person under a trust; and
- (c) a reference to an employer includes a reference to an employer who is the trustee of a trust; and

- (d) a reference to a person with whom an employer has an agreement, arrangement or undertaking includes a reference to a person who is the trustee of a trust.’.

Amendment of s 16D (Grouping of commonly controlled businesses)

8. Section 16D—

insert—

‘(8) In subsection (3)(a) and (b), a reference to a business carried on by a corporation includes a reference to a business carried on by a corporation under a trust.

‘(9) In subsection (4), a reference to a corporation includes a reference to a corporation that is the trustee of a trust.’.

Amendment of s 16DA (Grouping of head and branch businesses)

9. Section 16DA—

insert—

‘(3) In this section, a reference to a business includes a reference to a business carried on under a trust.’.

Amendment of s 16E (Smaller groups subsumed into larger groups)

10. Section 16E—

insert—

‘(4) In this section, a reference to a person who is a member of 2 or more groups includes a reference to a person who, as a trustee of a trust, is a member of 2 or more groups.’.

Amendment of s 42 (Agents and trustees)

11. Section 42(2)—

omit, insert—

‘(2) Subsection (1) does not exclude, limit or otherwise affect the

operation of part 4A to the extent the part applies to—

- (a) an agent or trustee; or
- (b) 2 or more persons, 1 or more of whom is an agent or trustee.’.

PART 4—AMENDMENT OF STAMP ACT 1894

Act amended in pt 4

12. This part amends the *Stamp Act 1894*.

Amendment of s 22A (Default assessments of duty)

13.(1) Section 22A(5), ‘the amount thereof’—

omit, insert—

‘assessed amount’.

(2) Section 22A(6), from ‘The amount’ to ‘deemed’—

omit, insert—

‘The assessed amount for an assessment is taken’.

(3) Section 22A—

insert—

‘(6A) If an assessment is made under subsection (1), (2) or (3), the commissioner or deputy commissioner may impose a penalty of—

- (a) if the assessment is made within 1 month (the **“first month”**) after the end of the period in which the statement, return or other document was required to be delivered or lodged—3% of the assessed amount; or
- (b) if the assessment is not made within the first month—an amount equal to the sum of—
 - (i) 3% of the assessed amount; and
 - (ii) 2% of the assessed amount for each additional month, or

part of an additional month, after the first month, until the assessment is made.

‘**(6B)** However, if the penalty calculated under subsection (6A) would be less than \$10, the penalty is \$10.

‘**(6C)** After considering the circumstances, the commissioner may waive or reduce the penalty.

‘**(6D)** If a penalty is imposed under subsection (6A) in relation to an assessment, the commissioner must give written notice to the person, or each person, to whom notice of the assessment was required to be given under subsection (5) of—

- (a) the imposition of the penalty; and
- (b) the amount of the penalty.

‘**(6E)** A penalty may be imposed under subsection (6A) in relation to an assessment only if a proceeding has not been taken for an offence constituted by an act or omission for which the assessment was made.’.

(4) Section 22A—

insert—

‘**(9)** In this section—

“**assessed amount**” means the duty the commissioner assesses under this section as the duty that ought to be charged, or is chargeable, on a statement, return or other document, but does not include any amount payable under this section by way of a penalty.’.

Amendment of s 29 (Powers of investigation)

14.(1) Section 29—

insert—

‘**(4A)** If an investigating officer is entering land, or a place, building or premises, to conduct inquiries, a valuer may, if asked by the officer, enter the land, place, building or premises with the officer to help the officer conduct the inquiries.’.

(2) Section 29—

insert—

‘(7) In this section—

“**valuer**” means a person appointed by the commissioner under section 51C(1) or 56FC(3)¹ to make a valuation of property.’.

Amendment of s 35C (Required persons to keep records)

15. Section 35C(2)—

omit, insert—

‘(2) If, in the commissioner’s opinion, it is not reasonably practicable to calculate precisely an amount to be stated in the statement of a required person, the amount is the amount calculated by the commissioner in the way the commissioner considers appropriate.

‘(2AA) In calculating an amount under subsection (2), the commissioner may have regard to any information or representations given or made to the commissioner by the required person for the calculation.

‘(2AB) Subsection (2AA) does not limit the matters the commissioner may have regard to for making the calculation.’.

Amendment of s 51C (Valuation in certain circumstances)

16. Section 51C(1)(e)—

omit, insert—

‘(e) accept a valuation of the property made by another person, whether the valuation is tendered by or for a party or comes into or to the commissioner’s possession or knowledge in another way;’.

Insertion of new s 54AE

17. After section 54AD—

insert—

¹ Section 51C (Valuation in certain circumstances) or 56FC (Valuation of property)

‘Water entitlements

‘54AE.(1) This section applies if a person (the **“entitlement holder”**) acquires, or agrees to acquire, a water entitlement.

‘(2) However, this section does not apply to—

- (a) an acquisition of a water entitlement if the acquisition results from a conversion that is exempt from stamp duty under the *Water Act 2000*, section 1008;² or
- (b) an acquisition of, or agreement to acquire, a water entitlement if—
 - (i) the water entitlement replaces and represents, or substantially represents, a previous entitlement to water held by the entitlement holder immediately before the repeal of the *Water Resources Act 1989*; or
 - (ii) the acquisition or agreement is effected or evidenced by an instrument chargeable with duty under schedule 1, Conveyance or transfer, paragraph (4) on the conveyance or transfer of the water entitlement.

‘(3) Within 1 month after acquiring, or agreeing to acquire, the water entitlement, whichever happens first, the entitlement holder must make a statement to the commissioner in the approved form.

Maximum penalty—100 penalty units plus an amount equal to double the amount of the duty that would have been chargeable on the statement if the statement had been made under this section.

‘(4) If a proceeding for an offence against subsection (3) is not taken against an entitlement holder, the commissioner or deputy commissioner may impose a penalty of—

- (a) if the statement is made within 1 month (the **“first month”**) after the end of the period in which it was required to be made—3% of the duty chargeable on the statement; or
- (b) if the statement is not made within the first month—an amount equal to the sum of—
 - (i) 3% of the duty chargeable on the statement; and

² *Water Act 2000*, section 1008 (Exemption of conversions of water allocations from stamp duty)

- (ii) 2% of the duty chargeable on the statement for each additional month, or part of an additional month, after the first month, until the statement is made.

‘(5) However, if the penalty calculated under subsection (4) would be less than \$10, the penalty is \$10.

‘(6) After considering the circumstances, the commissioner may waive or reduce the penalty.

‘(7) The statement mentioned in subsection (3)—

- (a) is taken to be an instrument under this Act executed by the entitlement holder; and
- (b) is chargeable with duty as if it were a conveyance or transfer of the water entitlement.

‘(8) In this section—

“**conversion**” means a conversion under the *Water Act 2000*, section 121³ of a water licence or an interim water allocation to a water allocation.

“**previous entitlement to water**” means—

- (a) an entitlement to water under—
- (i) a licence or permit under the *Water Resources Act 1989*; or
- (ii) an agreement under that Act, section 15;⁴ or
- (b) another entitlement, granted by the State, to take water.

“**water entitlement**” see *Water Act 2000*, schedule 4.⁵.

Amendment of s 56B (Unit trust schemes)

18.(1) Section 56B(1)—

insert—

³ *Water Act 2000*, section 121 (Converting water entitlements)

⁴ *Water Resources Act 1989*, section 15 (Power to supply water by agreement)

⁵ *Water Act 2000*, schedule 4 (Dictionary)—

“**water entitlement**” means a water allocation, interim water allocation or water licence.

‘ **“contracted property”** means property the subject of a purchase or sale contract.

“purchase contract” means an uncompleted contract or agreement (whether or not conditional) for the purchase or acquisition of property by a unit trustee as trustee of a unit trust scheme.

“sale contract” means an uncompleted contract or agreement (whether or not conditional) for the sale or transfer of property by a unit trustee as trustee of a unit trust scheme.’.

(2) Section 56B(1), definition **“disposition”**—

insert—

‘(e) any other circumstance where, on a determination under subsection (5), there is an increase, whether from no proportion or otherwise, in the proportion of the total issued units under the unit trust scheme represented by the unit.’.

(3) Section 56B—

insert—

“(4AG)” Subsection (4AH) applies for applying subsection (4) to a disposition in relation to a unit that is a disposition under subsection (1), definition **“disposition”**, paragraph (e).

“(4AH)” The reference in subsection (4) to the proportion of the total issued units under the unit trust scheme represented by the unit is a reference to the increase in the proportion resulting from the disposition.’.

(4) Section 56B—

insert—

“(11)” Without limiting the way this section applies to property, property is taken to be the subject of a unit trust scheme, or to be held by a unit trustee as trustee, if the property is contracted property.

“(12)” For taking contracted property into account for subsection (4)—

- (a) any sale contract is taken not to have been made; and
- (b) any purchase contract is taken to have been completed.

“(13)” If contracted property is taken into account for subsection (4) and either the sale contract for the property is subsequently completed, or the

purchase contract for the property is subsequently rescinded—

- (a) the contracted property is to be disregarded for subsection (4); and
- (b) the commissioner must make any necessary reassessments and refunds of duty.’.

Amendment of s 56C (Companies involving trusts)

19.(1) Section 56C(1)—

insert—

‘ **“contracted property”** means property the subject of a purchase or sale contract.

“purchase contract” means an uncompleted contract or agreement (whether or not conditional) for the purchase or acquisition of property by a trustee of a trust, as trustee of the trust.

“sale contract” means an uncompleted contract or agreement (whether or not conditional) for the sale or transfer of property by a trustee of a trust, as trustee of the trust.’.

(2) Section 56C(1), definition **“disposition”**—

insert—

‘(e) any other circumstance where, on a determination under subsection (9), there is an increase, whether from no proportion or otherwise, in a prescribed undivided share;’.

(3) Section 56C—

insert—

(8E) Subsections (8F) and (8G) apply for deciding, for subsection (8), the prescribed undivided share in trust property held by the trustee of a trust, in applying subsection (8) to a disposition in relation to a share that is a disposition under subsection (1), definition “disposition”, paragraph (e).

(8F) The reference in subsection (8A), definition “prescribed undivided share”, paragraph (a) to the proportion of the value of the total issued capital of a company is a reference to the increase in the proportion resulting from the disposition.

(8G) The reference in subsection (8A), definition “prescribed undivided

share”, paragraph (b) to the proportion a share represents of the interest a company has in another company is a reference to the increase in the proportion resulting from the disposition.’.

(4) Section 56C—

insert—

‘**(21)** Without limiting the way this section applies to property, property is taken to be the subject of a trust, or to be owned or held by a trustee of a trust, if the property is contracted property.

‘**(22)** For taking contracted property into account for subsection (8)—

- (a) any sale contract is taken not to have been made; and
- (b) any purchase contract is taken to have been completed.

‘**(23)** If contracted property is taken into account for subsection (8) and either the sale contract for the property is subsequently completed, or the purchase contract for the property is subsequently rescinded—

- (a) the contracted property is to be disregarded for subsection (8); and
- (b) the commissioner must make any necessary reassessments and refunds of duty.’.

Amendment of s 56FA (Interpretation)

20. Section 56FA(1)—

insert—

‘**“contracted land”** means land the subject of a purchase or sale contract.

“purchase contract” means an uncompleted contract or agreement (whether or not conditional) for the purchase or acquisition of land by a corporation or subsidiary.

“sale contract” means an uncompleted contract or agreement (whether or not conditional) for the sale or transfer of land by a corporation or subsidiary.’.

Amendment of s 56FC (Valuation of property)

21. Section 56FC(3)(b)—

omit, insert—

- ‘(b) accept a valuation of the property made by another person, whether the valuation is tendered by or for a party or comes into or to the commissioner’s possession or knowledge in another way;’.

Amendment of s 56FK (Statement chargeable with duty)

22.(1) Section 56FK(4)(a), ‘reference to section 56FL(6)’—

omit, insert—

‘applying section 56FLA(3)’.

(2) Section 56FK(4)(b), ‘as mentioned in that subsection’—

omit.

(3) Section 56FK(5), ‘reference to section 56 FL(6)’—

omit, insert—

‘applying section 56FLA(3)’.

(4) Section 56FK(11) and (12)—

omit, insert—

‘**(11)** Subsection (12) applies if—

- (a) land to which the corporation or a subsidiary is entitled at the time of a relevant acquisition includes contracted land; and
- (b) either—
 - (i) the sale contract for the land is subsequently completed; or
 - (ii) the purchase contract for the land is subsequently rescinded.

‘**(12)** In the circumstances mentioned in subsection (11)—

- (a) the contracted land is to be disregarded—
 - (i) for deciding, under section 56FL, whether the corporation is a land-holder for the purposes of the prescribed provisions; and
 - (ii) in calculating the dutiable value; and

(b) the commissioner must make any necessary reassessments and refunds of duty.’.

(5) Section 56FK(13), from ‘subsection (12)’ to ‘subject land’—

omit, insert—

‘in circumstances involving the completion of a sale contract, subsection (12) applies only if the commissioner is satisfied the contract’.

Amendment of s 56FL (Corporations to which the prescribed provisions apply)

23.(1) Section 56FL(2)(b), ‘(excluding land to which it is deemed to be entitled under subsection (6))’—

omit, insert—

‘(excluding subsidiary land)’.

(2) Section 56FL(2)(b), ‘(excluding property to which it is deemed to be entitled under subsection (6))’—

omit, insert—

‘(excluding subsidiary property)’.

(3) Section 56FL(4)(d) to (f)—

renumber as section 56FL(4)(f) to (h).

(4) Section 56FL(4)—

insert—

‘(d) for a sale contract—any amount paid or payable to the corporation or subsidiary under the contract;

(e) amounts owing to the corporation for its issued shares or amounts owing to the subsidiary for its issued shares;’.

(5) Section 56FL(5) and (6)—

omit.

(6) Section 56FL—

insert—

‘(8) In this section—

“**subsidiary land**”, for a corporation, means land to which the corporation is taken to be entitled under section 56FLA(3).

“**subsidiary property**”, for a corporation, means property to which the corporation is taken to be entitled under section 56FLA(3).’.

Insertion of new ss 56FLA and 56FLB

24. After section 56FL—

insert—

‘Land or property to which corporation or subsidiary entitled

‘**56FLA.(1)** This section applies to a corporation and a subsidiary for sections 56FK and 56FL.

‘(2) However, this section does not limit the way section 56FK or 56FL applies to a corporation or subsidiary.

‘(3) The corporation is taken to be entitled to land or property to the extent that a subsidiary is entitled to the land or property.

‘(4) The corporation or a subsidiary is taken to be entitled to land that is contracted land.

‘Calculating value of land or property of corporation or subsidiary

‘**56FLB.(1)** This section applies for calculating, for sections 56FK and 56FL—

- (a) the full unencumbered value of land to which a corporation or subsidiary is entitled; and
- (b) the value of property to which a corporation or subsidiary is entitled.

‘(2) However, this section does not limit the way section 56FK or 56FL applies to a corporation or subsidiary.

‘(3) A sale contract is taken not to have been made.

‘(4) A purchase contract is taken to have been completed.

‘(5) The value of land to which the corporation or subsidiary is entitled (the “**corporate land**”) includes the value of rights held by the corporation or subsidiary if the rights—

- (a) relate to, or affect, the use of the corporate land and other land; and
- (b) are not land; and
- (c) enhance the value of the corporate land.’.

Amendment of s 57A (Motor vehicles)

25.(1) Section 57A(6A), from ‘the chief executive’ to ‘is administered)’—

omit, insert—

‘the administering chief executive’.

(2) Section 57A(7)—

omit, insert—

‘(7) The administering chief executive must pay to the commissioner all amounts of duty mentioned in this section received by the administering chief executive.’.

(3) Section 57A(8), ‘the commissioner’—

omit, insert—

‘the responsible authority’.

(4) Section 57A—

insert—

‘(9) In this section—

“**administering chief executive**” means the chief executive of the department in which the *Transport Operations (Road Use Management) Act 1995* is administered.

“**responsible authority**” means—

- (a) the commissioner; or

- (b) if the commissioner has authorised the administering chief executive to make refunds of duty for this section and the authorisation is in force—the administering chief executive.’.

Amendment of s 61B (Instrument amending a trust deed constituting a public unit trust scheme)

26. Section 61B(1), definitions “**managed investment scheme**” and “**registered scheme**”—

omit.

Amendment of s 64D (Licence to occupy premises)

27.(1) Section 64D(1)(a), words after ‘occupy’—

omit, insert—

‘premises; and’.

(2) Section 64D—

insert—

(9) In this section—

“**premises**” means—

- (a) a building, or a part of a building, in Queensland; or
- (b) a building, or a part of a building, in Queensland, together with the land, or a part of the land, on which the building is situated.’.

Amendment of s 90 (Transitional provisions for the conversion of prescribed interests)

28. Section 90(5), definitions “**managed investment scheme**”, “**registered scheme**” and “**responsible entity**”—

omit.

Amendment of sch 1 (Stamp duties on instruments)

29.(1) Schedule 1, under the heading ‘Conveyance or transfer’, Exemptions—

insert—

‘22.(1) A conveyance or transfer of scheme property of a registered scheme from the responsible entity of the scheme to a person as primary custodian for the responsible entity.

‘(2) Subsection (1) does not apply if the conveyance or transfer is part of an arrangement under which—

- (a) the scheme property, or an interest in the scheme property, ceases to be scheme property; or
- (b) the persons who are members of the registered scheme do not have the same beneficial interest in the scheme property after the conveyance or transfer as they had immediately before the arrangement was entered into.

‘23.(1) A conveyance or transfer of property from a person as vendor to another person as primary custodian for the responsible entity of a registered scheme.

‘(2) Subsection (1) applies only if—

- (a) the conveyance or transfer is made under a contract or agreement for sale or transfer of the property entered into between the person as vendor and the responsible entity as purchaser; and
- (b) the property is acquired by the responsible entity as scheme property; and
- (c) ad valorem duty chargeable under schedule 1, under the heading ‘Conveyance or transfer’, has been paid on the contract or agreement.

‘24.(1) A conveyance or transfer of scheme property of a registered scheme from a person as primary custodian for the responsible entity of the scheme to the responsible entity.

‘(2) Subsection (1) does not apply if the conveyance or transfer is part of an arrangement under which—

- (a) the scheme property, or an interest in the scheme property, ceases to be scheme property; or
- (b) the persons who are members of the registered scheme do not have the same beneficial interest in the scheme property after the conveyance or transfer as they had immediately before the arrangement was entered into.’.

(2) Schedule 1, under the heading ‘Declaration of trust’, Exemptions, after exemption 2—

insert—

‘3. An instrument declaring that property acquired and held by a person as primary custodian for the responsible entity of a registered scheme, or to be vested in the person in that capacity, is, or is to be, held as scheme property by the person as primary custodian for the responsible entity of the scheme.’.

Amendment of sch 2 (Dictionary)

30. Schedule 2—

insert—

‘**“managed investment scheme”** see the Corporations Law, section 9.

“primary custodian”—

1. The “primary custodian” for the responsible entity of a registered scheme means the corporation that has been appointed under the Corporations Law, section 601FB(2) to hold property of the scheme as agent for the responsible entity.
2. The term does not include a person who, under the Corporations Law, section 601FB(3), is taken to be an agent appointed by the responsible entity to do something for the purposes of subsection (2) of the section.

“registered scheme” see the Corporations Law, section 9.

“responsible entity” see the Corporations Law, section 9.

“scheme property” means property of a registered scheme held by a person as—

- (a) the responsible entity of the scheme; or
- (b) a primary custodian for the responsible entity of the scheme.’.