



Queensland

Revenue and Other Legislation Amendment Act 2008

Act No. 39 of 2008



Queensland

Revenue and Other Legislation Amendment Act 2008

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Queensland

Revenue and Other Legislation Amendment Act 2008

Act No. 39 of 2008

**An Act to amend the *Duties Act 2001*, the *Land Tax Act 1915*,
the *Pay-roll Tax Act 1971* and the *Petroleum and Gas
(Production and Safety) Act 2004* for particular purposes**

[Assented to 11 June 2008]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Revenue and Other Legislation Amendment Act 2008*.

2 Commencement

- (1) Part 3 commences on 30 June 2008.
- (2) Part 2, divisions 1 and 2 and part 4 commence on 1 July 2008.
- (3) Part 5 commences on 1 August 2008.
- (4) Part 2, division 3 commences on 1 September 2008.

Part 2 Amendment of Duties Act 2001

Division 1 Preliminary

3 Act amended in pt 2

This part amends the *Duties Act 2001*.

[s 7]

7 Amendment of s 188 (Deduction—mortgage duty)

(1) Section 188(1)(a)—

omit, insert—

‘(a) shares are transferred, or agreed to be transferred, by way of security; and’.

(2) Section 188(2)(a)—

omit, insert—

‘(a) shares are transferred, or agreed to be transferred, by way of security; and’.

(3) Section 188(4), ‘the mortgage duty paid’—

omit, insert—

‘any mortgage duty paid on the transfer or agreement to transfer’.

8 Insertion of new s 247A

Chapter 5, part 1—

insert—

‘247A Abolition of mortgage duty from 1 July 2008

‘(1) Despite anything to the contrary in this chapter, mortgage duty is not imposed—

(a) on a mortgage first signed, or that first affects property in the State, on or after 1 July 2008; or

(b) in relation to an advance or further advance made on or after 1 July 2008, under a mortgage first signed, or that first affects property in the State, before 1 July 2008; or

(c) on an instrument that, on the deposit of instruments of title to property in Queensland, first becomes a mortgage or evidences the terms of a mortgage on or after 1 July 2008.

‘(2) This section is subject to chapter 17, part 9, division 1.’.

9 Amendment of s 414 (Exemption—particular duties for exempt institutions)

- (1) Section 414(1)(c)—
omit.
- (2) Section 414(1)(d) and (e)—
renumber as section 414(1)(c) and (d).

10 Amendment of s 415 (Use requirement)

- (1) Section 415(1), ‘or an advance to,’—
omit.
- (2) Section 415(2), ‘, or the advance is not made,’—
omit.
- (3) Section 415(2), ‘or the advance is made’—
omit.

11 Amendment of s 416 (Start of use requirement)

- (1) Section 416(2), ‘or an advance’—
omit.
- (2) Section 416(2)(a), ‘or the advance’—
omit.
- (3) Section 416(2)(b), ‘or advance’—
omit.
- (4) Section 416(3)(b)—
omit.
- (5) Section 416(4)(b)—
omit.

[s 12]

12 Amendment of s 417 (Commissioner to extend start date and duration period)

(1) Section 417(1), ‘or the advance’—

omit.

(2) Section 417(2), ‘or advance’—

omit.

13 Amendment of s 418 (Reassessment on application of exempt institution)

Section 418(2), ‘or the advance,’—

omit.

14 Amendment of s 419 (Reassessment—noncompliance with use requirements)

Section 419(1)(b), ‘or the advance’—

omit.

15 Omission of s 446A (Registration to defer endorsement for particular mortgages)

Section 446A—

omit.

16 Amendment of s 455 (Lodging returns)

Section 455(4)—

omit.

17 Insertion of new s 470A

Chapter 12, part 6, division 1—

insert—

‘470A Cancellation of registration—type of duty abolished

- ‘(1) The commissioner may cancel a self assessor’s registration if the type of duty to which the registration relates is no longer imposed under this Act.
- ‘(2) If the commissioner cancels a self assessor’s registration, the commissioner must give notice to the self assessor that the registration is cancelled effective from the date stated in the notice.
- ‘(3) Sections 466 to 469 do not apply in relation to the cancellation of a self assessor’s registration under this section.’

18 Amendment of s 491 (When is an instrument *properly stamped*)

Section 491(3), after ‘455(4)’—

insert—

‘as in force before 1 July 2008’.

19 Insertion of new ch 17, pt 9

Chapter 17—

insert—

‘Part 9 Transitional provisions for the Revenue and Other Legislation Amendment Act 2008, part 2, division 2

‘Division 1 Transitional provisions for abolition of mortgage duty

‘590 Definition for div 1

‘In this division—

[s 19]

previous, in relation to a provision of this Act, means the provision as in force immediately before 1 July 2008.

‘591 Requirement to lodge mortgage

‘On and from 1 July 2008, section 255 continues to apply to a mortgage if the liability for mortgage duty on the mortgage arose before 1 July 2008.

‘592 Mortgage packages

‘(1) Subsection (2) applies if—

- (a) a mortgage package consists of 2 or more security instruments signed before 1 July 2008; and
- (b) the commissioner is satisfied that a mortgage signed on or after 1 July 2008 was intended to be part of the package.

‘(2) Mortgage duty must be assessed on the mortgage package—

- (a) under previous chapter 5; and
- (b) as if the instruments comprising the package were 1 mortgage first signed on the day the last of the instruments signed before 1 July 2008 was signed.

‘593 Reassessment—stamping before advance

‘(1) This section applies if—

- (a) a mortgage was first signed before 1 July 2008; and
- (b) the mortgage was, under section 257, properly stamped for an amount of advances secured by the mortgage; and
- (c) the advances were not all made before 1 July 2008.

‘(2) The mortgagor may apply to the commissioner for a reassessment of mortgage duty paid in relation to the advances not made before 1 July 2008.

‘(3) The application must—

- (a) be in the approved form; and
 - (b) include the mortgage document; and
 - (c) be made by 31 December 2008.
- ‘(4) The commissioner must make the reassessment.

‘594 Mortgage duty on caveats

- ‘(1) This section applies if—
- (a) before 1 July 2008, mortgage duty was imposed on a mortgage but was not paid; and
 - (b) on or after 1 July 2008, a caveat claimed an interest in land or a water allocation under the mortgage.
- ‘(2) On and from 1 July 2008, section 268 continues to apply to impose mortgage duty on the caveat.
- ‘(3) Mortgage duty is imposed on the caveat at the rate applicable at the time the duty was imposed on the mortgage.

‘595 Mortgage duty on releases of mortgages

- ‘(1) This section applies if—
- (a) before 1 July 2008, mortgage duty was imposed on a mortgage but was not paid; and
 - (b) on or after 1 July 2008, the mortgage is released.
- ‘(2) On and from 1 July 2008, section 269 continues to apply to impose mortgage duty on the release of the mortgage.
- ‘(3) Mortgage duty is imposed on the release at the rate applicable at the time the duty was imposed on the mortgage.

‘596 Reassessment—Victorian and Tasmanian property

- ‘(1) This section applies if, before 1 July 2008, the commissioner was required under section 290A or 290B to make a reassessment to impose mortgage duty on a mortgage.

[s 19]

- ‘(2) Sections 290A and 290B apply to require the reassessment to impose duty based on the dutiable proportion at the liability date.

‘597 Reassessment—concessions for home mortgages and first home mortgages

- ‘(1) This section applies if—
- (a) before 1 July 2008, mortgage duty on a home mortgage was assessed on the basis of a concession under chapter 5, part 6; and
 - (b) on or after 1 July 2008, one of the events mentioned in section 291(1) happens.
- ‘(2) Section 291(2) to (4) applies to enable the commissioner to make a reassessment to impose mortgage duty on the mortgage at the rate applicable at the time that, but for the concession, the liability for mortgage duty would have arisen.

‘598 Reassessment—concessions for cooperatives

- ‘(1) This section applies if—
- (a) before 1 July 2008, a mortgage was given to secure an advance to a cooperative registered under the *Cooperatives Act 1997*; and
 - (b) mortgage duty was not imposed on the mortgage; and
 - (c) on or after 1 July 2008, the advance or part of it was used for a noncomplying use within the meaning of section 292(1).
- ‘(2) Section 292(2) to (4) applies to enable the commissioner to make a reassessment to impose mortgage duty on the mortgage at the rate applicable at the time that, but for the exemption, the liability for mortgage duty would have arisen.

‘599 Saving of previous provisions for exempt institutions

- ‘(1) This section applies to an assessment for mortgage duty on a mortgage given to secure an advance made—
 - (a) to an exempt institution on the basis of an exemption under chapter 10, part 2, division 1; and
 - (b) before 1 July 2008.
- ‘(2) On and after 1 July 2008, previous sections 417 and 419 continue to apply in relation to the advance.
- ‘(3) For subsection (2), a reassessment made as required under previous section 419(3) imposing duty in relation to the advance must be made as if the *Revenue and Other Legislation Amendment Act 2008*, part 2 had not commenced.
- ‘(4) If mortgage duty was imposed in relation to the advance because the use requirements under chapter 10, part 2, division 2 would not be complied with, previous section 418 continues to apply in relation to the advance.

‘600 Cancellation of registration to defer endorsement—s 446A

- ‘(1) This section applies if, immediately before 1 July 2008, a self assessor was registered under previous section 446A to defer endorsement, under section 455(1)(c), of mortgages for further advances under the mortgages.
- ‘(2) On 1 July 2008, the registration is cancelled.
- ‘(3) However, the self assessor must, by 1 January 2009, comply with section 455(1)(c) in relation to any endorsement deferred under previous section 455(4).

‘601 Lapsing of application for registration to defer endorsement

- ‘(1) This section applies to an application to be registered under previous section 446A made but not finally decided before 1

[s 19]

July 2008.

‘(2) On 1 July 2008, the application lapses.

‘602 Requirement to lodge returns

‘On and from 1 July 2008, section 455 continues to apply, to a self assessor registered under part 2 or 3 for mortgage duty, in relation to a return period that started before 1 July 2008.

‘603 Reassessment of duty in particular circumstances

‘(1) This section applies if—

- (a) before 1 July 2008, a person paid mortgage duty on a mortgage; and
- (b) on or after 1 July 2008, an event mentioned in section 499(2)(f) happens.

‘(2) Section 499(5) to (8) continues to apply in relation to a reassessment of the duty paid.

‘604 Impact of div 1

‘The inclusion in this division of a provision affecting the application of a provision of chapter 5 or chapter 10 following the abolition of mortgage duty on 1 July 2008 does not by implication limit the continuing application of another provision of the chapter.

‘Division 2 Other transitional provisions

‘605 Application of amendments about rates of transfer duty, land rich duty and corporate trustee duty

‘Schedule 3 as in force on 1 July 2008 applies to dutiable transactions and relevant acquisitions if liability for transfer duty, land rich duty or corporate trustee duty arises on or after 1 July 2008.

‘606 Application of amendments about concession for transfer duty—residential land

- ‘(1) The relevant provisions, as in force on 1 July 2008, apply to dutiable transactions only if liability for transfer duty arises on or after 1 July 2008.
- ‘(2) The relevant provisions, as in force immediately before 1 July 2008, apply to a dutiable transaction that is the transfer, or agreement for the transfer, of residential land made on or after 1 July 2008 if—
- (a) the transfer or agreement replaces a transfer, or an agreement for the transfer, that included the land and was made before 1 July 2008; or
 - (b) the transferee had an option to purchase the land, or the transferor had an option to require the transferee to purchase the land, granted before 1 July 2008 and exercised on or after 1 July 2008; or
 - (c) another arrangement was made before 1 July 2008 the sole or main purpose of which was to defer the making of the transfer or agreement until 1 July 2008 or later so the concession for transfer duty under the relevant provisions, as in force on or after 1 July 2008, would apply in relation to the dutiable transaction.
- ‘(3) In this section—
- relevant provisions* means the following provisions—
- chapter 2, part 9, divisions 2 and 3
 - chapter 2, part 14, division 1
 - schedule 4A.’

20 Replacement of sch 3 (Rates of duty on dutiable transactions and relevant acquisitions for land rich and corporate trustee duty)

Schedule 3—

omit, insert—

[s 21]

‘Schedule 3 Rates of duty on dutiable transactions and relevant acquisitions for land rich and corporate trustee duty

sections 24(2), 176 and 216

Column 1	Column 2
Dutiable value of dutiable transaction or relevant acquisition	Rate of duty
Not more than \$5000	Nil
More than \$5000 but not more than \$75000	\$1.50 for each \$100, or part of \$100, by which the dutiable value is more than \$5000
More than \$75000 but not more than \$540000	\$1050 plus \$3.50 for each \$100, or part of \$100, by which the dutiable value is more than \$75000
More than \$540000 but not more than \$980000	\$17325 plus \$4.50 for each \$100, or part of \$100, by which the dutiable value is more than \$540000
More than \$980000	\$37125 plus \$5.25 for each \$100, or part of \$100, by which the dutiable value is more than \$980000’.

21 Replacement of schs 4A and 4B

Schedules 4A and 4B—

omit, insert—

**‘Schedule 4A Amount of concession for
transfer duty—first
home—residential land**

sections 92(2)(a) and 93(6A)

Dutiable value of the residential land	Concession amount
Not more than \$359 999.99	\$3 500
\$360 000—\$369 999.99	\$3 200
\$370 000—\$379 999.99	\$2 900
\$380 000—\$389 999.99	\$2 600
\$390 000—\$399 999.99	\$2 300
\$400 000—\$409 999.99	\$2 000
\$410 000—\$419 999.99	\$1 700
\$420 000—\$429 999.99	\$1 400
\$430 000—\$439 999.99	\$1 200
\$440 000—\$449 999.99	\$1 000
\$450 000—\$459 999.99	\$800
\$460 000—\$469 999.99	\$600
\$470 000—\$479 999.99	\$400
\$480 000—\$489 999.99	\$200

[s 21]

Dutiable value of the residential land	Concession amount
\$490 000—\$499 999.99	\$100
\$500 000 or more	nil

**‘Schedule 4B Amount of concession for
transfer duty—first
home—vacant land**

section 92(2)(b)

Dutiable value of the vacant land	Concession amount
Not more than \$159 999.99	\$3 975
\$160 000—\$169 999.99	\$3 750
\$170 000—\$179 999.99	\$3 500
\$180 000—\$189 999.99	\$3 250
\$190 000—\$199 999.99	\$3 000
\$200 000—\$209 999.99	\$2 750
\$210 000—\$219 999.99	\$2 500
\$220 000—\$229 999.99	\$2 250
\$230 000—\$239 999.99	\$2 000
\$240 000—\$249 999.99	\$1 750
\$250 000—\$259 999.99	\$1 500

Dutiable value of the vacant land	Concession amount
\$260 000—\$269 999.99	\$1 200
\$270 000—\$279 999.99	\$900
\$280 000—\$289 999.99	\$600
\$290 000—\$299 999.99	\$300
\$300 000 or more	nil’.

22 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definition *previous*—
omit, insert—
‘previous—
 - (a) for chapter 17, part 6, division 4, see section 578; and
 - (b) for chapter 17, part 9, division 1, see section 590.’.
- (2) Schedule 6, definition *dissatisfied person*, paragraph (c)—
omit.
- (3) Schedule 6, definition *notice of registration*, ‘446A(5)(b) or’—
omit.
- (4) Schedule 6, definition *original decision*, paragraph (b), after ‘registration’—
insert—
‘other than a decision to cancel the registration under section 470A’.
- (5) Schedule 6, definition *original decision*, paragraph (c)—
omit.

[s 23]

Division 3 Amendments commencing on 1 September 2008

23 Insertion of new ch 17, pt 10

Chapter 17—

insert—

‘Part 10 Transitional provision for the Revenue and Other Legislation Amendment Act 2008, section 24

‘607 Application of amendments about concession for transfer duty—residential land

- ‘(1) The relevant provisions, as in force on 1 September 2008, apply to dutiable transactions only if liability for transfer duty arises on or after 1 September 2008.
- ‘(2) The relevant provisions, as in force immediately before 1 September 2008, apply to a dutiable transaction that is the transfer, or agreement for the transfer, of residential land made on or after 1 September 2008 if—
- (a) the transfer or agreement replaces a transfer, or an agreement for the transfer, that included the land and was made on or after 1 July 2008 and before 1 September 2008; or
 - (b) the transferee had an option to purchase the land, or the transferor had an option to require the transferee to purchase the land, granted on or after 1 July 2008 and before 1 September 2008 and exercised on or after 1 September 2008; or
 - (c) another arrangement was made on or after 1 July 2008 and before 1 September 2008 the sole or main purpose of which was to defer the making of the transfer or agreement until 1 September 2008 or later so the

concession for transfer duty under the relevant provisions, as in force on or after 1 September 2008, would apply in relation to the dutiable transaction.

‘(3) In this section—

relevant provisions means the following provisions—

- chapter 2, part 9, divisions 2 and 3
- chapter 2, part 14, division 1
- schedule 4A.’.

24 Replacement of sch 4A (Amount of concession for transfer duty—first home—residential land)

Schedule 4A—

omit, insert—

‘Schedule 4A Amount of concession for transfer duty—first home—residential land

sections 92(2)(a) and 93(6A)

Dutiable value of the residential land	Concession amount
Not more than \$504 999.99	\$8750 or, if the transfer duty otherwise payable under chapter 2, part 9, division 3 is less than \$8750, the amount of duty otherwise payable under that division
\$505 000—\$509 999.99	\$7 875
\$510 000—\$514 999.99	\$7 000

27 Replacement of schs 1 and 2

Schedules 1 and 2—

omit, insert—

‘Schedule 1 Amounts and rates of land tax—particular individuals

section 9(a)

Column 1 Taxable value	Column 2 Tax payable
less than \$600 000	nil
\$600 000 or more but less than \$1 000 000	\$500 plus 1.0c for each \$1 more than \$600 000
\$1 000 000 or more but less than \$3 000 000	\$4 500 plus 1.65c for each \$1 more than \$1 000 000
\$3 000 000 or more	1.25c for each \$1 of the taxable value

[s 28]

‘Schedule 2 Amounts and rates of land tax—company, absentee or trustee

section 9(b)

Column 1 Taxable value

Column 2 Tax payable

less than \$350 000

nil

\$350 000 or more but less than
\$2 250 000

\$1 450 plus 1.7c for each \$1 more
than \$350 000

\$2 250 000 or more

1.5c for each \$1 of the taxable
value’.

Part 4 Amendment of Pay-roll Tax Act 1971

28 Act amended in pt 4

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

29 Amendment of s 17 (Definitions for sdiv 1)

(1) Section 17, definition *actual periodic deduction*, formula—
omit, insert—

$$\text{‘APD} = \frac{\text{FME}}{\text{G}} - \frac{1}{4} \left(\text{TW} - \frac{\text{FME}}{\text{G}} \right)\text{’}.$$

- (2) Section 17, definition *fixed periodic deduction*, paragraph (b), formula—

omit, insert—

$$\text{'FPD} = \frac{QW}{AW} \left(E - \frac{1}{4} \left\langle \frac{AW}{12} - E \right\rangle \right) M'.$$

30 Amendment of s 23 (Definition for sdiv 2)

- Section 23, definition *fixed periodic deduction*, paragraph (b), formula—

omit, insert—

$$\text{'FPD} = \frac{QW}{AW} \left(E - \frac{1}{4} \left\langle \frac{AW}{12} - E \right\rangle \right) M'.$$

31 Amendment of s 29 (Definitions for sdiv 1)

- Section 29, definition *annual deduction*, formula—

omit, insert—

$$\text{'AD} = \frac{AW}{AW + IW} \left(\frac{K(A+B)}{365} - \frac{1}{4} \left(AW + IW - \frac{K(A+B)}{365} \right) \right),$$

32 Amendment of s 33 (Definitions for sdiv 2)

- Section 33, definition *annual deduction*, formula—

omit, insert—

$$\text{'AD} = \frac{TW}{TW + IW} \left(\frac{K(A+B)}{365} - \frac{1}{4} \left(TW + IW - \frac{K(A+B)}{365} \right) \right),$$

33 Amendment of s 37 (Definitions for sdiv 1)

- Section 37, definition *final deduction*, formula—

omit, insert—

[s 34]

$$\text{'FD} = \frac{\text{FW}}{\text{FW} + \text{IW}} \left(\frac{\text{K(A+B)}}{365} - \frac{1}{4} \left(\text{FW} + \text{IW} - \frac{\text{K(A+B)}}{365} \right) \right);$$

34 Amendment of s 41 (Definitions for sdiv 2)

Section 41, definition *final deduction*, formula—
omit, insert—

$$\text{'FD} = \frac{\text{TW}}{\text{TW} + \text{IW}} \left(\frac{\text{K(A+B)}}{365} - \frac{1}{4} \left(\text{TW} + \text{IW} - \frac{\text{K(A+B)}}{365} \right) \right);$$

35 Replacement of s 97A (Application of particular amendments)

Section 97A—
omit, insert—

'97A Application of particular amendments

'This Act, as amended by the *Revenue and Other Legislation Amendment Act 2008*, part 4 applies for pay-roll tax levied on taxable wages paid or payable in the financial year starting on 1 July 2008 and each later financial year.'

Part 5 Amendment of Petroleum and Gas (Production and Safety) Act 2004

36 Act amended in pt 5

This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

37 Insertion of new s 592A

Chapter 6, part 2—

insert—

‘592A Definition for pt 2

‘In this part—

quarter means each of the following 3 month periods in a year—

- (a) 1 January to 31 March;
- (b) 1 April to 30 June;
- (c) 1 July to 30 September;
- (d) 1 October to 31 December.’.

38 Amendment of s 593 (Application of pt 2)

Section 593(1), ‘month’—

omit, insert—

‘quarter’.

39 Amendment of s 594 (Obligation to lodge royalty return)

- (1) Section 594(2), ‘month in’—

omit, insert—

‘quarter in’.

- (2) Section 594(2)—

insert—

‘Note—

The first quarterly return required to be lodged under this subsection is for the quarter ending 30 September 2008; see section 940.’.

40 Insertion of new ch 15, pt 7

Chapter 15—

insert—

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