



Queensland

Revenue and Other Legislation Amendment Act 2011

Act No. 8 of 2011



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Revenue and Other Legislation Amendment Act 2011

Act No. 8 of 2011

An Act to amend the Aboriginal Land Act 1991, City of Brisbane Act 2010, Duties Act 2001, First Home Owner Grant Act 2000, Judicial Review Act 1991, Land Tax Act 2010, Local Government Act 2009, Payroll Tax Act 1971, Queensland Competition Authority Act 1997, Right to Information Act 2009, Royal National Agricultural and Industrial Association of Queensland Act 1971, South East Queensland Water (Restructuring) Act 2007, Sustainable Planning Act 2009, Taxation Administration Act 2001, Water Act 2000 and Water Supply (Safety and Reliability) Act 2008 for particular purposes, and to repeal the Advance Bank Integration Act 1997, Bank Integration (Bank of Queensland) Act 1993, Bank Merger (BankSA and Advance Bank) Act 1996, Bank of New Zealand (Transfer of Undertaking) Act 1997, Challenge Bank (Transfer of Undertaking) Act 1996, Debits Tax Repeal Act 2005, Iconic Queensland Places Act 2008, New Tax System Price Exploitation Code (Queensland) Act 1999, State Bank of South Australia (Transfer of Undertaking) Act 1994 and Tobacco Products (Licensing) Act 1988

[Assented to 8 April 2011]

[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 2011*.

2 Commencement

- (1) Part 8 commences on 1 July 2011.
- (2) The following provisions commence on a day to be fixed by proclamation—
 - (a) sections 11 to 14;
 - (b) sections 61 to 76;
 - (c) part 12;
 - (d) section 121 to the extent it repeals the *Iconic Queensland Places Act 2008*.

Part 2 Amendment of Aboriginal Land Act 1991

3 Act amended

This part amends the *Aboriginal Land Act 1991*.

4 Amendment of s 12 (Lands that are transferable lands)

Section 12(1)(f), '83K or 83L'—

omit, insert—

‘83K, 83L or 83LA’.

5 Insertion of new s 83LA

Part 5C—

insert—

‘83LA Claimable land recommended for grant taken to be transferable land

- ‘(1) This section applies to the following land for which the Land Tribunal has, under section 60, made a recommendation to the Minister—
- (a) land shown as national park 4 on plan NPW42;
 - (b) land shown as national park 8 on plan NPW118;
 - (c) land shown as national park 10 on plan NPW452, including the area shown and described on the plan as closed road;
 - (d) land shown as national park 16 on plan NPW359;
 - (e) lot 44 on plan NPW472;
 - (f) land declared to be national park by proclamation published in the gazette on 2 December 1939 at pages 1845 and 1846 and described as the Flinders Group of islands, comprising Flinders Island—exclusive of Special Lease No. 8544—and Stanley, Blackwood, Maclear, and Denham Islands;
 - (g) lots 1 and 2 on CP887589, lots 1 and 2 on CP887590, lot 3 on CP887717, lot 4 on CP887719, lot 5 on CP887718 and lot 285 on plan C157365.
- ‘(2) On the commencement of this section—
- (a) the land is transferable land for the purposes of this Act; and
 - (b) the land stops being claimable land; and

[s 6]

- (c) any proceeding before the Land Tribunal in relation to a claim for the land ends; and
 - (d) part 4, and part 5, division 1, stop applying to the claim for the land.
- ‘(3) Subsection (2) applies despite any other provision of this Act.’.

Part 3

Amendment of City of Brisbane Act 2010

6 Act amended

This part amends the *City of Brisbane Act 2010*.

7 Amendment of s 21 (Assessment)

- (1) Section 21(3) and (4)—
omit, insert—
- ‘(3) The change commission may conduct its assessment in any way that it considers appropriate, including, for example, by—
 - (a) asking for submissions from any local government that would be affected by the proposed boundary change; or
 - (b) holding a public hearing (in the way set out in chapter 7, part 1) to ask the public for its views about the proposed boundary change.
- ‘(4) However, the Minister may direct the change commission in writing to conduct its assessment of the proposed boundary change in a particular way.
- ‘(4A) Despite subsection (3), the change commission must comply with the Minister’s direction.’.

- (2) Section 21(4A) to (7)—
renumber as section 21(5) to (8).

8 Amendment of s 181 (Notifying councillor of the hearing of a complaint)

Section 181(1), ‘of misconduct’—
omit.

9 Amendment of s 182 (Hearing and deciding complaints)

- (1) Section 182(1)—
omit, insert—

‘(1) This section is about—

- (a) the hearing of a complaint of inappropriate conduct, or misconduct, by the BCC councillor conduct review panel; or
(b) the hearing of a complaint of misconduct by the tribunal.’.

- (2) Section 182(2), ‘of misconduct by’—
omit, insert—
‘about’.

10 Replacement of s 183 (Taking disciplinary action)

Section 183—
omit, insert—

‘183 Taking disciplinary action—BCC councillor conduct review panel

‘(1) This section applies if—

- (a) the BCC councillor conduct review panel decides, after hearing a complaint of inappropriate conduct, that a councillor engaged in inappropriate conduct; or

[s 10]

- (b) the BCC councillor conduct review panel decides, after hearing a complaint of misconduct, that a councillor engaged in misconduct.
- ‘(2) The BCC councillor conduct review panel may make any 1 or more of the following orders or recommendations that it considers appropriate in view of the circumstances relating to the inappropriate conduct or misconduct—
- (a) an order that the councillor be counselled about the inappropriate conduct or misconduct, and how not to repeat the inappropriate conduct or misconduct;
 - (b) an order that the councillor make an admission of error or an apology;
 - (c) an order that the councillor participate in mediation with another person;
 - (d) a recommendation to the department’s chief executive to monitor the councillor or the council for compliance with the local government related laws.
- ‘(3) However, if, after hearing a complaint of misconduct, the BCC councillor conduct review panel considers that more serious disciplinary action should be taken, the panel must report the matter to the tribunal for the tribunal to take disciplinary action.
- ‘(4) When deciding what disciplinary action is appropriate in view of the circumstances relating to the inappropriate conduct or misconduct, the BCC councillor conduct review panel may consider—
- (a) any inappropriate conduct or misconduct of the councillor in the past; and
 - (b) any allegation made in the hearing that was admitted, or was not challenged.
- ‘(5) However, the BCC councillor conduct review panel may consider an allegation that was not admitted, or was challenged, only if it is satisfied that the allegation is true.

-
- ‘(6) The degree to which the BCC councillor conduct review panel must be satisfied depends on the consequences, that are adverse to the councillor, of finding the allegation to be true.

‘183A Taking disciplinary action—tribunal

- ‘(1) This section applies if—
- (a) after hearing a complaint of misconduct, the tribunal decides that a councillor engaged in misconduct; or
 - (b) the BCC councillor conduct review panel has, after hearing a complaint of misconduct, reported the matter to the tribunal under section 183(3) for the tribunal to take disciplinary action.
- ‘(2) The tribunal may make any order or recommendation that it considers appropriate in view of the circumstances relating to the misconduct.
- ‘(3) For example, the tribunal may make any 1 or more of the following orders or recommendations—
- (a) an order that the councillor be counselled about the misconduct, and how not to repeat the misconduct;
 - (b) an order that the councillor make an admission of error or an apology;
 - (c) an order that the councillor participate in mediation with another person;
 - (d) a recommendation to the department’s chief executive to monitor the councillor or the council for compliance with the local government related laws;
 - (e) an order that the councillor reimburse the council;
 - (f) a recommendation to the Minister that the councillor be suspended for a specified period, either wholly or from performing particular functions;

Examples of particular functions—

- attending council meetings or offices
- representing the council at public functions

[s 11]

- (g) a recommendation to the Crime and Misconduct Commission or the Commissioner of Police that the councillor's conduct be further investigated.
- ‘(4) A recommendation mentioned in subsection (3)(f) may include a recommendation about the details of the suspension.
Example of a recommendation about the details of a suspension—
that the suspension be with or without pay
- ‘(5) When deciding what disciplinary action is appropriate in view of the circumstances relating to the misconduct, the tribunal may consider—
- (a) any inappropriate conduct or misconduct of the councillor in the past; and
- (b) any allegation made in the hearing that was admitted, or was not challenged.
- ‘(6) However, the tribunal may consider an allegation that was not admitted, or was challenged, only if the tribunal is satisfied that the allegation is true.
- ‘(7) The degree to which the tribunal must be satisfied depends on the consequences, that are adverse to the councillor, of finding the allegation to be true.’.

11 Amendment of s 211 (Superannuation scheme for council employees and associated persons)

- (1) Section 211(1)—
omit.
- (2) Section 211(2) to (5)—
renumber as section 211(1) to (4).
- (3) Section 211—
insert—
- ‘(5) Despite section 5(2), the Local Government Act applies to the following to the extent of their participation in the LG super scheme—

-
- (a) the Brisbane City Council;
 - (b) an employee of Brisbane City Council;
 - (c) an associated person.
- ‘(6) The ***LG super scheme*** is the Local Government Superannuation Scheme continued in existence under the Local Government Act, section 217(1).’.

12 Amendment of s 212 (Super schemes to be audited by auditor-general)

Section 212(1)—

omit, insert—

- ‘(1) This section applies to a superannuation scheme established or amended by the council under section 210(1)(a) or 211(1)(a).’.

13 Insertion of new ch 8, pt 4

Chapter 8—

insert—

‘Part 4 Transitional provision for Revenue and Other Legislation Amendment Act 2011

‘266 Continued superannuation scheme for council employees

- ‘(1) This section applies to the superannuation scheme for council employees continued in existence under section 211 of this Act as in force before the commencement of this section.
- ‘(2) On the commencement of this section—
- (a) the superannuation scheme ceases to continue in existence under this Act; and

[s 14]

- (b) the trust deed for the superannuation scheme ceases to continue in force as a trust deed under this Act.
- ‘(3) If an audit of the superannuation scheme is required under the Commonwealth Super Act because of subsection (2), the audit must be carried out by the auditor-general.’.

14 Amendment of schedule (Dictionary)

Schedule, definitions *super board* and *trust deed*—
omit.

Part 4 Amendment of Duties Act 2001

15 Act amended

This part amends the *Duties Act 2001*.

Note—

See also the amendments in the schedule.

16 Amendment of s 30 (Aggregation of dutiable transactions)

Section 30(7)—

omit, insert—

- ‘(7) This section does not apply to a dutiable transaction to the extent that it relates to an exchange of dutiable property.’.

17 Amendment of s 31 (Partitions)

(1) Section 31(1)—

omit, insert—

- ‘(1) This section applies to a dutiable transaction under which the following happens (the *partition*)—

-
- (a) dutiable property held by persons jointly as joint tenants or tenants in common (each a *co-owner*) is transferred, or agreed to be transferred, to 1 or more of the co-owners;
- (b) the dutiable property transferred, or agreed to be transferred, includes the interest held by the transferee in the property immediately before the transaction.’.
- (2) Section 31(2), from ‘each’ to ‘partition’—
omit, insert—
‘the dutiable transaction’.
- (3) Section 31(3) and (4)—
omit.
- (4) Section 31(5)—
renumber as section 31(3).

18 Amendment of s 85 (Purpose of pt 9)

Section 85, after the note—

insert—

- ‘(c) the vesting, under section 9(1)(d), of a home or first home or of vacant land on which a first home is to be constructed.’.

19 Amendment of s 86D (What is a *vacant land concession beneficiary*)

- (1) Section 86D(1)(a)(ii), ‘; and’—
omit, insert—
‘; or’.
- (2) Section 86D(1)(a)—
insert—

[s 20]

‘(iii) a vested person for the land under a dutiable transaction that was the vesting, mentioned in section 85(c), of the land; and’.

20 Amendment of s 89 (What is a person’s *transfer date* for residential land or vacant land)

Section 89—

insert—

‘(c) the vesting, mentioned in section 85(c), of the land.’.

21 Amendment of s 90 (What is the *dutiable value* of residential land or vacant land)

(1) Section 90(1)—

insert—

‘(c) a vesting, mentioned in section 85(c), of the land.’.

(2) Section 90(2)(a), after ‘(1)(a)’—

insert—

‘or (c)’.

22 Amendment of s 91 (Concession—home)

(1) Section 91(1)(a)—

insert—

‘(iii) the vesting, mentioned in section 85(c), of residential land; and’.

(2) Section 91(1)(b)(ii)—

omit, insert—

‘(ii) the transferees, lessees or vested persons are trustees of a trust, other than a discretionary or unit trust, the beneficiaries are individuals all of whom are under a legal disability and the residence would be the home of all the beneficiaries if they were the

transferees or lessees of, or vested persons for, the land.’.

23 Amendment of s 92 (Concession—first home)

(1) Section 92(1)(a)—

insert—

‘(iii) the vesting, mentioned in section 85(c), of residential land or vacant land; and’.

(2) Section 92(1)(b)(ii)—

omit, insert—

‘(ii) the transferees, lessees or vested persons are trustees of a trust, other than a discretionary or unit trust, the beneficiaries are individuals all of whom are under a legal disability and the residence would be the first home of all the beneficiaries if they were the transferees or lessees of, or vested persons for, the land and other residential land or vacant land previously the subject of a trust of which they were beneficiaries; and’.

24 Amendment of s 93 (Concession—mixed and multiple claims for individuals—residential land)

(1) Section 93(1)(a)—

insert—

‘(iii) the vesting, mentioned in section 85(c), of residential land; and’.

(2) Section 93(1)(c) and (d)—

omit, insert—

‘(c) the residence is—

(i) the home or first home of all the transferees, all the lessees or all the vested persons (each *relevant persons*); or

[s 25]

- (ii) the home or first home of 1 or more of the transferees, 1 or more of the lessees or 1 or more of the vested persons (each also *relevant persons*) but not all the transferees, all the lessees or all the vested persons; and
- (d) the relevant persons are individuals.’.
- (3) Section 93(2)(b) and (c)—
omit, insert—
 - ‘(b) 1 or more of the residences is, for 1 or more of the transferees, 1 or more of the lessees or 1 or more of the vested persons (each also *relevant persons*), a home or first home; and
 - (c) the relevant persons are individuals.’.

25 Amendment of s 93A (Concession—mixed and multiple claims for individuals—vacant land)

- (1) Section 93A(1)(a)—
insert—
 - ‘(iii) the vesting, mentioned in section 85(c), of vacant land; and’.
- (2) Section 93A(1)(b) to (d)—
omit, insert—
 - ‘(b) there is more than 1 transferee or lessee of, or vested person for, the vacant land to which the transaction relates; and
 - (c) the residence, when constructed, will be the first home of 1 or more of the transferees, 1 or more of the lessees or 1 or more of the vested persons (each *relevant persons*) but not all the transferees, all the lessees or all the vested persons; and
 - (d) the relevant persons are individuals.’.

26 Amendment of s 94 (Concession—mixed and multiple claims for trustees—residential land)

Section 94(1)(a)—

insert—

‘(iii) the vesting, mentioned in section 85(c), of residential land; and’.

27 Amendment of s 94A (Concession—mixed and multiple claims for trustees—vacant land)

Section 94A(1)(a)—

insert—

‘(iii) the vesting, mentioned in section 85(c), of vacant land; and’.

28 Amendment of s 95A (Occupation date—particular arrangements for retirement village)

(1) Section 95A(1)(a), ‘transfer, or an agreement for the transfer’—

omit, insert—

‘transfer, agreement for the transfer, or vesting mentioned in section 85(c)’.

(2) Section 95A(1)(b) and (2), after ‘transferee’—

insert—

‘, or the vested person for the land,’.

29 Amendment of s 115 (Exemption—cancelled agreements)

(1) Section 115(2)(b), ‘cancelled agreement receives,’—

omit, insert—

‘cancelled agreement or a related person of the transferee receives,’.

(2) Section 115(2)(b)(i), ‘being released’—

[s 30]

omit, insert—

‘the release of the transferee’.

30 Amendment of s 117 (Exemption—change of trustee)

Section 117(1)(b), after ‘acquisitions’—

insert—

‘or trust surrenders’.

31 Replacement of s 118 (Exemption—trust acquisition or surrender in family trust)

Section 118—

omit, insert—

‘118 Exemption—trust acquisition or surrender in family trust

- ‘(1) Transfer duty is not imposed on a dutiable transaction that is a trust acquisition or trust surrender of a trust interest if—
- (a) the trust is established and maintained as a discretionary trust primarily for the benefit of the members of a particular family or a family company; and
 - (b) the person acquiring or surrendering the trust interest is a member of the family who, or is a family company that, does not benefit in the capacity of trustee.
- ‘(2) Also, transfer duty is not imposed on a dutiable transaction that is a trust acquisition or trust surrender if—
- (a) the trust is established and maintained primarily for the benefit of the members of a particular family or a family company; and
 - (b) the trust acquisition or trust surrender is a result of—
 - (i) a member of the family becoming or ceasing to be a member of a class of beneficiaries of the trust because of the birth or death of the member; or

-
- (ii) the person acquiring or surrendering the trust interest becoming or ceasing to be a member of a class of beneficiaries of the trust consisting of the children, stepchildren or grandchildren of a named member or members of the family.
- ‘(3) For subsection (1)(a) or (2)(a), a discretionary trust is established and maintained primarily for the benefit of the members of a particular family or a family company if—
- (a) the primary beneficiaries of the trust consist only of members of the family or the family company; and
 - (b) the takers in default of an appointment for capital by the trustee of the trust consist only of members of the family or the family company.
- ‘(4) However, subsection (3)(b) is taken to be satisfied if the last taker in default of an appointment for capital by the trustee of the trust is—
- (a) a person decided under the *Succession Act 1981*; or
 - (b) a charitable institution.
- ‘(5) For subsection (2)(a), a trust other than a discretionary trust is established and maintained primarily for the benefit of the members of a particular family or a family company if at least 90% of the trust interests in the trust are held by members of the family or the family company.
- ‘(6) For applying this section, a person (the ***first person***) is a member of the particular family of another person (the ***other person***) if—
- (a) the first person is the spouse of the other person; or
 - (b) the first person, or the first person’s spouse, is any of the following in relation to the other person, or the other person’s spouse—
 - (i) child, stepchild or adopted child;
 - (ii) grandchild or great grandchild;
 - (iii) brother, sister, aunt, uncle or cousin;

[s 32]

(iv) parent, step-parent, adoptive parent, grandparent or great grandparent.

‘(7) In this section—

family company, for a trust, means a corporation in which all its directors and shareholders are members of the particular family for which the trust is established and maintained.

spouse includes former spouse.’.

32 Insertion of new s 126A

After section 126—

insert—

‘126A Exemption—special disability trusts

‘(1) Transfer duty is not imposed on a dutiable transaction that is—

- (a) the transfer, or agreement for the transfer, of an eligible home to the trustee of a special disability trust; or
- (b) the creation of a special disability trust holding dutiable property, to the extent the dutiable property is an eligible home; or
- (c) a trust acquisition in a special disability trust, to the extent the trust interest acquired relates to an eligible home.

‘(2) In this section—

eligible home, in relation to a special disability trust, means residential land that is being, or will be, used as the principal place of residence by the beneficiary of the trust.

special disability trust means a special disability trust under—

- (a) the *Social Security Act 1991* (Cwlth), section 1209L; or
- (b) the *Veterans’ Entitlements Act 1986* (Cwlth), section 52ZZZW.’.

33 Insertion of new s 151A

After section 151—

insert—

‘151A Exemption—indigenous land use agreements

- ‘(1) Transfer duty is not imposed on the following dutiable transactions, if the dutiable transaction satisfies the requirements stated in subsection (2)—
- (a) a transfer, or agreement for the transfer, of land;
 - (b) the acquisition of a new right that is land in Queensland.
- ‘(2) For subsection (1), the requirements are—
- (a) the dutiable transaction is expressly provided for in an indigenous land use agreement; and
 - (b) the sole purpose of the dutiable transaction is to give effect to the indigenous land use agreement; and
 - (c) the transfer or agreement for the transfer of land, or the acquisition of the right, is in exchange for the surrender of native title rights and interests under the *Native Title Act 1993* (Cwlth) for an area of land to which the indigenous land use agreement relates; and
 - (d) the commissioner is satisfied the land will be used by the transferee or acquirer for an eligible use on or before the day that is 6 months after the transferee or acquirer is entitled to possession of the land, or the later day fixed by the commissioner by notice given to the transferee or acquirer (the *start date*); and
 - (e) the commissioner is satisfied the land will be used for the eligible use for at least 12 months from the start date (the *duration period*).
- ‘(3) Subsection (4) applies if, after an assessment is made on the basis of an exemption under subsection (1), the commissioner is satisfied the land the subject of the dutiable transaction—
- (a) has not been used for an eligible use by the start date; but

[s 34]

(b) will be used—

- (i) for an eligible use by a later date (the *new start date*) fixed by the commissioner by notice given to the transferee or acquirer; and
- (ii) for the eligible use for at least 12 months from the new start date (the *new duration period*).

‘(4) The commissioner must not make a reassessment merely because the land has not been used for an eligible use by the start date if the land starts to be used for the eligible use by the new start date.

‘(5) In this section—

indigenous land use agreement means an indigenous land use agreement registered on the register of indigenous land use agreements under the *Native Title Act 1993* (Cwlth), part 8.’.

34 Amendment of s 153 (Reassessment—disposal after occupation date for residence)

Section 153(1)(a)—

insert—

‘(iii) the vesting, mentioned in section 85(c), of residential land or vacant land; and’.

35 Amendment of s 154 (Reassessment—noncompliance with occupancy requirements)

(1) Section 154(1)(a)—

insert—

‘(iii) the vesting, mentioned in section 85(c), of residential land or vacant land; and’.

(2) Section 154(2)(b)(i), after ‘land’—

insert—

‘, or the owner of the land immediately before the vesting’.

-
- (3) Section 154(2)(b)(ii), ‘by the transferor of the land’—
omit.
- (4) Section 154(2A), ‘transferee or lessee does not dispose’—
omit, insert—
‘transferee, lessee or vested person for land does not dispose’.
- (5) Section 154(2B), after ‘transferee’—
insert—
‘or vested person for land’.

36 Amendment of s 155 (When transferees and lessees must give notice for reassessment)

Section 155(1)—

insert—

‘(c) the vesting, mentioned in section 85(c), of residential land or vacant land.’.

37 Replacement of ch 2, pt 14, div 3, hdg (Other reassessment)

Chapter 2, part 14, division 3, heading—

omit, insert—

‘Division 3 Reassessments for cancelled transfers of dutiable property’.

38 Amendment of s 156A (Reassessment of duty for cancelled transfer of dutiable property)

Section 156A(1)(a)—

omit, insert—

‘(a) transfer duty has been assessed on a transfer of dutiable property effected or evidenced by an instrument; and’.

[s 39]

39 Insertion of new ch 2, pt 14, div 4

Chapter 2, part 14, after division 3—

insert—

‘Division 4 Reassessments for exemptions for indigenous land use agreements

‘156B Reassessment on application

- ‘(1) This section applies if—
- (a) under an assessment, duty is imposed on a dutiable transaction because the commissioner is not satisfied of a matter under section 151A(2)(d) or (e) for land; and
 - (b) on application by the transferee or acquirer concerned, the commissioner is satisfied, under section 151A(2)(d) and (e), that the land has been used for an eligible use from the start date and for the duration period for the land (the *relevant requirements*).
- ‘(2) The commissioner must make a reassessment of duty for the transaction on the basis of compliance with section 151A(2)(d) and (e).
- ‘(3) Subsection (2) applies to the reassessment despite the Administration Act, section 21.
- ‘(4) However, if the application is made by the transferee or acquirer after the limitation period for reassessments under the Administration Act has expired, the application must be made within 6 months after the relevant requirements are satisfied.

Note—

See the Administration Act, part 3 (Assessments of tax), division 3 (Reassessments).

‘156C Reassessment—noncompliance with particular requirements

- ‘(1) This section applies if—

-
- (a) duty is assessed on a dutiable transaction on the basis of an exemption under section 151A; and
 - (b) after the assessment, the land transferred or acquired—
 - (i) is not used for an eligible use before the start date, or new start date, for the land under section 151A(2)(d) or (3)(b)(i); or
 - (ii) is not used for an eligible use for the duration period, or new duration period, for the land under section 151(2)(e) or (3)(b)(ii).
- ‘(2) Within 28 days after the event mentioned in subsection (1)(b) happens, the transferee or acquirer must—
- (a) give notice of the event in the approved form to the commissioner; and
 - (b) ensure the instruments required for the assessment of duty are lodged for a reassessment of duty on the dutiable transaction.

Note—

Failure to give the notice is an offence under the Administration Act, section 120.

- ‘(3) The commissioner must make a reassessment of duty on the transaction as if the exemption had never applied.

Note—

Unpaid tax interest and penalty tax may be payable under the Administration Act, part 5.

- ‘(4) The reassessment must be made within the later of the following—
- (a) the limitation period for the reassessment under the Administration Act;
 - (b) 12 months after the event mentioned in subsection (1)(b) happens.
- ‘(5) Subsection (4)(b) applies despite the Administration Act, section 22.’.

[s 40]

40 Replacement of s 225 (Exemption—relevant acquisition in family trust)

Section 225—

omit, insert—

‘225 Exemption—relevant acquisition in family trust

- ‘(1) Corporate trustee duty is not imposed on a relevant acquisition if—
- (a) the trust of which the corporate trustee is trustee is established and maintained primarily for the benefit of the members of a particular family or a family company; and
 - (b) the acquirer under the relevant acquisition is a member of the family who, or is a family company that, does not hold the shares acquired as trustee.
- ‘(2) A trust is established and maintained primarily for the benefit of the members of a particular family or a family company if—
- (a) the primary beneficiaries of the trust consist only of members of the family or the family company; and
 - (b) the takers in default of an appointment for capital by the trustee of the trust consist only of members of the family or the family company.
- ‘(3) However, subsection (2)(b) is taken to be satisfied if the last taker in default of an appointment for capital by the trustee of the trust is—
- (a) a person decided under the *Succession Act 1981*; or
 - (b) a charitable institution.
- ‘(4) For applying this section, a person (the **first person**) is a member of the particular family of another person (the **other person**) if—
- (a) the first person is the spouse of the other person; or

-
- (b) the first person, or the first person's spouse, is any of the following in relation to the other person, or the other person's spouse—
- (i) child, stepchild or adopted child;
 - (ii) grandchild or great grandchild;
 - (iii) brother, sister, aunt, uncle or cousin;
 - (iv) parent, step-parent, adoptive parent, grandparent or great grandparent.

‘(5) In this section—

family company, for a trust, means a corporation in which all its directors and shareholders are members of the particular family for which the trust is established and maintained.

spouse includes former spouse.’.

41 **Amendment of s 378 (What is the *dutiable value* of a vehicle)**

Section 378—

insert—

- ‘(3) However, if a vehicle is modified for a person with a disability, the *dutiable value* of the vehicle is—
- (a) for a vehicle mentioned in subsection (1)—the amount worked out under subsection (1) reduced by the value of the modifications; or
 - (b) for a vehicle mentioned in subsection (2)—the market value of the vehicle without having regard to the value of the modifications.’.

42 **Insertion of new s 379B**

After section 379A—

insert—

[s 43]

‘379B When is a vehicle *modified for a person with a disability*

‘A vehicle is *modified for a person with a disability* if—

- (a) an application to register or transfer the vehicle is made by a person with a disability, or a relative or carer of a person with a disability; and
- (b) the vehicle will be used by, or to transport, the person with a disability; and
- (c) modifications have been made to the vehicle to enable the person with a disability to—
 - (i) drive the vehicle; or
 - (ii) be transported in the vehicle.’.

43 Amendment of s 398 (What is a *corporate reconstruction*)

Section 398(1)(c), ‘ceases’—

omit, insert—

‘will or may cease, at any time,’.

44 Amendment of s 407 (Group property for intra-group transfer of property)

- (1) Section 407(1), ‘Subject to subsections (3) and (4), for’—

omit, insert—

‘For’.

- (2) Section 407(3)—

omit, insert—

- ‘(3) However, for subsection (1)(a) or (b), property that is a lot on a plan of subdivision registered after the transferor and the transferee became group companies is only group property to the extent that the property comprising the lot was group property under subsection (1)(a) or (b) immediately before registration of the plan of subdivision.’.

45 Amendment of s 488 (Commissioner may require payment of penalty)

(1) Section 488(1)—

insert—

- ‘(ba) a self assessor who is a tax agent to which the Administration Act, section 35 applies contravenes paragraph (b) of that section; or
- (bb) a self assessor contravenes section 455(1)(c) or 455A(1)(b) in relation to the stamping of an instrument; or
- (bc) a self assessor contravenes section 480 in relation to the endorsement of an instrument; or
- (bd) a person contravenes section 481 in relation to making a notation or endorsement on an instrument without authority; or’.

46 Amendment of s 499 (Reassessments of duty in particular circumstances)

Section 499(1)(a)—

omit, insert—

- ‘(a) transfer duty has been assessed on an instrument, or transaction effected or evidenced by an instrument; and’.

47 Insertion of new ch 17, pt 14

After chapter 17, part 13—

insert—

[s 48]

‘Part 14 Transitional provision for Revenue and Other Legislation Amendment Act 2011

‘621 Dutiable value of vehicles modified for a person with a disability

‘The following provisions as in force on the commencement of this section are taken to have had effect on and from 4 March 2009—

- (a) sections 378(3) and 379B;
- (b) schedule 6, definition *modified for a person with a disability*’.

48 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *duration period*, *new duration period*, *new start date* and *start date*—

omit.

- (2) Schedule 6—

insert—

‘duration period—

- (a) for chapter 2, parts 13 and 14—see section 151A(2)(e); and
- (b) for chapter 10, part 2—see section 416(1)(b) and (2)(b).

eligible use, for land—

- (a) means the use of the land solely, or almost solely, for residential or traditional purposes; but
- (b) does not include a use for a commercial purpose, including, for example, selling or leasing the land.

modified for a person with a disability see section 379B.

new duration period—

- (a) for chapter 2, parts 13 and 14—see section 151A(3)(b)(ii); and
- (b) for chapter 10, part 2—see section 417(1)(b).

new start date—

- (a) for chapter 2, parts 13 and 14—see section 151A(3)(b)(i); and
- (b) for chapter 10, part 2—see section 417(1)(b).

primary beneficiary, of a trust, means a person who under the instrument creating the trust is the first taker in default of an appointment for capital by the trustee of the trust.

start date—

- (a) for chapter 2, parts 13 and 14—see section 151A(2)(d); and
- (b) for chapter 10, part 2—see section 416(1)(a) and (2)(a).

traditional purposes means the traditional purposes of Aboriginal people or Torres Strait Islanders under Aboriginal tradition or Island custom, including, for example—

- (a) camping, fishing, gathering or hunting; and
- (b) performing rites or other ceremonies; and
- (c) visiting sites of significance.

vested person, for property, means a person in whom the property is vested.’

- (3) Schedule 6, definition *registered managed investment scheme*, from ‘scheme registered’—

omit, insert—

‘scheme within the meaning of the Corporations Act, section 9, if the scheme is registered under section 601EB of that Act.’

- (4) Schedule 6, definition *special vehicle*, paragraph (a), ‘1999, section 10A(2)’—

[s 49]

omit, insert—

‘2010, section 12(2)’.

- (5) Schedule 6, definition *special vehicle*, paragraph (b), ‘1999, schedule 4’—

omit, insert—

‘2010, schedule 8’.

Part 5 **Amendment of First Home Owner Grant Act 2000**

49 Act amended

This part amends the *First Home Owner Grant Act 2000*.

50 Replacement of s 55 (When proceedings must start)

Section 55—

omit, insert—

‘55 When proceedings must start

‘A proceeding for an offence against this Act must start within 5 years after the commission of the offence.’.

51 Insertion of new pt 10

After part 9—

insert—

**‘Part 10 Transitional provision for
Revenue and Other Legislation
Amendment Act 2011**

‘78 Continuing operation of pre-amended s 55

- ‘(1) This section applies to an offence against this Act, if the act or omission constituting the offence happened before the commencement of this section.
- ‘(2) Without limiting the *Acts Interpretation Act 1954*, section 20, section 55 as in force before the commencement of this section continues to apply in relation to the offence.’.

**Part 6 Amendment of Land Tax Act
2010**

52 Act amended

This part amends the *Land Tax Act 2010*.

**53 Amendment of s 47 (Exemption for land owned by or for
charitable institution)**

Section 47(2)(b)(i), after ‘land’—

insert—

‘, or a longer period ending on a date fixed by the commissioner by notice given to the charitable institution’.

**54 Amendment of s 75 (Reassessment made after taxpayer
elects to pay by instalments)**

- (1) Section 75—

insert—

[s 55]

‘(1A) If the reassessment decreases the taxpayer’s liability for land tax so that the remaining land tax payable is less than the amount of the next instalment, the amount of the next instalment is adjusted in accordance with the taxpayer’s varied liability for land tax.’.

(2) Section 75(2), after ‘instalment date’—
insert—
‘, and subsection (1A) does not apply’.

55 Insertion of new pt 10, div 5

After part 10, division 4—

insert—

‘Division 5 Transitional provision for Revenue and Other Legislation Amendment Act 2011

‘98A Application of ss 47 and 75

Sections 47 and 75 as in force on the commencement of this section are taken to have had effect on and from 2 September 2010.’.

56 Omission of pt 11 (Amendments of legislation)

Part 11—

omit.

Part 7 **Amendment of Local Government Act 2009**

57 Act amended

This part amends the *Local Government Act 2009*.

58 Amendment of s 19 (Assessment)

(1) Section 19(3) and (4)—

omit, insert—

‘(3) The change commission may conduct its assessment in any way that it considers appropriate, including, for example, by—

(a) asking for submissions from any local government that would be affected by the proposed local government change; or

(b) holding a public hearing (in the way set out in chapter 7, part 1) to ask the public for its views about the proposed local government change.

‘(4) However, the Minister may direct the change commission in writing to conduct its assessment of the proposed local government change in a particular way.

‘(4A) Despite subsection (3), the change commission must comply with the Minister’s direction.’.

(2) Section 19(4A) to (7)—

renumber as section 19(5) to (8).

59 Amendment of s 25 (Annual report of change commission)

(1) Section 25—

insert—

[s 60]

- ‘(1A) The report must include details of the following directions given to the change commission by the Minister during the financial year for which the report is prepared—
- (a) a direction given under section 19(4);
 - (b) a direction given under the *City of Brisbane Act 2010*, section 21(4).’.
- (2) Section 25(1A) to (4)—
renumber as section 25(2) to (5).

60 Renumbering of s 38A (Swimming pool safety)

Section 38A—
renumber as section 38AA.

61 Amendment of s 210 (Board of directors)

- (1) Section 210(4)(b) and (c)—
omit, insert—
- ‘(b) 1 director appointed on the nomination of Brisbane City Council; and
 - (c) 4 directors appointed on the nomination of members of the LG super scheme; and
 - (d) if the trust deed provides for the appointment of additional independent directors and the independent directors are appointed—the appointed independent directors.’.
- (2) Section 210(6), ‘(a) and (b)’—
omit, insert—
‘(a), (b) or (c)’.

62 Amendment of s 216 (What this part is about)

Section 216(2) and (3)—

omit, insert—

‘(2) This part has effect despite section 5(2).’.

63 Insertion of new s 216A

After section 216—

insert—

‘216A Definitions for pt 2

‘In this part—

‘accumulation benefit member means a person who is a member of the LG super scheme in a category, other than the defined benefit category, under the trust deed.

defined benefit member means a person who is a member of the LG super scheme in a defined benefit category under the trust deed.

local government includes the Brisbane City Council.

local government entity means an entity, prescribed under a regulation, that—

- (a) under an Act, exercises a power similar to a power that may be exercised by a local government in performing the local government’s responsibilities; or
- (b) under an Act, exclusively performs a responsibility in relation to the system of local government; or
- (c) exclusively exercises, for a local government, a power that may be exercised by the local government in performing the local government’s responsibilities; or
- (d) helps a local government in the performance of the local government’s responsibilities.’.

64 Amendment of s 217 (LG super scheme)

Section 217(3)(a), after ‘local government’—

[s 65]

insert—

‘or local government entity’

65 Amendment of s 218 (Members of LG super scheme)

(1) Section 218(1)—

omit, insert—

‘(1) The following persons are automatically members of the LG super scheme (*automatic members*)—

(a) an employee of a local government (other than the Brisbane City Council) while their employment continues;

(b) an employee of the super board while their employment continues.’.

(2) Section 218(2)(a)—

omit, insert—

‘(a) a councillor of a local government (other than the Brisbane City Council);

(aa) an employee of the Brisbane City Council;’.

(3) Section 218(2)(e), after ‘local government’—

insert—

‘or local government entity’.

(4) Section 218(2)(h), after ‘person’—

insert—

‘(including a person who is an employee of an entity that is an ‘Associated Employer’ under the trust deed)’.

(5) Section 218(2)(i)(i), ‘(f) or (h)’—

omit, insert—

‘(g) or (i)’.

(6) Section 218(2)(l), ‘(g)’—

omit, insert—

‘(h)’.

- (7) Section 218(2)(aa) to (l)—

renumber as section 218(2)(b) to (m).

- (8) Section 218(3), ‘(2)(f)’—

omit, insert—

‘(2)(g)’.

66 Amendment of s 219 (Compulsory super contributions)

- (1) Section 219(1)—

omit, insert—

- ‘(1) If the Commonwealth Super Act requires either of the following to make superannuation contributions for a permanent employee, the superannuation contributions must be paid into the LG super scheme—

(a) a local government (other than the Brisbane City Council);

(b) a local government entity.’.

- (2) Section 219(3), ‘(other than a local government entity)’—

omit, insert—

‘(other than the Brisbane City Council)’.

- (3) Section 219(3), ‘other local governments’—

omit, insert—

‘other local governments or local government entities’.

- (4) Section 219(4), ‘and board’—

omit, insert—

‘and the super board’.

- (5) Section 219(5) to (7), ‘a local government’—

[s 67]

omit, insert—

‘a local government or local government entity’.

67 Replacement of s 220 (Amount of compulsory contributions)

Section 220—

omit, insert—

‘220 Amount of yearly contributions—particular employers

‘(1) This section applies to the following (each an *employer*)—

- (a) a local government (other than the Brisbane City Council);
- (b) a local government entity;
- (c) the Brisbane City Council.

‘(2) However, subsections (3) and (4) do not apply to the Brisbane City Council.

‘(3) The yearly contribution that an employer must make, to the LG super scheme, for a permanent employee who is an accumulation benefit member is the amount prescribed under a regulation.

‘(4) The yearly contribution that an employer must make, to the LG super scheme, for a permanent employee who is a defined benefit member is the amount stated, from time to time, in the trust deed.

‘(5) The yearly contribution that the Brisbane City Council must make, to the LG super scheme, as an employer for an employee who is an accumulation benefit member prescribed under a regulation is the amount prescribed under that regulation.

‘(6) The yearly contribution that the Brisbane City Council must make, to the LG super scheme, as an employer for an employee who is a defined benefit member is the amount stated, from time to time, in the trust deed.

-
- ‘(7) If an employer is required under an industrial instrument to make superannuation contributions for an employee, the superannuation contribution required under the industrial instrument is not in addition to the yearly contribution the employer is required to make under this section.
- ‘(8) An employer need not pay an amount as a yearly contribution to the extent that the amount can not be accepted by a regulated superannuation fund under the Commonwealth Super Act.

Note—

See the *Superannuation Industry (Supervision) Regulations 1994* (Cwlth), regulation 7.04.

- ‘(9) An employer must pay the yearly contribution within the time stated in the trust deed.

‘220A Amount of yearly contributions—permanent employees and prescribed employees

- ‘(1) This section applies to the following (each an *employee*)—
- (a) a permanent employee of a local government (other than the Brisbane City Council);
 - (b) a permanent employee of a local government entity;
 - (c) a prescribed employee of the Brisbane City Council.
- ‘(2) A *prescribed employee* of the Brisbane City Council is an employee who is—
- (a) a member of the LG super scheme; and
 - (b) prescribed under a regulation.
- ‘(3) An employee must make a yearly contribution to the LG super scheme of the amount prescribed under a regulation.
- ‘(4) An employee need not make the yearly contribution under this section if a local government or local government entity for the employee makes the contribution, in accordance with the employee’s remuneration agreement, as well as the yearly contribution that it is required to make under this Act.

[s 68]

- ‘(5) The local government or local government entity for an employee may (despite the provisions of any other Act) deduct all or part of the employee’s contributions from—
- (a) the employee’s salary; or
 - (b) any money that the employee owes to it.
- ‘(6) If an employee is required under an industrial instrument to make superannuation contributions, the superannuation contribution required under the industrial instrument is not in addition to the yearly contribution the employee is required to make under this section.’.

68 Amendment of s 221 (Extra super contributions)

- (1) Section 221(1), after ‘a local government’—
insert—
‘or local government entity’.
- (2) Section 221(2), ‘member or local government’—
omit, insert—
‘member, local government or local government entity’.

69 Amendment of s 222 (Adjusting super contributions when salary changed)

- (1) Section 222(1)—
omit, insert—
- ‘(1) The super board may, by written notice, require each of the following to give the super board details of the salary of each of its permanent employees as at a stated day during the year after any change to the salary of any of the employees—
- (a) a local government (other than the Brisbane City Council);
 - (b) a local government entity.’.
- (2) Section 222(2) and (3), after ‘local government’—

insert—

‘or local government entity’.

70 Amendment of s 223 (Super contributions for non-contributory members)

(1) Section 223(1)(a) and (b)—

omit, insert—

‘(a) a local government is required to pay superannuation contributions for a non-contributory member under—

(i) an Act of the State or Commonwealth; or

(ii) an industrial instrument; or

(b) a local government entity is required to pay superannuation contributions for a non-contributory member under an industrial instrument.’.

(2) Section 223(3), after ‘local government’—

insert—

‘or local government entity’.

71 Amendment of s 224 (Interest is payable on unpaid super contributions)

Section 224(1) and (2), ‘local government’—

omit, insert—

‘local government or local government entity’.

72 Amendment of s 225 (Local governments must not establish employee superannuation schemes)

Section 225, ‘(other than a local government entity)’—

omit, insert—

‘(other than the Brisbane City Council)’.

[s 73]

73 Amendment of s 226 (Super scheme for councillors)

(1) Section 226(1), after ‘local government’—

insert—

‘(other than the Brisbane City Council)’.

(2) Section 226(1)—

insert—

‘*Note—*

For a similar power of the Brisbane City Council, see the *City of Brisbane Act 2010*, section 210.’.

74 Amendment of ch 8 hdg (Transitionals, savings and repeals)

Chapter 8 heading, after ‘repeals’—

insert—

‘for Act No. 17 of 2009 and Act No. 23 of 2010’.

75 Insertion of new ch 9

After section 291—

insert—

‘Chapter 9 Transitional provision for Revenue and Other Legislation Amendment Act 2011

‘292 References to City Super etc. in industrial instruments

‘A reference, in an industrial instrument, to City Super or the Brisbane City Council Superannuation Plan may, if the context permits, be taken to be a reference to the LG super scheme.’.

76 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *LG super scheme*, *local government* and *local government entity*—
omit.
- (2) Schedule 4—
insert—
‘accumulation benefit member, for chapter 7, part 2, see section 216A.
defined benefit member, for chapter 7, part 2, see section 216A.
LG super scheme see section 217(1).
local government—
(a) for chapter 7, part 2—see section 216A; or
(b) generally—see section 8(1).
local government entity, for chapter 7, part 2, see section 216A.’.

Part 8 Amendment of Payroll Tax Act 1971

77 Act amended

This part amends the *Payroll Tax Act 1971*.

78 Amendment of s 13 (Value of taxable wages)

Section 13(6), after ‘option’—
insert—
‘to which division 1C applies’.

[s 79]

79 Amendment of s 13M (Application of div 1C)

Section 13M, ‘paragraph (j)’—

omit, insert—

‘paragraphs (j) and (k)’.

80 Replacement of s 13O (When share or option is *granted*)

Section 13O—

omit, insert—

‘13O When share or option is *granted*

‘(1) A share is *granted* to a person if—

- (a) another person transfers the share to the person, other than by issuing the share to the person; or
- (b) another person allots the share to the person; or
- (c) the requirements for the grant of a share prescribed under a regulation are satisfied.

‘(2) An option is *granted* to a person if—

- (a) another person transfers the right to the share to which the option relates to the person; or
- (b) another person creates the right to the share to which the option relates in the person; or
- (c) the requirements for the grant of an option prescribed under a regulation are satisfied.

‘(3) Also, a share or an option is *granted* to a person if—

- (a) the person acquires a legal interest in the share or right from another person other than in a way mentioned in subsection (1) or (2); or
- (b) the person acquires a beneficial interest in the share or option from another person.’.

81 Amendment of s 13P (Grant of share because of exercise of option)

Section 13P, ‘paragraph (j)’—

omit, insert—

‘paragraphs (j) and (k)’.

82 Amendment of s 13R (Election by grantor of relevant day)

(1) Section 13R(2)(a)—

omit, insert—

‘(a) for a share—is the first of the following days—

(i) the day the share vests in the grantee;

(ii) the day that is 7 years after the day the share is granted to the grantee; or’.

(2) Section 13R(2)(b)—

insert—

‘(iii) the day that is 7 years after the day the option is granted to the grantee.’.

83 Amendment of s 13U (Value of taxable wages)

(1) Section 13U(1)(a)—

omit, insert—

‘(a) the value, in Australian currency, of the share or option on the relevant day; less’.

(2) Section 13U(2) and (3)—

omit, insert—

‘(2) For subsection (1)(a), the *value* of a share or option is—

(a) the amount worked out under the regulations made under the *Income Tax Assessment Act 1997* (Cwlth), section 83A-315, as applied by subsection (3); or

[s 84]

Note—

See the *Income Tax Assessment Regulations 1997* (Cwlth),
division 83A.

- (b) if paragraph (a) does not apply—the market value of the share or option.
- ‘(3) For working out the value of a share or option under subsection (2)(a), the regulations mentioned in that subsection apply with the following changes—
 - (a) the value of an option is worked out as if it were a right to acquire a beneficial interest in a share;
 - (b) a reference to the acquisition of a beneficial interest in a share or right is taken to be a reference to the grant of a share or option;
 - (c) with any other necessary changes.
- ‘(4) In working out the market value of a share or option, anything that would prevent or restrict conversion of the share or option to money must be disregarded.
- ‘(5) An employer must give evidence of the value of a share or option to the commissioner if asked by the commissioner.
- ‘(6) If the commissioner is not satisfied with the evidence given by the employer under subsection (5), the commissioner may appoint a person to value the share or option.
- ‘(7) If the value stated by the person appointed under subsection (6) is more than the value stated by the employer, the commissioner may claim all or part of the valuation costs from the employer.’.

84 Amendment of s 69 (Groups of corporations)

Section 69(2)—

omit.

85 Amendment of s 73 (Smaller groups subsumed into larger groups)

Section 73, before note 1—

insert—

- ‘(2) If 2 or more members of a group have together a controlling interest in a business within the meaning of section 71, all the members of the group and the person or persons who carry on the business together constitute a group.’.

86 Insertion of new pt 10

After part 9—

insert—

‘Part 10 Transitional provisions for Revenue and Other Legislation Amendment Act 2011

‘141 Assessment and payment of payroll tax for shares and options

- ‘(1) This section applies to an act or omission of an employer if—
- (a) the act or omission relates to the assessment or payment of payroll tax for wages paid or payable by the employer on or after 1 July 2009 but before 1 July 2011; and
 - (b) the act or omission would have been valid if the following provisions as in force on the commencement of this section applied to the act or omission—
 - (a) section 13;
 - (b) part 2, division 1C;
 - (c) schedule, definition *share*;
 - (d) schedule, definition *wages*, other than paragraph 2.
- ‘(2) The act or omission is taken to have been valid.

[s 87]

‘142 Application of pt 2, div 1C for granting of particular shares or options

- ‘(1) This section applies if—
- (a) a share or option was granted under section 13O before 1 July 2011; and
 - (b) the relevant day under section 13Q for the grant of the share or option was not before 1 July 2011; and
 - (c) the grant constituted wages under the former Act, schedule, definition *wages*, paragraph (j), whether or not the grant constitutes wages under the amended Act, schedule, definition *wages*, paragraph (j) or (k).
- ‘(2) Sections 13R and 13U, as in force on the commencement of this section, apply for the share or option.
- ‘(3) In this section—

amended Act means this Act as amended by the *Revenue and Other Legislation Amendment Act 2011*.

former Act means this Act as in force before the commencement of this section.’.

87 Amendment of schedule (Dictionary)

- (1) Schedule, definition *share*—
omit.
- (2) Schedule—
insert—
‘*share* means a share in a company and includes a stapled security.’.
- (3) Schedule, definition *wages*, second mention, ‘means any wages, remuneration, salary, commission,’—
omit, insert—
‘
1 means any wages, remuneration, salary, commission,’.

- (4) Schedule, definition *wages*, second mention, paragraph 1(j), as renumbered and note—

omit, insert—

- ‘(j) a share or option granted by an employer to an employee in relation to services performed or rendered by the employee, if the share or option is—
- (i) an ESS interest under the *Income Tax Assessment Act 1997* (Cwlth), section 83A-10; and
 - (ii) granted to the employee under an employee share scheme within the meaning of that section; and

Note—

See part 2, division 1C for provisions that apply for interpreting this paragraph.

- (k) a share or option granted by a company to a director of the company by way of remuneration for the appointment or services of the director.

Note—

See part 2, division 1C for provisions that apply for interpreting this paragraph.’.

- (5) Schedule, definition *wages*, second mention—

insert—

- ‘2 However, *wages* does not include a benefit that is an exempt benefit under the Fringe Benefits Assessment Act.’.

Part 9 **Amendment of Queensland Competition Authority Act 1997**

88 **Act amended**

This part amends the *Queensland Competition Authority Act 1997*.

[s 89]

89 Insertion of new pt 14

After part 13—

insert—

‘Part 14 Transitional provision for Revenue and Other Legislation Amendment Act 2011

‘252 References to, and acts etc. by, Ministers

- ‘(1) In a document brought into existence before the commencement of this section, a reference to the Ministers under the pre-amended Act may be taken, if the context permits, to be a reference to the Ministers under the amended Act.
- ‘(2) A direction, referral, declaration, revocation, decision or other act by the Ministers under the pre-amended Act may be taken, if the context permits, to be a direction, referral, declaration, revocation, decision or other act by the Ministers under the amended Act.
- ‘(3) This section does not limit the *Acts Interpretation Act 1954*, section 20.
- ‘(4) In this section—

amended Act means this Act as amended by the *Revenue and Other Legislation Amendment Act 2011*.

pre-amended Act means this Act as in force before the commencement of this section.’.

90 Amendment of sch 2 (Dictionary)

Schedule 2, definition *Ministers*, from ‘means’—

omit, insert—

‘means the Ministers administering this Act.’.

Part 10 **Amendment of Royal National Agricultural and Industrial Association of Queensland Act 1971**

91 **Act amended**

This part amends the *Royal National Agricultural and Industrial Association of Queensland Act 1971*.

92 **Amendment of s 17C (Application of Associations Incorporation Act 1981 to winding-up of Association)**

Section 17C—

insert—

- ‘(2) However, a resolution of the Association relating to its winding-up—
- (a) can not provide for the distribution of its surplus assets to any of its members; and
 - (b) may provide for the distribution of its surplus assets only to an entity—
 - (i) that has similar purposes to the Association; and
 - (ii) that is not carried on for the profit or gain of its individual members; and
 - (iii) whose members can not obtain any benefit from surplus assets of the entity on its winding-up.
- ‘(3) Despite the *Associations Incorporation Act 1981*, section 92(1), surplus assets of the Association can not, under that subsection, be distributed to any members of the Association.’

[s 93]

Part 11 **Amendment of South East Queensland Water (Restructuring) Act 2007**

93 Act amended

This part amends the *South East Queensland Water (Restructuring) Act 2007*.

94 Amendment of s 16 (Appointment of members)

Section 16(1), ‘, and not more than 5 members,’—
omit.

95 Amendment of s 64 (Expiry of new water entities)

(1) Section 64(5)—

renumber as section 64(6).

(2) Section 64—

insert—

‘(5) This section applies subject to section 109.’.

96 Relocation of s 94 (Delegation by Minister)

Section 94—

relocate to chapter 6 as section 116.

97 Relocation of s 96 (Regulation-making power)

Section 96—

relocate to chapter 6 as section 117.

98 Insertion of new ch 5 and ch 6 hdg

After section 103—

insert—

‘Chapter 5 Restructuring relevant water entities

‘104 Relevant water entities

- ‘(1) Each of the following entities is a *relevant water entity*—
- (a) a new water entity;
 - (b) Queensland Water Infrastructure Pty Ltd ACN 119 634 427;
 - (c) Southern Regional Water Pipeline Company Pty Ltd ACN 117 898 174;
 - (d) an entity prescribed under a regulation for this section.
- ‘(2) A regulation made under subsection (1)(d) may only prescribe—
- (a) an entity established under an Act; or
 - (b) a corporation ultimately owned by a relevant water entity or the State.

‘105 Transfer of shares, assets, liabilities etc. to relevant water entity

- ‘(1) A regulation may make provision about any of the following for a relevant water entity—
- (a) the transfer of shares in the relevant water entity to another relevant water entity;
 - (b) the transfer of a business, asset or liability of the relevant water entity to another relevant water entity;
 - (c) the consideration for a share, business, asset or liability transferred under paragraph (a) or (b);
 - (d) the grant of a lease, easement or other right from the relevant water entity to another relevant water entity;

[s 98]

- (e) the variation or extinguishment of a lease, easement or other right held by the relevant water entity;
- (f) in relation to a lease held by the relevant water entity under the *Land Act 1994*—
 - (i) transferring the lease; or
 - (ii) changing a purpose for which the lease is issued; or
 - (iii) changing a condition imposed on the lease; or
 - (iv) granting a sublease;
- (g) for trust land for which the relevant water entity is the trustee—
 - (i) removing the relevant water entity as trustee; or
 - (ii) appointing another relevant water entity as trustee; or
 - (iii) changing the purpose for which the trust land was reserved or granted in trust, including to a purpose other than a community purpose;
- (h) whether and, if so, the extent to which the relevant water entity is the successor in law of another relevant water entity;
- (i) a legal proceeding that is being, or may be, taken by or against the relevant water entity to be continued or taken by or against another relevant water entity;
- (j) the transfer or application of an instrument to the relevant water entity, including—
 - (i) whether the relevant water entity is a party to an instrument; and
 - (ii) whether an instrument, or a benefit or right provided by an instrument, is taken to have been given to, by or in favour of the relevant water entity; and
 - (iii) whether a reference to an entity in an instrument is a reference to the relevant water entity; and

-
- (iv) whether, under an instrument, an amount is or may become payable to or by the relevant water entity or other property is, or may be, transferred to or by the relevant water entity; and
 - (v) whether a right or entitlement under an instrument is held by the relevant water entity;
 - (k) the transfer of an employee of the relevant water entity to another relevant water entity;
 - (l) the employees of the relevant water entity transferred under paragraph (k), and their terms and conditions of employment, rights and entitlements;
 - (m) the records of the relevant water entity;
 - (n) anything incidental, consequential or supplemental to the restructure of the relevant water entity.
- ‘(2) A regulation made under subsection (1)—
- (a) may transfer an asset attached to land without transferring the land, even though the asset would otherwise be a part of the land; and
 - (b) has effect despite any other law or instrument; and
 - (c) may provide for a matter by reference to a document held by an entity.
- ‘(3) Subsection (2)(c) does not by implication limit the *Statutory Instruments Act 1992*, section 26.
- ‘(4) Without limiting subsection (1), a regulation providing for a matter mentioned in subsection (1)(c) may make provision about—
- (a) how the consideration is to be decided; and
 - (b) the changing of the consideration.
- ‘(5) Unless the context otherwise requires, a reference in this section to a relevant water entity includes the State and the Coordinator-General.
- ‘(6) In this section—

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authority includes accreditation, allocation, approval, certificate, entitlement, exemption, licence, manual, notice, permit and plan.

employee, of a relevant water entity, does not include a director of the entity.

instrument includes an application or authority under an Act.

record includes any document.

‘106 Effect on legal relationships

- (1) Nothing done under this chapter—
- (a) makes a relevant entity liable for a civil wrong or a contravention of a law or for a breach of a contract or confidence; or
 - (b) makes a relevant entity in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, novation or transfer of a right or liability or the disclosure of information; or
 - (c) except as provided for under a regulation made under section 105, is taken to fulfil a condition that—
 - (i) terminates, or allows a person to terminate, an instrument or obligation; or
 - (ii) modifies, or allows a person to modify, the operation or effect of an instrument or obligation; or
 - (iii) allows a person to avoid or enforce an obligation or liability contained in an instrument or requires a person to perform an obligation contained in an instrument; or
 - (iv) requires any money to be paid before its stated maturity; or
 - (d) releases a surety or other obligee, wholly or partly, from an obligation.

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- ‘(2) If, apart from this subsection, the advice, consent or approval of a person would be necessary to do something under this chapter, the advice is taken to have been obtained or the consent or approval is taken to have been given unconditionally.
- ‘(3) If, apart from this Act, giving notice to a person would be necessary to do something under this chapter, the notice is taken to have been given.
- ‘(4) In this section—
relevant entity means—
- (a) the State or an employee or agent of the State; or
 - (b) the Coordinator-General or an employee or agent of the Coordinator-General; or
 - (c) a relevant water entity, a member of a relevant water entity’s board or an employee or agent of a relevant water entity.

‘107 Ministerial direction

- ‘(1) The Minister may give a direction (a *transfer direction*) to a relevant water entity or its board requiring the entity or board to do something the Minister considers necessary or convenient for effectively restructuring a relevant water entity under this chapter.
- ‘(2) Without limiting subsection (1), a transfer direction may be about—
- (a) the timing of transfers of particular businesses, assets and liabilities, instruments and employees; or
 - (b) executing an instrument; or
 - (c) disclosing information.
- ‘(3) A transfer direction must be in writing, signed by the Minister.
- ‘(4) A relevant water entity must comply with a transfer direction given to it.
- ‘(5) A relevant water entity’s board must—

[s 98]

- (a) if a transfer direction is given to the board—comply with the direction; or
 - (b) if a transfer direction is given to the entity—take the action necessary to ensure the entity complies with the direction.
- ‘(6) A relevant water entity’s employees must help the entity or its board to comply with a transfer direction given to the entity or board.

‘108 Registering authority to register or record transfer or other dealing

- ‘(1) A registering authority must, on written application by a relevant water entity, register or record in the appropriate way a transfer of, or other dealing affecting, an asset, liability or instrument provided for under a regulation made under section 105.
- ‘(2) The relevant water entity must comply with any relevant procedures required by the registering authority for the purpose of registering or recording the transfer or other dealing.

Example—

The registering authority may require the relevant water entity to complete and submit a particular form.

- ‘(3) In this section—
registering authority means the registrar of titles or another entity required or authorised by law to register or record transactions affecting assets, liabilities or instruments.

‘109 Regulation dissolving new water entity

- ‘(1) This section applies if all the assets and liabilities of a new water entity (the ***first entity***) have become the assets and liabilities of a relevant water entity or have been otherwise disposed of by the first entity.

-
- ‘(2) A regulation may dissolve the first entity and make provision about any matter for which it is necessary or convenient to make provision about the first entity’s dissolution and the preparation of its final statements and report.
- ‘(3) Without limiting subsection (2), the regulation may make provision about—
- (a) access to information and documents for preparing the first entity’s final statements and report; and
 - (b) the entity that is to prepare the first entity’s final statements and report.
- ‘(4) Subsection (3)(b) applies despite the *Financial and Performance Management Standard 2009*, sections 48(1) and 53.
- ‘(5) In this section—
- final statements and report*, of a relevant water entity, means the entity’s final financial statements and final report under the *Financial Accountability Act 2009*, sections 62 and 63.

‘110 Non-liability for State taxes

- ‘(1) This section applies if there is—
- (a) a transfer of a share, business, asset, liability or instrument from WaterSecure to Seqwater under a regulation made under section 105; or
 - (b) another dealing affecting a share, business, asset, liability or instrument as part of a joint restructure of WaterSecure and Seqwater under a regulation made under section 105.
- ‘(2) Neither WaterSecure nor Seqwater is liable to pay a State tax in relation to the transfer or other dealing.
- ‘(3) In this section—
- State tax* means a fee, levy or charge imposed under an Act, including—
- (a) duty under the *Duties Act 2001*; and

[s 98]

- (b) a fee or charge under the *Land Act 1994*, the *Land Title Act 1994* or the *Water Act 2000*.

‘111 Preservation of rights of transferred employee

- ‘(1) This section applies if there is a transfer of an employee (a *transferred employee*) from WaterSecure to Seqwater under a regulation made under section 105.
- ‘(2) A transferred employee’s terms and conditions of employment during the transitional period are the same terms and conditions (the *transferred conditions*) as applied to the employee immediately before the transfer, and are not decided by reference to the terms and conditions of employment of an employee of Seqwater who is not a transferred employee.
- ‘(3) The transfer does not—
 - (a) affect the employee’s benefits, entitlements or remuneration; or
 - (b) prejudice the employee’s existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
 - (c) interrupt continuity of service, except that the employee is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or
 - (d) constitute a termination of employment by WaterSecure, retrenchment or redundancy; or
 - (e) entitle the employee to a payment or other benefit because he or she is no longer employed by WaterSecure; or
 - (f) require WaterSecure to make any payment in relation to the employee’s accrued rights to recreation, sick, long service or other leave irrespective of any arrangement between WaterSecure and the employee; or
 - (g) require Seqwater to apply any of the transferred conditions to an employee of Seqwater who is not a

transferred employee, despite any other law, contract or instrument.

‘(4) The transfer has effect despite any other law, contract or other instrument.

‘(5) In this section—

transitional period means the period from the time of the employee’s transfer to Seqwater until whichever of the following happens first—

(a) if the transferred conditions include terms and conditions of employment stated in a certified agreement—the employee becomes covered by a new certified agreement after the transfer;

(b) otherwise—a new written contract of employment is agreed between Seqwater and the employee that provides that it replaces the transferred conditions.

‘112 Prohibition on retrenchment because of transfer of employee

‘(1) This section applies if—

(a) there is a transfer of an employee from WaterSecure to Seqwater under a regulation made under section 105; and

(b) at the time of the transfer, the employee is covered by a certified agreement.

‘(2) Seqwater must not take any action to end the employee’s employment with Seqwater by redundancy, other than voluntary redundancy, if the action is taken, whether completely or partly and whether directly or indirectly, because of the transfer of the employee.

‘(3) For deciding whether Seqwater has contravened subsection (2), the reason given by Seqwater for taking action to end the employee’s employment must be considered but is not conclusive.

[s 98]

- ‘(4) Subsection (2) applies only to an action taken within 3 years after the transfer.

‘113 Things done under this chapter

- ‘(1) A thing may be done under this chapter despite any other law or instrument.
- ‘(2) To remove any doubt, it is declared that a thing is taken to be done under this chapter if it is done by, or in compliance with, a regulation made under section 105 or direction given under section 107, even if the thing includes taking steps under another Act.

‘114 Excluded matter for Corporations Act

Anything done by the Minister under section 107 is an excluded matter for the Corporations Act, section 5F, in relation to the Corporations Act, chapter 2D.

‘115 Severability

- ‘(1) Subsection (2) applies if a provision of—
- (a) this chapter; or
 - (b) a regulation made under section 105;
- is held by a court or judge to be beyond power, invalid or unenforceable.
- ‘(2) The provision is to be disregarded or severed and the court’s or judge’s decision does not affect the remaining provisions of this chapter or the regulation which continue to have effect.
- ‘(3) This section does not affect the operation of the *Acts Interpretation Act 1954*, section 9 in any way.

‘Chapter 6 Miscellaneous provisions’.

99 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

‘*asset* includes a right.

certified agreement means a certified agreement under the *Industrial Relations Act 1999*.

relevant water entity see section 104.

restructure, of a relevant water entity, includes the transfer of a share, business, asset, liability, instrument or employee of the relevant water entity to another relevant water entity.

right includes power, privilege and immunity.

Seqwater means the Queensland Bulk Water Supply Authority.

WaterSecure means the Queensland Manufactured Water Authority.’.

Part 12 Amendment of Sustainable Planning Act 2009

100 Act amended

This part amends the *Sustainable Planning Act 2009*.

101 Insertion of new ch 3, pt 5, div 2A

Chapter 3, part 5—

insert—

[s 101]

‘Division 2A Modifications to process for making or amending local planning instruments having effect in iconic places

‘122A Definitions for div 2A

‘In this division—

impact report see section 122C(1).

local government means each of the following—

- (a) Cairns Regional Council;
- (b) Rockhampton Regional Council;
- (c) Sunshine Coast Regional Council.

panel report see section 122E(1).

proposed TLPI see section 122B(1)(a).

scheme guideline means the guideline mentioned in section 117(1).

scheme proposal see section 122C(1).

TLPI guideline means the guideline mentioned in section 117(2).

‘122B Application of div 2A

‘(1) This division applies—

- (a) to a local government for—
 - (i) the making, after 18 December 2009, of its first planning scheme under this part; or
 - (ii) an amendment under this part of its IPA planning scheme; or
 - (iii) the making of a temporary local planning instrument (the *proposed TLPI*) at any time before

the local government's planning scheme mentioned in subparagraph (i) is made; and

- (b) if either—
 - (i) the planning scheme, as made or amended, would or may have effect in an iconic place and would change or replace a protected planning provision relating to the place; or
 - (ii) the proposed TLPI would or may have effect in an iconic place and would suspend or otherwise affect the operation of a protected planning provision relating to the place.

‘(2) If there is an inconsistency between this division and division 2, this division prevails to the extent of the inconsistency.

‘122C Report about impact on iconic values

- ‘(1) The local government must prepare a report (the *impact report*) about the making or amendment of the planning scheme (the *scheme proposal*), or the making of the proposed TLPI, evaluating the effect of the scheme proposal or proposed TLPI on the place's iconic values.
- ‘(2) Before the local government gives the Minister, under the scheme guideline, the proposed planning scheme or amendment for the Minister's first review of State interests, the local government must—
 - (a) give the advisory panel for the place—
 - (i) the impact report; and
 - (ii) a copy of the proposed planning scheme or amendment; and
 - (b) comply with section 122F.
- ‘(3) Before the local government gives the Minister, under the TLPI guideline, the proposed TLPI with written advice about why the local government proposes to make it, the local government must—

[s 101]

- (a) give the advisory panel for the place—
 - (i) the impact report; and
 - (ii) a copy of the proposed TLPI; and
- (b) comply with section 122F.

‘122D Public notification of impact report

- ‘(1) This section applies to any public notice of the scheme proposal or proposed TLPI under the scheme guideline or TLPI guideline.
- ‘(2) The notice must state that the local government has given the advisory panel a report about the scheme proposal or proposed TLPI evaluating the effect of the scheme proposal or proposed TLPI on the place’s iconic values.

‘122E Advisory panel to consider and advise about impact report

- ‘(1) The advisory panel must consider the impact report and, within 40 business days after receiving it, give the local government a report (a *panel report*) about whether or not the panel considers the scheme proposal or proposed TLPI would, if given effect to, be inconsistent with protecting the place’s iconic values.
- ‘(2) The panel report may include the panel’s recommendations to the local government about protecting the place’s iconic values.
- ‘(3) For considering the impact report and preparing the panel report, the advisory panel may consult with anyone it considers appropriate.

‘122F Local government to consider panel report

‘The local government must consider the panel report—

- (a) in preparing, or making the amendment to, the planning scheme; and
- (b) in preparing the proposed TLPI.

‘122G Local government to give Minister impact report and panel report

- ‘(1) This section applies if the local government decides to proceed with the scheme proposal or proposed TLPI after considering the panel report.
- ‘(2) When the local government gives the Minister a copy of the proposed planning scheme or amendment for the Minister’s first review of State interests under the scheme guideline, the local government must give the Minister—
 - (a) a copy of the impact report and the panel report; and
 - (b) a document stating the local government’s response to the panel report.
- ‘(3) When the local government gives the Minister the proposed TLPI under the TLPI guideline, the local government must give the Minister—
 - (a) a copy of the impact report and the panel report; and
 - (b) a document stating the local government’s response to the panel report.

‘122H Minister to consider effect of scheme proposal or proposed TLPI on iconic values

‘If—

- (a) under the scheme guideline, the Minister is considering whether or not State interests would be adversely affected by the scheme proposal; or
- (b) under the TLPI guideline, the Minister is considering the proposed TLPI;

[s 102]

the Minister also must consider whether or not the scheme proposal or proposed TLPI would, if given effect to, be inconsistent with protecting the place's iconic values.

'1221 Minister may impose conditions on adoption of scheme proposal or proposed TLPI

'If the Minister—

- (a) considers the scheme proposal or proposed TLPI would, if given effect to, be inconsistent with protecting the place's iconic values; and
- (b) advises the local government under the scheme guideline or TLPI guideline that it may adopt the scheme proposal or proposed TLPI subject to conditions;

the Minister must impose conditions on the adoption of the scheme proposal or proposed TLPI that the Minister considers necessary to preserve the place's iconic values.'

102 Insertion of new ch 4, pt 2, div 4, sdiv 1 hdg

Chapter 4, part 2, division 4, before section 145—

insert—

'Subdivision 1 General process'.

103 Insertion of new ch 4, pt 2, div 4, sdiv 2

Chapter 4, part 2, division 4—

insert—

**‘Subdivision 2 Modifications to process for making
structure plans having effect in
iconic places**

‘149A Definitions for sdiv 2

‘In this subdivision—

impact report see section 149C(1).

local government means each of the following—

- (a) Cairns Regional Council;
- (b) Rockhampton Regional Council;
- (c) Sunshine Coast Regional Council.

panel report see section 149E(1).

proposed iconic place structure plan see section 149C(1).

structure plan guideline means the guideline mentioned in section 145.

‘149B Application of sdiv 2

‘(1) This subdivision applies—

- (a) to a local government for the making of a structure plan at any time before the local government’s first planning scheme is made, after 18 December 2009, under chapter 3, part 5; and
- (b) if the structure plan would or may have effect in an iconic place and would change or replace a protected planning provision relating to the place.

‘(2) If there is an inconsistency between this subdivision and subdivision 1, this subdivision prevails to the extent of the inconsistency.

[s 103]

‘149C Report about impact on iconic values

- ‘(1) The local government must prepare a report (the *impact report*) about the making of the structure plan (the *proposed iconic place structure plan*) evaluating its effect on the place’s iconic values.
- ‘(2) Before the local government agrees with the coordinating agency on the proposed iconic place structure plan, under the structure plan guideline, the local government must—
 - (a) give the advisory panel for the place—
 - (i) the impact report; and
 - (ii) a copy of the proposed structure plan; and
 - (b) comply with section 149F.

‘149D Public notification of impact report

- ‘(1) This section applies to any public notice of the proposed iconic place structure plan under the structure plan guideline.
- ‘(2) The notice must state that the local government has given the advisory panel a report about the making of the structure plan evaluating its effect on the place’s iconic values.

‘149E Advisory panel to consider and advise about impact report

- ‘(1) The advisory panel must consider the impact report and, within 40 business days after receiving it, give the local government a report (a *panel report*) about whether or not the panel considers the proposed iconic place structure plan would, if given effect to, be inconsistent with protecting the place’s iconic values.
- ‘(2) The panel report may include the panel’s recommendations to the local government about protecting the place’s iconic values.

- ‘(3) For considering the impact report and preparing the panel report, the advisory panel may consult with anyone it considers appropriate.

‘149F Local government to consider panel report

‘In preparing the proposed iconic place structure plan, the local government must consider the panel report.

‘149G Local government to give Minister impact report and panel report

- ‘(1) This section applies if the local government decides to proceed with the proposed iconic place structure plan after considering the panel report.
- ‘(2) When the local government gives the Minister a copy of the proposed structure plan for the Minister’s consideration of State interests under the structure plan guideline, the local government must give the Minister—
- (a) a copy of the impact report and the panel report; and
 - (b) a document stating the local government’s response to the panel report.

‘149H Minister to consider effect of proposed iconic place structure plan on iconic values

- ‘(1) This section applies if, under the structure plan guideline, the Minister is considering whether or not State interests would be adversely affected by the proposed iconic place structure plan.
- ‘(2) The Minister also must consider whether or not the proposed structure plan would, if given effect to, be inconsistent with protecting the place’s iconic values.

[s 104]

‘149I Minister may impose conditions on adoption of structure plan

‘If the Minister —

- (a) considers the proposed iconic place structure plan would, if given effect to, be inconsistent with protecting the place’s iconic values; and
- (b) advises the local government under the structure plan guideline that it may adopt the proposed structure plan subject to conditions;

the Minister must impose conditions on the adoption of the structure plan that the Minister considers necessary to preserve the place’s iconic values.’.

104 Insertion of new ch 9, pt 7B

Chapter 9—

insert—

‘Part 7B Advisory panels for iconic places

‘Division 1 Preliminary

‘755X Definition for pt 7B

‘In this part—

local government, for a provision about an advisory panel for an iconic place, means the local government in whose local government area the iconic place is situated.

‘Division 2 Establishment and function

‘755Y Minister to establish advisory panel and appoint members

- ‘(1) The Minister must, by gazette notice—
 - (a) establish an advisory panel for each iconic place; and
 - (b) appoint its members; and
 - (c) appoint its chairperson.
- ‘(2) The appointments must comply with section 755ZB.

‘755Z Notice to local government

‘The Minister must, on establishing an advisory panel for an iconic place, give the local government notice of that fact and of its members.

‘755ZA Function

‘The function of an advisory panel for an iconic place is to advise the local government about whether or not the panel considers a scheme proposal, a proposed TLPI or a proposed iconic place structure plan of the local government would, if given effect to, be inconsistent with protecting the place’s iconic values.

‘Division 3 Membership

‘755ZB Members

- ‘(1) The number of members of an advisory panel for an iconic place can not be more than 5.
- ‘(2) The members must include 1 person of each of the following types—

[s 104]

- (a) a person with community or environmental experience or expertise;
 - (b) a person with professional or technical qualifications appropriate for considering the place's iconic values;
 - (c) a councillor of the local government.
- '(3) However, councillors of the local government must not make up a majority of the number of members.
- '(4) To remove any doubt, it is declared that a person may be a member of more than 1 panel.

'755ZC Remuneration

- '(1) A member of an advisory panel is to be paid the remuneration and allowances the Governor in Council decides.
- '(2) A member who is a public service officer must not be paid remuneration if the officer acts as a member during the officer's ordinary hours of duty as a public service officer.
- '(3) However, the member is entitled to be paid expenses necessarily incurred by the member in acting as a member.

'755ZD Disclosure of material personal interests

- '(1) This section applies if—
- (a) a member of an advisory panel has a material personal interest in an issue being considered, or about to be considered, by the panel; and
 - (b) the material personal interest could conflict with the proper performance of the member's function relating to the issue.
- '(2) The member must, as soon as practicable, disclose the material personal interest to all other members of the panel.
- Maximum penalty—200 penalty units.

- ‘(3) If a member has disclosed a material personal interest in an issue, the member must not participate in the panel’s consideration of the issue.

Maximum penalty—200 penalty units.

- ‘(4) A member has a *material personal interest* in an issue if any of the following persons stand to gain a benefit, or suffer a loss, (either directly or indirectly) depending on the outcome of the panel’s consideration of the issue—

- (a) the member;
- (b) a spouse of the member;
- (c) a parent, child or sibling of the member;
- (d) a partner of the member;
- (e) an employer (other than a government entity) of the member;
- (f) an entity (other than a government entity) of which the member is a member;
- (g) another person prescribed under a regulation.

- ‘(5) In this section—

government entity see the *Government Owned Corporations Act 1993*, section 4.

‘Division 4 Miscellaneous provisions

‘755ZE Reporting requirement

- ‘(1) The chairperson of each advisory panel must prepare and give the Minister a written report about the performance of the panel’s function during each financial year.
- ‘(2) The report must be given as soon as practicable after the end of the financial year, but within 4 months after the year ends.
- ‘(3) The report must include information the Minister reasonably requires about amounts spent by the panel in performing its function.

[s 105]

‘755ZF Conduct of business

‘An advisory panel may conduct its business, including its meetings, in the way it considers appropriate.

‘755ZG Dissolution of advisory panels

- ‘(1) This section applies to an advisory panel on the day the local government’s first planning scheme made under chapter 3, part 5 has effect.
- ‘(2) The panel is dissolved and the members of the panel go out of office.
- ‘(3) No compensation is payable to a member because of subsection (2).’.

105 Amendment of ch 10, pt 2, hdg (Transitional provisions)

Chapter 10, part 2, heading, after ‘provisions’—

insert—

‘for Act No. 36 of 2009’.

106 Insertion of new ch 10, pt 3

Chapter 10—

insert—

‘Part 3 Transitional provisions for Revenue and Other Legislation Amendment Act 2011

‘872 Definitions for pt 3

‘In this part—

chairperson, of a panel, means the person who, under the repealed Iconic Places Act immediately before the commencement, was the chairperson of the panel.

commencement means the day this part commences.

iconic places development application means a development application to which the repealed Iconic Places Act, part 4, division 3 applies immediately before the commencement.

panel means a panel established under the repealed Iconic Places Act.

reference decision means a reference decision under the repealed Iconic Places Act.

‘873 Dealing with iconic places development applications

- ‘(1) Subsection (2) applies to an iconic places development application if, before the commencement, the local government for the application—
- (a) has not acted under the repealed Iconic Places Act, section 44 or 45 for the application; or
 - (b) has acted under the repealed Iconic Places Act, section 44 for the application, but a panel has not made a reference decision for the application.
- ‘(2) On the commencement, the repealed Iconic Places Act ceases to apply to the application.
- ‘(3) Subsection (4) applies to an iconic places development application if, before the commencement—
- (a) a panel has made a reference decision for the application; and
 - (b) the reference decision is that the panel is to decide the application instead of the local government for the application; and
 - (c) the application has not been decided by the local government.
- ‘(4) On the commencement—
- (a) the repealed Iconic Places Act ceases to apply to the application; and

[s 106]

- (b) the local government may continue to decide the application and give the decision notice for the application.
- ‘(5) Subsection (6) applies to an iconic places development application if, before the commencement—
- (a) a panel has made a reference decision for the application; and
 - (b) the reference decision is that the panel is to decide the application instead of the local government for the application; and
 - (c) the application has been decided by the local government; and
 - (d) the panel—
 - (i) has not decided the application under IDAS in compliance with the repealed Iconic Places Act, section 52; or
 - (ii) has decided the application under IDAS in compliance with the repealed Iconic Places Act, section 52, but has not given a decision notice for the application.
- ‘(6) On the commencement—
- (a) the repealed Iconic Places Act ceases to apply to the application; and
 - (b) the local government’s decision on the application is taken to be the decision under IDAS for the application; and
 - (c) for this Act, the local government is taken to have made the decision on the commencement.

‘874 Decisions of panels

- ‘(1) This section applies if, before the commencement—
- (a) a panel has given a decision notice for an iconic places development application; and

-
- (b) the applicant has, under chapter 6, part 8, division 1, made representations to the panel about the decision notice; and
 - (c) the panel has not given a negotiated decision notice for the application.
- ‘(2) For this Act—
- (a) the representations are taken to have been made to the local government for the application; and
 - (b) the local government must consider the representations and make a decision about the representations under chapter 6, part 8, division 1.
- ‘(3) Despite section 876 and the repeal of the repealed Iconic Places Act, the chairperson of the panel must, as soon as practicable after the commencement, give the representations to the local government.

‘875 Provision about appeals

- ‘(1) This section applies for any appeal, under sections 461 to 464, relating to an iconic places development application for which a panel has given a decision notice or negotiated decision notice.
- ‘(2) Despite section 485, the Minister is the respondent for the appeal.
- ‘(3) The local government for the application may appeal to the court as if it had been a submitter for the application.
- ‘(4) Subsection (2) applies whether or not the appeal started before the commencement.

‘876 Dissolution of panels

- ‘(1) On the commencement—
- (a) each panel is dissolved; and
 - (b) the members of each panel go out of office.

[s 107]

- ‘(2) No compensation is payable to a member because of subsection (1).

‘877 Responsible entity for development approvals

- ‘(1) This section applies—
- (a) if a development approval is a decision notice or a negotiated decision notice that is given by a panel; and
 - (b) for chapter 6, part 8, division 2.
- ‘(2) The local government for the development application to which the approval relates is the responsible entity for a change or approval mentioned in section 369(1)(e).

‘878 Panel’s report

- ‘(1) This section applies despite section 876 and the repeal of the repealed Iconic Places Act.
- ‘(2) The chairperson of each panel must, as soon as practicable after the commencement, give the Minister a written report about the performance of the panel’s functions during the financial year in which the panel was dissolved.’.

107 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *commencement* and *local government*—
omit.
- (2) Schedule 3—
insert—
- ‘*advisory panel*, for an iconic place, means the advisory panel established for the place under chapter 9, part 7B.
- chairperson*, of a panel, for chapter 10, part 3, see section 872.
- commencement*—

- (a) for chapter 10, part 2, see section 765; or
- (b) for chapter 10, part 3, see section 872.

iconic place means a place that was an iconic place under the repealed Iconic Places Act immediately before its repeal.

iconic places development application, for chapter 10, part 3, see section 872.

iconic values, for an iconic place, means the iconic values for the place under the repealed Iconic Places Act immediately before its repeal.

impact report—

- (a) for chapter 3, part 5, division 2A, see section 122C(1);
or
- (b) for chapter 4, part 2, division 4, subdivision 2, see section 149C(1).

local government—

- (a) for chapter 3, part 5, division 2A, see section 122A; or
- (b) for chapter 4, part 2, division 4, subdivision 2, see section 149A; or
- (c) for a provision of this Act about a master planned area, means the local government whose local government area includes the area; or
- (d) for chapter 9, part 7B, see section 755X.

panel, for chapter 10, part 3, see section 872.

panel report—

- (a) for chapter 3, part 5, division 2A, see section 122E(1);
or
- (b) for chapter 4, part 2, division 4, subdivision 2, see section 149E(1).

proposed iconic place structure plan see section 149C(1).

proposed TLPI see section 122B(1)(a).

[s 108]

protected planning provision, for an iconic place, means a provision of a planning scheme that was a protected planning provision for the iconic place under the repealed Iconic Places Act immediately before its repeal.

reference decision, for chapter 10, part 3, see section 872.

repealed Iconic Places Act means the repealed *Iconic Queensland Places Act 2008*.

scheme guideline, for chapter 3, part 5, division 2A, see section 122A.

scheme proposal see section 122C(1).

structure plan guideline, for chapter 4, part 2, division 4, subdivision 2, see section 149A.

TLPI guideline, for chapter 3, part 5, division 2A, see section 122A.

Part 13 **Amendment of Taxation Administration Act 2001**

108 **Act amended**

This part amends the *Taxation Administration Act 2001*.

109 **Insertion of new pt 16**

After part 15—

insert—

**‘Part 16 Savings provision for repealed
Tobacco Products (Licensing)
Act 1988**

‘169 Continuation of Tobacco Products Act, s 43

- ‘(1) Despite its repeal, section 43 of the Tobacco Products Act continues to apply for information and records obtained in connection with the administration of that Act before it was repealed by the *Revenue and Other Legislation Amendment Act 2011*, section 121.
- ‘(2) To remove any doubt, it is declared that a proceeding may be started against a person for a contravention of section 43(1) or (3) of the Tobacco Products Act as if that Act had not been repealed.
- ‘(3) Words used in section 43 of the Tobacco Products Act, as continued under this section, have the same meanings as they had under that Act before it was repealed.
- ‘(4) In this section—
Tobacco Products Act means the repealed *Tobacco Products (Licensing) Act 1988*.’.

Part 14 Amendment of Water Act 2000

110 Act amended

This part amends the *Water Act 2000*.

111 Amendment of s 20 (Authorised taking of water without water entitlement)

- (1) Section 20(3), ‘Despite subsection (6), an’—
omit, insert—

[s 111]

‘An’.

- (2) Section 20(8)—
renumber as section 20(11).
- (3) Section 20—
insert—
- ‘(8) A constructing authority may take water for the purpose of constructing or maintaining infrastructure that the constructing authority may lawfully construct or maintain, if—
- (a) the taking of water for that purpose is prescribed under a regulation; and
 - (b) the constructing authority complies with each condition imposed under subsection (9).
- ‘(9) The taking of the water is subject to the conditions that—
- (a) are prescribed under a regulation; or
 - (b) the chief executive by notice given to the constructing authority imposes on the taking of water.
- ‘(10) Without limiting the conditions that may be prescribed under subsection (9), the conditions may do all or any of the following—
- (a) limit the volume of water the constructing authority may take in a year for a particular project;
 - (b) limit the volume of water the constructing authority may take from a particular source at a particular location during a stated period;
 - (c) require the constructing authority to give the chief executive notice of the constructing authority’s intention to take water from a particular source;
 - (d) require the constructing authority to take the water only through a meter of a type approved by the chief executive;

- (e) require the constructing authority to give a written report to the chief executive about stated matters for the water taken;

Examples of matters about which a report may be required—

- the locations from which water was taken
- the source from which the water was taken
- the volume of water taken from a source
- the day on which the water was taken

- (f) require the constructing authority to obtain written approval from the operator of a water supply scheme before taking water managed under an interim resource operations licence, resource operations licence or distribution operations licence.’.

112 Amendment of s 25 (Limiting water taken under water licence, permit or allocation)

- (1) Section 25, heading, ‘or allocation’—

omit, insert—

‘, **allocation or under s 20(8)**’.

- (2) Section 25(1)—

insert—

‘(d) taken under section 20(8).’.

- (3) Section 25(2)(a) to (c)—

omit, insert—

- ‘(a) the times when water may be taken;
- (b) the purpose for which water may be taken;
- (c) the volume of water, measured or estimated, that may be taken for a stated purpose.’.

[s 113]

113 Amendment of s 1136F (Submitting system leakage management plans for approval)

Section 1136F—

insert—

- ‘(3) However, the water service provider is taken not to have contravened subsection (2) if the water service provider—
- (a) provides an urban water service outside the SEQ region; and
 - (b) gives a copy of the water service provider’s system leakage management plan to the regulator for approval before 1 July 2013.’.

114 Amendment of s 1158 (New and adjusted local governments must give regulator service provider documents)

- (1) Section 1158(4)—

renumber as section 1158(5).

- (2) Section 1158—

insert—

- ‘(4) However, the local government is taken not to have contravened subsection (3)(b) if the local government—
- (a) provides an urban water service outside the SEQ region; and
 - (b) gives the regulator a copy of the local government’s system leakage management plan before 1 July 2013.’.

115 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

‘*constructing authority* see the Acquisition of Land Act 1967, section 2.

regulator means the regulator under the Water Supply Act.

urban water service means a drinking water service under the Water Supply Act or a retail water service.’.

Part 15 **Amendment of Water Supply (Safety and Reliability) Act 2008**

116 **Act amended**

This part amends the *Water Supply (Safety and Reliability) Act 2008*.

117 **Amendment of s 133 (Water service provider to have outdoor water use conservation plan)**

(1) Section 133, heading—

omit, insert—

‘Particular water service providers to have outdoor water use conservation plans’.

(2) Section 133, before subsection (1)—

insert—

‘(1AA) This section applies if —

(a) the regulator is satisfied—

(i) there is a risk to a water service provider’s water security; and

(ii) the water service provider has not implemented adequate measures to ensure the efficient use of water by the service provider’s customers; and

(b) after consulting with the water service provider, the regulator has given the water service provider notice requiring the water service provider to have a plan under this section.’.

[s 118]

(3) Section 133(1), ‘Each’—

omit, insert—

‘The’.

(4) Section 133—

insert—

‘(5) In this section—

water security see the *Water Act 2000*, schedule 4.’.

118 Amendment of s 141 (Service provider to report annually)

(1) Section 141(1)(d)—

omit.

(2) Section 141(2), ‘(b), (c) or (d)’—

omit, insert—

‘(b) or (c)’.

119 Amendment of s 142 (Contents of annual report)

Section 142(5)—

omit.

120 Amendment of s 602 (Approved system leakage management plans)

Section 602(3), after ‘apply’—

insert—

‘, subject to any amendment of that section,’.

Part 16 **Repeal of Acts**

121 **Repeal**

The following Acts are repealed—

- Advance Bank Integration Act 1997 No. 75
- Bank Integration (Bank of Queensland) Act 1993 No. 14
- Bank Merger (BankSA and Advance Bank) Act 1996 No. 45
- Bank of New Zealand (Transfer of Undertaking) Act 1997 No. 22
- Challenge Bank (Transfer of Undertaking) Act 1996 No. 33
- Debits Tax Repeal Act 2005 No. 25
- Iconic Queensland Places Act 2008 No. 7
- New Tax System Price Exploitation Code (Queensland) Act 1999 No. 72
- State Bank of South Australia (Transfer of Undertaking) Act 1994 No. 30
- Tobacco Products (Licensing) Act 1988 No. 91

Part 17 **Minor and consequential amendments**

122 **Acts amended**

The schedule amends the Acts it mentions.

Schedule Acts amended

section 122

Duties Act 2001

- 1 Sections 90(1), 91(1)(a), 92(1)(a), 93(1)(a), 93A(1)(a), 94(1)(a), 94A(1)(a), 153(1)(a), 154(1)(a) and 155(1), ‘either’—**
omit, insert—
‘1’.
- 2 Sections 91(1)(b)(i) and 92(1)(b)(i), ‘transferees or lessees’—**
omit, insert—
‘transferees, lessees or vested persons’.
- 3 Section 92(1)(c)(ii), ‘for dutiable’—**
omit, insert—
‘for the dutiable’.
- 4 Sections 92(3), 154(1)(b)(i) and 155(2), ‘transferee or lessee’—**
omit, insert—
‘transferee, lessee or vested person for land’.

-
- 5 Sections 93(3), 93A(2) and 153(1)(b), ‘transferee or lessee’—**
omit, insert—
‘transferee, lessee or vested person for the land’.
- 6 Section 93(1)(b), after ‘transferee or lessee of’—**
insert—
‘, or vested person for,’.
- 7 Sections 93(3A), (3B), (4)(a), (5)(a), (6A) and (7) and 93A(3) to (6), ‘relevant transferee or relevant lessee’—**
omit, insert—
‘relevant person’.
- 8 Sections 93(4)(b)(i), (5)(b)(i) and (6) and 93A(5) and (6), ‘relevant transferee’s or relevant lessee’s’—**
omit, insert—
‘relevant person’s’.
- 9 Sections 93(4)(a), 153(1)(b), (2), definition *OD*, and (3), 154(1)(b)(ii), (2A) and (4) and 155(3), definition *notifiable event*, paragraph (a), ‘transferee’s or lessee’s’—**
omit, insert—
‘transferee’s, lessee’s or vested person’s’.
- 10 Section 93(5)(b)(ii), ‘relevant transferees’ or relevant lessees’—**
omit, insert—
‘relevant persons’.

- 11 Section 93(6)(b), ‘transferee or lessee’—**
omit, insert—
‘person’.
- 12 Section 93(6)(b)(ii), ‘transferees or lessees’—**
omit, insert—
‘relevant persons’.
- 13 Section 93(5)(a), (6), (6A) and (7), ‘transferee’s or lessee’s’—**
omit, insert—
‘person’s’.
- 14 Section 93A(6)(a), from ‘transferees’—**
omit, insert—
‘transferees, all the lessees or all the vested persons for the land; or’.
- 15 Sections 94(1)(b), 94A(1)(b), 153(2), definition C and (3) and 154(2A)(a), (3) and (4), ‘transferee or lessee’—**
omit, insert—
‘transferee, lessee or vested person’.
- 16 Sections 94(2) and 94A(2), after ‘transferees or lessees of’—**
insert—
‘, or vested persons for,’.
- 17 Section 153(1A), from ‘For’ to ‘spouse; and’—**
omit, insert—

‘For subsection (1)(b), a transferee, lessee or vested person for land does not dispose of land if—

- (a) the transferee, lessee or vested person transfers part of the land to the transferee’s, lessee’s or vested person’s spouse; and’.

18 Section 153(1B), after ‘transferee’—

insert—

‘or vested person for land’.

19 Section 154(2), from ‘transferee or lessee disposes’ to transferee or lessee transfers’—

omit, insert—

‘transferee, lessee or vested person for land disposes of land if the lessee of a home or vacant land lease surrenders the lease or the transferee, lessee or vested person transfers’.

20 Section 155, heading, ‘transferees and lessees’—

omit, insert—

‘transferees, lessees and vested persons for land’.

21 Section 481A(2)(a)(i), ‘self-assessor’s’—

omit, insert—

‘self assessor’s’.

Judicial Review Act 1991

1 Schedule 2, section 15, from ‘determinations of’—

omit, insert—

‘determinations of tax, duty or other impost, other than a decision on an objection made and determined under an enactment.’.

2 Schedule 2, section 16, from ‘of’—

omit, insert—

‘of tax, duty or other impost under any enactment.’.

Right to Information Act 2009

1 Schedule 3, section 12(1), eighth dot point—

omit.