



Queensland

Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011

Act No. 20 of 2011



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Queensland

Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011

Act No. 20 of 2011

An Act to amend and repeal the Community Ambulance Cover Act 2003, to amend this Act, to make consequential amendments of the Electricity Act 1994, the Energy and Water Ombudsman Act 2006 and the Taxation Administration Act 2001, and to amend the Duties Act 2001, the Geothermal Energy Act 2010, the Land Tax Act 2010, the Mineral Resources Act 1989, the Payroll Tax Act 1971, and the Petroleum and Gas (Production and Safety) Act 2004 for particular purposes

[Assented to 27 June 2011]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011*.

2 Commencement

- (1) Part 9 commences on 30 June 2011.
- (2) The following provisions commence on 1 July 2011—
 - (a) part 2, divisions 1 to 3;
 - (b) part 4;
 - (c) part 6, other than—
 - (i) part 6, division 1, subdivision 3; and
 - (ii) part 6, division 2, subdivision 3; and
 - (iii) part 6, division 3, subdivision 3.
 - (d) part 7, divisions 1 and 2;
 - (d) part 10, division 3;
 - (e) part 11;
 - (e) part 12, division 3.
- (3) The following provisions commence on 2 July 2011—
 - (a) part 5;
 - (b) part 6, division 1, subdivision 3;
 - (c) part 6, division 2, subdivision 3;
 - (d) part 6, division 3, subdivision 3.

- (4) Part 7, division 3 commences on 1 August 2011.
- (5) Part 2, division 4 commences on 1 January 2012.

Part 2 **Matters relating to repeal of Community Ambulance Cover Act 2003**

Division 1 **Preliminary**

3 **Definitions for pt 2**

In this part—

assessable period means a period ending before 1 July 2011.

pre-repeal matter means—

- (a) a levy liability or an exempt arrangement for an assessable period; or
- (b) the imposition or collection of the levy relating to a levy liability mentioned in paragraph (a); or
- (c) the use of the system of supply and sale of electricity as the basis for the imposition or collection of the levy mentioned in paragraph (b); or
- (d) anything done or not done under the repealed Act relating to a matter mentioned in paragraph (a), (b) or (c).

repealed Act means the repealed *Community Ambulance Cover Act 2003*.

4 Words have meanings given by repealed Act

Words defined under the repealed Act immediately before its repeal and used in this part have the same meanings as they had under the repealed Act.

Division 2 Savings and transitional provisions

Subdivision 1 General provisions

5 Acts Interpretation Act, s 20 not limited

This division does not limit the *Acts Interpretation Act 1954*, section 20.

6 Saving provision for pre-repeal matters

- (1) The repealed Act, as in force immediately before 1 July 2011, continues to apply for rights, privileges, liabilities and obligations that would have been acquired, accrued or incurred on or after 1 July 2011 relating to a pre-repeal matter as if the repealed Act had not been repealed.

Examples of how the repealed Act continues to apply under this section—

On or after 1 July 2011—

- an electricity retailer continues to be the agent of the commissioner for collection of the levy for an assessable period
- the commissioner may give a written direction to an electricity retailer or authorised subcontractor under the repealed Act for the administration or enforcement of that Act relating to a pre-repeal matter
- the commissioner may act in the place of an electricity retailer to enforce compliance with a direction or an obligation to perform a function relating to a pre-repeal matter
- an electricity retailer may be required to pay the commissioner a levy amount collected for an assessable period
- an electricity retailer may be required to refund an amount of the levy for an assessable period that has been overpaid

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- an electricity retailer may be required to recover an unpaid levy amount for an assessable period
 - a person who was required to keep records under the repealed Act about another person's levy liability or an on-supply arrangement or power card arrangement is required to continue to keep the records.
- (2) Subsection (1) is subject to subdivisions 2 and 4.
- (3) Without limiting subsection (1), a provision of the repealed Act providing for an offence continues to apply for anything done or not done on or after 1 July 2011 relating to a pre-repeal matter.
- (4) To remove any doubt, it is declared that the reference in subsection (1) to the repealed Act as in force immediately before 1 July 2011 includes the statutory instruments in force under the repealed Act immediately before 1 July 2011.

Subdivision 2 Levy liability and amount

7 No levy liability for purported levy amount for a non-assessable period

To remove any doubt, it is declared that—

- (a) there is no levy liability for an amount purporting to be a levy amount for a period other than an assessable period; and
- (b) a statement of levy liability can not issue for an amount to the extent the amount purports to be a levy amount for a period other than an assessable period.

8 Statement of levy liability

- (1) Section 87(2) and (3) of the repealed Act applies to a statement of levy liability only to the extent the statement shows a levy amount for an assessable period.
- (2) For section 87(5) of the repealed Act, the reference to the period to the end of the electricity sale arrangement is taken to

be a reference to the assessable period before the end of the electricity sale arrangement.

- (3) An electricity retailer is required to give an electricity customer a statement of levy liability to replace a statement of levy liability previously given to the customer if the previous statement purports to relate to a period other than an assessable period.

Note—

Section 108 of the repealed Act, as applied subject to section 9, applies to a statement of levy liability issued under subsection (3).

- (4) Subsection (3) does not limit the continued operation of section 89 of the repealed Act under section 6.
- (5) For section 101(5) of the repealed Act, as continued under section 6, the electricity customer is required to pay only that part of the total levy amount shown in the statement of levy liability relating to an assessable period.

9 Refund of purported levy amount for non-assessable period

For section 108 of the repealed Act, the reference to a replacement statement of levy liability includes a reference to a statement of levy liability issued under section 8(3).

10 Restriction on issue of replacement statement of levy liability

- (1) This section applies to an electricity retailer on or after 1 July 2012.
- (2) Despite section 89 of the repealed Act, the electricity retailer can not give an electricity customer of the retailer a replacement statement of levy liability relating to a circumstance mentioned in section 89(b) of the repealed Act unless the customer has, before 1 July 2012, asked the retailer for a replacement statement of levy liability relating to the circumstance.

- (3) To remove any doubt, it is declared that this section does not apply to a statement of levy liability issued under section 8(3).

11 End of entitlement to refund of levy

- (1) The entitlement to a refund of a levy amount under part 7, division 8 of the repealed Act ends—
- (a) for an entitlement relating to a claim that a customer sale arrangement is, or has been for a particular period, an exempt customer sale arrangement—if, before 1 July 2012, the relevant customer—
 - (i) has not given the relevant electricity retailer for the arrangement a notice under section 90(2) or 90A(2) of the repealed Act; or
 - (ii) has not been taken, under section 99 of the repealed Act, to have given the electricity retailer a notice under section 90(2) of that Act; or
 - (b) for an entitlement relating to a power card arrangement to which section 92 of the repealed Act applies—if the responsible person has not given the relevant electricity retailer, or owner, for the arrangement a notice under section 92(2) or (3) of the repealed Act before 1 July 2012; or
 - (c) for an entitlement relating to a power card arrangement to which section 92B of the repealed Act applies—if the responsible person has not given the owner for the arrangement a notice under section 92B(1)(d) of the repealed Act before 1 July 2012; or
 - (d) for an entitlement relating to an on-supply arrangement to which section 94 of the repealed Act applies—if the responsible person has not given the on-supplier for the arrangement a notice under section 94(2) of the repealed Act before 1 July 2012.
- (2) To remove any doubt, it is declared, for a person claiming a refund under section 107 or 107A of the repealed Act, that—

- (a) if the 1 year mentioned in section 107(5)(a) or 107A(5)(a) of the repealed Act (the *1-year limit*) has elapsed and the person has not claimed the refund under the section, subsection (1) does not operate to extend the person's entitlement to a refund under the section; and
 - (b) if the 1-year limit has not elapsed and the person has not claimed the refund under the section before 1 July 2012, the entitlement to the refund ends under subsection (1) despite the section.
- (3) Also, to remove any doubt, it is declared that sections 117(3), 122(3) and 124A(2) of the repealed Act apply subject to this section.
- (4) In this section—
- responsible person* means—
- (a) for a power card arrangement—the person who has direct knowledge of the circumstances causing the power card arrangement to be, or to have been, an exempt power card arrangement; or
 - (b) for an on-supply arrangement—the person who has direct knowledge of the circumstances causing the on-supply arrangement to be, or to have been, an exempt power on-supply arrangement.

12 Restriction on recovery of unauthorised amount by owner of power card premises

- (1) Subsection (2) applies if the owner of power card premises has paid an amount purporting to be a levy amount for a period other than an assessable period (an *unauthorised amount*) for a power card arrangement.
- (2) To remove any doubt, it is declared that the owner can not recover the unauthorised amount under section 115(2) of the repealed Act.
- (3) Subsection (2) does not stop the owner from seeking a refund of the unauthorised amount from the electricity retailer.

Note—

See, in particular, section 8(3) and section 108 of the repealed Act, as applied subject to section 9.

13 Restriction on recovery of unauthorised amount by on-supplier

- (1) Subsection (2) applies if the on-supplier for an on-supply arrangement has paid an amount purporting to be a levy amount for a period other than an assessable period (an *unauthorised amount*) for the arrangement.
- (2) To remove any doubt, it is declared that the owner can not recover the unauthorised amount under section 120 of the repealed Act.
- (3) Subsection (2) does not stop the on-supplier from seeking a refund of the unauthorised amount from the electricity retailer.

Note—

See, in particular, section 8(3) and section 108 of the repealed Act, as applied subject to section 9.

14 Limit of liability of Commissioner and State

- (1) On and from 1 July 2012, neither the commissioner nor the State is liable to pay an electricity retailer an amount claimed to be overpaid under the repealed Act if the retailer has not given the commissioner a notice in the approved form about the amount before 1 July 2012.
- (2) Subsection (1) does not apply to an amount relating to an appropriate refund paid or payable by an electricity retailer to the extent the electricity retailer is not able to pay the amount out of levy amounts it has collected.

Note—

See section 103(3) of the repealed Act regarding an electricity retailer's authorisation to pay a refund out of levy amounts collected.

- (3) To remove any doubt, it is declared that neither subsection (1) nor subsection (2) confers a right, or imposes an obligation, for the payment of an amount.
- (4) Subsection (1) applies despite anything to the contrary in the repealed Act or another Act.
- (5) In this section—

appropriate refund means a refund to which the electricity customer is, or was, entitled, under part 7, division 8 of the repealed Act as changed under this subdivision.

Note—

See, in particular, section 8(3) and section 108 of the repealed Act, as applied subject to section 9.

Subdivision 3 Administration agreements generally

15 Administration agreement continues

Subject to subdivision 4, an administration agreement in force immediately before 1 July 2011 continues in force until it is ended in accordance with its terms.

Subdivision 4 Administration fees

16 Application of sdiv 4

This subdivision applies—

- (a) to an administration agreement continued in force under section 15; and
- (b) despite—
 - (i) section 83 of the repealed Act; and
 - (ii) the terms of the administration agreement.

17 Definition for sdiv 4

In this subdivision—

assessable electricity sale arrangement means an electricity sale arrangement for which a statement of levy liability was issued for an assessable period.

18 Base annual fee from July 2011

On and from 1 July 2011, the base annual fee for calculating the administration fee under the administration agreement is the base annual fee under the agreement for the financial year that ended on 30 June 2011.

19 Levy statistics statement from October 2011

- (1) This section and section 20 apply to the administration agreement, if it is still in force, on or after 1 October 2011.
- (2) The electricity retailer under the administration agreement must give the commissioner a levy statistics statement, within 14 days after the end of the month, for each month the administration agreement continues in force.
- (3) The levy statistics statement is required to state only the following—
 - (a) the number of assessable electricity sale arrangements for which the electricity retailer was the relevant electricity retailer in the month;
 - (b) the number of the assessable electricity sale arrangements—
 - (i) to which an exemption under the Act applied; and
 - (ii) to which each type of exemption under the Act applied;
 - (c) the number and value of adjustments made during the month;
 - (d) other relevant information, if any, required by the commissioner.

- (4) In this section—

levy statistics statement means the levy statistics statement under the administration agreement as subject to this section.

20 Administration fee from October 2011

- (1) For October 2011 and each later month the administration agreement continues in force, the administration fee payable under the agreement must be calculated using the formula—

$$\frac{BAF \times AESA}{12}$$

where—

BAF is the base annual fee under the agreement for the financial year that ended on 30 June 2011.

AESA is the number of assessable electricity sale arrangements for which the electricity retailer was the relevant electricity retailer in the month for which the administration fee is being calculated.

- (2) If the administration agreement is not in force for an entire month for which the administration fee is being calculated, the administration fee payable under the agreement for the month must be calculated using the formula—

$$AFP \times \frac{NDM}{TDM}$$

where—

AFP is the administration fee payable for the month under subsection (1).

NDM is the number of days in the month during which the agreement was in force.

TDM is the total number of days in the month.

21 Electricity retailer may elect not to claim administration fee

- (1) This section applies if, on or after 1 October 2011, the electricity retailer under the administration agreement gives the commissioner a written notice electing not to claim the administration fee.
- (2) The commissioner is no longer liable to pay the administration fee that would, other than for this section, have been payable.
- (3) Sections 19(2) and 20 no longer apply to the electricity retailer for the administration agreement.

Subdivision 5 Other transitional provisions

22 Proceedings for a review by QCAT

- (1) This section applies to a proceeding for a review by QCAT of a decision of the commissioner relating to an objection, whether the decision was made before 1 July 2011 or is made on or after that day.
- (2) Part 9, division 2 of the repealed Act, as in force immediately before 1 July 2011, continues to apply to the proceeding as if the repealed Act had not been repealed.

23 Confidentiality

The following provisions of the repealed Act continue to apply as if the repealed Act had not been repealed—

- (a) section 142;
- (b) section 143, for using information for the administration or enforcement of the repealed Act in relation to a pre-repeal matter.

Editor's note—

sections 142 (Application of Administration Act, s 111) and 143 (Use of information obtained under taxation law) of the repealed Act

Division 3 Other provisions—general

24 This Act as a revenue law for Administration Act

Only the following provisions of the Administration Act apply to this Act as a revenue law under the Administration Act—

- (a) parts 7 and 8;
- (b) section 117;
- (c) part 10;
- (d) section 150.

Note—

The Administration Act, section 172 declares that this Act is taken to be a revenue law under section 6 of that Act.

Division 4 Other provisions—offences

25 Statement of levy liability must not be issued for non-assessable period

An electricity retailer must not give an electricity customer of the retailer a statement of levy liability showing an amount that purports to be a levy amount for a period other than an assessable period.

Maximum penalty—100 penalty units.

26 Owner not to recover purported levy amount for non-assessable period

An owner for a power card arrangement must not recover, or try to recover, from a person, an amount for the arrangement that purports to be a levy amount for a period other than an assessable period.

Maximum penalty—100 penalty units.

27 On-supplier not to recover purported levy amount for non-assessable period

An on-supplier must not recover, or try to recover, from a person, an amount for an on-supply arrangement that purports to be a levy amount for a period other than an assessable period.

Maximum penalty—100 penalty units.

Part 3 Amendment of Community Ambulance Cover Act 2003

28 Act amended

This part amends the *Community Ambulance Cover Act 2003*.

29 Amendment of s 4 (Operation of Act)

Section 4, after ‘2003’—

insert—

‘and before 1 July 2011’.

30 Insertion of new s 17A

Part 1, division 4—

insert—

‘17A Definition for div 4

‘In this division—

later financial year means a financial year starting on or after 1 July 2004 and ending before 1 July 2011.’.

31 Amendment of s 18 (Basis of imposition of levy)

(1) Section 18(1) and (2), ‘financial’—

omit, insert—

‘relevant financial’.

(2) Section 18—

insert—

‘(3) In this section—

relevant financial year means a financial year ending before
1 July 2011.’.

32 Amendment of schedule (Dictionary)

Schedule, definition *later financial year—*

omit, insert—

‘*later financial year* see section 17A.’.

Part 4 Repeal of Community Ambulance Cover Act 2003

33 Repeal

The Community Ambulance Cover Act 2003, No. 34 is
repealed.

Part 5 Amendment of this Act

34 Act amended

This part amends this Act.

35 Amendment of long title

Long title, from ‘, to amend this Act’—
omit.

36 Amendment of s 1 (Short title)

Section 1, ‘*and Revenue and Other Legislation Amendment*’—
omit.

**Part 6 Consequential amendments for
repeal of Community
Ambulance Cover Act 2003**

Division 1 Amendment of Electricity Act 1994

Subdivision 1 Preliminary

37 Act amended

This division amends the *Electricity Act 1994*.

**Subdivision 2 Amendments commencing 1 July
2011**

**38 Amendment of s 55DA (Additional condition about
community services agreement)**

Section 55DA(3) and (4)—
omit.

39 Omission of ss 55F and 61A

Sections 55F and 61A—
omit.

40 Insertion of new ch 14, pt 11

After section 330—
insert—

**‘Part 11 Transitional provision for
repeal of Community
Ambulance Cover Act 2003**

**‘331 Continuation of relevant former provisions for retail
authority and special approval**

- ‘(1) Subject to subsection (2)—
- (a) section 55DA(3) and (4), as it was in force immediately before 1 July 2011 (the *relevant former provision*), continues to apply; and
 - (b) section 55F, as it was in force immediately before 1 July 2011 (also the *relevant former provision*), continues to apply to a retail authority; and
 - (c) section 61A, as it was in force immediately before 1 July 2011 (also the *relevant former provision*), continues to apply to a special approval.
- ‘(2) A reference in the relevant former provision to the Ambulance Cover Act is taken to be a reference to the repealed *Community Ambulance Cover Act 2003* as continued under the *Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011*, part 2.’

41 Amendment of sch 5 (Dictionary)

Schedule 5, definition *Ambulance Cover Act*—
omit.

Subdivision 3 Amendments commencing 2 July 2011

42 Amendment of s 328 (Continuation of relevant former provisions for retail authority and special approval)

Section 328(2), '*and Revenue and Other Legislation Amendment*'—
omit.

Division 2 Amendment of Energy and Water Ombudsman Act 2006

Subdivision 1 Preliminary

43 Act amended

This division amends the *Energy and Water Ombudsman Act 2006*.

Subdivision 2 Amendments commencing 1 July 2011

44 Amendment of s 11 (Functions)

Section 11(2), from '12A' to '13'—
omit, insert—
'12A and 12B'.

- 45 Omission of s 13 (Exclusion of disputes relating to community ambulance cover levy)**
Section 13—
omit.
- 46 Amendment of s 19 (Restrictions on disputes relating to energy entities that can be referred)**
Section 19(b), from ‘12’ to ‘13’—
omit, insert—
‘12 or 12B’.
- 47 Amendment of s 22 (Refusal to investigate dispute referral)**
Section 22(4), ‘13,’—
omit.
- 48 Amendment of s 23 (Notice of referral not properly made or of refusal to investigate)**
Section 23(1)(a), ‘13,’—
omit.
- 49 Insertion of new pt 11**
After section 101—
insert—

Division 3 Amendment of Taxation Administration Act 2001

Subdivision 1 Preliminary

51 Act amended

This division amends the *Taxation Administration Act 2001*.

Subdivision 2 Amendments commencing 1 July 2011

52 Amendment of s 6 (Revenue laws)

- (1) Section 6(2) and (3)—
omit.
- (2) Section 6(5), ‘Subsection (4)’—
omit, insert—
‘Subsection (2)’.
- (3) Section 6(4) to (6)—
renumber as section 6(2) to (4).

53 Insertion of new pt 17

After section 169—
insert—

‘Part 17 Savings, transitional and related provisions for repeal of Community Ambulance Cover Act 2003

‘170 Definitions for pt 17

‘In this part—

repealed Act means the repealed *Community Ambulance Cover Act 2003*.

‘171 Repealed Act continues as revenue law

- ‘(1) Despite its repeal, the repealed Act is taken to continue to be a revenue law under section 6.

Note—

See also the *Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011*, section 6 and part 2, division 2, subdivision 2.

- ‘(2) Despite its repeal, section 141 of the repealed Act continues to apply in relation to how this Act applies to the repealed Act.
- ‘(3) Subsection (2) does not limit the *Acts Interpretation Act 1954*, section 20A.

‘172 Community Ambulance Cover Levy Repeal Act is revenue law

‘The *Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011* is taken to be a revenue law under section 6.

‘173 Delegations

- ‘(1) This section applies if, immediately before 1 July 2011, a delegation of any of the commissioner’s powers under the repealed Act was in force.

- ‘(2) The delegation continues for the purpose of the administration of the repealed Act as continued under the *Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011* part 2, divisions 1 and 2 until the delegation is ended under this Act.
- ‘(3) If the delegation had permitted the subdelegation of the power and a subdelegation of the power was in force immediately before 1 July 2011, the subdelegation also continues under subsection (2) until it is ended under this Act.

‘174 Confidential information

‘To remove any doubt, it is declared that part 8 applies to—

- (a) confidential information acquired by an official performing functions under or in relation to the administration or enforcement of the repealed Act; and
- (b) confidential information acquired or received by another person under the repealed Act.’.

Subdivision 3 Amendments commencing 2 July 2011

54 Amendment of s 171 (Repealed Act continues as revenue law)

Section 171(1), note, ‘*and Revenue and Other Legislation Amendment*’—

omit.

55 Amendment of s 172 (Community Ambulance Cover Levy Repeal Act is revenue law)

Section 172, ‘*and Revenue and Other Legislation Amendment*’—

omit.

56 Amendment of s 173 (Delegations)

Section 173(2), ‘*and Revenue and Other Legislation Amendment*’—

omit.

Part 7 Amendment of Duties Act 2001

Division 1 Preliminary

57 Act amended

This part amends the *Duties Act 2001*.

Division 2 Amendments commencing 1 July 2011

58 Amendment of s 30 (Aggregation of dutiable transactions)

Section 30(5)(b), example, ‘land rich’—

omit, insert—

‘landholder’.

59 Amendment of s 49 (Application of pt 8)

Section 49(2), editor’s note—

omit, insert—

‘Notes—

- 1 For subsection (2), see division 7 (Public unit trusts), subdivisions 7 (Majority trust acquisitions in land holding trusts) and 8 (Indirect trust interests).

- 2 An acquisition of an interest in a listed unit trust that is a landholder may be dutiable under chapter 3, part 1 (Landholder duty).'

60 Amendment of s 61 (Who is a *related person*)

Section 61(1)(b), 'a majority interest'—

omit, insert—

'an interest of 50% or more'.

61 Amendment of s 69 (What is a *listed unit trust*)

Section 69, note—

omit, insert—

Notes—

- 1 Section 498A includes provision about when the quotation of securities is suspended.
- 2 An acquisition of an interest in a listed unit trust that is a landholder may be dutiable under chapter 3, part 1 (Landholder duty).'

62 Amendment of s 82 (Deduction—transfer duty for majority trust acquisition)

Section 82(1)(b), 'land rich'—

omit, insert—

'landholder'.

63 Amendment of ch 3, hdg (Land rich duty and corporate trustee duty)

Chapter 3, heading, 'Land rich'—

omit, insert—

'Landholder'.

64 Amendment of ch 3, pt 1, hdg (Land rich duty)

Chapter 3, part 1, heading, 'Land rich'—

omit, insert—

‘Landholder’.

65 Replacement of s 157 (Imposition of land rich duty)

Section 157—

omit, insert—

‘157 Imposition of landholder duty

‘(1) This part imposes duty (*landholder duty*) on relevant acquisitions.

Note—

Exemptions for landholder duty are dealt with in division 5. Also, particular acquisitions relating to corporate reconstructions are exempt from landholder duty under chapter 10, part 1.

‘(2) Landholder duty is imposed—

- (a) for a relevant acquisition in a private landholder—on the dutiable value of the relevant acquisition; and
- (b) for a relevant acquisition in a public landholder—in the way provided under section 179B.’.

66 Amendment of ch 3, pt 1, div 2, hdg (Some basic concepts for land rich duty)

Chapter 3, part 1, division 2, heading, ‘land rich’—

omit, insert—

‘landholder’.

67 Amendment of ch 3, pt 1, div 2, sdiv 1, hdg (Some basic concepts about acquiring interests in corporations)

Chapter 3, part 1, division 2, subdivision 1, heading, ‘corporations’—

omit, insert—

‘landholders’.

68 Replacement of s 158 (What is a *relevant acquisition*)

Section 158—

omit, insert—

‘158 What is a *relevant acquisition*

- ‘(1) A person makes a *relevant acquisition* if—
- (a) the person acquires a significant interest in a landholder;
or
 - (b) the person acquires an interest in a landholder and, when the following are aggregated, the aggregation results in a significant interest in the landholder—
 - (i) interests held by the person in the landholder;
 - (ii) interests acquired or held by related persons of the person in the landholder; or
 - (c) having acquired a significant interest in a landholder as mentioned in paragraph (a) or (b) for which acquisition landholder duty was imposed, the person’s interest in the landholder increases.
- ‘(2) To remove any doubt, it is declared that for subsection (1)(b), it is not relevant whether, immediately before the person acquires the interest—
- (a) an interest mentioned in subsection (1)(b)(i) or (ii) is, of itself, a significant interest in the landholder; or
 - (b) the aggregation of any interests mentioned in subsections (1)(b)(i) or (ii), of itself, amounts to a significant interest in the landholder.’

69 Replacement of s 159 (What are *interests* and *majority interests* in a corporation)

Section 159—

omit, insert—

‘159 What are *interests* and *significant interests* in a landholder

- ‘(1) A person has an *interest* in a landholder if the person has an entitlement as a shareholder or unit holder to a distribution of the landholder’s property—
- (a) for a corporation—on its winding up; or
 - (b) for a listed unit trust—on its termination.
- ‘(2) A person has a *significant interest* in a landholder if the person has an interest in the landholder of—
- (a) for a private landholder—50% or more; or
 - (b) for a public landholder—90% or more.’.

70 Replacement of s 160 (Interest in corporation is percentage of distributable property on winding up)

Section 160—

omit, insert—

‘160 Interest in landholder is percentage of distributable property on winding up of a corporation or termination of a listed unit trust

‘A person’s interest in a landholder is the person’s entitlement expressed as a percentage of the value of all of the landholder’s property that would be distributed if, immediately after the person acquires the interest—

- (a) for a corporation—the corporation were to be wound up;
or
- (b) for a listed unit trust—the trust were to be terminated.’.

71 Amendment of s 161 (Entitlement on distribution of corporation’s property)

- (1) Section 161(1), ‘The’—

omit, insert—

‘Subject to section 161B, the’.

(2) Section 161(1)(b)—

omit, insert—

- ‘(b) after the person or the person’s representative, has, to maximise the person’s entitlement, exercised all powers and discretions to do all or any of the following—
- (i) effect or compel a change of the corporation’s constitution;
 - (ii) vary the rights conferred by the shares in the corporation;
 - (iii) pay up any uncalled amount owing to the corporation for the shares;
 - (iv) satisfy conditions in the corporation’s constitution relating to the shares;
 - (v) effect or compel the substitution or replacement of shares in the corporation with other shares in the corporation.’.

(3) Section 161(2) and (3)—

omit.

(4) Section 161(4)—

renumber as section 161(2).

72 Insertion of new ss 161A and 161B

After section 161—

insert—

‘161A Entitlement on distribution of listed unit trust’s property

- ‘(1) Subject to section 161B, the entitlement of a person on a distribution of a listed unit trust’s property is the greater of the entitlement of the person as a unit holder, based on a distribution carried out—
- (a) under the instrument creating the trust; or

-
- (b) after the person or the person's representative has, to maximise the person's entitlement, exercised all powers and discretions to do all or any of the following—
- (i) effect or compel a change of the instrument creating the trust;
 - (ii) vary the rights conferred by the units in the trust;
 - (iii) pay up any uncalled amount owing to the trust for the units;
 - (iv) satisfy conditions under the instrument creating the trust relating to the units;
 - (v) effect or compel the substitution or replacement of units in the trust with other units in the trust;
 - (vi) effect or compel the fulfilment of a condition;
 - (vii) effect or compel the outcome of a contingency;
 - (viii) effect or compel the exercise or non-exercise of a power or discretion.
- ‘(2) The entitlement of a person under subsection (1) must be worked out without regard to the liabilities of the trust.
- ‘(3) In this section—
- representative*, of another person, means someone who is accustomed, or under an obligation, or reasonably expected to act under the directions, instructions or wishes of the other person.

‘161B Matters about applying ss 161 and 161A

- ‘(1) If the commissioner considers the application of section 161(1)(b) or 161A(1)(b) would be inequitable, the commissioner may decide the entitlement of a person be based on a distribution carried out under section 161(1)(a) or 161A(1)(a).
- ‘(2) Also, if a person makes a relevant acquisition because interests are aggregated under section 158(1)(b)(ii), the entitlements under section 161(1)(b) or 161A(1)(b) of the

person and the related persons of the person must not be more than 100%.’.

73 Amendment of s 162 (Acquiring an interest in a corporation)

(1) Section 162, ‘corporation’—

omit, insert—

‘landholder’.

(2) Section 162(2)(a) to (d), after ‘share’—

insert—

‘or unit’.

(3) Section 162(2)—

insert—

‘(e) if the person holds an interest in the landholder, whether or not as trustee—by changing the capacity in which the person holds the interest.

Example of when the capacity in which a person holds an interest changes—

A person holds a share or unit in a corporation or listed unit trust other than as trustee. The person’s capacity changes if the person starts holding the share or unit as trustee.’.

(4) Section 162(3), after ‘shares’—

insert—

‘or units’.

74 Replacement of s 163 (When is an interest in a corporation acquired)

Section 163—

omit, insert—

‘163 When is an interest acquired

‘(1) This section applies—

-
- (a) if a person acquires an interest in a landholder; or
 - (b) for an interest acquired by a person in a landholder when, under section 179(6), definition *excluded interest*, paragraph (b) and 179B(2), definition *excluded interest*, paragraph (b), the landholder did not hold land in Queensland.
- ‘(2) The person acquires the interest—
- (a) if there is an agreement to acquire the interest, whether conditional or not, and paragraph (b) does not apply—when the agreement is made; or
 - (b) if there is an agreement to acquire the interest, whether conditional or not, and the landholder is not a landholder when the agreement is made but is a landholder when the agreement is completed—when the agreement is completed; or
 - (c) otherwise—when the interest is acquired.
- ‘(3) Also, if—
- (a) a person holds a security interest in a landholder; and
 - (b) the acquisition of the security interest was an exempt acquisition under section 190; and
 - (c) the person later acquires the interest free from any interest or equity of the previous holder of the interest (the *later acquisition*);
- the person acquires an interest in the landholder at the time of the later acquisition.’.

75 Amendment of s 164 (Who is a *related person*)

- (1) Section 164(1)(b), ‘a majority interest’—
omit, insert—
‘an interest of 50% or more’.
- (2) Section 164(2), ‘corporation’—
omit, insert—

‘landholder’.

(3) Section 164(3)—

omit.

(4) Section 164(4)—

renumber as section 164(3).

(5) Section 164(3), as renumbered, ‘In addition, for another acquisition’—

omit, insert—

‘However’.

76 Replacement of ch 3, pt 1, div 2, sdiv 2, hdg (Some basic concepts about land rich corporations, subsidiaries and their land-holdings and property)

Chapter 3, part 1, division 2, subdivision 2, heading, ‘land rich corporations, subsidiaries’—

omit, insert—

‘entities’.

77 Replacement of s 165 (What is a *land rich corporation*)

Section 165—

omit, insert—

‘165 What is a *landholder*

‘A *landholder* is an entity that has land-holdings in Queensland, the unencumbered value of which are \$2000000 or more.

‘165A What is a *private landholder* and *public landholder*

‘(1) A *private landholder* is a landholder that is an unlisted corporation.

‘(2) A *public landholder* is a landholder that is a listed corporation or listed unit trust.’.

78 Replacement of s 166 (What is a *subsidiary* of a corporation)

Section 166—

omit, insert—

‘166 What is a *subsidiary*

- ‘(1) A corporation is a *subsidiary* of—
- (a) another corporation (the *holding entity*) if, under the Corporations Act, it is a subsidiary of the holding entity; or
 - (b) a listed unit trust (also the *holding entity*) if, under subsection (4), the corporation is a subsidiary of the holding entity.
- ‘(2) Also, each of the following is a *subsidiary* of the holding entity—
- (a) a trustee of a trust, if the holding entity or a subsidiary of the holding entity, whether under this or another subsection, is a beneficiary of the trust (a *relevant trust*);
 - (b) a corporation in which—
 - (i) the trustee of a relevant trust has an interest of 50% or more; or
 - (ii) an interest of 50% or more is held on trust and the trustee of a relevant trust is a beneficiary of that trust.

Example for subsections (1) and (2)—

A Pty Ltd has a 51% shareholding in B Pty Ltd. B Pty Ltd has a trust interest in the C Trust of which C Pty Ltd acts as trustee. C Pty Ltd as trustee of the C trust has a 51% shareholding in D Pty Ltd.

Under subsection (1), B Pty Ltd is the subsidiary of A Pty Ltd because, under the Corporations Act, it is a subsidiary of A Pty Ltd.

Under subsection (2)(a), C Pty Ltd is the subsidiary of A Pty Ltd because B, a subsidiary of A Pty Ltd, is a beneficiary of the trust.

Under subsection (1), D Pty Ltd is the subsidiary of C Pty Ltd because, under the Corporations Act, it is a subsidiary of C Pty Ltd.

Under subsection (2)(b)(i), D Pty Ltd is the subsidiary of A Pty Ltd because C Pty Ltd, a relevant trust, has an interest of 50% or more in D Pty Ltd.

- ‘(3) In addition, a corporation or trustee of a trust is a *subsidiary* of a holding entity if, under subsection (1) or (2), it is a subsidiary of a subsidiary of the holding entity.
- ‘(4) For subsection (1)(b), a corporation is a subsidiary of a listed unit trust if it is a subsidiary of the trust under the Corporations Act, chapter 1, part 1.2, division 6, applied—
- (a) as if a reference to a body corporate includes a reference to a trustee of a listed unit trust; and
 - (b) as if section 48(2) and (3) of that Act did not apply, to the extent the section disregards shares held or a power exercisable only in a fiduciary capacity; and
 - (c) with any other necessary changes.
- ‘(5) For deciding whether a trustee of a trust is a subsidiary of a holding entity under subsection (2)—
- (a) a trust interest sale agreement made by the holding entity or a subsidiary of it is taken not to have been made; and
 - (b) a trust interest purchase agreement made by the holding entity or a subsidiary of it is taken to have been completed.

- ‘(6) In this section—

trust interest purchase agreement means an uncompleted agreement, whether or not conditional, for the acquisition of an interest as a beneficiary of the trust.

trust interest sale agreement means an uncompleted agreement, whether or not conditional, for the disposal of an interest as a beneficiary of the trust.’

79 **Amendment of s 167 (What are a corporation’s land-holdings)**

- (1) Section 167, heading, ‘a corporation’s’—

omit, insert—

‘an entity’s’.

- (2) Section 167(1), ‘A corporation’s’—

omit, insert—

‘An entity’s’.

- (3) Section 167(1)(a) and (b), ‘the corporation’s’—

omit, insert—

‘the entity’s’.

- (4) Section 167(1)(b) and (c), ‘the corporation’—

omit, insert—

‘the entity’.

- (5) Section 167(2) and (3)—

omit, insert—

- ‘(2) Also, an entity’s ***land-holdings*** includes the land-holdings, under subsection (1), of a subsidiary of the entity as if a reference in the subsection to an entity were a reference to the subsidiary.

- ‘(3) Despite subsections (1) and (2), an entity’s land-holdings do not include—

(a) for a corporation—land-holdings held on trust by the corporation or a subsidiary of it unless the corporation or any subsidiary of it is a beneficiary of the trust; or

(b) for a listed unit trust—land-holdings held on trust by a subsidiary of it unless the listed unit trust or any subsidiary of it is a beneficiary of the trust.’.

80 Replacement of s 168 (What is a corporation’s *property*)

Section 168—

omit, insert—

‘168 What is an entity’s *property*

- ‘(1) An entity’s *property* means the entity’s interest in any property other than a security interest or interest in a trust.
- ‘(2) Also, an entity’s *property* includes any property under subsection (1) of a subsidiary of the entity as if a reference in the subsection to an entity were a reference to the subsidiary.
- ‘(3) Despite subsections (1) and (2), the entity’s property does not include—
 - (a) for a corporation—property held on trust by the corporation or a subsidiary of it unless the corporation or any subsidiary of it is a beneficiary of the trust; or
 - (b) for a listed unit trust—property held on trust by a subsidiary of it unless the listed unit trust or any subsidiary of it is a beneficiary of the trust.’.

81 Omission of s 169 (Application of sdiv 3)

Section 169—

omit.

82 Amendment of s 170 (Value of co-owned land-holdings)

- (1) Section 170(1) and note—

omit, insert—

- ‘(1) If an entity’s land-holdings include land-holdings in which it has an interest as co-owner, the unencumbered value of the interests of all co-owners in the land-holdings must be included in working out the unencumbered value of the entity’s land-holdings for section 165.

Note—

Even though the unencumbered value of the interests of all co-owners of the land-holdings is included for working out whether an entity is a landholder, only the unencumbered value of the entity’s interest in the land-holdings is used under division 4 for working out landholder duty imposed on the dutiable value of a relevant acquisition. See section 184.’.

- (2) Section 170(2), ‘land rich duty’—
omit, insert—
‘landholder duty’.

83 Amendment of s 171 (Value of land-holdings in uncompleted agreement for transfer included)

- Section 171, from ‘corporation or’—
omit, insert—
‘entity or a subsidiary of the entity must be included in working out the unencumbered value of an entity’s land-holdings.’.

84 Omission of s 172 (Value of particular property disregarded)

- Section 172—
omit.

85 Amendment of s 173 (Value of land-holdings and property—business property disregarded)

- (1) Section 173(1), ‘a corporation’—
omit, insert—
‘an entity’.
- (2) Section 173(1), ‘the corporation’—
omit, insert—
‘the entity’.

86 Amendment of ch 3, pt 1, div 3, hdg (Liability for land rich duty)

- Chapter 3, part 1, division 3, heading, ‘land rich’—

omit, insert—

‘landholder’.

87 Amendment of s 174 (When liability for land rich duty arises)

Section 174, ‘land rich’—

omit, insert—

‘landholder’.

88 Amendment of s 175 (Who is liable to pay land rich duty)

(1) Section 175, ‘land rich’—

omit, insert—

‘landholder’.

(2) Section 175(1), ‘Land rich’—

omit, insert—

‘Landholder’.

(3) Section 175(2), ‘or (iii)’—

omit.

89 Omission of s 176 (Rate of land rich duty)

Section 176—

omit.

90 Amendment of s 177 (Land rich duty statement)

(1) Section 177, heading, ‘Land rich’—

omit, insert—

‘Landholder’.

(2) Section 177, ‘land rich duty statement’—

omit, insert—

‘landholder duty statement’.

91 Amendment of s 178 (Effect of lodging land rich duty statement by acquirer or related person)

Section 178, ‘land rich’—

omit, insert—

‘landholder’.

92 Replacement of ch 3, pt 1, div 4, hdg (Dutiable value of relevant acquisitions)

Chapter 3, part 1, division 4, heading—

omit, insert—

‘Division 4 Working out landholder duty for relevant acquisitions

‘Subdivision 1 Private landholders

‘178A Rate of landholder duty

‘The rate of landholder duty imposed on the dutiable value of a relevant acquisition made in a private landholder is the rate stated in schedule 3, column 2, opposite the dutiable value stated in schedule 3, column 1.’.

93 Amendment of s 179 (Working out dutiable value of relevant acquisition)

(1) Section 179(1) and editor’s note—

omit, insert—

‘(1) The dutiable value of a relevant acquisition in a private landholder is the interest in, or total of interests in, the landholder constituting the relevant acquisition, less any

excluded interest of the person at the time of the acquisition, multiplied by the unencumbered value of all Queensland land-holdings of the landholder at the time of the acquisition.

Note—

See also section 14 (What is the *unencumbered value* of property)?.

- (2) Section 179(2) and (3) and examples, ‘land rich corporation’—

omit, insert—

‘private landholder’.

- (3) Section 179(2)(b)(i) and (3), examples, ‘majority interest’—

omit, insert—

‘significant interest’.

- (4) Section 179(2)(b)(iii), ‘corporation’—

omit, insert—

‘landholder’.

- (5) Section 179(4), note, ‘land rich’—

omit, insert—

‘landholder’.

- (6) Section 179—

insert—

- ‘(6) In this section—

excluded interest, of a person who makes a relevant acquisition in a private landholder, is any interest constituting the relevant acquisition—

- (a) held by the person, or a related person of the person, on or before the day that is 3 years before the relevant acquisition, unless—

- (i) the interest was acquired as part of an arrangement;
and

- (ii) the arrangement includes the interest most recently acquired as part of the relevant acquisition; or
- (b) acquired by the person, or a related person of the person, at a time when the landholder did not hold land in Queensland.’.

94 Insertion of new ch 3, pt 1, div 4, sdiv 2 and sdiv 3, hdg

Chapter 3, part 1, division 4, after section 179—

insert—

‘Subdivision 2 Public landholders

‘179A Landholder duty

- ‘(1) Subject to section 179B, the landholder duty imposed on a relevant acquisition made by a person in a public landholder is 10% of the amount of transfer duty that would be imposed on a dutiable transaction under chapter 2, if a transfer of all the Queensland land-holdings of the landholder had happened at the time of the relevant acquisition.
- ‘(2) However, for a relevant acquisition to which section 158(1)(c) applies, no landholder duty is imposed for an increase in the person’s interest if—
 - (a) landholder duty for a relevant acquisition by the person in the landholder has previously been imposed under this section; and
 - (b) since making the relevant acquisition for which landholder duty was imposed, the interest of the person constituting the previous acquisition has not reduced.
- ‘(3) This section has effect subject to a deduction allowed under sections 185 to 188.

‘179B Dutiable value of dutiable transaction for s 179A

- ‘(1) For section 179A, in working out the amount of transfer duty that would be imposed under chapter 2, the dutiable value of

[s 95]

the dutiable transaction is the unencumbered value of all Queensland land-holdings of the landholder at the time of the acquisition, reduced by the proportion of the value represented by any excluded interest of the person at the time of the acquisition.

‘(2) In this section—

excluded interest, of a person who makes a relevant acquisition in a public landholder, is any interest constituting the relevant acquisition acquired by the person, or a related person—

- (a) before 1 July 2011; or
- (b) at a time when the landholder did not hold land in Queensland.

‘Subdivision 3 Other provisions for working out dutiable value’.

95 Amendment of s 180 (Aggregation of particular relevant acquisitions)

- (1) Section 180(2), (5)(a) and (6), ‘land rich’—

omit, insert—

‘landholder’.

- (2) Section 180(5), ‘Land rich’—

omit, insert—

‘Landholder’.

96 Omission of s 181 (Unencumbered value of Queensland land-holdings of land rich corporation)

Section 181—

omit.

97 Amendment of s 182 (Unencumbered value of land-holdings of subsidiary of land rich corporation)

(1) Section 182, heading, ‘land rich corporation’—

omit, insert—

‘landholder’.

(2) Section 182(1) to (3)—

omit, insert—

‘(1) This section applies for working out the unencumbered value of the Queensland land-holdings of a landholder under section 179 or 179B, to the extent the land-holdings comprise land-holdings of a subsidiary of the landholder.

‘(2) The unencumbered value of the Queensland land-holdings of the landholder is the proportion of the unencumbered value of the land-holdings in Queensland of all the subsidiaries to which the landholder would be entitled, if the subsidiaries, at the same time and without regard to their liabilities—

(a) for subsidiaries that are corporations—were wound up;
or

(b) for subsidiaries that are trusts—were terminated.

‘(3) For subsection (2), the unencumbered value of the Queensland land-holdings of the subsidiary on the winding up or termination of all the subsidiaries is—

(a) if the subsidiary is a corporation, the greatest proportion of the unencumbered value of the land-holdings in Queensland that the landholder would be entitled to under sections 161(1) and 161B(1) applied as if—

(i) a reference to a person were a reference to the landholder mentioned in this section; and

(ii) a reference to a corporation were a reference to the subsidiary; or

(b) if the subsidiary is a unit trust, the greatest proportion of the unencumbered value of the land-holdings in

Queensland that the landholder would be entitled to under sections 161A(1), (2) and 161B(1) as if—

- (i) a reference to a person were a reference to the landholder mentioned in this section; and
 - (ii) a reference to a listed unit trust were a reference to the subsidiary; or
 - (c) if the subsidiary is a trustee of a trust other than a unit trust—the greatest proportion of the unencumbered value of the land-holdings in Queensland of the trust that the landholder could derive at any time from the trust without regard to the liabilities of any of the subsidiaries.’.
- (3) Section 182(4), after ‘(3)’—
insert—
‘(c)’.
- (4) Section 182(5) and (6), ‘corporation’—
omit, insert—
‘landholder’.

98 Amendment of s 183 (Land transferred for shares to be disregarded)

- (1) Section 183, heading, after ‘shares’—
insert—
‘**or units**’.
- (2) Section 183(1), after ‘issue of shares’—
insert—
‘or units by a landholder’.
- (3) Section 183(1)(a), after ‘shares’—
insert—
‘or units’.

-
- (4) Section 183(1), ‘corporation’—
omit, insert—
‘landholder’.
 - (5) Section 183(1)(d), after ‘shareholder’—
insert—
‘or unit holder’.
 - (6) Section 183(2), ‘a land rich corporation’—
omit, insert—
‘the landholder’.

99 Replacement of s 184 (Value of co-owned land-holdings)

Section 184—
omit, insert—

‘184 Value of co-owned land-holdings

‘For sections 179 and 179B, if a landholder has an interest in land-holdings as co-owner, the value of the land-holdings is the unencumbered value of the landholder’s interest in the land-holdings.

‘Subdivision 4 Deductions’.

100 Amendment of s 185 (Deduction—corporate trustee duty)

- (1) Section 185(1)(b), ‘land’—
omit, insert—
‘land-holdings’.
- (2) Section 185(2)—
omit, insert—
‘(2) Landholder duty imposed on the relevant acquisition must be reduced by the amount of corporate trustee duty paid or

payable for the land-holdings to the extent that the land-holdings were included in working out the dutiable value of the relevant acquisition under this part.’.

101 Amendment of s 186 (Deduction—transfer duty for particular trusts)

(1) Section 186(1)(b), ‘land’—

omit, insert—

‘land-holdings’.

(2) Section 186(2)—

omit, insert—

‘(2) Landholder duty imposed on the relevant acquisition must be reduced by the amount of transfer duty paid or payable for the land-holdings to the extent that the land-holdings were included in working out the dutiable value of the relevant acquisition under this part.’.

102 Amendment of s 187 (Deduction—transfer duty for marketable securities)

(1) Section 187(2), ‘Land rich’—

omit, insert—

‘Landholder’.

(2) Section 187(2), ‘land rich corporation’—

omit, insert—

‘landholder’.

(3) Section 187(2), definition *LV*, ‘under section 181’—

omit.

103 Amendment of s 188 (Deduction—mortgage duty)

(1) Section 188(1)(a) and (2)(a), ‘shares’—

omit, insert—

‘shares or units in an entity’.

- (2) Section 188(1)(b), (c) and (3), after ‘shares’—

insert—

‘or units’.

- (3) Section 188(1)(c), ‘corporation’—

omit, insert—

‘entity’.

- (4) Section 188(4), ‘Land rich’—

omit, insert—

‘Landholder’.

104 Amendment of s 189 (Exemption—particular share issues)

- (1) Section 189, heading, after ‘share’—

insert—

‘**or unit**’.

- (2) Section 189(1)—

omit, insert—

- ‘(1) Landholder duty is not imposed on an acquisition by a person of an interest on the initial allotment of shares or units on the registration of a corporation or the establishment of a listed unit trust.’.

- (3) Section 189(2) and (3), ‘land rich’—

omit, insert—

‘landholder’.

- (4) Section 189(2) and (3), after ‘the corporation’—

insert—

‘or trust’.

[s 105]

- (5) Section 189(2)(a), (3) and (4), definition *dealing*, after ‘shares’—
insert—
‘or units’.
- (6) Section 189(2)(d), after ‘shareholder’—
insert—
‘or unit holder’.
- (7) Section 189(3)(a) to (c), after ‘shareholders’—
insert—
‘or unit holders’.

105 Amendment of s 190 (Exemption—security interests)

- (1) Section 190, ‘Land rich’—
omit, insert—
‘Landholder’.
- (2) Section 190, ‘land rich’—
omit, insert—
‘landholder’.

106 Amendment of s 191 (Exemption—change of trustee)

Section 191, ‘Land rich’—
omit, insert—
‘Landholder’.

107 Amendment of s 192 (Exemption—acquisition by liquidator)

Section 192, ‘Land rich’—
omit, insert—
‘Landholder’.

108 Amendment of s 193 (Exemption—compromise or arrangements)

(1) Section 193, ‘Land rich’—

omit, insert—

‘Landholder’.

(2) Section 193(b), ‘land rich’—

omit, insert—

‘landholder’.

109 Amendment of s 193A (Exemption—restructure of stapled entities)

(1) Section 193A(1), ‘Land rich’—

omit, insert—

‘Landholder’.

(2) Section 193A(1)(c) and (4), ‘land rich’—

omit, insert—

‘landholder’.

110 Amendment of s 194 (Exemption—if transfer duty not imposed)

Section 194, from ‘Land rich’ to ‘provisions’—

omit, insert—

‘(1) This section applies for a relevant acquisition that would be a dutiable transaction if marketable securities were dutiable property under chapter 2.

‘(2) Landholder duty is not imposed on the acquisition if transfer duty would not be imposed on the dutiable transaction because of an exemption under any of the following provisions’.

111 Amendment of s 194A (Exemption—marketable securities)

Section 194A, ‘Land rich’—

omit, insert—

‘Landholder’.

112 Amendment of s 195 (Exemption—no liability for transfer duty on acquisition in other way)

(1) Section 195, ‘Land rich’—

omit, insert—

‘Landholder’.

(2) Section 195(a), ‘corporation’—

omit, insert—

‘landholder’.

(3) Section 195(b), ‘land rich’—

omit, insert—

‘landholder’.

113 Amendment of s 196 (Interests acquired under exempt acquisitions disregarded for particular purposes)

Section 196, ‘land rich corporation’—

omit, insert—

‘landholder’.

114 Amendment of ch 3, pt 1, div 6, hdg (Reassessments for land rich duty)

Chapter 3, part 1, division 6, heading, ‘land rich’—

omit, insert—

‘landholder’.

115 Amendment of s 197 (When commissioner must make reassessment)

- (1) Section 197, ‘land rich duty’—
omit, insert—
‘landholder duty’.
- (2) Section 197(1)(a), ‘corporation’s’—
omit, insert—
‘landholder’s’.
- (3) Section 197(1)(a)(ii), ‘corporation’—
omit, insert—
‘landholder’.
- (4) Section 197(2), ‘corporation’—
omit, insert—
‘landholder’.
- (5) Section 197(3)(a)—
omit, insert—
‘(a) deciding whether the entity in which the acquisition is made is a landholder; and’.

116 Amendment of s 198 (Charge over land for unpaid land rich duty)

- (1) Section 198, ‘land rich duty’—
omit, insert—
‘landholder duty’.
- (2) Section 198(2), ‘land rich corporation’—
omit, insert—
‘landholder’.

- (3) Section 198(2) and (3), ‘the corporation’—
omit, insert—
‘the landholder’.

117 Amendment of s 200 (Commissioner may apply to Supreme Court for order to sell)

- Section 200(1)(b) and (3), ‘land rich’—
omit, insert—
‘landholder’.

118 Amendment of s 201 (When court must order sale of land)

- Section 201(1)(b), ‘land rich’—
omit, insert—
‘landholder’.

119 Amendment of s 202 (Application of proceeds of sale)

- Section 202(d), ‘land rich’—
omit, insert—
‘landholder’.

120 Amendment of s 204 (Corporation or subsidiary may recover proceeds of sale as debt)

- (1) Section 204, heading, ‘Corporation’—
omit, insert—
‘Landholder’.
- (2) Section 204, ‘corporation’—
omit, insert—
‘entity’.
- (3) Section 204(1), ‘land rich’—

omit, insert—

‘landholder’.

121 Amendment of s 209 (What is a *corporate trustee*)

Section 209, after paragraph (b)—

insert—

Note—

Section 498 includes provision about references to dutiable property.’.

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

Section 407(1)(d), ‘land rich’—

omit, insert—

‘landholder’.

123 Amendment of s 409 (Exemption—land rich duty)

(1) Section 409, heading, ‘land rich’—

omit, insert—

‘**landholder**’.

(2) Section 409(3), ‘Land rich’—

omit, insert—

‘Landholder’.

124 Amendment of s 412 (Reassessment—exemption for intra-group transfers of property, trustees and land rich duty)

Section 412, heading, ‘land rich’—

omit, insert—

‘**landholder**’.

125 Amendment of s 498 (Special provisions for working out value of particular shares)

(1) Section 498(1) and (2), ‘land rich corporation’—

omit, insert—

‘landholder’.

(2) Section 498(1), ‘the corporation’—

omit, insert—

‘the landholder’.

(3) Section 498(2), ‘the corporation’s’—

omit, insert—

‘the landholder’s’.

126 Insertion of new ch 17, pt 15

After chapter 17, part 14—

insert—

**‘Part 15 Transitional provisions for
Community Ambulance Cover
Levy Repeal and Revenue and
Other Legislation Amendment
Act 2011**

‘622 Definition for pt 15

‘In this part—

previous, if followed by a provision number, means the provision of that number as in force immediately before 1 July 2011, as affected by any relevant definition in force for the provision at that time.

Note—

1 July 2011 was the day on which amendments to this Act under the *Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011* commenced.

‘623 Particular references to landholder duty, majority interests and relevant acquisitions

- ‘(1) In the provisions mentioned in subsection (2)—
- (a) a reference to landholder duty imposed or paid for a relevant acquisition includes a reference to land rich duty imposed or paid under previous chapter 3, part 1; and
 - (b) a reference to a relevant acquisition includes a reference to a relevant acquisition made under previous chapter 3, part 1; and
 - (c) a reference to a significant interest includes a reference to a majority interest under previous chapter 3, part 1.
- ‘(2) For subsection (1), the provisions are the following—
- (a) section 82;
 - (b) section 158(1)(c);
 - (c) chapter 3, part 1, division 4;
 - (d) section 407(1)(d).

‘624 Relevant acquisitions made in a land rich corporation before 1 July 2011

- ‘(1) This section applies if, before 1 July 2011, a person made a relevant acquisition in a land rich corporation under previous section 158.
- ‘(2) Previous chapter 3, part 1 and chapter 10, part 1 continue to apply in relation to the relevant acquisition as if the *Community Ambulance Cover Levy Repeal and Revenue and Other Legislation Amendment Act 2011* had not commenced.

‘625 Interests acquired before 1 July 2011 included for s 158

- ‘(1) This section applies if—
- (a) before 1 July 2011, a person or related person of the person acquired an interest in an entity (the *original interest*); and
 - (b) on or after 1 July 2011, the person or related person acquires a further interest in the entity; and
 - (c) when the further interest is acquired, the person or related person still holds the original interest.
- ‘(2) To avoid any doubt, it is declared that for section 158, the original interest is an interest held by the person or related person in the entity.

‘626 Particular interests taken to be excluded interests for s 179

- ‘(1) This section applies if—
- (a) before 1 July 2011 a person acquired an interest in a corporation other than a land rich corporation as defined under this Act before that day; and
 - (b) on or after 1 July 2011—
 - (i) the corporation is or becomes a landholder; and
 - (ii) the person makes a relevant acquisition in the corporation.
- ‘(2) For working out the dutiable value of the relevant acquisition under section 179, the interest acquired before 1 July 2011 is taken to be an excluded interest.
- ‘(3) Section 163(2) applies for working out when the interest was acquired.

‘627 Application of s 412

‘A reference in section 412(1)(a) to duty assessed on the basis of an exemption under section 409 includes a reference to

duty assessed on the basis of an exemption under previous section 409.’.

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

- (1) Schedule 3, heading, ‘land rich’—

omit, insert—

‘landholder’.

- (2) Schedule 3, heading, ‘176’—

omit, insert—

‘178A’.

128 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *land rich corporation, land rich duty, land rich duty statement, majority interest* and *unlisted corporation*—

omit.

- (2) Schedule 6—

insert—

‘landholder see section 165.

landholder duty see section 157(1).

landholder duty statement see section 177.

listed corporation means a corporation whose shares are quoted on the market operated by a recognised stock exchange.

private landholder see section 165A(1).

public landholder see section 165A(2).

significant interest, of a person in a landholder, see section 159.

omit, insert—

‘first homes’.

130 Amendment of s 85 (Purpose of pt 9)

Section 85, ‘a home or first’—

omit, insert—

‘a first’.

131 Replacement of s 86 (What is a *home* and a *first home*)

Section 86—

omit, insert—

‘86 What is a *first home* generally

‘(1) A residence is a person’s *first home* if—

- (a) the person’s occupation date for the residence is within 1 year after the person’s transfer date for the residential land on which the residence is constructed; and

Note—

For transfer duty to be imposed for residential land, it must be in Queensland, see section 10(1)(a).

(b) before acquiring the residence—

- (i) the person did not hold, and never before held, an interest in other residential land in Queensland or elsewhere other than—

(A) as trustee for another person; or

(B) as lessee; or

(C) as the holder of a security interest; and

- (ii) the person was not, and had never been, a vacant land concession beneficiary in relation to land other than the residential land on which the residence is constructed.

[s 132]

- ‘(2) Subsection (1)(b)(i)(B) does not apply to the interest in land of a lessee of a lease of residential land for which a premium, fine or other consideration is payable.’.

132 Amendment of s 86B (What is a *first home* for a residence to be constructed on vacant land)

Section 86B(2), from ‘lease’ to ‘payable’—

omit, insert—

‘lease of residential land for which a premium, fine or other consideration is payable’.

133 Amendment of ch 2, pt 9, div 3 hdg

Chapter 2, part 9, division 3 heading, ‘homes and’—

omit.

134 Omission of s 91 (Concession—home)

Section 91—

omit.

135 Amendment of s 92 (Concession—first home)

- (1) Section 92(2)—

omit, insert—

- ‘(2) The transfer duty imposed on the dutiable transaction is as follows—
- (a) for a dutiable transaction mentioned in subsection (1)(a) in relation to residential land—the transfer duty imposed on the dutiable value of the transaction less the concession amount stated in schedule 4A opposite the dutiable value of the residential land;
 - (b) for a dutiable transaction mentioned in subsection (1)(a) in relation to vacant land—the transfer duty imposed on the dutiable value of the transaction less the concession

amount stated in schedule 4B opposite the dutiable value of the vacant land.’.

(2) Section 92(4)—

omit.

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

(1) Section 93(1)(c)—

omit, insert—

‘(c) the residence is 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’.

(2) Section 93(2)(b), ‘home or’—

omit.

(3) Section 93(4) and (5)—

omit.

(4) Section 93(3A) and (3B)—

renumber as section 93(4) and (5).

(5) Section 93(6), from ‘For subsections’ to end of paragraph (a)—

omit, insert—

‘For subsection (6)—’.

(6) Section 93(6)(b) and (c)—

renumber as section 93(6)(a) and (b).

(7) Section 93(6)(d)—

omit.

(8) Section 93(7), from ‘subsection (6)(c)’ to ‘first home’—

omit, insert—

‘subsection (7)(b) is the part of the residential land relating to the person’s first home’.

(9) Section 93(6) and (7)—

renumber as section 93(7) and (9).

(10) Section 93—

insert—

‘(6) The transfer duty imposed on a dutiable transaction to which this section applies is the amount worked out by deducting, from transfer duty on the dutiable value of the transaction, the lesser of the following amounts—

(a) the total amount worked out, for each relevant person, by applying the relevant person’s interest to the concession amount stated in schedule 4A opposite the dutiable value of the residential land;

(b) the total amount worked out, for each relevant person, by applying the relevant person’s interest to transfer duty on the dutiable value of the residential land.’.

(11) Section 93(6A)—

omit, insert—

‘(8) For working out the transfer duty under subsection (6) for a relevant person under subsection (2), the residential land mentioned in subsection (6) and schedule 4A is the part of the residential land relating to the person’s first home.’.

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

Section 94(3), ‘section 93(3A) and (3B)’—

omit, insert—

‘section 93(4) and (5)’.

138 Amendment of ch 2, pt 14, div 1 hdg

Chapter 2, part 14, division 1 heading, ‘homes’—

omit, insert—

‘first homes’.

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

(1) Section 153(1)(a), ‘91,’—

omit.

(2) Section 153(1)(b)(iii), ‘home or’—

omit.

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

(1) Section 154(1)(a), ‘91,’—

omit.

(2) Section 154(2), ‘home’—

omit, insert—

‘first home’.

(3) Section 154(5), definition *home or vacant land lease*—

omit, insert—

‘*first home or vacant land lease* means a lease—

(a) of residential land on which a first home is constructed or of vacant land on which a first home is to be constructed; and

(b) for which a premium, fine or other consideration is payable.’.

141 Amendment of s 155 (When transferees, lessees and vested persons for land must give notice for reassessment)

Section 155(1), ‘91,’—
omit.

142 Replacement of s 272 (What is a *home* and *first home* for div 2)

Section 272—
omit, insert—

‘272 What is a *home* for div 2

‘For this division—

- (a) a residence that is constructed is a person’s *home* if the person’s occupation date for the residence is within 1 year after the person’s transfer date for the residential land on which the residence is constructed; and
- (b) a residence that is to be constructed is a person’s *home* if the person’s occupation date for the residence is within 2 years after the date the home mortgage for the residence was first signed.

‘272A What is a *first home* for div 2

‘(1) For this division—

- (a) a residence that is constructed is a person’s *first home* if it is the person’s first home under section 86; and
- (b) a residence that is to be constructed is a person’s *first home* if, when constructed, it will be the person’s first home under section 86.

‘(2) For subsection (1), section 86(1)(b)(ii) does not apply.

‘(3) For subsection (1)(b), section 86 applies as if the reference in section 86(1)(a) to a period of 1 year after the person’s transfer date for the residential land were a reference to a

period of 2 years after the date the home mortgage for the residence was first signed.’.

143 Insertion of new ch 17, pt 15, div 1 hdg

Chapter 17, part 15, after part 15 heading—

insert—

**‘Division 1 Transitional provisions for
Community Ambulance Cover Levy
Repeal and Revenue and Other
Legislation Amendment Act 2011’.**

144 Insertion of new ch 17, pt 15, div 2

After section 627—

insert—

‘Division 2 Savings provision for repeal

**‘628 Pre-amended home concession provisions continue
to apply for particular transactions**

‘(1) This section applies to each of the following dutiable transactions for which liability for transfer duty arose before the commencement—

- (a) the transfer, or agreement for the transfer, of a home;
- (b) the acquisition, on its creation, grant or issue, of a new right that is a lease—
 - (i) of residential land on which a home is constructed; and
 - (ii) for which a premium, fine or other consideration is payable;
- (c) the vesting, as mentioned in section 9(1)(d), of a home.

‘(2) The following pre-amended provisions continue to apply to the assessment of transfer duty in relation to the transaction—

[s 145]

- (a) sections 86, 91 and 93;
 - (b) sections 153, 154 and 155;
 - (c) schedules 3, 4A and 4B;
 - (d) schedule 6, definitions *home* and *occupancy requirement*.
- ‘(3) This section does not limit the *Acts Interpretation Act 1954*, section 20.
- ‘(4) In this section—
- commencement* means the commencement of this section.
- home* means a home under pre-amended section 86(1).
- pre-amended*, in relation to a provision, means the provision as it was in force immediately before the commencement.’.

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

Schedule 3—

omit, insert—

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

sections 24(2), 92, 93, 178A and 216

Column 1	Column 2
Dutiable value of dutiable transaction or relevant acquisition	Rate of duty
Not more than \$5000	Nil
More than \$5000 but not more than \$105000	\$1.50 for each \$100, or part of \$100, by which the dutiable value is more than \$5000
More than \$105000 but not more than \$480000	\$1500 plus \$3.50 for each \$100, or part of \$100, by which the dutiable value is more than \$105000
More than \$480000 but not more than \$980000	\$14625 plus \$4.50 for each \$100, or part of \$100, by which the dutiable value is more than \$480000
More than \$980000	\$37125 plus \$5.25 for each \$100, or part of \$100, by which the dutiable value is more than \$980000’.

146 Replacement of schs 4A and 4B

Schedules 4A and 4B—

omit, insert—

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

sections 92(2)(a) and 93(6) and (8)

Dutiable value of the residential land	Concession amount
Not more than \$509 999.99	the lesser of the following— (a) \$15 525; (b) the transfer duty that would be imposed on the dutiable transaction as if the dutiable value of the transaction were equivalent to the dutiable value of the residential land
\$510 000—\$519 999.99	\$13 925
\$520 000—\$529 999.99	\$12 325
\$530 000—\$539 999.99	\$10 725
\$540 000—\$549 999.99	\$9 125
\$550 000—\$559 999.99	\$7 550
\$560 000—\$569 999.99	\$6 000
\$570 000—\$579 999.99	\$4 500
\$580 000—\$589 999.99	\$3 000

Dutiable value of the residential land	Concession amount
\$590 000—\$599 999.99	\$1 500
\$600 000 or more	nil

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

section 92(2)(b) and 93A(5)(a)

Dutiable value of the vacant land	Concession amount
Not more than \$259 999.99	the lesser of the following— (a) \$6 575; (b) the transfer duty that would be imposed on the dutiable transaction as if the dutiable value of the transaction were equivalent to the dutiable value of the vacant land
\$260 000—\$269 999.99	\$6 125
\$270 000—\$279 999.99	\$5 675
\$280 000—\$289 999.99	\$5 225
\$290 000—\$299 999.99	\$4 775
\$300 000—\$309 999.99	\$4 325

Dutiable value of the vacant land	Concession amount
\$310 000—\$319 999.99	\$3 875
\$320 000—\$329 999.99	\$3 425
\$330 000—\$339 999.99	\$2 975
\$340 000—\$349 999.99	\$2 550
\$350 000—\$359 999.99	\$2 125
\$360 000—\$369 999.99	\$1 700
\$370 000—\$379 999.99	\$1 275
\$380 000—\$389 999.99	\$850
\$390 000—\$399 999.99	\$425
\$400 000 or more	nil’.

147 Amendment of sch 6 (Dictionary)

(1) Schedule 6, definitions *first home* and *occupancy requirement*—

omit, insert—

‘first home—

- (a) for a residence to be constructed on vacant land—see section 86B; or
- (b) for chapter 5, part 6, division 2—see section 272A; or
- (c) otherwise—see section 86.

occupancy requirement, for a person’s residence, means—

- (a) if the residence is constructed—the person’s occupation date for the residence is within 1 year after the transfer date for the residential land on which the residence is constructed; or

151 Amendment of s 16 (Taxable value)

- (1) Section 16, editor's note—

omit.

- (2) Section 16—

insert—

- ‘(2) However, if section 18A applies to land for a financial year, the **taxable value** of the land for the financial year is the capped value of the land.

Note—

See also section 90 in relation to the capping of the taxable value of land for the financial year starting 1 July 2010.’.

152 Insertion of new s 18A

Part 3, division 3, after section 18—

insert—

‘18A Capped value of taxable land for 2011–12 financial year

- ‘(1) This section applies to taxable land for the 2011–12 financial year if—

- (a) section 30 does not apply to the land for the 2011–12 financial year; and
- (b) the land had a Land Valuation Act value for the previous financial year; and
- (c) the uncapped value of the land for the 2011–12 financial year is more than 150% of the taxable value of the land for the previous financial year.

- ‘(2) The **capped value** of the taxable land for the 2011–12 financial year is 150% of the taxable value of the land for the previous financial year.

- ‘(3) In this section—

2011–12 financial year means the financial year starting 1 July 2011.

uncapped value, of taxable land for the 2011–12 financial year, means the lesser of the following—

- (a) the Land Valuation Act value of the land for the financial year;
- (b) the averaged value of the land for the financial year.’.

153 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

‘*capped value*, of taxable land for section 16(2), see section 18A(2).’.

Part 10 Amendment of Mineral Resources Act 1989

Division 1 Preliminary

154 Act amended

This part amends the *Mineral Resources Act 1989*.

Division 2 Amendments commencing on assent

155 Amendment of s 318AO (Application of div 2)

Section 318AO(2), notes—

omit, insert—

Notes—

- 1 For the circumstances mentioned in subsection (2)(a) to (c), see division 3.
- 2 For the circumstance mentioned in subsection (2)(d), see division 6.

156 Amendment of pt 7AA, div 2, sdiv 3, hdg

Part 7AA, division 2, subdivision 3, heading, ‘separate’—
omit.

157 Amendment of s 318AQ (Requirement for separate applications relating to authority to prospect and petroleum lease not held by same person)

- (1) Section 318AQ, heading—

omit, insert—

‘318AQ Applications relating to authority to prospect and petroleum lease not held by same person’.

- (2) Section 318AQ(1)(b), editor’s note—

omit, insert—

Note—

If the authority to prospect and the petroleum lease are held by the same person, see division 6.

- (3) Section 318AQ(2), ‘must’—

omit, insert—

‘may’.

- (4) Section 318AQ(3) and (4)—

omit, insert—

- ‘(3) A separate application for the authority to prospect part, or the part of an application that relates to the authority to prospect part, must be decided under this division.

-
- ‘(4) A separate application for the petroleum lease part, or the part of an application that relates to the petroleum lease part, must be decided under division 5 or 6.’.

158 Amendment of s 318AR (Requirement for separate application for other land)

- (1) Section 318AR, heading—

omit, insert—

‘318AR Applications relating to other land’.

- (2) Section 318AR(2), ‘must’—

omit, insert—

‘may’.

- (3) Section 318AR(3)—

omit, insert—

- ‘(3) A separate application for the other part, or the part of an application that relates to the other part, must be decided under part 7.’.

159 Amendment of s 318BO (Application of div 3)

Section 318BO(2), editor’s notes—

omit, insert—

‘Note—

For the circumstances mentioned in subsection (2), see division 6.’.

160 Amendment of s 318BQ (Requirement for separate applications relating to petroleum lease and authority to prospect not held by same person)

- (1) Section 318BQ, heading—

omit, insert—

‘318BQ Applications relating to petroleum lease and authority to prospect not held by same person’.

- (2) Section 318BQ(1)(b), editor’s note—

omit, insert—

‘Note—

If the authority to prospect and the petroleum lease are held by the same person, see division 5.’.

- (3) Section 318BQ(2), ‘must’—

omit, insert—

‘may’.

- (4) Section 318BQ(3) and (4)—

omit, insert—

‘(3) A separate application for the authority to prospect part, or the part of an application that relates to the authority to prospect part, must be decided under this division.

‘(4) A separate application for the petroleum lease part, or the part of an application that relates to the petroleum lease part, must be decided under division 5 or 6.’.

161 Amendment of s 318BR (Requirement for separate application for other land)

- (1) Section 318BR, heading—

omit, insert—

‘318BR Applications relating to other land’.

- (2) Section 318BR(2), ‘must’—

omit, insert—

‘may’.

- (3) Section 318BR(3)—

omit, insert—

- ‘(3) A separate application for the other part, or the part of an application that relates to the other part, must be decided under part 7.’.

162 Amendment of s 318BW (Application of div 5)

- (1) Section 318BW(2)(b), editor’s note—

omit, insert—

Note—

For the circumstances mentioned in subsection (2), see division 6.’.

- (2) Section 318BW(3), editor’s note—

omit, insert—

Note—

If the petroleum lease and the authority to prospect are held by different persons, see section 318BQ.’.

163 Amendment of s 318BY (Requirement for separate application for other land)

- (1) Section 318BY, heading—

omit, insert—

‘318BY Applications relating to other land’.

- (2) Section 318BY(2), ‘must’—

omit, insert—

‘may’.

- (3) Section 318BY(3)—

omit, insert—

- ‘(3) A separate application for the other part, or the part of an application that relates to the other part, must be decided under division 2.’.

164 Amendment of s 318CC (Application of div 6)

Section 318CC(2), editor's note—

omit, insert—

'Note—

If the petroleum lease and the authority to prospect are held by different persons, see section 318BQ.'.

165 Amendment of s 318CE (Requirement for separate application for other land)

(1) Section 318CE, heading—

omit, insert—

'318CE Applications relating to other land'.

(2) Section 318CE(2), 'must'—

omit, insert—

'may'.

(3) Section 318CE(3)—

omit, insert—

'(3) A separate application for the other part, or the part of an application that relates to the other part, must be decided under division 2.'.

166 Renumbering of s 783 (Date of effect of amended s 381A)

Section 783—

renumber as section 786.

167 Insertion of new pt 19, div 15

Part 19—

insert—

**‘Division 15 Transitional provision for
Community Ambulance Cover Levy
Repeal and Revenue and Other
Legislation Amendment Act 2011**

‘787 Particular applications taken to be properly made

- ‘(1) This section applies if—
- (a) a mining lease application for land was made on or after 17 March 2008; and
 - (b) under section 318AQ, 318AR, 318BQ, 318BR, 318BY or 318CE as in force before the commencement of this section (each the *unamended provision*), separate mining lease applications were required to be made for particular parts of the land; and
 - (c) separate mining lease applications were not made as required by the unamended provision.
- ‘(2) Despite the noncompliance with the requirement, the application is taken to be, and is taken to always have been, a mining lease application for the land made under parts 7 and 7AA.
- ‘(3) However, subsection (2) applies only to the extent the application does not comply with the unamended provision.
- ‘(4) This section applies whether or not the application has been decided at the commencement.’

**Division 3 Amendments commencing 1 July
2011**

168 Amendment of s 96 (Assignment or mortgage of mining claim)

Section 96(9)—

omit, insert—

- ‘(9) The mining registrar must not approve the assignment of a mining claim unless it is accompanied by—
- (a) the written approval of any existing mortgagee; and
 - (b) a properly completed royalty return, if it has not already been lodged under section 320(4); and
 - (c) either—
 - (i) the royalty payable to the State under section 320(3)(a), if it has not already been paid; or
 - (ii) evidence that the royalty has been paid to another person entitled to the royalty under section 320(3)(b).’.

169 Amendment of s 107 (Surrender of mining claim)

Section 107(1)(b)—

omit, insert—

- ‘(b) a properly completed royalty return, unless it has already been lodged under section 320(4); and
- (ba) either—
- (i) the royalty payable to the State under section 320(3)(a), unless it has already been paid; or
 - (ii) evidence that the royalty has been paid to another person entitled to the royalty under section 320(3)(b); and’.

170 Amendment of s 300 (Assignment, mortgage or sublease of mining lease)

Section 300(11)—

omit, insert—

- ‘(11) The Minister must not approve the assignment of a mining lease unless it is accompanied by—
- (a) the written approval of any existing mortgagee; and

- (b) a properly completed royalty return, if it has not already been lodged under section 320(4); and
- (c) either—
 - (i) the royalty payable to the State under section 320(3)(a), if it has not already been paid; or
 - (ii) evidence that the royalty has been paid to another person entitled to the royalty under section 320(3)(b).’.

171 Amendment of s 309 (Surrender of mining lease)

Section 309(2)(b)—

omit, insert—

- ‘(b) for the surrender of all the land comprised in the mining lease—
 - (i) a properly completed royalty return, unless it has already been lodged under section 320(4); and
 - (ii) either—
 - (A) the royalty payable to the State under section 320(3)(a), unless it has already been paid; or
 - (B) evidence that the royalty has been paid to another person entitled to the royalty under section 320(3)(b); and’.

172 Insertion of new pt 9, div 1 hdg

Part 9, after part heading—

insert—

‘Division 1 Payment of royalty’.

173 Amendment of s 325 (Royalty return and payment upon assignment or surrender of mining claim or mining lease)

Section 325—

insert—

- ‘(3) Despite subsection (1)—
- (a) the person is not required to lodge the royalty return if the royalty return has already been lodged under section 320(4); and
 - (b) the person is not required to pay the royalty if the person has already paid the royalty under section 320.’.

174 Insertion of new pt 9, div 2 hdg

Part 9, after section 325—

insert—

‘Division 2 Records and information’.

175 Insertion of new pt 9, div 3 hdg

Part 9, after section 330—

insert—

‘Division 3 Reassessment and enforcement’.

176 Omission of s 334 (Confidentiality of information)

Section 334—

omit.

177 Renumbering of s 335 (Furnishing false particulars etc.)

Section 335—

renumber as section 334.

178 Insertion of new pt 9, div 4

Part 9, after section 334, as renumbered—

insert—

‘Division 4 Confidentiality

‘334A Definitions for div 4

‘In this division—

confidential information means information disclosed to, obtained by, or otherwise held by, a public official under or in relation to this part.

public official means a person who is, or has been, a public service employee or other person, performing functions under or in relation to the administration or enforcement of this Act.

‘334B Disclosure of confidential information

- ‘(1) A public official must not disclose confidential information acquired by the public official in the public official’s capacity to anyone else other than under this division.

Maximum penalty—100 penalty units.

- ‘(2) The Minister may disclose personal confidential information—
- (a) to the person to whom the information relates or, if either of the following apply, to someone else—
 - (i) with the consent, express or implied, of the person to whom the information relates;
 - (ii) the Minister reasonably believes is acting for the person to whom the information relates; or
 - (b) if the disclosure is expressly permitted or required under another Act; or
 - (c) to a person for the administration or enforcement of—
 - (i) a royalty law; or
 - (ii) a tax law or another law administered by the revenue commissioner; or
 - (iii) another law about public revenue; or

- (d) in relation to any legal proceeding under this Act; or
 - (e) to an officer of the department for—
 - (i) developing or monitoring revenue policies; or
 - (ii) administering the *Financial Accountability Act 2009*, section 21.
- ‘(3) Also, if the Minister becomes aware, from information obtained or held by the Minister in the course of administering this Act, of a particular offence or suspected offence (whether against this Act or another law), the Minister may disclose confidential information about the offence or suspected offence to a member of the Queensland Police Service or the Australian Federal Police for an investigation or proceeding (including for starting an investigation or proceeding).
- ‘(4) Also, the Minister may disclose confidential information, other than personal confidential information, to any person, or for any purpose, the Minister is satisfied is appropriate in the circumstances.
- ‘(5) This section does not create a right in any person to be given confidential information.
- ‘(6) In this section—
- personal confidential information***, for a person, means confidential information that—
- (a) identifies, or is likely to identify, the person; or
 - (b) discloses matters about the person’s affairs.
- revenue commissioner*** means the Commissioner of State Revenue appointed under the *Taxation Administration Act 2001*, section 7(2).
- royalty law*** means this Act or another Act administered by the Minister providing for payment of a royalty.
- tax law*** see the *Taxation Administration Act 2001*, schedule 2.

334C Other obligations about disclosure and use of confidential information

(1) If—

- (a) a person knowingly acquires confidential information without lawful authority; or
- (b) a person receives confidential information that the person knows, or ought reasonably to know, is confidential information;

the person must not disclose the information to anyone else unless the disclosure is permitted under this division.

Maximum penalty—100 penalty units.

Example for subsection (1)(a)—

A person employed by a contractor engaged by the State to clean the department's offices reads a document in the Minister's office containing confidential information.

Example for subsection (1)(b)—

A person, other than the addressee of a fax, receives the fax that states the information in it is confidential and is intended for the addressee's purposes only.

(2) If, under section 334B, the Minister discloses confidential information to a person, the person may disclose the information—

- (a) to the extent necessary to enable the person to exercise a power or perform a function conferred on the person under a law for the administration or enforcement of the law; or
- (b) for the purpose for which it was disclosed under the section; or
- (c) to anyone else or for any purpose if the information relates to the person.

omit, insert—

‘2010, 2011 or 2012’.

182 Amendment of s 35A (Rebate for annual payroll tax amount)

Section 35A(1)(a), ‘2010 or 2011’—

omit, insert—

‘2010, 2011 or 2012’.

183 Amendment of s 43A (Rebate for final payroll tax amount)

Section 43A(1)(a), ‘2010 or 2011’—

omit, insert—

‘2010, 2011 or 2012’.

184 Amendment of s 49A (Definitions for div 6A)

Section 49A, definition *relevant financial year*, ‘2010 or 2011’—

omit, insert—

‘2010, 2011 or 2012’.

Part 12 **Amendment of Petroleum and Gas (Production and Safety) Act 2004**

Division 1 **Preliminary**

185 **Act amended**

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

Division 2 **Amendments commencing on assent**

186 **Amendment of s 110 (Petroleum pipeline and water pipeline construction and operation)**

- (1) Section 110(2)(b), ‘contiguous to the lease’—
omit.
- (2) Section 110(2)(b)(ii), ‘for each contiguous lease’—
omit, insert—
‘of each other lease’.
- (3) Section 110(3)—
omit, insert—
- ‘(3) Also, if the pipeline is a water pipeline, the pipeline may be operated only—
 - (a) to transport associated water from a petroleum well in the area of the lease to—
 - (i) any other part of the area of the lease; or
 - (ii) any part of the area of another lease mentioned in subsection (2); or

- (b) to transport associated water that has been treated to any part of the area of a lease mentioned in subsection (2).’.

187 Amendment of ch 3, pt 2, div 1, sdiv 3, hdg

Chapter 3, part 2, division 1, subdivision 3, heading, ‘separate’—

omit.

188 Amendment of s 307 (Requirement for separate applications relating to exploration tenement and mining lease not held by same person)

- (1) Section 307, heading—

omit, insert—

‘307 Applications relating to exploration tenement and mining lease not held by same person’.

- (2) Section 307(2), ‘must’—

omit, insert—

‘may’.

- (3) Section 307(3) and (4)—

omit, insert—

‘(3) A separate application for the exploration tenement part, or the part of an application that relates to the exploration tenement part, must be decided under this division.

‘(4) A separate application for the mining lease part, or the part of an application that relates to the mining lease part, must be decided under part 3.’.

189 Amendment of s 308 (Requirement for separate application for other land)

- (1) Section 308, heading—

omit, insert—

‘308 Applications relating to other land’.

(2) Section 308(2), ‘must’—

omit, insert—

‘may’.

(3) Section 308(3)—

omit, insert—

‘(3) A separate application for the other part, or the part of an application that relates to the other part, must be decided under chapter 2.’.

190 Amendment of s 335 (Requirement for separate applications relating to exploration tenement and mining lease not held by same person)

(1) Section 335, heading—

omit, insert—

‘335 Applications relating to exploration tenement and mining lease not held by same person’.

(2) Section 335(2), ‘must’—

omit, insert—

‘may’.

(3) Section 335(3) and (4)—

omit, insert—

‘(3) A separate application for the exploration tenement part, or the part of an application that relates to the exploration tenement part, must be decided under this division.

‘(4) A separate application for the mining lease part, or the part of an application that relates to the mining lease part, must be decided under part 3.’.

191 Amendment of s 336 (Requirement for separate application for other land)

(1) Section 336, heading—

omit, insert—

‘336 Applications relating to other land’.

(2) Section 336(2), ‘must’—

omit, insert—

‘may’.

(3) Section 336(3)—

omit, insert—

‘(3) A separate application for the other part, or the part of an application that relates to the other part, must be decided under chapter 2.’.

192 Amendment of s 346 (Requirement for separate application for other land)

(1) Section 346, heading—

omit, insert—

‘346 Applications relating to other land’.

(2) Section 346(2), ‘must’—

omit, insert—

‘may’.

(3) Section 346(3)—

omit, insert—

‘(3) A separate application for the other part, or the part of an application that relates to the other part, must be decided under chapter 2.’.

193 Amendment of s 354 (Requirement for separate application for other land)

(1) Section 354, heading—

omit, insert—

‘354 Applications relating to other land’.

(2) Section 354(2), ‘must’—

omit, insert—

‘may’.

(3) Section 354(3)—

omit, insert—

‘(3) A separate application for the other part, or the part of an application that relates to the other part, must be decided under chapter 2.’.

194 Insertion of new ch 15, pt 12

Chapter 15—

insert—

**‘Part 12 Transitional provision for
Community Ambulance Cover
Levy Repeal and Revenue and
Other Legislation Amendment
Act 2011**

‘956 Particular applications taken to be properly made

‘(1) This section applies if—

(a) an ATP-related application or petroleum lease application for land was made on or after 17 March 2008; and

(b) under section 307, 308, 335, 336, 346 or 354 as in force before the commencement of this section (each the

-
- unamended provision*), separate ATP-related applications or petroleum lease applications were required to be made for particular parts of the land; and
- (c) separate mining lease applications were not made as required by the unamended provision.
- ‘(2) Despite the noncompliance with the requirement, the application is taken to be, and is taken to always have been, an ATP-related application or petroleum lease application for the land made under chapters 2 and 3.
- ‘(3) However, subsection (2) applies only to the extent the application does not comply with the unamended provision.
- ‘(4) This section applies whether or not the application has been decided at the commencement.’.

Division 3 Amendments commencing 1 July 2011

195 Replacement of ss 617A–617C

Sections 617A to 617C—

omit, insert—

‘617A Definitions for pt 5

‘In this part—

confidential information means information disclosed to, obtained by, or otherwise held by, a public official under or in relation to this chapter.

public official means a person who is, or has been, a public service employee or other person, performing functions under or in relation to the administration or enforcement of this Act.

‘617B Disclosure of confidential information

- ‘(1) A public official must not disclose confidential information acquired by the public official in the public official’s capacity to anyone else other than under this part.

Maximum penalty—100 penalty units.

- ‘(2) The Minister may disclose personal confidential information—

- (a) to the person to whom the information relates or, if either of the following apply, to someone else—

(i) with the consent, express or implied, of the person to whom the information relates;

(ii) the Minister reasonably believes is acting for the person to whom the information relates; or

- (b) if the disclosure is expressly permitted or required under another Act; or

- (c) to a person for the administration or enforcement of—

(i) a royalty law; or

(ii) a tax law or another law administered by the revenue commissioner; or

(iii) another law about public revenue; or

- (d) in relation to any legal proceeding under this Act; or

- (e) to an officer of the department for—

(i) developing or monitoring revenue policies; or

(ii) administering the *Financial Accountability Act 2009*, section 21.

- ‘(3) Also, if the Minister becomes aware, from information obtained or held by the Minister in the course of administering this Act, of a particular offence or suspected offence (whether against this Act or another law), the Minister may disclose confidential information about the offence or suspected offence to a member of the Queensland Police Service or the

Australian Federal Police for an investigation or proceeding (including for starting an investigation or proceeding).

‘(4) Also, the Minister may disclose confidential information, other than personal confidential information, to any person, or for any purpose, the Minister is satisfied is appropriate in the circumstances.

‘(5) This section does not create a right in any person to be given confidential information.

‘(6) In this section—

personal confidential information, for a person, means confidential information that—

(a) identifies, or is likely to identify, the person; or

(b) discloses matters about the person’s affairs.

revenue commissioner means the Commissioner of State Revenue appointed under the *Taxation Administration Act 2001*, section 7(2).

royalty law means this Act or another Act administered by the Minister providing for payment of a royalty.

tax law see the *Taxation Administration Act 2001*, schedule 2.

‘617C Other obligations about disclosure and use of confidential information

‘(1) If—

(a) a person knowingly acquires confidential information without lawful authority; or

(b) a person receives confidential information that the person knows, or ought reasonably to know, is confidential information;

the person must not disclose the information to anyone else unless the disclosure is permitted under this part.

Maximum penalty—100 penalty units.

Example for subsection (1)(a)—

A person employed by a contractor engaged by the State to clean the department's offices reads a document in the Minister's office containing confidential information.

Example for subsection (1)(b)—

A person, other than the addressee of a fax, receives the fax that states the information in it is confidential and is intended for the addressee's purposes only.

- '(2) If, under section 617B, the Minister discloses confidential information to a person, the person may disclose the information—
- (a) to the extent necessary to enable the person to exercise a power or perform a function conferred on the person under a law for the administration or enforcement of the law; or
 - (b) for the purpose for which it was disclosed under the section; or
 - (c) to anyone else or for any purpose if the information relates to the person.

'617D Refusal of disclosure of particular information

- '(1) A person engaged in the administration or enforcement of this Act can not be compelled to disclose to a court or QCAT in a proceeding, or to a party to the proceeding—
- (a) confidential information; or
 - (b) whether or not the person has received particular confidential information; or
 - (c) the identity of the source of particular confidential information.
- '(2) Subsection (1) does not apply to a proceeding for the administration or enforcement of this Act.'

196 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

'confidential information, for chapter 6, part 5, see section 617A.

public official, for chapter 6, part 5, see section 617A.'.

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