

# Revenue Legislation Amendment Bill 2005

## Explanatory Notes

### General Outline

### Policy Objectives

The *Revenue Legislation Amendment Bill 2005* will amend:

- the *Duties Act 2001* to abolish credit business duty and lease duty from 1 January 2006 as announced in the 2005-06 State Budget, and amend the transfer duty rates and the transfer duty home concession from 1 July 2006 as announced on 21 October 2005;
- the *Land Tax Act 1915* to extend the principal place of residence (PPR) exemption for land tax with effect for 2005-06 and later years, as announced in the 2005-06 State Budget;
- the *Gaming Machine Act 1991* to reorganise several existing gambling-financed funding arrangements, with effect from 1 July 2006; and
- the *Parliamentary Contributory Superannuation Act 1970* and the *Superannuation (State Public Sector) Act 1990* to reflect the abolition of the superannuation surcharge, effective from 1 July 2005;
- the *Duties Act 2001*, the *Taxation Administration Act 2001*, the *Retail Shop Leases Act 1994*, the *Gaming Machine Act 1991* and the *Superannuation (State Public Sector Act) 1990* to make other minor technical amendments.

### Reasons for the Bill

The Bill implements the following measures announced in the 2005-06 State Budget:

- the abolition of credit business duty and lease duty with effect on and from 1 January 2006; and

- the extension of the land tax PPR exemption to allow either a full or partial exemption where land is used as a PPR and for some other purpose, with effect for 2005-06 and later years. Presently, the exemption applies only if land is used as a PPR and for no other purpose, so that any non-PPR use of the land results in total loss of the exemption.

The Bill also implements the following initiatives announced on 21 October 2005 to assist health funding.

Amending the *Duties Act 2001* with effect on and from 1 July 2006 to:

- Increase the transfer duty rate from 3.75% to 4% for the part of the dutiable value of a dutiable transaction from \$500,001 up to and including \$700,000;
- Create a new top transfer duty rate band of 4.5% for the part of the dutiable value of a dutiable transaction greater than \$700,000;
- Extend the ceiling for the concessional transfer duty rate of 1% for all purchases of a principal place of residence from \$300,000 to \$320,000.

Due to the delay between announcement and commencement of the increased transfer duty home concession, there is scope for taxpayers to structure transactions to gain the benefit of the transfer duty home concession amendment by schemes to defer home transactions to a date after 1 July 2006. An anti-avoidance provision is required to address these schemes.

Amending the *Gaming Machine Act 2001* with effect on and from 1 July 2006 to:

- Replace the Major Facilities Levy with a Health Services Levy which will help fund health services and services related to health services in the State;
- Provide that funding previously committed or potentially available from the Major Facilities Levy be met from the Community Investment Fund;
- Fully fund the Queensland Office of Gaming Regulation from the Community Investment Fund rather than from Consolidated Revenue.

The amendments to the *Parliamentary Contributory Superannuation Act 1970* and the *Superannuation (State Public Sector) Act 1990* are in accordance with the Commonwealth Government's *Superannuation Laws Amendment (Abolition of Surcharge) Act 2005*. However, the Bill

recognises that surcharge assessments relating to the 2004-05 and earlier financial years will continue to be issued by the Australian Taxation Office and that members' surcharge debt accounts will be deducted from their final benefit upon ceasing service or claiming their benefit. In addition, the Bill makes a minor technical amendment to the *Superannuation (State Public Sector) Act 1990*.

## **Achievement of Objectives**

### *Abolition of lease duty and credit business duty*

The Bill repeals on 1 January 2006, Chapter 4 of the *Duties Act 2001* which imposes lease duty and Chapter 6 of the *Duties Act 2001* which imposes credit business duty. However, lease duty and credit business duty liabilities to 1 January 2006 will continue to be payable. Similarly, rights in relation to lease duty and credit business duty which arise before 1 January 2006 will continue to be enforceable. The Bill will therefore continue to apply the relevant credit business duty and lease duty provisions of the *Duties Act 2001* after their repeal to allow for the winding up of outstanding matters. Also, while lease duty will be abolished, transfer duty may still apply on the grant, transfer or surrender of leases.

Under the *Duties Act 2001*, refunds of lease duty on the early termination of a lease are made in very limited circumstances. This is because liability to lease duty generally arises at the commencement of the lease term. Consistent with this long standing position, refunds of lease duty upon abolition of the duty on 1 January 2006 will be made only in the following cases.

- In the case of lease options, a liability for lease duty arises when the lease option is exercised rather than when the term commences. Consequently, a lease option exercised prior to 1 January 2006, for a term commencing on or after 1 January 2006, will be liable for duty. To maintain consistency with the abolition of the duty on 1 January 2006, lease option terms commencing on or after 1 January 2006 will not be liable for lease duty regardless of when the lease option was exercised. Taxpayers who have paid duty on such options will be entitled to a reassessment of duty (and ultimately a refund under the *Taxation Administration Act 2001*) if the refund exceeds \$75.
- The existing right under the *Duties Act 2001* to a refund where a lease is terminated due to the destruction of the premises or death of the lessee will continue to apply. However, the Bill will

amend the *Duties Act 2001* to provide that these refunds must be made within 10 years after the abolition date so that lease duty administration and compliance does not continue indefinitely.

- For leases entered into under the repealed *Stamp Act 1894*, the benefit of an existing *Stamp Act 1894* refund provision for duty paid on unexercised option terms will also be continued.

#### *Transfer duty rate schedule and transfer duty home concession changes*

Transfer duty is imposed under the *Duties Act 2001* on the dutiable value of dutiable transactions such as transfers and agreements for the transfer of dutiable property, at progressive rates of up to 3.75%. These progressive rates also determine the duty payable on transactions for which land rich duty and corporate trustee duty apply. The transfer duty rates are contained in Schedule 3 of the *Duties Act 2001*.

Persons acquiring their home as their principal place of residence are entitled to a concessional rate of transfer duty of 1% on the first \$300,000 value of the home being acquired. Where the value of the person's home exceeds the \$300,000 threshold, the general rate of duty applies to the value exceeding \$300,000. An additional transfer duty rebate applies if the home is the person's first home.

As part of revenue initiatives announced on 21 October 2005 to assist health funding, the *Duties Act 2001* will be amended with effect on and from 1 July 2006 to:

- Increase the transfer duty rate from 3.75% to 4% for the part of the dutiable value of a dutiable transaction from \$500,001 up to and including \$700,000;
- Create a new top transfer duty rate band of 4.5% for the part of the dutiable value of a dutiable transaction greater than \$700,000;
- Extend the ceiling for the concessional transfer duty rate of 1% for all purchases of a principal place of residence from \$300,000 to \$320,000.

These changes do not result in any change to the transfer duty first home rebate and the rates up to \$500,000 are not being changed.

The Government announced the transfer duty home concessional rate change on 21 October 2005. As the amendment commences on 1 July 2006, taxpayers may seek to structure their transactions to gain the benefit of this amendment by schemes to defer home transactions to a date after 30 June 2006. The *Duties Act 2001* is to be amended to include an anti-

avoidance provision to address these schemes. A similar provision was included in the *Duties Amendment Act (No. 2) 2004* to prevent schemes related to the extension of the transfer duty home concession for home buyers which commenced on 1 August 2004.

#### *Principal place of residence exemption for land tax*

The Bill amends the *Land Tax Act 1915* to extend the application of the existing PPR exemption for land tax and introduce either a full or partial PPR exemption where land used as a PPR is also used for other purposes, with effect for 2005-06 and later years.

The existing full PPR exemption will be extended to apply in the following circumstances.

- Where there is a single letting of part of a person's PPR to family members. This will be treated as part of the PPR use of the land, subject to conditions.
- Where the land is used for a non-PPR purpose which is not a substantial non-PPR purpose. In particular, certain working-from-home employment arrangements which are incidental to the PPR use and a single letting of part of the PPR for residential purposes will not result in any loss of the exemption if conditions are met.

A partial PPR exemption will apply where land is used both as a PPR and for a substantial non-PPR use. The Bill provides that the Commissioner of State Revenue will determine whether land is being used for a substantial non-PPR purpose and if so, the extent of this use, to determine the extent of the partial PPR exemption. The Bill lists the factors which the Commissioner must take into account when determining these matters.

#### *Health services levy*

The Bill amends the *Gaming Machine Act 1991* to create additional funding opportunities for health services and services related to health services in Queensland. This is achieved through the introduction of a new health services levy, to be funded by contributions by category 1 gaming machine licensees with high gambling profit venues. Additional funding will be available from Consolidated Revenue as the responsibility for funding the Queensland Office of Gaming Regulation will be transferred to the community investment fund. The Bill provides that these amendments will operate on and from 1 July 2006.

### *Superannuation amendments*

The Bill amends the:

- *Parliamentary Contributory Superannuation Act 1970* to reflect the Commonwealth Government's abolition of the superannuation surcharge with effect from 1 July 2005; and
- *Superannuation (State Public Sector) Act 1990* to reflect the Commonwealth Government's abolition of the superannuation surcharge with effect from 1 July 2005, and to make a minor technical amendment.

### **Alternatives to the Bill**

The policy objectives can only be achieved by legislative enactment.

### **Estimated Cost for Government Implementation**

Implementation costs are not expected to be significant.

### **Consistency with Fundamental Legislative Principles**

The extension of the PPR land tax exemption and introduction of a partial PPR land tax exemption will apply retrospectively for land tax payable for the 2005-06 year. However, the amendments were publicly announced on 7 June 2005 as part of the 2005-06 State Budget. Further, the amendments are beneficial to taxpayers in that they either extend the circumstances in which the full PPR exemption may be claimed or provide a partial PPR exemption in circumstances where affected taxpayers currently cannot claim any exemption.

The Bill also confers upon the Commissioner of State Revenue the power to decide whether land is used for a substantial non-PPR purpose and, if so, the extent of the use of the land as a PPR so that a partial exemption can be allowed. However, the Commissioner must have regard to all relevant factors and, in particular, a number of listed factors such as whether the land is leased or the extent of use of the land for the non-PPR purpose. This administrative power is necessary due to the wide variety of ways in which residential land may be used. Guidelines will be published by the Office of State Revenue on the application of the partial PPR exemption.

The amendments to the *Parliamentary Contributory Superannuation Act 1970* and the *Superannuation (State Public Sector) Act 1990* are retrospective from 1 July 2005, providing consistency with Commonwealth

amendments and ensuring members of both schemes are not disadvantaged in terms of the timing of the surcharge abolition.

## **Consultation**

To the extent the Bill gives effect to the 2005-06 State Budget announcements and the health funding revenue initiatives, public consultation was not necessary.

Consultation on the other amendments contained in this Bill was considered unnecessary.

## **Notes on Provisions**

Clause 1 cites the short title of the Bill.

Clause 2 specifies the commencement dates of provisions of the Bill.

Clause 3 states that Part 2 of the Bill amends the *Duties Act 2001*.

Clause 4 amends section 11(4) of the *Duties Act 2001* which refers to sections 233(2)(d) to (f) of the *Duties Act 2001*. Sections 233(2)(d) to (f) are in Chapter 4 of the *Duties Act 2001*, dealing with lease duty. As Chapter 4 is to be omitted by this Bill on 1 January 2006, the amendment maintains the current application of section 11(4).

Clause 5 amends section 23(1) of the *Duties Act 2001* to reflect the omission of Chapter 4 of the *Duties Act 2001*.

Clause 6 makes a number of amendments to section 91 of the *Duties Act 2001* to reflect that the 1% concessional rate of transfer duty will apply to the transfer, or agreement for transfer, of a home for the first \$320,000 of the consideration for, or value of, the home.

Clause 7 makes a number of amendments to section 93 of the *Duties Act 2001* to reflect that the 1% concessional rate of transfer duty will apply to the transfer, or agreement for transfer, of a home for the first \$320,000 of the consideration for, or value of, the home.

Clause 8 amends section 146 of the *Duties Act 2001* and its heading which refer to lease duty and section 244 of the *Duties Act 2001*. Section 244 is in Chapter 4 of the *Duties Act 2001* dealing with lease duty. As Chapter 4 is

to be omitted by this Bill on 1 January 2006, the amendment of section 146 and its heading maintains the current application of section 146.

Clause 9 amends section 241 of the *Duties Act 2001* by inserting new section 241(7A). By this provision, sub-section 241(7) will not apply to give rise to a liability to lease duty on an option under a lease or occupancy right for a further period when the option is exercised if the term of the further period commences on or after 1 January 2006. This is regardless of when the option is exercised. Further, clause 9 renumbers subsections 241(7A) to (10) as section 241(8) to (11).

Clause 10 inserts new section 242A. This section provides for a reassessment of lease duty paid for a further period of a lease or occupancy right under an option contained in the lease or right if the lease duty for the further period is at least \$75 and the term of the option starts on or after 1 January 2006. Also, the lessor or grantor, and the lessee or grantee must apply in writing to the Commissioner for the reassessment not later than 31 December 2006. If a reassessment under this section decreases a taxpayer's liability for tax, the provisions of the *Taxation Administration Act 2001* in relation to refunds of duty will apply.

Clause 11 omits Chapter 4 of the *Duties Act 2001* which imposes lease duty.

Clause 12 omits Chapter 6 of the *Duties Act 2001* which imposes credit business duty.

Clause 13 amends section 342 of the *Duties Act 2001* by omitting a reference to lodging a return as a registered credit provider as a criteria for liability to hire duty, to reflect the abolition of credit business duty.

Clause 14 amends section 437 of the *Duties Act 2001* to remove the requirement for a person to apply for registration to carry on business as a credit provider.

Clause 15 inserts new section 532A in the *Duties Act 2001* to provide that the transitional provisions of Chapter 17, Part 2, Division 6 for leases entered into under the repealed *Stamp Act 1894*, stop applying on and from 1 January 2006.

Clause 16 inserts a new Chapter 17, Part 5 in the *Duties Act 2001* to provide transitional and savings provisions for certain lease duty and credit business duty provisions.

Chapter 17, Part 5, Division 1 contains provisions for the ending of credit business duty.

- Section 554 provides definitions for terms used in Part 5, Division 1.
- Section 555 is a savings provisions which supplements the savings provided for in the *Acts Interpretation Act 1954*. The section ensures that the credit business duty provisions under repealed Chapter 6 of the *Duties Act 2001* continue to apply for rights, privileges and liabilities that would have been acquired, accrued or incurred on or after 1 January 2006 in relation to a relevant credit amount for a pre-repeal credit transaction, as if Chapter 6 had not been omitted. Section 555 is subject to section 556.

*For example, a credit provider may be required to lodge a return or statement and pay credit business duty on or after 1 January 2006 in relation to a credit transaction entered into by the credit provider before 1 January 2006.*

- Section 556 is an exception to section 555 in that it limits the application of section 303(4) of the *Duties Act 2001* to enable an adjustment of the credit amount of credit transactions in certain circumstances, from 1 January 2006.

*For example, a pre-repeal credit transaction may involve goods purchased for \$500 on 1 December 2005 on credit with up to 60 days interest free but with provision for the payment of the \$500 purchase price and interest following the initial interest free period. At the end of the 60 day period, the cash price remains unpaid and interest accrues.*

*If the transaction is a not a short term credit transaction, section 303(3)(b) of the Duties Act 2001 provides that the credit amount is the amount debited under the arrangement. However, the \$500 cash price of the goods only becomes an amount debited under this arrangement if the \$500 cash price remains unpaid at the end of the 60 day period.*

*If repayment of the cash price is not made by the end of the 60 day period and this period ends after 1 January 2006, section 303(4) provides the cash price is the amount debited under the transaction, that is \$500. Credit business duty would then be required to be calculated on this basis at the end of the 60 day period which is after 1 January 2006.*

*Section 556 however limits the application of section 303(4) in respect of this transaction as the 60 day period ends on or after 1 January 2006 and the \$500 cash price is not paid at the end of the 60 day period. This has the effect that the \$500 cash price is not taken to be*

*the amount debited and duty is not required to be calculated on the basis that this amount is the credit amount.*

- Section 557 ends the registration of credit providers registered under Chapter 12, part 1 of the *Duties Act 2001* for credit business duty from 1 January 2006. Section 557(3) clarifies that the registration of the person under the *Duties Act 2001* for any other purpose or any requirement that applies to the registered person under the *Duties Act 2001* or the *Taxation Administration Act 2001* is not affected.

Chapter 17, Part 5, Division 2 contains provisions for the ending of lease duty.

- Section 558 provides definitions for particular terms used in Part 5, Division 2.
- Section 559 is a savings provision which supplements the savings provided for in the *Acts Interpretation Act 1954*. The section ensures that the lease duty provisions under repealed Chapter 4 of the *Duties Act 2001* continue to apply for rights, privileges and liabilities that would have been acquired, accrued or incurred on or after 1 January 2006 in relation to a lease or occupancy right for which there is a pre-repeal lease duty liability, as if Chapter 4 had not been omitted. Section 559 is subject to sections 560 and 561.
- Section 560(1) limits the application of lease upstamping requirements in section 241 for unascertainable costs which subsequently become ascertainable, to those which become ascertainable before 1 January 2006. Section 560(2) limits the application of section 241(9) (as renumbered from section 241(8) by clause 9), which imposes a lease duty liability where the cost of the lease is increased by agreement, to agreements increasing the cost of a lease made before 1 January 2006.
- Section 561 saves the application of section 242 of the *Duties Act 2001* so that a reassessment of lease duty may be made for particular early terminations of leases and occupancy rights if the lease or occupancy right is terminated before 1 January 2016. Section 561(2) clarifies that section 242 also applies, in these circumstances, to certain instruments for which lease duty was paid under the repealed *Stamp Act 1894*.
- Section 562 saves the application of sections 417, 418 and 419 of the *Duties Act 2001* which deal with the assessment and reassessment of leases or occupancy rights entered into by exempt institutions.

- Section 563 saves the application of section 64C of the repealed *Stamp Act 1894* to allow a refund of stamp duty paid under the repealed *Stamp Act 1894* in certain circumstances, in respect of an unexercised option.
- Section 564 ends the registration of self-assessors under Chapter 12, Parts 2 or 3 of the *Duties Act 2001* to the extent the registration relates to self assessment of duty on leases or occupancy rights from 1 January 2006. Section 564(3) clarifies that the registration of the person under the *Duties Act 2001* for any other purpose or any requirement that applies to the registered person under the *Duties Act 2001* or the *Taxation Administration Act 2001* is not affected.
- Section 565 clarifies that no refunds will be provided for lease duty paid for a lease or occupancy right merely because of lease duty abolition and because the lease or right ends after 1 January 2006. Under the *Duties Act 2001*, liability to lease duty generally arises at the commencement of the term of the lease. Lease duty refunds are made in exceptional circumstances only. Section 565 therefore confirms the position that, upon abolition of lease duty from 1 January 2006, no entitlement to a refund of duty will arise even though a lease term may have an end date on or after 1 January 2006. However, this does not affect the operation of specific refund and reassessment provisions, such as section 242 or 242A of the *Duties Act 2001* or section 64C of the repealed *Stamp Act 1894* as saved by section 563 of the *Duties Act 2001*.

Clause 17 inserts a new Chapter 17, Part 5 Division 3 in the *Duties Act 2001* to provide transitional and savings provisions for the transfer duty rate and transfer duty home concession amendments.

- New section 566 provides that the new transfer duty rates incorporated into Schedule 3 of the *Duties Act 2001* from 1 July 2006 apply to dutiable transactions in the case of transfer duty, and relevant acquisitions in the case of land rich duty or corporate trustee duty, if liability for the duty arises on or after 1 July 2006.
- Section 567 provides that the amendments to the transfer duty home concession provisions which come into effect on 1 July 2006 apply to dutiable transactions for which liability for transfer duty arises on or after 1 July 2006.

Further, section 567(2) ensures that Chapter 2, Part 9, division 3 of the *Duties Act 2001*, as in force immediately before 1 July 2006, will

apply to certain transactions or agreements for transfer of residential land made on or after 1 July 2006, in certain circumstances.

Clause 18 amends the transfer duty, land rich duty and corporate trustee duty rates in Schedule 3 of the *Duties Act 2001*. The amendment increases the transfer duty rate for that part of a dutiable transaction with a dutiable value greater than \$500,000 up to and including \$700,000 from 3.75% to 4%, and creates a new top transfer duty rate of 4.5% for that part of a dutiable transaction with a dutiable value greater than \$700,000.

Clause 19 amends Schedule 6 of the *Duties Act 2001* by omitting and inserting various defined terms consequent upon omission of Chapters 4 and 6 of the *Duties Act 2001*.

Clause 20 provides that Part 3 of the Bill amends the *Gaming Machine Act 1991*.

Clause 21 omits section 316A(2) of the *Gaming Machine Act 1991* which listed the purposes for which funds attributable to the major facilities levy could be used. The clause inserts the new purpose for which the health services levy may be used, namely for health services and services related to health services. The clause inserts a definition of “health services”.

Clause 22 amends section 322(5) to ensure that the State is still able to finance major sporting and cultural facilities and infrastructure in Queensland notwithstanding the removal of the major facilities levy, and to fully fund the Queensland Office of Gaming Regulation from the community investment fund.

Clause 23 inserts new Part 12, Division 11 into the *Gaming Machine Act 1991* as transitional arrangements. The clause enables the 1 July 2006 transfer of amounts then attributable to the major facilities levy to the community investment fund, and to specify that the health services levy is payable from July 2006 onwards.

Clause 24 states that Part 4 of the Bill amends the *Land Tax Act 1915*.

Clause 25 amends section 3 of the *Land Tax Act 1915* by inserting various defined terms.

Clause 26 amends section 3E of the *Land Tax Act 1915* so that land may be a person’s PPR even though the land may also be used for other purposes. New section 3E(2) provides that a single family letting of a person’s PPR is taken to be included in the use of the land as the person’s PPR. Section 3E(3) provides the conditions which must be satisfied for a family letting to exist. Section 3E(4) provides that a family letting does not exist if the

leased area is a flat in a building of 3 or more flats and the principal resident does not reside in the flat.

### *Examples*

- *A family home is owned by parents who reside in the home with their three children. Two grandparents live in a granny flat downstairs, there is no tenancy agreement in relation to the grandparents' occupation and they do not pay any rental. This is not a family letting as there is no tenancy agreement relating to the grandparents' right of occupation. However, like the occupation of the home by the children, the grandparents' occupation is part of the ordinary use of the property as the family's PPR.*
- *If, in the example, the grandparents paid market rental for the granny flat, there would be a family letting provided the granny flat was not more than 50% of the gross floor area of the home and the other conditions in section 3E(3) were satisfied.*

Clause 27 inserts new section 3EA which provides when land used as a person's PPR is also used for a substantial non-PPR purpose. If land is also being used for a substantial non-PPR purpose, an allowable PPR deduction under section 11EA will apply.

Section 3EA(2) lists the factors to which the Commissioner must have regard in deciding whether land is being used for a substantial non-PPR purpose.

Section 3EA(3) provides for two circumstances, which of themselves, will not be considered to be use of the land for a substantial non-PPR purpose. However, if any of the circumstances outlined in 3EA(3) exist together with other any other relevant factor as provided for in section 3EA(2), the Commissioner must determine whether there is a substantial non-PPR purpose under section 3EA(2).

Section 3EA(4) provides definitions for particular terms used in section 3EA.

Clause 28 amends section 11(6A) and (6D) to reflect the amendments made in Part 4 of the Bill to introduce an allowable PPR deduction (which is either a full or partial deduction). These are the general deduction provisions covering land other than lots in a building unit plan or community titles scheme or land owned by a home unit company. The amendment to section 11(6A) and (6D) provide an allowable PPR

deduction in respect of a person's PPR if the exemption in section 13(1)(h) does not apply, namely, if-

- a person owns more than one parcel of land and is using one parcel as their PPR;
- land used as a PPR is also used for a substantial non-PPR purpose; or
- land is owned by a trustee and is used by all beneficiaries of the trust as their PPR.

Clause 29 amends section 11B(2) and (3A) to reflect the amendments made in Part 4 of this Bill to introduce an allowable PPR deduction (which is either a full or partial deduction). Section 11B deals with lots in a building unit plan and group titles plan. The amendment to section 11B(2) and (3A) provide an allowable PPR deduction in respect of a person's PPR if the exemption in section 11B(3) does not apply, namely, if-

- a person owns more than one parcel of land and is using one parcel as their PPR;
- if land used as a PPR is also being used for a substantial non-PPR purpose; or
- land is owned by a trustee and is used by all beneficiaries of the trust as their PPR.

The amendment to section 11B(3) provides a full PPR exemption where the person owns only one parcel of land used as their PPR and there is no use of the land for a substantial non-PPR purpose.

Clause 30 amends section 11BA(2) and (4) to reflect the amendments made in Part 4 of this Bill to introduce an allowable PPR deduction (which is either a full or partial deduction). Section 11BA deals with scheme land in a community titles scheme. The amendment to section 11BA(2) and (4) provide an allowable PPR deduction in respect of a person's PPR if the exemption in section 11BA(3) does not apply, namely, if-

- a person owns more than one parcel of land and is using one parcel as their PPR;
- land used as a PPR is also being used for a substantial non-PPR purpose; or
- land is owned by a trustee and is used by all beneficiaries of the trust as their PPR.

The amendment to section 11BA(3) provides a full PPR exemption where the person owns only one lot of land used as their PPR and there is no use of the land for a substantial non-PPR purpose.

Clause 31 inserts new section 11EA and 11EB in the *Land Tax Act 1915*.

Section 11EA provides for the calculation of an allowable PPR deduction.

Section 11EA(2) provides what amount will be deducted from the relevant unimproved value of the land as the allowable PPR deduction. If the land is used for a substantial non-PPR purpose, a partial deduction is allowable, namely, a proportion of the relevant unimproved value of the land. If the land is not used for a substantial non-PPR purpose, a full deduction is allowable equal to the relevant unimproved value of the land.

Section 11EA(3) clarifies if an owner is a joint owner, the allowable PPR deduction for the joint owner is their proportion of the allowable PPR deduction.

Section 11EA(4) provides the Commissioner must apportion the relevant unimproved value of land used for a substantial non-PPR purpose between the use of the land as a PPR and use of the land for substantial non-PPR purposes.

Section 11EA(5) requires the Commissioner to have regard to the proportion of the land used as a PPR and for substantial non-PPR purposes and the extent to which the land is used for those purposes in making the apportionment under section 11EA(4).

Section 11EA(6) provides definitions for particular terms used in section 11EA.

Section 11EB allows the Commissioner to request a person to complete an approved form and provide any information reasonably required by the Commissioner to decide whether land is used for any of the following –

- as a person's PPR, including whether there is a family letting, or
- for a substantial non-PPR purpose and if so, the apportionment required to be made.

Clause 32 amends the exemption in section 13(1)(h) of the *Land Tax Act 1915* so that the exemption does not apply where land is used also for a substantial non-PPR purpose. If land used as a PPR is also being used for a substantial non-PPR purpose, an allowable PPR deduction applies under sections 11(6A) or (6D), 11B(2) or (3A) or 11BA(2) or (4), as the case may be.

Clause 33 amends section 19 of the *Land Tax Act 1915* to include a failure to provide information as an instance when the Commissioner may make a default assessment of land tax payable by a person.

Clause 34 amends section 62 to provide that the land tax amendments made by the Bill apply to land tax levied for the financial year beginning 1 July 2005 and each later financial year.

Clause 35 provides that Schedule 1 amends the Acts it mentions, namely the *Parliamentary Contributory Superannuation Act 1970* and the *Superannuation (State Public Sector) Act 1990*.

Clause 36 provides that Schedule 2 makes minor and consequential amendments to the Acts it mentions, namely the *Duties Act 2001*, the *Gaming Machine Act 1991*, the *Retail Shop Leases Act 1994* and the *Taxation Administration Act 2001*.

*Schedule 1* amends various superannuation legislation as follows.

*Parliamentary Contributory Superannuation Act 1970*

*Amendment 1* omits section 25C(3)(d) to reflect that the superannuation surcharge does not apply to the State-financed component of the benefit that accrued after 30 June 2005.

*Amendment 2* inserts a new transitional provision, Part 4, Division 4 clarifying that the omission of section 25C(3)(d) takes effect from 1 July 2005.

*Superannuation (State Public Sector) Act 1990*

*Amendment 1* omits section 15G(2)(d) to reflect that the superannuation surcharge does not apply to the employer-financed component of the benefit that accrued after 30 June 2005.

*Amendment 2* makes a minor technical amendment to a drafting anomaly in section 30.

*Amendment 3* renames existing Part 6 (transitional provisions), to be new Part 6, Division 1 ‘Financial Sector Reform (Queensland) Act 1999’. This renaming facilitates the introduction of a transitional provision for the superannuation surcharge amendments (Part 6, Division 3).

*Amendment 4* renames existing Part 7 (transitional provisions), to be new Part 6, Division 2, ‘South East Queensland Water Board (Reform Facilitation) Act 1999’. This renaming facilitates the introduction of a

transitional provision for the superannuation surcharge amendments (Part 6, Division 3).

*Amendment 5* inserts a new transitional provision, Part 6, Division 3, clarifying that the omission of section 15G(2)(d) takes effect from 1 July 2005.

*Schedule 2* makes minor and consequential amendments to the *Duties Act 2001*, the *Gaming Machine Act 1991*, the *Retail Shop Leases Act 1994*, the *Taxation Administration Act 2001*, as follows.

#### *Duties Act 2001*

*Amendment 1* amends section 141(1)(g) of the *Duties Act 2001* to reflect the change of name of the Queensland Theatre Company.

*Amendment 2* amends section 393(e) of the *Duties Act 2001* to reflect the change of name of the Queensland Theatre company.

*Amendment 3* omits section 414(1)(c) of the *Duties Act 2001* which provides that lease duty is not imposed on a lease to an exempt institution. Once Chapter 4, which imposes lease duty, is omitted, section 414(1)(c) will no longer be required.

*Amendment 4* amends section 415(1) and (2) of the *Duties Act 2001* to reflect the omission of Chapter 4 and the abolition of lease duty.

*Amendment 5* amends section 416(2)(a) of the *Duties Act 2001* to reflect the omission of Chapter 4 and the abolition of lease duty.

*Amendment 6* amends section 416 by omitting sub-sections 416(3)(b) and (4)(b) of the *Duties Act 2001*. These provisions relate to the requirements which exempt institutions must satisfy if a lease duty exemption applies. Once Chapter 4, which imposes lease duty is omitted, these provisions will no longer be required.

*Amendment 7* amends section 417(1) of the *Duties Act 2001* to reflect the omission of Chapter 4 and the abolition of lease duty.

*Amendment 8* amends section 418(2) of the *Duties Act 2001* to reflect the omission of Chapter 4 and the abolition of lease duty.

*Amendment 9* amends section 419(1)(b) of the *Duties Act 2001* to reflect the omission of Chapter 4 and the abolition of lease duty.

*Amendment 10* amends section 471B(3) of the *Duties Act 2001* to remove an example referring to lease duty provisions omitted by clause 9 and inserts an alternative example of a relevant lodgement requirement.

*Amendment 11* amends section 511(2)(a) of the *Duties Act 2001* to insert a note.

*Amendment 12* amends section 541 of the *Duties Act 2001* to clarify that this transitional provision to the extent it applies in relation to registered credit providers and self assessors registered under chapter 12, part 1, ends on and from 1 January 2006.

#### *Gaming Machine Act 1991*

*Amendment 1* provides for the amendment of references throughout the Act from “Major facilities” to “Health services”.

*Amendment 2* provides for the amendment of references throughout the Act from “major facilities” to “health services”.

#### *Retail Shop Leases Act 1994*

*Amendment 1* amends section 48(1)(b) of the *Retail Shop Leases Act 1994* to insert a note.

#### *Taxation Administration Act 2001*

*Amendment 1* makes a minor technical amendment to a drafting anomaly in section 6(5) of the *Taxation Administration Act 2001* and its footnote.