Revenue Legislation Amendment Bill 2022

Explanatory Notes

Short title

The short title of the Bill is the Revenue Legislation Amendment Bill 2022 (the Bill).

Policy objectives and the reasons for them

The Bill brings together most of the 2022-23 State Budget's significant revenue measures in one package. In particular, the Bill amends legislation administered by the Commissioner of State Revenue (Commissioner) to implement revenue measures announced in the 2021-22 and 2022-23 State Budgets, and to make other necessary amendments to revenue and grant legislation. The Bill also makes a temporary amendment to the *Gaming Machine Regulation 2002* (Gaming Machine Regulation) to support the transfer of category 1 licensed premises operating authorities for gaming machines within existing State-wide and region-specific caps.

The *Duties Act 2001* (Duties Act) is amended to implement a 2022-23 State Budget measure to provide an exemption from additional foreign acquirer duty (AFAD) for holders of subclass 405 and 410 visas on the purchase of their principal place of residence on or after 1 January 2023, subject to certain conditions.

The Duties Act is retrospectively amended to provide an exemption from transfer duty and vehicle registration duty for certain transactions relating to particular small business restructures from 7 September 2020 or 28 June 2021.

The Duties Act is also retrospectively amended to extend the exemption from transfer duty under section 124 of the Duties Act to certain dutiable transactions involving the vesting of dutiable property under the *Succession Act 1981* (Succession Act) from 3 April 2017 and the *Aboriginal and Torres Strait Islander Land Holding Act 2013* (ATSILH Act) from 6 August 2019.

The Duties Act is further amended to introduce an exemption from transfer duty and landholder duty for certain transactions associated with the Queensland Future (Debt Retirement) Fund (Debt Retirement Fund) and, in particular, with asset contributions to and investments for the Debt Retirement Fund.

The *Duties Regulation 2013* (Duties Regulation) is amended to:

- prescribe Euronext N.V. as a recognised stock exchange from 1 January 2017; and
- reflect the change of name of the Asia Pacific Stock Exchange to the Sydney Stock Exchange;

for the purposes of determining the transfer duty and landholder duty consequences under the Duties Act of certain transactions involving entities listed on a recognised stock exchange.

The *First Home Owner Grant and Other Home Owner Grants Act 2000* (FHOG and Other Grants Act) is retrospectively amended from 1 January 2021 to clarify that the amount of the HomeBuilder Grant is $15,000 for eligible transactions where the contract was made between 1 January 2021 and 31 March 2021, in accordance with the Australian Government's policy.

The *Land Tax Act 2010* (Land Tax Act) is being amended, to implement a land tax reform, announced in the 2021-22 Budget Update – Mid-Year Fiscal and Economic Review, to enable the value of interstate landholdings to be accounted for when assessing land tax payable in Queensland from the 2023-24 financial year (the land tax reform).

The land tax reform is intended to make Queensland's land tax system fairer by addressing an inequity which can result in a landholder with all of their landholdings in Queensland paying more land tax than a landholder with a similar value of landholdings spread across jurisdictions. Landholders who own only Queensland land will not be impacted.

The *Mineral Resources Regulation 2013* (Mineral Resources Regulation) is amended to implement a 2022-23 State Budget measure to adjust the coal royalty rate structure by introducing additional tiered rates of 20 per cent, 30 per cent and 40 per cent on that part of the average price per tonne of the coal sold, disposed of or used in a return period that is more than A$175, A$225 and A$300 respectively, with effect for liabilities from 1 July 2022.

The *Payroll Tax Act 1971* (Payroll Tax Act) is amended to:

- implement a 2022-23 State Budget measure to impose a mental health levy from 1 January 2023, payable by employers, or groups of employers, with annual Australian taxable wages (for payroll tax purposes) over $10 million;
- implement a 2022-23 State Budget measure to increase the phase out rate for deductions from 1 January 2023, to provide relief for small to medium businesses;
- legislatively implement a 2021-22 State Budget measure to extend the 50 per cent rebate for wages paid or payable to apprentices and trainees to include wages paid or payable during the financial year ending on 30 June 2022 (such extension previously having been effected by way of an administrative arrangement); and
- implement a 2022-23 State Budget measure to extend the rebate for wages paid or payable to apprentices and trainees to include wages paid or payable during the financial year ending on 30 June 2023.

As the Queensland Revenue Office (QRO) prepares for implementation of the 2022-23 State Budget payroll tax measures that commence on 1 January 2023, it will be necessary to further develop administrative, machinery and transitional arrangements.

The Gaming Machine Regulation is amended to support the transfer of category 1 licensed premises operating authorities for gaming machines within the existing State-wide and region-specific caps. A temporary reduction in the transfer commission to Government is provided for in the amendments to assist in supporting greater economic development in the hospitality industry.

Queensland has a long-standing cap on the total number of gaming machine licences, comprised of 19,500 operating authorities for category 1 licensed premises (commercial hotels and commercial special facilities) and 24,705 entitlements for category 2 licensed premises (community clubs). The State-wide cap is broken down into three regions – South East, Coastal and Western – with a separate cap applied to each of the regions.

Commercial hotels and commercial special facilities are consistently operating more than 19,000 gaming machines, relatively close to the State-wide cap. Whereas community clubs consistently operate fewer than 21,500 gaming machines, substantially below their cap.

There have been very few hotel operating authorities available for purchase in recent years, particularly in the South East region. Industry stakeholders have raised concerns that potential sellers of hotel operating authorities, who are looking to reduce or exit gaming, are unwilling to use the disposal mechanism due to uncertainty around the proceeds of sale, after taxes and costs.

Achievement of policy objectives

Duties Act – exemption from AFAD for retirement visa holders

The Duties Act imposes AFAD at a rate of 7 per cent on residential property purchased by foreign persons, including individuals other than Australian citizens or permanent residents. For these purposes, a ‘permanent resident’ is a person who holds a permanent visa under the *Migration Act 1958* (Cwlth) (Migration Act), or a New Zealand citizen who is the holder of a special category visa as defined by the Migration Act.

Similar to AFAD, a surcharge purchaser duty of 8 per cent is imposed in New South Wales on the purchase of residential property by a foreign person. However, New South Wales provides an exemption from the surcharge for holders of subclass 405 and subclass 410 visas (retirement visas) for transactions entered into on or after 1 July 2019, subject to conditions.

Retirement visas are temporary visas valid for four to ten years. A person who is the holder of a retirement visa is neither an Australian citizen nor a permanent resident, and so must pay AFAD on any residential property purchase.

The retirement visas are being phased out and are closed to new applicants. Current retirement visa holders, their partners, and certain previous retirement visa holders may still apply to renew their retirement visa.

The Australian Government introduced a pathway to permanent residency for eligible retirement visa holders in its 2018-19 Budget. However, the permanent residency pathway may be unattainable for some retirees due to the cost, strict health requirements, and application processing times (five or 30 years, depending on the type of permanent visa applied for).

As part of the 2022-23 State Budget, the Duties Act is amended to ensure retirement visa holders receive similar treatment for AFAD as they do in NSW for surcharge purchaser duty. Specifically, the amendments are to exempt retirement visa holders from AFAD on purchases of their principal place of residence (directly or through an agent), for purchases occurring on or after 1 January 2023.

A retirement visa holder’s eligibility for the full exemption is dependent upon, amongst other things, the holder:

- not disposing of their interest in the relevant land before the holder commences occupation of the residence as their principal place of residence (the non-disposal requirement);

- commencing occupation of the relevant residence as their principal place of residence within one year (for land on which a residence is located at the time the liability for transfer duty arises) or two years (for vacant land) of the date on which the holder is entitled to possession under the transfer, or agreement for the transfer, of the land (the occupation commencement requirement); and
- occupying the residence as their principal place of residence for a period of one year following such commencement (the occupation duration requirement).

Other than in limited circumstances, failure to meet the non-disposal requirement, the occupation requirement or the occupation duration requirement (collectively, the residence requirements) will result in the Commissioner making a reassessment to fully or partially remove the benefit of the exemption. Further, a retirement visa holder will be required to notify the Commissioner of the holder's failure to meet a residence requirement, with failure to notify being an offence under the *Taxation Administration Act 2001* (Taxation Administration Act).

Duties Act – exemptions for small business restructures

On 25 September 2020, an administrative arrangement (the original administrative arrangement) was approved to provide an exemption from transfer duty for the transfer of business assets as part of eligible small business restructures. The exemption was limited to businesses with an annual turnover of up to $5 million and where the dutiable value of the assets transferred does not exceed $10 million, and applied in respect of transactions entered into on and from 7 September 2020 for eligible transfers or agreements to transfer small business property to an unlisted corporation from any of:
- an individual, where the individual is a shareholder of the corporation;
- one or more members of a partnership, where all the partners are shareholders of the corporation; or
- the trustee of a discretionary trust, where all the beneficiaries are shareholders of the corporation.

The original administrative arrangement also provided for an exemption from vehicle registration duty for eligible transactions where the small business property transferred included a vehicle.

On 28 June 2021, an expansion of the original administrative arrangement (the expanded small business administrative arrangement) was approved to also provide an exemption to eligible transactions entered into on and from that date, relating to the transfer or agreement to transfer small business property from the trustee of a discretionary trust to an unlisted corporation of which the trustee is the sole shareholder.

The terms of the expanded small business administrative arrangement are currently set out in Public Ruling DA000.16 – *Administrative arrangement – duty exemptions for eligible small business restructures*, issued by the Commissioner.

The Duties Act is amended to give legislative effect to the expanded small business administrative arrangement, with retrospective effect from 7 September 2020 (in relation to the transactions covered by the original administrative arrangement) or 28 June 2021 (in relation to the additional transactions covered by the expanded small business administrative arrangement).

Duties Act – extension of transfer duty exemption for deceased estates

Section 124 of the Duties Act provides an exemption from transfer duty in relation to certain dutiable transactions in the administration of deceased estates (the deceased estates exemption).

On 3 April 2017, an administrative arrangement (the deceased estates administrative arrangement) was approved to provide an extension of the deceased estates exemption to a dutiable transaction that is a statutory vesting under section 45 of the Succession Act, to the extent that the vesting gives effect to a distribution in the estate of a deceased person.

On 6 August 2019, an expansion of the deceased estates administrative arrangement was approved to provide a further extension of the deceased estates exemption to a dutiable transaction that is a vesting of dutiable property pursuant to sections 69A and 96 of the ATSILH Act, to the extent that the vesting gives effect to a distribution in the estate of a deceased person.

The terms of the deceased estates administrative arrangement are currently set out in Public Ruling DA124.3 – *Exemption for deceased person's estate – extension to certain statutory vestings*, issued by the Commissioner.

The Duties Act is amended to give legislative effect to the deceased estates administrative arrangement, with retrospective effect from 3 April 2017 (in relation to a statutory vesting under section 45 of the Succession Act) or 6 August 2019 (in relation to a statutory vesting under sections 69A and 96 of the ATSILH Act).

Those amendments will not contain the deceased estates administrative arrangement's qualification of the deceased estates exemption only being applicable to the extent that the vesting gives effect to a distribution in the estate of a deceased person. This is because there are no vestings contemplated by the relevant sections of the Succession Act or the ATSILH Act to which the deceased estates exemption is not intended to apply (i.e. it is not necessary to define a subset of those vestings for the purposes of the exemption).

Duties Act – exemptions for Debt Retirement Fund transactions

Under the Duties Act, transfer duty is imposed on dutiable transactions that involve dutiable property. Amongst other things, a dutiable transaction includes the transfer of dutiable property and the acquisition or surrender of an interest in a trust that directly or indirectly holds dutiable property, unless the trust is a public unit trust.

The Duties Act also imposes landholder duty on a relevant acquisition in an unlisted corporation or a listed corporation or listed unit trust that has land-holdings in Queensland with an unencumbered value of $2 million or more.

The Debt Retirement Fund is established under the *Queensland Future Fund Act 2020* with the purpose of providing funding for reducing the State's debt.

On 23 July 2020, the Government announced the initial tranche of assets that are to be contributed to the Debt Retirement Fund. For future asset contributions, it is expected that, the assets will be invested through a trust which itself invests through a number of unit trusts. That is, the assets will be contributed and invested through a series of transactions.

To the extent that such assets constitute dutiable property or land-holdings, their contribution to, and subsequent investment for, the Debt Retirement Fund will give rise to transfer duty and landholder duty liabilities under the Duties Act. There may also be further related trust dealings which trigger transfer duty liabilities under the Duties Act after assets are contributed and invested.

The Duties Act is amended to ensure that:

- certain dutiable transactions and relevant acquisitions for making a contribution to, or investment for the purpose of, the Debt Retirement Fund, are exempt from transfer duty and landholder duty; and
- certain trust acquisitions and trust surrenders, such as those that occur after the contribution and investment, are exempt from transfer duty.

Duties Regulation – amendments to recognised stock exchanges

Under the Duties Act, relief from transfer duty and a concessional rate of landholder duty is available for certain transactions in entities listed on a recognised stock exchange (defined in the Duties Act as the Australian Securities Exchange or another stock exchange prescribed under a regulation).

The following stock exchanges are currently prescribed in the Duties Regulation as recognised stock exchanges:

- the Asia Pacific Stock Exchange;
- the National Stock Exchange of Australia;
- the New Zealand Stock Exchange Limited;
- the London Stock Exchange plc;
- a stock exchange that is a member of the World Federation of Exchanges (WFE).

Euronext N.V. was a member of the WFE, until it resigned its membership from 1 January 2017. Consequently, Euronext N.V. ceased to be a recognised stock exchange from that date. As a consequence of resigning its WFE membership, from 1 January 2017 the transfer duty relief and concessional landholder duty rate stopped applying to transactions involving entities listed on Euronext N.V.

The listing requirements and ongoing obligations of Euronext N.V. are considered sufficient to satisfy the standard of a recognised stock exchange as intended under the Duties Act, and are consistent with those of current recognised stock exchanges.

Retrospective prescription of Euronext N.V. as a recognised stock exchange from 1 January 2017 will ensure continuity of its recognised stock exchange status and remove any potential uncertainty due to a lapse in recognition for dutiable transactions that may have occurred between Euronext N.V. ceasing to be a member of the WFE and when the Duties Regulation is amended. It will also ensure consistency with the treatment of the New Zealand Stock Exchange and London Stock Exchange when they were each prescribed as recognised stock exchanges after ceasing to be members of the WFE.

Separately, the Asia Pacific Stock Exchange Limited changed its name from 12 November 2015 to the Sydney Stock Exchange Limited. Although section 161 of the *Corporations Act 2001* (Cwlth) provides that a change of company name does not create a new legal entity or

affect the company's existing property, rights or obligations (such that the entity formerly known as Asia Pacific Stock Exchange Limited continues to receive the benefit of recognised stock exchange status), it is appropriate to reflect the change of name to the Sydney Stock Exchange Limited prospectively for clarity.

The Duties Regulation is amended to:
- prescribe Euronext N.V. as a recognised stock exchange, with effect from 1 January 2017; and
- reflect the change of name of the Asia Pacific Stock Exchange to the Sydney Stock Exchange.

FHOG and Other Grants Act – clarification of the HomeBuilder Grant amount

On 4 June 2020, the Australian Government announced the $25,000 HomeBuilder Grant (the grant), available to eligible owner-occupiers who build a new home or substantially renovate an existing home, where the contract was made between 4 June 2020 and 31 December 2020, both dates inclusive.

State and Territory governments administer the grant on behalf of the Australian Government in accordance with the program guidelines set out under the National Partnership Agreement (NPA). In Queensland, in addition to the NPA, the Commissioner administers the grant in accordance with the Administrative Direction on HomeBuilder (the HomeBuilder administrative direction), and with provisions in the FHOG and Other Grants Act. These legislative provisions primarily provide for investigative and enforcement powers for the Commissioner and objection and appeal rights for applicants, in addition to certain other matters, including the amount of the grant.

On 29 November 2020, the Australian Government announced an extension of the grant at a reduced amount of $15,000 for eligible transactions where the contract was made between 1 January 2021 to 31 March 2021, both dates inclusive (the extended grant period).

The Commissioner has been administering the grant in accordance with this announcement, and the NPA and the HomeBuilder administrative direction have been updated to reflect the reduced grant amount for the extended grant period. However, the FHOG and Other Grants Act still provides that the amount of the grant is $25,000.

To give effect to the Australian Government's HomeBuilder grant policy and for consistency with the NPA and the HomeBuilder administrative direction, the FHOG and Other Grants Act is amended from 1 January 2021 to clarify that, for contracts made during the extended grant period, the amount of the grant is $15,000.

No grant recipients will be required to repay an amount as a result of the amendments, as recipients were only paid $15,000 for eligible transactions for contracts made during the extended grant period.

Land Tax Act – land tax reform to take into account the value of interstate landholdings

Background

Under the Land Tax Act, owners are liable for land tax if the total value of the non-exempt Queensland land they own as at 30 June exceeds the tax-free threshold. Land tax is calculated by applying the relevant general rate to the total taxable value of an owner's non-exempt Queensland land. The general rates of land tax progressively increase in line with the value of non-exempt Queensland land. In addition to land tax at the general rates, absentees, foreign companies and trustees of foreign trusts are subject to a surcharge rate (currently 2 per cent).

Where an individual also owns land in another jurisdiction, this land is not currently relevant for Queensland land tax purposes. Therefore, a number of key changes to Queensland's land tax framework must be made to implement the land tax reform.

The Land Tax Act is amended to re-design Queensland's land tax framework to enable an owner's liability for land tax to be determined based on the total value of their Australia-wide landholdings that are not excluded, rather than solely on their Queensland non-exempt landholdings. This value will be used to determine whether the owner has exceeded the tax-free threshold and the applicable general rate of land tax that will apply to the Queensland proportion of their relevant Australia-wide landholdings. Land tax will continue to be imposed only on non-exempt Queensland land.

The Land Tax Act is amended to make the following key changes to Queensland's land tax framework from 1 January 2023 to enable implementation of the land tax reform from the 2023-24 financial year (i.e. for land tax liabilities arising on 30 June 2023).

Land relevant for calculating land tax under the land tax framework

Currently under the land tax framework all freehold land in Queensland that is not exempt (taxable land) is relevant for determining whether the tax-free threshold has been exceeded, the applicable rate and ultimately for imposing land tax.

Under the new framework, in addition to taxable land, relevant interstate land will also be relevant for determining whether the tax-free threshold has been exceeded and the applicable rate. Generally, relevant interstate land is interstate land that is valued under corresponding interstate valuation legislation and is not excluded. Interstate land is freehold land in other states and land under Crown lease in the Australian Capital Territory (ACT). ACT Crown leasehold land is the only type of leasehold land that is relevant for land tax purposes as the ACT generally operates under a leasehold system as opposed to a freehold system.

Owner of land for land tax purposes

As the owner of land is liable for land tax, the Land Tax Act defines who is an owner for land tax purposes, and is generally the person who is jointly or severally entitled to the freehold estate in the land. The Land Tax Act also clarifies who is the owner of land in particular circumstances. For example, for strata titled land, it clarifies that the owner of each individual lot in a strata titled scheme is liable for land tax and not the body corporate. Where land is subject to a time-sharing scheme, it clarifies that the person who manages the time-sharing scheme is the owner of land and liable for land tax.

Under the new framework, the concept of an owner will be maintained. However, as ACT Crown leasehold land will be relevant for land tax purposes, the concept of an owner will be extended to include the lessee of land under Crown lease in the ACT.

Application of tax-free threshold

A person is currently liable for land tax when the total value of their taxable land exceeds the tax-free threshold, being $600,000 for individuals other than absentees and $350,000 for companies, trustees and absentees.

Under the new framework, the total value of an owner's taxable land and relevant interstate land (Australian land) will be used to determine whether the tax-free threshold has been exceeded, as opposed to solely being based on the value of their taxable land.

Rates and calculation methodology

Land tax is currently calculated by applying the applicable general rate to the taxable value of taxable land held by the owner. Where an owner of land is an absentee, a foreign company or a trustee of a foreign trust, land tax is calculated by applying the applicable general rate and a surcharge rate of 2 per cent (surcharge rate). The land tax rates are set out in schedules 1 to 3 of the Land Tax Act.

Under the new framework, the total value of an owner's Australian land will be used to determine the applicable general rate of land tax. To calculate the amount of land tax payable, the applicable rate (and the surcharge rate, where relevant) will be applied to the total value of the Australian land owned by the owner, and the amount derived from this calculation will then be applied to the Queensland proportion of the total value of the Australian land owned by the owner.

> *Example:*
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> An individual (Taxpayer A) owns taxable land with a taxable value of $745,000. Under the current land tax framework, Taxpayer A is liable for land tax at the second tier as set out in Schedule 1 of the Land Tax Act ($500 plus 1.0c for each $1 more than $600,000 up to $999,999).
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> Taxpayer A also owns relevant interstate land with a total value of $1,565,000. Adding this to the taxable value of Taxpayer A's taxable land, the total value of Australian land owned by Taxpayer A is $2,310,000. Under the new framework, Taxpayer A will be liable for land tax at the third tier in Schedule 1 of the Land Tax Act ($4,500 plus 1.65c for each $1 more than $1,000,000).
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> After applying the rates in the third tier, to the total value of Australian land owned by Taxpayer A, the result is $26,115. This is then applied to the taxable value as a proportion of the total value of Australian land ($745,000/$2,310,000). The outcome is that Taxpayer A's liability under the new framework will be $8,422.37.

Excluded land

Land is currently exempt from land tax if it satisfies the requirements for one of the exemptions under part 6 of the Land Tax Act. Land that is exempt is not taken into account for determining whether the tax-free threshold has been exceeded, nor the applicable rate.

Under the new framework, the existing exemptions in the Land Tax Act will generally be available to interstate land in the same way as Queensland land, with some exceptions.

The requirements of some existing exemptions are not currently broad enough to apply to interstate land and/or owners of interstate land. Where appropriate, equivalent requirements, which align as far as possible with the existing exemption requirements, will apply for interstate land. This will apply for the home exemption, supported accommodation exemption, moveable dwelling park exemption and retirement village exemption.

Due to their intended scope, the existing exemptions for government land, port authority land and friendly societies will continue to be limited to Queensland land and/or owners of Queensland land.

For the remaining exemptions, the same requirements that currently apply under the Land Tax Act will equally apply to interstate land. This will include, for example, the exemption for land used for primary production.

Where interstate land meets the relevant requirements (or generally equivalent requirements) of an existing exemption (other than those exemptions remaining Queensland limited), it will be excluded from the calculation methodology.

Value of interstate land

Currently under the Land Tax Act, land tax is calculated by reference to the total taxable value of an owner’s taxable land. The taxable value is either the site value (for non-rural land) or the unimproved value (for rural land) determined under the *Land Valuation Act 2010* (Land Valuation Act value). Broadly, this value represents the value of the land including improvements to the physical nature of the land but excluding any improvements such as buildings or structures.

For the purposes of calculating land tax, it is generally either the Land Valuation Act value as at 30 June immediately preceding the financial year or the averaged value that is relevant for calculating land tax. The averaged value is the average of the Land Valuation Act value for the current and previous two financial years or the current year’s Land Valuation Act value multiplied by the averaging factor for the year (determined based on the average of all land values in Queensland). A discount for the Land Valuation Act value is also available under the Land Tax Act for undeveloped subdivided land that meets certain requirements (subdivider discount).

Under the new framework, land tax will be calculated by reference to the total value of Australian land owned by an owner. This will be the sum of the taxable value of all of their taxable land and the statutory value of all of their relevant interstate land. The statutory value of interstate land will be the value determined under corresponding interstate land valuation legislation which is the closest equivalent to the Land Valuation Act value (relevant interstate

value) when the liability for land tax arises for the financial year. Averaging and the subdivider discount will not apply to interstate land.

In New South Wales and Tasmania, the relevant interstate value will be the land value as determined under the *Valuation of Land Act 1916* (NSW) and the *Valuation of Land Act 2001* (Tas). In Victoria and South Australia, the relevant interstate value will be the site value determined under the *Valuation of Land Act 1960* (Vic) and the *Valuation of Land Act 1971* (SA). In Western Australia and ACT, the relevant interstate value will be the unimproved value determined under the *Valuation of Land Act 1978* (WA) and the *Rates Act 2004* (ACT). In the Northern Territory (NT), the relevant interstate value will be the unimproved capital value determined under the *Valuation of Land Act 1963* (NT).

For all jurisdictions, the statutory value for a financial year will be the land's relevant interstate value as at 30 June of the immediately preceding financial year. The Commissioner may decide that the relevant interstate value when liability arises is the amount notified by the taxpayer or worked out using information notified by the taxpayer when they give notice about their interstate land. Additionally, the Commissioner may decide that it is the amount determined by the Commissioner based on the information available when assessing the taxpayer's liability for land tax or at a later date after the Commissioner has assessed the taxpayer's liability for land tax. Where the Commissioner makes such a decision, the amount decided is taken to be the relevant interstate value for the financial year.

Further, where the taxpayer notifies the Commissioner that the relevant interstate value is a different amount that is lower than the amount decided (updated amount), the Commissioner must decide that the updated amount is the relevant interstate value for the financial year if satisfied it would be appropriate in the circumstances. Where the Commissioner makes such a decision, the amount is taken to be the relevant interstate value for the financial year. For example, where a relevant interstate value as at 30 June changes (e.g. due to a successful objection to a valuation which has retrospective effect), the taxpayer could notify the Commissioner of the new value and, if the Commissioner is satisfied that it is appropriate in the circumstances, the Commissioner must decide that it is the relevant interstate value and a reassessment would be made to take it into account.

Where a relevant interstate value is not determined for a parcel of interstate land because it is not a type of land that is valued under corresponding interstate valuation legislation, that land will not be taken into account for the purposes of calculating land tax (i.e. it will not be relevant interstate land). This will only be in very limited circumstances. It is contrasted with the situation where land is not valued in a particular year (e.g. due to a Government decision to defer valuations or where subdivisions and amalgamations of land are in progress) or where certain land is not separately valued (e.g. strata title scheme land may be valued rather than the individual lots). In these situations, the land will still be relevant interstate land and its statutory value will still be taken into account for calculating land tax.

Assessment of land tax

Currently, to assess land tax, the Commissioner identifies owners who may be liable for land tax for the first time and engages with them prior to issuing them a land tax assessment notice, so they have an opportunity to correct data or apply for an exemption. Under the Land Tax Act, owners are required to notify the Commissioner of certain matters, including if their land is no longer exempt or if their address for service has changed.

Under the new framework, a similar assessment model will apply. The Commissioner will identify owners of both Queensland and interstate land who are potentially liable for land tax and will provide them with a pre-assessment indication based on interstate landholding information known to the Commissioner.

In addition to the existing notification obligations which will generally apply to these owners, they will be required to notify the Commissioner of particular information about their interstate land. Specifically, they will be required to notify the Commissioner of the interstate land that they own, the extent of their interest in the interstate land and its statutory value, either by confirming the information in the pre-assessment indication or by amending or updating it. Where an owner cannot ascertain the statutory value of land for the financial year, they must notify the Commissioner of the most recent relevant interstate value for the land that the taxpayer can ascertain. Failure to comply with the new notification obligation will be an offence.

Owners will generally be required to notify the Commissioner of the information relating to their interstate land by 31 October each year. However, if an owner receives a notice of assessment before October in the relevant year, they will be required to notify the Commissioner within 30 days after the Commissioner gives them the assessment notice. For example, if the Commissioner is not aware that an owner owns interstate land and makes an assessment of land tax on the basis of the owner's taxable land only, the owner will be required to notify the Commissioner of the information relating to their interstate land within 30 days after the Commissioner gives them the assessment notice. This is consistent with the requirement in the Taxation Administration Act to advise the Commissioner if a liability for tax is under assessed within 30 days which will also apply in the same way that it applies to all taxpayers assessed under the state revenue laws.

Mineral Resources Regulation – introduction of additional progressive coal royalty rates

The *Mineral Resources Act 1989* provides that a person who mines mineral is required to pay royalty at the prescribed rate in respect of that mineral.

Under Schedule 3, section 5 of the Mineral Resources Regulation, the royalty rate applicable to coal sold, disposed of or used during a return period by a particular royalty payer is calculated with reference to the *average price per tonne* of such coal for the royalty payer. The average price per tonne is calculated with reference to the sales revenue (or value determined by the Commissioner, in cases such as where there is no arm's length sale) attributable to all coal sold, disposed of or used by the royalty payer during the return period.

The existing progressive three-tier royalty rate structure on coal is 7 per cent on the part of the average price per tonne up to and including A$100, 12.5 per cent on the part that is more than A$100 but not more than A$150, and 15 per cent on the part that is more than A$150.

Coal prices have risen substantially since the 2021–22 Queensland Budget, with coal prices reaching as high as around A$900 a tonne. Although the extremely high coal prices have resulted in a short-term boost to the State's royalty revenues, the current royalty structure for coal does not provide a fair return to Queenslanders on the use of the State's valuable and limited natural resources during periods of high prices.

The Mineral Resources Regulation is therefore amended to apply three additional progressive rates of royalty, as follows:

- 20 per cent on that part of the average price per tonne that is more than A$175 but not more than A$225;
- 30 per cent on that part of the average price per tonne that is more than A$225 but not more than A$300; and
- 40 per cent on that part of the average price per tonne that is more than A$300.

The new six-tiered rate system will apply in relation to coal sold, disposed of or used on or after 1 July 2022. The additional progressive rates will only effectively apply when prices are high, at times when the higher prices would also be resulting in increased revenues for coal producers.

Payroll Tax Act – introduction of mental health levy

The government is providing significant investments in state-funded mental health services through the new five-year strategy *Better Care Together: a plan for Queensland's state-funded mental health alcohol and other drug services*. The strategy aligns with the National Agreement on Mental Health and Suicide Prevention, which recognises the importance of balancing care across community-based and acute hospital-based services and using the right beds for the right purpose.

In the 2022-23 Queensland Budget, the government is providing funding to support initiatives under the five-year strategy and the *Achieving Balance: The Queensland Alcohol and Other Drugs Plan*, as well as Queensland's obligations under the National Agreement on Mental Health and Suicide Prevention.

In order to provide ongoing sustainable funding for critical elements of the State's health expenditure, the Payroll Tax Act is amended to apply a mental health levy (the levy) from 1 January 2023 to employers, or groups of employers, with annual Australian taxable wages over $10 million. In this context, 'Australian taxable wages' means wages that are either taxable wages under the Payroll Tax Act or interstate wages (being wages that are taxable wages under the payroll tax legislation of another Australian state or territory).

The levy is applied in relation to taxable wages paid or payable on or after 1 January 2023, as follows:

- for an employer who is not a member of a group, the levy is equal to:
    - 0.25 per cent of the employer's taxable wages, to the extent that the employer's annual Australian taxable wages for a financial year exceed $10 million; plus
    - an additional 0.5 per cent of the employer's taxable wages, to the extent that the employer's annual Australian taxable wages for a financial year exceed $100 million; and
- for an employer who is a member of a group, the levy is equal to:
    - 0.25 per cent of the employer's taxable wages, to the extent that the group's annual Australian taxable wages for a financial year exceed $10 million; plus
    - an additional 0.5 per cent of the employer's taxable wages, to the extent that the group's annual Australian taxable wages for a financial year exceed $100 million.

For example, an employer who is not a member of a group and has annual Australian taxable wages of $120 million (with no interstate wages) will pay an annual levy of $375,000, being 0.25 per cent of the $110 million of taxable wages above $10 million, plus 0.5 per cent of the $20 million of taxable wages above $100 million.

The thresholds at which the levy becomes payable at the 0.25 per cent and 0.5 per cent rates for a particular employer are determined at the start of each financial year, having regard to:

- whether the employer is a member of a group; and
- whether the employer (or, if the employer is a member of a group, any other employer in the group) anticipates paying interstate wages in addition to taxable wages during the financial year.

More particularly:

- where the employer or the group estimates that it will be paying interstate wages during the financial year as well as taxable wages, the thresholds are to be reduced by the proportion that the estimated taxable wages bear to the total estimated Australian taxable wages; and
- if the employer is a member of a group, the thresholds (following reduction on account of estimated interstate wages) are to be apportioned across the employers in the group with reference to each employer's proportionate share of the group's total estimated taxable wages.

Adjustments to the thresholds are also required in certain circumstances, such as where an employer first commences paying, or first becomes liable to pay, taxable wages during a particular period.

While existing payroll tax rates apply to total taxable wages of an employer once they exceed specified thresholds, the levy will only apply to the portion of the employer's actual taxable wages above the applicable thresholds (i.e. on a marginal basis).

The levy will be payable through the payroll tax system on the same basis, and at the same time, as payroll tax (i.e. through periodic, annual and final returns). That is, an employer is not required to separately register with the Commissioner in relation to the levy, and no separate return is required. Other aspects of the current payroll tax administrative system will apply to the levy, including unpaid tax interest, penalty tax, and the objections, appeals and review framework under the Taxation Administration Act.

To ensure transparency regarding the purpose and extent of revenue raised, the Payroll Tax Act specifies that the proceeds of the levy are to be spent on the provision of services and infrastructure that are consistent with the main objects of the *Mental Health Act 2016* or the guiding principles in sections 5(2) to 5(5) of the *Queensland Mental Health Commission Act 2013*. Any proceeds that are not expended within a financial year will be retained in the Consolidated Fund for expenditure in a later year consistent with those purposes.

Payroll Tax Act – increase to the phase out rate for deductions

The Payroll Tax Act imposes payroll tax at the rate of 4.75 per cent on annual taxable wages when the total yearly Australian taxable wages of an employer, or a group of employers, exceed the tax-free threshold of $1.3 million. The rate increases to 4.95 per cent for wages above $6.5 million.

Once total yearly Australian wages exceed the exemption threshold, the employer, or designated group employer for a group of employers, may claim a deduction from their taxable wages, which phases out at a rate of $1 for every $4 of taxable wages above the $1.3 million threshold. Therefore, employers with payrolls of $6.5 million or more currently receive no deduction.

The Payroll Tax Act is amended to extend the benefit of payroll tax deductions in Queensland from the current ceiling of $6.5 million in taxable wages up to $10.4 million. This reflects an increase in the phase out rate of the deduction from $1 for every $4 to a rate of $1 for every $7 of taxable wages above the $1.3 million threshold.

As the change commences part way through a financial year, transitional provisions will enable a regulation to be made to prescribe how the change will operate taking into account the commencement on 1 January 2023.

Payroll Tax Act – extension of apprentice and trainee rebate

Under the Payroll Tax Act, payroll tax is payable by employers on all taxable wages. However, certain wages are specifically exempt. Relevantly, wages paid to apprentices or trainees during the period of their apprenticeship or traineeship are exempt where specified conditions are met.

In addition to the exemption for wages paid to apprentices and trainees, the Payroll Tax Act also provides a payroll tax rebate for wages paid or payable during an *eligible year* by an employer, or the designated group employer for a group, to a person who is an apprentice or trainee under the *Further Education and Training Act 2014* (the apprentice and trainee rebate). An 'eligible year' is a financial year ending 30 June 2010, 2011, 2012, 2016, 2017, 2018, 2019, 2020 or 2021. For an eligible year ending on 30 June 2017, 2018, 2019, 2020 or 2021, a 50 per cent rebate applies to the wages of apprentices and trainees. For any other eligible year, the rebate is 25 per cent of the employer's apprentices and trainees wages.

The 2021-22 State Budget announced that the apprentice and trainee rebate would be extended to apply to the wages of apprentices and trainees paid or payable during the 2021-22 financial year. Pending amendment of the Payroll Tax Act, an administrative arrangement was approved to allow the Payroll Tax Act to be administered on the basis that:

- an 'eligible year' includes the financial year ending on 30 June 2022; and
- the applicable rebate is 50 per cent.

The terms of that administrative arrangement are currently set out in Public Ruling PTAQ000.5 – *Extension of payroll tax rebate for wages paid to apprentices and trainees* issued by the Commissioner.

The Payroll Tax Act is retrospectively amended to give legislative effect to that administrative arrangement.

To give effect to a 2022-23 State Budget measure, the Payroll Tax Act is also amended to extend the apprentice and trainee rebate (at a rate of 50 per cent) to include wages paid or payable in the financial year ending on 30 June 2023.

Gaming Machine Regulation – support the transfer of gaming machine operating authorities

Currently if a category 1 licensee wishes to sell unwanted gaming machine operating authorities, the licensee must participate in an authorised sale conducted by the Public Trustee of Queensland. Sales are conducted by competitive tender with the seller obligated to pay 33 per cent of the sale price to the Government's consolidated fund following a successful sale.

The amendments temporarily reduce the proportion of proceeds from the sale of category 1 licensed premises operating authorities paid by the seller into the consolidated fund to 15 per cent (from 33 per cent) for a trial period of 12 months. Amending the proportion of sales proceeds paid into the consolidated fund is intended to incentivise commercial hotel and commercial special facility licensees to offer unwanted operating authorities into the tender process. At the completion of the trial period Queensland Treasury will undertake an internal evaluation of the effect of the reduced rate on the transfer of category 1 licensed premises operating authorities.

Alternative ways of achieving policy objectives

Implementation of State Budget measures and changes to revenue and grant legislation

The policy objectives of the Bill relating to revenue and grant legislation can only be achieved by legislative amendment.

Support transfer of gaming machine operating authorities

<u>Increase gaming machine licence cap</u>

Increasing the availability of operating authorities for category 1 licensed premises could be achieved by increasing the prescribed State-wide cap which has been in place since 2012. However, given the potential risks of gambling-related harm, it is not proposed to increase the cap.

<u>Redistribute the number of authorities within regions</u>

It is not proposed to redistribute the number of operating authorities within the region-specific caps (e.g. increasing the cap in the South East region from the Western region allocation) as it is preferable to maintain the existing proportionality of available operating authorities in each region.

<u>Flat fee</u>

Maintaining a commission based on percentage of purchase price as provided under the amendment to the Gaming Machine Regulation rather than a flat fee amount, ensures particular regions where sales prices are highest do not disproportionally benefit from implementing a flat fee.

The amendment to the Gaming Machine Regulation in the Bill is considered to provide the most responsible and equitable method to achieve the policy objectives.

Estimated cost for government implementation

For all amendments in the Bill, all implementation costs are expected to be met from within approved budget allocations.

In relation to the amendment to the Gaming Machine Regulation, the impact on the consolidated fund will ultimately depend on whether there is an increase in the number of authorities transferred and the value of the authorities. With the current low number of transfers, the risk of forgone losses to the consolidated fund, which would materialise if there is not a significant offsetting increase in the overall number of authorities transferred, is considered to be low.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles. Potential inconsistences are discussed below.

Duties Act – exemption from AFAD for retirement visa holders – sufficient regard to the rights and liberties of individuals (Legislative Standards Act 1992, section 4(2)(a))

Section 4(2)(a) of the *Legislative Standards Act 1992* (Legislative Standards Act) requires that legislation has sufficient regard to the rights and liberties of individuals.

The amendments to the Duties Act to exempt retirement visa holders from AFAD creates an obligation for a holder who has claimed the exemption to notify the Commissioner if the holder fails to meet one of the residence requirements. Failure to comply with that notification obligation will fall within the existing ‘failure to give notice’ offence in section 120 of the Taxation Administration Act, which has a maximum penalty of 100 penalty units.

This is consistent with the consequences of failing to comply with existing notification obligations under the Duties Act (such as in relation to changes in circumstances affecting eligibility for the transfer duty home concessions), and is appropriate to ensure that suitable sanctions are in place to disincentivise non-compliance.

The offence provisions of the Taxation Administration Act are well-established, having been in place for a number of years and they apply consistently across Queensland’s revenue laws. They are considered to have sufficient regard to fundamental legislative principles.

It is therefore considered that these amendments have sufficient regard to the rights and liberties of individuals.

Duties Act – exemptions for small business restructures – retrospectivity (Legislative Standards Act, section 4(3)(g))

Section 4(3)(g) of the Legislative Standards Act provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, amongst other things, the legislation does not adversely affect rights and liberties, or impose obligations, retrospectively.

The amendments to the Duties Act in respect of the exemptions from transfer duty and vehicle registration duty for small business restructures will have retrospective effect from 7 September 2020 (in relation to the transactions covered by the original administrative arrangement) or 28 June 2021 (in relation to the additional transactions covered by the expanded small business administrative arrangement).

Retrospective amendment is considered necessary and appropriate as it will give legislative effect to a beneficial administrative arrangement which has facilitated such exemptions from the relevant date. This administrative arrangement has been published in a Public Ruling issued by the Commissioner.

Duties Act – extension of transfer duty exemption for deceased estates – retrospectivity (Legislative Standards Act, section 4(3)(g))

The amendments to the Duties Act in respect of the extension of the deceased estates exemption will have retrospective effect from 3 April 2017 (in relation to a statutory vesting under section 45 of the Succession Act) or 6 August 2019 (in relation to a statutory vesting under sections 69A and 96 of the ATSILH Act).

Retrospective amendment is considered necessary and appropriate as it will give legislative effect to a beneficial administrative arrangement which has facilitated such exemptions from the relevant date. This administrative arrangement has been published in a Public Ruling issued by the Commissioner.

Duties Regulation – amendments to recognised stock exchanges – retrospectivity (Legislative Standards Act, section 4(3)(g))

The amendments to the Duties Regulation in respect of the prescription of Euronext N.V. as a recognised stock exchange will have retrospective effect from 1 January 2017.

Retrospective amendment is considered appropriate to ensure continuity of the status of Euronext N.V. as a recognised stock exchange and remove any potential uncertainty due to a lapse in recognition for dutiable transactions that may have occurred between Euronext N.V. ceasing to be a member of the WFE and when the Duties Regulation is amended.

First Home Owner Grant and Other Home Owner Grants Act 2000 – clarification of the HomeBuilder Grant amount – retrospectivity (Legislative Standards Act, section 4(3)(g))

The amendments to the FHOG and Other Grants Act will have retrospective effect from 1 January 2021, so that all payments made on applications involving contracts made during the extended grant period are supported by legislation.

Although a reduction in the grant amount is not beneficial, practically it is not considered to adversely affect the rights and liberties of individuals.

As the Commissioner has been administering the grant on the basis that a reduced grant of $15,000 is available for the extended grant period, no grant recipients will be required to repay an amount as a result of the amendments. Additionally, as Australian Government and Queensland Government information (e.g. provided online and through media statements) has clearly and consistently distinguished between different grant amounts for the different periods,

it is considered unlikely that any individuals who made a contract during the extended grant period would have relied on the FHOG and Other Grants Act, nor would they have legitimately expected to receive a $25,000 grant.

Further, before submitting an application for the grant, applicants were required to sign a declaration that they had read and understood the administrative direction, which was updated to reflect the reduced $15,000 grant amount on 16 December 2020. As applications for the grant closed on 14 April 2021, the amendments will not affect future applicants.

Additionally, these amendments are necessary to ensure the grant is properly administered in accordance with the Australian Government's policy and to ensure equity for all applicants who made a contract during the extended grant period.

Therefore, it is considered that these amendments are justified in the circumstances and do not breach fundamental legislative principles.

Land Tax Act – land tax reform to take into account the value of interstate land – sufficient regard to the rights and liberties of individuals (Legislative Standards Act, section 4(2)(a))

Under the new framework, owners of both taxable land and interstate land (including individuals) will generally be required to notify the Commissioner of certain information about their interstate land. However, only information that is necessary to determine an owner's land tax liability will be collected. In addition, a number of safeguards exist to mitigate the impact, including strict confidentiality provisions in the Taxation Administration Act which generally prohibit the disclosure of personal confidential information except in particular limited circumstances. The *Information Privacy Act 2009* (Information Privacy Act) and the Queensland Government information security policy also protect individuals' privacy.

The notification obligation will apply to all owners of both taxable land and interstate land who are potentially liable for land tax in Queensland to ensure consistent treatment of potentially impacted owners. Data will be used to identify potentially impacted owners and a range of communication strategies will be used to inform them of their notification obligations.
Owners who fail to notify may be subject to existing provisions in the Taxation Administration Act which impose interest and penalty tax. However, the Commissioner has the power to remit unpaid tax interest and penalty tax having regard to the circumstances of the particular case. For example, cases where there are circumstances outside of the taxpayer's control can be contrasted with cases involving a deliberate disregard of obligations. Consistent with all other taxpayers, owners will have the ability to challenge the imposition of interest and penalty tax by objecting to their assessment and, if dissatisfied with the decision on objection, will be able to appeal the decision.

In addition, where owners fail to meet their notification obligations, they will be subject to an existing offence provision under the Taxation Administration Act. This is consistent with the consequences for failing to comply with existing notification obligations under the Land Tax Act, such as the obligation to notify that land is no longer exempt.

This is appropriate to ensure there are suitable sanctions in place to disincentivise non-compliance with the new notification requirement and is particularly necessary as owners will be assessed for land tax on the basis of these notices. However, in circumstances where interest and penalty tax have been imposed, that is generally considered a sufficient sanction and prosecution under an offence provision would only be pursued in cases of serious non-compliance.

Owners of both taxable land and interstate land will also be generally subject to the existing notification obligations in the Land Tax Act for which failure to comply is an offence. This will support administration of the land tax reform, as well as ensure consistent treatment of owners for land tax purposes, irrespective of where their land is located.

These offence provisions are well-established, having been in place for a number of years and they apply consistently across Queensland's revenue laws. They are considered to have sufficient regard to fundamental legislative principles.

To administer this model, data will be used to identify potentially impacted taxpayers. This will involve the use of interstate landholding information. In certain circumstances, the Commissioner will use interstate landholding information known to the Commissioner to source more complete data. Additionally, where the Commissioner has identified that an owner is potentially impacted by the land tax reform, the Commissioner will provide that owner with interstate land information known to the Commissioner (e.g. the interstate land that they own, the extent of their interest in the interstate land and its statutory value).

As it is in Queensland, this type of information is available on interstate public registers which contain land ownership details, land identification information and land valuation information. Additionally, as noted above, the Commissioner is subject to strict confidentiality provisions in the Taxation Administration Act which generally prohibit the disclosure of confidential information except in specific limited circumstances. The Information Privacy Act and the Queensland Government information security policy also protect individuals' privacy.

To the extent that the Commissioner discloses information to a third party to source more complete data in accordance with the Taxation Administration Act provisions, the third party to whom the information is disclosed will be subject to provisions in the Taxation Administration Act which generally prohibit on-disclosure of that information except in specific limited circumstances. It is an offence to on-disclose information outside of these circumstances and a penalty may apply for non-compliance. Additionally, any arrangements with a third party will be governed by a contract which will include confidentiality clauses.

It is therefore considered that the amendments have sufficient regard to the rights and liberties of individuals.

Land Tax Act – land tax reform to take into account the value of interstate land – legislation should make rights and liberties or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review (Legislative Standards Act, section 4(3)(a))

New part 6A of the Land Tax Act contains the exclusions available for interstate land. While the categories of exclusion and the requirements attached are, as far as possible, intended to mirror the categories and requirements of the existing exemptions in part 6, there are some exceptions.

In particular, for some categories of exclusion, the requirements of the corresponding existing exemptions are not broad enough to apply to interstate land and/or owners of interstate land. For example, because they require particular concepts defined in Queensland legislation to be satisfied. An example is the existing supported accommodation exemption which is available for land on which a residential service accredited at level 3 under the *Residential Services (Accreditation) Act 2002* is conducted. Accordingly, new part 6A provides equivalent requirements, which align as far as possible with the existing exemption requirements, for these categories of exclusion.

In relation to the supported accommodation exclusion, moveable dwelling park exclusion and the retirement villages exclusion, they may be available if concepts that substantially correspond with concepts relevant to the existing exemption are satisfied. For example, the supported accommodation exclusion will be available if land is used to conduct a service that substantially corresponds to a residential care service conducted in Queensland that may be accredited at level 3 under the *Residential Services (Accreditation) Act 2002.*

A decision as to whether a particular concept substantially corresponds will determine whether the relevant exclusion is available to an owner. This will affect the total value of Australian land owned by an owner which will ultimately affect the amount of land tax payable.

However, this is appropriate to ensure that the exclusions can have application across all jurisdictions which each have their own unique legislative frameworks and concepts governing the matters to which these exclusions relate. To provide certainty, for particular concepts in the supported accommodation exclusion and the retirement villages exclusion where appropriate, the relevant exclusion provisions contemplate that a regulation may be made to prescribe what is within scope of that concept. Further certainty can also be provided by way of a Public Ruling if required.

Additionally, if the Commissioner determines that an exclusion is not available and then subsequently makes an assessment of land tax on this basis, the decision will be subject to objection under the Taxation Administration Act as part of an objection to the assessment. Further, taxpayers dissatisfied with a decision on objection have the right to appeal to the Supreme Court or apply to the Queensland Civil and Administrative Appeal Tribunal for a review.
It is therefore considered that the amendments do not breach fundamental legislative principles.

Payroll Tax Act 1971 – introduction of mental health levy – legislation should make rights and liberties or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review (Legislative Standards Act, section 4(3)(a))

The threshold at which an employer becomes responsible for paying the levy will depend on, amongst other things, whether the employer is a member of a group. Although the grouping of employers occurs automatically by operation of the Payroll Tax Act, the Commissioner has a power under that Act to exclude an employer from a group. Accordingly, a decision by the Commissioner to not exclude a particular employer from a group will have consequences for the levy liability of each employer in the group.

Although such a decision by the Commissioner is not directly open to review, an assessment of levy which is made on the basis of a particular employer being a member of a group will be subject to the objection, review and appeal framework set out in Part 6 of the Taxation Administration Act. The employer may object against that assessment on the basis that the Commissioner erred in declining to exclude the employer from the relevant group (thus affecting the employer's liability for the levy). Where the objection is upheld on that basis, the employer's liability for the levy will be reassessed and any overpayment refunded, subject to the provisions of the Taxation Administration Act and the Payroll Tax Act.

It is therefore considered that the amendments do not breach fundamental legislative principles.

Payroll Tax Act 1971 – increase to the phase out rate for deductions – retrospectivity (Legislative Standards Act, section 4(3)(g))

The amendments to the Payroll Tax Act to increase the phase out rate for deductions provide for the making of transitional regulations (transitional regulation making power) to ensure the effective transition from the operation of the Payroll Tax Act as in force before its amendment to the operation of the Payroll Tax Act as in force from such amendment. A transitional regulation may operate retrospectively from as early as the day the transitional regulation making power commences. Further, a transitional regulation and the power to make these regulations will expire 1 year after the transitional regulation making power commences.

Payroll tax is imposed on taxable wages paid or payable in a financial year and these amendments are commencing part way through the 2022-23 financial year. Therefore, specific provisions may be required to ensure that an employer's annual and/or final liability for payroll tax in relation to wages paid or payable in the 2022-23 financial year is calculated as intended.

For example, for annual returns for the 2022-23 financial year, an employer's annual liability for payroll tax will need to be calculated by reference to two different deduction phase-out rates, being the deduction phase out rate of $1 for every $4 of taxable wages above $1.3 million for the first 6 months and the deduction phase-out rate of $1 for every $7 of taxable wages above $1.3 million for the second 6 months.

A similar issue may arise for final returns lodged during the 2022-23 financial year. A final return is required to be lodged where a change of status happens for an employer, such as the employers ceases to be an employer or becomes a member of a payroll tax group. Where a change of status happens during the 2022-23 financial year, the employer's final liability may need to be calculated by reference to two different deduction phase-out rates.

A transitional regulation containing these specific provisions may need to operate retrospectively to ensure payroll tax is appropriately calculated in relation to wages paid or payable for the 2022-23 financial year. However, any transitional regulation will ultimately be to facilitate the implementation of the increased phase-out rate, which is taxpayer beneficial. Additionally, it is intended that any transitional regulation will be made before 1 January 2023, providing certainty regarding the calculation of payroll tax before the increased phase-out rate commences.

It is therefore considered that the amendments do not breach fundamental legislative principles.

Payroll Tax Act 1971 – extension of apprentice and trainee rebate – retrospectivity (Legislative Standards Act, section 4(3)(g))

The amendments to the Payroll Tax Act in respect of the 2021-22 State Budget payroll tax measure will have retrospective effect from 1 July 2021, so that the availability of the apprentice and trainee rebate in respect of relevant wages paid in the financial year ending on 30 June 2022 is supported by legislation.

Retrospective amendment is considered necessary and appropriate as it will give legislative effect to a beneficial administrative arrangement which has enabled the Payroll Tax Act to be administered on the basis that the apprentice and trainee rebate is available for wages paid to apprentices and trainees in the 2021-22 financial year. This administrative arrangement has been published in a Public Ruling issued by the Commissioner.

Consultation

For all amendments in the Bill other than those in relation to the Land Tax Act and Gaming Machine Regulation, community consultation was not undertaken in relation to the amendments as the amendments implement 2021-22 and 2022-23 State Budget measures, give effect to government policy decisions to provide exemptions from duty in particular limited circumstances or are necessary to support and provide clarification in relation to grant administration.

In relation to the amendments to the Land Tax Act, confidential consultation was undertaken with key property, tax and accounting bodies in relation to unintended consequences and issues relating to implementation of the land tax reform. This included the provision of a consultation paper which was provided on a confidential basis to targeted bodies positioned to comment on the issues within scope. All bodies consulted were given an opportunity to provide written submissions. Submissions received during this consultation were taken into account in settling the amendments to the Land Tax Act and the timing for implementation of the land tax reform.

In relation to the amendment to the Gamine Machine Regulation, stakeholders, including the Queensland Hotels Association (QHA) have raised concerns that the current revenue and allocation approach to gaming authorities is presenting an impediment to hotel operators that wish to dispose of gaming authorities. During consultation the QHA proposed to replace the existing percentage sales commission with a flat fee.

Wider public consultation on the proposal was not undertaken. Given the proposal will not increase the overall number of operating authorities, or number of authorities available per

region, or the number of authorities approved by the regulator for any particular hotel, is anticipated that there will not be any increase on gambling-related harm already anticipated by existing regulatory arrangements.

The proposal to temporarily reduce the payable sales commission did not require review by the Office of Best Practice Regulation, nor further regulatory impact analysis.

Consistency with legislation of other jurisdictions

The amendments are specific to the State of Queensland and are not otherwise uniform with or complementary to legislation of the Commonwealth or another state or territory.

This includes the amendments to implement the land tax reform. While all jurisdictions except for NT have statutory land tax regimes, the amendments are not uniform with or complementary to land tax legislation in other jurisdictions nor any land tax reforms announced in other jurisdictions.

Most other jurisdictions allow for the sale or transfer of gaming machine authorities. However, there is not a consistent approach to the levying of a percentage of the sales proceeds or the implementation of a flat transfer fee or application fees. Accordingly, the legislation is unique to Queensland.

New South Wales, South Australia, Northern Territory and the Australian Capital Territory enable a transfer or sale of gaming machine entitlements with a fixed fee levied per sale/transfer or upon application.

Similar to Queensland, Victoria enables the transfer of gaming machine entitlements through a Government organised transfer scheme. A proportion of 75 per cent of prescribed profit from the transfer of gaming machine entitlements which expire on 15 August 2022 are to be paid to the Victorian Treasurer by the venue operator transferring the entitlements. For entitlements which expire following 16 August 2022, both the transferor and the transferee are required to pay an amount (calculated by an assessment of sale amounts) to the Treasurer following a sale.

Existing Tasmanian legislation does not provide any similar comparable framework. Tasmania will be seeking to commence legislation from 1 July 2023 enabling the transfer of gaming machine authorities.

In Western Australia, electronic gaming machines are only authorised for use at a particular licensed casino.

Notes on provisions

Part 1 Preliminary

Clause 1 provides that the Bill, when enacted, may be cited as *Revenue Legislation Amendment Act 2022.*

Clause 2 provides for the commencement of the amendments made by the Bill. In particular, it provides that the amendments to the:

- *First Home Owner Grant and Other Home Owner Grants Act 2000* to clarify the amount of the HomeBuilder grant (the grant) are taken to have commenced on 1 January 2021;
- *Mineral Resources Regulation 2013* commence on 1 July 2022;
- *Duties Act 2001* to provide an exemption from additional foreign acquirer duty commence on 1 January 2023;
- *Land Tax Act 2010* commence on 1 January 2023. These amendments implement the land tax reform from the 2023-24 financial year; and
- *Payroll Tax Act 1971* in relation to the changes to increase the phase-out rate for deductions and the mental health levy measure commence on 1 January 2023.

Part 2 Amendment of the Duties Act 2001

Clause 3 provides that part 2 amends the *Duties Act 2001.*

Clause 4 amends section 124, which provides an exemption from transfer duty for certain dutiable transactions in the administration of deceased estates, to extend the exemption to certain dutiable transactions involving a vesting of dutiable property under particular legislation. New section 124(d) provides that the exemption applies to a dutiable transaction that is a vesting of dutiable property under section 45 of the *Succession Act 1981.*

New section 124(e) provides that the exemption also applies to a dutiable transaction that is a vesting of dutiable property under section 69A of the *Aboriginal and Torres Strait Islander Land Holding Act 2013.* It clarifies that this includes section 69A as it continues to apply under section 96 of the *Aboriginal and Torres Strait Islander Land Holding Act 2013,* as section 69A expires on 30 June 2022. Section 96 is a transitional provision that provides for the continued application of section 69A after expiry of that section in relation to particular leases.

Clause 5 amends a note to section 157(1) which imposes landholder duty on relevant acquisitions. One of the existing notes currently refers to exemptions for landholder duty contained in chapter 3, division 5 and chapter 10, part 1. This note is amended to also reference other exemptions from landholder duty in chapter 10 including, for example, the new exemption for particular dutiable transactions and relevant acquisitions for Queensland Future (Debt Retirement) Fund (Debt Retirement Fund).

Clause 6 inserts new part 1A into chapter 10, to provide for exemptions for particular duties for small business restructures.

New sections 413A to 413E provide definitions of ‘small business entity’, ‘small business property’, ‘transferee corporation’, ‘share interest’ and ‘default beneficiary’.

New section 413F provides for an exemption from transfer duty and vehicle registration duty where small business property is transferred or agreed to be transferred from an individual to a transferee corporation. The individual must be a shareholder in the transferee corporation and the unencumbered value of the small business property must not exceed $10 million.

Subject to satisfaction of the conditions, transfer duty will not be imposed to the extent of the lesser of the individual’s ownership interest in the small business property immediately before the transfer or the agreement was entered into, and the individual’s share interest in the transferee corporation immediately after the transfer or the agreement was entered into. If small business property includes a vehicle, vehicle registration duty will not be imposed on an application to transfer the vehicle.

Example -

An individual carries on a business and has 100 per cent legal ownership of the small business property. The individual registers a new corporation and is the only shareholder of the corporation. The individual transfers the small business property to the corporation.

Assuming all conditions have been satisfied, transfer duty will not be imposed on the full dutiable value of the small business property. This is because the individual’s ownership interest in the property immediately before the transfer, and their share interest in the transferee corporation immediately after the transfer, are the same (100 per cent).

However, if a new shareholder is brought into the business when the new corporation is registered (resulting in the individual and new shareholder each having a 50 per cent share interest), transfer duty will not be imposed on 50 per cent of the dutiable value of the small business property. This is because the individual’s share interest in the transferee corporation immediately after the transfer is 50 per cent, whereas the individual originally had a 100 per cent legal ownership interest in the small business property. Accordingly, transfer duty will still be imposed on 50 per cent of the dutiable value of the small business property.

New section 413G provides for an exemption from transfer duty and vehicle registration duty where small business property is transferred or agreed to be transferred from one or more partners of a partnership to a transferee corporation. All of the partners must be shareholders in the transferee corporation and the unencumbered value of the small business property must not exceed $10 million.

Subject to satisfaction of the conditions, transfer duty will not be imposed to the extent of the lesser of each partner’s partnership interest in the partnership immediately before the transfer or the agreement was entered into, and each partner’s share interest in the transferee corporation immediately after the transfer or the agreement was entered into. If small business property includes a vehicle, vehicle registration duty will not be imposed on an application to transfer the vehicle.

Example 1 -

A partnership comprising two partners, each with a 50 per cent partnership interest, directly holds small business property and carries on a business. The partners buy a shelf corporation in which the partners each have a 50 per share interest. The partners then transfer the small business property to the corporation.

Assuming all conditions have been satisfied, transfer duty will not be imposed on the full dutiable value of the small business property. This is because there has been no change in the proportion of each partner's partnership interests immediately before the transfer, and their share interests in the transferee corporation immediately after the transfer.

Example 2 -

A partnership comprises four partners: A, B, C and D. The partners have partnership interests of 40 per cent, 20 per cent, 20 per cent and 20 per cent respectively. The partnership directly holds small business property and carries on a business. The partners register a new corporation. However, the partners' share interests in the corporation are each 25 per cent. The partners then transfer the small business property to the corporation.

Assuming all conditions have been satisfied, the transfer duty exemption will be calculated as follows:

- *For A—transfer duty will not be imposed on 25 per cent of the dutiable value of the small business property, because A's share interest in the transferee corporation immediately after the transfer is 25 per cent, compared to their original 40 per cent partnership interest.*
- *For B, C and D respectively—transfer duty will not be imposed on 20 per cent of the dutiable value of the small business property (totalling 60 per cent), because each of their partnership interests immediately before the transfer was 20 per cent; whereas each of their share interests immediately after the transfer is 25 per cent.*
- *Accordingly, when totalled, transfer duty will not be imposed on 85 per cent of the dutiable value of the small business property. Transfer duty will be imposed on the remaining 15 per cent of the dutiable value of the small business property.*

New section 413H provides for an exemption from transfer duty and vehicle registration duty where small business property is transferred or agreed to be transferred from the trustee of a discretionary trust to a transferee corporation. All default beneficiaries of the trust must be shareholders in the transferee corporation and the unencumbered value of the small business property must not exceed $10 million.

Subject to satisfaction of the conditions, transfer duty will not be imposed to the extent of the lesser of each default beneficiary's trust interest in the discretionary trust immediately before the transfer or the agreement was entered into, and each default beneficiary's share interest in the transferee corporation immediately after the transfer or the agreement was entered into. If

small business property includes a vehicle, vehicle registration duty will not be imposed on an application to transfer the vehicle.

> *Example -*
>
> *The trustee of a discretionary trust directly holds small business property and carries on a business. There are three beneficiaries that are takers in default: A and B are individuals; whereas C is the last taker in default of appointment by the trustee and a charity. C is not a default beneficiary under the exemption. Accordingly, A and B are the default beneficiaries, and are taken to hold their trust interests in equal shares (50 per cent each).*
>
> *The trustee registers a new corporation, with A and B as shareholders, each with an equal share interest of 50 per cent. The trustee then transfers the small business property to the corporation.*
>
> *Assuming all conditions have been satisfied, transfer duty will not be imposed on the full dutiable value of the small business property. This is because each beneficiary's trust interest in the discretionary trust immediately before the transfer, and their share interest in the transferee corporation immediately after the transfer, are the same (50 per cent each, totalling 100 per cent).*

New section 413I provides for an exemption from transfer duty and vehicle registration duty where small business property is transferred or agreed to be transferred from the trustee of a discretionary trust to a transferee corporation, provided the trustee is the sole shareholder of the trustee corporation. The unencumbered value of the property must not exceed $10 million and the rights and interests of the small business beneficiaries of the trust (as defined in the section) immediately before the transfer or the agreement was entered into are the same immediately after the transfer or the agreement was entered into.

Subject to satisfaction of the conditions, transfer duty will not be imposed on the transaction. If small business property includes a vehicle, vehicle registration duty will not be imposed on an application to transfer the vehicle.

> *Example 1 -*
>
> *The trustee of a discretionary trust directly holds small business property and carries on a business. There are two beneficiaries that are small business beneficiaries: A and B, and one small business beneficiary that is a taker in default: C.*
>
> *The trustee registers a new corporation, with the trustee as the sole shareholder. The trustee then transfers the small business property to the corporation.*
>
> *There is no alteration to the trust deed for the trust with the rights and interests of the beneficiaries of the trust immediately before the transfer being the same immediately after the transfer.*
>
> *Assuming all conditions have been satisfied, transfer duty will not be imposed on the full dutiable value of the small business property.*

Example 2 –

The same facts apply as for example 1 above, with the exception that the transfer of small business property is part of an arrangement involving a change to add an additional beneficiary as a taker in default: D. The transaction will not qualify for the exemption as the rights and interests of the beneficiaries of the trust that existed immediately before the transfer are not the same immediately after the transfer.

Clause 7 inserts new section 431B which provides an exemption for particular dutiable transactions and relevant acquisitions for the Queensland Future (Debt Retirement) Fund (the Debt Retirement Fund).

New section 431B(1) provides that, new section 431B(2) applies in relation to a dutiable transaction or relevant acquisition that is, or is part of an arrangement that is, intended to advance the purpose of the Debt Retirement Fund.

New section 431B(2)(a) provides that transfer duty or landholder duty is not imposed on a dutiable transaction or relevant acquisition that is, or is part of an arrangement that is, for making a contribution to, or an investment for the purpose of, the Debt Retirement Fund. New section 431B(2)(b) provides that transfer duty or landholder duty is not imposed on a dutiable transaction or relevant acquisition that is, or is part of an arrangement that is, for a purpose connected with or arising out of a contribution or investment mentioned under section 431B(2)(a) or an arrangement prescribed by regulation.

Example -

Entity A owns a parcel of land in Queensland which is to be contributed to the Debt Retirement Fund. After the land is contributed to the Debt Retirement Fund, the intention is that it will be invested for the Debt Retirement Fund through PQ Trust which has a direct interest in the RS Trust and an indirect interest in the UV Trust. To give effect to this:

- *Entity A will transfer the land to the trustee of PQ Trust (transaction 1) for nominal consideration.*
- *The trustee of PQ Trust will transfer the land to the trustee of the RS Trust (transaction 2). As consideration, the trustee of the RS Trust will issue 15 units in the RS Trust (transaction 3).*
- *The trustee of the RS trust will transfer the land to the trustee of the UV Trust (transaction 4). As consideration, the trustee of the UV Trust will issue 10 units in the UV Trust (transaction 5).*

Each of the above dutiable transactions form part of an arrangement that is intended to advance the Debt Retirement Fund's purpose to provide funding to reduce the State's debt. There is no limit on the number of transactions that may fall within such an arrangement.

The initial transfer of the land from Entity A to the trustee of PQ Trust (transaction 1) will be exempt from duty as it is for the purpose of making a contribution to the Debt Retirement Fund.

Each of the subsequent transfers and unit trust subscriptions (transactions 2 to 5) will be exempt from duty as they are for making an investment for the purpose of the Debt Retirement Fund.

New section 431B(3) provides that transfer duty is also not imposed on a dutiable transaction that is a trust acquisition of a unit in a unit trust if the trust acquisition is, or is part of an arrangement that is, intended to advance the purpose of the Debt Retirement Fund and each unit acquired is held solely and directly for the Debt Retirement Fund.

New section 431B(4) provides that transfer duty is also not imposed on a dutiable transaction that is a trust surrender of a unit in a unit trust if the trust surrender is part of an arrangement that is intended to advance the purpose of the Debt Retirement Fund and, under the arrangement, the trust surrender of the unit is because of a trust acquisition of a unit in the same unit trust and the exemption under section 431B(3) applies to that trust acquisition.

Example -

AB is a unit trust through which investments may be made for the Debt Retirement Fund. All of the units in AB Trust are held for the Debt Retirement Fund.

Following a contribution and investment for the Debt Retirement Fund, the trustee of the AB trust will acquire units in the CD trust as part of an arrangement to ensure that the Debt Retirement Fund continues to be recognised by rating agencies when undertaking Queensland's credit rating assessments.

CD Trust is a unit trust which owns land in Queensland. 20 units in in CD Trust are to be issued to the trustee of the AB Trust (transaction 1). To facilitate the issue of units, 20 units in the CD Trust that are currently held by Entity X will be redeemed (transaction 2).

Transaction 1 will be exempt from transfer duty under section 431B(3). This is because it is part of an arrangement intended to advance the Debt Retirement Fund's purpose to provide funding to reduce the State's debt and the units will be held solely and directly held for the Debt Retirement Fund.

Transaction 2 will be exempt from transfer duty under section 431B(4). This is because it is part of an arrangement that is intended to advance the Debt Retirement Fund's purpose to provide funding to reduce the State's debt and the units in CD Trust are being redeemed because of transaction 1 which will be exempt from transfer duty under section 431B(3)and involves the acquisition of units in the same trust.

Section 431B(5) provides a definition of 'Queensland Future (Debt Retirement) Fund', being the Queensland Future (Debt Retirement) Fund established under the *Queensland Future Fund Act 2020.*

Clause 8 inserts new part 27 into chapter 17 to provide transitional provisions for the *Revenue Legislation Amendment Act 2022.*

New section 676 provides for the retrospective effect of new section 124, which is defined in new section 676(3) as section 124 as amended by the *Revenue Legislation Amendment Act 2022*.

New section 676(1) provides that new section 124(d) applies, and is taken to have applied from 3 April 2017, in relation to a vesting of dutiable property, on or after that date, under section 45 of the *Succession Act 1981*. New section 676(2) provides that new section 124(e) applies, and is taken to have applied from 6 August 2019, in relation to a vesting of dutiable property, on or after that date, under section 69A of the *Aboriginal and Torres Strait Islander Land Holding Act 2013*.

New section 677 provides for the retrospective effect of the small business restructure exemptions in sections 413F—413H, from 7 September 2020.

New section 678 provides for the retrospective effect of the small business restructure exemption in section 413I, from 28 June 2021.

Clause 9 replaces the definition of ‘relevant acquisition’ in dictionary in schedule 6. The new definition ensures that, for the purpose of the new exemption in section 431B for particular dutiable transactions and relevant acquisitions for the Debt Retirement Fund, the concept of a relevant acquisition takes its meaning from section 158 which defines a relevant acquisition for the landholder duty provisions. With the exception of a minor wording change to address a drafting issue, the new definition otherwise mirrors the current definition of relevant acquisition.

The clause also inserts new definitions of ‘default beneficiary’, ‘small business entity’, ‘small business property’ and ‘transferee corporation’, and replaces the definition of ‘share interest’ in schedule 6. These definitions relate to the new duty exemptions for small business restructures.

Clause 10 amends section 231, which provides for the imposition of an additional foreign acquirer duty or AFAD on particular relevant transactions under chapter 4. Section 230 specifies that chapter 4 applies to relevant transactions, that is dutiable transactions on which transfer duty is imposed under chapter 2 and relevant acquisitions on which landholder duty or corporate trustee duty is imposed under chapter 3. ‘Dutiable transaction’ and ‘relevant acquisition’ are defined in Schedule 6 and these terms are not changing.

Relevantly, section 231(3) provides that chapter 4, part 3 provides for when AFAD is imposed on a relevant transaction. Section 231(3) is amended to insert a new note to reference that an exemption for AFAD is now dealt with in new chapter 4, part 4A.

Clause 11 renumbers current section 246 as new section 245A.

Clause 12 inserts a new chapter 4, part 4A which provides an exemption for AFAD.

New section 246 provides an exemption for AFAD for specified foreign retirees, subject to certain conditions. New section 246(1) provides that AFAD is not imposed on a relevant transaction to the extent of a relevant acquirer’s interest in dutiable property under the transaction, where the conditions set out in new sections 246(1)(a)-(c) are satisfied. New section 246(2) defines a ‘relevant acquirer’, of dutiable property, as a transferee of the property,

for a transfer, or agreement for the transfer of dutiable property under a dutiable transaction, or the principal for the property, where an agreement for the transfer of dutiable property is entered into by an agent on behalf of a principal within the meaning of section 240(2)(a).

The 'interest' of a relevant acquirer in dutiable property under a relevant transaction is also defined in section 246(2) as the proportion that the share of the acquirer under the transaction bears to the total of the shares of all acquirers under the transaction. This clarifies that, where there may be more than one acquirer for a relevant transaction, the exemption under section 246 only applies to the proportion of the dutiable property that is attributable to the relevant acquirer, not the whole property.

New section 246(1)(a) requires that the transaction is a transfer, or agreement for transfer, of the property.

New section 246(1)(b) requires that, at the time the liability for transfer duty on the transaction arises, the relevant acquirer is a specified foreign retiree, the property is AFAD residential land and the relevant acquirer's interest in the property is not held on trust.

'Specified foreign retiree' is defined in section 246(2) as, under paragraph (a), a foreign individual who holds a class of visa referred to as a Subclass 405 (Investor Retirement) visa or Subclass 410 (Retirement) visa. Alternatively, under paragraph (b), a foreign individual who applied on or after 8 May 2018 for a class of visa referred to as a Subclass 103 (Parent) visa or Subclass 143 (Contributory Parent) visa and whose last substantive visa, held before making the application, was a class of visa mentioned in paragraph (a) and whose application has not been decided. A 'foreign individual' is defined in section 235 and 'AFAD residential land' is defined in section 232 and these definitions are not changing.

Section 246(2) also defines 'class of visa' and 'substantive visa' by reference to the *Migration Act 1958.*

New section 246(1)(c) requires that the relevant acquirer will occupy a residence on the land as their principal place of residence within a particular period after the day on which the relevant acquirer is entitled to possession of the land under the relevant transaction. That is, within 1 year if there is a residence on the land at the time the liability for transfer duty on the transaction arises, or otherwise, within 2 years.

A relevant acquirer must satisfy all the conditions set out in paragraphs (a)-(c) to qualify for the exemption for AFAD in section 246.

Clause 13 inserts a new chapter 4, part 5, division 4 which provides for reassessments of transactions that have been assessed on the basis of an exemption for AFAD under section 246.

New section 246AG contains definitions of key terms for the purposes of chapter 4, part 5, division 4. For example, 'AFAD exemption' is defined as the exemption from a liability for AFAD under section 246. Section 246AG also defines 'dispose', 'notification event', 'occupy', 'relevant acquirer', 'relevant period' and 'transfer day'.

New section 246AH provides for a reassessment of the AFAD exemption for not occupying the residence as owner of the residence. Section 246AH applies if the AFAD exemption applies to the extent of a relevant acquirer's interest in dutiable property that is AFAD residential land

under a relevant transaction and the relevant acquirer disposes of their interest in the property before occupying a residence on the land as owner of the residence or does not occupy a residence on the land as owner of the residence within the relevant period for the residence as required by section 246(1)(c).

New section 246AH(2) provides that, subject to section 246AJ, the Commissioner must make a reassessment to impose AFAD on the relevant transaction to the extent of the relevant acquirer's interest in dutiable property under the transaction as if the AFAD exemption did not apply to the relevant acquirer.

New section 246AI provides for a reassessment of the AFAD exemption for disposal of the residence after occupation as owner of the residence. Section 246AI applies if the AFAD exemption applies to the extent of a relevant acquirer's interest in dutiable property that is AFAD residential land under a relevant transaction, and the relevant acquirer occupies a residence on the land as owner of the residence within the relevant period for the residence as required by section 246(1)(c) and disposes of their interest in the property within 1 year after the day the acquirer occupies the residence as owner of the residence.

New section 246AI(2) provides that, subject to section 246AJ, the Commissioner must make a reassessment to impose AFAD on the relevant transaction to the extent of the relevant acquirer's interest in dutiable property under the transaction using the formula in this section. This provides that a proportion of the exemption benefit received for that relevant acquirer is removed. The proportion reflects the extent to which the relevant acquirer failed to retain ownership or exclusive possession of the residence for 1 year as required by the AFAD exemption.

New section 246AJ provides the circumstances in which reassessment is not required where section 246AH or 246AI applies in relation to a relevant transaction to the extent of a relevant acquirer's interest in dutiable property that is AFAD residential land under the transaction.

New section 246AJ(2) provides that, despite sections 246AH and 246AI, the Commissioner is not required to make a reassessment to impose AFAD under those sections if one of the circumstances set out in new sections 246AJ(2)(a)-(d) applies.

New section 246AJ(2)(a) provides that the Commissioner is not required to make a reassessment to impose AFAD if the notification event in section 246AH(1)(b) or 246AI(1)(c) happens only because of an intervening event. An 'intervening event' is defined in schedule 6 as a natural disaster (for example, fire and flood), the death of a transferee, lessee or home borrower to whom sections 153, 154 or 291 applies or another event prescribed under a regulation. The Bill amends the definition of 'intervening event' to enable it to relate to the AFAD exemption, replacing the current reference to 'the death of a transferee, lessee or home borrower to whom sections 153, 154 or 291 applies' with 'the death or incapacity of a person to whom section 153, 154, 246AJ or 291 applies'.

New section 246AJ(2)(b) provides that the Commissioner is not required to make a reassessment to impose AFAD if the relevant acquirer disposes of dutiable property that is an accommodation unit in a retirement village by entering into a retirement village leasing arrangement for the unit.

New section 246AJ(2)(c) provides that the Commissioner is not required to make a reassessment to impose AFAD if another person has exclusive possession of the AFAD residential land before it is occupied by the relevant acquirer as owner of the residence, and that other person is the transferor of the land and vacates the land as soon as practicable, or within 6 months after the transfer day, whichever is earlier, or that other person has exclusive possession of the land under a lease granted before the transfer day and vacates the land on the termination of the current term of the lease, or within 6 months after the transfer day, whichever is earlier.

New section 246AJ(2)(d) provides that the Commissioner is not required to make a reassessment to impose AFAD if, for a notification event in section 246AH(1)(b) or 246AI(1)(c), the relevant acquirer disposes of part of the dutiable property to the acquirer's spouse in a way that is exempt from transfer duty under section 151. Current section 151 provides an exemption from transfer duty for a transfer, or agreement for the transfer, by way of gift from 1 party to a subsisting marriage or de facto relationship, an interest in residential land.

New sections 246AJ(3) and (4) provide that where AFAD is not reassessed under section 246AJ(2) because the relevant acquirer disposes of part of the dutiable property to the acquirer's spouse as mentioned in section 246AJ(2)(d) and the relevant acquirer later disposes of the property or part of the property, the provisions requiring reassessment under sections 246AH and 246AI apply to the later disposal as if the relevant acquirer had not transferred the part of the land to the acquirer's spouse.

New section 246AK applies if a notification event happens in relation to a relevant acquirer's interest in dutiable property under a relevant transaction. New section 246AK(2) requires a relevant acquirer to, within 28 days after the notification event, give notice of the event in the approved form to the Commissioner and ensure the instruments required for the assessment of duty of the relevant transaction are lodged for a reassessment of duty on the transaction. This requirement is a lodgement requirement under the *Taxation Administration Act 2001,* for which failure to comply is an offence under section 120 of that Act.

Clause 14 amends section 246H, which provides that an acquirer under a relevant transaction on which AFAD is imposed must lodge an AFAD statement in the approved form within 30 days after the date of the transaction. Section 246H is amended to ensure that this obligation also extends to a relevant transaction to which an AFAD exemption applies.

Clause 15 inserts new section 679 which provides that the exemption for AFAD under section 246 only applies in relation to a relevant transaction that is the transfer, or agreement for transfer, of dutiable property if the property is transferred, or the agreement is entered into, from the commencement of these provisions on 1 January 2023.

However, new section 679(2) clarifies that section 246 does not apply in relation to a transfer or agreement for transfer in certain circumstances. That is, if a transfer or agreement replaces a transfer, or agreement for transfer, that included the dutiable property and was made before the commencement, or the transferee had an option to purchase the dutiable property, or the transferor had an option to require the transferee to purchase the dutiable property, granted before the commencement and exercised from the commencement, or another arrangement was made before the commencement for the sole or main purpose to defer the making of the transfer

or agreement until on or after commencement on 1 January 2023 so section 246 would apply in relation to the relevant transaction.

Clause 16 amends the dictionary in schedule 6 to amend the definition of 'intervening event' and to insert new definitions relating to the exemption for AFAD under part 4A.

Part 3 Amendment of the Duties Regulation 2013

Clause 17 provides that part 3 amends the *Duties Regulation 2013.*

Clause 18 amends section 9, which prescribes stock exchanges for the purposes of the definition of a 'recognised stock exchange' in Schedule 6 of the *Duties Act 2001.* Section 9(a) is amended to replace current paragraph (a) which refers to the 'Asia Pacific Stock Exchange Limited' with new paragraph (a) which refers to the 'Sydney Stock Exchange Limited', being the new name of the Asia Pacific Stock Exchange Limited.

New section 9(e) prescribes Euronext N.V. as a recognised stock exchange. This ensures that entities listed on Euronext N.V. can access the concessional duty treatment that is available under the *Duties Act 2001* for entities listed on a recognised stock exchange. Current section 9(e) is renumbered as section 9(f).

Clause 19 inserts new section 11 which provides that section 9(e), as inserted by the Bill, when enacted, is taken to have had effect on and from 1 January 2017.

Part 4 Amendment of the First Home Owner Grant and Other Home Owner Grants Act 2000

Clause 20 provides that part 4 amends the *First Home Owner Grant and Other Home Owner Grants Act 2000.*

Clause 21 replaces section 25S to clarify that the amount of the grant is $25,000 if the contract for the eligible home builder transaction is made between 4 June 2020 and 31 December 2020 (both dates inclusive), or $15,000 if the contract for the eligible home builder transaction is made between 1 January 2021 and 31 March 2021 (both dates inclusive). This is consistent with the National Partnership Agreement and the Administrative Direction on HomeBuilder under which, along with provisions in the *First Home Owner Grant and Other Home Owner Grants Act 2000,* the Commissioner administers the grant.

Part 5 Amendment of Gaming Machine Regulation 2002

Clause 22 provides that part 5 amends the *Gaming Machine Regulation 2002*.

Clause 23 amends section 10B (Amount to be paid into consolidated fund – Act, s 109E) to insert new subsection 10B(2). The new subsection provides that section 10B is subject to new section 10BA.

Clause 24 inserts new section 10BA (Amount to be paid into consolidated fund during particular period – Act, s 109E). New subsection 10BA(1) provides that the section applies for a 12-month period starting on the commencement of the section. For this 12-month period, new

subsection 10BA(2) prescribes the percentage for section 109E(4) of the *Gaming Machine Act 1991* to be 15 per cent.

New subsection 10BA(3) provides that section 10BA and 10B(2) automatically expire 12 months after they commence. In effect, following the 12-month period, the percentage to be paid into the consolidated fund reverts to the amount prescribed in subsection 10B(1) (currently 33 per cent).

Part 6 Amendment of the Land Tax Act 2010

Clause 25 provides that part 6 amends the *Land Tax Act 2010.*

Clause 26 amends section 6, which provides for the imposition of land tax on taxable land, to replace current section 6(2). New section 6(2) provides that the amount of land tax imposed on the taxable land owned by a taxpayer is based on the Queensland proportion of the total value of the Australian land owned by the taxpayer.

'Queensland proportion' is defined in new section 6(3) as the proportion that relates to the taxable value of the taxable land. 'Taxable land' is currently defined in section 9 as land in Queensland that has been alienated from the State for an estate in fee simple and is not exempt land. This definition is not changing and land tax will continue to be imposed only on taxable land. The 'total value of the Australian land' is defined in new section 18AA.

Amended section 6 is consistent with how the land tax calculation methodology, as set out in new section 32, applies under the new framework.

Clause 27 replaces the heading of part 3, division 1 to reflect that the provisions in this division, as amended by the Bill, when enacted, will relate to both taxable land and interstate land.

Clause 28 inserts a new section 8A which provides that Australian land is taxable land or relevant interstate land. The concepts of 'taxable land' and 'relevant interstate land' are defined in section 9 and new section 9A respectively.

Clause 29 inserts new section 9A, which provides the meaning of 'interstate land' and 'relevant interstate land'. New section 9A(1)(a) provides that interstate land is land in another State, other than the Australian Capital Territory (ACT), that has been alienated from that State for an estate in fee simple. New section 9A(1)(b) provides that interstate land is also land in the ACT that is under Crown lease within the meaning of the *Land Titles Act 1925* (ACT) or is a grant of freehold by or in the name of the Commonwealth or by the ACT.

New section 9A(2) provides that interstate land is relevant interstate land if there is a valuation of the land in effect under an interstate valuation Act, or a valuation of the land is required to be made from time to time under an interstate valuation Act (even if it is not required to be made for a particular period), and the land is not excluded interstate land. An example is provided in new section 9A(2)(ii) to provide further clarification. The terms 'interstate valuation Act' and 'excluded interstate land' are defined in the dictionary.

New section 9A(3) clarifies that land that is part of an area of land described in section 9A(2) is relevant interstate land even if it is not the subject of a separate valuation under an interstate valuation Act. An example is provided in section 9A(3) for further clarification.

Clause 30 amends section 15, which provides that the manager of a time-sharing scheme is taken to be the owner of the land that is the subject of the scheme. Section 15 is amended to provide that the manager of an interstate time-sharing scheme is also taken to be the owner of the land that is the subject of the scheme. This ensures that all managers of a time-sharing scheme are taken to be the owner of the land the subject of the scheme under the new framework, consistent with the treatment under the current framework

New section 15(2) provides that an 'interstate time-sharing scheme' is defined in section 21A(2). The definition of 'time-sharing scheme' in the dictionary as amended by this Bill, when enacted, is limited to a time-sharing scheme for which land in Queensland is the subject of the scheme.

Clause 31 amends section 16, which provides what is the taxable value of land for a financial year. Section 16(1) is amended to replace the reference to 'land' with a reference to 'taxable land'. This clarifies that, under the new framework, the concept of taxable value is only relevant to taxable land, not Australian land generally.

The clause also omits current section 16(2) and its note. Section 16(2) provides that, 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 under that section. Section 18A provides the capped value of taxable land for 2011-12 financial year and has been relocated to new part 9A.

Clause 32 relocates current section 18A to the new part 9A, which relates to the capped value of taxable land for 2011-12 financial year and renumbers it as new section 85A.

Clause 33 inserts new sections 18A and 18AA. New section 18A(1) provides that the statutory value of interstate land for a financial year is the land's relevant interstate value when the liability for land tax arises for the financial year (i.e. 30 June of the immediately preceding financial year).

New section 18A(2) provides that section 18A(1) applies subject to new section 18I(4) which relates to interstate strata schemes which provides that a particular amount is taken to be the statutory value in certain circumstances.

The 'relevant interstate value' for land in each jurisdiction is set out in new section 18A(3), being a particular value determined under interstate valuation legislation that is the closest equivalent to the value that is the taxable value of taxable land (i.e. the site value or unimproved value under the *Land Valuation Act 2010*). For example, for land in New South Wales, it is the land value under the *Valuation of Land Act 1916* (NSW). Each of the Acts mentioned in section 18A(3) is an 'interstate valuation Act'.

Section 18A(4) provides that, if the Commissioner decides under new section 80A that an amount is the relevant interstate value of interstate land, the amount as decided is the relevant interstate value of the interstate land. Section 80A sets out the particular circumstances in which the Commissioner may make such a decision.

New section 18AA provides that the total value of the Australian land owned by a person for a financial year is the sum of the taxable value of their taxable land and the statutory value of their relevant interstate land.

Clause 34 inserts new division 5 into part 3 which contains provisions specific to interstate land.

New section 18H applies in relation to land in the ACT which is under Crown lease within the meaning of the *Land Titles Act 1925* (ACT). New section 18H(2) provides that, for section 10(1)(c), the proprietor of the Crown lease is taken to be the owner of the land whether or not they are the registered proprietor. Section 10 defines an owner for the purposes of the Land Tax Act and includes a person that is taken to be the owner of land under the Land Tax Act.

New section 18H(3) provides for how section 11 of the Land Tax Act applies in relation to land in the ACT under Crown lease. Section 11 clarifies who is the owner of land that is the subject of an agreement for the sale of the land. Whether or not the agreement has been completed, the seller is taken to be the owner of the land until the buyer is in possession and the buyer is taken to be the owner as soon as the buyer is in possession. As dealings in ACT land under Crown lease may be by way of assignment or transfer, section 18H(3) provides that section 11 applies with the necessary adjustments for these types of dealings. For example, new section 18H(3)(a) provides that a reference to a sale of land in section 11 applies as if it were a reference to the assignment or transfer of the Crown lease.

New section 18I relates to interstate strata schemes. It provides for similar matters as current section 12 and section 29 which clarifies ownership of community titles scheme land under the *Body Corporate and Community Management Act 1997* (BCCM Act) or land comprised in a building units plan or group titles plan (BUGTA plan) under the *Building Units and Group Titles Act 1980* (BUGT Act) and provides for assessing a taxpayer's liability for land tax on lots in a community title scheme or BUGTA plan. These sections reference terms specifically defined in BCCM Act and BUGT Act such as scheme, BUGTA plan, body corporate, scheme land, lot and lot entitlement.

New section 18I(1) provides that a regulation may prescribe certain matters. In particular, it may prescribe a scheme, plan or other thing under a corresponding strata scheme Act to be an 'interstate strata scheme'. A corresponding strata scheme Act is defined in new section 18I(6) as an Act of another State that provides for matters similar to matters under the BCCM Act or BUGT Act. Additionally, for a scheme under a corresponding strata scheme Act, a regulation may prescribe a thing to be a body corporate, scheme land, lot or lot entitlement. The regulation will provide clarification as to the generally equivalent terms under a corresponding strata scheme Act.

New section 18I(2) provides that the body corporate for an interstate strata scheme is not the owner of the scheme land for the scheme. Rather, the owner of each lot is liable to pay land tax on the lot. This mirrors current section 12 which provides that the body corporate for a community titles scheme and a body corporate under the BUGT Act is not the owner of the scheme land or the land comprised in a BUGTA plan.

New section 18I(3) provides that each lot in an interstate strata scheme is taken to be a separate parcel for the purposes of the Land Tax Act. To the extent these lots are not the subject of a separate valuation under an interstate valuation Act, they do not fall within the definition of 'parcel' in the dictionary as amended by this Bill, when enacted. For interstate land, the concept of a parcel is relevant for the home exclusion in new section 58B, new section 78A which requires owners of both taxable and interstate land to give the Commissioner notice about their interstate land and the definition of 'interstate time-sharing scheme' in new section 21A(2).

New section 18I(4) applies to lots in an interstate strata scheme that are not separately valued under an interstate valuation Act. For these lots, the statutory value of the lot is taken to be the amount equal to the lot's relevant proportion of the statutory value of the scheme land for the scheme. Under new section 18I(5), the relevant proportion is the proportion that the lot entitlement bears to the total of the lot entitlements of the lots in the scheme.

Clause 35 amends section 19 which operates subject to sections 20 and 21 and provides the general principle that land tax is generally assessed on an owner's aggregated land rather than separately assessed on each parcel. Section 19 is amended to provide that a taxpayer's liability for land tax must be assessed using both the total taxable value of all taxable land owned by the taxpayer and the total value of all Australian land owned by the taxpayer when the liability for land tax arises. An example is provided in amended section 19 to provide further clarification.

Section 19 is amended to provide that it is also subject to new section 21A, which relates to land the subject of an interstate time-sharing scheme. This reflects that land the subject of an interstate time-sharing scheme is not intended to be aggregated with any other land owned by the manager of the interstate time-sharing scheme and is consistent with the treatment of time-sharing scheme land in current section 21, which is already excluded from the general principle of aggregation in section 19.

Clause 36 amends section 20 which provides that trust land is generally separately assessed for land tax. That is, where taxable land is held on trust, it generally must be separately assessed as if it were the only land owned by the trustee. However, where the trustee is the trustee of more than one trust and the interests of the beneficiaries of two or more of those trusts is the same, the taxable land the subject of those trusts is aggregated. Section 20 is amended to ensure that trust land continues to be separately assessed in the same way under the new framework which takes into account Australian land, as opposed to just taxable land, for assessing land tax.

Clause 37 inserts new section 21A which provides that, for assessing the liability for land tax of a taxpayer who is the manager of an interstate time-sharing scheme, the total value of Australian land owned by the taxpayer does not include the statutory value of land subject to the interstate time-sharing scheme. Consistent with the current treatment of land the subject of a time-sharing scheme under section 21, it is not intended that land that is the subject of an interstate time-sharing scheme be aggregated with any other land owned by the manager of the interstate time-sharing scheme.

New section 21A(2) defines an 'interstate time-sharing scheme' as a scheme (including an undertaking or enterprise) in which participants are or may become entitled to use, occupy or possess, for two or more periods during the scheme's operation, property in another State, to which the scheme relates and is implemented in relation to all or some of the lots comprised in an interstate strata scheme or another parcel interstate, in another State, if each participant is a registered proprietor. The concepts 'interstate strata scheme' and 'parcel' are defined in the dictionary. Section 21A(2) also clarifies that a registered proprietor includes, for a parcel in the ACT, the owner of the parcel.

Clause 38 amends section 22 which provides for how co-owners are assessed for land tax. Relevantly, section 22 currently provides that part 6, which provides exemptions for land tax, does not confer a benefit on a co-owner of land if the owner does not satisfy relevant exemption

requirements. To ensure that co-owners continue to be assessed in the same way under the new framework, section 22 is amended to provide that new part 6A, which provides exclusions for interstate land, does not confer a benefit on a co-owner of land if the owner does not satisfy relevant exclusion requirements.

Clause 39 amends section 23 which provides for the assessment of deceased estates land for land tax. Relevantly, section 23 provides that where a liability for land tax arises on land that is part of a deceased estate, then the deceased, and not the estate administrator, is generally taken to be the owner of land until the administration of the deceased's estate is complete and certain exemptions that were available to the deceased can continue to apply subject to conditions. Section 23 is amended to ensure that deceased estate land continues to be assessed in the same way under the new framework, which takes into account Australian land, as opposed to just taxable land, for assessing land tax and provides exclusions for interstate land which, as far as possible and appropriately, are equivalent to existing exemptions.

Clause 40 amends the heading of part 5 to reflect that the provisions in the part, as amended by the Bill, when enacted, relate to the rate and calculation of land tax.

Clause 41 replaces current section 32 which provides for the rate of land tax. New section 32 sets out the calculation methodology that applies under the new framework. Under section 32, land tax is imposed on the taxable land owned by a taxpayer in the amount calculated using the formula in new section 32(1).

This formula provides that the amount of land tax is the gross amount worked out under new section 32(2) multiplied by the total taxable value of taxable land owned by the taxpayer as a proportion of the total value of Australian land owned by the taxpayer. The gross amount under section 32(2) is worked out by applying the general and surcharge rates in Schedules 1 to 3 to the total value of the Australian land owned by the taxpayer. Schedule 1 provides the general rates for individuals other than absentees or trustees. Schedule 2 provides the general and surcharge rates for companies and trustees while Schedule 3 provides the general and surcharge rates for absentees. These rates are remaining unchanged.

New section 32(3) provides that section 32 applies subject to section 20 (assessment of trust land), section 21 which provides for the separate assessment of land that is the subject of a time-sharing scheme and section 21A.

Clause 42 inserts new division 1AA before division 1 in part 6 which provides the provisions for exempt land. New section 34A in new division 1AA clarifies that part 6 applies to land in Queensland. Under the new framework, all of the current exemptions in part 6 will continue to be available for land in Queensland. Where an exemption is available, that land is not taxable land and is therefore not taken into account for applying the land tax calculation methodology in section 32.

While the exemptions are limited to land in Queensland, interstate land that meets the requirements (or generally equivalent requirements) for an exemption will generally be excluded from the calculation methodology under new part 6A which contains exclusions for interstate land which, as far as possible and appropriate, align with the exemptions in part 6.

Clause 43 amends section 36 which provides for when land is used as the home of a person for the purpose of the home exemption. Section 36(1)(a) is amended to clarify that land is used

as a home if that land, and no other land in Queensland or elsewhere, has been used continuously for residential purposes for 6 months ending when the liability for land tax arises.

Clause 44 amends section 37 which, for the purpose of the home exemption, provides for when land may be taken to be used as a home in circumstances where a person is absent from the home because they are receiving care. Section 37(2)(c) is amended to clarify that a person is considered to be receiving care if they reside on land in Queensland or elsewhere that they do not own and are under the care of someone else. The definition of qualifying residential use in section 37(7), which is relevant to whether land may be taken to be used as a home under that section, is also amended to clarify that it means a use of the land, and no other land in Queensland or elsewhere, by the owner for residential purposes.

Clause 45 amends section 42A which provides an exemption for an owner that is transitioning between homes on 30 June. Where an owner qualifies for a home exemption on their current home which they did not own on the previous 30 June, section 42A provides an exemption for the owner's old home provided certain conditions are satisfied. New section 42A(4A) ensures that the exemption for the old home is available where an owner of interstate land qualifies for a home exclusion under new section 58B in relation to the current home. This ensures that, subject to meeting the relevant conditions, the exemption is available to an owner who has transitioned from an old home in Queensland to a current home interstate. Sections 42(4A) and (5) are renumbered as sections 42A(5) and (6).

Clause 46 amends section 42B which provides an exemption for an owner that is transitioning between homes on 30 June. Where, on 30 June, an owner qualifies for a home exemption on their current home which they will be selling before the next 30 June, section 42B provides an exemption for their new home provided certain conditions are satisfied. New sections 42B(4A) and (4B) ensure that the exemption for the new home is available where an owner of interstate land qualifies for a home exclusion under new section 58B in relation to the current home. The exemption for the new home is available to the extent that the current home interstate is excluded or partially excluded. This ensures that, subject to meeting the relevant conditions, the exemption is available to an owner who is transitioning from a current home interstate to a new home in Queensland. Sections 42B(4A) to (5) are renumbered as sections 42B(5) to (7).

Clause 47 amends section 43 which provides that the home exemption is not available in certain circumstances involving family trusts. Relevantly, land that is trust property of a trust (trust 1) is not exempt if land that is trust property of another trust (trust 2) is exempt and the beneficiaries of those trusts are prescribed relatives. New section 43(2A) ensures that the relevant land is not exempt if land in Queensland or interstate that is trust property of trust 2 is exempt land under part 6 or excluded land under new part 6A. Sections 43(2A) and (3) are renumbered as sections 43(3)(and (4).

Clause 48 inserts new part 6A which contains exclusions for interstate land. The exclusions for interstate land, as far as possible and appropriate, align with the exemptions in part 6 for land in Queensland. Where an exclusion applies, the interstate land is not relevant interstate land and is therefore excluded from the land tax calculation methodology in section 32 as amended by this Bill, when enacted.

New section 58A provides that part 6, which contains the provisions for exempt land, applies in relation to interstate land as provided in part 6A and with any other necessary changes.

New section 58B contains the interstate home exclusion. It provides that part 6, division 1, which contains the provisions relating to the home exemption, applies in relation to interstate land with necessary adjustments to ensure the relevant requirements can apply to interstate land. For example, part 6, division 1 applies to interstate land, as if a reference in the division to exempt land were a reference to excluded interstate land.

Section 37 and 45 in part 6, division 1 reference local government. To ensure the home exclusion applies, as far as possible, in the same way as the home exemption, section 58B operates as if a reference in part 6, division 1 to a local government were a reference to an interstate local government. An ‘interstate local government’ is defined in new section 58B(2) as a local government (however described) of another State and includes the ACT Executive to the extent it has the responsibility of governing the ACT with respect to local government matters.

Section 45 in part 6, division 1 references a plan of subdivision, which is defined in section 45(6). To ensure the home exclusion applies, as far as possible, in the same way as the home exemption, section 58B also provides that part 6, division 1 applies in relation to interstate land as if a reference in the division to a plan of subdivision were a reference to an interstate plan of subdivision and the definition of plan of subdivision in section 45(6) were omitted. The definition of an ‘interstate plan of subdivision’ is generally consistent with the definition in section 45(6) to the extent it can apply to interstate land and with necessary adjustments to include land under Crown lease in the ACT. An ‘interstate plan of subdivision’ is defined in section 58B(2) as a plan or scheme, however described, that shows, describes or effects the division of, amalgamation into, dedication of or redefinition of, at least 1 lot in another State and is able to be registered in a land registry under an Act of that State. It includes a subdivision or consolidation of land that is development for which development approval is given under the *Planning and Development Act 2007* (ACT) and is given effect on the registration of the surrender and grant of new leases of the land the subject of the subdivision or consolidation.

New section 58C contains the interstate charitable institution exclusion. It provides that part 6, division 2, which contains the provisions relating to the charitable institution exemption, applies in relation to interstate land with necessary adjustments to ensure the relevant requirements can apply to interstate land. For example, part 6, division 2 applies to interstate land as if a reference in the division to exempt land were a reference to excluded interstate land.

New section 58D contains an exclusion for interstate aged care facilities. It provides that section 51, which contains an exemption for aged care facilities, applies in relation to interstate land as if a reference in the section to exempt land were a reference to excluded interstate land. This ensures the relevant requirements of the exemption for aged care facilities can apply to interstate land.

New section 58E contains the interstate supported accommodation exclusion. It provides that section 51A(1), which contains an exemption for land on which a supported accommodation service is provided, applies in relation to interstate land with necessary adjustments to ensure the relevant requirements can apply to interstate land. Section 51A(1) applies in relation to interstate land as if a reference to exempt land were a reference to excluded interstate land and as if a reference to supported accommodation service were a reference to an interstate supported accommodation service.

A ‘supported accommodation service’ is defined in section 51A(2) as a residential service accredited at level 3 under the *Residential Services (Accreditation) Act 2002.* A ‘residential service’ is also defined by reference to that Act. New section 58E(2) provides that a service conducted on interstate land is an interstate supported accommodation service if the Commissioner is satisfied the service substantially corresponds to a residential service conducted in Queensland that may be accredited at level 3 under the *Residential Services (Accreditation) Act 2002* or is prescribed by regulation to be an interstate supported accommodation service.

New section 58F contains an exclusion for interstate land used for primary production. It provides that section 53, which contains an exemption for land used for primary production, applies in relation to interstate land with necessary adjustments to enable the relevant requirements to relate to interstate land. For example, section 53 applies to interstate land as if a reference in the section to the taxable value were a reference to the statutory value.

New section 58G contains an exclusion for certain interstate moveable dwelling parks. It provides that section 54, which contains the exemption for certain moveable dwelling parks, applies in relation to interstate land with necessary adjustments to ensure the relevant requirements can apply to interstate land. For example, section 54 applies to interstate land as if a reference in the section to exempt land were a reference to excluded interstate land.

Section 54 provides that land that is used predominately as a moveable dwelling park is exempt if more than 50 per cent of the sites in the moveable dwelling park are occupied, or are solely available for occupation, for residential purposes for periods longer than 6 weeks at a time. Section 54(3) contains definitions of ‘caravan’, ‘manufactured home’, ‘moveable dwelling park’ and ‘site’. Relevantly, ‘caravan’ is defined by reference to section 7 of the *Residential Tenancies and Rooming Accommodation Act 2008* and ‘manufactured home’ is defined by reference to section 10 of the *Manufactured Homes (Residential Parks) Act 2003*. To ensure the exclusion for moveable dwelling parks operates, as far as possible, in the same way as the exemption in section 54, section 58G adjusts these references to apply to interstate land.

The definition of caravan references a trailer or vehicle that is ‘capable of being registered under a law of the State’. To ensure this definition operates for the purposes of interstate land, section 58G provides that section 54 applies in relation to interstate land as if a reference in section 7 of the *Residential Tenancies and Rooming Accommodation Act 2008* to a law of the State were a reference to a law of the State in which the interstate land is situated.

The definition of a manufactured home references other terms under the *Manufactured Homes (Residential Parks) Act 2003* in section 10(3), including park owner and site agreement. To ensure this definition can apply to interstate land, section 58G adjusts these terms. The way these terms apply in relation to interstate land under section 58G aligns, as far as possible, with the way they currently apply for Queensland land under section 54. Section 58G provides that section 54 applies in relation to interstate land as if a reference to a park owner were a reference to the owner or operator of an interstate residential park or another person who may, under an interstate Act, enter into an interstate converted caravan agreement. Additionally, as if a reference to ‘an agreement that would be a site agreement if it related to a manufactured home’ were a reference to an interstate converted caravan agreement.

Section 58G also operates as if section 10(4) of the *Manufactured Homes (Residential Parks) Act 2003* is omitted. Section 10(4) provides that an agreement entered into under another Act

or a former Act, other than the repealed *Mobile Homes Act 1989*, is not a site agreement under section 10(3).

New section 58G(2) defines an ‘interstate converted caravan agreement’, ‘interstate residential park’ and a ‘Queensland converted caravan agreement’ which is relevant to the definition of interstate converted caravan agreement.

New section 58H contains an exclusion for interstate recreational and public land. It provides that section 56, which contains an exemption for recreational and public land, applies in relation to interstate land as if a reference in the section to exempt land were a reference to excluded interstate land. This enables the relevant requirements to apply to interstate land.

New section 58I contains the interstate retirement villages exclusion. It provides that section 57, which contains an exemption for retirement village land, applies in relation to interstate land with necessary adjustments to enable the relevant requirements to relate to interstate land. For example, section 57 applies to interstate land as if a reference in the section to exempt land were a reference to excluded interstate land.

A ‘retirement village’ is defined in section 57 by reference to section 5 of the *Retirement Villages Act 1999*, which references other terms under that Act, such as retirement village scheme. To ensure the exclusion for retirement village land applies, as far as possible, in the same way as the exemption in section 57, section 58I operates as if a reference in section 5(1) of the *Retirement Villages Act 1999* to a retirement village scheme were a reference to an interstate retirement village scheme. New section 58I(2) defines an interstate retirement village scheme. It is a scheme under an Act of another State that substantially corresponds to a retirement village scheme under the *Retirement Villages Act 1999* and includes a scheme prescribed by regulation to be an interstate retirement village scheme, but does not include a scheme prescribed by regulation not to be an interstate retirement village scheme.

Section 5(2) in the *Retirement Villages Act 1999* also provides that a premises does not include a site within the meaning of the *Manufactured Homes (Residential Parks) Act 2003.* To ensure the exclusion for retirement villages applies, as far as possible, in the same way as the exemption, section 58I also provides that section 57 applies in relation to interstate land as if a reference to a site in section 5(2) of the *Retirement Villages Act 1999* were a reference to interstate land that substantially corresponds to a site within the meaning of the *Manufactured Homes (Residential Parks) Act 2003.*

New section 58J contains an exclusion for certain other interstate land. It provides that sections 58(b) and (c), which provide exemptions for land held by trade unions and the Mayne Estates respectively, apply in relation to interstate land as if a reference in the sections to exempt land were a reference to excluded interstate land. This enables the relevant requirements to apply to interstate land.

Clause 49 amends section 66 which relates to the application of part 8, which contains general anti-avoidance provisions. Relevantly, section 66(3) currently provides that part 8 does not apply in relation to a land tax benefit attributable to an exemption under the *Land Tax Act 2010,* unless a person entered into or carried out a scheme for the sole or dominant purpose of creating a circumstance or state of affairs to which the exemption would apply. To ensure the anti-avoidance provisions apply consistently for exemptions and exclusions under the new framework, section 66(3) is amended to reference exclusion as well as exemption.

Clause 50 amends section 76, which provides that an application for land to be exempt must be in the approved form, subject to certain exceptions. Under the new framework, the current exemptions in part 6 will continue to be available for land in Queensland and part 6A sets out the exclusions available for interstate land. To ensure the requirement under this section applies consistently for exempt land and excluded interstate land under the new framework, section 76 is amended to provide that an application for land to be excluded interstate land must also be in the approved form, subject to the existing exceptions in section 76.

Clause 51 amends section 77, which provides that the owner of land must notify the Commissioner if their land has been exempt but is no longer exempt. Under the new framework, the current exemptions in part 6 will continue to be available for land in Queensland and the new part 6A sets out the exclusions available for interstate land. Section 77 is amended to ensure that owners of exempt land or excluded interstate land are required to notify the Commissioner if their land has been exempt or excluded and it no longer is.

Clause 52 amends section 78, which provides that a person must give notice to the Commissioner of becoming the owner or ceasing to be the owner of land, except in certain circumstances. Section 78 is amended to clarify that this provision only applies to land in Queensland, rather than land generally under the new framework.

Clause 53 inserts new section 78A, which relates to taxpayers who own taxable land and interstate land when their liability for land tax for a financial year arises. New section 78A(2) requires a taxpayer to give the Commissioner notice about the interstate land they own. This requirement is a lodgement requirement under the *Taxation Administration Act 2001,* for which failure to comply is an offence under section 121 of that Act. New section 78A(3) requires the notice to be in the approved form.

New section 78A(4) provides that the notice must include, for each parcel of interstate land, the property description of the parcel, the taxpayer's interest in the parcel and the statutory value of the parcel, or, if the taxpayer cannot ascertain the statutory value of the parcel for the financial year, the most recent relevant interstate value for the parcel that the taxpayer can ascertain. For example, if the taxpayer notifies the Commissioner of the relevant interstate value as at 30 June (when the liability for land tax arises) that they know based on a current land valuation notice or that they have ascertained by searching a land valuation register.

For a parcel that is a lot in an interstate strata scheme and that is not the subject of a separate valuation under an interstate valuation Act, new section 78A(5) provides that a notice will comply with section 78A(4)(c) if it states the statutory value of the lot or the scheme land for the scheme for the financial year, or, if the taxpayer cannot ascertain the statutory value of the scheme land for the scheme for the financial year, the most recent relevant interstate value for the scheme land that the taxpayer can ascertain. If a notice states the statutory value or the most recent relevant interstate value of the scheme land, it must also state the lot entitlement of the lot and the total of the lot entitlements.

New section 78A(6) provides for when the notice must be given to the Commissioner. If the Commissioner gives the taxpayer an assessment notice for the financial year before 30 September, then the taxpayer must give notice within 30 days after the Commissioner gives the assessment notice. Otherwise, the notice must be given on or before 31 October in the financial year.

Section 78A(7) provides that a taxpayer is not required to give notice under section 78A for a financial year if the taxpayer gave the Commissioner notice under this section for a previous financial year and, on 30 June immediately preceding the financial year, the interstate land owned by the taxpayer and the taxpayer's interest in each parcel of interstate land is the same as was stated in the notice for that previous financial year and the statutory value of each parcel of the interstate land, so far as the taxpayer can ascertain, is the same as was stated in the notice for that previous financial year or a subsequent notice given to the Commissioner.

A 'taxpayer' is defined in section 78A(8) as a person who has or had, or may have, a liability under the *Land Tax Act 2010* for land tax.

Clause 54 inserts new section 80A. New section 80A(1) provides that the Commissioner may decide that a particular amount is the relevant interstate value of interstate land owned by a taxpayer when liability arose for a financial year. The Commissioner may decide that the amount is an amount notified to the Commissioner under section 78A or worked out using information notified to the Commissioner under that section.

The Commissioner may also decide that the amount is the amount determined by the Commissioner based on the information available when the Commissioner makes an assessment of land tax. For example, based on information available to the Commissioner about the relevant interstate value on the relevant 30 June when the liability for land tax arises.

The Commissioner may also decide that the amount is the amount determined by the Commissioner on the information available at a time after an assessment has been made for the financial year. For example, if new information became available to the Commissioner.

New section 80A(2) and (3) provide that where the Commissioner decides an amount under section 80A(1) and, after being notified by the taxpayer that a different amount lower than the amount decided, is the relevant interstate value of the land, then the Commissioner must decide that the updated amount is the relevant interstate value when liability arose if satisfied it would be appropriate in the circumstances. For example, if a taxpayer successfully objects to the relevant interstate value on the relevant 30 June when the liability for land tax arises and the objection decision has retrospective effect to the relevant 30 June. In this circumstance, the taxpayer could notify the Commissioner of the new value and, if the Commissioner is satisfied that it is appropriate in the circumstances, the Commissioner must decide that it is the relevant interstate value. The Commissioner would then make a reassessment taking it into account.

Clause 55 amends section 81 which provides for a restriction on the grounds of objection, appeal and review. An objection against an assessment and an application for review of decision on objection may not be made on prohibited grounds. Also, no right of appeal exists on prohibited grounds. The definition of prohibited grounds in section 81(5) is omitted and replaced with a new definition. The new definition mirrors the current definition but is extended to also include grounds that the relevant interstate value of an area of interstate land is excessive. Therefore, a taxpayer wanting to challenge the valuation of their interstate land made under an interstate valuation Act, will have to challenge that valuation in accordance with the processes in place under the relevant interstate land valuation framework.

Clause 56 amends section 83A which provides that provisions of particular leases requiring a lessee to pay land tax or reimburse a lessor for land tax are unenforceable. New section

83A(2A) clarifies that it only applies in relation to a lease of land in Queensland. Sections 83A(2A) and (3) are renumbered as sections 83A(3) and (4).

Clause 57 inserts new part 9A which includes current section 18A (renumbered as new section 85A) which relates to the capped value of taxable land for the 2011-2012 financial year and new section 85B. Section 85B provides that, despite the definition of taxable value in section 16, if section 85A applies to land for a financial year, the taxable value of the land for the financial year is the capped value.

Clause 58 inserts new part 10, division 9 to provide a transitional provision for the *Revenue Legislation Amendment Act 2022.* To remove any doubt, new section 102 declares that a liability for land tax for the 2022-23 financial year starting 1 July 2022 is not affected by the amendment of this Act. While the amendments are commencing on 1 January 2023, as liability for land tax arises on 30 June each year, they will be relevant for land tax liabilities arising on 30 June 2023 for the 2023-24 financial year.

Clause 59 amends schedule 1 which provides the general land tax rates for individuals other than absentees. Schedule 1 is amended to update a cross-reference to section 32 which provides for the rate of land tax generally and contains the new calculation methodology. The headings of the columns in schedule 1 are also updated to reflect the terms relevant for the new calculation methodology.

Clause 60 amends schedule 2 which provides the general and surcharge land tax rates for companies and trustees. Schedule 2 is amended to update a cross-reference to section 32 which provides for the rate of land tax generally and contains the new calculation methodology. The headings of the columns in schedule 2 are also updated to reflect the terms relevant for the new calculation methodology.

Clause 61 amends schedule 3 which provides the general and surcharge land tax rates for absentees. Schedule 3 is amended to update a cross-reference to section 32 which provides for the rate of land tax generally and contains the new calculation methodology. The headings of the columns in schedule 3 are also updated to reflect the terms relevant for the new calculation methodology.

Clause 62 amends the dictionary in schedule 4 to omit and amend certain definitions and to insert new definitions required under the new framework to enable Australian land, as opposed to just taxable land, to be taken into account for assessing land tax. Of the definitions being omitted, one is no longer required in the dictionary while the definitions of 'owner' and 'parcel' are being replaced with new definitions that can apply to both land in Queensland and interstate land. The definition of 'time-sharing scheme' is amended to clarify that it is limited to a Queensland time-sharing scheme as a separate definition of 'interstate time-sharing scheme' is provided for in new section 21A.

Part 7 Amendment of the Mineral Resources Regulation 2013

Clause 63 provides that part 7 amends the *Mineral Resources Regulation 2013.*

Clause 64 inserts new chapter 4, part 15 which contains new section 118, a transitional provision for the *Revenue Legislation Amendment Act 2022*.

Section 118 provides that schedule 3, section 5 as in force immediately before the commencement of the *Revenue Legislation Amendment Act 2022* continues to apply for working out the royalty payable under the *Mineral Resources Act 1989* for coal sold, disposed of or used before the commencement.

Clause 65 amends schedule 3, section 5 to reflect the introduction of three additional progressive rates of royalty.

Existing schedule 3, section 5(1)(b)(ii) is amended so that, instead of applying where the average price per tonne of the coal sold, disposed of or used in the return period (average price per tonne) is A$150 or more, the formula in that subsection applies where the average per tonne is more than A$150 but not more than A$175. The change to the threshold at which that formula applies (that is, 'more than $150' rather than '$150 or more') clarifies that, where the average price per tonne is exactly A$150, the applicable formula is contained in schedule 3, section 5(1)(b)(i). This does not result in a change to the royalty rate at that average price per tonne, because the rate would be the same irrespective of whether the formula contained in schedule 3, section 5(1)(b)(i) or (ii) was applied.

New schedule 3, section 5(1)(b)(iii) provides the formula to be applied to calculate the royalty rate where the average price per tonne is more than A$175 but not more than A$225.

New schedule 3, section 5(1)(b)(iv) provides the formula to be applied to calculate the royalty rate where the average price per tonne is more than A$225 but not more than A$300.

New schedule 3, section 5(1)(b)(v) provides the formula to be applied to calculate the royalty rate where the average price per tonne is more than A$300.

Part 8 Amendment of the Payroll Tax Act 1971

Clause 66 provides that part 8 amends the *Payroll Tax Act 1971.*

Clause 67 amends the definition of rebate in section 27A(3), which provides the formula for working out the rebate for wages paid or payable to apprentices and trainees during a periodic return period in an eligible year. Section 27A(3) is amended to extend availability of the 50 per cent rebate to the 2021-22 and 2022-23 financial years.

Therefore, for periodic return periods in financial years ending on 30 June 2017, 2018, 2019, 2020, 2021 2022 and 2023, the rebate is the amount worked out by applying the appropriate rate of payroll tax to 50 per cent of the amount of exempt apprentice and trainee wages paid or payable in the periodic return period. For periodic return periods in the financial years ending on 30 June 2010, 2011, 2012 or 2016, the rebate is the amount worked out by applying the appropriate rate of payroll tax to 25 per cent of the amount of the exempt apprentice and trainee wages paid or payable in the periodic return period.

Clause 68 amends the definition of rebate in section 35A(4). For an annual payroll tax amount, section 35A(4) provides the formula for working out the rebate for wages paid or payable to apprentices and trainees during an eligible year. Section 35A(4) is amended to extend availability of the 50 per cent rebate to the 2021-22 and 2022-23 financial years.

Therefore, for the financial years ending on 30 June 2017, 2018, 2019, 2020, 2021, 2022 and 2023, the rebate is the amount worked out by applying the appropriate rate of payroll tax to 50 per cent of the amount of exempt apprentice and trainee wages paid or payable in the financial year. For the financial years ending on 30 June 2010, 2011, 2012 or 2016, the rebate is the amount worked out by applying the appropriate rate of payroll tax to 25 per cent of the amount of the exempt apprentice and trainee wages paid or payable in the financial year.

Clause 69 amends the definition of rebate in section 43A(3), which provides the formula for working out the rebate for wages paid or payable to apprentices and trainees during a final return period in an eligible year. Section 43A(3) is amended to extend availability of the 50 per cent rebate to the 2021-22 and 2022-23 financial years.

Therefore, for a final return period in financial years ending on 30 June 2017, 2018, 2019, 2020, 2021, 2022 and 2023, the rebate is the amount worked out by applying the appropriate rate of payroll tax to 50 per cent of the amount of exempt apprentice and trainee wages paid or payable in the final period. For a final period in the financial years ending on 30 June 2010, 2011, 2012 or 2016, the rebate is the amount worked out by applying the appropriate rate of payroll tax to 25 per cent of the amount of the exempt apprentice and trainee wages paid or payable in the final period.

Clause 70 inserts new part 15 which contains new section 147, a transitional provision for the *Revenue Legislation Amendment Act 2022.*

Section 147(1) provides that sections 27A, 35A and 43A as amended by the Bill, when enacted, apply and are taken to have applied from 1 July 2021 in relation to wages paid or payable in the financial year ending on 30 June 2022.

Section 147(2) provides that the definition of ‘eligible year’ as amended by the Bill, when enacted, applies and is taken to have applied from 1 July 2021 in relation to an assessment of a person’s annual liability or final liability relating to the financial year ending on 30 June 2022 for the purpose of part 2, division 6A. Part 2, division 6A relates to the sharing of excess rebate by payroll tax group members.

Clause 71 amends the definition of ‘eligible year’ in the Schedule to include the financial years ending 30 June 2022 and 30 June 2023.

Clause 72 amends the definitions of ‘actual periodic deduction’ and ‘fixed periodic deduction’ in section 17, which provide the formulae for working out the actual periodic deduction or fixed periodic deduction respectively for an employer other than the designated group employer (DGE) for a group. The definitions are amended to provide that the deduction from taxable wages phases out at a rate of $1 for every $7 of taxable wages above the $1.3 million threshold.

Clause 73 amends the definition of ‘fixed periodic deduction’ in section 23, which provides the formula for working out the fixed periodic deduction for the DGE for a group. The definition is amended to provide that the deduction from taxable wages phases out at a rate of $1 for every $7 of taxable wages above the $1.3 million threshold.

Clause 74 amends the definition of ‘annual deduction’ in section 29(1), which provides the formula for working out the annual deduction for an employer other than the DGE for a group.

The definition is amended to provide that the deduction from taxable wages phases out at a rate of $1 for every $7 of taxable wages above the $1.3 million threshold.

Clause 75 amends the definition of 'annual deduction' in section 33, which provides the formula for working out the annual deduction for the DGE for a group. The definition is amended to provide that the deduction from taxable wages phases out at a rate of $1 for every $7 of taxable wages above the $1.3 million threshold.

Clause 76 amends the definition of 'final deduction' in section 37, which provides the formula for working out the final deduction for an employer other than the DGE for a group. The definition is amended to provide that the deduction from taxable wages phases out at a rate of $1 for every $7 of taxable wages above the $1.3 million threshold.

Clause 77 amends the definition of 'final deduction' in section 41, which provides the formula for working out the final deduction for the DGE for a group. The definition is amended to provide that the deduction from taxable wages phases out at a rate of $1 for every $7 of taxable wages above the $1.3 million threshold.

Clause 78 replaces section 97A. The replacement section 97A provides that the Payroll Tax Act, as amended by part 8, division 3, subdivisions 1 and 2 of the *Revenue Legislation Amendment Act 2022*, applies for payroll tax levied on taxable wages paid or payable from 1 January 2023 in the financial year starting on 1 July 2022 and in each later financial year.

Clause 79 inserts new section 148, which provides for the making of regulations to ensure the effective transition from the operation of the Payroll Tax Act as in force before its amendment by part 8, division 3, subdivision 1 of the *Revenue Legislation Amendment Act 2022* to the operation of the Payroll Tax Act as in force from such amendment.

New section 148(1) provides that a regulation (a transitional regulation) may make provision about a matter for which it is necessary to make provision to facilitate the doing of anything to achieve the transition from the operation of the Payroll Tax Act as in force before its amendment by part 8, division 3, subdivision 1 of the *Revenue Legislation Amendment Act 2022* to the operation of the Payroll Tax Act as in force from such amendment, where the Payroll Tax Act does not provide (or sufficiently provide) for that matter.

New section 148(2) provides that a transitional regulation may have retrospective effect to a day not earlier than the day on which section 148 commences.

New section 148(3) provides that a transitional regulation must declare that is a transitional regulation.

New section 148(4) provides that section 148, and any transitional regulation made under it, expire on the day that is one year after section 148 commences.

Clause 80 amends the heading of part 2, division 1, subdivision 1 'Wages liable to payroll tax' to reflect that the provisions in the subdivision, as amended by the Bill, when enacted, will also relate to the mental health levy.

Clause 81 inserts new subdivisions 3 and 4 into part 2, division 1.

New subdivision 3 contains provisions about imposing liability for the mental health levy. New section 12A provides for the imposition of the mental health levy on taxable wages. Section 12A(1) provides that the *Payroll Tax Act 1971* imposes a mental health levy on particular taxable wages paid or payable in a financial year. Section 12A(2) provides that amounts attributable to the levy may be used only for providing a service or infrastructure that is consistent with the main objects stated in section 3(1) of the *Mental Health Act 2016* or the guiding principles stated in sections 5(2) to 5(5) of the *Queensland Mental Health Commission Act 2013.*

New section 12B provides that liability for the mental health levy arises on the return date for lodgement by an employer of a return.

New section 12C provides the particular employers who must pay the mental health levy. For an employer who is not a member of a group, the mental health levy must be paid by the employer. For an employer who is a member of a group, the mental health levy must be paid by the employer in relation to the employer's periodic liability. For an employer who is the DGE for a group, the mental health levy must be paid by the employer in relation to the employer's annual levy liability and final levy liability. 'Annual levy liability' is defined in new section 43J and 'final levy liability' is defined in new section 43N.

New subdivision 4 contains a provision relating to the value of taxable wages. Current section 13, which relates to the value of wages that are paid or payable in kind and wages that comprise a fringe benefit under the *Fringe Benefits Tax Assessment Act 1986* (Cwlth), is effectively relocated to this section. This means that the section will apply in determining the value of taxable wages for both payroll tax and the mental health levy.

Clause 82 amends the heading of part 2, division 3 to clarify that this division is relevant to determining periodic liability for payroll tax only. Periodic liability for the mental health levy is provided for under new division 5A.

Clause 83 amends the heading of part 2, division 4 to clarify that this division is relevant to determining annual liability for payroll tax only. Annual liability for the mental health levy is provided for under new division 5B.

Clause 84 amends the heading of part 2, division 5 to clarify that this division is relevant to determining final liability for payroll tax only. Final liability for the mental health levy is provided for under new division 5C.

Clause 85 inserts new divisions 5A, 5B and 5C in part 2 which all relate specifically to the mental health levy.

New division 5A relates to periodic liabilities for the mental health levy.

New section 43B provides that division 5A applies to an employer, who is required to lodge periodic returns under section 59.

New section 43C defines 'adjusted primary threshold' for the mental health levy. Section 43C(1) provides the formula for working out the adjusted primary threshold for a financial year for an employer who is not a group member. It is worked out by reducing the primary threshold of $10 million by the proportion that the taxable wages estimated by the employer to be payable

for the financial year bears to the total taxable wages and interstate wages estimated by the employer to be payable for the financial year.

New section 43C(2) provides the formula for working out the adjusted primary threshold for a financial year for an employer who is a member of a group. The primary threshold of $10 million is first reduced by the proportion that the total taxable wages estimated to be payable by members of the group for the financial year bears to the total taxable and interstate wages estimated to be payable by the members of the group for the financial year. This amount is then multiplied by the taxable wages estimated to be payable by the employer for the financial year as a proportion of the total taxable wages estimated to be payable by the members of the group for the financial year.

New section 43D defines ‘adjusted additional threshold’ for the mental health levy. Section 43D(1) provides the formula for working out the adjusted additional threshold for an employer who is not a group member. It is worked out by reducing the additional threshold of $100 million by the proportion that the taxable wages estimated by the employer to be payable for the financial year bears to the total taxable wages and interstate wages estimated by the employer to be payable for the financial year.

New section 43D(2) provides the formula for working out the adjusted additional threshold for a financial year for an employer who is a member of a group. The additional threshold of $100 million is first reduced by the proportion that the total taxable wages estimated to be payable by members of the group for the financial year bears to the total taxable and interstate wages estimated to be payable by the members of the group for the financial year. This amount is then multiplied by the taxable wages estimated to be payable by the employer for the financial year as a proportion of the total taxable wages estimated to be payable by the members of the group for the financial year.

New section 43E defines ‘primary periodic threshold’ and ‘additional periodic threshold’. Section 43E(1) provides the formula for working out the primary periodic threshold which is adjusted according to the number of months in the periodic return period. For example, for a monthly periodic return, the primary periodic threshold is one twelfth of the adjusted primary threshold for the financial year in which the period occurs.

New section 43E(2) provides the formula for working out the additional periodic threshold which, like the primary periodic threshold, is adjusted according to the number of months in the periodic return period. For example, for a quarterly periodic return, the additional periodic threshold is one quarter of the adjusted additional threshold for the financial year in which the period occurs.

New section 43F provides for the amount of the periodic levy liability. Section 43F provides that an employer’s periodic levy liability for the mental health levy for a periodic return period is the total of the primary periodic liability (calculated under section 43F(2)) and the additional periodic liability (calculated under section 43F(3)).

New section 43F(2) provides that the primary periodic liability for a periodic return period is either the amount worked out using the formula in the subsection or zero, whichever is greater. Using the formula, the primary periodic threshold for the employer for the periodic return is adjusted according to the number of days in the period that the employer paid or was liable to pay wages and the result is subtracted from the employer’s taxable wages for the period. This

amount is then multiplied by the rate of 0.25 per cent, being the rate of the mental health levy to the extent that an employer's, or group of employers', annual Australian taxable wages for a financial year exceed $10 million.

New section 43F(3) provides that the additional periodic liability is either the amount worked out using the formula in the subsection or zero, whichever is greater. Using the formula, the additional periodic threshold for the employer for the periodic return is adjusted according to the number of days in the period that the employer paid or was liable to pay wages and the result is subtracted from the employer's taxable wages for the period. This amount is then multiplied by the rate of 0.5 per cent, being the rate of the mental health levy to the extent that an employer's, or group of employers', annual Australian taxable wages for a financial year exceed $100 million.

New division 5B relates to annual liabilities for the mental health levy.

New section 43G provides that division 5B applies to an employer, who is required to lodge an annual return for a financial year under section 63, if the employer is not a member of a group on 30 June in the year or is the DGE for a group on 30 June in the year.

New section 43H defines 'combined periodic liability'. For an employer who is not a member of a group, the combined periodic liability for the employer for the financial year is the total of the employer's periodic levy liability for each periodic return period in the year. For an employer that is the DGE for a group the combined periodic liability for the employer for the financial year is the total of each group member's total periodic levy liability for each periodic return period in the year.

New section 43I contains definitions for division 5B. Section 43I contains formulas for the definitions of 'additional annual levy amount' and 'primary annual levy amount'. The 'annual levy adjustment amount' for the employer for the financial year means the difference between the employer's annual levy amount for the financial year and the employer's combined periodic liability for the financial year. The 'annual levy amount' for an employer for a financial year is the total of the primary annual levy amount and the additional annual levy amount.

New section 43J provides for the amount of the annual levy liability. Where an employer (or if the employer is the DGE for a group, a group member) lodged or was required to lodge a periodic return during the financial year and the employer's annual levy amount for that year is greater than the employer's combined periodic liability for the year, section 43J(1)(a) provides that the employer's annual levy liability is their annual levy adjustment amount for the financial year. Where an employer (or if the employer is the DGE for a group, a group member) was not required to lodge a periodic return during the year, section 43J(1)(b) provides that the employer's annual levy liability is their annual levy amount for the financial year.

New section 43J(2) provides that, where an employer lodged or was required to lodge one or more final levy returns during a financial year, certain amounts are not included for working out an employer's annual levy liability. That is, taxable wages and interstate wages (final return wages) paid or payable by the employer for a final period during the year are not included. Also, the periodic levy amount for the employer for a final period during the year (final return liability) is not included in the employer's periodic levy liability for the periodic return periods.

However, section 43J(3) provides that section 43J(2) does not apply if the Commissioner makes an original assessment of the employer's annual levy liability (other than under section 14(a) of the *Taxation Administration Act 2001* which provides that a return lodged by a self assessor is taken to be an assessment), the employer is not a group member on 30 June nor was the employer a group member during the final period and the employer's annual levy liability would be greater if the final return wages and final return liability for the final period were not included.

New section 43K applies if an employer's combined periodic liability for the financial year is greater than the employer's annual levy liability for the year. In these circumstances, new section 43K(2) provides that the employer is entitled to an annual levy refund amount, being a refund of the amount of the difference between the combined periodic liability and the annual levy amount. However, new section 43K(3) provides that section 43K(2) applies subject to section 83. Section 83 as amended by this Bill, when enacted, provides that Commissioner may apply particular refund amounts, including an annual levy refund, as payment for certain amounts payable to the Commissioner or which the Commissioner reasonably believes will become payable within a set period (e.g. a tax law liability of the employer).

New section 43K(4) provides that the employer is not entitled to an annual levy refund amount more than five years after making the assessment of the employer's annual levy liability. This is consistent with the *Taxation Administration Act 2001* which provides that a reassessment decreasing a taxpayer's liability for tax must generally be made within five years.

New section 43K(5) provides that section 43K does not apply in relation to a reassessment of an employer's annual levy liability. A note clarifies that reassessments are provided for in part 4, division 2 of the *Taxation Administration Act 2001*.

New division 5C relates to final liabilities for the mental health levy.

New section 43L(1) provides that division 5C applies to an employer who is required to lodge a final return for a final period under section 64, if the employer is not a member of a group on the last day of the final period or is the DGE for a group on the last day of the final period. New section 43L(2) provides that for division 5C, a reference to the final period for an employer who is the DGE for a group is a reference to the final period for the change of status of the group member (if the change of status happens to a group member) or the DGE (if the change of status happens to the DGE).

New section 43M provides definitions for division 5C. There are formulas for the definitions of 'additional final levy amount', 'partial levy amount' and 'primary final levy amount'.

New section 43N states the employer's liability for mental health levy for the final period (final levy liability). New section 43N(2) provides that, in certain circumstances, the employer's final levy liability for the final period is the employer's final levy adjustment amount for the period. For example, where an employer (or if the employer is the DGE for a group, a group member) was required to lodge a periodic return during the period. 'Final levy adjustment amount' for a final period is defined in section 43M as the difference between the employer's final levy amount for the period and the employer's periodic levy liability amount for the final period. 'Final levy amount' and 'periodic levy liability amount' are also defined in section 43M.

If section 43N(2) does not apply and the employer (or if the employer is the DGE for a group, each group member) was not required to lodge a periodic return during the period, new section 43N(3) provides that the employer's final levy liability for the final period is the employer's final levy amount for the period.

New sections 43N(4) and (5) provide that, for working out the final levy liability for the final period for an employer who is not a member of a group, or an employer who is the DGE for a group, in certain circumstances the Commissioner may treat the employer or a group member of the DGE's group whose status has changed as an employer during the final period, even though the employer or group member did not pay and was not liable to pay taxable wages or interstate wages for any part of the period. This will apply where the employer or DGE satisfies the Commissioner that the taxable wages and interstate wages paid or payable by the employer or group member fluctuate with different periods of the financial year because of the nature of the employer or group member's trade or business.

New section 43O applies if an employer's periodic levy liability amount for the final period is greater than the employer's final levy amount for the period. Section 43O(2) provides that the employer is entitled to a final levy refund amount, being a refund of the difference between the periodic levy liability amount and the final levy amount. However, section 43O(3) provides that section 43O(2) applies subject to section 83. As noted above, section 83 as amended by this Bill, when enacted, provides that Commissioner may apply particular refund amounts, including a final levy refund amount, as payment for certain amounts payable to the Commissioner or which the Commissioner reasonably believes will become payable within a set period.

New section 43O(4) provides that the employer is not entitled to final levy refund amount more than five years after the making of the assessment of the employer's final levy liability for the final period. This is consistent with the *Taxation Administration Act 2001* which provides that a reassessment decreasing a taxpayer's liability for tax must generally be made within 5 years.

New section 43O(5) provides that section 43O does not apply in relation to a reassessment of an employer's final levy liability. A note clarifies that reassessments are provided for the in part 4, division 2 of the *Taxation Administration Act 2001.*

Clause 86 amends section 57 which provides that the Commissioner must cancel the registration of a person as an employer in particular circumstances. Section 57 is amended to provide that, where a person has ceased to be an employer and has lodged a final return and paid their final liability and final levy liability for the final period, the Commissioner must cancel the registration. Section 57(1)(b)(ii) is also amended to provide that the cancellation conditions for non-group employers who cease to employ include that the person has lodged an annual return and paid their annual liability and annual levy liability.

Clause 87 amends section 59 which provides for the lodgement of periodic returns. Section 59(4) is amended to provide that a periodic return must state the employer's periodic levy liability for the periodic return period. This is in addition to the existing requirements for periodic returns in current section 59(4).

Clause 88 amends section 61 which deems a periodic return to have been lodged in particular circumstances. Section 61 is amended to reflect the fact that an employer may also be required

to pay the mental health levy and to account for their periodic levy liability for the mental health levy in periodic returns.

Clause 89 amends section 62 which provides that in certain circumstances, the Commissioner may issue a certificate to an employer exempting the employer from the requirement to lodge periodic returns. However, section 62(5) provides that an issue of such a certificate shall not exempt an employer from the payment of any payroll tax. Section 62(5) is amended to provide that the issue of such a certificate also does not exempt an employer from the payment of the mental health levy.

Clause 90 amends section 63 which provides for the lodgement of annual returns. Section 63(3) is amended to provide that, for an employer who is not a group member, or is the DGE for a group, the return must state the employer's annual levy liability or annual levy refund amount for the year. This is in addition to the existing requirements for annual returns in current section 63(3).

Clause 91 amends section 64 which provides for the lodgement of final returns. Section 64(1) is amended to provide that current section 64(2) applies if, during a financial year a change of status happens for a relevant employer.

Section 64(3) is amended to provide that, if the employer is not a member of a group on the last day of the final period, the final return must state the employer's final levy liability or final levy refund amount for the period.

New sections 64(4) and (5) provide that, if during a financial year, a change of status happens for a relevant employer who is a member of a group (the relevant group member), the DGE for the group on the last day of the final period for the change of status must lodge a return for taxable wages paid or payable by the relevant group member for the final period. The return must be lodged not later than 21 days after the change of status happens.

New section 64(6) provides that the return must be in the approved form and state the wages that were paid or payable during the period, as a member of the group, by each employer who was a member of the group for all or part of the period. The return must also state the DGE's final levy liability or final levy refund amount for the period.

Clause 92 amends section 83 which provides that the Commissioner may apply an annual refund amount or final refund amount as payment for particular amounts payable to the Commissioner or which the Commissioner reasonably believes will become payable within a set period (e.g. a tax law liability of the employer). Section 83(1) is amended to ensure that the Commissioner can also apply an annual levy refund amount and final levy refund amount as payment for the particular amounts currently stated in the section. The heading of the section is also updated to reflect the change to the scope of this section.

Clause 93 amends section 85 which provides that an employer is not entitled to a refund of an amount of payroll tax paid, or purportedly paid, by the employer other than under particular provisions of the *Payroll Tax Act 1971* and part 4, division 2 of the *Taxation Administration Act 2001* (refunds of tax and other amounts and particular payments to taxpayers). New section 85(2) is inserted to provide that an employer is not entitled to a refund of an amount of the mental health levy paid, or purportedly paid, by the employer other than under new section

43K or 43O and part 4, division 2 of the *Taxation Administration Act 2001.* The heading of the section is also updated to reflect the change to the scope of this section.

Clause 94 amends the dictionary in the schedule to insert new definitions relevant to the mental health levy and to amend the definitions of 'final wages' and 'relevant group employer' and to provide that, for the purpose of in part 2, division 5C (final liability for mental health levy), those terms are defined in new section 43M.