



Queensland

Duties Regulation 2013

Explanatory Notes for SL 2013 No. 156

made under the

Duties Act 2001

General outline

Short title

Duties Regulation 2013.

Authorising law

Sections 79, 349(2), 366(1), 495(3), 508(1) and (2), and the definitions of “prescribed business” and “recognised stock exchange” in Schedule 6 of the *Duties Act 2001*.

Policy objectives and the reasons for them

Under Part 7 of the *Statutory Instruments Act 1992*, and sections 3 and Schedule 2, Part 2 of the *Statutory Instruments Regulation 2012*, the *Duties Regulation 2002* expires on 31 August 2013. The provisions contained in the *Duties Regulation 2002* remain necessary for the continued effective operation of the *Duties Act 2001*. In particular it facilitates the operation of the *Duties Act 2001* by:

- Declaring public unit trusts for the purposes of the operation of the provisions relating to trust transfers;

- Apportioning premiums for the purposes of calculation of insurance duty where the property or risk insured is in more than one jurisdiction;
- Stipulating the part of the premium on which duty is payable for travel insurance on travel outbound from Australia including baggage in accordance with an inter-jurisdictional apportionment model;
- Prescribing the fees payable for certain administrative functions;
- Prescribing the activities which qualify as prescribed businesses for the purposes of concessional duty treatment; and
- Prescribing recognised stock exchanges for duty exemption purposes.

Achievement of policy objectives

The *Duties Regulation 2013* remakes the *Duties Regulation 2002*. A detailed review of the *Duties Regulation 2002* confirmed that minor consequential amendments were required to update provisions. In particular, the regulation updates the name of a recognised stock exchange and removes as a recognised stock exchange a stock exchange that is no longer operating. An additional stock exchange currently operating under an administrative arrangement, has been included. Finally, changes have been made to reflect current drafting practices.

Consistency with policy objectives of authorising law

The *Duties Regulation 2013* is consistent with the main objects of the *Duties Act 2001* in assisting in the identification of transactions liable to and exempt from duty and the extent of certain duty liabilities, and in making provision for matters assisting in the administration of the *Duties Act 2001*.

In particular, amendments to the recognised stock exchange provisions assist with management of Queensland's revenue base by ensuring those provisions reflect Government policy and changes in marketplace conditions.

Further, the *Duties Regulation 2013* reflects current legislative drafting practices.

Inconsistency with policy objectives of other legislation

Not applicable.

Benefits and costs of implementation

Renewal of the regulation will provide taxpayers with continued certainty in the duty treatment of dutiable transactions and assist in the effective operation of the *Duties Act 2001*.

Implementing the *Duties Regulation 2012* will not result in an increase in costs for Government as administration will remain subject to existing processes, systems and staffing.

Consistency with fundamental legislative principles

The regulation is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

Legislation must have sufficient regard to the rights and liberties of individuals and must not adversely affect rights and liberties, or impose obligations, retrospectively:

Legislative Standards Act 1992, section 4(3)(g)

Clause 2(2) - Commencement date for section 9(c) - Inclusion of New Zealand Exchange Limited as a recognised stock exchange:

Clause 9(c) prescribes the New Zealand Exchange Limited (New Zealand Exchange) as a recognised stock exchange. Prescription of the New Zealand Exchange will provide a duty exemption for transactions in interests in entities that are listed on that exchange. Those transactions would otherwise be liable to duty where the entity holds dutiable property in Queensland. Also, the more generous landholder duty provisions applicable for listed corporations or listed unit trusts will apply to entities listed on the New Zealand Exchange. This is in accordance with an administrative arrangement which granted the New Zealand Exchange status as a recognised stock exchange from 22 March 2010. Clause 2(2) prescribes the retrospective operation of clause 9(c) from the same date.

While retrospectivity generally raises fundamental legislative principle issues, the proposed amendment is beneficial to taxpayers in that it continues an exemption or other benefit. In addition, as noted, the

regulation has been administered under an existing administrative arrangement and the amendment gives legislative effect to that arrangement.

Consultation

The Office of Best Practice Regulation (OBPR) was consulted regarding the need to prepare a Regulatory Impact Statement (RIS). OBPR has advised that the *Duties Regulation 2013* is excluded from the RIS system, as it relates to imposition of taxation, renews an existing regulation and makes consequential amendments.

Consequently, no other consultation was considered necessary.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is Queensland Treasury and Trade.

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