

Serial 52
Treasury Legislation and Consequential Amendment Bill 2006
Mr Stirling

**A BILL
for
AN ACT**

to amend legislation administered by the Treasurer and for related purposes

NORTHERN TERRITORY OF AUSTRALIA
TREASURY LEGISLATION AND CONSEQUENTIAL AMENDMENT
ACT 2006

Act No. [] of 2006

TABLE OF PROVISIONS

Section

PART 1 – PRELIMINARY MATTERS

1. Short title
2. Commencement

PART 2 – AMENDMENTS ABOUT FIRST HOME OWNER GRANTS AND
CONCESSIONS AND PRINCIPAL PLACE OF RESIDENCE REBATES

Division 1 – First Home Owner Grant Act

3. Act amended
4. Amendment of section 11 (Criterion 4 – Applicant (or applicant's spouse or de facto partner) must not have had relevant interest in residential property)

Division 2 – Stamp Duty Act

5. Act amended
6. Amendment of section 8B (Concession for first home owners)
7. Amendment of section 8C (Rebate for principal place of residence)

PART 3 – FURTHER AMENDMENTS ABOUT FIRST HOME OWNER
GRANTS AND CONCESSIONS AND PRINCIPAL PLACE OF RESIDENCE
REBATES

Division 1 – First Home Owner Grant Act

8. Act amended
9. Amendment of section 6 (Spouses and de facto partners)
10. Amendment of section 9 (Criterion 2 – Applicant to be Australian citizen or permanent resident)

11. Amendment of section 11 (Criterion 4 – Applicant (or applicant's spouse or de facto partner) must not have had relevant interest in residential property)
12. Amendment of section 12 (Criterion 5 – Residence requirements)
13. New section 40A
 - 40A. Self-incrimination no excuse
14. Amendment of section 41 (Power to recover amount paid in error etc.)
15. Amendment of section 43 (Confidentiality)

Division 2 – Stamp Duty Act

16. Act amended
17. Amendment of section 8B (Concession for first home owners)
18. Amendment of section 8C (Rebate for principal place of residence)

PART 4 – AMENDMENTS ABOUT ABOLITION OF DUTY ON
MARKETABLE SECURITIES

Division 1 – Taxation (Administration) Act

19. Act amended
20. Amendment of section 4 (Interpretation)
21. Amendment of section 19 (Exemption: interposing new corporation between existing corporation and its shareholders)
22. Amendment of section 20 (Exemption: conveyances and transfers between group corporations)
23. Repeal of section 22
24. Repeal of Part III, Division 11
25. Amendment of section 83A (Application)
26. Amendment of section 83B (Payment of duty on statements in absence of dutiable instrument)
27. Further amendments

Division 2 – Taxation (Administration) Regulations

28. Regulations amended
29. Amendment of regulation 11 (Recognised financial markets)

Division 3 – Stamp Duty Act

30. Act amended
31. Amendment of section 8H (Meaning of "managed investment scheme conveyance")
32. Amendment of Schedule 1

33. Amendment of Schedule 2

PART 5 – AMENDMENTS ABOUT LIABILITY TO DUTY FOR LEASES

Division 1 – Taxation (Administration) Act

34. Act amended
35. Amendment of section 4 (Interpretation)
36. Amendment of section 4C (Duty assessable on certain franchise arrangements as if conveyance of dutiable property)
37. Amendment of section 9BA (Apportioning dutiable property in or related to Territory)
38. Amendment of section 9BB (Apportioning certain dutiable property where business in Territory and elsewhere)
39. Repeal of sections 9BC, 53, 54, 55, 55AA and 56
40. Amendment of section 56B (Extension of time to apply for a refund)
41. New Part XI

PART XI – TRANSITIONAL MATTERS FOR *TREASURY LEGISLATION AND CONSEQUENTIAL AMENDMENT ACT 2006*

Division 1 – Preliminary matters

137. Definitions

Division 2 – Leases

138. Application of former Act to lease executed before 1 July 2006
139. Duty if rent unascertainable
140. Refund if early determination of lease

Division 2 – Stamp Duty Act

42. Act amended
43. Amendment of Schedule 1

Division 3 – Land Title Act

44. Act amended
45. Amendment of section 66 (Requirements of instrument of lease)

PART 6 – AMENDMENTS ABOUT LAND-HOLDING CORPORATIONS

46. Act amended
47. Amendment of section 4 (Interpretation)
48. Amendment of section 4A (Unencumbered value – arrangements to affect stamp duty)

49. Repeal and substitution of Part III, Division 8A heading
Division 8A – Relevant acquisitions in certain corporations and unit trust schemes entitled to land
50. Amendment of section 56C (Interpretation)
51. New section 56CA
56CA. Change in control of beneficiary or trustee of discretionary trust
52. Amendment of section 56D (Lodgement of statements by trustees)
53. Amendment of section 56F (Notice may be registered on title)
54. Amendment of section 56K (When statement to be lodged)
55. Amendment of section 56M (Statement chargeable with duty)
56. Repeal and substitution of section 56N
56N. Corporation to which Division applies
56NA. Linked entity
56NB. Unencumbered value of land of corporation
57. Amendment of section 56P (Meaning of relevant acquisition)
58. Amendment of section 56Q (Interest and significant interest in corporation)
59. Amendment of section 56R (How dutiable value determined)
60. Amendment of section 56S (Liability for duty)
61. Repeal and substitution of section 56T
56T. Unit trust schemes
62. Amendment of section 123A (Regulatory offences)
63. New Part XI, Division 3
Division 3 – Other matters
141. Application of Act after 1 July 2006 to duty chargeable for acquisition of interest in land-holding corporation

PART 7 – MISCELLANEOUS AMENDMENTS ABOUT DUTIABLE PROPERTY, ASSESSMENTS AND RECOVERY OF DUTY AND PENALTIES

Division 1 – Taxation (Administration) Act

64. Act amended
65. Amendment of section 4 (Interpretation)
66. New section 4AB
4AB. Assessing value of share of dutiable property
67. New section 4D
4D. Surrender and constructive surrender of dutiable property
68. Amendment of section 10 (Evasion of duty)
69. Amendment of section 56A (Refund or remission of duty if transaction does not proceed etc.)
70. Amendment of section 83A (Application)
71. Amendment of section 87 (Failure to comply with requirements for further information etc.)

- 72. Amendment of section 88 (False or misleading returns)
- 73. Amendment of section 89 (False or misleading declarations)
- 74. Repeal of section 91
- 75. Amendment of section 97 (Amended assessments generally)
- 76. Amendment of section 108 (Recovery of additional penalty)
- 77. New sections 142 and 143
 - 142. Application of Act to conveyances of marketable securities executed before 1 July 2006
 - 143. Additional penalties

Division 2 – Stamp Duty Act

- 78. Act amended
- 79. Amendment of Schedule 2

PART 8 – AMENDMENTS ABOUT ABOLITION OF ADHESIVE STAMPS

Division 1 – Taxation (Administration) Act

- 80. Act amended
- 81. Amendment of section 4 (Interpretation)
- 82. Amendment of section 8 (Duty stamps)
- 83. Amendment of section 9 (When instruments lodged and duty payable)
- 84. Amendment of section 11 (Duty or tax denoted by impressed stamp)
- 85. Amendment of section 12 (Fraudulent actions relating to stamps)
- 86. Repeal and substitution of section 13
 - 13. Refund for adhesive stamps
- 87. Repeal of section 14

Division 2 – Stamp Duty Act

- 88. Act amended
- 89. Amendment of section 8 (Waiver of payment of small amounts)

PART 9 – AMENDMENTS ABOUT OBJECTIONS, APPEALS AND OTHER PROCEEDINGS

Division 1 – First Home Owner Grant Act

- 90. Act amended
- 91. Amendment of section 24 (Objections)
- 92. Repeal and substitution of sections 26 and 27
 - 26. Appeal

93. New Part 5
PART 5 – TRANSITIONAL MATTERS FOR *TREASURY
LEGISLATION AND CONSEQUENTIAL AMENDMENT ACT 2006*
51. Decisions dated earlier than 1 July 2006 – objections and appeals

Division 2 – Taxation (Administration) Act

94. Act amended
95. Amendment of section 100 (Definitions)
96. Amendment of section 105B (How to commence an appeal)
97. Amendment of section 105C (Notice of Appeal)
98. Amendment of section 105D (Appeal commenced out of time)
99. Amendment of section 105E (Response of decision maker to notice of appeal)
100. Amendment of section 105G (Appeal to Supreme Court on question of law)
101. Amendment of section 105H (Referral to Supreme Court)
102. Amendment of section 105S (Certain decisions final)
103. Amendment of section 105T (Establishment and jurisdiction)
104. New Part VII heading

PART VII – PROCEEDINGS AND PROSECUTIONS

105. Amendment of section 112 (Evidence in proceeding)
106. Repeal of Part VII heading

Division 3 – Taxation and Royalty Appeals Tribunal Rules

107. Rules amended
108. Amendment of rule 2 (Definitions)
109. Amendment of Schedule 1

PART 10 – AMENDMENT OF *PAY-ROLL TAX ACT*

110. Act amended
111. Amendment of section 3 (Interpretation)
112. Amendment of section 8 (General exemption)
113. Amendment of section 10A (Annual adjustments)
114. Amendment of section 11 (Adjustment if employer ceases to pay taxable wages or joins group)
115. Amendment of section 12 (Registration)
116. Amendment of section 17K (Annual adjustments)
117. Amendment of section 17L (Adjustment if group member ceases to pay taxable wages or interstate wages)
118. Amendment of section 33 (Evidence)
119. New section 34
34. Validity of decision etc.

PART 11 – AMENDMENT OF *MINERAL ROYALTY ACT*

- 120. Act amended
- 121. Amendment of section 4 (Definitions)
- 122. New section 49AA
 - 49AA. Secretary
- 123. New Part VII

PART VII – TRANSITIONAL MATTERS FOR *TREASURY
LEGISLATION AND CONSEQUENTIAL AMENDMENT ACT 2006*

- 53. Secretary

SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2006

AN ACT

to amend legislation administered by the Treasurer and for related purposes

[Assented to [] 2006]
[Second reading [] 2006]

The Legislative Assembly of the Northern Territory enacts as follows:

PART 1 – PRELIMINARY MATTERS

1. Short title

This Act may be cited as the *Treasury Legislation and Consequential Amendment Act 2006*.

2. Commencement

(1) This Part comes into operation on the day on which the Administrator's assent to this Act is declared.

(2) Part 2 is taken to have come into operation on 2 May 2006.

(3) The remaining provisions of this Act come into operation on 1 July 2006.

**PART 2 – AMENDMENTS ABOUT FIRST HOME OWNER GRANTS
AND CONCESSIONS AND PRINCIPAL PLACE OF RESIDENCE
REBATES**

Division 1 – First Home Owner Grant Act

3. Act amended

This Division amends the *First Home Owner Grant Act*.

4. Amendment of section 11 (Criterion 4 – Applicant (or applicant's spouse or de facto partner) must not have had relevant interest in residential property)

Section 11(3)

omit

date on which the application is made, held an interest in property (other than property to which the application relates)

substitute

commencement date of the eligible transaction to which the application relates, held an interest in property

Division 2 – Stamp Duty Act

5. Act amended

This Division amends the *Stamp Duty Act*.

6. Amendment of section 8B (Concession for first home owners)

(1) After section 8B(2)(d)

insert

(da) the conveyee does not have, or none of the conveyees has, any beneficial interest in the land the subject of the conveyance; and

(2) Section 8B(2)(a) to (d) and (e), at the end

insert

and

- (3) Section 8B(4)

omit

(d),

substitute

(d), (da),

7. Amendment of section 8C (Rebate for principal place of residence)

- (1) After section 8C(2)(b)

insert

(ba) the conveyee does not have, or none of the conveyees has, any beneficial interest in the land the subject of the conveyance; and

- (2) Section 8C(2)(a), (b) and (c), at the end

insert

and

- (3) Section 8C(3)

omit

(b),

substitute

(b), (ba),

PART 3 – FURTHER AMENDMENTS ABOUT FIRST HOME OWNER GRANTS AND CONCESSIONS AND PRINCIPAL PLACE OF RESIDENCE REBATES

Division 1 – First Home Owner Grant Act

8. Act amended

This Division amends the *First Home Owner Grant Act*.

9. Amendment of section 6 (Spouses and de facto partners)

(1) Section 6

omit

If

substitute

(1) If

(2) Section 6, at the end

insert

(2) In this Act, a reference to an applicant's spouse or de facto partner, in relation to an application, is a reference to the applicant's spouse or de facto partner at the commencement date of the eligible transaction to which the application relates.

10. Amendment of section 9 (Criterion 2 – Applicant to be Australian citizen or permanent resident)

Section 9(1) and (2), after "a permanent resident"

insert

at the time of making the application

11. Amendment of section 11 (Criterion 4 – Applicant (or applicant's spouse or de facto partner) must not have had relevant interest in residential property)

After section 11(4)

insert

(5) Also, for subsection (3), the applicant or the applicant's spouse or de facto partner is taken not to have used the property as the residence of the applicant or the applicant's spouse or de facto partner if:

- (a) the property was the subject of an earlier application under this Act or a corresponding law by the applicant or the applicant's spouse or de facto partner; and
- (b) a first home owner grant was not paid under the earlier application because the Commissioner did not exempt the applicant or the applicant's spouse or de facto partner from the requirement in section 8(1)(b).

12. Amendment of section 12 (Criterion 5 – Residence requirements)

After section 12(1B)

insert

(1C) The Commissioner may approve a longer period under subsection (1B) only if satisfied there are special reasons to do so.

13. New section 40A

After section 40, in Part 3, Division 2

insert

40A. Self-incrimination no excuse

(1) A person is not excused from answering a question or producing relevant material for an authorised investigation on the ground that the answer or relevant material might tend to incriminate the person.

(2) However, an answer to a question or relevant material provided by the person for an authorised investigation is not admissible against the person in any criminal proceeding except a proceeding for an offence against this Act or the *Taxation (Administration) Act*.

14. Amendment of section 41 (Power to recover amount paid in error etc.)

Section 41(3)(a)

omit

Commissioner within 14 days after receiving the notice

substitute

Commissioner, within 30 days after the date of the notice,

15. Amendment of section 43 (Confidentiality)

(1) After section 43(3)(e)

insert

(ea) to any of the following officers:

(i) an officer of the Australian Taxation Office;

- (ii) an officer of the Commonwealth services delivery agency known as Centrelink;
 - (iii) an officer of the Commonwealth department primarily responsible for immigration; or
- (2) Section 43(3)(a) to (e) and (f), at the end

insert

or

Division 2 – Stamp Duty Act

16. Act amended

This Division amends the *Stamp Duty Act*.

17. Amendment of section 8B (Concession for first home owners)

- (1) Section 8B(1)

insert (in alphabetical order)

"period for occupancy", in relation to a conveyee, including a conveyee mentioned in subsection (4)(a), means:

- (a) for a home mentioned in subsection (2)(g)(i) – the 12-month period or longer approved period applicable under that subsection; or
- (b) for a home mentioned in subsection (2)(g)(ii) – the applicable period under subsection (2)(g)(ii)(B)(I) or (II);

"relevant time" means the time when the instruments effecting or evidencing a conveyance of land are executed;

- (2) Section 8B(1), definition of "prescribed period", paragraph (b)

omit, substitute

- (b) a shorter continuous period approved under subsection (12)(a);

- (3) Section 8B(1A)

omit

time the instruments effecting a conveyance are executed

substitute

relevant time

- (4) Section 8B(2)(aa)

omit

when the instruments evidencing the conveyance are executed

substitute

at the relevant time

- (5) Section 8B(2)(b), after "resident"

insert

at the time of making the declaration mentioned in subsection (10)

- (6) Section 8B(2)(c), after "partner"

insert

at the relevant time

- (7) Section 8B(2)(c), after "partners"

insert

at the relevant time

- (8) Section 8B(2)(d), after "partner"

insert

at the relevant time

- (9) Section 8B(2)(d), after "partners"

insert

at the relevant time

- (10) Section 8B(2)(g)(i)

omit

all the words from "within" to "conveyance"

substitute

within 12 months, or within a longer period approved by the Commissioner, after the relevant time

- (11) Section 8B(2)(g)(ii)(A)

omit

execution of the instruments evidencing the conveyance

substitute

relevant time

- (12) Section 8B(2)(g)(ii)(B)(I)

omit

one year

substitute

12 months

- (13) Section 8B(2)(g)(ii)(B)(II)

omit

the other

substitute

the

- (14) Section 8B(4)

omit (all references)

period referred to in subsection (2)(g)

substitute

period for occupancy

- (15) Section 8B(4)

omit

that paragraph.

substitute

subsection (2)(g).

- (16) Section 8B(5)(a) and (6)(a)

omit, substitute

(a) within the period for occupancy; or

- (17) After section 8B(11)

insert

(11A) If the Commissioner has refused to exempt a conveyee under subsection (11), the conveyee is taken not to have had a relevant interest in the residential property for which the conveyee did not receive the first home owner concession.

- (18) Section 8B(12)

omit, substitute

(12) The Commissioner may approve the following periods only if satisfied there are special reasons to do so:

(a) a shorter prescribed period mentioned in subsection (2)(g)(i) or (ii)(B);

(b) a longer period mentioned in subsection (2)(g)(i) or (ii)(B)(II).

18. Amendment of section 8C (Rebate for principal place of residence)

- (1) Section 8C(1), definition of "prescribed period", paragraph (b)

omit, substitute

(b) a shorter continuous period approved under subsection (10)(a);

- (2) Section 8C(2)(e)(i)

omit

one year, or the other

substitute

12 months, or within a

- (3) Section 8C(2)(e)(ii)(B)(I)

omit

one year

substitute

12 months

- (4) Section 8C(2)(e)(ii)(B)(II)

omit

the other

substitute

the

- (5) Section 8C(10)

omit, substitute

(10) The Commissioner may approve the following periods only if satisfied there are special reasons to do so:

- (a) a shorter prescribed period mentioned in subsection (2)(e)(i) or (ii)(B);
- (b) a longer period mentioned in subsection (2)(e)(i) or (ii)(B)(II).

PART 4 – AMENDMENTS ABOUT ABOLITION OF DUTY ON MARKETABLE SECURITIES

Division 1 – Taxation (Administration) Act

19. Act amended

This Division amends the *Taxation (Administration) Act*.

20. Amendment of section 4 (Interpretation)

- (1) Section 4(1)

insert (in alphabetical order)

"relevant acquisition" has the meaning in section 56P;

- (2) Section 4(1), definition of "trustee"

omit

includes –

substitute

includes the following:

- (3) Section 4(1), definition of "trustee", paragraph (d)

omit

winding-up; and

substitute

winding-up.

- (4) Section 4(1), definition of "trustee", paragraph (f)

omit

21. Amendment of section 19 (Exemption: interposing new corporation between existing corporation and its shareholders)

Section 19(2)

omit

is not payable on

substitute

mentioned in Division 8A is not payable in respect of a relevant acquisition if, and to the extent that, the relevant acquisition is the result of

22. Amendment of section 20 (Exemption: conveyances and transfers between group corporations)

Section 20(1)

omit, substitute

- (1) Subject to subsections (2) and (4):

- (a) duty is not payable on a conveyance of dutiable property, or a transfer of a motor vehicle certificate of registration, from one group corporation to another group corporation; and

- (b) duty mentioned in Division 8A is not payable in respect of a relevant acquisition if, and to the extent that, the relevant acquisition is the result of a conveyance of marketable securities from one group corporation to another group corporation.

23. Repeal of section 22

Section 22

repeal

24. Repeal of Part III, Division 11

Part III, Division 11

repeal

25. Amendment of section 83A (Application)

- (1) Section 83A(1A)

omit, substitute

(1A) In subsection (1), dutiable property includes property prescribed, or of a class prescribed, for this subsection.

- (2) Section 83A(1B)(a) and (b)

omit

and marketable securities

- (3) Section 83A(1B)(c) and (d)

omit (all references)

or marketable securities

26. Amendment of section 83B (Payment of duty on statements in absence of dutiable instrument)

- (1) Section 83B(1)(a)

omit

Property";

substitute

Property"; or

- (2) Section 83B(1)(b)

omit

- (3) Section 83B(3)(c)(i)

omit, substitute

- (i) to be an instrument effecting the transaction to which it relates and is chargeable with the ad valorem duty mentioned in subsection (1) appropriate to the transaction; and

27. Further amendments

The Schedule has effect.

Division 2 – Taxation (Administration) Regulations

28. Regulations amended

This Division amends the *Taxation (Administration) Regulations*.

29. Amendment of regulation 11 (Recognised financial markets)

- (1) Regulation 11(1)

omit

- (1) For the purposes of

substitute

For

- (2) Regulation 11(2)

omit

Division 3 – Stamp Duty Act

30. Act amended

This Division amends the *Stamp Duty Act*.

31. Amendment of section 8H (Meaning of "managed investment scheme conveyance")

- (1) Section 8H(1), definition of "scheme property"

omit

or marketable securities

- (2) Section 8H(2)(a)

omit

or a marketable security

- (3) Section 8H(2)(a)(i) and (ii)

omit

or marketable security

- (4) Section 8H(2)(b)

omit

or a marketable security

- (5) Section 8H(2)(b)(i)

omit

or marketable security

- (6) Section 8H(2)(c)

omit

or a marketable security

32. Amendment of Schedule 1

Schedule 1, item 20

omit

33. Amendment of Schedule 2

Schedule 2, items 15 to 22

omit

PART 5 – AMENDMENTS ABOUT LIABILITY TO DUTY FOR LEASES

Division 1 – Taxation (Administration) Act

34. Act amended

This Division amends the *Taxation (Administration) Act*.

35. Amendment of section 4 (Interpretation)

- (1) Section 4(1), definitions of "franchise", "franchisor" and "rent"

omit

- (2) Section 4(1)

insert (in alphabetical order)

"rent" includes any amount of GST payable in relation to the supply of the property for which rent is paid or payable;

36. Amendment of section 4C (Duty assessable on certain franchise arrangements as if conveyance of dutiable property)

Section 4C

omit

all the words from "assessed –" to "under it."

substitute

assessed as if it were a conveyance of that dutiable property from the franchisee mentioned in paragraph (a) to the person who is the franchisee under it.

37. Amendment of section 9BA (Apportioning dutiable property in or related to Territory)

- (1) Section 9BA(1)

omit

- (1) Where,

substitute

Where,

- (2) Section 9BA(2)

omit

- 38. Amendment of section 9BB (Apportioning certain dutiable property where business in Territory and elsewhere)**

Section 9BB(1)

omit

the purposes of section 9BA(1)

substitute

section 9BA

- 39. Repeal of sections 9BC, 53, 54, 55, 55AA and 56**

Sections 9BC, 53, 54, 55, 55AA and 56

repeal

- 40. Amendment of section 56B (Extension of time to apply for a refund)**

Section 56B

omit

56 or

- 41. New Part XI**

After section 136

insert

**PART XI – TRANSITIONAL MATTERS FOR *TREASURY
LEGISLATION AND CONSEQUENTIAL AMENDMENT ACT 2006***

Division 1 – Preliminary matters

- 137. Definitions**

In this Part:

"amendment Act" means the *Treasury Legislation and Consequential Amendment Act 2006*;

"former Act" means this Act as in force immediately before 1 July 2006;

"repealed", in relation to a specified provision, means the provision as in force immediately before 1 July 2006.

Division 2 – Leases

138. Application of former Act to lease executed before 1 July 2006

Despite the amendments effected by Part 5 of the amendment Act, the former Act continues to apply in relation to a lease first executed before 1 July 2006 unless this Division specifies otherwise.

139. Duty if rent unascertainable

(1) This section applies in relation to a lease first executed before 1 July 2006 and mentioned in repealed section 55(1).

(2) Repealed section 55(7)(b) applies only to the extent required to enable the Commissioner to refund to the lessee the difference between the duty paid under the lease based on an estimate of unascertainable rent and the duty that would have been payable had it been based on the rent actually paid under the lease.

(3) Repealed section 55(9) does not apply except to the extent that a lessee, when resubmitting the lease to the Commissioner, must do so together with a statement setting out the amounts mentioned in repealed section 55(9)(a) and (b).

140. Refund if early determination of lease

(1) This section applies in relation to a lease first executed before 1 July 2006 and mentioned in repealed section 56.

(2) Repealed section 56 does not apply in relation to the refund of duty paid in respect of the grant of the lease unless:

(a) the application made under repealed section 56 is accompanied by the following documents:

(i) the instrument evidencing the grant of the lease;

(ii) a declaration by the applicant stating that neither the lessee or any associate of the lessee has occupied the leased property after the determination of the lease and will not do

so (other than as a result of the sale of the property to the lessee or associate); and

(b) the Commissioner is satisfied as to the truth of the applicant's declaration.

(3) For subsection (2)(a)(ii), an associate of a lessee has the same meaning as in section 56A(7).

(4) In subsection (2)(a)(ii), a reference to the leased property includes a reference to property substantially the same as the leased property.

Division 2 – Stamp Duty Act

42. Act amended

This Division amends the *Stamp Duty Act*.

43. Amendment of Schedule 1

(1) Schedule 1, item 12

omit

or a franchise arrangement

(2) Schedule 1, item 12(1) and (2)

omit

(3) Schedule 1, item 12(3)

omit

all the words from "In" to "rent"

substitute

In respect of a lease where there is valuable consideration other than rent under the lease

(4) Schedule 1, item 12(3)

omit

"Schedule"

substitute

Schedule, assessed on the amount of consideration other than rent

- (5) Schedule 1, item 12(4)

omit

- (6) Schedule 1, item 12(5)

omit

Schedule

substitute

Schedule, assessed on the unencumbered value of the interest in land granted under the lease

- (7) Schedule 1, item 12(5)(b)

omit

notwithstanding paragraphs (1) to (4) inclusive,

- (8) Schedule 1, item 12(6)

omit

- (9) Schedule 1, item 12(7)

omit

a contract or agreement to grant such lease

substitute

an agreement to grant the lease and the agreement has been

Division 3 – Land Title Act

44. Act amended

This Division amends the *Land Title Act*.

45. Amendment of section 66 (Requirements of instrument of lease)

Section 66(1)(c)

omit

amount paid or

substitute

rent paid or payable and

PART 6 – AMENDMENTS ABOUT LAND-HOLDING CORPORATIONS

46. Act amended

This Part amends the *Taxation (Administration) Act*.

47. Amendment of section 4 (Interpretation)

Section 4(1)

insert (in alphabetical order)

"associated person", in relation to a corporation, has the meaning in section 4A(4);

48. Amendment of section 4A (Unencumbered value – arrangements to affect stamp duty)

(1) Section 4A(2)(a)

omit

of a kind specified in section 56C(2)(a)(i) to (vi) (inclusive);

substitute

specified in subsection (4); or

(2) Section 4A(2)(b)

omit

of a kind specified in section 56C(2)(c)(i) to (iv) (inclusive)

substitute

specified in subsection (6)

(3) Section 4A(3)(a)

omit

within the meaning of section 56P

(4) After section 4A(3)

insert

(4) The following persons are associated persons in relation to a corporation:

- (a) a related corporation within the meaning of section 50 of the Corporations Act 2001 (a "related corporation");
- (b) if the corporation is a trustee:
 - (i) a natural person who is a beneficiary under a trust of the corporation; or
 - (ii) another trustee if there is a beneficiary common to the trusts of the corporation and the other trustee;
- (c) a director or secretary of the corporation or a related corporation;
- (d) a person who is beneficially entitled to a shareholding in the corporation or a related corporation;
- (e) a relative, specified in subsection (6), of a natural person mentioned in paragraph (b)(i), (c) or (d);
- (f) another corporation in which the corporation or a person mentioned in paragraph (b)(i), (c), (d) or (e) is beneficially entitled to a shareholding;
- (g) a trustee if the corporation or a person mentioned in paragraph (a), (c) or (d) is a beneficiary of a trust of the trustee.

(5) For subsection (4)(b) and (g), a person is a beneficiary whether the person has a vested share, is contingently entitled or may benefit from a discretionary trust.

(6) The following persons are relatives of a party who is a natural person:

- (a) a spouse or de facto partner of the party;
- (b) a child or remoter lineal descendant of the party;
- (c) a parent or remoter lineal ancestor of the party;
- (d) a brother or sister of the party;
- (e) a spouse or de facto partner of a person mentioned in paragraphs (b) to (d).

49. Repeal and substitution of Part III, Division 8A heading

Part III, Division 8A, heading

repeal, substitute

Division 8A – Relevant acquisitions in certain corporations and unit trust schemes entitled to land

50. Amendment of section 56C (Interpretation)

(1) Section 56C(1), definition of "interest"

omit

(2) Section 56C(1)

insert (in alphabetical order)

"beneficiary", in relation to a discretionary trust, has the same meaning as in section 56BAA;

"change in control", of a beneficiary under or trustee of a discretionary trust, has the meaning in section 56CA;

"declaration of trust over shares" means a declaration (other than by a will or testamentary instrument) that identified shares vested or to be vested in the person making the declaration are or are to be held in trust for the person, or for the purpose, mentioned in the declaration even though the beneficial owner of the shares or the person entitled to appoint the shares may not have joined in or assented to the declaration;

"interest" has the meaning in section 56Q, and includes a significant interest;

"land-holding corporation" has the meaning in section 56N(2);

"linked entity", of a corporation, has the meaning in section 56NA(1);

"significant interest" has the meaning in section 56Q(4);

"statutory vesting" means the vesting of shares under a law of the Commonwealth, a State or Territory or a jurisdiction outside Australia (including the vesting of shares under a law that continues a person or body in existence or establishes a new person or body as the successor in law of a person or body in which the shares were previously vested);

- (3) Section 56C(1), definition of "acquire"

omit

corporation to which this Division applies, includes acquire the interest or shareholding by virtue of –

substitute

land-holding corporation, includes acquire the interest or shareholding in any of the following ways:

- (4) Section 56C(1), definition of "acquire", paragraph (a)

omit

to the person or another person

- (5) Section 56C(1), definition of "acquire", paragraph (b)

omit

by the corporation or by the person or another person

- (6) Section 56C(1), definition of "acquire", paragraph (cb)

omit

to which Division 8AA applies

substitute

over shares

- (7) Section 56C(1), definition of "acquire", paragraphs (cc) and (cd)

omit, substitute

(cc) if shares are held subject to a discretionary trust – the addition of a beneficiary or class of beneficiaries to the existing beneficiaries under the trust;

(cd) if shares are held subject to a discretionary trust – a change in control of a beneficiary under, and a change of or in control of a trustee of, the trust, if both changes:

(i) occur within a 12-month period; and

(ii) arise from (or substantially from) one transaction or one series of transactions;

- (8) Section 56C(1), definition of "acquire", paragraph (ce)

omit

to which Division 8B applies

- (9) Section 56C(1), definition of "private unit trust scheme", paragraph (b)(i), (ii) and (iii)

omit, substitute

- (i) fewer than 300 persons are beneficially entitled to units under the scheme;
- (ii) a person, whether alone or together with related persons, is beneficially entitled to 20% or more of the issued units under the scheme;
- (iii) no units in the scheme have been offered to the public under a prospectus or product disclosure statement lodged with ASIC;

- (10) Section 56C(2)

omit

- (11) Section 56C(3)(h)

omit

to which Division 8AA applies

substitute

over shares

- (12) Section 56C(3)(i)

omit

under a discretionary trust to which Division 8AAA applies

substitute

to the existing beneficiaries under a discretionary trust

- (13) Section 56C(5)

omit

the purposes of subsections (2) and

substitute

subsection

(14) Section 56C(10)

omit

to which Division 8AA applies –

substitute

over shares:

(15) Section 56C(11)

omit

under a discretionary trust to which Division 8AAA applies –

substitute

to the existing beneficiaries under a discretionary trust:

(16) After section 56C(11)

insert

(11A) For this Division, the addition of a beneficiary or class of beneficiaries to the existing beneficiaries under a discretionary trust includes any of the following:

- (a) the addition of a beneficiary who is a natural person or a body corporate;
- (b) the addition of a class of beneficiaries the members of which are natural persons, bodies corporate or both;
- (c) the addition of a person or class of persons in whom the whole or part of the trust property vests if the trustee does not make a determination to vest that whole or part;
- (d) the transfer or other disposition by a beneficiary of his or her beneficial interest under the trust.

(11B) If the effect of an amendment or variation of the terms of a non-discretionary trust is to create a discretionary trust, this Division applies in relation to the discretionary trust as if, at the time the amendment or variation is made:

- (a) there are beneficiaries or classes of beneficiaries already existing under the discretionary trust; and
 - (b) the beneficiaries or classes of beneficiaries under the discretionary trust are added to the existing beneficiaries or classes of beneficiaries.
- (17) Section 56C(12)
- omit*
- to which Division 8AAA applies –
- substitute*
- mentioned in paragraph (cd) of the definition of "acquire":

- (18) Section 56C(13)
- omit*
- vesting to which Division 8B applies –
- substitute*
- vesting:

51. New section 56CA

After section 56C

insert

56CA. Change in control of beneficiary or trustee of discretionary trust

(1) For this Division, a change in control of a beneficiary under or trustee of a discretionary trust is a change in the person or persons acting together who may (directly or indirectly) exercise, control the exercise of, or substantially influence the exercise of:

- (a) the majority of voting power at meetings of the directors of the beneficiary or trustee; or
 - (b) more than 50% of the voting power attached to voting shares issued by the beneficiary or trustee.
- (2) Also, a change of or in control of a trustee includes the following:
- (a) a change of or in control of the person who has the power to appoint and revoke the appointment of the trustee;

- (b) a variation in, or the transfer or other disposition of, that power;
- (c) a change of or in control of a person who is in a position to influence (directly or indirectly) a determination by the trustee to vest the whole or part of the trust property;
- (d) the appointment of an additional trustee.

52. Amendment of section 56D (Lodgement of statements by trustees)

Section 56D(1)

omit

corporation to which this Division applies

substitute

land-holding corporation

53. Amendment of section 56F (Notice may be registered on title)

- (1) Section 56F(1)(a)

omit

lodged;

substitute

lodged; and

- (2) Section 56F(1)

omit

subsidiary as defined in section 56N(5)

substitute

linked entity of the corporation

- (3) Section 56F(7), (8) and (9)

omit (all references)

subsidiary

substitute

linked entity

54. Amendment of section 56K (When statement to be lodged)

(1) Section 56K(1)

omit

corporation to which this Division applies

substitute

land-holding corporation

(2) Section 56K(1A)(a)

omit, substitute

(a) has shares quoted on a recognised financial market and the quotation is not a tax avoidance scheme or part of a tax avoidance scheme; or

(3) Section 56K(3)

omit

shall be lodged within 3 months

substitute

must be lodged within 60 days

55. Amendment of section 56M (Statement chargeable with duty)

(1) Section 56M(2)(a), after "Act"

insert

as in force before 1 July 2006

(2) Section 56M(2)(c)(i), after "market"

insert

and the quotation was not a tax avoidance scheme or part of a tax avoidance scheme

(3) Section 56M(2)(c)(v)

omit

to which Division 8AA applies

substitute

over shares

- (4) Section 56M(2)(c)(vi)

omit

under a discretionary trust to which Division 8AAA applies

substitute

to the existing beneficiaries under a discretionary trust

- (5) Section 56M(2)(c)(vii)

omit

to which Division 8AAA applies

substitute

mentioned in paragraph (cd) of the definition of "acquire" in section 56C(1)

- (6) Section 56M(2)(c)(viii)

omit, substitute

(viii) if the corporation is a unit trust scheme and the interest is acquired before 1 July 2006, but within the relevant period, and the aggregate of the interests held by the person and related persons in the scheme after the acquisition is less than 50%;

- (7) Section 56M(2)(c)(x), after "section 22"

insert

as in force before 1 July 2006 or by virtue of section 19 or 20 as in force on or after 1 July 2006

- (8) After section 56M(2)

insert

(2A) Subject to subsection (2B), there is to be deducted from the duty chargeable on a statement lodged under section 56K the amount payable by a person under this Division in respect of the proportion of the dutiable value of the acquisition of an interest in the corporation in respect of land to which the

corporation is entitled if the interest is acquired within the relevant period by the person or any related persons and a direct conveyance of the land from the person who held the interest to the person who acquired the interest:

- (a) would not be liable to ad valorem duty under Schedule 1, item 5 to the *Stamp Duty Act* because of a law of the Territory, other than:
 - (i) by virtue of Division 2; or
 - (ii) if the acquisition of the interest is the result of:
 - (A) a declaration of a trust over shares; or
 - (B) the addition of a beneficiary or class of beneficiaries to the existing beneficiaries under a discretionary trust; or
 - (C) a change in control of a beneficiary under, and a change of or in control of a trustee of, a discretionary trust mentioned in paragraph (cd) of the definition of "acquire" in section 56C(1); or
- (b) would be exempt from duty because of an order under the *Family Law Act 1975* (Cth):
 - (i) relating to the marriage or former marriage (including a void marriage) of the person who held the interest and the person who acquired the interest; and
 - (ii) the person who acquired the interest is not an agent or trustee of another person.

(2B) Subsection (2A) applies only if an amount payable in respect of the acquisition of the interest in the corporation has not been deducted under subsection (2)(c).

(9) Section 56M(3)(b)

omit

30 days after the date on which the person is informed of the assessment

insert

within 60 days after the occurrence of the relevant acquisition

56. Repeal and substitution of section 56N

Section 56N

repeal, substitute

56N. Corporation to which Division applies

(1) This Division applies to a land-holding corporation in which a person acquires a relevant acquisition.

(2) A land-holding corporation is a corporation entitled to land that has an unencumbered value of at least \$500 000.

56NA. Linked entity

(1) A linked entity of a corporation is a person who is part of a chain of persons:

- (a) that includes the corporation; and
- (b) that is comprised of one or more links; and
- (c) in which a link exists if a person, whether alone or together with other linked entities, would be entitled to receive at least 20% of the unencumbered value of the property of another person in the chain (the "property-holder").

(2) For subsection (1)(c), a person's entitlement at a particular time is determined in the following way:

- (a) if the property-holder is a corporation – as an entitlement to participate as a shareholder in the distribution of the property on a winding-up of the corporation, at that time, calculated in accordance with section 56C(6);
- (b) if the property-holder is a trustee of a trust – as an entitlement on the distribution of the trust, at that time, determined in accordance with section 56C(7).

56NB. Unencumbered value of land of corporation

(1) The unencumbered value of land to which a corporation is entitled at a particular time is the aggregate of the following amounts:

- (a) the unencumbered value, at that time, of land to which the corporation is entitled in its own right;

(b) the portion of the unencumbered value, at that time, of land to which the corporation would be entitled if each linked entity were to be wound up.

(2) For subsection (1)(b), the portion of the unencumbered value to which the corporation would be entitled is the value determined without regard to any liabilities of a linked entity.

(3) For this section:

(a) a person is taken to be entitled to land that is subject to an agreement for the sale or purchase of the land by the person; and

(b) a person who is entitled to land as a co-owner of the land is taken to be entitled to the whole of the land unless the Commissioner is satisfied the reason for the person being a co-owner is not to defeat the object of this Division.

57. Amendment of section 56P (Meaning of relevant acquisition)

(1) Section 56P

omit (all references)

majority

substitute

significant

(2) Section 56P(a), at the end

insert

or

58. Amendment of section 56Q (Interest and significant interest in corporation)

(1) Section 56Q(2)

omit

(2) After section 56Q(3)

insert

(4) A person has a significant interest in a corporation if the person's entitlement, mentioned in subsection (3), is:

- (a) 50% or more of all the corporation's property; or
- (b) for an interest in a unit trust scheme – 20% or more of all the scheme's property.

59. Amendment of section 56R (How dutiable value determined)

- (1) Section 56R(2)

omit

entitled, as provided by subsection (4),

substitute

entitled

- (2) Section 56R(4)

omit

60. Amendment of section 56S (Liability for duty)

- (1) Section 56S(3)(a) and (b)

omit (all references)

subsidiary

substitute

linked entity

- (2) Section 56S(3)

omit

land-holder

substitute

land-holding corporation

61. Repeal and substitution of section 56T

Section 56T

repeal, substitute

56T. Unit trust schemes

Unless the context indicates or requires otherwise, this Division applies to a unit trust scheme as if:

- (a) the unit trust scheme were a corporation; and
- (b) a unit in the unit trust scheme were a share in a corporation; and
- (c) the acquisition of units in the unit trust scheme were the acquisition of shares in a corporation; and
- (d) a reference to the constitution or rules of a corporation were a reference to the constituent documents of a unit trust scheme; and
- (e) a reference to a winding-up of a corporation were a reference to a termination of a unit trust scheme.

62. Amendment of section 123A (Regulatory offences)

Section 123A, after "48,"

insert

56K(6),

63. New Part XI, Division 3

After section 140

insert

Division 3 – Other matters

141. Application of Act after 1 July 2006 to duty chargeable for acquisition of interest in land-holding corporation

(1) This section applies to a land-holding corporation (including a land-holding unit trust scheme) to which Part III, Division 8A applies.

(2) Despite the amendments effected by Part 6 of the amendment Act, the former Act continues to apply in relation to duty chargeable for the following:

- (a) an interest acquired in a land-holding corporation if the acquisition occurred before 1 July 2006;
- (b) subject to subsection (3), an interest acquired in a land-holding corporation if the acquisition occurred between 1 July 2006 and 31 December 2006 pursuant to an agreement entered into before 2 May 2006.

(3) Subsection (2)(b) does not apply in relation to a land-holding corporation whose shares are quoted on a recognised financial market and the quotation is a tax avoidance scheme or part of a tax avoidance scheme.

PART 7 – MISCELLANEOUS AMENDMENTS ABOUT DUTIABLE PROPERTY, ASSESSMENTS AND RECOVERY OF DUTY AND PENALTIES

Division 1 – Taxation (Administration) Act

64. Act amended

This Division amends the *Taxation (Administration) Act*.

65. Amendment of section 4 (Interpretation)

(1) Section 4(1)

insert (in alphabetical order)

"surrender of dutiable property" has the meaning in section 4D;

(2) Section 4(1), definition of "conveyance"

omit

settlement, foreclosure,

substitute

settlement, surrender, foreclosure,

(3) Section 4(1), definition of "dutiable property", paragraphs (g) and (ga)

omit

surrendered or relinquished or

66. New section 4AB

After section 4A

insert

4AB. Assessing value of share of dutiable property

The unencumbered value of an undivided share of dutiable property, whether held jointly or in common, is assessed by multiplying the total unencumbered value of the property by the share expressed as a fraction.

67. New section 4D

After section 4C

insert

4D. Surrender and constructive surrender of dutiable property

(1) A surrender of dutiable property, includes surrender of the property by any of the following methods:

- (a) abandonment;
- (b) abrogation;
- (c) cancellation;
- (d) extinguishment;
- (e) forfeiture;
- (f) redemption;
- (g) relinquishment.

(2) If dutiable property is surrendered by a person but is not transferred or assigned to or does not vest in or accrue to another person but, in the opinion of the Commissioner, the surrender amounts to or has the same effect as a conveyance of the property to another person (the "receiver"), the surrender is taken to be a conveyance of the property.

(3) If subsection (2) applies:

- (a) the dutiable property surrendered is taken to be the property conveyed; and
- (b) the receiver is taken to be the conveyee; and
- (c) the conveyance is taken to have occurred at the earlier of the following:
 - (i) when the property is surrendered;
 - (ii) if an instrument effects, or when recorded in a register will effect, the surrender – when the instrument is executed by the parties to the transaction.

(4) If a surrender of dutiable property is taken to be a conveyance of the property, the unencumbered value of the property is determined immediately before the surrender.

(5) Without limiting this section, a surrender of dutiable property has the same effect as a conveyance of the property if the surrender:

- (a) removes a restriction on the right of the receiver to use the property; or
- (b) enables all or part of the same, or substantially similar, dutiable property to be conveyed from the receiver to another person (including under a franchise arrangement).

68. Amendment of section 10 (Evasion of duty)

Section 10(3) to (5)

omit

69. Amendment of section 56A (Refund or remission of duty if transaction does not proceed etc.)

(1) After section 56A(1)

insert

(1A) Subsection (1) does not apply in relation to the grant of a lease if the lessee or an associate of the lessee has occupied the leased property (or property substantially the same as the leased property), except as a result of the sale of the property to the lessee or associate, after the date when the grant did not proceed.

(2) After section 56A(4)

insert

(5) If duty has been remitted or refunded under subsection (1) for a transaction, and the Commissioner subsequently forms the opinion there has been a subsequent sale or other disposition of the dutiable property the subject of the transaction of a type mentioned in subsection (4)(a) or (b), the instruments evidencing the transaction remain liable to duty.

(6) The Commissioner may assess duty for subsection (5) even if the limitation period under section 97(1) has expired.

(7) For subsection (1A), an associate of the lessee includes the following:

- (a) a person related to the lessee as mentioned in section 56C(3)(a) to (f);
- (b) if the lessee is a corporation – an associated person of the lessee;

- (c) if the lessee is a natural person – any of the following persons:
 - (i) a family member of the lessee within the meaning of section 8E(1) of the *Stamp Duty Act*;
 - (ii) a parent or remoter lineal ancestor of the lessee;
 - (iii) a spouse, de facto partner or sibling of a person mentioned in subparagraph (ii).

70. Amendment of section 83A (Application)

- (1) Section 83A(1B)(d)

omit

section 56BC(3).

substitute

section 56BC(3); and

- (2) After section 83A(1B)(d)

insert

- (e) the surrender of dutiable property is taken to cause or result in a change in the beneficial ownership of the property and, for section 83B, the change in beneficial ownership is taken to occur when the property is surrendered.

- (3) Section 83A(1B)(a) and (b), at the end

insert

and

- (4) Section 83A(2)

omit

of –

substitute

of any of the following:

- (5) Section 83A(2)(c)(i)

omit

them;

substitute

them; and

- (6) Section 83A(2)(e)

omit

- (7) Section 83A(2)(f)

omit

property; or

substitute

property;

71. Amendment of section 87 (Failure to comply with requirements for further information etc.)

Section 87(6)

omit

72. Amendment of section 88 (False or misleading returns)

Section 88(3)

omit

73. Amendment of section 89 (False or misleading declarations)

Section 89(3)

omit

74. Repeal of section 91

Section 91

repeal

75. Amendment of section 97 (Amended assessments generally)

Section 97(5)

omit

all the words from "shall" to "section."

substitute

must amend the assessment of duty if the period mentioned in subsection (1) has not expired.

76. Amendment of section 108 (Recovery of additional penalty)

(1) Section 108(1)

omit

(1) An

substitute

An

(2) Section 108(2)

omit

77. New sections 142 and 143

After section 141

insert

142. Application of Act to conveyance of marketable securities executed before 1 July 2006

Despite the amendments effected by Part 4 of the amendment Act, the former Act continues to apply in relation to a conveyance of marketable securities first executed, or taken to have occurred, before 1 July 2006.

143. Additional penalties

(1) If, on or after 1 July 2006, a court finds a person guilty of an offence against section 10, 87, 88 or 89, the court must not order the person to pay an amount to the Commissioner even if the person was charged with the offence, or the prosecution for the offence was instituted, before 1 July 2006.

(2) Section 108 applies in relation to an additional amount payable by way of penalty even if:

- (a) the assessment of duty in respect of which the amount is recoverable was issued before 1 July 2006; or
- (b) a prosecution for an offence against this Act is instituted in respect of the same subject matter for which the amount is payable.

Division 2 – Stamp Duty Act

78. Act amended

This Division amends the *Stamp Duty Act*.

79. Amendment of Schedule 2

Schedule 2, after item 37(m)

insert

- (n) a motor vehicle certificate of registration issued to a person solely to correct an error on another motor vehicle certificate of registration on which stamp duty has been paid.

PART 8 – AMENDMENTS ABOUT ABOLITION OF ADHESIVE STAMPS

Division 1 – Taxation (Administration) Act

80. Act amended

This Division amends the *Taxation (Administration) Act*.

81. Amendment of section 4 (Interpretation)

- (1) Section 4(1), definition of "cancel"

omit

- (2) Section 4(1)

insert (in alphabetical order)

"cancellation", of an adhesive stamp, means the cancellation of the stamp, effected immediately after it is affixed to an instrument:

- (a) by writing in ink on or across the stamp the name or initials, or by impressing on or across the stamp the seal, of a party by or for whom the instrument was executed; and

- (b) by writing in ink on or across the stamp the date of cancellation;
- (3) Section 4(1), definition of "adhesive stamp"
omit
made in pursuance of section 8(1)
substitute
required or permitted to be used under this Act as in force before 1 July 2006
- (4) Section 4(3)(a)
omit
Act to
substitute
Act, as in force before 1 July 2006, to
- (5) Section 4(3)(a)
omit
in accordance with this Act

82. Amendment of section 8 (Duty stamps)

Section 8(1)

omit, substitute

- (1) The Commissioner must direct:
 - (a) the making of dies or other devices for making impressed stamps to be used under this Act; and
 - (b) the use of the devices under this Act.

83. Amendment of section 9 (When instruments lodged and duty payable)

Section 9(1A)

omit, substitute

(1A) Unless there is an express provision to the contrary in this or any other Act, a person who is liable for an instrument chargeable with duty must

lodge the instrument with the Commissioner for assessment within 60 days after it is first executed, regardless of:

- (a) whether it is first executed in the Territory or elsewhere; and
- (b) when it is first received in the Territory.

84. Amendment of section 11 (Duty or tax denoted by impressed stamp)

Section 11(1)

omit, substitute

(1) Subject to this Act, payment of duty or tax is denoted by impressed stamp.

85. Amendment of section 12 (Fraudulent actions relating to stamps)

(1) After section 12(1)(a)

insert

(aa) remove from an adhesive stamp affixed to an instrument any writing or seal on the stamp to effect its cancellation; or

(2) Section 12(1)(a) and (b), at the end

insert

or

86. Repeal and substitution of section 13

Section 13

repeal, substitute

13. Refund for adhesive stamps

(1) On application by a person, the Commissioner may refund the value of and destroy adhesive stamps if satisfied the stamps:

- (a) are spoilt or unused; or
- (b) have been affixed to an instrument in error.

(2) The application must be:

- (a) made before 1 July 2007; and
- (b) in the approved form; and

- (c) accompanied by the adhesive stamps or instrument the subject of the application.

(3) The Commissioner must not refund the value of adhesive stamps the subject of an application made on or after 1 July 2007.

(4) For this section, the value of adhesive stamps is the amount of duty denoted by the stamps.

87. Repeal of section 14

Section 14

repeal

Division 2 – Stamp Duty Act

88. Act amended

This Division amends the *Stamp Duty Act*.

89. Amendment of section 8 (Waiver of payment of small amounts)

Section 8(2)

omit, substitute

(2) If payment of an amount is waived, the instrument on which the amount would otherwise have been payable:

- (a) must be marked as duly stamped; and
- (b) is taken to be duly stamped.

PART 9 – AMENDMENTS ABOUT OBJECTIONS, APPEALS AND OTHER PROCEEDINGS

Division 1 – First Home Owner Grant Act

90. Act amended

This Division amends the *First Home Owner Grant Act*.

91. Amendment of section 24 (Objections)

(1) Section 24(3)

omit

30

substitute

60

(2) Section 24(4)

omit

30-day

substitute

60-day

92. Repeal and substitution of sections 26 and 27

Sections 26 and 27

repeal, substitute

26. Appeal

(1) If the objector is dissatisfied with the Commissioner's decision on the objection, the objector may appeal against the decision.

(2) The appeal must be to the Tribunal, within the meaning of section 100 of the *Taxation (Administration) Act*, under Part V, Division 3 of that Act.

(3) The appeal is an appeal de novo.

Note for section 26

Section 105B(3) of the Taxation (Administration) Act requires the appeal to be commenced within 60 days after the date of the notice of the decision on the objection.

93. New Part 5

After section 50

insert

PART 5 – TRANSITIONAL MATTERS FOR *TREASURY LEGISLATION AND CONSEQUENTIAL AMENDMENT ACT 2006*

51. Decisions dated earlier than 1 July 2006 – objections and appeals

Despite the amendments effected by the *Treasury Legislation and Consequential Amendment Act 2006*, Part 2, Division 6 as in force immediately before 1 July 2006 continues to apply in relation to the following:

- (a) an objection under section 24 to a decision notified under section 23 if the date of the notice of the decision is earlier than 1 July 2006;
- (b) an appeal under section 26 against a decision on the objection notified under section 25 if the date of the notice of the decision is earlier than 1 July 2006.

Division 2 – Taxation (Administration) Act

94. Act amended

This Division amends the *Taxation (Administration) Act*.

95. Amendment of section 100 (Definitions)

- (1) Section 100, definition of "decision maker"

omit

- (2) Section 100

insert (in alphabetical order)

"decision" means a taxation decision or first home owner grant decision;

"decision maker" means:

- (a) for a taxation decision:
 - (i) if the decision is made under this Act or the PTA – the Commissioner; or
 - (ii) if the decision is made under the MRA – the Secretary; or
- (b) for a first home owner grant decision – the Commissioner;

"first home owner grant decision" means a decision made and notified under section 25 of the *First Home Owner Grant Act*;

"objector" means a person who appeals to the Tribunal against a first home owner grant decision;

96. Amendment of section 105B (How to commence an appeal)

After section 105B(2)

insert

(3) An objector may commence an appeal to the Tribunal under section 26 of the *First Home Owner Grant Act* by lodging a notice of appeal with the Registrar within 60 days after the date of the notice of the first home owner grant decision.

97. Amendment of section 105C (Notice of Appeal)

Section 105C(2)

omit

taxpayer

substitute

appellant

98. Amendment of section 105D (Appeal commenced out of time)

Section 105D

omit

taxpayer

substitute

appellant

99. Amendment of section 105E (Response of decision maker to notice of appeal)

Section 105E(1)

omit

taxpayer

substitute

appellant

100. Amendment of section 105G (Appeal to Supreme Court on question of law)

Section 105G(1)

omit

taxpayer

insert

appellant

101. Amendment of section 105H (Referral to Supreme Court)

After section 105H(2)

insert

(3) If the appellant is an objector, Division 4 applies to the appeal as if a reference in Division 4 to the taxpayer were a reference to the objector.

102. Amendment of section 105S (Certain decisions final)

(1) Section 105S(1)(c)

omit

under a discretionary trust to which Part III, Division 8AAA applies

substitute

to the existing beneficiaries under a discretionary trust

(2) Section 105S(1)(d)

omit

to which Part III, Division 8AAA applies

substitute

mentioned in paragraph (cd) of the definition of "acquire" in section 56C(1)

103. Amendment of section 105T (Establishment and jurisdiction)

After section 105T(2)

insert

(3) The Tribunal also has jurisdiction to determine appeals under section 26 of the *First Home Owner Grant Act*.

104. New Part VII heading

After section 111

insert

PART VII – PROCEEDINGS AND PROSECUTIONS

105. Amendment of section 112 (Evidence in proceeding)

(1) Section 112(1)

omit

proceedings for the recovery of duty or tax –

substitute

a proceeding:

(2) Section 112(1)(a)

omit, substitute

(a) the production of an instrument under the hand of the Commissioner purporting to be a copy or record of a notice of assessment:

(i) is conclusive evidence of the due making of the assessment;
and

(ii) except in a proceeding under Part V, is conclusive evidence that the amount and particulars of the assessment are correct; and

106. Repeal of Part VII heading

Part VII, heading (as in force immediately before the commencement of section 104)

repeal

Division 3 – Taxation and Royalty Appeals Tribunal Rules

107. Rules amended

This Division amends the *Taxation and Royalty Appeals Tribunal Rules*.

108. Amendment of rule 2 (Definitions)

Rule 2, definition of "appellant"

omit

taxpayer

substitute

taxpayer or objector

109. Amendment of Schedule 1

(1) Form 1, heading

omit, substitute

NOTICE OF APPEAL

SECTION 105B OF TAXATION (ADMINISTRATION) ACT

(2) Form 1

omit

TAXPAYER]

substitute

TAXPAYER OR OBJECTOR]

PART 10 – AMENDMENT OF PAY-ROLL TAX ACT

110. Act amended

This Part amends the *Pay-roll Tax Act*.

111. Amendment of section 3 (Interpretation)

(1) Section 3(1), definition of "wages", after paragraph (b)

insert

(baa) a payment by way of remuneration to a director or member of the governing body of a company made by a person acting for or in

concert or under an arrangement or understanding, whether formal or informal and whether expressed or implied, with the company;
and

- (2) Section 3(1), definition of "wages", paragraphs (a) and (b) and (ba) to (d), at the end

insert

and

- (3) After section 3(2)

insert

(2A) For this Act, a payment by way of remuneration mentioned in paragraph (baa) of the definition of "wages" in subsection (1) is taken to be made by the company.

112. Amendment of section 8 (General exemption)

Section 8(1), definition of "prescribed amount", paragraphs (a) and (b)

omit

\$83 333.33

substitute

\$104 166.66

113. Amendment of section 10A (Annual adjustments)

Section 10A(1), definition of "prescribed amount"

omit

1 000 000C

substitute

1 250 000C

114. Amendment of section 11 (Adjustment if employer ceases to pay taxable wages or joins group)

Section 11(1), definition of "prescribed amount"

omit

1 000 000C

substitute

1 250 000C

115. Amendment of section 12 (Registration)

Section 12(1) and (1B)

omit

\$19 230

substitute

\$24 030

116. Amendment of section 17K (Annual adjustments)

Section 17K(2), definition of "prescribed amount"

omit

1 000 000C

substitute

1 250 000C

117. Amendment of section 17L (Adjustment if group member ceases to pay taxable wages or interstate wages)

Section 17L(2), definition of "prescribed amount"

omit

1 000 000C

substitute

1 250 000C

118. Amendment of section 33 (Evidence)

Section 33(1)

omit, substitute

(1) The production of an instrument under the hand of the Commissioner purporting to be a copy or record of a notice of a decision, determination or assessment:

- (a) is conclusive evidence of the due making of the decision, determination or assessment; and
- (b) except in a proceeding under Part V of the *Taxation (Administration) Act*, is conclusive evidence that the amount and particulars of the decision, determination or assessment are correct.

119. New section 34

After section 33, in Part V

insert

34. Validity of decision etc.

The validity of a decision, determination or assessment is not affected merely because a provision of this Act has not been complied with.

PART 11 – AMENDMENT OF *MINERAL ROYALTY ACT*

120. Act amended

This Part amends the *Mineral Royalty Act*.

121. Amendment of section 4 (Definitions)

- (1) Section 4, definition of "Secretary"

omit

- (2) Section 4

insert (in alphabetical order)

"Secretary" means the person holding or occupying the office of Secretary mentioned in section 49AA(1).

122. New section 49AA

Before section 49A, in Part VI

insert

49AA. Secretary

(1) The Minister may in writing appoint a public sector employee to the office of Secretary.

- (2) The appointment may be of:

- (a) a person by name; or

- (b) a person by reference to the office, position or designation held or occupied by the person; or
 - (c) a person from time to time holding, acting in or performing the duties of a named office, designation or position.
- (3) The Secretary has the functions given to the Secretary under this or any other Act.
- (4) The Secretary may do all things necessary or convenient to be done for or in relation to the performance of the Secretary's functions.

123. New Part VII

After section 52

insert

**PART VII – TRANSITIONAL MATTERS FOR *TREASURY
LEGISLATION AND CONSEQUENTIAL AMENDMENT ACT 2006***

53. Secretary

The Chief Executive Officer continues as the Secretary on the commencement of the *Treasury Legislation and Consequential Amendment Act 2006* until the Minister appoints a person to the office of Secretary under section 49AA.

SCHEDULE

Section 27

**FURTHER AMENDMENTS OF *TAXATION (ADMINISTRATION) ACT*
FOR PART 4, DIVISION 1**

| Provision | Amendment | |
|--|---|-------------------|
| | omit | substitute |
| Section 4B(2)(c) | or marketable securities | |
| Section 17(5B) | or a marketable security | |
| Section 17(5B)(b) | or the marketable security | |
| Section 23(1) and (2)(b) | 20 or 22 (all references) | 19 or 20 |
| Section 23(4)(a) | section 23(1)(b) | subsection (1)(b) |
| Section 23(4)(b)(ii) | 1 year | 12 months |
| Sections 25(1) and 26(1) and (3)(a) and (b) | 19, 20 or 22 | 19 or 20 |
| Section 56A(1)(a) and (b), (3) and (4) | or marketable securities | |
| Section 56BA | or marketable securities (all references) or securities (all references) | |
| Sections 56BAB(1)(a) and 56BAC(1)(c) | or marketable securities | |
| Part III, Division 8AB heading | <i>or marketable securities</i> | |
| Section 56BB definition of "option property" | or marketable securities | |

Treasury Legislation and Consequential Amendment Act 2006

| | | |
|--|--|-------------------------------------|
| Sections 56BC(1)(a) and (b) and (4)(b) and 56BD(2) | or marketable securities | |
| Section 56V | or marketable securities (all references) | |
| | or securities were | was |
| Section 56W(1) | or marketable securities | |
| Section 56W(2)(a) | or marketable securities that vest | |
| | or are taken to be the property or securities that is or are | taken to be the property that is |
| Section 56W(2)(b) and (c) | or marketable securities vest | |
| Section 97A(1) and (4)(b) | or marketable securities | |

ALTERATION TO SECTION HEADING

On the day on which the *Taxation (Administration) Act* is amended by Part 4, Division 1 of this Act, in addition to any alteration to section headings indicated in the text of this Act, the heading to section 23 of the *Taxation (Administration) Act* is altered by omitting "**20 or 22**" and substituting "**19 or 20**".