

Explanatory Statement

REVENUE LEGISLATION AMENDMENT AND REPEAL BILL 2022

SERIAL NO. 52 LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

TREASURER

GENERAL OUTLINE

This Bill amends the *Monetary Units Act 2018*, *Penalty Units Act 2009*, *Penalty Unit Regulations 2010*, *Revenue Units Act 2009* and the *Stamp Duty Act 1978*, and repeals the *Property Activation Act 2019*. The changes made by this Bill form part of the 2022-23 Budget.

Indexation of monetary units, penalty units and revenue units

The *Monetary Units Act 2018*, *Penalty Units Act 2009*, *Penalty Unit Regulations 2010* and *Revenue Units Act 2009* are amended to cap the annual indexation of monetary units, penalty units and revenue units to ensure their respective monetary values reflect underlying inflation for the 2022-23 financial year.

In the Territory, many government fees and penalties are expressed in revenue units and penalty units respectively, while some payments and expenses are expressed in monetary units. Under the current legislative framework, the monetary value of each type of unit is automatically indexed on 1 July each year based on movements in the Darwin Consumer Price Index. The amendments override this mechanism for the 2022-23 financial year in favour of a smaller adjustment. The amendments broadly apply an indexation rate of 2.7%.

Cessation of property activation levy

The *Property Activation Act 2019* is repealed on 1 July 2022, with the effect of ceasing the property activation levy on this date. The repeal does not affect owners' obligations and liabilities in respect of earlier periods.

Stamp duty exemption for single-contract house and land packages and speculative build homes

The *Stamp Duty Act 1978* is amended with effect from 1 July 2022 to establish a new stamp duty exemption for eligible individuals who purchase newly-developed land that contains, or will contain, a new home from the building practitioner who built or will build the home. The building practitioner must have acquired the land forming the subject of the conveyance from a developer and paid stamp duty on its acquisition of the land.

Stamp duty concession for electric vehicles

The *Stamp Duty Act 1978* is amended with effect from 1 July 2022 to establish a new stamp duty concession of up to \$1500 for certificates of registration issued in respect of electric vehicles. The concession is equivalent to the amount of stamp duty payable on a \$50,000 motor vehicle.

NOTES ON CLAUSES

PART 1 – PRELIMINARY MATTERS

Clause 1. Short Title

This is a formal clause which provides for the citation of the Bill. The Bill when passed will be cited as the *Revenue Legislation Amendment and Repeal Act 2022*.

Clause 2. Commencement

This clause provides that the Act commences on 1 July 2022.

PART 2 – AMENDMENT OF MONETARY UNITS ACT 2018

Clause 3. Act amended

This Act being amended by this Part is the *Monetary Units Act 2018*.

Clause 4. Section 6 amended (Calculation of monetary unit)

This clause inserts new section 6(1AA).

New section 6(1AA)(a) fixes the value of a monetary unit at \$1.04 for the financial year ending on 30 June 2023.

New section 6(1AA)(b) provides that, for subsequent financial years, the value of a monetary unit reverts to being calculated in accordance with sections 6(1) and (2).

Clause 5. Part 3 inserted

This clause inserts new Part 3, comprising new section 9, which provides for the transitional matters relating to the indexation adjustment.

New section 9(1) provides that the amendments this Bill makes to the *Monetary Units Act 2018* applies to matters occurring (i.e. any dollar amount based on monetary units) on or after 1 July 2022.

New section 9(2) provides that the *Monetary Units Act 2018* in force immediately before 1 July 2022 continues to apply to matters occurring before 1 July 2022.

PART 3 – AMENDMENT OF PENALTY UNITS LEGISLATION

Division 1 – Penalty Units Act 2009

Clause 6. Act amended

The Act being amended by this Division is the *Penalty Units Act 2009*.

Clause 7. Long title

This clause amends the long title to reflect the amendment to section 5(1) in Clause 8 below.

Clause 8. Section 5 amended (Indexation of monetary value of penalty unit)

This clause omits the existing section 5(1) and replaces it with new section 5(1).

New section 5(1) simplifies the *Penalty Units Act 2009* by removing a formality requiring the Minister to review the monetary value of a penalty unit by performing the calculation in section 5(2).

New section 5(1)(a) fixes the value of a penalty unit at \$162 for the financial year ending on 30 June 2023.

New section 5(1)(b) provides that, for subsequent financial years, the value reverts to being calculated in accordance with the formula in section 5(2).

This clause also omits Section 5(4), which is obsolete as a result of new section 5(1)(b).

Clause 9. Section 6 amended (Prescribing new monetary value of penalty unit)

This clause omits the existing section 6(3) and replaces it with new section 6(3).

New section 6(3) rewords existing section 6(3) to ensure an increase in the prescribed value of a penalty unit does not apply in relation to any offence committed before the increase takes effect.

Division 2 – Penalty Units Regulations 2010

Clause 10. Regulations amended

This Division amends the *Penalty Units Regulations 2010*.

Clause 11. Regulation 2 amended (Monetary value of a penalty unit)

This clause ensures the new value of a penalty unit is prescribed by regulation as required under section 6(1) of the *Penalty Units Act 2009*.

PART 4 – REPEAL OF PROPERTY ACTIVATION ACT 2019

Division 1 – Repeal

Clause 12. Act repealed

This clause repeals the *Property Activation Act 2019* on 1 July 2022, with the effect of ceasing the property activation levy on this date.

Division 2 – Transitional matters

Clause 13. Obligations for levies and returns for periods before repeal of *Property Activation Act 2019*

This clause provides for the transitional matters relating to the repeal of the *Property Activation Act 2019* and clarifies that, for the avoidance of doubt, the repeal of that Act does not affect:

- the liability of an owner for any levy imposed under that Act before its repeal
- the duty of an owner to lodge a return for any return period ending before 1 July 2022 under that Act before its repeal
- the respective rights, duties and powers of the Commissioner of Territory Revenue and an owner provided for in the *Taxation Administration Act 2007* in relation to any levy or obligation imposed under the *Property Activation Act 2019* prior to its repeal.

PART 5 – AMENDMENT OF REVENUE UNITS ACT 2009

Clause 14. Act amended

The Act being amended by this Part is the *Revenue Units Act 2009*.

Clause 15. Section 4 amended (Indexation of monetary value of revenue unit)

This clause omits the existing section 4(1) and replaces it with new section 4(1).

New section 4(1)(a) fixes the value of a revenue unit at \$1.27 for the financial year ending on 30 June 2023.

New section 4(1)(b) provides that, for subsequent financial years, the value of a revenue reverts to being calculated in accordance with sections 4(2), (3) and (4).

Clause 16. Section 11 inserted

This clause inserts new section 11, which provides for the transitional matters relating to the indexation adjustment.

New section 11(1) provides that the amendments this Bill makes to the *Revenue Units Act 2009* applies to any fee or charge incurred on or after 1 July 2022.

New section 11(2) provides that the *Revenue Units Act 2009* in force immediately before 1 July 2022 continues to apply to any fee or charge incurred before 1 July 2022.

PART 6 – AMENDMENT OF STAMP DUTY ACT 1978

Clause 17. Act amended

The Act being amended by this Part is the *Stamp Duty Act 1978*.

Clause 18. Section 4 amended (Interpretation)

This clause inserts defined terms for ‘building contractor’, ‘developed’ and ‘new home’ into section 4(1). The defined terms are signposts that refer the reader to the provisions in which those terms are substantively defined. The substantive definitions of these terms are needed to interpret the stamp duty exemption in new section 90D.

Clause 19. Section 90A amended (Reassessments in relation to first home owner grant and senior, pensioner and carer concession or principal place of residence rebate)

This clause updates the wording of section 90A to reflect modern drafting practice. This is a minor housekeeping amendment and does not have a substantive impact on any other section of the *Stamp Duty Act 1978* or any other law.

Clause 20. Part 5, Division 2A inserted

This clause inserts new Division 2A in Part 5, which contains new sections 90C and 90D. Together these sections contain a new stamp duty exemption for individuals who purchase newly-developed land that contains, or will contain, a new home from the building practitioner who built, or will build, the home provided the conditions in new section 90D are met.

The purpose of this exemption is to incentivise building practitioners to:

- offer home buyers house and land packages under a single agreement, preventing the need for home buyers to enter into separate contracts with different entities for the purchase of land and the construction of a home
- construct speculative build homes

on newly-developed and newly-created residential lots.

New section 90C

New section 90C contains substantive definitions of the terms ‘developed’ and ‘new home’, and a signpost definition for the term ‘building contractor’. These terms are needed to interpret new section 90D.

New section 90C(1) contains the substantive definition of the term ‘new home’. To remove doubt, a new home does not include the renovation (or substantial renovation) of a previously-occupied home.

New section 90C(1) also contains a signpost definition for the term ‘building contractor’, which refers the reader to regulation 41B of the *Building Regulations 1993*. A ‘building contractor’ refers to the following sub-categories of building practitioner:

- building contractor residential (restricted)
- building contractor residential (unrestricted)

New section 90C(2) contains the substantive definition of the term ‘developed’. The definition makes it clear that a person will not be taken to have developed land unless they make certain improvements to the land before subdividing it into lots.

New section 90C(2)(a) provides that the exemption can apply in relation to greenfield or brownfield developments.

The reference to ‘new infrastructure’ in new section 90C(2)(b) includes the construction of roads, drains, sewerage and buildings on the land being developed.

New section 90C(3) clarifies that the definitions in section 88(1) apply to sections 90C and 90D. Section 88(1) contains general definitions relevant to the Territory’s home incentive schemes.

New section 90D

New section 90D contains the substantive eligibility criteria for the exemption.

New section 90D(1) provides that the exemption is available in respect of conveyances first executed between 1 July 2022 and 30 June 2027 inclusive. For the meaning of ‘first executed’, see the definition of ‘execute’ in section 4(1).

New section 90D(1) also ensures that the exemption is only available in respect of conveyances which genuinely commence on or after 1 July 2022. The exemption is not available in circumstances where:

- the conveyance replaces an earlier conveyance, first executed before 1 July 2022, in relation to the same or substantially similar land; or
- the conveyance is in relation to land for which the conveyee entered into an option to purchase before 1 July 2022; or
- the conveyor of the land had an option, granted before 1 July 2022, to require the conveyee to purchase the land to which the conveyance relates or substantially similar land.

Under new section 90D(2)(a), the conveyee must be an individual, at least 18 years of age and an Australian Citizen or permanent resident. These requirements are consistent with previous home incentive schemes. Each condition must be met at the ‘relevant time’, however, the requirement that the conveyee be at least 18 years of age can be waived under new section 90D(7). The term ‘relevant time’ is defined in section 88(1) as follows.

relevant time, in relation to a conveyance of land, means:

- (a) if one instrument effects or evidences the conveyance – the time when the instrument is executed; or
- (b) if more than one instrument effects or evidences the conveyance – the time when the first of the instruments is executed.

New section 90D(2)(b) provides that the conveyee must not acquire an interest in the land in the capacity of a trustee.

New section 90D(2)(c) provides that the conveyee must not have a pre-existing beneficial interest in the land being conveyed before the relevant time.

New section 90D(2)(d) provides that, under the terms of the conveyance, the building contractor agrees to convey the land to the conveyee

New section 90D(2)(e) provides that, under the terms of the conveyance, the building contractor agrees to do one of the following:

- build or place a new home on the land, referring to a house and land package and clarifying that prefabricated new homes are eligible for the exemption
- complete the building of a partially completed home affixed to the land being conveyed, referring to a speculative build home that has been commenced, but is not complete at the relevant time
- convey a completed new home affixed to the land being conveyed, referring to a speculative build home, including a display home.

In all cases, the home must be a new home and it must be detached, reflecting this exemption's focus on house and land packages and speculative build homes in new residential land developments. To remove doubt, the exemption does not apply to semi-detached, row and terrace homes and flats, units and apartments.

New section 90D(2)(f) provides that the building contractor need not own the land at the time the conveyance is first executed, provided they do so prior to settlement.

New section 90D(2)(g) requires the building contractor to have acquired the land directly from the person who developed the land. That is, the land must be new land release.

New section 90D(2)(h) requires the building contractor to have paid stamp duty on the dutiable value of the land upon acquiring it from the person who developed the land.

New section 90D(2)(i) requires the conveyee to occupy the home as the conveyee's principal place of residence for the prescribed period commencing within the period for occupancy, unless the Commissioner of Territory Revenue is satisfied that special reasons exist to vary this requirement. The terms 'prescribed period' and 'period for occupancy' are defined in section 88(1). For the meaning of 'principal place of residence', see *Commissioner's Guideline CG-HI-005: Principal place of residence*.

New section 90D(2)(j) requires the conveyee to become entitled to possession of the land within 12 months after the settlement of the conveyance, unless the Commissioner of Territory Revenue is satisfied that special reasons exist to vary this requirement.

The requirements in new sections 90D(2)(i) and (j) are to ensure the exemption only applies to genuine owner-occupiers.

New section 90D(3) clarifies the requirement to satisfy certain eligibility criteria where there are two or more conveyees under the conveyance.

New section 90D(4) provides that, where a person acquires land or an interest in land as guardian of a person with a legal disability, the person under the legal disability is taken to be:

- the conveyee of the land; and
- the applicant for the exemption; and
- the recipient of any exemption granted.

New section 90D(5) places an obligation on a conveyee to notify the Commissioner of Territory Revenue of a failure to occupy a home in accordance with new section 90D(2)(i).

New section 90D(6) provides that, if there are two or more conveyees under the conveyance, and all fail to occupy in accordance with new section 90D(2)(i), the notice in 90(5) is only required to be made by one conveyee.

New section 90D(7) provides the Commissioner of Territory Revenue with discretion to exempt a conveyee from the requirement that they be at least 18 years of age, provided she is satisfied the conveyee is a genuine applicant. For example, the discretion may apply to an applicant who has been emancipated from their parents and would be eligible for the exemption but for their age.

New section 90D(8) grants the Commissioner of Territory Revenue discretion to reassess a stamp duty liability where a conveyee fails to occupy a home in accordance with new section 90D(2)(i). A reassessment can be made under this provision even though the time limit for making a reassessment under the *Taxation Administration Act 2007* may have passed.

Clause 21. Part 5, Division 5 inserted

This clause inserts new Division 5 in Part 5, which contains new section 92A. This section provides a concession on the amount of stamp duty payable on the registration of an electric motor vehicle.

New section 92A(1) provides that the concession applies in relation to a certificate of registration issued in relation to an electric motor vehicle between 1 July 2022 and 30 June 2027 inclusive.

New section 92A(2) provides that, where the issue of a certificate of registration for an electric motor vehicle is liable to duty under section 57, the first \$50,000 of the electric motor vehicle's dutiable value is exempt from duty.

As the amount of stamp duty payable on a motor vehicle valued at \$50,000 is \$1500, persons purchasing an electric vehicle valued at more than \$50,000 will receive a stamp duty concession of \$1500.

To remove doubt, where a certificate of registration is exempt from duty by virtue of another provision of the *Stamp Duty Act 1978* or another law, then no duty is payable even if the dutiable value of the electric vehicle exceeds \$50,000.

New section 92A(3) clarifies that a person claiming the electric vehicle concession is not required to lodge a formal declaration with the Registrar in order to receive it.

New section 92A(4) ensures the concession received under new section 92A(2) is capped at \$1500.

New section 92A(5) defines an 'electric motor vehicle' to mean a 'battery electric vehicle' or a 'plug-in hybrid electric vehicle'. To remove doubt, the definition does not include hybrid electric vehicles that cannot be plugged in to recharge and hydrogen fuel cell electric vehicles.

PART 7 – REPEAL

Clause 22. Repeal of Act

This clause provides for the repeal of the *Revenue Legislation Amendment and Repeal Act 2022* on 2 July 2023. This ensures the transitional matters provided for under clause 13 of the Bill remain in force for one year. However, section 12 of the *Interpretation Act 1978* continues to apply after 2 July 2023 in relation to any levy imposed under the *Property Activation Act 2019* before its repeal.