

# Revenue Legislation Amendment Bill 2018

## Explanatory Notes

### Short title

The short title of the Bill is the Revenue Legislation Amendment Bill 2018 (the Bill).

### Policy objectives and the reasons for them

The Bill amends the *Duties Act 2001* (Duties Act), *First Home Owner Grant Act 2000* (FHOG Act) and the *Land Tax Act 2010* (the Land Tax Act) to give effect to four measures announced in 2017 as election commitments and confirmed in the Mid Year Fiscal and Economic Review 2017-18 (MYFER).

The Duties Act is amended to increase the rate of additional foreign acquirer duty (AFAD) from 3 per cent to 7 per cent from 1 July 2018.

The Duties Act is also amended to impose additional vehicle registration duty, of \$2 per \$100 in dutiable value, for vehicles valued above \$100,000 from 1 July 2018.

The FHOG Act is amended to extend a temporary increase to the amount of the Queensland First Home Owners' Grant (the grant) from \$15,000 to \$20,000 for a further six months to 30 June 2018.

The Land Tax Act is amended to increase the land tax rate for aggregated landholdings above \$10 million by 0.5 percentage points from the 2018-19 financial year onwards (land tax rate increase).

The Bill also amends the *Payroll Tax Act 1971* (Payroll Tax Act) to implement a 2018-19 State Budget measure to extend the 50 per cent payroll tax rebate for wages paid or payable to apprentices and trainees for a further 12 months ending on 30 June 2019.

The Bill also amends Queensland's revenue legislation to support land tax administration from the 2018-19 financial year onwards.

The Land Tax Act and the *Land Tax Regulation 2010* (Land Tax Regulation) are amended to expand the scope of the longstanding primary production exemption, to support the Office of State Revenue's (OSR's) assessing practice and to provide administrative certainty.

The *Taxation Administration Act 2001* (Taxation Administration Act) and the *Taxation Administration Regulation 2012* (Taxation Administration Regulation) are amended to facilitate the introduction of a new online portal to administer land tax by enabling the Commissioner of State Revenue (Commissioner) to give documents (including assessment notices) to taxpayers by making them available electronically via the portal.

The Bill also amends the *Mineral Resources Act 1989* (Mineral Resources Act) and the *Petroleum and Gas (Production and Safety) Act 2004* (Petroleum and Gas Act) to ensure the validity of assessments and determinations made before 1 July 2014, confirm the Minister can make reassessments of prior period mineral royalty assessments, allow the production in proceedings of evidentiary certificates regarding the making of royalty assessments, and ensure the gross value of minerals can be properly determined for prior periods.

## **Achievement of policy objectives**

### *Duties Act 2001*

#### AFAD rate increase

The Duties Act imposes an additional duty surcharge, known as AFAD, on transactions that are liable for transfer duty, landholder duty or corporate trustee duty where the acquirer is a foreign person and the transaction involves certain residential land in Queensland (AFAD residential land). AFAD is imposed at a rate of 3 per cent on the dutiable value of a relevant transaction to the extent of the foreign acquirer's interest, and to the extent the dutiable value relates to AFAD residential land.

The Duties Act will be amended to increase the rate of AFAD from 3 per cent to 7 per cent. The increased rate will apply to relevant transactions where a liability for transfer duty, landholder duty or corporate trustee duty arises on or after 1 July 2018.

#### Vehicle registration duty increase

The Duties Act imposes vehicle registration duty on an application to register or transfer a vehicle, unless an exemption applies. Vehicle registration duty is generally calculated on the dutiable value of the vehicle. For a vehicle that has not been previously registered, the dutiable value is generally the total of the vehicle's list price and the price of all items of optional equipment not included in the list price. For a vehicle that has been previously registered or for which there is no list price, the dutiable value is generally the greater of the total consideration payable by the purchaser or the market value of the vehicle.

Vehicle registration duty is usually imposed at the rates set out in the Duties Act which generally differ depending on the number of cylinders that a vehicle has. However, for 'special vehicles', such as particular vehicles given conditional registration and certain mobile machinery, vehicle registration duty is imposed at a flat rate of \$25.

The Duties Act will be amended to impose an additional amount of vehicle registration duty, being an extra \$2 per \$100 of dutiable value, on applications to register or transfer vehicles, other than special vehicles or heavy vehicles, with a dutiable value of more than \$100,000. Heavy vehicles are vehicles with a GVM (defined under the *Transport Operations (Road Use Management) Act 1995*) of more than 4.5t.

The additional amount of vehicle registration duty will be imposed on applications to register or transfer vehicles made on or after 1 July 2018. It will only apply in relation to vehicles currently subject to vehicle registration duty.

***First Home Owner Grant Act 2000***

The FHOG Act provides a grant of \$15,000 for first home buyers who have entered into and completed an eligible transaction, subject to certain eligibility criteria. An eligible transaction is a contract to purchase or build a new home, or the building of a new home by an owner-builder.

The amount of the grant was temporarily increased from \$15,000 to \$20,000 for eligible transactions entered into between 1 July 2016 and 30 June 2017, both dates inclusive. This temporary increase was subsequently extended for a further six months until 31 December 2017. MYFER confirmed a further six month extension of the increase until 30 June 2018.

The FHOG Act will be amended to extend the availability of the increased grant for a further six months so eligible transactions entered into between 1 January 2018 and 30 June 2018 (both dates inclusive) qualify for a \$20,000 grant. Since 1 January 2018, the extension has been implemented through an administrative arrangement. The amendments to the FHOG Act will give retrospective legislative effect to this beneficial administrative arrangement.

When an eligible transaction is entered into is determined by reference to the 'commencement date' for the eligible transaction, as defined in the FHOG Act. The commencement date for a contract to purchase or build a new home is the date when the contract is made, while the commencement date for the building of a new home by an owner-builder is generally the date when the laying of the foundations for the home starts.

***Land Tax Act 2010 and Land Tax Regulation 2010***

The Land Tax Act imposes land tax for each financial year on the taxable value of all taxable land owned by a person at midnight on 30 June of the preceding financial year. Taxable land is freehold land in Queensland which is not exempt land. The taxable value of taxable land is based on the statutory valuation of the land determined by the State Valuer-General under the *Land Valuation Act 2010*.

**Land tax rate increase**

Under the Land Tax Act, the owner of land is liable to pay land tax at the rates set out in the Land Tax Act, which differ depending on the type of owner and the taxable value of the land. Three separate rate scales exist under the Land Tax Act; one for resident individuals, one for companies and trustees and one for absentees. An absentee is a person who does not ordinarily reside in Australia.

The Land Tax Act will be amended to increase the land tax rate for aggregated landholdings above \$10 million by 0.5 percentage points for the 2018-19 financial year onwards. Therefore, it will apply in relation to land owned as at midnight on 30 June 2018. The land tax rate increase will not apply to any land that is exempt from land tax, such as land used for primary production or land used as a person's home.

The land tax rate increase is to apply to all owners of land with landholdings over \$10 million, including absentees. For impacted absentees, it will apply in addition to the 1.5 per cent absentee surcharge which was introduced from the 2017-18 financial year.

### Land tax primary production exemption

Under the Land Tax Act an exemption applies for land, or a part of land, which is used solely for the business of agriculture, pasturage or dairy farming (primary production exemption). This exemption is available to particular types of land owners including resident individuals, charitable institutions, particular proprietary companies and trustees in limited circumstances. A full or partial exemption applies depending on whether all or only a part of the land is used solely for the business of agriculture, pasturage or dairy farming.

The exemption is longstanding and, since it was first introduced, OSR's assessing practice has gradually evolved with the changing nature of primary production recognising that the concepts of 'agriculture, pasturage and dairy farming' do not necessarily encompass contemporary primary production activities.

The Land Tax Act will be amended to replace the words 'agriculture, pasturage or dairy farming' with the more modern concept of 'primary production' so that the exemption applies to land, or a part of land, that is used solely for the business of primary production. Additionally, the Land Tax Act and the Land Tax Regulation will be amended to clarify the types of land uses (activities) that will qualify for the exemption if they are carried out as part of the primary production business being undertaken on the land. In particular, the Land Tax Regulation will be amended to introduce a list of prescribed activities.

These amendments are not intended to alter OSR's current published assessing practice. The amendments, including the list of prescribed activities, are consistent with two current Public Rulings which have been published by the Commissioner to provide guidance on OSR's current assessing practice. Additionally, the types of land owners that are currently eligible for the exemption will remain unchanged. Therefore, landowners who currently appropriately qualify for the exemption will continue to benefit.

### ***Mineral Resources Act 1989 and Petroleum and Gas (Production and Safety) Act 2004***

#### Assessment of royalty liability

On 1 July 2014, the Mineral Resources Act and the Petroleum and Gas Act were amended to include a new framework for making assessments and reassessments of royalty liability (new assessment framework). Transitional provisions in section 822(1) of the Mineral Resources Act provide that the new assessment provisions in chapter 11, part 3, divisions 2 and 3 as in force from 1 July 2014 apply to a royalty-related amount payable by a person for a period even if the period started before 1 July 2014. Section 822(2) also provides that, for applying subsection (1) to royalty payable before 1 July 2014, a reference in chapter 11, part 3 to an assessment, original assessment or reassessment includes an assessment or assessment made by the Minister under the Act as in force before 1 July 2014.

The intention of the provisions is that an assessment made prior to 1 July 2014 under either the *Mineral Resources Regulation 2003* (repealed) or the *Mineral Resources Regulation 2013* is taken to be an assessment or original assessment under the new assessment framework, despite any different legislative arrangements applying at the relevant time. For instance, the fact that a notice of assessment was not required to be given prior to 1 July 2014 does not affect the assessment then made being taken to be an assessment or original assessment under the new assessment framework. Further, the reassessment powers under chapter 11, part 3, division 2

apply to that pre-1 July 2014 assessment. Similarly, the intention of the provisions is that a reassessment made under the Mineral Resources Act prior to 1 July 2014 is taken to be a reassessment under the new assessment framework.

Section 988 of the Petroleum and Gas Act provides similarly for petroleum royalty. Subsection 988(2) makes special transitional provision for the fact that the making of assessments was not previously provided for under the Petroleum and Gas Act by deeming a determination by the Minister of the petroleum royalty payable for a period to be an assessment of royalty.

Some technical interpretational issues have arisen regarding the operation of the transitional provisions in the Mineral Resources Act in relation to the validity of assessments made under the *Mineral Resources Regulation 2003* and *Mineral Resources Regulation 2013*, and the ability of the Minister to make reassessments of these prior period liabilities. This is despite the clear intention of the transitional provisions as stated in the explanatory notes for the *Revenue Legislation Amendment Bill 2014* i.e. to provide that ‘an assessment or reassessment may be made on or after 1 July 2014 in relation to a royalty-related amount payable by a person for a period ending before 1 July 2014’. It is also despite the assessments having been accepted without challenge at the relevant time, and both the State and royalty payers having acted in good faith based on their validity.

To provide certainty for royalty payers and ensure continued effective and efficient royalty administration, the following amendments are being made.

- Amend the Mineral Resources Act to clarify the operation of subsection 822(2), including the status of assessments made prior to 1 July 2014, which may be subject to reassessment under section 331B of the Mineral Resources Act.
- Amend the Mineral Resources Act and the Petroleum and Gas Act to declare that assessments and reassessments of royalty, and determinations of petroleum royalty, made prior to 1 July 2014, are taken to have been validly made.
- Amend the Mineral Resources Act and the Petroleum and Gas Act to allow evidentiary certificates, including in relation to the making of assessments and determinations, to be given in proceedings.

#### Determination of gross value of minerals

Where royalty is imposed at ad valorem rates under the Mineral Resources Act, determination of a mineral’s gross value is necessary to enable the royalty payable under section 320 of the Mineral Resources Act to be calculated.

Prior to commencement of the *Mineral Resources Regulation 2013* on 1 September 2013, the *Mineral Resources Regulation 2003* specified how gross value was to be determined where a mineral was not a market value mineral. In these cases, the mineral’s value was required to be determined under a gross value royalty decision (GVRD) made by the Minister, and that value then applied for imposing royalty. However, the *Mineral Resources Regulation 2003* provided that a GVRD may apply only to a return period for which the applicant had not lodged a royalty return and must be made at least 10 business days before the relevant royalty return was due. The ability to amend a GVRD also operated prospectively.

The requirement for the prospective operation of GVRDs under the repealed *Mineral Resources Regulation 2003* meant that gross value, and therefore royalty liability, was unable to be determined under the subordinate legislation for prior periods where a mineral was not a market value mineral. This conflicts with the intention of section 320 of the Mineral Resources Act that a person who mines mineral shall pay royalty.

This procedural issue was addressed on the making of the *Mineral Resources Regulation 2013*, which provides for the retrospective operation of a GVRD from 1 September 2013. However, the *Mineral Resources Regulation 2013* applies only for mineral sold, disposed of or used from the commencement; the repealed regulation continues to apply for mineral sold, disposed of or used prior to that time.

Compliance activity undertaken by OSR in relation to past period royalty liabilities has identified circumstances where GVRDs have not been made for periods prior to 1 September 2013 where mineral was not a market value mineral. Any inability to properly determine the gross value of a mineral, and therefore the royalty payable, would raise equity issues and competitive advantages for entities if they could not have their royalty liability properly determined for all required periods.

Section 331C of the Mineral Resources Act applies in certain circumstances to ensure royalty liability can be properly determined. It allows the Minister to make an assessment for a period on the available information considered relevant and, in the absence of sufficient information or documents, for the amount reasonably believed to be the royalty payable for the period. Therefore, where there has been a failure to lodge a relevant document which is required for determining liability, for instance, this power would enable the royalty liability to be determined and an assessment made.

To support the existing assessment making powers and ensure that the gross value of a mineral can be properly determined in all cases as required prior to 1 September 2013, the Mineral Resources Act is to be amended to provide that a GVRD may be made or amended for a period prior to 1 September 2013. This will allow the GVRD to apply for a prior return period, even where a return has been lodged for the period. These arrangements apply despite stated provisions in the *Mineral Resources Regulation 2003* which specify timeframes for making requests or giving notices in relation to the making and amending of GVRDs.

### ***Payroll Tax Act 1971***

The Payroll Tax Act provides a 25 per cent payroll tax rebate on wages paid or payable to apprentices and trainees during the 2009-10, 2010-11, 2011-12, 2015-16, 2016-17 or 2017-18 financial years (the rebate).

The rebate was increased from 25 per cent to 50 per cent for the 2016-17 and 2017-18 financial years. This increase has been administered in accordance with an existing administrative arrangement. As part of the 2018-19 State Budget, the increased 50 per cent rebate is being extended for a further 12 months to 30 June 2019.

The Payroll Tax Act will be amended to extend the availability of the rebate to wages paid or payable in the 2018-19 financial year and to increase the amount of the rebate from 25 per cent to 50 per cent for wages paid or payable in that financial year.

The Payroll Tax Act will also be amended to increase the amount of the rebate from 25 per cent to 50 per cent for wages paid in the 2016-17 and 2017-18 financial years, giving retrospective legislative effect to the beneficial administrative arrangement that the increased rebate for those financial years has been administered under.

### ***Taxation Administration Act 2001 and Taxation Administration Regulation 2012***

As part of the 2017-18 State Budget, the Government committed funding of \$49.2 million over five years to implement OSR's Transformation Program which will enable the delivery of an upgraded ICT platform and support improved revenue management services into the future. As part of the Transformation Program, an online land tax portal (the portal) is being introduced in 2018-19. This will extend to land tax clients the electronic lodgement and electronic payment functionalities that certain payroll tax and duties clients already access through OSR's existing online portal, OSRconnect. It will also allow the Commissioner to give documents (including land tax assessment notices) to taxpayers via the portal by making them available electronically.

Taxpayers' use of the portal will be voluntary. Once a taxpayer registers to use the portal, their access will be ongoing, regardless of whether they continue to be liable for land tax. When the Commissioner gives a document to a taxpayer electronically via the portal, they will receive a notification (via email or text message) advising them that the document is available. Upon logging into the portal, they will be able to view the document. Documents will also be made available to taxpayers in a format which enables them to save and/or print a copy for storage outside of the portal.

The Taxation Administration Act and the Taxation Administration Regulation provide the administrative framework for revenue laws, including land tax. The Taxation Administration Act contains provisions relating to the giving of documents which provide the ways in which the Commissioner and taxpayers can give documents and the time that documents given in particular ways are taken to be given. The Taxation Administration Regulation may prescribe additional ways of giving documents and the associated timing rules. While the Taxation Administration Act currently allows taxpayers to give documents electronically, generally, the only way that the Commissioner can give a document electronically is via email.

The Taxation Administration Act and Taxation Administration Regulation will be amended to ensure that, for the purpose of administering land tax, the Commissioner is able to give documents (including land tax assessment notices) to taxpayers by making them available electronically via the portal.

The Taxation Administration Regulation will also be amended to clarify when documents given via the portal are taken to be given. Generally, a document will be given on the date the Commissioner notifies the taxpayer that the document is available in the portal. However, if the portal itself is not available to be accessed at the time of the notification (e.g. due to a system outage or system maintenance) then the document is given on the date the document is first available using the approved information system, after the notification is given. The Taxation Administration Regulation will also be amended to clarify that the notification is given on the date it is sent.

The Commissioner will only give documents via the portal if the taxpayer has given consent. Taxpayers who do not consent will continue to receive their documents under the current methods.

## **Alternative ways of achieving policy objectives**

The policy objectives of the Bill can only be achieved by legislative amendment.

## **Estimated cost for government implementation**

All implementation costs are expected to be met from within existing budget allocations.

## **Consistency with fundamental legislative principles**

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

*Legislation should not adversely affect rights and liberties of individuals, or impose obligations retrospectively – Legislative Standards Act 1992, s 4(3)(g)*

### Amendments to the FHOG Act

Retrospective amendment is considered necessary and appropriate as it will give legislative effect to a beneficial administrative arrangement which has enabled the FHOG Act to be administered on the basis that the increased \$20,000 grant amount is available for eligible transactions entered between 1 January 2018 and 30 June 2018. This administrative arrangement was published in a Public Ruling.

### Amendments to the Payroll Tax Act

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 increased 50 per cent rebate is available for wages paid to apprentices and trainees in the 2016-17 and 2017-18 financial years. This administrative arrangement was published in a Public Ruling.

### Amendments to the Mineral Resources Act and Petroleum and Gas Act

The amendments to confirm the operation of the transitional provisions that were included in the Mineral Resources Act on 1 July 2014 when the new assessment framework was enacted are taken to have applied since 1 July 2014. This is necessary to ensure the clearly intended operation of the provisions in relation to assessments and reassessments made before 1 July 2014, including the Minister's power to reassess assessments made before 1 July 2014. The amendments reflect the way the provisions have been consistently applied since 1 July 2014. Further, there is no current litigation or proceedings where this amendment would have any detrimental effect on a person's rights.



Similarly, in relation to the amendments to declare the validity of assessments or determinations made prior to 1 July 2014, there is no current litigation or proceedings where the validity of prior period assessments has been raised. Further, these assessments were accepted without challenge when they were made, and both the State and royalty payers have acted in good faith on the basis of their validity since then. Any rights of review should appropriately arise for any reassessments of liability now undertaken.

The amendment to ensure that the gross value of minerals may be determined under the *Mineral Resources Regulation 2003* for mineral sold, disposed of or used prior to 1 September 2013 will allow these value determinations to apply for prior periods. This is necessary to address the issue in the now repealed subordinate legislation which prevented gross value royalty decisions applying for periods prior to the valuation decision being made. The amendment ensures that royalty liability can be properly determined for all relevant periods prior to 1 September 2013, addressing the legislative issue that otherwise would have defeated the intention of the Mineral Resources Act in some cases, and inappropriately placed some entities at an advantage compared to their competitors whose liability was properly assessed for the relevant period.

## **Consultation**

Community consultation was not undertaken in relation to the amendments as the amendments implement, or are being implemented as part of, Budget measures.

## **Consistency with legislation of other jurisdictions**

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

# Notes on provisions

## Part 1 Preliminary

*Clause 1* provides that the Bill, when enacted, may be cited as the *Revenue Legislation Amendment Act 2018*.

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

- *Duties Act 2001*, relating to the increase of the AFAD rate and to the imposition of the additional vehicle registration duty for vehicles valued over \$100,000, commence on 1 July 2018;
- *First Home Owner Grant Act 2000* relating to the extension of the temporary increase to the amount of the grant from \$15,000 to \$20,000, commenced on 1 January 2018;
- *Land Tax Act 2010* and the *Land Tax Regulation 2010*, relating to the land tax rate increase for aggregated landholdings valued over \$10 million and to the primary production exemption, commence on 30 June 2018; and
- *Payroll Tax Act 1971*, relating to the increased 50 per cent rebate for wages paid or payable to apprentices and trainees during the 2016-17, 2017-18 and 2018-19 financial years, commence on 1 July 2018.

The remaining amendments commence on Assent.

## Part 2 Amendment of Duties Act 2001

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

*Clause 4* amends section 244(2) and (3) to omit the current AFAD rate of 3 per cent and insert the new increased AFAD rate of 7 per cent.

*Clause 5* amends section 245(2) and (4)(b) to omit the current AFAD rate of 3 per cent and insert the new increased AFAD rate of 7 per cent.

*Clause 6* amends section 246(2) to omit the current AFAD rate of 3 per cent and insert the new increased AFAD rate of 7 per cent.

*Clause 7* amends section 383 to insert new subsections (1) and (2). New subsection (1) provides the rate of vehicle registration duty imposed on an application to register or transfer a vehicle, other than a special vehicle. For a vehicle with a dutiable value of \$100,000 or less, the rate of vehicle registration duty is the rate stated in Schedule 4C, which differs depending on the number of cylinders a vehicle has or whether the vehicle is a hybrid or electric vehicle. For a vehicle with a dutiable value of more than \$100,000, the rate is the total of the rate stated in Schedule 4C and the rate of \$2 for each \$100, and each part of \$100, of the vehicle's dutiable value. The dutiable value of a vehicle is determined at the dutiable day. For an application to register a vehicle the dutiable day is the day the application is made. For an application to transfer a vehicle, the dutiable day is the day the transaction to which the transfer relates takes place.

New subsection (2) clarifies that, for a vehicle with a GVM under the *Transport Operations (Road Use Management) Act 1995* of more than 4.5t, the rate of vehicle registration duty is the rate in Schedule 4C. This rate applies even if the dutiable value of the relevant vehicle is more than \$100,000.

*Clause 8* inserts new part 24 into Chapter 17 to provide transitional provisions for the *Revenue Legislation Amendment Act 2018*.

New section 668 contains a definition of *amending Act*.

New section 669 provides that sections 244 to 246, as amended by the Bill, when enacted, apply in relation to a relevant transaction within the meaning of section 230 if a liability for transfer duty, landholder duty or corporate trustee duty arises on or after 1 July 2018. Section 230 provides that chapter 4, which imposes AFAD, applies to relevant transactions, being 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.

New section 670 provides that section 383, as amended by the Bill, when enacted, applies in relation to an application to register or transfer a vehicle if the application is made on or after 1 July 2018.

### **Part 3 Amendment of First Home Owner Grant Act 2000**

*Clause 9* provides that part 3 amends the *First Home Owner Grant Act 2000*.

*Clause 10* amends the heading of part 3, division 6. Part 3, division 6 currently provides for a temporary increase to the amount of the grant from \$15,000 to \$20,000 for particular eligible transactions entered into between 1 July 2016 and 31 December 2017. Clause 10 amends the heading of part 3, division 6 to reflect the extension of the temporary increase for a further six months, expiring on 30 June 2018.

*Clause 11* amends section 25D to extend the meaning of ‘particular eligible transaction’ which is relevant for determining eligibility for the temporary increase to the amount of the grant. To ensure the increased \$20,000 grant is available for eligible transactions entered into between 1 January 2018 and 30 June 2018, clause 11 amends section 25D(1) to provide that a ‘particular eligible transaction’ is an eligible transaction mentioned in section 5(1), the commencement date for which is between 1 July 2016 and 30 June 2018.

### **Part 4 Amendment of Land Tax Act 2010**

*Clause 12* provides that part 4 amends the *Land Tax Act 2010*.

*Clause 13* replaces section 53(1) which currently provides an exemption for land, or a part of land, that is used solely for the business of agriculture, pasturage or dairy farming. New subsection (1) provides that the exemption in section 53 applies to land, or a part of land, that is used solely for the business of primary production, but only if the land, or the part of land, is used for an activity prescribed by regulation that is carried on for the business. The prescribed activities include an activity that is agriculture, dairy farming or pasturage.

*Clause 14* amends schedule 1. Schedule 1, which sets out the land tax rates for resident individuals, currently provides that a top marginal rate of 1.75 per cent applies if the total taxable value of taxable land is more than \$5 million. Clause 14 amends schedule 1 to introduce a new top marginal rate of 2.25 per cent which applies if the total taxable value of taxable land is more than \$10 million. From the 2018-19 financial year onwards, resident individuals who own land with a total taxable value of \$10 million or more will pay land tax at a rate of \$150,000 plus 2.25 cents for each \$1 more than \$10 million. Resident individuals who own land with a total taxable value of \$5 million or more but less than \$10 million will continue to pay land tax at a rate of \$62,500 plus 1.75 cents for each \$1 more than \$5 million. Resident individuals who own land with a total taxable value of \$10 million will not be subject to the new top marginal rate.

*Clause 15* amends schedule 2. Schedule 2, which sets out the land tax rates for companies and trustees, currently provides that a top marginal rate of 2 per cent applies if the total taxable value of taxable land is more than \$5 million. Clause 15 amends schedule 2 to introduce a new top marginal rate of 2.5 per cent which applies if the total taxable value of taxable land is more than \$10 million. From the 2018-19 financial year onwards, companies and trustees who own land with a total taxable value of \$10 million or more will pay land tax at a rate of \$175,000 plus 2.5 cents for each \$1 more than \$10 million. Companies and trustees who own land with a total taxable value of \$5 million or more but less than \$10 million will continue to pay land tax at a rate of \$75,000 plus 2 cents for each \$1 more than \$5 million. Companies and trusts that own land with a total taxable value of \$10 million will not be subject to the new top marginal rate.

*Clause 16* amends part 1 of schedule 3, which sets out the general rate of land tax that applies to absentees. In addition to the general rate, absentees also pay land tax at the surcharge rate in part 2 of schedule 3 which is currently 1.5 per cent of the taxable value of land that is equal to or more than \$350,000. Under the current general rates, a top marginal rate of 2 per cent applies if the total taxable value of taxable land is more than \$5 million. Clause 16 amends part 1 of schedule 3 to introduce a new top marginal rate of 2.5 per cent which applies if the total taxable value of taxable land is more than \$10 million. From the 2018-19 financial year onwards, absentees who own land with a total taxable value of \$10 million or more will pay land tax at a rate of \$175,000 plus 2.5 cents for each \$1 more than \$10 million. Absentees who own land with a total taxable value of \$5 million or more but less than \$10 million will continue to pay land tax at a rate of \$75,000 plus 2 cents for each \$1 more than \$5 million. Absentees who own land with a total taxable value of \$10 million will not be subject to the new top marginal rate.

## **Part 5 Amendment of Land Tax Regulation 2010**

*Clause 17* provides that part 5 amends the *Land Tax Regulation 2010*.

*Clause 18* inserts new section 2A which prescribes activities for section 53(1) of the *Land Tax Act 2010*. Section 53(1) as amended by the Bill, when enacted, will provide an exemption for land, or a part of land, that is used solely for the business of primary production, but only if the land or the part of land is used for an activity prescribed by regulation. Prescribed activities include maintaining animals for the purpose of selling the animals or their bodily produce, including their natural increase; cultivating land for the purpose of selling the produce; propagating or cultivating plants or mushrooms for the purpose of selling the plants

or mushrooms or the produce from the plants; planting or tending trees in a plantation or forest for the purpose of selling the trees or produce from the trees and an activity that is agriculture, dairy farming or pasturage.

A prescribed activity also includes an activity that is directly related to, and carried out to support, another prescribed activity mentioned in section 2A, but only if it is carried on for the same primary production business that the relevant land or the part of land is being used for.

*Example 1—*

*Land is used to carry on a grazing business. In addition to the grazing stock on the land, the owner of the land also maintains 20 horses which are used as part of the grazing business, including to round up the stock and to check fence lines. The maintenance of the horses is directly related to and carried out to support the grazing business that the land is used for.*

*Example 2—*

*Land is used to carry on a commercial poultry business. The owner also uses the land to agist horses for personal use. The agistment of the horses is not directly related to nor carried out to support the poultry business that the land is used for.*

## **Part 6 Amendment of Mineral Resources Act 1989**

*Clause 19* provides that part 6 amends the *Mineral Resources Act 1989*.

*Clause 20* inserts new chapter 11, part 3, division 8, which applies to proceedings, whether under the *Mineral Resources Act 1989* or another Act, in relation to a royalty-related amount.

New section 333QB provides for the giving by the Minister of a certificate stating certain matters, which is evidence of those matters. This includes the ability to give a certificate stating that an assessment was made on a stated date and the details of the assessment.

*Example—*

*Proceedings are commenced under the Judicial Review Act 1991 in relation to a reassessment of royalty. A ground of the review is that there was no power to make the reassessment as no original assessment was made.*

*The Minister may give a certificate stating that an original assessment of royalty was made, the date the assessment was made and the amounts assessed. The certificate is evidence of the stated matters in the proceedings.*

*If the original assessment was made before 1 July 2014, a newly included transitional provisions also applies to deem that assessment to be validly made.*

*Clause 21* amends section 822, a transitional provision that was included for the *Revenue Legislation Amendment Act 2014*. The amendment clarifies that an assessment of royalty made under the Act as it applied before 1 July 2014 is taken to be an original assessment for chapter 11, part 3. Similarly, a reassessment made under the Act as it applied before 1 July 2014 is

taken to be a reassessment for chapter 11, part 3. Section 822(2) as amended is taken to have applied from 1 July 2014.

*Example—*

*On 1 August 2013 the chief executive made an assessment under section 44 of the Mineral Resources Regulation 2003 of the royalty payable for the return period ending 30 June 2013. No assessment notice was required to be issued for the assessment.*

*Following a review, the Minister is reasonably satisfied the royalty liability for the period was incorrectly assessed and should be increased. The Minister may make a reassessment of the royalty-related amount payable for the period under chapter 11, part 3, division 2 of the Act as in force from 1 July 2014.*

Clause 22 inserts transitional provisions for the *Revenue Legislation Amendment Act 2018* to effect the following:

- Declare that an assessment or reassessment of royalty purportedly made before 1 July 2014 under the *Mineral Resources Act 1989* as in force at the time is validly made.
- Provide for the making of a gross value royalty decision or the amendment of a gross value royalty decision for mineral that was sold, disposed of or used before 1 September 2013. The gross value royalty decision or amendment may be made under the repealed *Mineral Resources Regulation 2003* for a return period that started or ended before the decision is made or amended, even if a royalty return has been lodged for the relevant period. The ability to make or amend a gross value royalty decision for a period prior to 1 September 2013 applies despite sections 43D(3), 43F(6), 43I(1)(a), 43J(2) and 43K(2) of the repealed regulation, which specify certain timeframes for making requests or giving notices. These timeframes do not apply for this new section. Further, section 42D(2) of the repealed regulation does not apply.

The ability to make a reassessment of the royalty related amount payable is subject to section 331B of the *Mineral Resources Act 1989* and the timeframes specified in subsections (3), (4) and (5).

*Example—*

*Mineral that is sold in June 2013 is not a market value mineral for section 43A of the Mineral Resources Regulation 2003. Pursuant to section 43B(2) of the Mineral Resources Regulation 2003 the gross value must therefore be determined by the Minister in a gross value royalty decision. However, no application for a gross value royalty decision has been made and a royalty return for the period was lodged using a gross value determined by the royalty payer. An assessment was made on this basis on lodgement of the return.*

*Following a review conducted in July 2018 and the subsequent lodgement of an application for a gross value royalty decision by the holder in response to a notice given by the Minister under section 43D(1) of the Mineral Resources Regulation 2003, the Minister makes a gross value royalty decision under section 43F for the mineral sold during June 2013 with effect from the date the mineral was first a non-market value*

*mineral in that period. A reassessment is made under section 331B of the Mineral Resources Act 1989 to reflect the increased royalty liability that results from the decision.*

*If further information then becomes available that satisfies the Minister the gross value royalty decision was incorrectly decided for the period, the Minister may, having regard to any submissions made by the holder in response to a written notice given by the Minister under section 43I, amend the decision under section 43I of the Mineral Resources Regulation 2003 with effect from the date the mineral was first a non-market value mineral in the period. A reassessment is made under section 331B of the Mineral Resources Act 1989 to reflect the increased royalty liability that results from the decision.*

## **Part 7 Amendment of Payroll Tax Act 1971**

*Clause 23* provides that part 7 amends the *Payroll Tax Act 1971*.

*Clause 24* amends section 27A(3)(a), which provides the formula for working out the 25 per cent rebate for wages paid or payable to apprentices and trainees during a periodic return period in an eligible year. Clause 24 replaces the formula in section 27A(3)(a) to provide an increased 50 per cent rebate in the 2016-17, 2017-18 and 2018-19 financial years. For periodic return periods in the financial years ending on 30 June 2017, 2018 or 2019, the rebate is the amount worked out by applying the payroll tax rate 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 payroll tax rate to 25 per cent of the amount of exempt apprentice and trainee wages paid or payable in the periodic return period.

*Clause 25* amends section 35A(4)(a). For an annual payroll tax amount, section 35A(4)(a) provides the formula for working out the 25 per cent rebate for wages paid or payable to apprentices and trainees during an eligible year. Clause 25 replaces the formula in section 35A(4)(a) to provide an increased 50 per cent rebate in the 2016-17, 2017-18 and 2018-19 financial years. For the financial years ending on 30 June 2017, 2018 or 2019, the rebate is the amount worked out by applying the payroll tax rate 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 payroll tax rate to 25 per cent of the amount of exempt apprentice and trainee wages paid or payable in the financial year.

*Clause 26* amends section 43A(3)(a), which provides the formula for working out the 25 per cent rebate for wages paid or payable to apprentices and trainees during a final period in an eligible year. Clause 26 replaces the formula in section 43A(3)(a) to provide an increased 50 per cent rebate in the 2016-17, 2017-18 and 2018-19 financial years. For a final period in the financial years ending on 30 June 2017, 2018 or 2019, the rebate is the amount worked out by applying the payroll tax rate 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 payroll tax rate to 25 per cent of the amount of exempt apprentice and trainee wages paid or payable in the final period.

*Clause 27* inserts new part 13 to provide transitional provisions for the *Revenue Legislation Amendment Act 2018*.

New section 145 provides that sections 27A, 35A and 43A, as amended by the Bill, when enacted, apply from 1 July 2016 for wages paid or payable in the financial year ending on 30 June 2017 and from 1 July 2017 for wages paid or payable in the financial year ending on 30 June 2018.

*Clause 28* amends definition of ‘eligible year’ in the Schedule to include the financial year ending 30 June 2019.

## **Part 8 Amendment of Petroleum and Gas (Production and Safety) Act 2004**

*Clause 29* provides that part 8 amends the *Petroleum and Gas (Production and Safety) Act 2004*.

*Clause 30* inserts new chapter 6, part 2, division 5, which applies to proceedings, whether under the *Petroleum and Gas (Production and Safety) Act 2004* or another Act, in relation to a royalty-related amount.

New section 599I provides for the giving by the Minister of a certificate stating certain matters, which is evidence of those matters. This includes the ability to give a certificate stating that an assessment or determination (made under the Act as in force before 1 July 2014) was made on a stated date and the details of the assessment or determination.

*Clause 31* amends section 988, a transitional provision that was included for the *Revenue Legislation Amendment Act 2014*, to include a note cross referencing a new provision which deals with the validity of determinations made before 1 July 2014.

*Clause 32* inserts a transitional provision for the *Revenue Legislation Amendment Act 2018* which declares that a determination of petroleum royalty purportedly made before 1 July 2014 under the *Petroleum and Gas (Production and Safety) Act 2004* as in force at the time is validly made.

## **Part 9 Amendment of Taxation Administration Act 2001**

*Clause 33* provides that part 9 amends the *Taxation Administration Act 2001*.

*Clause 34* inserts new subsection 148(da) to provide a new method for the Commissioner to properly give documents. New section 148(da) provides that the Commissioner may give a document by making it available to a person using an approved information system in circumstances prescribed by regulation. Clause 34 also renumbers sections 148(da) and (e) as sections 148(e) and (f).

*Clause 35* amends section 149(1)(d) to provide that a document given to a person using an approved information system is given on the date prescribed by regulation.



## Part 10 Amendment of Taxation Administration Regulation 2012

*Clause 36* provides that part 10 amends the *Taxation Administration Regulation 2012*.

*Clause 37* inserts new sections 14 and 15.

New section 14 prescribes the circumstances in which the Commissioner may give a document to a person by making it available using an approved information system for subsection 148(e) of the *Taxation Administration Act 2001*, as amended by the Bill, when enacted. The Commissioner can only give a document using this method if the document relates to land tax under the *Land Tax Act 2010*, the person has consented to the document being given using the approved information system and the document is made available in a format that can be saved and stored by the person outside the approved information system.

New section 15 prescribes the time that a document given to a person using an approved information system for section 149(1)(d) of the *Taxation Administration Act 2001*, as amended by the Bill, when enacted. Where a document is given using an approved information system, a person will receive notice by email or text message that a document is available to be accessed. Generally, a document is taken to be given on the date when the Commissioner gives the person notice. However, where the Commissioner is satisfied that the approved information system itself was not available to be accessed on that date the notice was given, the document is taken to be given on the date the document first becomes available, using the approved information system, after the notice is given. New section 15(1)(b) provides examples of when the approved information system itself is and is not available to be accessed.