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**TREASURY AND FINANCE**

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TR301

Duties Act 2008

**Duties Amendment Regulations 2019**

Made by the Governor in Executive Council.

**Part 1 — Preliminary****1. Citation**These regulations are the *Duties Amendment Regulations 2019*.**2. Commencement**

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published in the *Gazette* (**gazettal day**);
- (b) Part 3 — when the *Community Titles Act 2018* section 11 comes into operation;
- (c) the rest of the regulations — on the day after gazettal day.

**3. Regulations amended**These regulations amend the *Duties Regulations 2008*.**Part 2 — Amendments commencing on day after gazettal****4. Regulation 2A inserted**

After regulation 2 insert:

**2A. Listed entity demergers and hybrid demergers**

- (1) In this regulation —

**entity** has the meaning given in section 148(1) of the Act;

**listed entity** means a listed corporation or a listed unit trust scheme (as those terms are defined in section 148(1) of the Act);

**security** means —

- (a) in relation to a corporation — an issued share of the corporation; or
- (b) in relation to a unit trust scheme — a unit issued under the scheme.

- (2) In this regulation, an entity (*entity A*) is a **wholly-owned subsidiary** of a listed entity if the listed entity, or the trustee of the listed entity as trustee (if it is a unit trust scheme), directly or indirectly —
  - (a) holds 100% of the securities of entity A; and
  - (b) controls (either by being able to cast or to control the casting of) 100% of the votes that may be cast at a general meeting of entity A.
- (3) In these regulations, a **listed entity demerger** is an arrangement that is made in relation to a wholly-owned subsidiary (the **demerged entity**) of a listed entity if —
  - (a) under the arrangement, each person (a **listed entity security holder**) who holds securities of the listed entity on the date nominated by the listed entity may acquire securities of the demerged entity; and
  - (b) the arrangement does not provide for any acquisition of securities of the demerged entity otherwise than by a listed entity security holder; and
  - (c) the demerged entity is listed on a prescribed financial market, or the Commissioner is satisfied that the demerged entity will be listed on a prescribed financial market, before the day that is 12 months after the day on which the first acquisition of securities under the arrangement occurs.
- (4) In these regulations, a **hybrid demerger** is an arrangement that is made in relation to a wholly-owned subsidiary (the **demerged entity**) of a listed entity if —
  - (a) under the arrangement, each person (a **listed entity security holder**) who holds securities of the listed entity on the date nominated by the listed entity may acquire securities of the demerged entity; and
  - (b) the arrangement also involves a public float of securities of the demerged entity; and
  - (c) the arrangement does not provide for any acquisition of securities of the demerged entity otherwise than —
    - (i) by a listed entity security holder; or
    - (ii) in the public float.
- (5) For the purposes of subregulations (3) and (4), a person may, without limitation, acquire securities by the purchase, gift, allotment or issue of the securities.
- (6) For the purposes of subregulations (3) and (4), an acquisition of securities for a listed entity security

holder by a person nominated for that purpose by the listed entity is taken to be an acquisition by the listed entity security holder.

**5. Regulations 5A to 5 replaced**

Delete regulations 5A to 5 and insert:

**4A. Special dutiable property prescribed (Act s. 18(h))**

(1) In this regulation —

*timber sharefarming profit à prendre* means a profit à prendre created under a timber sharefarming agreement under the *Conservation and Land Management Act 1984* or the *Forest Products Act 2000*.

(2) For the purposes of section 18 of the Act, dutiable property that is any of the following is prescribed as special dutiable property —

- (a) a profit à prendre other than a timber sharefarming profit à prendre;
- (b) a timber sharefarming profit à prendre, if there is or will be consideration for the surrender of the timber sharefarming profit à prendre;
- (c) a plantation interest created under an agreement under the *Tree Plantation Agreements Act 2003*, if there is or will be consideration for the surrender of the plantation interest.

**4B. Dutiable transactions on which nominal duty is chargeable prescribed (Act s. 140)**

(1) In this regulation —

*lot* has the meaning given in the *Land Tax Assessment Act 2002* Glossary clause 2(1);

*timber sharefarming profit à prendre* has the meaning given in regulation 4A(1).

(2) For the purposes of section 140 of the Act, the acquisition of new dutiable property by the creation of a timber sharefarming profit à prendre (the *new profit à prendre*) is prescribed as a dutiable transaction on which nominal duty is chargeable if —

- (a) the new profit à prendre is created to replace another timber sharefarming profit à prendre (the *old profit à prendre*) that has been surrendered for no consideration; and
- (b) the old profit à prendre was registered under the *Transfer of Land Act 1893* in relation to the whole of a lot, but the benefit of the old profit à

prendre was in relation to a portion of the lot only; and

- (c) the new profit à prendre is created in relation to that portion of the lot only; and
- (d) the person or persons who had the benefit of the old profit à prendre are the same as the persons acquiring the benefit of the new profit à prendre; and
- (e) there is no consideration, or agreement for consideration, for the acquisition.

**5. Circumstances in which persons acquiring interests under 1 arrangement or in concert are not related persons prescribed (Act s. 162(1A)(b))**

- (1) For the purposes of section 162(1A)(b) of the Act, section 162(1)(h) and (i) of the Act do not apply in circumstances where the acquisitions are made as part of—
  - (a) a listed entity demerger; or
  - (b) a hybrid demerger.
- (2) This regulation applies in determining under section 162 of the Act whether persons are related persons in relation to an acquisition of an interest in a landholder if the acquisition occurs (as determined under section 176 of the Act) on or after 13 June 2019.
- (3) In this regulation, a reference to a provision of the Act includes a reference to that provision as applied by section 205ZE of the Act.

**6. Regulation 7 amended**

- (1) In regulation 7(1) delete the definitions of:  
*carriage of passengers or goods between prescribed places*  
*Interstate Road Transport Act*
- (2) In regulation 7(2):
  - (a) in paragraph (b) delete “plant;” and insert:  
  
plant.
  - (b) delete paragraph (c).
- (3) Delete regulation 7(3) and insert:  
  
  - (3) For the purposes of section 244(b) of the Act, the class of persons who own a tractor or tractor plant for which the vehicle licence charge is reduced under the *Road*

*Traffic (Vehicles) Regulations 2014* regulation 81 is prescribed.

- (4) In regulation 7(4):
  - (a) in paragraph (d) delete “purposes;” and insert:

purposes.
  - (b) delete paragraph (e).

**7. Regulation 8A inserted**

After regulation 8 insert:

**8A. Events that do not result in automatic revocation of exemption for relevant reconstruction transaction prescribed (Act s. 264A(3)(b))**

- (1) For the purposes of section 264A(3)(b) of the Act, section 264A of the Act does not apply to a notifiable event that occurs in relation to a relevant reconstruction transaction if the notifiable event results from —
  - (a) a listed entity demerger; or
  - (b) a hybrid demerger.
- (2) This regulation applies to a relevant reconstruction transaction that occurs on or after 13 June 2019.

**Part 3 — Amendment commencing when *Community Titles Act 2018* section 11 comes into operation**

**8. Regulation 4C inserted**

After regulation 4B insert:

**4C. Subdivisions of land excluded from s. 120A and 120B prescribed (Act s. 120D(b))**

For the purposes of section 120D(b) of the Act, sections 120A and 120B of the Act do not apply to a subdivision of land under a community titles (building) scheme registered under the *Community Titles Act 2018*, other than a community titles (building) scheme in which no lot, or part of a lot, is above or below another lot, or part of a lot, in the community scheme.