

Western Australia

**Taxation Administration (Consequential
Provisions) Act 2002**

As at 20 Mar 2003

No. 45 of 2002

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Taxation Administration (Consequential Provisions) Act 2002

CONTENTS

Part 1 — Preliminary

1.	Short title	2
2.	Commencement	2
3.	Relationship with other Acts	3
4.	Meaning of terms used in this Act	3

Part 2 — Repeals

5.	Acts repealed	4
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Part 3 — Consequential amendments

Division 1 — Various Acts amended

6.	<i>Acts Amendment (Continuing Lotteries) Act 2000</i>	5
7.	<i>Agriculture and Related Resources Protection Act 1976</i>	5
8.	<i>Anglican Church of Australia (Diocesan Trustees) Act 1888</i>	6
9.	<i>Cattle Industry Compensation Act 1965</i>	6
10.	<i>Commercial Tenancy (Retail Shops) Agreements Act 1985</i>	9
11.	<i>Evidence Act 1906</i>	10
12.	<i>Financial Institutions Duty Act 1983</i>	10
13.	<i>Gaming Commission Act 1987</i>	10
14.	<i>Hale School Act 1876</i>	11
15.	<i>Heritage of Western Australia Act 1990</i>	11
16.	<i>Interpretation Act 1984</i>	11

17.	<i>Metropolitan Region Town Planning Scheme Act 1959</i>	12
18.	<i>National Rail Corporation Agreement Act 1992</i>	13
19.	<i>Pig Industry Compensation Act 1942</i>	13
20.	<i>Presbyterian Church Act 1908</i>	16
21.	<i>Residential Tenancies Act 1987</i>	16
22.	<i>Soil and Land Conservation Act 1945</i>	16
23.	<i>Strata Titles Act 1985</i>	17
24.	<i>Taxation (Reciprocal Powers) Act 1989</i>	17
25.	<i>Transfer of Land Act 1893</i>	18
26.	<i>Valuation of Land Act 1978</i>	18
	Division 2 — Amendments relating to the Road Traffic Act 1974	
	Subdivision 1 — Amendments if this Act commences first	
27.	<i>Road Traffic Act 1974</i>	19
28.	<i>Road Traffic Amendment Act 2000</i>	19
29.	<i>Road Traffic Amendment (Vehicle Licensing) Act 2001</i>	20
	Subdivision 2 — Amendments if Road Traffic Amendment Act 2000 commences before this Act	
30.	<i>Road Traffic Act 1974</i>	20
31.	<i>Road Traffic Amendment (Vehicle Licensing) Act 2001</i>	20
	Subdivision 3 — Amendments if Road Traffic Amendment Act 2000 and Road Traffic Amendment (Vehicle Licensing) Act 2001 commence before this Act	
32.	<i>Road Traffic Act 1974</i>	21
	Part 4 — Transitional provisions	
	Division 1 — Interpretation	
33.	Definitions	22
	Division 2 — General transitional provisions	
34.	General transitional arrangements	22
35.	Commissioner not to increase tax liability	24
36.	Delegations	24

	Division 3 — Debits tax	
37.	Certificates of exemption from tax (<i>Debits Tax Assessment Act 1990</i> , s. 11)	25
	Division 4 — Land tax	
38.	Exemptions for certain home unit owners (<i>Land Tax Assessment Act 1976</i> , s. 19)	25
39.	Inner city residential property rebate (<i>Land Tax Assessment Act 1976</i> , s. 23AB)	26
40.	Land tax relief Acts	26
	Division 5 — Pay-roll tax	
41.	Treatment of certain contributions (<i>Pay-roll Tax Assessment Act 1971</i> , Sch. 2 cl. 5)	26
42.	Reassessments and refunds (<i>Pay-roll Tax Assessment Act 1971</i> , s. 19)	27
	Division 6 — Stamp duty	
43.	Adhesive stamps (<i>Stamp Act 1921</i> , s. 15, 21 and 23)	27
44.	Printing of “Stamp Duty Paid” on cheques (<i>Stamp Act 1921</i> , s. 52)	27
45.	First home owners — reassessment (<i>Stamp Act 1921</i> , s. 75AG)	28
46.	Reassessment of duty on grant or transfer of vehicle licences (<i>Stamp Act 1921</i> , s. 76C(18) and (19), 76CA(3a) and 76CB(9))	28
47.	Alternative to stamping individual insurance policies (<i>Stamp Act 1921</i> , s. 95A)	29
48.	Workers’ compensation insurance (<i>Stamp Act 1921</i> , s. 97 and item 16 of the Second Schedule)	29
49.	Payment of duty by returns (<i>Stamp Act 1921</i> , s. 112V)	30

Western Australia

Taxation Administration (Consequential Provisions) Act 2002

No. 45 of 2002

An Act —

- to repeal the —
 - *Debits Tax Act 1990*;
 - *Debits Tax Assessment Act 1990*;
 - *Land Tax Act 1976*;
 - *Land Tax Assessment Act 1976*;
 - *Pay-roll Tax Act 1971*; and
 - *Pay-roll Tax Assessment Act 1971*;
- to amend various other Acts; and
- to make transitional arrangements,
as a consequence of the enactment of the *Taxation Administration Act 2003* and for related purposes.

[Assented to 20 March 2003]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Taxation Administration (Consequential Provisions) Act 2002*.

2. Commencement

- (1) This Act, except Part 3 Division 2, comes into operation on the day on which the *Taxation Administration Act 2003* comes into operation (“**commencement day**”).
- (2) If sections 9 and 13 of the *Road Traffic Amendment Act 2000* do not come into operation before the commencement day —
 - (a) Part 3 Division 2 Subdivision 1 comes into operation on the commencement day; and
 - (b) Part 3 Division 2 Subdivisions 2 and 3 do not come into operation.
- (3) If, immediately before the commencement day —
 - (a) sections 9 and 13 of the *Road Traffic Amendment Act 2000* have come into operation; and
 - (b) the *Road Traffic Amendment (Vehicle Licensing) Act 2001* has not come into operation,then —
 - (c) Part 3 Division 2 Subdivision 2 comes into operation on the commencement day; and
 - (d) Part 3 Division 2 Subdivisions 1 and 3 do not come into operation.
- (4) If, immediately before the commencement day sections 9 and 13 of the *Road Traffic Amendment Act 2000* and the *Road Traffic Amendment (Vehicle Licensing) Act 2001* have come into operation, then —
 - (a) Part 3 Division 2 Subdivision 3 comes into operation on the commencement day; and

(b) Part 3 Division 2 Subdivisions 1 and 2 do not come into operation.

3. Relationship with other Acts

The *Taxation Administration Act 2003* is to be read with this Act as if they formed a single Act.

4. Meaning of terms used in this Act

The Glossary at the end of the *Taxation Administration Act 2003* defines or affects the meaning of some of the words and expressions used in this Act and also affects the operation of other provisions.

Part 2 — Repeals

5. Acts repealed

The following Acts are repealed —

- (a) *Debits Tax Act 1990*;
- (b) *Debits Tax Assessment Act 1990*;
- (c) *Land Tax Act 1976*;
- (d) *Land Tax Assessment Act 1976*;
- (e) *Pay-roll Tax Act 1971*; and
- (f) *Pay-roll Tax Assessment Act 1971*.

Part 3 — Consequential amendments

Division 1 — Various Acts amended

6. *Acts Amendment (Continuing Lotteries) Act 2000*

Section 17 of the *Acts Amendment (Continuing Lotteries) Act 2000** is amended by deleting the definition of “Commissioner of State Revenue”.

[* *Act No. 6 of 2000.*]

7. *Agriculture and Related Resources Protection Act 1976*

- (1) The amendments in this section are to the *Agriculture and Related Resources Protection Act 1976**.

[* *Reprinted as at 15 October 1999.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 13.]

- (2) Section 7(1) is amended by deleting the definition of “Commissioner” and inserting the following definition instead —

“

“**Commissioner**” means the Commissioner of State Revenue;

”.

- (3) Section 63(3a)(c) is deleted and the following paragraph is inserted instead —

“

- (c) Part 6 Division 2 of the *Taxation Administration Act 2003* applies to and in relation to them as if they were land tax assessed by the Commissioner.

”.

8. *Anglican Church of Australia (Diocesan Trustees) Act 1888*

Section 5A(6) of the *Anglican Church of Australia (Diocesan Trustees) Act 1888** is amended by deleting “assessment for taxation under the *Land Tax Assessment Act 1907*” and inserting instead —

“ land tax imposed by the *Land Tax Act 2002* ”.

[* *Reprinted as at 8 March 1989.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 20.]

9. *Cattle Industry Compensation Act 1965*

- (1) The amendments in this section are to the *Cattle Industry Compensation Act 1965**.

[* *Reprinted as at 20 August 1999.*]

- (2) Section 6 is amended by deleting the definition of “Commissioner of State Taxation”.

- (3) Section 23(1) is amended as follows:

- (a) in paragraph (c) by deleting “Commissioner of State Taxation” and inserting instead —

“ Commissioner of State Revenue ”;

- (b) by inserting the following paragraph after paragraph (c) —

“

- (ca) all money received by the Minister in respect of returns made under Part IV;

”.

- (4) Section 25 is amended by deleting “Commissioner of State Taxation” and inserting instead —

“ Commissioner of State Revenue ”.

- (5) Section 26 is repealed.

- (6) Section 27(1)(b) and (c) are deleted and the following paragraphs are inserted instead —

“

- (b) lodge the statement with the Commissioner of State Revenue within 14 days after the sale; and
- (c) when lodging the statement pay to the Commissioner the stamp duty payable on the statement under item 3 of the Second Schedule to the *Stamp Act 1921*.

”.

- (7) Section 28(1) is amended by deleting “duty payable under section 26 in respect of the purchase money” and inserting instead —

“ stamp duty payable on the sales ”.

- (8) Section 28(3) is amended by deleting “Commissioner of State Taxation” and inserting instead —

“ Commissioner of State Revenue ”.

- (9) Section 29(1) is amended by deleting “duty payable under this Act in respect of that purchase money” and inserting instead —

“ stamp duty payable on the sale ”.

- (10) Section 29(2) and (4) are amended by deleting “Commissioner of State Taxation” and inserting instead —

“ Commissioner of State Revenue ”.

- (11) Section 30 is amended by deleting “duty payable under this Act” and inserting instead —

“ stamp duty ”.

(12) Section 31 is amended as follows:

(a) by deleting paragraph (a) and inserting the following paragraph instead —

“

(a) any head of cattle is sold and a cattle sales statement in respect of the sale, or a return that includes the sale (as the case requires) has been stamped;

”;

(b) by deleting all the words from and including “it shall not be necessary” to the end of the section and inserting instead —

“

no stamp duty is payable on the sale of the carcass.

”.

(13) Section 32 is amended by deleting “instead of complying with the requirements of section 27(1)(c),”.

(14) Section 33(1) is amended as follows:

(a) in paragraph (b) by deleting “of purchase money paid by the company to the owner or his agent on the sale of cattle or carcasses, or both, to the company by the owner” and inserting instead —

“

in relation to sales to the company of cattle or carcasses, or both,

”;

(b) in paragraph (c) by deleting “duty payable under section 26 in respect of the purchase money” and inserting instead —

“ stamp duty payable on the sales ”.

- (15) Section 34(1) is amended by deleting “duty payable under this Act in respect of that money” and inserting instead —
“ stamp duty payable on the sale ”.
- (16) Section 34(2) is amended as follows:
- (a) by deleting “Commissioner of State Taxation” and inserting instead —
“ Commissioner of State Revenue ”;
 - (b) by deleting “Commissioner of Stamps” and inserting instead —
“ Commissioner of State Revenue ”.
- (17) Section 34(4) is amended by deleting “purchase moneys paid by it to an owner or his agent on the sale of cattle or carcasses, or both, to the company by the owner,” and inserting instead —
“ sales made to it by an owner or his agent, ”.
- (18) Sections 35 and 36 are repealed.
- (19) Section 37(1) is amended as follows:
- (a) by deleting “Without affecting the operation of section 38, every” and inserting instead —
“ Every ”;
 - (b) by deleting “this Act” and inserting instead —
“ the *Stamp Act 1921* ”.
- (20) Section 38 is repealed.

10. *Commercial Tenancy (Retail Shops) Agreements Act 1985*

Section 12(3) of the *Commercial Tenancy (Retail Shops) Agreements Act 1985** is amended as follows:

- (a) in the definition of “land tax” by deleting “*Land Tax Act 1976*” and inserting instead —
“ *Land Tax Act 2002* ”;

- (b) in the definition of “notional land tax” by deleting “*Land Tax Assessment Act 1976*” and inserting instead —

“ *Land Tax Assessment Act 2002* ”.

[* Reprinted as at 21 July 2000.

For subsequent amendments see Act No. 10 of 2001.]

11. *Evidence Act 1906*

Section 73U(1)(a) and (b) of the *Evidence Act 1906** are amended by deleting “duly”.

[* Reprinted as at 4 January 2001.]

12. *Financial Institutions Duty Act 1983*

Section 3(1) of the *Financial Institutions Duty Act 1983** is amended by deleting the definition of “Commissioner” and inserting the following definition instead —

“

“**Commissioner**” means the Commissioner of State Revenue;

”.

[* Reprinted as at 19 November 1992.

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 159-60, and Act No. 10 of 2001.]

13. *Gaming Commission Act 1987*

Section 101(1) of the *Gaming Commission Act 1987** is amended by deleting the definition of “Commissioner of State Revenue”.

[* Reprinted as at 30 October 1998.

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 174-5, and Act No. 10 of 2001.]

14. *Hale School Act 1876*

Section 12 of the *Hale School Act 1876** is amended by deleting “assessment for taxation under the provisions of the *Land Tax Assessment Act 1907*” and inserting instead —

“ land tax imposed by the *Land Tax Act 2002* ”.

[* *Reprinted as at 20 August 1987.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 192.]

15. *Heritage of Western Australia Act 1990*

- (1) The amendments in this section are to the *Heritage of Western Australia Act 1990**.

[* *Reprinted as at 1 June 2001.*]

- (2) Section 36(2)(a) is amended as follows:

- (a) by deleting “Commissioner of State Taxation” and inserting instead —

“ Commissioner of State Revenue ”;

- (b) by deleting “*Land Tax Act 1976*” and inserting instead —

“ *Land Tax Assessment Act 2002* ”.

- (3) Section 36(3) is amended by deleting “Commissioner of State Taxation” and inserting instead —

“ Commissioner of State Revenue ”.

16. *Interpretation Act 1984*

Section 5 of the *Interpretation Act 1984** is amended by inserting the following definition in the appropriate alphabetical position —

“

“Commissioner of State Revenue” means the
Commissioner of State Revenue appointed under

the *Public Sector Management Act 1994* for the purposes of the *Taxation Administration Act 2003*;

”.

[* Reprinted as at 1 January 1999.

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 216.]

17. Metropolitan Region Town Planning Scheme Act 1959

- (1) The amendments in this section are to the *Metropolitan Region Town Planning Scheme Act 1959**.

[* Reprinted as at 7 September 2001.]

- (2) Section 41(1a) is amended as follows:

- (a) by deleting “section 15A of the *Land Tax Assessment Act 1976*” and inserting instead —

“

sections 14 and 15 of the *Land Tax Assessment Act 2002*

”;

- (b) by deleting “*Land Tax Act 1976*” and inserting instead —

“ *Land Tax Act 2002* ”.

- (3) Section 41(2) is amended by deleting “*Land Tax Assessment Act 1976*” and inserting instead —

“

Land Tax Assessment Act 2002 and the *Taxation Administration Act 2003*

”.

- (4) Section 41(4) is amended by deleting “Commissioner of State Taxation” and inserting instead —

“ Commissioner of State Revenue ”.

18. *National Rail Corporation Agreement Act 1992*

Section 12(3) of the *National Rail Corporation Agreement Act 1992** is amended by deleting “Commissioner of State Taxation” and inserting instead —

“ Commissioner of State Revenue ”.

[* *Act No. 56 of 1992.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 306, and Act No. 10 of 2001.]

19. *Pig Industry Compensation Act 1942*

- (1) The amendments in this section are to the *Pig Industry Compensation Act 1942**.

[* *Reprinted as at 28 February 1975.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 342.]

- (2) Section 3 is amended by deleting the definition of “Duty stamp”.
- (3) Section 13(2)(a) is amended by deleting “Commissioner of State Taxation” and inserting instead —
- “ Commissioner of State Revenue ”.
- (4) Section 14(1)(b) and (c) are deleted and the following paragraphs are inserted instead —

“

- (b) lodge the statement with the Commissioner of State Revenue within 7 days after the sale; and
- (c) when lodging the statement pay to the Commissioner the stamp duty payable under section 15 on the sale.

”.

- (5) Section 14(1a) is amended as follows:
- (a) in paragraph (a) by deleting “of this Act in respect of the purchase-money” and inserting instead —
“ in respect of sales ”;
 - (b) in paragraph (e) by deleting “Commissioner of State Taxation” and inserting instead —
“ Commissioner of State Revenue ”;
 - (c) in paragraph (g) by deleting “in respect of the purchase-money” and inserting instead —
“ on the sale ”;
 - (d) in paragraphs (h) and (j) by deleting “Commissioner of State Taxation” and inserting instead —
“ Commissioner of State Revenue ”.
- (6) Section 14(3) is amended as follows:
- (a) by deleting paragraph (a) and the “and” following paragraph (a)(iii) and inserting the following paragraph instead —
“
(a) any pig is sold and a statement in respect of the sale, or a return that includes the sale (as the case requires), has been stamped;
”;
 - (b) by deleting all the words from and including “it shall not be necessary” to the end of the subsection and inserting instead —
“ no stamp duty is payable on the sale of the carcass. ”.
- (7) Section 14(4) is amended by deleting “, instead of complying with the requirements of paragraph (c) of subsection (1) of this section,”.

- (8) Section 14A(1) is amended as follows:
- (a) in paragraph (a) by deleting “of this Act in respect of that money” and inserting instead —
“ on the sale ”;
 - (b) in paragraph (b)(i) by deleting “purchase moneys paid by it to owners and their agents on the sale of pigs or carcasses or both to it by owners and agents” and inserting instead —
“ sales to the company of pigs or carcasses ”.
- (9) Section 14A(3) and (5) are amended by deleting “Commissioner of State Taxation” and inserting instead —
“ Commissioner of State Revenue ”.
- (10) Section 15(1) is repealed and the following subsection is inserted instead —
“
(1) Stamp duty is payable on the sale of any pig or carcass.
”.
- (11) Section 15(2) is amended in paragraph (a) of the proviso by deleting “purchase-money shown in any return compiled and lodged by authority of the permit as having been received for” and inserting instead —
“ the sale of ”.
- (12) Section 16(1) and (3) are repealed.
- (13) Section 16(4) is amended by deleting “duty stamps issued pursuant to” and inserting instead —
“ stamp duty payable under ”.
- (14) Section 16(5) is amended by deleting “Without affecting the generality of the last preceding subsection, every” and inserting instead —
“ Every ”.

20. *Presbyterian Church Act 1908*

Section 21(6) of the *Presbyterian Church Act 1908** is amended by deleting “assessment for taxation under the *Land Tax Assessment Act 1907*” and inserting instead —

“ land tax imposed by the *Land Tax Act 2002* ”.

[* *Act No. 2 of 1908.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 355.]

21. *Residential Tenancies Act 1987*

Section 48(b) of the *Residential Tenancies Act 1987** is amended by deleting “*Land Tax Act 1976*” and inserting instead —

“ *Land Tax Act 2002* ”.

[* *Reprinted as at 22 January 1999.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 384, and Act No. 10 of 2001.]

22. *Soil and Land Conservation Act 1945*

Section 25B(3)(b) of the *Soil and Land Conservation Act 1945** is deleted and the following paragraph is inserted instead —

“

(b) Part 6 Division 2 of the *Taxation Administration Act 2003* applies to them as if —

(i) they were land tax imposed by the *Land Tax Act 2002*; and

(ii) references in that division to the Commissioner of State Revenue were references to the chief executive officer.

”.

[* *Reprinted as at 12 August 1997.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 414.]

23. Strata Titles Act 1985

- (1) The amendments in this section are to the *Strata Titles Act 1985**.

[* *Reprinted as at 1 July 1999.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 433, and Act No. 10 of 2000.]

- (2) Section 65(1) is amended as follows:
- (a) in paragraph (a) by deleting “Commissioner of State Taxation” and inserting instead —
“ Commissioner of State Revenue ”;
 - (b) in paragraph (c) by deleting “*Land Tax Assessment Act 1976*” and inserting instead —
“ *Land Tax Assessment Act 2002* ”.
- (3) Section 65(2) is amended by deleting “*Land Tax Assessment Act 1976*” and inserting instead —
“ *Land Tax Assessment Act 2002* ”.
- (4) Section 65A is amended by deleting “*Land Tax Assessment Act 1976*” and inserting instead —
“ *Land Tax Assessment Act 2002* ”.

24. Taxation (Reciprocal Powers) Act 1989

Section 3(1) of the *Taxation (Reciprocal Powers) Act 1989** is amended as follows:

- (a) by deleting the definition of “Commissioner” and inserting the following definition instead —

“

“**Commissioner**” means the Commissioner of State Revenue;

”;

- (b) by deleting the definition of “State Taxation Act” and inserting the following definition instead —

“

“State Taxation Act” means —

- (a) the *Financial Institutions Duty Act 1983*; or
(b) the *Fuel Suppliers Licensing Act 1997*.

”.

[* Reprinted as at 12 October 2001.]

25. *Transfer of Land Act 1893*

Section 81U(3) of the *Transfer of Land Act 1893** is repealed and the following subsection is inserted instead —

“

- (3) In subsection (1) —

“stamped” means stamped in accordance with the *Stamp Act 1921*.

”.

[* Reprinted as at 9 February 2001.

For subsequent amendments see Acts Nos. 59 of 2000 and 10 of 2001.]

26. *Valuation of Land Act 1978*

- (1) The amendments in this section are to the *Valuation of Land Act 1978**.

[* Reprinted as at 15 June 2001.]

- (2) Section 31B(1) is amended in the definition of “residential equivalent value” by deleting “section 23AB(1) of the *Land Tax Assessment Act 1976*” and inserting instead —

“

section 28(7) of the *Land Tax Assessment Act 2002*

”.

- (3) Section 32(1)(a) and (b) are amended by deleting “42 days” and inserting instead —
“ 60 days ”.
- (4) Section 33(1) is amended by deleting “42 days” and inserting instead —
“ 60 days ”.

Division 2 — Amendments relating to the *Road Traffic Act 1974*

Subdivision 1 — Amendments if this Act commences first

27. *Road Traffic Act 1974*

Section 24(2a)(b)(ii) of the *Road Traffic Act 1974** is deleted and the following subparagraph is inserted instead —

- “
- (ii) the stamp duty, and any penalty tax,
payable under the *Stamp Act 1921* on
the transfer of the licence.
- ”.

[* Reprinted as at 19 October 2001.]

28. *Road Traffic Amendment Act 2000*

- (1) The amendments in this section are to the *Road Traffic Amendment Act 2000**.
[* Act No. 39 of 2000.]
- (2) Section 9 is amended in the inserted section 17 by deleting subparagraph (1)(b)(ii) and inserting the following subparagraph instead —
“
- (ii) the stamp duty, and any penalty tax,
payable under the *Stamp Act 1921* on
the grant or transfer of the licence.
- ”.
- (3) Part 3 Division 3 is repealed.

29. Road Traffic Amendment (Vehicle Licensing) Act 2001

- (1) The amendments in this section are to the *Road Traffic Amendment (Vehicle Licensing) Act 2001*.
- (2) The Table to section 23(1) is amended in the item relating to section 17(1) by deleting “(2 places)”.
- (3) Part 3 Division 4 is repealed.

Subdivision 2 — Amendments if *Road Traffic Amendment Act 2000* commences before this Act

30. Road Traffic Act 1974

Section 17(1)(b)(ii) of the *Road Traffic Act 1974** is deleted and the following subparagraph is inserted instead —

“

- (ii) the stamp duty, and any penalty tax, payable under the *Stamp Act 1921* on the grant or transfer of the licence.

”.

[* Reprinted as at 19 October 2001.]

31. Road Traffic Amendment (Vehicle Licensing) Act 2001

- (1) The amendments in this section are to the *Road Traffic Amendment (Vehicle Licensing) Act 2001*.
- (2) The Table to section 23(1) is amended in the item relating to section 17(1) by deleting “(2 places)”.
- (3) Part 3 Division 4 is repealed.

**Subdivision 3 — Amendments if *Road Traffic Amendment Act 2000*
and *Road Traffic Amendment (Vehicle Licensing) Act 2001* commence
before this Act**

32. *Road Traffic Act 1974*

Section 17(1)(b)(ii) of the *Road Traffic Act 1974** is deleted and the following subparagraph is inserted instead —

“

- (ii) the stamp duty, and any penalty tax, payable under the *Stamp Act 1921* on the grant or transfer of the licence.

”.

[* *Reprinted as at 19 October 2001.*]

Part 4 — Transitional provisions

Division 1 — Interpretation

33. Definitions

In this Part —

“**commencement day**” means the day on which the *Taxation Administration Act 2003* comes into operation;

“**old Act**” means —

- (a) an Act repealed by section 5;
- (b) the old Stamp Act; or
- (c) section 41 of the *Metropolitan Region Town Planning Scheme Act 1959* as in force immediately before the commencement day;

“**old Stamp Act**” means the *Stamp Act 1921* as in force immediately before the commencement day;

“**substantive provisions**”, in relation to an old Act, means the provisions of the old Act other than those dealing with matters dealt with in the *Taxation Administration Act 2003*.

Division 2 — General transitional provisions

34. General transitional arrangements

- (1) Section 37(1) of the *Interpretation Act 1984*, except paragraphs (a) and (b), does not apply in relation to the repeal of an old Act.
- (2) The repeal of an old Act does not, unless the contrary intention appears —
 - (a) affect any right, interest, title, power or privilege created, acquired, accrued, established or exercisable or any status or capacity existing prior to the repeal;

- (b) affect any duty, obligation, liability, or burden of proof imposed, created, or incurred prior to the repeal;
 - (c) subject to section 11 of *The Criminal Code* and section 10 of the *Sentencing Act 1995*, affect any penalty or forfeiture incurred or liable to be incurred in respect of an offence committed against the old Act; or
 - (d) affect any investigation, legal proceeding or remedy in respect of any such right, interest, title, power, privilege, status, capacity, duty, obligation, liability, burden of proof, penalty or forfeiture.
- (3) Subject to subsections (4) and (5) —
- (a) a right, interest, title, power, privilege, duty, obligation, liability or burden of proof referred to in subsection (2)(a) or (b) may be exercised or enforced;
 - (b) a penalty or forfeiture referred to in subsection (2)(c) may be imposed and enforced; and
 - (c) an investigation, legal proceeding or remedy referred to in subsection (2)(d) may be instituted, continued, or enforced,
- as if the substantive provisions of the relevant old Act —
- (d) had not been repealed;
 - (e) were a taxation Act for the purposes of the *Taxation Administration Act 2003*; and
 - (f) had been amended to make any modifications necessary for this section to have effect.
- (4) If an objection, appeal or other legal proceeding (the “**action**”) was instituted under an old Act and was not finally determined before the commencement day —
- (a) the action may be continued;
 - (b) any requirement to pay interest on an amount of tax determined in the action to have been overpaid applies and may be enforced;

- (c) any penalty may be imposed and enforced; and
- (d) any decision, order or determination made in the action has effect, and may be enforced,

as if this Act and the taxation Acts had not commenced.

- (5) If the time limited by an old Act for doing anything is longer than the time limited by a taxation Act for doing the equivalent thing under that Act, then in relation to a matter to which subsection (3) applies, the time limited under the old Act applies in relation to the doing of the thing under the taxation Act.
- (6) If the time limited by an old Act for commencing proceedings in relation to an offence under that Act is shorter than the 5 year period limited by section 111 of the *Taxation Administration Act 2003*, then despite section 111, proceedings in relation to an offence under the old Act (including an offence under a provision of the old Act that is continued in force under this Part) cannot be commenced after the expiry of the shorter period provided for by the old Act.
- (7) In this section a reference, in relation to the *Stamp Act 1921*, to the repeal of the old Act is a reference to the amendment of the Act by the *Stamp Amendment Act 2003*.

35. Commissioner not to increase tax liability

Despite Part 3 Division 1 of the *Taxation Administration Act 2003*, the Commissioner must not make a reassessment that increases the amount of tax a person is liable to pay in relation to anything that happened before the commencement day if the reassessment could not have been made under the relevant old Act.

36. Delegations

A delegation made under an old Act and in force immediately before the commencement day continues in force on and after that day as a delegation made under section 10 of the *Taxation Administration Act 2003*.

Division 3 — Debits tax

37. Certificates of exemption from tax (*Debits Tax Assessment Act 1990*, s. 11)

- (1) A certificate issued under section 11 of the *Debits Tax Assessment Act 1990* and in force immediately before the commencement day continues in force on and after that day as a certificate issued under section 10 of the *Debits Tax Assessment Act 2002*.
- (2) Where section 13(1) of the *Debits Tax Assessment Act 2002* applies in relation to a certificate issued under section 11 of the *Debits Tax Assessment Act 1990* the Commissioner cannot make a reassessment of the amount of debits tax payable on a debit for the purpose of giving effect to that section more than 3 years after —
 - (a) if the financial institution has recovered the amount of the debits tax paid on the debit from the customer — the date on which that amount was recovered; or
 - (b) otherwise — the date on which the debits tax on the debits was paid.

Division 4 — Land tax

38. Exemptions for certain home unit owners (*Land Tax Assessment Act 1976*, s. 19)

If the amount of land tax payable on land for the financial year commencing on 1 July 2001 was assessed under section 19 of the *Land Tax Assessment Act 1976*, then on and after the commencement day section 16 of the *Land Tax Assessment Act 2002* applies in relation to that land as if that assessment had been made under section 16.

39. Inner city residential property rebate (*Land Tax Assessment Act 1976, s. 23AB*)

A notice given by the Commissioner under section 23AB(7) of the *Land Tax Assessment Act 1976* and in force immediately before the commencement day continues in force on and after that day as a notice under section 28(4) of the *Land Tax Assessment Act 2002*.

40. Land tax relief Acts

Despite —

- (a) the repeal of the *Land Tax Assessment Act 1976* and *Land Tax Act 1976*; and
- (b) the amendment of section 41 of the *Metropolitan Region Town Planning Scheme Act 1959*,

on and after the commencement day the *Land Tax Relief Act 1991* and *Land Tax Relief Act 1992* apply as if the substantive provisions of the Acts mentioned in paragraphs (a) and (b) —

- (c) had not been repealed;
- (d) were a taxation Act for the purposes of the *Taxation Administration Act 2003*; and
- (e) had been amended to make any modifications necessary for this section to have effect.

Division 5 — Pay-roll tax

41. Treatment of certain contributions (*Pay-roll Tax Assessment Act 1971, Sch. 2 cl. 5*)

Despite the repeal of the *Pay-roll Tax Assessment Act 1971*, Schedule 2 clause 5 of that Act continues to apply on and after the commencement day in relation to contributions wholly or partly in respect of services performed or rendered before 1 July 1997 as if that Act had not been repealed.

42. Reassessments and refunds (*Pay-roll Tax Assessment Act 1971, s. 19*)

Despite sections 16(3), 20(3) and 22(4) of the *Pay-roll Tax Assessment Act 2002* and section 16(1)(a) of the *Taxation Administration Act 2003*, the Commissioner is not required to make a reassessment of the amount of pay-roll tax payable by an employer in respect of wages paid or payable before the commencement day unless an application for a reassessment is made within 2 years after the tax was paid.

Division 6 — Stamp duty

43. Adhesive stamps (*Stamp Act 1921, s. 15, 21 and 23*)

- (1) Despite its repeal by the *Stamp Amendment Act 2003*, section 15 of the old Stamp Act continues in force for 12 months after the commencement day in relation to adhesive stamps that were affixed on instruments before that day.
- (2) Despite their repeal by the *Stamp Amendment Act 2003*, sections 21 and 23 of the old Stamp Act continue in force for 3 months after the commencement day in relation to adhesive stamps that were affixed on instruments before that day.
- (3) If adhesive stamps affixed to an instrument have been cancelled in accordance with the old Stamp Act (including the provisions of the old Stamp Act continued in force by subsections (1) and (2)) the instrument is taken to have been endorsed in accordance with section 17C of the *Stamp Act 1921*.

44. Printing of “Stamp Duty Paid” on cheques (*Stamp Act 1921, s. 52*)

- (1) An authorisation of a financial institution granted under section 52 of the old Stamp Act and in force immediately before the commencement day continues in force on and after that day as a special tax arrangement made under the *Taxation Administration Act 2003*.

- (2) Any requirement that applied, immediately before the commencement day, to a person to whom an authorisation continued by subsection (1) had been granted (whether imposed by the old Stamp Act or as a condition to which the authorisation was subject), continues as a condition to which the special tax arrangement referred to in subsection (1) is subject.

45. First home owners — reassessment (*Stamp Act 1921*, s. 75AG)

Despite section 17(1) of the *Taxation Administration Act 2003*, if property that included a dwellinghouse was conveyed or transferred before the commencement day, an application for a reassessment of the duty payable on the conveyance or transfer on the basis that a rebate under section 75AG of the old Stamp Act should have been, but was not, allowed cannot be made more than 12 months after the date of the original assessment.

46. Reassessment of duty on grant or transfer of vehicle licences (*Stamp Act 1921*, s. 76C(18) and (19), 76CA(3a) and 76CB(9))

- (1) This section applies in relation to a grant or transfer of a licence that occurred before the commencement day.
- (2) Despite section 17(1) of the *Taxation Administration Act 2003*, an application for a reassessment of the duty payable on the grant or transfer of a licence on the basis that the duty should not have been paid because —
- (a) in the case of a grant — no vehicle licence fee was payable under the *Road Traffic Act 1974* in respect of the licence; or
 - (b) in the case of a transfer — had the transferee applied for the licence on the date of the transfer no vehicle licence fee would have been payable under the *Road Traffic Act 1974*,

cannot be made more than 15 months after the licence was granted or transferred.

- (3) Despite section 17(1) of the *Taxation Administration Act 2003*, an application for a reassessment of the duty paid on the transfer of a licence on the basis that the duty should have been, but was not, charged in accordance with item 6 of the Second Schedule to the old Stamp Act because the transfer did not pass a beneficial interest, cannot be made more than 12 months after the licence was transferred.
- (4) Despite section 17(1) of the *Taxation Administration Act 2003*, an application for a reassessment of the duty payable on the grant or transfer of a licence on the basis that the duty should have been, but was not, assessed on the net market value of the vehicle (as defined in section 76CB of the old Stamp Act), cannot be made more than 12 months after the licence was granted or transferred.

**47. Alternative to stamping individual insurance policies
(Stamp Act 1921, s. 95A)**

- (1) A permission granted under section 95A of the old Stamp Act and in force immediately before the commencement day continues in force on and after that day as a special tax arrangement made under the *Taxation Administration Act 2003*.
- (2) Any requirement that applied, immediately before the commencement day, to a person to whom a permission continued by subsection (1) had been granted (whether imposed by the old Stamp Act or as a condition to which the permission was subject), continues as a condition to which the special tax arrangement referred to in subsection (1) is subject.

**48. Workers' compensation insurance (Stamp Act 1921, s. 97
and item 16 of the Second Schedule)**

- (1) Despite section 17(1) of the *Taxation Administration Act 2003*, an application for a reassessment of the duty payable on the issue or renewal of a policy of insurance that occurred before the commencement day on the basis that the duty was assessed under item 16(1)(a)(i) of the Second Schedule to the old Stamp

Taxation Administration (Consequential Provisions) Act 2002

Part 4 Transitional provisions

Division 6 Stamp duty

s. 49

Act but should have been assessed under item 16(1)(a)(ii), cannot be made more than 2 years after the beginning of the insurance policy's cover period.

- (2) Despite the amendment of Schedule 2 item 16(1)(a) of the *Stamp Act 1921*, on and for 12 months after the commencement day —
- (a) the reference in Schedule 2 item 16(1)(a)(i)(A) to the *Pay-roll Tax Assessment Act 2002* includes a reference to the *Pay-roll Tax Assessment Act 1971*; and
 - (b) the reference in Schedule 2 item 16(1)(a)(i)(B) to section 39 or 40 of the *Pay-roll Tax Assessment Act 2002* includes a reference to section 10 of the *Pay-roll Tax Assessment Act 1971*.

49. Payment of duty by returns (*Stamp Act 1921*, s. 112V)

- (1) A permission granted under section 112V of the old Stamp Act and in force immediately before the commencement day continues in force on and after that day as a special tax arrangement under the *Taxation Administration Act 2003*.
- (2) Any requirement that applied, immediately before the commencement day, to a person to whom a permission continued by subsection (1) had been granted (whether imposed by the old Stamp Act or as a condition to which the permission was subject), continues as a condition to which the special tax arrangement referred to in subsection (1) is subject.

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