



Western Australia

## Revenue Laws Amendment (Assessment) Act 1998

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No. 22 of 1998

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An Act to amend the —

- *Debits Tax Act 1990*;
  - *Debits Tax Assessment Act 1990*;
  - *Financial Institutions Duty Act 1983*;
  - *Fuel Suppliers Licensing and Diesel Subsidies Act 1997*;
  - *Land Tax Assessment Act 1976*;
  - *Pay-roll Tax Assessment Act 1971*;
  - *Rates and Charges (Rebates and Deferments) Act 1992*; and
  - *Stamp Act 1921*,
- and for related purposes.

[Assented to 30 June 1998]

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

### **1. Short title**

This Act may be cited as the *Revenue Laws Amendment (Assessment) Act 1998*.

### **2. Commencement**

- (1) This Act comes into operation as set out in the Table.

Table

Provision	Commencement
Part 2	Such day as is fixed by proclamation
Part 3, Division 3	1 July 1998
Part 4	1 July 1998
Part 5, Division 2	1 October 1997
Part 5, Division 4	1 July 1998
Part 6	Day of commencement of the <i>Cheques and Payment Orders Amendment Act 1998</i> of the Commonwealth
Balance	Day of Royal Assent

- (2) If a day in the 2<sup>nd</sup> column of the Table in subsection (1) is before the day on which this Act receives the Royal Assent, the relevant provision is deemed to have come into operation on the earlier day.

**Part 2 — Fuel Suppliers Licensing and Diesel Subsidies Act 1997 amended**

**3. Act amended by this Part**

The amendments in this Part are to the *Fuel Suppliers Licensing and Diesel Subsidies Act 1997*\* unless otherwise indicated.

[\* Act No. 55 of 1997.]

**4. Section 1 amended and consequential amendment to Taxation (Reciprocal Powers) Act 1989**

- (1) Section 1 is amended by deleting “*and Diesel Subsidies*”.
- (2) The *Taxation (Reciprocal Powers) Act 1989*\* is amended in section 3, in the definition of “State Taxation Act”, by deleting “*and Diesel Subsidies*”.

[\* Act No. 18 of 1989.

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 230 and Act No. 56 of 1997.]*

**5. Section 29 amended**

Section 29 is amended as follows:

- (a) by inserting after the section designation “**29.**” the subsection designation “(1)”;  
(b) by deleting paragraph (a) and inserting instead —  
“
  - (a) the holder must keep records, in accordance with the Commissioner’s written directions, that enable the Commissioner to ascertain readily —
    - (i) the details of all diesel supplied to the holder at the ORD subsidized price; and”

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(ii) where and for what purpose that diesel was used;

”.

(c) by inserting the following subsection —

“

(2) The holder of an ORD user’s certificate who objects to a direction made by the Commissioner under subsection (1)(a) may apply to the Minister for a review of the Commissioner’s decision and section 60 applies accordingly.

”.

## **Part 3 — *Land Tax Assessment Act 1976* amended**

### **Division 1 — Preliminary**

#### **6. Act amended by this Part**

The amendments in this Part are to the *Land Tax Assessment Act 1976*\* unless otherwise indicated.

[\* Reprinted as at 30 July 1996.

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 129.]*

### **Division 2 — Amendments that commence on Royal Assent**

#### **7. Section 5 amended**

Section 5(1) is amended in the definition of “**Commissioner**” by deleting “Commissioner of State Taxation under the *Public Service Act 1978*” and inserting instead —

“

Commissioner of State Revenue under the *Public Sector Management Act 1994*

”.

#### **8. Section 23 amended**

Section 23(1)(a)(i) and (ii), (c) and (e) and (2) is amended by deleting “an ordinary” in the 5 places where it occurs and in each place inserting instead —

“ his or their sole or principal ”.

**9. Schedule amended**

Clause 9 of Part I of the Schedule is amended as follows:

- (a) in paragraphs (a)(i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix) and (x) and (b)(ii), (iii), (iv)(I) and (II), (iva)(I), (II) and (III), (vi)(I) and (vii) by deleting “ordinary” in the 19 places where it occurs and in each place inserting instead —
  - “ sole or principal ”;
- (b) in paragraph (a)(xii)(II) by deleting “an ordinary” and inserting instead —
  - “ his sole or principal ”.

**10. Validation**

Any assessment purported to have been made under the *Land Tax Assessment Act 1976* before sections 8 and 9 of this Act come into operation and any thing done under the purported assessment, is and always was, as valid and effective as it would have been if, at and after the time of the assessment, any reference in section 23 of or clause 9 of Part I of the Schedule to the *Land Tax Assessment Act 1976* to “ordinary place of residence” were a reference to “sole or principal place of residence” and had effect accordingly.

**Division 3 — Amendments that commence on 1 July 1998**

**11. Section 23AB inserted, consequential amendment to *Valuation of Land Act 1978* and certain retroactive regulations authorized**

(1) After section 23AA the following section is inserted —

“

**23AB. Rebate for inner city residential land**

(1) In this section —

“**dwelling**” means —

- (a) a dwelling house or part of a dwelling house constructed prior to midnight on 30 June immediately preceding the year of assessment; or
- (b) a dwelling house or part of a dwelling house —
  - (i) under construction at midnight on 30 June immediately preceding the year of assessment; and
  - (ii) completed during the year of assessment,

that was occupied, or fit to be occupied and intended by the owner to be occupied, during the year of assessment as a place of residence of one or more individuals;

“**inner city area**” means an area of the State prescribed as an inner city area;

**“non-residential zone land”** means land the subject of a town planning scheme, or a redevelopment scheme in force under the *East Perth Redevelopment Act 1991*, where the land is not zoned for use solely for residential purposes;

**“residential equivalent value”** means the unimproved value of land to which this section applies determined as if the land were zoned solely for residential purposes under the town planning scheme or redevelopment scheme that applies to the land.

- (2) In this section, **“land to which this section applies”** means land —
- (a) which is land in an inner city area;
  - (b) which is non-residential zone land; and
  - (c) upon which a dwelling is constructed or is being constructed but does not include any part of the land upon which there is constructed or there is being constructed —
    - (i) a hotel, motel, hostel, lodging house or boarding house;
    - (ii) a building which is ordinarily used for holiday accommodation;
    - (iii) an educational institution, college, hospital or nursing home;
    - (iv) premises used as a club;
    - (v) premises used as a home for aged or disabled persons by an eligible organization within the meaning of the *Aged or Disabled Persons Care Act 1954* of the Commonwealth; or



- (vi) prescribed premises or premises of a prescribed class.
- (3) The Commissioner shall grant under this subsection a rebate of land tax levied on a person as owner of land to which this section applies in respect of the year of assessment commencing on 1 July 1998 or any subsequent year of assessment where the Commissioner is satisfied that —
- (a) the person was at midnight on 30 June immediately preceding the year of assessment the owner of land to which this section applies; and
  - (b) the person —
    - (i) has made a written application for a rebate under this subsection in a form approved by the Commissioner; or
    - (ii) has by virtue of a notice under subsection (7) been relieved from the obligation to apply each year of assessment for a rebate of land tax.
- (4) A rebate under subsection (3) shall be calculated using the formula —
- $$R = (LT - RE)$$
- where —
- LT is greater than the RE;
- R is the rebate;
- LT (“**land tax**”) is the land tax levied on the aggregated unimproved value of land owned by the person that is not exempt land; and

RE (“**residential equivalent**”) is the land tax that would be levied on the aggregated unimproved value of land owned by the person that is not exempt land if the unimproved value of any land on which a rebate may be granted under subsection (3) or (5), as the case may be, were valued at its residential equivalent value.

(5) Where —

- (a) a person was at midnight on 30 June immediately preceding any year of assessment beginning with the year of assessment commencing 1 July 1993 and ending with the year of assessment commencing 1 July 1997 (in this subsection called “**the relevant period**”) the owner of land to which this section applies;
- (b) for any year of assessment during the relevant period for which a notice of assessment or any amendment of a notice of assessment was served on that person, the person has not received a rebate of land tax by reason of owning that land;
- (c) a written application for a rebate under this subsection has been made by the person in a form approved by the Commissioner; and
- (d) the application is made within 5 years of the day on which the notice of assessment for the year of assessment or any amendment of the notice was served on the person,

the Commissioner shall grant a rebate of land tax levied on the person calculated using the formula provided in subsection (4) for that year of assessment.

- (6) Where a rebate is granted under this section, the Commissioner shall cause appropriate action to be taken for the amendment of any assessment issued to the person who was the owner at 30 June immediately preceding the year of assessment for which the rebate is granted and, if he or she has paid the rebated land tax, for a refund of the rebated land tax to be made to him or her.
- (7) The Commissioner may, by a notice in writing served on an owner, relieve that owner from the obligation to apply each year of assessment for a rebate of land tax under subsection (3) and may, by further notice, reimpose that obligation upon that owner.
- (8) An owner of land in respect of which a rebate of land tax has been granted under this section who does not advise the Commissioner by written notice —
  - (a) if the land ceases to be land to which this section applies, that the land has ceased to be land to which this section applies, before the commencement of the next year of assessment or within 3 months of the day on which it ceased to be land to which this section applies, whichever is the later in time; or
  - (b) if the area of the land to which this section applies is reduced, that the area has been reduced and of the area of the land which is land to which this section applies, before the commencement of the next year of assessment or within 3 months of the day on which the reduction of the area of the land which is land to which this section applies occurred, whichever is the later in time,

commits an offence.

”

- (2) After section 31A of the *Valuation of Land Act 1978*\* the following section is inserted —

“

**31B. Valuer-General to make valuations for the purpose of section 23AB of the *Land Tax Assessment Act 1976***

- (1) In this section —  
“**residential equivalent value**” has the same meaning as it has in section 23AB(1) of the *Land Tax Assessment Act 1976*.
- (2) The Valuer-General, on the request of the Commissioner of State Revenue in respect of any land, shall determine the residential equivalent value of the land.
- (3) Part II and Part IV apply to a valuation made under subsection (2).

”.

[\* *Reprinted as at 23 April 1996.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 243 and Act No. 10 of 1998.]*

- (3) Regulations —
- (a) that are made under the *Land Tax Assessment Act 1976* as amended by this section; and
- (b) that are made within 6 months after this Act receives the Royal Assent,

may come into operation at a time specified in those regulations that is not earlier than 1 July 1998 and may relate to land owned by a person at midnight on 30 June 1998.

**12. Schedule amended**

- (1) Clause 2(b) of Part I of the Schedule is amended by deleting subparagraphs (i) and (ii) and inserting instead —

“

- (i) Where land owned by, vested in, or held in trust for any religious body is used by the owner or any other person for business, commercial, professional or trade purposes the owner of the land shall be liable for assessment and taxation under this Act as follows:
  - (I) up to and including the year of assessment commencing on 1 July 1997, at 50% of the rate imposed by the *Land Tax Act 1976*;
  - (II) for the year of assessment commencing on 1 July 1998, at 60% of the rate imposed by the *Land Tax Act 1976*;
  - (III) for the year of assessment commencing on 1 July 1999, at 80% of the rate imposed by the *Land Tax Act 1976*;
  - (IV) for the year of assessment commencing on 1 July 2000, and for each year of assessment after that year, at the rate imposed by the *Land Tax Act 1976*.
  
- (ii) Land of the class specified in paragraph (a)(ii) of this clause is exempt land, subject to all the other qualifications applicable thereto, only up to and including the year of assessment commencing on 1 July 1977 but

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after that year shall be subject to assessment and taxation under this Act at the rate imposed by the *Land Tax Act 1976* unless it is used by the owner or any other person for business, commercial, professional, or trade purposes in which case the owner of the land shall be liable for assessment and taxation under this Act as follows:

- (I) up to and including the year of assessment commencing on 1 July 1997, at 50% of the rate imposed by the *Land Tax Act 1976*;
- (II) for the year of assessment commencing on 1 July 1998, at 60% of the rate imposed by the *Land Tax Act 1976*;
- (III) for the year of assessment commencing on 1 July 1999, at 80% of the rate imposed by the *Land Tax Act 1976*;
- (IV) for the year of assessment commencing on 1 July 2000, and for each year of assessment after that year, at the rate imposed by the *Land Tax Act 1976*.

”

- (2) Clause 3(b) of Part I of the Schedule is amended by deleting subparagraphs (i) and (ii) and inserting instead —

“

- (i) Where land owned by, vested in, or held in trust as specified in paragraph (a)(i) of this clause is used by the owner or any other person for business, commercial, professional or trade purposes the owner of

the land shall be liable for assessment and taxation under this Act as follows:

- (I) up to and including the year of assessment commencing on 1 July 1997, at 50% of the rate imposed by the *Land Tax Act 1976*;
  - (II) for the year of assessment commencing on 1 July 1998, at 60% of the rate imposed by the *Land Tax Act 1976*;
  - (III) for the year of assessment commencing on 1 July 1999, at 80% of the rate imposed by the *Land Tax Act 1976*;
  - (IV) for the year of assessment commencing on 1 July 2000, and for each year of assessment after that year, at the rate imposed by the *Land Tax Act 1976*.
- (ii) Land of the class specified in paragraph (a)(ii) of this clause is exempt land, subject to all the other qualifications applicable thereto, only up to and including the year of assessment commencing on 1 July 1977 but after that year shall be subject to assessment and taxation under this Act at the rate imposed by the *Land Tax Act 1976* unless it is used by the owner or any other person for business, commercial, professional, or trade purposes in which case the owner of the land shall be liable for assessment and taxation under this Act as follows:

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- (I) up to and including the year of assessment commencing on 1 July 1997, at 50% of the rate imposed by the *Land Tax Act 1976*;
- (II) for the year of assessment commencing on 1 July 1998, at 60% of the rate imposed by the *Land Tax Act 1976*;
- (III) for the year of assessment commencing on 1 July 1999, at 80% of the rate imposed by the *Land Tax Act 1976*;
- (IV) for the year of assessment commencing on 1 July 2000, and for each year of assessment after that year, at the rate imposed by the *Land Tax Act 1976*.

”



**Part 4 — *Rates and Charges (Rebates and Deferments)*  
Act 1992 amended**

**13. Act amended by this Part**

The amendments in this Part are to the *Rates and Charges (Rebates and Deferments) Act 1992*\*.

[\* *Act No. 31 of 1992.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 195.]*

**14. Section 3 amended**

Section 3(1) is amended as follows:

- (a) by deleting the definition of “Coordinator of Water Services”;
- (b) by deleting paragraph (b) of the definition of “rating year”.

**15. Section 8 amended**

Section 8 is amended as follows:

- (a) in paragraph (b) by deleting “, with the advice of the Treasurer,”;
- (b) in paragraph (b)(ii) by deleting “Treasurer” and inserting instead —  
“ Minister ”.

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**16. Section 9 replaced**

Section 9 is repealed and the following section is inserted instead —

“

**9. Ministerial directions and procedural manuals**

- (1) The Minister may provide advice, make recommendations, or give written directions to administrative authorities as to the implementation of this Act.
- (2) The Minister may issue, and amend, a procedural manual for the guidance of administrative authorities as to the implementation of this Act.
- (3) All employees, officers and members of an administrative authority must comply with a procedural manual.
- (4) The Minister may give written directions to an administrative authority with respect to the performance of its functions under this Act, either generally or as to a particular matter.
- (5) An administrative authority must comply with a direction given to it under subsection (4).
- (6) The text of a direction given to a statutory authority within the meaning of the *Financial Administration and Audit Act 1985* is to be —
  - (a) laid before each House of Parliament within 14 sitting days of that House after the direction is given; and

- (b) included in the annual report submitted by the accountable authority of the statutory authority under section 66 of that Act.

”

**17. Section 10 amended**

Section 10(1) and (2) are repealed and the following subsections are inserted instead —

“

- (1) The Minister may, by instrument in writing signed by the Minister, delegate any of the Minister’s powers or functions under this Act to the Commissioner of State Revenue or to an officer assisting the Commissioner to administer the Act.
- (2) A delegation may be made generally or as otherwise provided in the instrument of delegation.

”

**18. Section 12 amended**

Section 12(4) is amended by deleting “Treasurer” and inserting instead —

“ Minister ”.

**19. Section 13 amended**

Section 13(1) is amended by deleting “section 9(1)(b)” and inserting instead —

“ section 9(2) ”.

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**20. Section 16 amended**

Section 16(2) and (3) are repealed and the following subsections are inserted instead —

“

- (2) When a local government allows a rebate to a registered person, the local government may make a claim for reimbursement by the Minister of the amount allowed.
- (3) When a local government allows a liability for payment by a registered person who is an eligible pensioner to be deferred, the local government may make a claim for financial assistance from the Minister in accordance with section 17(1a).
- (4) When a water board allows any rebate to an eligible senior who as such is a registered person, the water board may make a claim for reimbursement by the Minister of the amount allowed.

”

**21. Section 17 amended**

- (1) Section 17(1) is repealed and the following subsections are inserted instead —

“

- (1) If the Minister is satisfied that a claim for reimbursement under section 16(2) or (4) of the amount of a rebate is validly made, the Minister is to reimburse the amount.
- (1a) If the Minister is satisfied that a claim or claims made in a financial year by a local government under section 16(3) for financial assistance is or are validly made then, at the end of the financial year, interest

calculated in accordance with subsection (2) is to be paid to the local government on the aggregate of the amounts allowed by the local government to be deferred in that financial year.

”

- (2) Section 17(2) is amended by deleting “Treasurer” in both places where it occurs and in each place inserting instead —

“ Minister ”.

**22. Section 29 amended**

Section 29(1)(b)(ii) is amended as follows:

- (a) after item (A) by deleting “or”;  
(b) after item (B) by inserting —

“

; or

- (C) is entitled under the will of the deceased to occupy the land;

”

**23. Section 30 amended**

Section 30 is amended as follows:

- (a) in subsection (1) by deleting “, subject to subsection (2),”;  
(b) by repealing subsection (2).

**24. Section 38 amended**

Section 38 is amended as follows:

- (a) by inserting after the section designation “**38.**” the subsection designation “(1)”;

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(b) by inserting the following subsection —

“

- (2) A complaint against a person for an offence under subsection (1) must be made within 5 years from the time when the alleged offence occurred.

”

**25. Savings — procedural manuals**

A procedural manual issued under section 9 of the *Rates and Charges (Rebates and Deferments) Act 1992* as in force before the commencement of this Part has effect on and after the commencement of this Part as if it had been issued under section 9 of the *Rates and Charges (Rebates and Deferments) Act 1992* as amended by section 16 of this Act.

## Part 5 — *Stamp Act 1921* amended

### Division 1 — Preliminary

#### 26. Act amended by this Part

The amendments in this Part are to the *Stamp Act 1921*\*.

[\* Reprinted as at 23 January 1996.

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, pp. 217-20.]*

### Division 2 — Amendment that commenced on 1 October 1997

#### 27. Section 112R replaced

Section 112R is repealed and the following section is inserted instead —

“

#### **112R. Certain aged care agreements exempt**

(1) Notwithstanding anything in this Act, duty shall not be charged on an agreement under the *Aged Care Act 1997* of the Commonwealth between an approved provider and a person relating to aged care services for the person.

(2) In subsection (1) —

“**aged care service**” has the same meaning as in the *Aged Care Act 1997* of the Commonwealth;

“**approved provider**” has the same meaning as in the *Aged Care Act 1997* of the Commonwealth.

”.

**Division 3 — Amendments that commence on Royal Assent**

**28. Section 75AE amended**

Section 75AE(2)(a) is amended by deleting “statutory declaration provided for by” and inserting instead —

“ application form referred to in ”.

**29. Section 112B amended**

Section 112B(1)(b) is amended by deleting “or if it is not registered on a register kept in Australia, if the company's registered office is in this State”.

**30. Section 112GA amended**

Section 112GA is amended by deleting the definition of “relevant transaction” and “and” after it and inserting the following definition instead —

“

“**relevant transaction**” means a disposition of marketable securities or rights in respect of shares of —

(a) a local government, corporation, company or society incorporated in Western Australia; or

(b) a foreign company that are registered on a register kept in this State by that company,

that is made or effected by a person to whom this Part applies as trustee for any person to himself or herself as trustee for another person;

”.



**Division 4 — Amendments that commence on 1 July 1998**

**31. Section 27 amended**

Section 27(2)(a) is amended by inserting after “(a), (aa),” —  
“ (ca), (cb), ”.

**32. Section 31B amended**

(1) After section 31B(1)(c) the following paragraphs are inserted —

“

(ca) by which the beneficial ownership of chattels (as defined in section 70) and land (as defined in section 70) is changed or agreed to be changed;

(cb) by which the beneficial ownership of chattels (as defined in section 70) is changed or agreed to be changed, and which is part of a series of transactions relating to chattels and to land (as defined in section 70) at least one of which changes, or is or includes an agreement to change, the beneficial ownership of the land;

”.

(2) After section 31B(1) the following subsection is inserted —

“

(1a) Subsection (1) does not apply to a transaction relating to chattels and land as referred to in subsection (1)(ca) unless subsection (1) would have applied to the transaction if it had only related to the land.

”.

**33. Section 70 inserted**

After section 69 the following section is inserted —

“

**70. Certain transfers of chattels dutiable**

(1) In this section, unless the contrary intention appears —

“**arrangement**” means an instrument or an unwritten arrangement;

“**chargeable with duty**” means chargeable with duty under item 4, 10, 14A, 15, 17 or 19 of the Second Schedule, as the case requires;

“**chattels**” means goods, wares or merchandise, other than exempt chattels, and includes an estate or interest in them;

“**estate or interest in land**” includes a mining tenement (as defined in section 76);

“**exempt chattels**” means —

- (a) chattels referred to in item 2 (7), (7a) or (7b) of the Third Schedule;
- (b) a motor vehicle the transfer of the licence of which is chargeable with duty under Part IIIC and item 14 or 6 of the Second Schedule or is exempt under item 9 of the Third Schedule;

“**farming land**” has the same definition as in section 75D(1);

“**land**” means land, other than farming land, and includes an estate or interest in land;

“**transfer**” includes convey, exchange, partition, settle, give, vest, release and renounce.

- (2) If an instrument —
- (a) transfers, or is or includes an agreement to transfer, or evidences the transfer of, a chattel and land; and
  - (b) is chargeable with duty in respect of the land,
- the instrument is chargeable with duty in respect of the unencumbered value of the land plus the unencumbered value of the chattel.
- (3) If —
- (a) an instrument —
    - (i) transfers, or is or includes an agreement to transfer, or evidences the transfer of, a chattel; and
    - (ii) is one of several arrangements that together form, or arise from, substantially one transaction, or one series of transactions, relating to chattels and to land;
- and
- (b) at least one of the other arrangements mentioned in paragraph (a)(ii) transfers, or is or includes an agreement to transfer, or evidences the transfer of, land and is chargeable with duty,
- the instrument mentioned in paragraph (a) is chargeable with duty in respect of the unencumbered value of the land plus the unencumbered value of the chattel.
- (4) The duty payable on an instrument referred to in subsection (3)(a) is to be reduced by any duty paid in

respect of the arrangement referred to in subsection (3)(b).

- (5) For the purposes of subsection (3)(a)(ii), if a person enters into arrangements —
- (a) within, or apparently within, 12 months of each other; and
  - (b) with the same person (whether that person enters the arrangements alone or with the same person or different persons),

it shall be presumed, unless the Commissioner is satisfied to the contrary, that the arrangements arose out of one transaction or one series of transactions.

”.

**34. Section 73D amended**

- (1) Section 73D(1) is amended by inserting in the appropriate alphabetical positions the following definitions:

“

“**chattels**” has the same definition as in section 76;

“**land**” has the same definition as in section 76;

”.

- (2) Section 73D(4)(a) is amended as follows:

- (a) by deleting “(as defined in section 76)” and inserting instead —

“ and chattels ”;

- (b) by inserting after “such land” —

“ and chattels ”.

- (3) Section 73D(4a) is amended by inserting after “land” in the 2 places where it occurs —
- “ and chattels ”.
- (4) After section 73D(6) the following subsections are inserted —
- “
- (6a) Subject to subsection (6c), in addition to the duty chargeable on a transfer or an instrument under subsection (4), the transfer or instrument shall each be chargeable with duty at the rate provided for in item 4(1) of the Second Schedule calculated on the unencumbered value of any ascribed chattels, but duty shall not be charged in respect of —
- (a) any of the chattels in respect of which duty has been paid under section 31B or 70 by a person liable under subsection (7) to pay the duty with which the transfer or instrument is chargeable under subsection (4);
- (b) any of the chattels in respect of which *ad valorem* duty has been paid by such a person in another jurisdiction; or
- (c) any of the chattels that, in the opinion of the Commissioner, are usually not situated in the State.
- (6b) Chattels are ascribed chattels for the purpose of subsection (6a) if, within the 12 months preceding the date of the disposition evidenced by the transfer or instrument —
- (a) the unit trustee, as trustee of the unit trust scheme, held them or any interest (including any beneficial interest) in them; and

- (b) a person liable under subsection (7) to pay the duty with which the transfer or instrument is chargeable under subsection (4) acquired them, directly or indirectly, from the unit trustee.
- (6c) The transfer or instrument is not chargeable with duty under subsection (6a) if the Commissioner is satisfied that no transaction by means of which the ascribed chattels were transferred from the unit trustee to the person referred to in subsection (6b)(b) was effected for the collateral purpose of reducing the duty that otherwise would be chargeable on the transfer or instrument.

”.

**35. Section 73DA amended**

- (1) Section 73DA(1) is amended as follows:

- (a) by deleting “all land, as defined in section 76,” and inserting instead —

“

, all land and chattels (as those terms are defined in section 76)

”.

- (b) by inserting after “in land” —

“ and chattels ”.

- (2) Section 73DA(2) is amended by inserting after “land” in the 2 places where it occurs —

“ and chattels ”.

**36. Section 76 amended**

Section 76(1) is amended by inserting after the definition of “acquire” the following definition —

“

**“chattels”** means goods, wares or merchandise other than —

- (a) goods, wares or merchandise referred to in item 2 (7), (7a) or (7b) of the Third Schedule;
- (b) a motor vehicle the transfer of the licence of which is exempt under item 9 of the Third Schedule;
- (c) goods, wares or merchandise that are usually situated on farming land (as defined in section 75D(1),

and includes an estate or interest in them;

”.

**37. Section 76AA amended**

Section 76AA(1), (1b) and (2a) are amended by inserting after “land” in the 6 places where it occurs —

“ or other property ”.

**38. References to chattels inserted in various provisions**

Each of the provisions set out in the Table to this section is amended by inserting after “land” in each place where it occurs —

“ and chattels ”.

Table

s. 76AG(4)(d)	s. 76AN(3)(d)
s. 76AH(2) (2 places)	s. 76AO(2) (2 places)
s. 76AL(1)	s. 76AS(1)
s. 76AL(2)	s. 76AS(2)
s. 76AL(3) (2 places)	s. 76AS(3) (2 places)
s. 76AL(4) (5 places)	s. 76AS(4) (5 places)

**39. Section 76AG amended**

Section 76AG(4) is amended as follows:

- (a) by deleting “and” after paragraph (d);
- (b) after paragraph (d) by inserting —

“

- (da) particulars of any chattels, whether situated in the State or not, to which the WA company was entitled in the 12 months preceding that date and acquired, directly or indirectly, by the person or a related person in that period;
- (db) the person’s estimate of the unencumbered value of those chattels; and

”.

**40. Section 76AH amended**

After section 76AH(3) the following subsections are inserted —

“

- (4) Subject to subsection (5), if a statement lodged under section 76AG contains particulars of any chattels as required by section 76AG(4)(da), then, in addition to the duty chargeable under subsection (1), the statement is chargeable with duty at the rate provided for in item



4(1) of the Second Schedule calculated on the unencumbered value of the chattels, but duty shall not be charged in respect of —

- (a) any of the chattels in respect of which duty has been paid under section 31B or 70 by the person who made the relevant acquisition to which the statement relates or by a related person;
  - (b) any of the chattels in respect of which *ad valorem* duty has been paid by that person, or a related person, in another jurisdiction;
  - (c) any of the chattels that, in the opinion of the Commissioner, are usually not situated in the State.
- (5) The statement is not chargeable with duty under subsection (4) if the Commissioner is satisfied that no transaction by means of which the chattels were transferred from the WA company to the person who made the relevant acquisition, or a related person, was effected for the collateral purpose of reducing the duty that otherwise would be chargeable in respect of the relevant acquisition.

”.

**41. Section 76AN amended**

Section 76AN(3) is amended as follows:

- (a) by deleting “and” after paragraph (d);

(b) after paragraph (d) by inserting —

“

- (da) particulars of any chattels, whether situated in the State or not, to which the corporation was entitled in the 12 months preceding that date and acquired, directly or indirectly, by the person or a related person in that period;
- (db) the person’s estimate of the unencumbered value of those chattels; and

”

**42. Section 76AO amended**

After section 76AO(3) the following subsections are inserted —

“

- (4) Subject to subsection (5), if a statement lodged under section 76AN contains particulars of any chattels as required by section 76AN(3)(da), then, in addition to the duty chargeable under subsection (1), the statement is chargeable with duty at the rate provided for in item 4(1) of the Second Schedule calculated on the unencumbered value of the chattels, but duty shall not be charged in respect of —
  - (a) any of the chattels in respect of which duty has been paid under section 31B or 70 by the person who made the relevant acquisition to which the statement relates or by a related person;
  - (b) any of the chattels in respect of which *ad valorem* duty has been paid by that person, or a related person, in another jurisdiction;

- (c) any of the chattels that, in the opinion of the Commissioner, are usually not situated in the State.
- (5) The statement is not chargeable with duty under subsection (4) if the Commissioner is satisfied that no transaction by means of which the chattels were transferred from the corporation to the person who made the relevant acquisition, or a related person, was effected for the collateral purpose of reducing the duty that otherwise would be chargeable in respect of the relevant acquisition.

”.

**43. Third Schedule amended**

- (1) The Third Schedule is amended in item 2(7) by deleting “, or in goods, wares or merchandise, or in any ship or vessel, or part interest or share or property of or in any ship or vessel”.
- (2) The Third Schedule is amended by inserting after item 2(7) the following subitems —

“

- (7a) A conveyance or transfer of any estate or interest in goods, wares or merchandise that are —
  - (a) stock-in-trade held or used in connection with a business;
  - (b) held for use in, or are under, manufacture; or
  - (c) prescribed to be exempt.
- (7b) A conveyance or transfer of any estate or interest in any ship or vessel, or part interest or share or property of or in any ship or vessel.

**Revenue Laws Amendment (Assessment) Act 1998**

Part 5 Stamp Act 1921 amended

Division 4 Amendments that commence on 1 July 1998

**s. 43**

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- (7c) The conveyance or transfer of any estate or interest in goods, wares or merchandise not referred to in subitems (7a) and (7b), except as provided in sections 70(2) and (3) section 31B(1)(ca) and (cb).

”.

## **Part 6 — Amendments related to cheques and payment orders**

### **Division 1 — *Debits Tax Act 1990* amended**

**44. Section 4 amended**

Section 4(2) of the *Debits Tax Act 1990*\* is amended as follows:

- (a) by deleting “a “non-bank account” ” and inserting instead —  
“ the “customer’s account” ”;
- (b) in paragraphs (a), (b) and (b)(ii) by deleting “bank” in each place where it occurs and inserting instead —  
“ financial institution ”;
- (c) in paragraphs (b) and (b)(ii) by deleting “non-bank” and inserting instead —  
“ customer’s ”.

[\* *Act No. 56 of 1990.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 62.]*

**Division 2 — *Debits Tax Assessment Act 1990* amended**

**45. Act amended by this Division**

The amendments in this Division are to the *Debits Tax Assessment Act 1990*\*.

[\* *Act No. 57 of 1990.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 62.]*

**46. Section 3 amended**

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

- (a) by deleting the definitions of “account”, “account transaction”, “bank”, “cheque”, “financial institution”, “non-bank financial institution” and “payment order”;
- (b) by inserting the following definitions in the appropriate alphabetical positions —

“

**“account”** means an account, kept with a financial institution, to which payments by the institution in respect of cheques drawn on the institution by the account holder, or by any one or more of the account holders, may be debited;

**“account transaction”** means the payment of a cheque, or the doing of any other thing, that will result in the making of a debit to an account;

**“cheque”**, in relation to an account, means an order in writing drawn on a financial institution by or on behalf of the account holder, or any one or more of the account holders, requiring the institution to pay on demand a sum certain in money to, or to the

order of, a specified person or persons, or to bearer;

**“financial institution”** means —

- (a) an institution that is a “financial institution” for the purposes of the *Cheques Act 1986* of the Commonwealth; or
- (b) any other person who is, or who is in a class of persons that is, prescribed for the purposes of this definition;

”;

- (c) in paragraph (b)(ii) of the definition of “excluded debit”, and in the definition of “incomplete”, by deleting “or payment order” in each place where it occurs.

- (2) Section 3(9) is amended by deleting “non-bank financial institution includes” and inserting instead —

“

financial institution includes, when the institution is not a bank,

”.

- (3) After section 3(9) the following subsection is inserted —

“

- (10) A reference in this Act to the carrying on of banking business includes a reference to a business carried on by a financial institution in the course of which the institution keeps accounts for its customers.

”.

**47. Section 39 amended**

- (1) Section 39(1) is repealed and the following subsection is inserted instead —

“

- (1) A financial institution —
- (a) may appoint one of its officers as its representative officer for the purposes of this Act; and
  - (b) shall, unless exempted by the Commissioner, ensure that it has at least one representative officer at all times after the expiration of one month from the day on which it commences to carry on banking business in Western Australia.

”

- (2) Section 39(2) is amended by deleting “bank” and inserting instead —

“ financial institution ”.

- (3) Section 39(3) and (4) are repealed.

**Division 3 — *Financial Institutions Duty Act 1983* amended**

**48. Section 3 amended**

Section 3(16) of the *Financial Institutions Duty Act 1983*\* is amended by deleting “bank cheque,” and inserting instead —

“ cheque that a financial institution draws on itself, ”.

[\* *Reprinted as at 19 November 1992.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 85.]*



**Division 4 — Stamp Act 1921 amended**

**49. Act amended by this Division**

The amendments in this Division are to the *Stamp Act 1921*\*.

[\* *Reprinted as at 23 January 1996.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, pp. 217-20.]*

**50. Section 4 amended**

Section 4(1) is amended by inserting in the appropriate alphabetical position the following definition —

“

**“financial institution”** means —

- (a) an institution that is a “financial institution” for the purposes of the *Cheques Act 1986* of the Commonwealth; or
- (b) any other person who is, or who is in a class of persons that is, prescribed for the purposes of this definition;

”.

**51. Section 49A amended**

Section 49A(1)(a) and (2) are amended by deleting “bank” and inserting instead —

“ financial institution ”.

**52. Section 52 amended**

Section 52(1) is amended by deleting “bank” in both places where it occurs and in each place inserting instead —

“ financial institution ”.

**Revenue Laws Amendment (Assessment) Act 1998**

Amendments related to cheques and payment orders

Division 4 Stamp Act 1921 amended

**s. 53**

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**53. Second Schedule amended**

Item 2(1) and (2) in the Second Schedule are amended by deleting “or payment order within the meaning of the *Cheques and Payment Orders*” and inserting instead —

“ within the meaning of the *Cheques* ”.

**54. Third Schedule amended**

(1) Item 1(1) and (2) in the Third Schedule are amended by deleting “banker” in each place where it occurs and inserting instead —

“ financial institution ”.

(2) Item 1(1) in the Third Schedule is amended by deleting “bankers.” and inserting instead —

“ financial institutions. ”.

(3) Item 1(4) in the Third Schedule is amended by deleting “bank” and inserting instead —

“ financial institution ”.

## Part 7 — Minor amendments

### 55. Various Acts amended

The provisions of the Acts listed in the Table to this section are each amended by deleting “the prescribed form” and inserting instead —

“ a form approved by the Commissioner ”.

Table

Act	s.
<i>Financial Institutions Duty Act 1983</i>	51(8)
<i>Land Tax Assessment Act 1976</i>	46(1)
<i>Pay-roll Tax Assessment Act 1971</i>	28(8)
<i>Stamp Act 1921</i>	31B(1)
	31B(2)
	76AC(1)
	94(2)
	109(6)
	112F(2)

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