

Western Australia

Duties Amendment Act (No. 2) 2011

As at 12 Sep 2011

No. 33 of 2011

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Duties Amendment Act (No. 2) 2011

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Western Australia

Duties Amendment Act (No. 2) 2011

No. 33 of 2011

An Act to amend the *Duties Act 2008*.

[Assented to 12 September 2011]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Duties Amendment Act (No. 2) 2011*.

2. Commencement

This Act comes into operation, or is deemed to have come into operation, as follows —

- (a) Part 1 comes into operation on the day on which this Act receives the Royal Assent (*assent day*);
- (b) Part 2 is deemed to have come into operation on 24 December 2010;
- (c) Part 3 comes into operation on the day after assent day.

3. Act amended

This Act amends the *Duties Act 2008*.

Part 2 — Retrospective amendments to *Duties Act 2008*

4. Section 3 amended

In section 3 in the definition of *land*:

- (a) after paragraph (b) insert:
 - (ca) an estate or interest in a mining tenement; and
 - (cb) anything that —
 - (i) under the authority (whether direct or indirect) of a mining tenement, is fixed to land that is the subject of that mining tenement; and
 - (ii) would be part of that land as a fixture if the mining tenement were a freehold estate in the land;

and

- (b) after paragraph (c) insert:
 - (da) a pipeline, as defined in the *Petroleum Pipelines Act 1969* section 4(1), constructed on land under the authority of a licence under that Act; and

5. Section 149 amended

- (1) After section 149(1) insert:
 - (2A) For the purposes of subsections (2) and (3), the following are to be taken to be part of land as a fixture —
 - (a) anything that —
 - (i) under the authority (whether direct or indirect) of a mining tenement, is fixed

to land that is the subject of that mining tenement; and

- (ii) would be part of that land as a fixture if the mining tenement were a freehold estate in the land;
- (b) a pipeline, as defined in the *Petroleum Pipelines Act 1969* section 4(1), constructed on land under the authority of a licence under that Act.

(2) After section 149(3) insert:

- (4) In subsections (2A), (2) and (3), a reference to land does not include anything that is land under paragraph (cb), (da) or (d) of the definition of **land** in section 3.

Part 3 — Transitional provisions inserted in *Duties Act 2008*

6. Schedule 3 Division 5 inserted

At the end of Schedule 3 Division 4 insert:

Division 5 — Provisions for *Duties Amendment Act (No. 2) 2011*

33. Term used: relevant period

In this Division —

relevant period means the period beginning on 24 December 2010 and ending on the day before the day on which the *Duties Amendment Act (No. 2) 2011* Part 3 comes into operation.

34. When transfer duty deemed to arise in certain cases

- (1) When this clause uses a term that is used in Chapter 2, the term has the same meaning in this clause as it has in that Chapter.
- (2) This clause applies to any transaction —
 - (a) that became a dutiable transaction during the relevant period; and
 - (b) that would not have become a dutiable transaction during that period if the *Duties Amendment Act (No. 2) 2011* Part 2 had not been enacted.
- (3) If this clause applies to a transaction, liability (if any) for transfer duty chargeable on the transaction is to be treated for all purposes of this Act as arising on the later of —
 - (a) the day on which the *Duties Amendment Act (No. 2) 2011* Part 3 comes into operation; or
 - (b) the day on which the liability would ordinarily arise by the operation of this Act.

35. When landholder duty deemed to arise in certain cases

- (1) When this clause uses a term that is used in Chapter 3, the term has the same meaning in this clause as it has in that Chapter.
- (2) This clause applies to any acquisition of an interest in an entity —
 - (a) that became a relevant acquisition during the relevant period; and
 - (b) that would not have become a relevant acquisition during that period if the *Duties Amendment Act (No. 2) 2011* Part 2 had not been enacted.
- (3) If this clause applies to an acquisition of an interest in an entity, liability (if any) for landholder duty chargeable in respect of the acquisition is to be treated for all purposes of this Act as arising on the later of —
 - (a) the day on which the *Duties Amendment Act (No. 2) 2011* Part 3 comes into operation; or
 - (b) the day on which the liability would ordinarily arise by the operation of this Act.

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