



Western Australia

# **Land Tax Assessment Amendment Act 2018**

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As at 26 Apr 2018

No. 5 of 2018

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# Land Tax Assessment Amendment Act 2018

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Western Australia

# **Land Tax Assessment Amendment Act 2018**

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**No. 5 of 2018**

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**An Act to amend the *Land Tax Assessment Act 2002*.**

*[Assented to 26 April 2018]*

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

**1. Short title**

This is the *Land Tax Assessment Amendment Act 2018*.

**2. Commencement**

This Act comes into operation as follows —

- (a) Part 2 is deemed to have come into operation immediately after the *Land Tax Assessment Act 2002* came into operation;
- (b) the rest of the Act comes into operation on the day on which this Act receives the Royal Assent.

**3. Act amended**

This Act amends the *Land Tax Assessment Act 2002*.

## **Part 2 — Amendments about liability for land tax**

**4. Section 7 amended**

Delete section 7(3).

**5. Section 8 amended**

After section 8(1) insert:

- (1A) Subsection (1)(b) does not apply if the agreement or arrangement under which the person is entitled to use the land is with a taxable authority.

**6. Section 31 amended**

In section 31(1):

- (a) delete “(except a taxable authority)”;
- (b) delete “year, there is a person or a taxable authority who or which is taken under section 8(1) or (2) respectively to be the owner of the land for the purposes of section 7.” and insert:

year —

- (a) the land is owned by a taxable authority; or
- (b) a person or taxable authority is taken under section 8(1) or (2) respectively to be the owner of the land for the purposes of section 7.

**7. Glossary amended**

In the Glossary clause 1 delete the definition of *public statutory authority* and insert:

*public statutory authority* means —

- (a) a body, whether incorporated or not, that —
  - (i) is established or continued for a public purpose under a written law; and
  - (ii) under the authority of a written law, performs a statutory function on behalf of the State;

or

- (b) the holder of an office, if —
  - (i) the office is established or continued for a public purpose under a written law; and
  - (ii) under the authority of a written law, the holder of the office performs a statutory function on behalf of the State;



## **Part 3 — Transitional and validation provisions**

### **8. Schedule 1 Division 5 inserted**

At the end of Schedule 1 insert:

#### **Division 5 — Provisions for *Land Tax Assessment Amendment Act 2018***

##### **16. Terms used**

In this Division —

***amended Act*** means this Act as amended by the *Land Tax Assessment Amendment Act 2018* Part 2;

***commencement*** means the day on which the *Land Tax Assessment Amendment Act 2018* Part 3 comes into operation;

***former Act*** means this Act as in force immediately before the provisions of the *Land Tax Assessment Amendment Act 2018* came into operation, or were deemed to come into operation, under section 2 of that Act;

***non-public authority*** means a body that —

- (a) was a public statutory authority under the former Act; but
- (b) is not a public statutory authority under the amended Act;

***previous assessment*** means an assessment for an assessment year during the validation period made on the basis that —

- (a) land owned by, or vested in, a non-public authority was not exempt under section 31(1) of the former Act; or
- (b) section 8(1)(b) of the former Act did not apply in respect of land that a person was entitled to use for business, commercial, professional or trade purposes under an agreement or arrangement with a taxable authority;

*validation period* means the period —

- (a) beginning on the coming into operation of the *Land Tax Assessment Act 2002*; and
- (b) ending immediately before commencement.

**17. Validation of previous assessments**

- (1) A previous assessment made, or purported to be made, during the validation period is, and is to be taken to have always been, as valid and effective as it would have been if the amended Act had been in force when the assessment was made.
- (2) The rights, obligations and liabilities of all persons are taken to be, and to have always been, the same as if a previous assessment had been validly made.
- (3) Anything done, or purportedly done, during the validation period is as valid and effective, and is to be taken to have always been as valid and effective, as it would have been if a previous assessment had been validly made.
- (4) In this clause, a reference to the doing of anything includes a reference to an omission to do anything.
- (5) This clause is subject to clause 18.

**18. Land tax decisions made or pending**

- (1) In this clause —  
*decision* means —
  - (a) a decision of a court or tribunal made under a land tax Act before commencement; or
  - (b) an objection determined by the Commissioner before commencement.
- (2) To the extent of any conflict or inconsistency between clause 17 and a decision, the decision prevails.
- (3) Despite the *Land Tax Assessment Amendment Act 2018* section 2(a), the validity of a decision is not to be called into

question on the grounds that it conflicts with or is inconsistent with the amended Act.

- (4) Clause 17 does not apply to, or in respect of, a previous assessment to which paragraph (a) of the definition of *previous assessment* in clause 16 applies if —
  - (a) an objection in respect of the assessment was lodged, but not finally determined by the Commissioner, under a land tax Act before 15 July 2015; or
  - (b) review proceedings in respect of the assessment were commenced, but not finally determined, under a land tax Act before 15 July 2015.
- (5) Despite the amendments made by the *Land Tax Assessment Amendment Act 2018* Part 2, the former Act continues to apply in respect of the determination of an objection or proceedings to which subclause (4) applies.

**19. Reassessment**

Subject to the *Taxation Administration Act 2003* section 17, the Commissioner may make any reassessment necessary to give effect to this Division and the amendments made by the *Land Tax Assessment Amendment Act 2018* Part 2.

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