



AUSTRALIAN CAPITAL TERRITORY

Financial Relations Agreement Consequential Amendments Act 2000

No 34 of 2000

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AUSTRALIAN CAPITAL TERRITORY

Financial Relations Agreement Consequential Amendments Act 2000

No 34 of 2000

An Act consequential upon the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations, to amend various Acts, and for other purposes

[Notified in ACT Gazette S33: 6 July 2000]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART 1—PRELIMINARY

1 Name of Act

This Act is the *Financial Relations Agreement Consequential Amendments Act 2000*.

Note A note included in this Act is explanatory and is not part of this Act (see *Interpretation Act 1967*, s 12 (1), (4) and (5) for the legislative status of notes).

2 Commencement

(1) The following provisions commence, or are taken to have commenced, on 1 July 2000:

- (a) section 3;
- (b) section 18;
- (c) section 24;
- (d) section 25;

- (e) Part 4.
- (2) The following provisions commence on 1 July 2001:
 - (a) Part 2 (except sections 3 and 18);
 - (b) Part 3 (except sections 24 and 25).

Note The provisions of an Act providing for its name and commencement automatically commence on the date of notification of the Act (see *Interpretation Act 1967*, s 10B).

PART 2—DUTIES ACT 1999

3 Act amended by pt 2

This Part amends the *Duties Act 1999*.

Note The amendments in this Part will primarily have the effect of removing duty under the *Duties Act 1999* from transactions involving shares and units that are quoted on a stock exchange (and related rights and interests). Under subsection 2 (2) of this Act, these amendments will take effect from 1 July 2001.

Despite the amendments, liability for duty for such transactions incurred under the *Duties Act 1999* before 1 July 2001 will continue on and after that date. Similarly, the *Taxation Administration Act 1999*, which sets out procedures for the payment and collection of duty under the *Duties Act 1999*, will continue to apply on and after 1 July 2001 to duty on transactions involving shares and units quoted on the stock exchange (and related rights and interests) occurring before that date.

The continuing application of the old provisions of the *Duties Act 1999* and of the *Taxation Administration Act 1999* is provided for by the *Interpretation Act 1967*, section 41.

4 Insertion

After section 2 the following sections and notes are inserted:

“2A Dictionary

The dictionary at the end of this Act is part of this Act.

“*Note 1* The dictionary at the end of this Act defines certain words and expressions used in this Act.

“*Note 2* A definition in the dictionary applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Interpretation Act 1967*, s 11F and s 11G).

“2B Notes

A note included in this Act is explanatory and is not part of this Act.

“*Note* See *Interpretation Act 1967*, subsections 12 (1), (4) and (5) for the legal status of notes.”.

5 Interpretation

(1) Section 4 is amended—

- (a) by omitting “the Australian Stock Exchange or on a recognised stock exchange” from paragraph (a) of the definition of **public unit trust scheme** and substituting “a stock exchange”; and
- (b) by omitting paragraph (e) from the definition of **trustee**; and

- (c) by omitting the following definitions:

“Australian Stock Exchange, broker, CHESS, CUFS, futures broker, futures contract, identification code, index trust, instalment warrant, IR, marketable securities, private company, proper SCH transfer, recognised stock exchange, registered independent options trader, relevant interest, relevant SCH participant, SCH, SCH business rules, SCH participant, SCH-regulated transfer, SEATS, transfer document, transfer identifier for an SCH-regulated transfer, transfer value of marketable securities, warrant, warrant-issuer.”; and

Note 1 The definitions of *Australian Stock Exchange* and *recognised stock exchange* are replaced below in the new dictionary by a new definition of *stock exchange* (see s 23 of this Act).

Note 2 The definitions of *marketable securities* and *private company* are re-inserted below into the new dictionary in amended form (see s 23 of this Act).

- (d) by relocating all the definitions to the dictionary, except those omitted by paragraph (c).

- (2) The remainder of section 4 is repealed.

6 Dutiable property

Section 10 is amended—

- (a) by omitting paragraph (d) and substituting the following paragraph and note:

“(d) shares—

- (i) in a Territory company; or
- (ii) in a corporation incorporated outside Australia, if the shares are kept on the Australian register kept in the Territory;

“Note Shares quoted on a stock exchange (and related rights and interests) are not dutiable property (see s 10 (2)).”; and

- (b) by inserting after paragraph (e) the following note:

“Note Units quoted on a stock exchange (and related rights and interests) are not dutiable property (see s 10 (2)).”; and

- (c) by omitting paragraph (f); and

- (d) by omitting subparagraph (l) (iii) and substituting the following subparagraph:

“(iii) it is an interest in a marketable security, if the interest is traded on the Sydney Futures Exchange.”; and

(e) by adding at the end the following subsection and note:

“(2) Despite subsection (1), the following marketable securities are not dutiable property:

- (a) shares, or units in a unit trust scheme, that are quoted on a stock exchange;
- (b) an interest in shares or units mentioned in paragraph (a), whether or not the interest is quoted on a stock exchange.

“Note Marketable securities are shares and units mentioned in paragraphs (1) (d) and (e), and related rights and interests (see dictionary, defs of marketable securities, shares, and units).”.

7 Necessity for written instrument or written statement

Section 14 is amended by omitting subsections (3) and (4) and substituting the following subsection:

“(3) If a dutiable transaction is completed or evidenced by a written instrument within 90 days after the day when the dutiable transaction happens, the requirement to lodge a statement and pay duty in respect of the statement may be satisfied by the lodgment of and payment of duty on the written instrument within 90 days after the day when the dutiable transaction happens.”.

8 Lodging written instrument or written statement with Commissioner

Section 15 is amended—

- (a) by omitting from subsection (1) “(1)”; and
- (b) by omitting subsection (2).

9 When must duty be paid?

Section 16 is amended—

- (a) by omitting from subsection (1) “(1)”; and
- (b) by omitting subsection (2).

10 Shares, units and interests (marketable securities)

Section 32 is amended—

- (a) by omitting subsections (1) and (2) and substituting the following subsection:

“(1) Duty is chargeable on a dutiable transaction in respect of marketable securities at the determined rate.”; and

- (b) by adding at the end the following note:

“Note No duty is chargeable on transactions relating to marketable securities that are shares or units quoted on a stock exchange, or related rights or interests (see s 10 (2)).”.

11 Repeal

Part 4 of Chapter 2 is repealed.

12 Insertion

After section 72 the following section is inserted in Division 3 of Part 6 of Chapter 2:

“72A Reduction of duty—payment in non-Australian jurisdiction

“(1) The amount of duty chargeable under this Chapter on a transfer of marketable securities is to be reduced by the amount of duty of a similar kind paid in relation to the transfer in accordance with the law of a place outside Australia.

“(2) In this section—

transfer of marketable securities includes a dealing or arrangement affecting marketable securities by way of a dutiable transaction other than a transfer.”.

13 Marketable securities

Section 75 is amended—

- (a) by omitting subsections (1) to (3); and
(b) by omitting subsections (8), (9) and (10) and substituting the following subsection and note:

“(9) No duty is chargeable under this Chapter on a transfer, or an agreement for the sale or transfer, of an ADR if—

- (a) the ADR relates to rights to shares that upon issue, on exercise of those rights, will be quoted on a stock exchange; and
(b) the transfer, or the sale or transfer that is agreed, is to—
 (i) a foreign resident on the foreign resident’s own behalf; or
 (ii) a foreign resident acting on behalf of a trustee for another foreign resident; and
(c) the ADR is to be registered on an overseas register of legal or beneficial title.

Note No duty is chargeable on transactions relating to marketable securities that are shares or units quoted on a stock exchange, or related rights or interests (see s 10 (2)).”.

14 Interpretation

Section 96 is amended by omitting from subsection (1) the definition of “company” and substituting the following definition:

“**company** means a Territory company that is—

- (a) a company within the meaning of the *Corporations Law*; and
- (b) not listed on a stock exchange.”.

15 Substitution

Section 102 is repealed and the following section substituted:

“102 Assessment of duty

A statement required to be lodged by a person under section 100 is chargeable with duty at the rate of 60c for every \$100, or part, of the higher of the following:

- (a) the total or aggregate obtained under paragraph 101 (d);
- (b) the total obtained under paragraph 101 (e).”.

16 Application of Part

Section 109 is amended by inserting “that is not listed on a stock exchange” after “Territory company”.

17 Repeal

Chapter 4 is repealed.

18 Payments exempted from “hiring charges”

Section 156 is amended by adding at the end the following subsections:

“(3) Duty is not payable under this Chapter for that part of a hiring charge that represents the amount of GST (if any) payable to the Commonwealth in relation to the charge.

“(4) In this section:

GST—see the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth), dictionary.”.

19 Minimum amount of duty

Section 229 is amended by omitting subsection (2) and substituting the following subsection:

“(2) This section does not apply to transactions and instruments in respect of which duty is imposed by Chapter 8 (Insurance).”.

20 Registration of transfers of shares

Section 248 is amended—

- (a) by omitting from paragraph (1) (b) “, including an SCH-regulated transfer,”; and
- (b) by omitting subparagraphs (2) (a) (ii) and (iii).

21 Registrations of transfers of units

Section 249 is amended by omitting subparagraphs (2) (a) (ii) and (iii).

22 Objections and review of decisions

Section 252 is amended by omitting paragraph (1) (d).

23 Insertion

After section 253 the following dictionary is inserted:

“DICTIONARY

(See s 2A)

marketable securities means—

- (a) shares mentioned in paragraph 10 (1) (d); or
- (b) units mentioned in paragraph 10 (1) (e); or
- (c) an interest in shares, or units, mentioned in paragraph (a) or (b).

private company means a company that is not limited by shares, or whose shares are not quoted on a stock exchange.

stock exchange means—

- (a) the Australian Stock Exchange Limited; or
- (b) a stock exchange that is a member of the Fédération Internationale des Bourses de Valeurs; or
- (c) a stock exchange that is declared to be a recognised stock exchange by the Minister by notice in the Gazette.”.

PART 3—FINANCIAL INSTITUTIONS DUTY ACT 1987

24 Act amended by pt 3

This Part amends the *Financial Institutions Duty Act 1987*.

25 Dutiable and non-dutiable receipts

Section 6 is amended by inserting after paragraph (2) (r) the following paragraph:

- “(ra) a receipt of money in the form of a direct credit to an account held with a financial institution of any of the following payments under the *First Home Owner Grant Act 2000*, or under a law of a State corresponding to that Act (a *corresponding State law*):
- (i) a payment of a grant by the commissioner (or the corresponding officer or authority under a corresponding State law) as directed by the applicant for the grant;
 - (ii) a payment of a grant by the commissioner to a party to an administration agreement under section 36 of that Act (or the corresponding provision of a corresponding State law);
 - (iii) a payment by a party to such an agreement as directed by the applicant for the grant;”.

26 Insertion

After section 13 the following section is inserted in Part 2:

“13AAA Cessation of effect from 1 July 2001—pt 2

“(1) A registered financial institution is not liable to pay financial institutions duty under section 10 in relation to money received on or after 1 July 2001.

“(2) A registered financial institution is not required to give a return under section 13 relating to any month after June 2001.”.

27 Insertion

After section 13G the following section is inserted in Part 2A:

“13GA Cessation of effect from 1 July 2001—pt 2A

“(1) An agent of an interstate financial institution is not liable to pay financial institutions duty under section 13A in relation to money received on or after 1 July 2001.

“(2) A registered agent is not required under subsection 13D (4) to give notice of any change to information that happens on or after 1 July 2001.

“(3) An agent of an interstate financial institution, or an interstate financial institution, is not required to give a return under section 13E relating to any month after June 2001.”.

28 Insertion

After section 17 the following section is inserted in Part 3:

“18 Cessation of effect from 1 July 2001—pt 3

“(1) A short-term dealer is not liable to pay financial institutions duty under section 13H or 15 in relation to the dealer’s average daily liability during any month after June 2001.

“(2) A short-term dealer is not required to comply with section 16C on or after 1 July 2001.

“(3) A short-term dealer is not required to give a return under section 17 relating to any month after June 2001.”.

29 Insertion

After section 23 the following section is inserted in Part 5:

“23A Cessation of effect from 1 July 2001—pt 5

“(1) A person is not liable to pay financial institutions duty under section 23 in relation to money paid to an unregistered financial institution on or after 1 July 2001.

“(2) A person is not required to give a return under subsection 23 (2) relating to any month after June 2001.”.

30 Insertion

After section 28 the following section is inserted in Part 6:

“28A Cessation of effect from 1 July 2001—pt 6

“(1) A person is not liable to pay financial institutions duty under section 24 in relation to money received on or after 1 July 2001.

“(2) An approved person is not required under subsection 26 (5) to give notice of any change to information that happens on or after 1 July 2001.

“(3) A person is not required to give a return under section 28 relating to any month after June 2001.”.

31 Repeal

The *Financial Institutions Duty (Validation) Act 1994* is repealed.

PART 4—PAYROLL TAX ACT 1987

32 Act amended by pt 4

This Part amends the *Payroll Tax Act 1987*.

33 Application of Act to certain contracts

Section 3B is amended—

- (a) by omitting paragraph (2) (c) and substituting the following paragraph:
 - “(c) amounts paid or payable by an employer in relation to—
 - (i) the performance of work relating to a service contract; or
 - (ii) the resupply of goods by an employee under a service contract;less any amount of GST payable for the performance or resupply, are taken to be wages; and”; and
- (b) by omitting from subsection (5) “In paragraph (4) (b)” and substituting “In this section”; and
- (c) by inserting in subsection (5) the following definition:
 - “**GST**—see the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth), dictionary.”.

Endnotes

Act amended by pt 2

- 1 Act 1999 No 7 (not republished). See also Act 1999 No 79; SL 2000 No 15; Act 2000 No 5.

Act amended by pt 3

- 2 Republished as in force on 1 March 1999.

Act amended by pt 4

- 3 Republished as in force on 31 July 1999 (Republication No 6).

[Presentation speech made in Assembly on 11 May 2000]