

**2002**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**DUTIES AMENDMENT BILL 2002**

**EXPLANATORY MEMORANDUM**

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## **Duties Amendment Bill 2002**

### **Summary**

The *Duties Act 1999* (the Duties Act) commenced on 1 March 1999 and replaced the *Stamp Duties and Taxes Act 1987* (the Stamps Act).

Under the provisions of the Stamps Act, “reinsurance effected with another insurer” was specifically excluded from the definition of “insurance” and therefore not subject to duty. Other types of insurance which were exempt from duty were included in Schedule 2.

In the Duties Act, new definitions for “general insurance” and “life insurance” were introduced, and the specified exemptions from the Stamps Act Schedule were retained. Because reinsurance was not excluded in the new definitions and not specified in the exemptions transferred from the Stamps Act, it did not become exempt from duty in the new Duties Act. This omission has resulted in the unintended removal of an existing exemption. Traditionally, reinsurance is not subject to duty as duty has already been paid on the original contract of insurance.

The ***Duties Amendment Bill 2002*** amends the Duties Act to define “reinsurance” and add it to the list of exempt insurance thus avoiding the possibility of double duty. Making the amendment retrospective to the date the omission occurred ensures there is no doubt that all reinsurance is exempt from duty.

### **Revenue/Cost Implications**

This amendment is revenue neutral as reinsurance was not subject to duty prior to the introduction of the Duties Act on 1 March 1999. Since this date, the continuation of the exemption for reinsurance has been assumed by those submitting returns, and no duty has been collected.

Details of the Bill are attached.



## **Details of the Duties Amendment Bill 2002**

### **Clause 1      Name of Act**

This Act is the *Duties Amendment Act 2002*.

### **Clause 2      Commencement**

Section 4, the correction to section 175 of the Duties Act, commences on notification day. The remaining provisions are taken to have commenced on 1 March 1999. The retrospective commencement date is to ensure the provisions apply from the commencement of the *Duties Act 1999* (the Duties Act).

### **Clause 3      Act amended**

This Act amends the *Duties Act 1999*.

### **Clause 4      Section 175, definition of *general insurance***

This definition referred to duty exemptions under an incorrect part number. While amending this chapter of the Duties Act, the opportunity has been taken to substitute “under part 8.6” to correct the error and also to modernise the language.

### **Clause 5      Section 201 (1) (h)**

This substitution redrafts subparagraph (h), without changing its substance, and introduces a new subparagraph (i) to include reinsurance in “Insurance that is exempt from duty”.

### **Clause 6      New section 201 (3)**

Reinsurance is defined for the purposes of section 201 as “*reinsurance* means a contract or contracts between 2 parties by which one party indemnifies the other against liability or payment under a contract or contracts of insurance or reinsurance.”