

Taxation Administration Amendment Bill 2018

Contents

Part 1 — Preliminary

1.	Short title	2
2.	Commencement	2

Part 2 — *Taxation Administration Act 2003* amended

3.	Act amended	3
4.	Section 3 amended	3
5.	Section 23 amended	3
6.	Section 30 replaced	3
	30. Practice for remitting penalty tax	3
7.	Section 47 amended	3
8.	Section 54A inserted	4
	54A. Interest on refunds resulting from proceedings under <i>Valuation of Land Act 1978</i>	4
9.	Section 62 amended	5
10.	Section 76A amended	5
11.	Section 76 amended	6
12.	Section 77 amended	6
13.	Section 77A amended	7
14.	Section 85 amended	9
15.	Section 115 amended	9
16.	Section 117 amended	9
17.	Section 127 amended	10
18.	Part 10 Division 7 deleted	10
19.	Section 137 inserted	10
	137. Provisions for <i>Taxation Administration Amendment Act 2018</i>	10
20.	Glossary amended	11

Contents

**Part 3 — *Biosecurity and Agriculture
Management Act 2007* amended**

21.	Act amended	12
22.	Section 139 amended	12

Western Australia

LEGISLATIVE ASSEMBLY

Taxation Administration Amendment Bill 2018

A Bill for

An Act to amend the *Taxation Administration Act 2003* and for related purposes.

The Parliament of Western Australia enacts as follows:

1 **Part 1 — Preliminary**

2 **1. Short title**

3 This is the *Taxation Administration Amendment Act 2018*.

4 **2. Commencement**

5 This Act comes into operation as follows —

- 6 (a) Part 1 — on the day on which this Act receives the
7 Royal Assent;
- 8 (b) the rest of the Act — when the *Revenue Laws*
9 *Amendment Act 2018* Part 2 comes into operation.

1 **Part 2 — *Taxation Administration Act 2003* amended**

2 **3. Act amended**

3 This Part amends the *Taxation Administration Act 2003*.

4 **4. Section 3 amended**

5 Delete section 3(1)(g).

6 **5. Section 23 amended**

7 In section 23(2)(d) delete “land tax” and insert:

8

9 if land tax

10

11 **6. Section 30 replaced**

12 Delete section 30 and insert:

13

14 **30. Practice for remitting penalty tax**

15 The Commissioner must publish on the OSR website
16 the practice followed by the Commissioner when
17 deciding whether or not to remit penalty tax under
18 section 29.

19

20 **7. Section 47 amended**

21 After section 47(8) insert:

22

23 (9) In this section, a reference to tax is to be read as
24 including costs of the kinds referred to in section 62(a),
25 (b), (ba) and (d).

26

8. Section 54A inserted

After section 54 insert:

54A. Interest on refunds resulting from proceedings under *Valuation of Land Act 1978*

- (1) This section applies if a reassessment is made, and an amount is to be refunded or credited to a taxpayer under section 54(1)(a) or (2), as a result of —
- (a) an objection under the *Valuation of Land Act 1978* section 32 being allowed, wholly or in part; or
 - (b) a review by the State Administrative Tribunal under the *Valuation of Land Act 1978* section 33.
- (2) The following amounts must also be refunded or credited to the taxpayer —
- (a) any amount paid by the taxpayer for the lodging of a memorial under section 76, if the Commissioner has lodged a withdrawal of the memorial as a result of the reassessment;
 - (b) interest during the reassessment period, calculated at the prescribed rate, on the amount to be refunded or credited, including any amount referred to in paragraph (a).
- (3) In subsection (2)(b) —
- reassessment period***, in relation to the payment of interest on an amount, means the period —
- (a) beginning on whichever is the later of —
 - (i) the date on which the amount to be refunded or credited to the taxpayer, as a result of the reassessment referred to

- 1 in subsection (1), was paid by the
2 taxpayer; or
3 (ii) the date on which the assessment of tax
4 to which the objection or review under
5 the *Valuation of Land Act 1978* related
6 was made;
7 and
8 (b) ending on the date, on or after the date the
9 Commissioner made the reassessment referred
10 to in subsection (1), on which the
11 Commissioner approved the refunding or
12 crediting of the amount.
13

14 **9. Section 62 amended**

15 In section 62:

- 16 (a) in paragraph (b) delete “section 76, 77 or 77A; and” and
17 insert:
18 section 76, 77 or 77A(2), (3), (4A) or (4); and
19
20 (b) after paragraph (b) insert:
21 (ba) costs incurred for lodging a withdrawal of
22 memorial under section 81; and
23
24
25

26 **10. Section 76A amended**

- 27 (1) In section 76A(2)(c) delete “(b) and” and insert:
28 (b), (ba) and
29
30

s. 11

1 (2) After section 76A(2) insert:

2

3 (3) A purported payment is *dishonoured* —

4 (a) if the purported payment is by means of a
5 cheque and the cheque is dishonoured or
6 cancelled; or

7 (b) if the purported payment is by means of a credit
8 card and the payment is not authorised by the
9 issuer of the card; or

10 (c) if the purported payment is pursuant to an
11 arrangement to directly debit an account with a
12 person and the person fails to authorise the
13 payment; or

14 (d) in circumstances prescribed by the regulations.

15

16 **11. Section 76 amended**

17 Delete section 76(3) and insert:

18

19 (3) If a purported payment of land tax is dishonoured, the
20 tax is taken not to be paid by the due date for the
21 purposes of subsection (2) (even though the due date
22 may not have arrived when the purported payment is
23 dishonoured).

24

25 **12. Section 77 amended**

26 Delete section 77(5) and insert:

27

28 (5) If a purported payment of stamp duty is dishonoured,
29 the duty is taken not to be paid by the due date for the
30 purposes of subsections (1), (1a) and (2) (even though

1 the due date may not have arrived when the purported
2 payment is dishonoured).

3
4 **13. Section 77A amended**

5 (1) Delete section 77A(1) and insert:

6
7 (1) In this section —

8 **landholder** has the meaning given in the *Duties*
9 *Act 2008* section 148(1);

10 **landholder duty** means duty under the *Duties Act 2008*
11 Chapter 3 or Chapter 3A Part 3;

12 **linked entity** has the meaning given in the *Duties*
13 *Act 2008* section 148(1);

14 **transaction record** has the meaning given in the *Duties*
15 *Act 2008* section 3;

16 **transfer duty** means duty under the *Duties Act 2008*
17 Chapter 2 or Chapter 3A Part 2;

18 **transfer duty interim assessment** means an interim
19 assessment under the *Duties Act 2008* section 44A or
20 205R.

21
22 (2) After section 77A(2) insert:

23
24 (2A) If the Commissioner has made a transfer duty interim
25 assessment on a transaction in relation to land and the
26 transaction record for the transaction is endorsed under
27 the *Duties Act 2008* section 273(3A), the
28 Commissioner may lodge a memorial to create a
29 charge on the land for the transfer duty payable on the
30 transaction for which the Commissioner has not made
31 an assessment (the **remaining transfer duty**).

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- 1 (2B) A memorial under subsection (2A) —
- 2 (a) cannot be lodged without the consent of the
- 3 taxpayer; and
- 4 (b) can be lodged even though an assessment of the
- 5 amount of the remaining transfer duty has not
- 6 been made.
- 7
- 8 (3) In section 77A(3) delete “to give effect to the *Duties Act 2008*
- 9 section 145”.
- 10 (4) In section 77A(4):
- 11 (a) delete “a relevant acquisition” and insert:
- 12
- 13 an acquisition
- 14
- 15 (b) delete “the *Duties Act 2008* section 186.” and insert:
- 16
- 17 calculating the landholder duty payable.
- 18
- 19 (5) Delete section 77A(6) and insert:
- 20
- 21 (6) If a purported payment of transfer duty or landholder
- 22 duty is dishonoured, the duty is taken not to be paid by
- 23 the due date for the purposes of this section (even
- 24 though the due date may not have arrived when the
- 25 purported payment is dishonoured).
- 26
- 27 (6) In section 77A(7) delete “subsection (2)” and insert:
- 28
- 29 subsection (2), (2A) or (3)
- 30

1 **14. Section 85 amended**

2 In section 85(2A) after “77A” insert:

3

4 (other than where the memorial creating the charge is lodged
5 under section 77A(2A))

6

7 **15. Section 115 amended**

8 Delete section 115(c).

9 **16. Section 117 amended**

10 (1) In section 117(1)(e) delete “faxing it or emailing it to a fax
11 number or” and insert:

12

13 emailing it to an

14

15 (2) In section 117(2) delete “section 117(1)” and insert:

16

17 subsection (1)

18

19 (3) Delete section 117(4) and insert:

20

21 (4) If a notice or other document is not served personally,
22 the notice or document is taken to be served on a day
23 prescribed by the regulations.

24 (5) For the purposes of subsection (4), the regulations may
25 prescribe different days for documents served by
26 different methods and in different circumstances.

27

s. 17

1 **17. Section 127 amended**

2 (1) In section 127(1) delete “tax.” and insert:

3

4 tax on the OSR website.

5

6 (2) In section 127(2) delete “practice.” and insert:

7

8 practice on the OSR website.

9

10 **18. Part 10 Division 7 deleted**

11 Delete Part 10 Division 7.

12 **19. Section 137 inserted**

13 At the end of Part 11 insert:

14

15 **137. Provisions for *Taxation Administration Amendment***
16 ***Act 2018***

17 (1) In this section —

18 *commencement day* means the day on which the
19 *Taxation Administration Amendment Act 2018*
20 section 8 comes into operation.

21 (2) Section 54A applies in relation to an amount refunded
22 or credited to a taxpayer on or after commencement
23 day, even if the objection or review under the
24 *Valuation of Land Act 1978* that resulted in the
25 reassessment being made and the refund or credit
26 becoming payable occurred before commencement
27 day.

28 (3) A refund or credit of interest to a taxpayer made, or
29 purported to be made, on or after 1 July 2003 and

1 before commencement day is, and is taken to have
2 always been, as valid and effective as it would have
3 been if, on the day on which the refund or credit was
4 made —

- 5 (a) section 54A (as in force on commencement
6 day) had been in force; and
7 (b) the prescribed rate for section 54A had been the
8 rate prescribed for the purposes of section 39
9 on that day.
- 10

11 **20. Glossary amended**

12 (1) In the Glossary delete the definition of *publish*.

13 (2) In the Glossary insert in alphabetical order:
14

15 **OSR website** means a website maintained by or on behalf of
16 the Commissioner;
17

18 (3) In the Glossary in the definition of *penalty tax* paragraph (d)
19 delete “section 239(3)(b), 249(4)(b) or 266(2)(b);” and insert:
20

21 section 239(3)(b), 249(4)(b) or 266(1A)(b) or (2)(b);
22

1 **Part 3 — *Biosecurity and Agriculture Management***
2 ***Act 2007* amended**

3 **21. Act amended**

4 This Part amends the *Biosecurity and Agriculture Management*
5 *Act 2007*.

6 **22. Section 139 amended**

7 In section 139(3) after “*Taxation Administration Act 2003*
8 section 54” insert:

9
10 or 54A
11

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