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DUTIES ACT 2008

DUTIES REGULATIONS 2008

Western Australia

Duties Regulations 2008

CONTENTS

1. Citation
2. Commencement
3. Prescribed financial markets (s. 3)
4. Prescribed excluded transactions that are not dutiable transactions (s. 11(2)(e))
5. Prescribed information and particulars (s. 203(1)(b))
6. Prescribed classes of new vehicles — dutiable value (s. 237(1)(b))
7. Prescribed classes of vehicles and persons and prescribed purposes — exemptions from duty (s. 244)
8. Prescribed records to be kept for vehicles with exempt uses (s. 256(a))
9. Variation of clause 13(1) of Schedule 3 to the Act (Sch. 3 cl. 27(1)(b))

Duties Act 2008

Duties Regulations 2008

Made by the Lieutenant-Governor and deputy of the Governor in Executive Council.

1. Citation

These regulations are the *Duties Regulations 2008*.

2. Commencement

These regulations come into operation as follows:

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 1 July 2008.

3. Prescribed financial markets (s. 3)

For the purposes of the definition of “prescribed financial market” in section 3 of the Act, these financial markets are prescribed —

- (a) the Australian Stock Exchange Limited;
- (b) the Stock Exchange of Newcastle Limited;
- (c) a stock exchange that is a member of the World Federation of Exchanges.

Duties Regulations 2008**r. 4**

4. Prescribed excluded transactions that are not dutiable transactions (s. 11(2)(e))

For the purposes of section 11 of the Act, a vesting of a security interest under the *Financial Sector (Business Transfer and Group Restructure) Act 1999* (Commonwealth) Part 3 is prescribed as an excluded transaction.

5. Prescribed information and particulars (s. 203(1)(b))

For the purposes of section 203(1)(b) of the Act, this information and these particulars are prescribed in respect of a relevant acquisition —

- (a) the name and address of —
 - (i) the landholder concerned; and
 - (ii) if the landholder concerned is a unit trust scheme — the trustee of the scheme;
- (b) the name and address of —
 - (i) the acquirer; and
 - (ii) any related person that is taken into account in relation to the relevant acquisition for the purposes of section 163 or 164 of the Act;
- (c) the date of the day on which the relevant acquisition occurred or is taken to have occurred;
- (d) the extent (expressed as a percentage of the surplus property of the landholder if it were to be wound up) of the interest acquired, or taken to have been acquired, in the landholder concerned that is the relevant acquisition;
- (e) the aggregated interests in the landholder concerned, after the relevant acquisition, of —
 - (i) the acquirer; and
 - (ii) any related person that is taken into account in relation to the relevant acquisition for the purposes of section 163 or 164 of the Act;

Duties Regulations 2008

r. 6

- (f) the acquirer's estimate of the value of the landholder concerned, as determined under section 186 of the Act;
- (g) the consideration for the relevant acquisition.

6. Prescribed classes of new vehicles — dutiable value (s. 237(1)(b))

- (1) For the purposes of section 237 of the Act, these classes of vehicles are prescribed —
 - (a) a motor vehicle, including a motor cycle, that is designed primarily to carry people;
 - (b) a motor vehicle that is designed primarily to transport goods or to carry materials used in trade, business or industry.
- (2) The classes of vehicles prescribed by subregulation (1) do not include these vehicles —
 - (a) a motor vehicle that is fitted with seats for 9 or more adults, including the driver, that is used to carry people for hire or reward;
 - (b) a motorised wheelchair;
 - (c) a heavy vehicle.

7. Prescribed classes of vehicles and persons and prescribed purposes — exemptions from duty (s. 244)

- (1) In this regulation —
 - “**Agriculture Minister**” means the Minister responsible for administering the *Biosecurity and Agriculture Management Act 2007*;
 - “**farming land**” has the meaning given in section 99(1) of the Act;

Duties Regulations 2008**r. 7**

“tractor” means a motor vehicle that —

- (a) is designed —
 - (i) for use primarily in industry (whether in the public or private sector) including, without limiting the meaning of “industry”, agriculture, earth moving and forestry; and
 - (ii) to be driven or controlled by a person carried in or on the vehicle;

and

- (b) is not designed —
 - (i) for use primarily for the carriage on roads of passengers or goods; or
 - (ii) for hauling a semi-trailer;

“tractor plant” means a motor vehicle that —

- (a) is, or has permanently attached to it, an excavator, road roller, road grader, bulldozer, mechanical shovel, plough, rotary hoe or similar plant; and
- (b) is designed to be driven or controlled by a person carried in or on the vehicle; and
- (c) is not suitable for the carriage of any load other than accessories necessary for the operation of the vehicle.

(2) For the purposes of section 244(a) of the Act, these classes of vehicles are prescribed —

- (a) a tractor;
- (b) tractor plant.

(3) For the purposes of section 244(b) of the Act, the classes of persons who are prescribed are persons who own a tractor or tractor plant the vehicle licence charge payable for which is reduced under the *Road Traffic (Charges and Fees) Regulations 2006* regulation 16.

Duties Regulations 2008

r. 8

- (4) For the purposes of section 244(c) of the Act, these classes of purposes are prescribed —
- (a) travelling —
 - (i) from one part of farming land to another part of that land; or
 - (ii) from farming land to another place to carry out farming activities;
 - (b) carrying out fire fighting or fire prevention operations;
 - (c) taking part in fire control exercises that have been authorised by a bush fire control officer appointed under the *Bush Fires Act 1954*;
 - (d) if farming land is declared by the Agriculture Minister to be drought affected or water deficient — travelling between the farming land and a water supply for the purpose of carting water for stock or for domestic purposes.

8. Prescribed records to be kept for vehicles with exempt uses (s. 256(a))

- (1) For the purposes of Chapter 5 of the Act, these records are prescribed for a vehicle in respect of which section 246 or 247(1) of the Act applies to the grant or transfer of a licence for the vehicle to a dealer —
- (a) a record of the date of the grant or transfer of the licence for the vehicle to the dealer;
 - (b) for each loan of the vehicle by the dealer, as described in section 247(1)(a) of the Act —
 - (i) a record of the date the loan begins and the date the loan ends;
 - (ii) a record of the name of the charitable organisation, school or individual to which or whom the vehicle is loaned;
 - (iii) a record of the purposes for which the vehicle is loaned;

Duties Regulations 2008**r. 9**

- (iv) a description of the vehicle, including type, make, model, licence plate number and engine number;
 - (v) if the vehicle is loaned to an individual for a philanthropic purpose — a copy of the Commissioner's approval of the philanthropic purpose.
- (2) When a dealer is required by section 256(a) of the Act to keep a record referred to in subregulation (1) for a vehicle —
- (a) the dealer; and
 - (b) if the vehicle is loaned as described in section 247(1)(a) of the Act — the person responsible for the vehicle while on loan,

must certify on the record that the record is accurate.

Penalty: a fine of \$2 000.

9. Variation of clause 13(1) of Schedule 3 to the Act (Sch. 3 cl. 27(1)(b))

Clause 13(1) of Schedule 3 to the Act is varied as if the following were inserted instead of that subclause —

“

- (1) Despite section 190(1)(a), if the day that is 3 years before the day on which the relevant acquisition occurred is before 1 July 2008, section 190 is to be read as if —
- (a) the following paragraph were inserted instead of section 190(1)(a) —

“

- (a) an interest, other than one to which subsection (2) applies, that was held by the person or a related person, or by the person and a related person, before 1 July 2008; or

”; and

Duties Regulations 2008

r. 9

- (b) the following subsection were inserted instead of section 190(2) —

“

- (2) This subsection applies to an interest in the landholder acquired by an acquisition (the “**earlier acquisition**”) if the relevant acquisition in respect of which duty is to be calculated under section 188(1) was made pursuant to an arrangement entered into —
- (a) during the prescribed period in respect of the earlier acquisition; and
 - (b) in the opinion of the Commissioner, for a purpose of avoiding or reducing the amount of duty payable.

”

”

By Command of the Lieutenant-Governor and
sdeputy of the Governor,

G. M. PIKE, Clerk of the Executive Council.
