



New South Wales

State Debt Recovery Bill 2017

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to authorise the Chief Commissioner of State Revenue (the *Chief Commissioner*) to take certain actions to recover State debts without taking court action. These actions are referred to as debt recovery actions.

The Bill authorises the Chief Commissioner to take debt recovery action to recover the following debts, each of which is a *State debt*:

- (a) a debt owed to a public authority that is referred to the Chief Commissioner for debt recovery action (a *referable debt*),
- (b) a debt owed to the Chief Commissioner under the *Taxation Administration Act 1996* (a *tax debt*),
- (c) a debt owed to the Chief Commissioner under the *First Home Owner Grant (New Homes) Act 2000*, the *Payroll Tax Rebate Scheme (Jobs Action Plan) Act 2011* or the *Small Business Grants (Employment Incentive) Act 2015* (a *grant debt*).

A public authority includes a public or local authority constituted by or under an Act of New South Wales. This means that debts owed to councils for rates or charges are treated as State debts and can be referred to the Chief Commissioner for debt recovery action under the Bill.

The debt recovery procedure provided for by this Bill is as follows:

- (a) initially, the responsible authority for the State debt or the Chief Commissioner is to serve on the debtor a debt notice for the debt,
- (b) if the debt remains unpaid 7 days after the due date for payment specified in the debt notice, the Chief Commissioner may then make a debt recovery order and serve on the debtor a

notice that advises the debtor of the debt and of the debt recovery actions that will be taken if the debt remains unpaid,

- (c) if the debt remains unpaid 7 days after the due date for payment specified in the notice of debt recovery order, the Chief Commissioner is authorised to take debt recovery action in respect of the debt.

The types of debt recovery action that are authorised by the Bill are as follows:

- (a) property seizure orders,
- (b) garnishee orders,
- (c) registration of a debt as a charge on land,
- (d) licence suspension.

Licence suspension is authorised only if other debt recovery actions are not available or have not been effective. Licence suspension is available in respect of certain specified occupational licences only. Motor vehicle licence suspension is not authorised by the Bill.

The powers conferred on the Chief Commissioner by the Bill are subject to certain safeguards. In particular:

- (a) the Bill enables the Minister for Finance, Services and Property (the *Minister*), in consultation with the Attorney General, to make guidelines regarding the exercise of the Chief Commissioner's powers under the proposed Act and those guidelines are binding on the Chief Commissioner, and
- (b) debt recovery action cannot be taken against a minor, and
- (c) in respect of referable debts, the person by whom the debt is payable has a right to have the debt internally reviewed and to have the matter heard by a court, and
- (d) there is provision for the making of time to pay orders and hardship reviews, and
- (e) licence suspension action cannot be taken against a person if:
 - (i) the person is a vulnerable person, or
 - (ii) the person satisfies the Chief Commissioner that the person is not financially able to satisfy the State debt.

The Bill contains other ancillary provisions and makes related and consequential amendments to other legislation, including the *Fines Act 1996*, the *Taxation Administration Act 1996* and the *Health Services Act 1997*.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be proclaimed.

Clause 3 defines words and expressions used in the proposed Act.

Clause 4 provides that a *public authority* is a public or local authority constituted by or under an Act, a Public Service agency or a NSW Government agency.

Part 2 Chief Commissioner authorised to recover State debts

Clause 5 authorises the Chief Commissioner to take debt recovery action to recover a State debt.

Clause 6 defines *State debt* to mean a referable debt, a tax debt or a grant debt, as mentioned in the Overview.

Clause 7 provides that a *referable debt* means any fee, charge or other amount payable that is specified in Schedule 1 to the proposed Act or any fee, charge or other amount payable to the State or a specified public authority that is declared to be a referable debt by an order by the Chief

Commissioner. An order can be disallowed by Parliament. A fine within the meaning of the *Fines Act 1996* is not a referable debt.

Clause 8 provides that a *tax debt* means a tax debt under the *Taxation Administration Act 1996*.

Clause 9 provides that a *grant debt* means a grant debt under the *First Home Owner Grant (New Homes) Act 2000*, a rebate debt under the *Payroll Tax Rebate Scheme (Jobs Action Plan) Act 2011* or a grant debt under the *Small Business Grants (Employment Incentive) Act 2015*. Generally, these debts are payable because a grant or rebate has been paid to a person who is not entitled to it.

Clause 10 summarises the debt recovery procedure provided for by the proposed Act.

Clause 11 prevents debt recovery action being taken against a debtor who is a minor.

Clause 12 provides for the Minister to make guidelines for the recovery of State debts. The guidelines are to be made public and the Chief Commissioner and the Commissioner of Fines Administration under the *Fines Act 1996* are required to comply with the guidelines.

Part 3 Referable debts and initiation of debt recovery

Division 1 Debt notices

Clause 13 provides that a public authority to which a referable debt is payable (the *responsible authority*) may serve a debt notice on the person who owes the debt. The issue of a debt notice is a necessary pre-condition to the referral of the referable debt to the Chief Commissioner for debt recovery action.

Clause 14 provides that a *debt notice* is a notice requiring the person to pay a specified referable debt by the specified date, which must be at least 21 days after the notice is served on the person.

Clause 15 provides that a responsible authority may revoke a debt notice.

Division 2 Referral of debt to Chief Commissioner

Clause 16 provides that, if a debt notice has been served on a person and the debt remains unpaid 7 days after the due date, the responsible authority may refer the debt to the Chief Commissioner for the making of a debt recovery order.

Clause 17 provides that a referral is made by a referring officer acting on behalf of a responsible authority. The *referring officer* is the person (or a delegate of that person) specified for each referable debt in Schedule 1 to the proposed Act or a person authorised under a debt recovery agreement to exercise the functions of a referring officer.

Clause 18 requires a referring officer making a referral to the Chief Commissioner to provide the Chief Commissioner with certain information in relation to the debt.

Clause 19 enables a referring officer to revoke a referral of a State debt.

Division 3 Administrative arrangements relating to referable debts

Clause 20 provides that the Chief Commissioner may enter into an agreement (a *debt recovery agreement*) with a public authority about the taking of debt recovery action in respect of any fees, charges or other amounts payable to the public authority.

Clause 21 limits the actions that a responsible authority may take in respect of a referable debt once the debt has been referred to the Chief Commissioner.

Clause 22 prevents a responsible authority from charging interest on a referable debt once the debt has been referred to the Chief Commissioner.

Clause 23 provides that the Chief Commissioner may exercise the functions of a responsible authority under the proposed Act if authorised to do so by a debt recovery agreement.

Division 4 Internal reviews

Clause 24 provides for a responsible authority for a referable debt to conduct a review of the debt (an *internal review*), either on the application of a person who has been served with a debt notice or on the responsible authority's own initiative.

Clause 25 provides that an internal review is available for any referable debt for which a debt notice has been served, except for debts for which there is a statutory internal review (such as ambulance fees).

Clause 26 provides for the making of an application for an internal review.

Clause 27 provides for the circumstances in which an internal review is to be conducted.

Clause 28 enables the responsible authority to request additional information from the person applying for an internal review.

Clause 29 provides that, while an internal review is being conducted, the responsible authority must not refer the referable debt to the Chief Commissioner for the making of a debt recovery order and the requirement to pay the debt is suspended.

Clause 30 provides that, if a responsible authority is conducting an internal review after the debt has already been referred to the Chief Commissioner, the authority may request the Chief Commissioner to suspend debt recovery action.

Clause 31 provides that, following an internal review, the responsible authority may confirm the debt notice, change the payment arrangement for the debt or revoke the debt notice.

Clause 32 provides that the responsible authority may change the payment arrangements for a referable debt by reducing the amount payable, extending the time to pay or by permitting the debt to be paid by instalments or reducing instalments.

Clause 33 requires written notice of the outcome of an internal review to be given to the applicant as soon as practicable.

Clause 34 makes it clear that the Chief Commissioner can exercise the internal review functions of a responsible authority if authorised to do so by a debt recovery agreement.

Part 4 Debt recovery orders

Division 1 Debt recovery orders

Clause 35 enables the Chief Commissioner to make an order to recover a State debt (a *debt recovery order*).

Clause 36 provides that a debt recovery order for a referable debt may be made if the debt is referred to the Chief Commissioner by the responsible authority.

Clause 37 provides that a debt recovery order for a tax debt or a grant debt may be made if a debt notice has been served on the debtor and the debt remains unpaid 7 days after the due date.

Division 2 Form and notice of debt recovery order

Clause 38 sets out the information that a debt recovery order must contain.

Clause 39 requires notice of a debt recovery order to be served on the debtor as soon as practicable.

Clause 40 sets out the information that a notice of a debt recovery order must contain.

Clause 41 provides that the final date for payment of a debt in a notice of a debt recovery order must be at least 21 days after it is served on the person (which may be 28 days after it is posted to the debtor).

Clause 42 extends the final date for payment to 21 days after it is served on the person in the case of a notice that takes more than 7 days to arrive by post.

Clause 43 provides that the Chief Commissioner may amend a debt recovery order to correct an error (but not to increase the amount payable).

Part 5 Election to have matter dealt with by court—referable debts

Clause 44 provides that a debtor who is served with notice of a debt recovery order for a referable debt may elect to have the matter dealt with by a court.

Clause 45 provides that a debtor must elect to have the matter dealt with by a court before the due date for payment of the referable debt or within 28 days after being served with notice of the outcome of an internal review, whichever is the later.

Clause 46 requires an internal review to be conducted before court proceedings can be commenced.

Clause 47 requires the Chief Commissioner to revoke a debt recovery order if the debtor elects to have the matter dealt with by a court.

Clause 48 provides that the Chief Commissioner may obtain judgment for a debt amount and may make a debt recovery order for that amount and take debt recovery action.

Clause 49 provides that costs are to be awarded to the Chief Commissioner in court proceedings in which a judgment in favour of the Chief Commissioner is obtained (being a judgment requiring the debtor to pay to the State the amount specified in the debt notice).

Part 6 Debt recovery actions

Division 1 General

Clause 50 authorises the Chief Commissioner to take debt recovery action in respect of a State debt if the Chief Commissioner makes a debt recovery order in relation to the State debt and the State debt remains unpaid 7 days after the due date specified in the notice of the order.

Clause 51 provides that the Chief Commissioner takes *debt recovery action* by exercising any of the functions under proposed Part 6.

Clause 52 provides that more than one type of debt recovery action may be taken by the Chief Commissioner.

Clause 53 limits when the Chief Commissioner may make licence suspension orders.

Clause 54 provides that the Chief Commissioner's debt recovery action functions are subject to the debt recovery guidelines.

Division 2 Principal debt recovery actions

Clause 55 provides that the Chief Commissioner may make an order (a *property seizure order*) for the seizure of property of a debtor for the purpose of recovering the State debt payable by the debtor on that property.

Clause 56 provides that the Chief Commissioner may make an order (a *garnishee order*) that the debts owed to the debtor specified in the order are attached for the purposes of satisfying the debtor's State debt (including the debtor's wages or salary).

Clause 57 enables a debt recovery order to be registered by the Registrar-General as a charge on land owned by the debtor.

Division 3 Licence suspensions

Clause 58 provides that the Chief Commissioner may make an order (a *licence suspension order*) that directs a licence authority to suspend a licence held by a debtor. The licences and licence authorities are specified in Schedule 2 to the proposed Act.

Clause 59 requires a licence authority to suspend a debtor's licence in accordance with a licence suspension order and to serve notice of the suspension on the licensee.

Clause 60 requires the licence authority to advise a licensee that the licence has been suspended because a State debt has not been paid.

Clause 61 provides that a licensee must return a suspended licence if the Act under which the licence was granted (the *licensing Act*) requires the return of any suspended licence.

Clause 62 provides that the provisions of a licensing Act that would ordinarily give a licensee a right to appeal a decision to suspend the licensee's licence do not apply to the suspension of a licence under the proposed Act.

Clause 63 sets out when the suspension of a licence is terminated.

Clause 64 provides for the service of notices by licence authorities.

Division 4 Ancillary functions

Clause 65 enables the Chief Commissioner to require a person to give information to the Chief Commissioner or to give evidence in person to the Chief Commissioner for the purposes of enabling debt recovery action or for ascertaining a debtor's financial circumstances.

Clause 66 enables a person executing a property seizure order to enter premises in certain circumstances.

Clause 67 gives the Sheriff, and other persons executing orders under the proposed Act, powers to require a debtor to give the debtor's name and address. Failing to comply with such a requirement is an offence, with a maximum penalty of 10 penalty units (currently \$1,100).

Part 7 Time to pay and hardship

Division 1 Time to pay

Clause 68 provides that the Chief Commissioner may allow more time for a State debt to be paid, or allow the State debt to be paid by instalments, by making a *time to pay order*.

Clause 69 enables time to pay orders to be amended.

Clause 70 enables time to pay orders to be revoked.

Clause 71 provides that the Chief Commissioner is taken to have refused to make a time to pay order if the Chief Commissioner does not determine the application within 30 days of it being made.

Division 2 Powers of Chief Commissioner in hardship cases

Clause 72 provides that the Chief Commissioner may revoke a debt recovery order in respect of a referable debt if, due to the debtor's financial, medical or personal circumstances, the debtor does not have sufficient means to pay the debt and debt recovery action is unlikely to be successful.

Clause 73 provides that the Chief Commissioner may refund money paid to the Chief Commissioner under a garnishee order on the ground of hardship to the debtor or the debtor's dependants.

Clause 74 provides that the functions of the Hardship Review Board are not affected by these provisions.

Division 3 Hardship Review Board

Clause 75 constitutes a Hardship Review Board, consisting of the Secretary of the Department of Finance, Services and Innovation, the Secretary of the Treasury and the Secretary of the Department of Justice.

Clause 76 provides that the Hardship Review Board may conduct reviews of decisions by the Chief Commissioner to make or refuse to make a time to pay order or to refuse to revoke a debt recovery order in hardship cases.

Clause 77 provides for a person who is a debtor to apply to the Hardship Review Board for a hardship review. Hardship relief is available only to natural persons.

Clause 78 provides that the Hardship Review Board is to determine the procedures for hardship reviews.

Clause 79 provides that the Hardship Review Board may direct that debt recovery action against a debtor is to be suspended while the hardship review is being conducted.

Clause 80 provides that, after reviewing a decision of the Chief Commissioner, the Hardship Review Board may affirm the decision or direct the Chief Commissioner to change the decision.

Clause 81 authorises the Hardship Review Board to disclose information obtained in connection with the Board's functions to the Chief Commissioner.

Clause 82 requires the Chief Commissioner to refund any money already paid or recovered as necessary to give effect to a decision by the Hardship Review Board.

Part 8 Suspension and cancellation of debt recovery action

Division 1 Preliminary

Clause 83 defines *review* for the purposes of the proposed Part.

Division 2 Suspension of debt recovery action

Clause 84 requires the Chief Commissioner to suspend debt recovery action in certain circumstances, including if the debt is being paid in accordance with a time to pay order or if an internal review is being carried out.

Clause 85 provides that the Chief Commissioner suspends debt recovery action by revoking any property seizure orders, garnishee orders or licence suspension orders.

Clause 86 sets out when debt recovery action may be resumed.

Clause 87 provides that debt recovery action is resumed by the Chief Commissioner taking or continuing authorised debt recovery action.

Division 3 Cancellation of debt recovery action

Clause 88 enables the Chief Commissioner to revoke a debt recovery order.

Clause 89 sets out when the Chief Commissioner is required to, or may decide to, revoke a debt recovery order.

Clause 90 sets out the consequences of a debt recovery order being revoked.

Clause 91 provides that the Chief Commissioner cancels debt recovery action by revoking any property seizure orders, garnishee orders or licence suspension orders and by cancelling any charges on land registered by the Registrar-General.

Clause 92 provides that debt recovery action is to be cancelled if the State debt is paid in full.

Part 9 Interest and debt recovery costs

Division 1 Interest

Clause 93 provides that interest may be charged on unpaid State debts and debt recovery costs.

Clause 94 provides that the interest forms part of the State debt.

Division 2 Debt recovery costs

Clause 95 provides that debt recovery costs are payable under a debt recovery order. The debt recovery costs consist of the prescribed costs and the Sheriff's additional costs.

Clause 96 provides that the regulations may prescribe the debt recovery costs that are payable under a debt recovery order.

Clause 97 provides that the Chief Commissioner may approve the costs and expenses incurred by the Sheriff as additional costs.

Clause 98 makes it clear that debt recovery costs form part of a State debt.

Part 10 Payment, allocation of payments and refunds

Clause 99 provides that a State debt, which is paid by a debtor after a debt recovery order is made, is payable to the Chief Commissioner.

Clause 100 provides that a tax debt or grant debt that is recovered is to be paid into the Consolidated Fund.

Clause 101 provides that a referable debt that is recovered is to be paid to the responsible authority, in accordance with any debt recovery agreement.

Clause 102 provides that any amount recovered under a debt recovery order is to be applied firstly towards the debt recovery costs and then towards the remainder of the State debt.

Clause 103 provides for the allocation of recovered amounts between different State debts payable under the same debt recovery order.

Clause 104 requires the Chief Commissioner to refund to a debtor any money recovered that exceeds the amount owed by the debtor.

Clause 105 provides that any refunds are to be paid from the Consolidated Fund.

Part 11 Administration

Clause 106 provides that the Chief Commissioner has the function of administering the making of debt recovery orders, the taking of debt recovery action and the receipt and collection of State debts.

Clause 107 makes it an offence to use the name "State Debt Recovery" without authorisation, with a maximum penalty of 10 penalty units (currently \$1,100).

Clause 108 provides for the employment of the Chief Commissioner's staff.

Clause 109 provides for the delegation of the Chief Commissioner's functions.

Clause 110 protects the personal liability of the Chief Commissioner and delegates.

Clause 111 requires the Chief Commissioner to keep a register of all debt recovery orders, including the details of payment of all State debts and the taking of debt recovery action.

Part 12 Access to and disclosure of information

Clause 112 sets out what information about a debtor is *identifying information* for the purposes of the proposed Act.

Clause 113 authorises the Chief Commissioner to access certain information (including identifying information) about debtors that is held by the NSW Police Force, public authorities and State owned corporations.

Clause 114 authorises the Chief Commissioner to obtain certain information about a debtor from the debtor's employer or former employer.

Clause 115 authorises credit reporting bodies (within the meaning of the *Privacy Act 1988* of the Commonwealth) to disclose certain information (including identifying information) to the Chief Commissioner in relation to debt recovery action.

Clause 116 authorises the Chief Commissioner to disclose personal information about a person in certain circumstances. The unauthorised disclosure or secondary disclosure of personal information is an offence with a maximum penalty of 100 penalty units (currently \$11,000).

Part 13 Miscellaneous

Clause 117 provides for the joint and several liability for State debts.

Clause 118 enables the functions of a responsible authority under the proposed Act to be exercised by a person, or a member of a class of persons, authorised in writing by the chief executive officer of the responsible authority.

Clause 119 provides that the proposed Act binds the Crown.

Clause 120 provides for notices given by the Chief Commissioner to referring officers to be given by post, by means of document exchange or by electronic transmission.

Clause 121 allows notices that are required to be in writing to be given electronically.

Clause 122 provides for certain orders to be sent electronically by the Chief Commissioner to the Sheriff for the purposes of service or enforcement.

Clause 123 specifies the requirements for service of notices.

Clause 124 provides that proceedings for offences under the proposed Act or the regulations are to be dealt with summarily before the Local Court.

Clause 125 enables the Governor to make regulations for the purposes of the proposed Act.

Schedule 1 Referable debts

Schedule 1 sets out the debts that are taken to be referable debts under the proposed Act. These are ambulance fees under the *Health Services Act 1997* and council rates, charges and fees under the *Local Government Act 1993*. Other types of debt can be added by order under clause 7 of the proposed Act.

Schedule 2 Licence suspension orders

Schedule 2 sets out the licences that may be suspended under licence suspension orders and the authorities that administer those licences. The licences are occupational licences. It includes licences under the *Conveyancers Licensing Act 2003*, contractor licences and tradesperson and supervisor certificates under the *Home Building Act 1989*, licences under the *Motor Dealers and Repairers Act 2013*, licences under the *Pawnbrokers and Second-hand Dealers Act 1996*, real estate agent's licences and other certificates and licences under the *Property, Stock and Business Agents Act 2002*, licences under the *Tattoo Parlours Act 2012*, licences under the *Driving Instructors Act 1992* and licences under the *Tow Truck Industry Act 1998*.

Schedule 3 Savings, transitional and other provisions

Schedule 3 enables savings and transitional regulations to be made as a consequence of the enactment of the proposed Act or any Act that amends the proposed Act. The provisions of the proposed Act will extend to existing debts, subject to limitation periods.

Schedule 4 Consequential amendments

Amendments relating to licence suspension orders

The following licensing Acts are amended to make it clear that the suspension of a licence under the proposed Act has the same effect as the suspension of a licence under the licensing Act itself and that the usual appeal provisions applying to a licence suspension do not apply to a licence suspension under the proposed Act:

- (a) *Conveyancers Licensing Act 2003* (**Schedule 4.1**),
- (b) *Driving Instructors Act 1992* (**Schedule 4.2**),
- (c) *Home Building Act 1989* (**Schedule 4.10**),
- (d) *Motor Dealers and Repairers Act 2013* (**Schedule 4.14**),
- (e) *Pawnbrokers and Second-hand Dealers Act 1996* (**Schedule 4.15**),
- (f) *Property, Stock and Business Agents Act 2002* (**Schedule 4.18**),
- (g) *Tattoo Parlours Act 2012* (**Schedule 4.20**),
- (h) *Tow Truck Industry Act 1998* (**Schedule 4.22**).

Amendments relating to Hardship Review Board

The *Duties Act 1997*, the *Gaming Machine Tax Act 2001*, the *Government Information (Public Access) Regulation 2009*, the *Land Tax Management Act 1956* and the *Payroll Tax Act 2007* are amended as a consequence of the constitution of the Hardship Review Board by the proposed Act. See **Schedule 4.3**, **Schedule 4.6**, **Schedule 4.7**, **Schedule 4.11** and **Schedule 4.16**. The Hardship Review Boards currently constituted under the *Fines Act 1996* and the *Taxation Administration Act 1996* are abolished by amendments to those Acts in **Schedule 4.4** and **Schedule 4.21**. The new Hardship Review Board continues to have its existing functions under those Acts. However, the amendments make it clear that hardship relief is only available to natural persons.

Amendment of the Fines Act 1996

Schedule 4.4 amends the *Fines Act 1996* to enable the Commissioner of Fines Administration to make a work and development order in respect of a State debt for which a debt recovery order has been made under the proposed Act. Such an order may currently be made in respect of an unpaid fine and requires a person to undertake unpaid work, training or medical or other treatment in order to satisfy an unpaid fine. The proposed amendments will only allow such an order to be made in respect of a State debt if the person also has unpaid fines and consents to the order being extended to the person's State debt.

The *Fines Act 1996* is also amended:

- (a) to abolish the Hardship Review Board (which is reconstituted under the proposed Act and continues to have functions under the *Fines Act 1996*), and
- (b) to authorise the Commissioner of Fines Administration to use the name "State Debt Recovery" in the exercise of functions under the *Fines Act 1996*, and
- (c) to make other consequential and minor amendments.

Amendments relating to unpaid ambulance fees

Schedule 4.8 amends the *Health Services Act 1997* to provide that unpaid ambulance fees will no longer be recoverable by the Commissioner of Fines Administration under the *Fines Act 1996*. Instead, unpaid ambulance fees will be referable debts under the proposed Act and dealt with accordingly. A debt notice may be issued under the *Health Services Act 1997* and the debt may be referred to the Chief Commissioner for debt recovery action under the proposed Act.

Schedule 4.9 amends the *Health Services Regulation 2013* as a consequence of the amendments relating to ambulance fees.

Amendments relating to unpaid council rates, charges, fees and other amounts

Schedule 4.13 amends the *Local Government Act 1993* to enable unpaid rates, charges, fees or other amounts under that Act to be treated as referable debts under the proposed Act and dealt with accordingly. A council may refer an unpaid rate, charge, fee or other amount to the Chief Commissioner for debt recovery action. After referral, the council cannot charge interest in respect of the rates or charges and cannot take action to recover the rates or charges. The Chief Commissioner can, however, charge interest and take debt recovery action under the proposed Act. As unpaid rates and charges will continue to be a charge on land under the *Local Government*

Act 1993, the amendments include provisions that require the Chief Commissioner to provide information to councils (for disclosure to potential land buyers) about unpaid rates and charges that have been referred to the Chief Commissioner for debt recovery action.

Amendments relating to tax debts

Schedule 4.21 amends the *Taxation Administration Act 1996* to provide that debts payable by taxpayers, which are currently collected by the Chief Commissioner under that Act, are treated as State debts under the proposed Act.

The *Taxation Administration Act 1996* is also amended:

- (a) to provide for a debt notice to be served on a taxpayer requiring a tax debt to be paid by a certain date and advising the taxpayer that if the debt is not paid by that date, debt recovery action may be taken under the proposed Act, and
- (b) to enable the Chief Commissioner to apply a refund due to a taxpayer to any grant debt or referable debt owed by the taxpayer, and
- (c) to abolish the Hardship Review Board, which is reconstituted under the proposed Act and continues to have functions under the *Taxation Administration Act 1996*, and
- (d) to make other consequential and minor amendments.

Amendments relating to grant debts

Schedule 4.5 amends the *First Home Owner Grant (New Homes) Act 2000* as follows:

- (a) to provide that if a person who was paid a first home owner grant under the *First Home Owner Grant (New Homes) Act 2000* is required to repay the grant (because the grant was paid in error or for any other reason), that amount is treated as a grant debt for the purposes of the proposed Act,
- (b) to enable the Chief Commissioner to serve on the person a debt notice requiring the grant debt to be paid by a certain date and advising the person that if the debt is not paid by that date, debt recovery action may be taken under the proposed Act,
- (c) to make it clear that the Chief Commissioner's powers to write off liability for a grant debt under that Act extend to hardship cases.

Schedule 4.17 amends the *Payroll Tax Rebate Scheme (Jobs Action Plan) Act 2011* as follows:

- (a) to provide that if a person who was paid a rebate under the *Payroll Tax Rebate Scheme (Jobs Action Plan) Act 2011* is required to repay the rebate (because the rebate was paid in error or for any other reason), that amount is treated as a rebate debt for the purposes of the proposed Act (a rebate debt is a type of grant debt),
- (b) to enable the Chief Commissioner to serve on the person a debt notice requiring the rebate debt to be paid by a certain date and advising the person that if the debt is not paid by that date, debt recovery action may be taken under the proposed Act,
- (c) to enable the Chief Commissioner, instead of paying a rebate to a person, to apply the rebate towards any State debt for which a debt recovery order has been made under the proposed Act, in addition to the existing option of applying it towards any payroll or other tax payable by the person,
- (d) to make it clear that the Chief Commissioner's powers to write off or remit liability for a rebate debt under that Act extend to hardship cases.

Schedule 4.19 amends the *Small Business Grants (Employment Incentive) Act 2015* as follows:

- (a) to provide that if a person who was paid a grant under the *Small Business Grants (Employment Incentive) Act 2015* is required to repay the grant (because the grant was paid in error or for any other reason), that amount is treated as a grant debt for the purposes of the proposed Act,

- (b) to enable the Chief Commissioner to serve on the person a debt notice requiring the grant debt to be paid by a certain date and advising the person that if the debt is not paid by that date, debt recovery action may be taken under the proposed Act,
- (c) to enable the Chief Commissioner, instead of paying a grant to a person, to apply the grant towards any payroll or other tax payable by the person or towards any State debt for which a debt recovery order has been made under the proposed Act,
- (d) to make it clear that the Chief Commissioner's powers to write off or remit liability for a grant debt under that Act extend to hardship cases.

Other amendments

Schedule 4.12 amends the *Law Enforcement (Powers and Responsibilities) Act 2002* as a consequence of the proposed Act.