

2002

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

DUTIES (INSURANCE EXEMPTIONS) AMENDMENT BILL 2002

EXPLANATORY MEMORANDUM

Circulated by the authority of the Treasurer

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Duties (Insurance Exemptions) Amendment Bill 2002

Summary

The *Duties Act 1999* (the Duties Act) imposes duty at the determined rate, currently 10%, on the amount of the premium paid in relation to a contract of general insurance. The insurer is liable to pay the duty but the charge is invariably passed on to the insured.

General insurance is any kind of insurance that is applicable to property in the Territory, and/or a risk, contingency or event concerning an act or omission that, in the normal course of events, may occur within, or partly within, the Territory. Life insurance, a life insurance rider, and some specified exemptions are excluded from the definition of general insurance. Exemption is already provided for some institutions such as hospitals, schools and charitable organisations, and for some types of insurance, such as compulsory third party and medical benefits insurance.

Issues

There are growing concerns that insurance companies are either charging inflated premiums or declining to provide public liability cover even for low risk activities for bodies with proven no-claim records. Small events that traditionally raise funds for community projects or local charities are being cancelled because they cannot find adequate public liability insurance. ACT Treasury is working with various forums at national levels to assess the reasons for the large premium increases and the extent of the lack of availability of public liability insurance for small sporting and community groups in particular.

The Duties (Insurance Exemptions) Amendment Bill 2002 (the Bill) amends the Duties Act to limit new duty exemptions to public liability insurance and other general insurance prescribed by Ministerial guidelines. The exemptions are intended to provide relief from duty to the end-user, that is, small amateur sporting and community bodies run on a not-for-profit basis. The provisions allow the making of guidelines which will state the circumstances in which an exemption from duty is permitted, the extent of the exemption and the procedures to be followed to apply for exemption.

The guidelines are a disallowable instrument which will be tabled in the Assembly as soon as practicable after notification of this Bill. They will prescribe other duty exempt contracts of general insurance which will be limited to those necessary to hold a public event, for example, professional indemnity, group personal accident insurance, where they are taken out, or paid for, by the eligible body. They will also provide details of:

- what is an amateur sporting and community not-for-profit body;
- what evidence of eligibility is required; and
- any other requirements for application for exemption.

Revenue/Cost Implications

Revenue forgone has been broadly estimated at \$200,000 per annum.

Details of the Bill are attached.



Details of the Duties (Insurance Exemptions) Amendment Bill 2002

Clause 1 Name of Act

This Act is the *Duties (Insurance Exemptions) Amendment Act 2002*.

Clause 2 Commencement

This Act commences on notification day.

Clause 3 Act amended

This Act amends the *Duties Act 1999*.

Clause 4 The definition of *general insurance* is amended to ensure that only the exemptions under section 201 are included.

Clause 5 The heading for section 201 is amended to **Insurance exempt from duty generally** to better describe its function.

Clause 6 A new section 201A, **Insurance exempt from duty in certain circumstances** is inserted.

Section 201A (1) states that the Minister may determine written guidelines to exempt from duty under part 8.2 a premium (or part of a premium) paid for a contract of public liability insurance, or any other general insurance prescribed by the guidelines.

Section 201A (2) states that the guidelines may:

- state the circumstances in which a premium (or part of a premium) is exempt from duty;
- state the extent to which a premium is exempt from duty; and
- state procedures required to get an exemption from duty.

Note that under section 44 of the *Legislation Act 2001* the guidelines may be made with respect to any matter that is necessary or convenient to be prescribed for carrying out or giving effect to the authorising law ~~or other law~~.

Section 201A (3) states that, if the premium (or part of a premium) is exempt from duty under the guidelines, part 8.2 (other than sections 180 and 181) does not apply to that premium (or part of the premium). Sections 180 and 181 continue to apply to ensure that, where duty is payable by the insured person, they are required to keep records of the contracts of insurance which are exempt under the guidelines.

Section 201A (4) states that a determination under subsection (1) is a disallowable instrument.