

2008

**The Legislative Assembly for
Australian Capital Territory**

**Revenue Legislation Amendment Bill
2008 (No 2)**

Explanatory Statement

**Circulated by authority of
Treasurer
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Revenue Legislation Amendment Bill 2008 (No 2)

Summary

This Bill amends the *Duties Act 1999* and the *First Home Owner Grant Act 2000*.

Overview

The *Duties Act 1999* is amended to clarify the duty liability on the application to re-register a motor vehicle in the ACT.

This Bill also amends the *First Home Owner Grant Act 2000* to allow that a debt created by the requirement to repay the grant, which may include penalties and interest, can be collected from a third party. The amendment will also provide the third party with the right to object to a decision made by the commissioner for the repayment of a grant by the third party.



Details of the Revenue Legislation Amendment Act 2008 (No 2)

Part 1 Preliminary

Clause 1 - Name of Act

This Act is the *Revenue Legislation Amendment Act 2008 (No 2)*.

Clause 2 – Commencement

This Act commences on the day after notification.

Part 2 Duties Act 1999

Clause 3 – Legislation amended – pt 2

This Part amends the *Duties Act 1999*.

Clause 4 – Avoidance of double duty- duty paid in corresponding Australian jurisdiction Section 218, new example

This clause provides a new example to clarify that if no duty was payable in another jurisdiction (because the registration was exempt or not liable to duty) and such a registration is dutiable in the ACT, duty is payable on the application for re-registration of the motor vehicle in the ACT. The following table supports the example to also clarify that if duty was paid in another jurisdiction, duty is not payable on re-registration in the ACT.

Duty on first registration in another jurisdiction	Duty if first registered in ACT	Is duty payable if registered in the same name in ACT?
Paid	Payable	No, under section 218
Not payable	Payable	Yes

Part 3 First Home Owner Grant Act 2000

Clause 5 – Legislation amended – pt 3

This Part amends the *First Home Owner Grant Act 2000*.

Clause 6 – New section 24A

Clause 6 provides (for division 2.6) a signpost definition of “objector”.

Clause 7 – Objections New section 25 (1A)

Clause 7 provides a third-party debtor for a grant recipient with the right to object if the commissioner has required the third-party (instead of the grant recipient) to repay a recoverable amount to the commissioner.

Clause 8 – Section 25 (2)

This clause substitutes the term “applicant” with “objector” as defined in clause 6.

Clause 9 – New section 25 (3)

This clause inserts a signpost definition for “recoverable amount” with reference to section 49 (1).

Clause 10 – Sections 26 etc

This clause substitutes the term “applicant” with “objector” in sections 26, 27, 28 and 31.

Clause 11 Part 4 Heading

Renames the Part 4 heading, and substitutes section 46 with definitions of “recoverable amount” and “recovery notice” with reference to sections 49 (1) and 49A (2) respectively. This clause also inserts section 46A – which provides the meaning of “third-party debtor” for the Act.

Clause 12 – Interest in relation to repayments – Section 48 (1)

Clause 12 provides that a person is liable to pay interest on amounts that are repayable under sections 20 (2) (b) or 21 (2).

Clause 13 – New section 48 (3) (aa)

Clause 13 inserts a new provision which provides a day on which interest is to be calculated from if the amount is repayable under section 21 (2).

Clause 14 – Power to recover amount paid in error etc – Section 49 (1)

Clause 14 includes the signpost definition of “recoverable amount” after “following amounts”.

Clause 15 – Section 49

Clause 15 substitutes “an amount to which this section applies” with “a recoverable amount”.

Clause 16 – New sections 49A to 49E and part 5 heading

This clause inserts new sections:

49A Power to recover amounts from third-party debtors

This section provides the commissioner with the power to require a third-party debtor for a grant recipient, to repay a recoverable amount instead of the grant recipient. The notice to the third-party debtor to repay the recoverable amount must be made in writing as a “recovery notice”, and must state the notice date, amount payable, whether the amount is payable in instalments, and a due date for payment. The commissioner is also required to provide a copy of the notice to the grant recipient as well as the third-party debtor.

49B Payment of recoverable amounts by third-party debtors

This section stipulates that the amount payable by a third-party debtor under a recovery notice as either:

- (a) If the third party owes the grant recipient equal to or less than the recoverable amount, all of the amount payable; or
- (b) If the third party owes the grant recipient more than the recoverable amount, then only the recoverable amount.

If the third party is required to pay the grant recipient the owed amount in instalments, then the commissioner has the power to require the third party to pay part of those instalments to the commissioner under the recovery notice.

The third party must pay the amount under the recovery notice by the *later* of either the receipt of the recovery notice; or when the amount owed to the grant recipient becomes due; or by the date stipulated by the commissioner in the recovery notice.

49C Payment of recoverable amounts by others

This section provides that if someone other than the grant recipient and the third-party debtor pays the recoverable amount after the recovery notice is given by the commissioner, then the commissioner is obliged to tell the third-party debtor that they are no longer liable to pay the recoverable amount. If the third-party debtor has made a payment after the payment of the other person, then they are entitled to a refund of that amount paid. If the other person pays part of the recoverable amount, then the commissioner must provide a revised recovery notice to the third-party debtor advising them of the new “recoverable amount”.

49D Offence – third-party debtors to comply with notices

This section provides that a third-party debtor for a grant recipient must comply with a recovery notice or a revised recovery notice. If they do not comply with either, then the court may impose a penalty and order the payment of the recoverable amount to the commissioner.

49E Third-party debtors indemnified

This section provides that a third-party debtor for a grant recipient is taken to be acting under the authority of the grant recipient and anyone else concerned, and is indemnified by this section in relation to any payment made under part 4 of the act.

Part 5 Miscellaneous

Clause 17 – Secrecy - Section 50 (1), definition of protected information

This clause provides a definition of protected information about a grant recipient and a third-party debtor for a grant recipient.

Clause 18 – Dictionary, new definitions

This clause inserts new definitions in the Act for *grant recipient*, *objector*, *recoverable amount*, *recovery notice* and *third-party debtor*.

