

Passed by both Houses



New South Wales

State Revenue Legislation Further Amendment Bill 2000

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2000*



New South Wales

State Revenue Legislation Further Amendment Bill 2000

Act No , 2000

An Act to make miscellaneous amendments to certain State revenue legislation;
and for other purposes.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:**1 Name of Act**

This Act is the *State Revenue Legislation Further Amendment Act 2000*.

2 Commencement

- (1) This Act commences on the date of assent, except as provided by this section.
- (2) Schedule 1 [9], 2 [1] and 5 [2] are taken to have commenced on 1 July 2000.

3 Amendment of Duties Act 1997 No 123

The *Duties Act 1997* is amended as set out in Schedule 1.

4 Amendment of First Home Owner Grant Act 2000 No 21

The *First Home Owner Grant Act 2000* is amended as set out in Schedule 2.

5 Amendment of Land Tax Management Act 1956 No 26

The *Land Tax Management Act 1956* is amended as set out in Schedule 3.

6 Amendment of Pay-roll Tax Act 1971 No 22

The *Pay-roll Tax Act 1971* is amended as set out in Schedule 4.

7 Amendment of Stamp Duties Act 1920 No 47

The *Stamp Duties Act 1920* is amended as set out in Schedule 5.

8 Amendment of Taxation Administration Act 1996 No 97

The *Taxation Administration Act 1996* is amended as set out in Schedule 6.

Schedule 1 Amendment of Duties Act 1997

(Section 3)

[1] Section 18 No double duty

Omit section 18 (3) (c). Insert instead:

- (c) the transfer occurs at the same time as, or proximately with, the completion or settlement of the agreement, and
- (d) at the time the agreement was entered into:
 - (i) the purchaser under the agreement and the transferee under the transfer were related persons, except as provided by subparagraph (ii), or
 - (ii) if the purchaser purchased as a trustee, the transferee and the beneficiary were related persons.

[2] Section 29 Partnership interests

Insert at the end of section 29:

- (2) For the purposes of this section and despite subsection (1), the unencumbered value of dutiable property that is a business asset to which section 28 applies is the dutiable value of the business asset determined in accordance with section 28.

[3] Section 30 Partitions

Insert after section 30 (3):

- (3A) For the purposes of this section and despite subsection (3), the unencumbered value of dutiable property that is a business asset to which section 28 applies is the dutiable value of the business asset determined in accordance with section 28.

[4] Section 112 How may an interest be “acquired”?

Insert at the end of section 112 (d):

, or

- (e) in the case of a company limited by guarantee, becoming a member of the company, removing a person from membership of the company or altering members' rights,

[5] Section 112

Omit "paragraphs (a), (b), (c) and (d)".

Insert instead "paragraphs (a), (b), (c), (d) and (e)".

[6] Chapter 12, Part 4

Omit the Part. Insert instead:

Part 4 Hardship Review Board

310 Waiver, deferral and writing off of duty in hardship cases

The Hardship Review Board constituted under Division 5 of Part 10 of the *Taxation Administration Act 1996* may exercise its functions in relation to duty payable under this Act.

311 Notation by Chief Commissioner in cases of waiver

If the Hardship Review Board waives the payment of duty, the Chief Commissioner must make such notation on the instrument in respect of which the duty is waived as the Chief Commissioner thinks fit and the instrument, on the making of the notation, is taken to have been duly stamped.

[7] Schedule 1 Savings, transitional and other provisions

Insert "*State Revenue Legislation Further Amendment Act 2000*" at the end of clause 1 (1) of Schedule 1.

[8] Dictionary

Omit paragraph (d) of the definition of *land used for primary production*.

Insert instead:

- (d) a commercial plant nursery, but not including a nursery at which the principal cultivation is the maintenance of plants pending their sale to the general public, or

[9] Dictionary, definition of “Metropolitan Area”

Omit the definition. Insert instead:

Metropolitan Area means the County of Cumberland and the following local government areas:

Blue Mountains City

Camden

Gosford City

Lake Macquarie City

Newcastle City

Penrith City

Shellharbour City

Wollondilly

Wollongong City

Wyang

Schedule 2 Amendment of First Home Owner Grant Act 2000

(Section 4)

[1] Section 3 Definitions

Omit the definition of *permanent resident*. insert instead:

permanent resident means:

- (a) the holder of a permanent visa within the meaning of section 30 of the *Migration Act 1958* of the Commonwealth, or
- (b) a New Zealand citizen who holds a special category visa within the meaning of section 32 of the *Migration Act 1958* of the Commonwealth.

[2] Section 15 All interested persons to join in application

Omit “under the regulations” from section 15 (2).

Insert instead “by the Chief Commissioner because the Chief Commissioner has recognised the interest of another person to be a non-conforming interest under section 5 (4)”.

Schedule 3 Amendment of Land Tax Management Act 1956

(Section 5)

[1] Section 3 Definitions

Omit paragraph (d) of the definition of *Land used for primary production*.
Insert instead:

- (d) a commercial plant nursery, but not including a nursery at which the principal cultivation is the maintenance of plants pending their sale to the general public, or

[2] Section 10CA

Insert before section 10D:

10CA Taxation of land owned by Sydney Harbour Foreshore Authority

- (1) Nothing in this Act operates to exempt from land tax, or to otherwise affect the liability to land tax of, a lessee of any land:
 - (a) that is owned by the Sydney Harbour Foreshore Authority, and
 - (b) that was owned by the Sydney Cove Redevelopment Authority immediately before its dissolution on 1 February 1999, and
 - (c) in respect of which the Sydney Cove Redevelopment Authority was, immediately before 1 February 1999, liable for land tax under section 10C of this Act as then in force for the land tax year starting on 1 January 1999, while that land remains in the ownership of the Sydney Harbour Foreshore Authority.
- (2) For the purposes of this section, it is immaterial whether the lease was entered into before, on or after 1 January 1991.
- (3) This section applies to and in respect of land tax chargeable on land for the land tax year starting on 1 January 2001 and subsequent land tax years.

[3] Section 10P Limitation on exemption for charitable, educational, religious or non-profit bodies

Insert “, (g) (vi)” after “(g) (iv)” in section 10P (1).

[4] Section 10P (1A)

Insert after section 10P (1):

(1A) The exemption provided for in section 10 (1) (g) (vi) does not apply if the land is:

- (a) owned by a natural person, otherwise than as a trustee, or
- (b) owned by a natural person in trust for:
 - (i) another natural person, or
 - (ii) a body in respect of which the Chief Commissioner forms an opinion on the grounds referred to in subsection (1).

[5] Section 29 Related companies

Omit “the companies shall have such rights of contribution or indemnity between themselves as are just” from section 29 (5).

Insert instead “each company is liable jointly and severally to pay that tax”.

[6] Section 29 (6)

Insert after section 29 (5):

- (6) Section 45 of the *Taxation Administration Act 1996* applies to an amount payable under subsection (5).

[7] Sections 50–53

Omit the sections. Insert instead:

50 Waiver, deferral and writing off of land tax in hardship cases

The Hardship Review Board constituted under Division 5 of Part 10 of the *Taxation Administration Act 1996* may exercise its functions in relation to land tax payable under this Act.

51 Definition of land tax for certain purposes of this Part

For the purposes of sections 45, 46, 47 and 50, *land tax* includes interest and penalty tax imposed under section 72, or under section 47 or Part 5 of the *Taxation Administration Act 1996*.

[8] Schedule 2 Savings and transitional provisions

Insert “*State Revenue Legislation Further Amendment Act 2000*” at the end of clause 1A (1) of Schedule 2.

Schedule 4 Amendment of Pay-roll Tax Act 1971

(Section 6)

[1] Section 16K Annual adjustments

Omit section 16K (6).

[2] Section 16L Adjustment of pay-roll tax when members of a group cease to pay taxable wages or interstate wages during a financial year

Omit section 16L (6).

[3] Section 16LA

Insert after section 16L:

16LA Joint and several liability

- (1) If a member of a group fails to pay an amount that the member is required to pay under this Act in respect of any period, every member of the group is liable jointly and severally to pay that amount to the Chief Commissioner.
- (2) Section 45 of the *Taxation Administration Act 1996* applies to an amount payable under this section.

[4] Part 6

Omit the Part. Insert instead:

Part 6 Hardship Review Board

32 Waiver, deferral and writing off of pay-roll tax in hardship cases

The Hardship Review Board constituted under Division 5 of Part 10 of the *Taxation Administration Act 1996* may exercise its functions in relation to pay-roll tax payable under this Act.

[5] Schedule 6 Savings, transitional and other provisions

Insert “*State Revenue Legislation Further Amendment Act 2000*” at the end of clause 1 (1) of Schedule 6.

Schedule 5 Amendment of Stamp Duties Act 1920

(Section 7)

[1] Part 2, Division 2

Omit the Division. Insert instead:

Division 2 Hardship Review Board

15A Waiver, deferral and writing off of duty in hardship cases

The Hardship Review Board constituted under Division 5 of Part 10 of the *Taxation Administration Act 1996* may exercise its functions in relation to duty payable under this Act.

[2] Section 98A Receipts to which this Division does not apply

Insert after section 98A (1) (ic) (ii):

- (iii) a benefit or allowance under the *A New Tax System (Family Assistance) Act 1999* of the Commonwealth, or
- (iv) a bonus payment under the *A New Tax System (Bonuses for Older Australians) Act 1999* of the Commonwealth, or

[3] Tenth Schedule Savings, transitional and other provisions

Insert “*State Revenue Legislation Further Amendment Act 2000*” at the end of clause 1A (1) of the Tenth Schedule.

Schedule 6 Amendment of Taxation Administration Act 1996

(Section 8)

[1] Section 45 Joint and several liability

Omit section 45 (2). Insert instead:

- (2) If under a taxation law two or more persons are jointly and severally liable to pay an amount of tax that is payable by any one of them, each person is also jointly and severally liable to pay:
 - (a) any amount payable to the Chief Commissioner under a taxation law in relation to that amount, including any interest and penalty tax under Part 5, and
 - (b) any costs and expenses incurred in relation to the recovery of that amount that the Chief Commissioner is entitled to recover from any such person.
- (3) A person who pays an amount of tax in accordance with the liability imposed by this section has such rights of contribution or indemnity from the other person or persons as are just.

[2] Section 82 Permitted disclosures—to particular persons

Insert after section 82 (e) (viic):

- (viiid) the Hardship Review Board constituted under Division 5 of Part 10 or a member of that Board, or

[3] Part 10, Division 5

Insert after Division 4 of Part 10:

Division 5 Hardship Review Board

106A Constitution of Hardship Review Board

- (1) There is to be a Hardship Review Board consisting of:
 - (a) the Chief Commissioner, and
 - (b) the Auditor-General, and

- (c) the Secretary of the Treasury.
- (2) A member of the Hardship Review Board may appoint a person to act in the place of the member at meetings of the Board.
- (3) An acting member, while so acting, has the functions of, and is taken to be, a member of the Hardship Review Board.

106B Waiver of tax

- (1) The Hardship Review Board may, if authorised by a taxation law to do so, waive the payment of tax, either wholly or in part, if it is satisfied that:
 - (a) the person liable to pay it is in such circumstances that the exaction of the full amount of tax would result in serious hardship for the person or the person's dependants, or
 - (b) the person liable to pay it has died and that person's dependants are in such circumstances that the exaction of the full amount of tax would result in serious hardship for them.
- (2) The Chief Commissioner may exercise the functions of the Hardship Review Board under this section if the amount of the unpaid tax is less than \$2,000 in any particular case for any financial year.
- (3) In this section, *tax* includes:
 - (a) any amount payable to the Chief Commissioner under a taxation law in relation to tax, including any interest and penalty tax under Part 5, and
 - (b) any costs and expenses incurred in relation to the recovery of the tax or any other amount that the Chief Commissioner is entitled to recover from any such person.

106C Deferral and writing off of tax

The Hardship Review Board may direct the Chief Commissioner:

- (a) to extend the time for payment of tax under section 47,
or
- (b) to write off tax under section 110.

106D Disclosure of information

The Hardship Review Board, a member of that Board, or a person otherwise engaged in the administration of this Division, may disclose to a tax officer information obtained under or in relation to the administration of this Division.

[4] Schedule 1 Savings, transitional and other provisions

Insert “*State Revenue Legislation Further Amendment Act 2000*” at the end of clause 1 (1) of Schedule 1.