

First print



New South Wales

# State Revenue Legislation Amendment Bill 1998

## Explanatory note

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

### Overview of Bill

The object of this Bill is to make miscellaneous amendments to the *Duties Act 1997*, *Land Tax Management Act 1956*, *Petroleum Products Subsidy Act 1997*, *Revenue Laws (Reciprocal Powers) Act 1987*, *Stamp Duties Act 1920* and *Taxation Administration Act 1996*.

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## Outline of provisions

**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 various days as set out in the proposed section.

**Clause 3** is a formal provision giving effect to the amendments to the *Duties Act 1997* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments to the *Land Tax Management Act 1956* set out in Schedule 2.

**Clause 5** is a formal provision giving effect to the amendments to the *Petroleum Products Subsidy Act 1997* set out in Schedule 3.

**Clause 6** is a formal provision giving effect to the amendments to the *Revenue Laws (Reciprocal Powers) Act 1987* set out in Schedule 4.

**Clause 7** is a formal provision giving effect to the amendments to the *Stamp Duties Act 1920* set out in Schedule 5.

**Clause 8** is a formal provision giving effect to the amendments to the *Taxation Administration Act 1996* set out in Schedule 6.

## **Schedule 1      Amendment of Duties Act 1997**

### **Chapter 2      Transactions concerning dutiable property**

#### ***ADRs***

Amendments are made by **Schedule 1 [1], [3], [12], [51] and [52]** to ensure that a change in the beneficial ownership of an ADR (American Depositary Receipt) continues to be exempt from duty.

#### ***Instalment warrants***

Instalment warrants providing beneficial ownership in respect of shares in a NSW company are made dutiable property for the purposes of dutiable transactions by amendments made by **Schedule 1 [2], [3], [11], [24] and [52]**.

#### ***Ships and vessels***

The disposition of a ship or vessel is exempted from duty by the amendment made by **Schedule 1 [4]**.

#### ***Partitions of property***

**Schedule 1 [5], [6] and [7]** extend the concession that currently applies in relation to a partition of dutiable property to include a partition of property, some of which is dutiable property and some of which is not.

### ***Index trusts***

**Schedule 1 [54]** extends the exemption for the transfer of marketable securities to or from the trustee of an index trust to Tower 20 Leaders Index Trust.

### ***Divorce settlements***

**Schedule 1 [13]** extends the exemption for transfers of dutiable property as a consequence of a divorce to transfers pursuant to private agreements that give effect to a genuine divorce settlement, regardless of whether it is subject to an order of the Family Court.

### ***Transfer of principal place of residence from a corporation or special trust to certain persons***

**Schedule 1 [14], [15] and [16]** preserve a stamp duty concession for certain transfers of principal places of residence by overcoming an unintended consequence, for duty purposes, of amendments made to section 10 (1) (r) of the *Land Tax Management Act 1956* by Schedule 3 [4] to the *State Revenue Legislation Amendment Act 1997*.

## **Chapter 3 Certain transactions treated as transfers**

### ***Profit a prendre***

A profit a prendre is excluded, by **Schedule 1 [17]**, from the types of land holdings to which the "land-rich" provisions of the *Duties Act 1997* applies.

### ***Duty on relevant acquisitions***

Duty on a relevant acquisition is reduced, by **Schedule 1 [18]**, by an amount of duty paid on the acquisition under other sections of the "land-rich" provisions.

### ***Exemptions***

The exemption provisions are amended, by **Schedule 1 [19]**, to ensure that, while the specific acquisitions remain exempt, the interests acquired by an exempt acquisition can still be considered in determining if a person has a majority interest in the relevant corporation or unit trust.

### ***Phasing-in of duty***

**Schedule 1 [20]** amends the provision for the phasing-in of duty to deal with a situation where, at one stage in an acquisition that is aggregated over 3 years, the unencumbered value of land holdings in New South Wales of the private corporation was less than \$1 million.

***Subsidiaries of private corporations***

**Schedule 1 [21]** treats a subsidiary of a private corporation as the owner of land where the subsidiary is the vendor or purchaser under an uncompleted agreement.

***Double duty***

**Schedule 1 [22]** avoids the possibility of double duty under Part 4 (Acquisition of land use entitlements by allotment of shares or issue of units) of Chapter 3 and Part 5 (Allotment of shares by direction) of that Chapter.

***Public unit trust schemes***

**Schedule 1 [57]** widens the definition of *public unit trust scheme* in the Dictionary to include schemes that will, in the opinion of the Chief Commissioner, become public unit trust schemes within 12 months.

**Chapter 4     Marketable securities—on-market transfers (Broker provisions)**

***On-market transfers—when order received in New South Wales***

**Schedule 1 [23]** specifies the circumstances in which a sale or purchase of marketable securities quoted on the market operated by the Australian Stock Exchange is, in the case of a reported trade, received in New South Wales.

***Stock exchange transactions relating to companies incorporated in New Zealand or Papua New Guinea***

**Schedule 1 [27]** applies the concessional rate of duty to sales and purchases of marketable securities of a body corporate incorporated under the law of New Zealand or Papua New Guinea.

***Records of sales, purchases and transfers of marketable securities***

**Schedule 1 [34]** requires, in the case of a sale, purchase or transaction that is dutiable at the concessional rate or that is exempt from duty, the keeping of such particulars as are required to establish that the sale, purchase or transaction is dutiable at a concessional rate or is exempt from duty.

**Chapter 5     Lease instruments**

***Cost of a lease***

**Schedule 1 [35]** makes it clear that rent paid in advance of a lease and an amount paid or payable for the right to use land (as under a licence) comprise part of the cost of a lease on which duty is chargeable.

***Periodic estimates and assessments***

**Schedule 1 [36]** makes it clear that a periodic estimate and a periodic assessment of duty chargeable under a lease may be made more than 5 years after the initial estimate. Inclusion of this provision will mean that the Chief Commissioner will not be prevented (under section 9 (3) of the *Taxation Administration Act 1996*) from making a reassessment of duty in such cases.

**Chapter 6 Hire of goods**

***Goods used in New South Wales and outside New South Wales***

**Schedule 1 [37]** recognises that goods, during the course of their hire, may be used and subject to duty both in New South Wales and outside New South Wales. To avoid double duty, the expression “during the course of hire” is replaced with the expression “during any period for which a liability to duty is required to be determined”.

***Special hiring agreements***

**Schedule 1 [38]** provides that the duty on a special hiring agreement that is chargeable with the maximum amount of duty of \$10,000 cannot be reduced below \$6,000.

**Chapter 7 Mortgages**

***Persons liable to duty***

As not all instruments that come within the definition of *mortgage* in the *Duties Act 1997* have a party described as a “mortgagor”, **Schedule 1 [39]** adds a reference to the “person bound”.

***Liability to additional duty***

**Schedule 1 [40]** removes an unintended limitation on the circumstances in which a mortgage becomes liable to additional duty.

***Effect of further advances***

**Schedule 1 [41]** removes an expression that could have been wrongly construed to mean that an original liability to duty of a mortgage could be extinguished on the making of a further advance under the mortgage.

***Collateral mortgages***

**Schedule 1 [42]** clarifies the circumstances in which the duty on a collateral mortgage is to be reduced.

***First home purchase scheme***

**Schedule 1 [43]** and **[44]** extend the concession in respect of eligible mortgages under the First home purchase scheme to mortgages in support of eligible mortgages.

**Chapter 8 Insurance**

***Annuities***

**Schedule 1 [46]** clarifies whether an annuity is insurance for the purposes of the *Duties Act 1997* by inserting a definition of ***annuity***.

**Chapter 9 Motor vehicle registration**

***Motor vehicles purchased by disabled veterans***

**Schedule 1 [47]** exempts a motor vehicle certificate of registration from duty if the motor vehicle is purchased by a totally and permanently incapacitated veteran who is eligible for the special rate of pension under the *Commonwealth Veterans' Entitlements Act 1986*.

**Miscellaneous amendments to continue effect of provisions of Stamp Duties Act 1920**

Miscellaneous amendments are made for this purpose by **Schedule 1 [8]** (nominal duties), **Schedule 1 [9]** (change in trustees) and **Schedule 1 [10]** and **[53]** (transfer of property from one superannuation fund to another).

**Minor amendments by way of clarification or correction**

**Schedule 1 [25], [26], [28]–[33], [45], [48]–[50]** and **[56]** make minor amendments by way of clarification and correction.

**Schedule 2 Amendment of Land Tax Management Act 1956**

**Schedule 2 [1]** removes a provision that, as a consequence of the restoration of a full exemption for all land owned, regardless of its use, by a charitable or educational institution or a religious society (see Schedule 1 (4) (c) and (d) to the *Land Tax Management (Amendment) Act 1988*) is now redundant.

**Schedule 2 [2]** removes a provision to make it clear that section 10A of the *Land Tax Management Act 1956*, which enables an exemption granted to the owner of a principal place of residence to continue for a period of not less than 12 months after the death of the owner, applies in all cases.

**Schedule 2 [3]** removes the entitlement to an exemption in respect of land acquired for the purpose of building a person's future principal place of residence if the person owns and lives in a residence outside New South Wales.

### **Schedule 3     Amendment of Petroleum Products Subsidy Act 1997**

**Schedule 3 [1]** and [7] clarify that the subsidies proposed to be granted under the *Petroleum Products Subsidy Act 1997* will be granted in respect of zones identified by regulations made under the Act.

**Schedule 3 [2]** and [3] provide that a purchaser of marine diesel is entitled to the benefit of a subsidy without the need for an off-road diesel permit.

**Schedule 3 [4]** removes the entitlement to a subsidy if the Commonwealth pays a rebate which includes the State subsidy.

**Schedule 3 [5]** and [6] enable the Chief Commissioner to remit or reduce the 300% penalty imposed by the *Petroleum Products Subsidy Act 1997* on a person who claims a subsidy to which the person is not entitled.

**Schedule 3 [8]** provides for appeals to be made to the District Court pending the establishment of the Administrative Decisions Tribunal.

**Schedule 3 [9]** enables, during a transitional period, the sale of petroleum products by a registered wholesaler to an unregistered consumer provided certain requirements are met.

### **Schedule 4     Amendment of Revenue Laws (Reciprocal Powers) Act 1987**

**Schedule 4** provides that the *Petroleum Products Subsidy Act 1997* is to be a revenue law for the purposes of the *Revenue Laws (Reciprocal Powers) Act 1987*. This will, among other things, allow investigations to be carried out by other Australian jurisdictions in New South Wales as to their petroleum subsidy schemes.

## **Schedule 5     Amendment of Stamp Duties Act 1920**

**Schedule 5 [1]** inserts a transitional provision that will apply to the assessment of stamp duty on instruments on and from the commencement of the *Duties Act 1997* on 1 July 1998.

**Schedule 5 [2], [4] and [11]** provide that an exempt public sector superannuation scheme is to be a complying superannuation fund for the purposes of the *Stamp Duties Act 1920*. This will cause transfers of assets between such funds to be subject to the concessional rate of stamp duty.

**Schedule 5 [3]** will cause instalment notes to be subject to stamp duty in the same way as IRs.

**Schedule 5 [5]** removes double duty from certain novated motor vehicle leases.

**Schedule 5 [6]** exempts a motor vehicle certificate of registration from duty if the motor vehicle is purchased by a totally and permanently incapacitated veteran who is eligible for the special rate of pension under the Commonwealth *Veterans' Entitlements Act 1986*.

**Schedule 5 [7] and [8]** provide that the market value of a motor vehicle in relation to which stamp duty on a certificate of registration is to be assessed is not to include a notional amount of sales tax if the person who purchased the vehicle was not liable to pay sales tax.

**Schedule 5 [9]** makes a minor amendment to the definition of *options trader* to bring the definition into conformity with the Business Rules of the Australian Stock Exchange.

**Schedule 5 [10]** applies the concessional rate of duty to sales and purchases of marketable securities of a body corporate incorporated under the law of New Zealand or Papua New Guinea.

**Schedule 5 [12]** exempts from financial institutions duty receipts of certain accounts of organisations entitled to privileges and immunities under the Commonwealth *International Organisations (Privileges and Immunities) Act 1963*.

**Schedule 5 [13]** extends the general exemption from stamp duty to certain stock exchange index trusts.

**Schedule 5 [14]** grants a general exemption from stamp duty to compulsory contracts under the *Home Building Act 1989*, certain instruments made for



the purposes of family agreements under the Medicare levy and under the family tax assistance scheme of the Commonwealth and accommodation bond agreements under the Commonwealth *Aged Care Act 1997*.

**Schedule 5 [15]** clarifies the application of certain transitional provisions to the payment of premiums for policies of insurance.

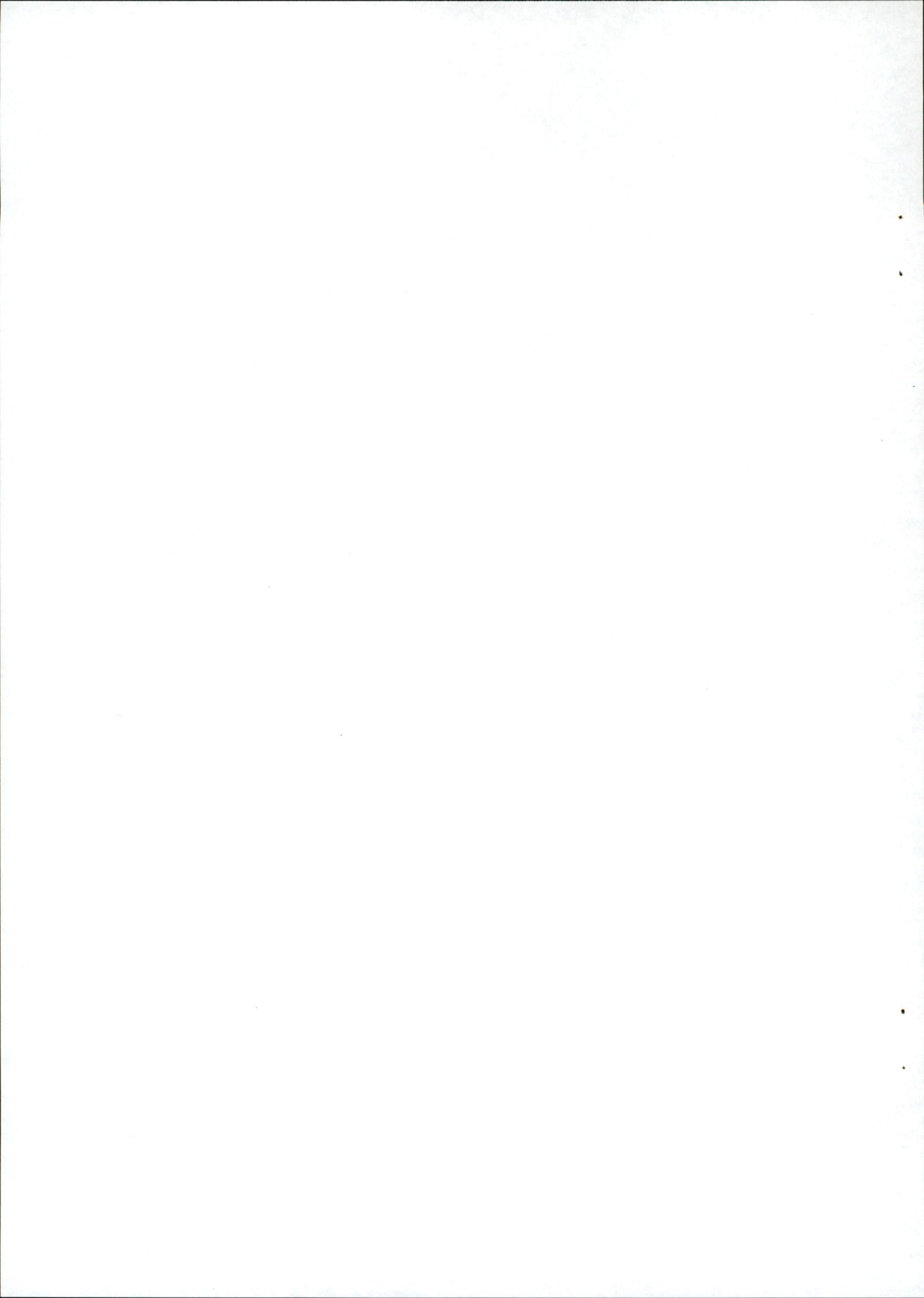
### **Schedule 6      Amendment of Taxation Administration Act 1996**

**Schedule 6 [1]** enables a reassessment of tax under a New South Wales taxation law to be carried out more than 5 years after the initial assessment if the carrying out of such a reassessment is specifically authorised by such a law.

**Schedule 6 [2]** authorises the Chief Commissioner to refund an amount of tax that has been overpaid, whether or not a notice of assessment has been issued in respect of the tax.

**Schedule 6 [3]** enables the Chief Commissioner to refuse to exercise functions under a taxation law if information or documents that are required to be provided to the Chief Commissioner are not so provided.

**Schedule 6 [4] and [5]** make savings and transitional provisions that will be required when the *Stamp Duties Act 1920* becomes a taxation law to which the *Taxation Administration Act 1996* applies.





New South Wales

# State Revenue Legislation Amendment Bill 1998

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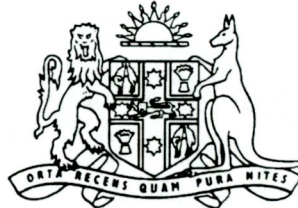
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New South Wales

# State Revenue Legislation Amendment Bill 1998

No. , 1998

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## **A Bill for**

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

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *State Revenue Legislation Amendment Act 1998*.

**2 Commencement**

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by this section. 5
- (2) The following provisions commence, or are taken to have commenced, on the dates indicated:
- Schedule 1 (Schedule 1 [2] and [24] excepted) on 1 July 1998 10
  - Schedule 1 [2] and [24] on 1 January 1999
  - Schedule 2 on 31 December 1998
  - Schedule 5 [1] on 1 July 1998
  - Schedule 5 [2] on 1 July 1997
  - Schedule 5 [3] on 21 October 1997 15
  - Schedule 5 [4] on 1 July 1997
  - Schedule 5 [5] on 1 March 1998
  - Schedule 5 [6] on 1 January 1998
  - Schedule 5 [7] and [8] on 24 June 1997
  - Schedule 5 [9] on 31 October 1997 20
  - Schedule 5 [10] on 1 March 1998
  - Schedule 5 [11] on 1 July 1997
  - Schedule 5 [12] on 21 January 1998
  - Schedule 5 [13], in its application to Benchmark Australian All Ordinaries Trust, on 9 February 1996 25
  - Schedule 5 [13], in its application to the trusts listed in the definition of *index trust* in that item, except Benchmark Australian All Ordinaries Trust and Tower 20 Leaders Index Trust, on 1 September 1997
  - Schedule 5 [13], in its application to the Tower 20 Leaders Index Trust, on 21 January 1998 30

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	Schedule 5 [14], in so far as it inserts paragraph (53) into the Second Schedule to the <i>Stamp Duties Act 1920</i> , on 1 May 1997	
	Schedule 5 [14], in so far as it inserts paragraph (54) into the Second Schedule to the <i>Stamp Duties Act 1920</i> , on 1 July 1997	5
	Schedule 5 [14], in so far as it inserts paragraph (55) into the Second Schedule to the <i>Stamp Duties Act 1920</i> , on 1 October 1997	
	Schedule 5 [15] on 7 May 1997	10
	Schedule 6 on 1 July 1998	
<b>3</b>	<b>Amendment of Duties Act 1997 No 123</b>	
	The <i>Duties Act 1997</i> is amended as set out in Schedule 1.	
<b>4</b>	<b>Amendment of Land Tax Management Act 1956 No 26</b>	
	The <i>Land Tax Management Act 1956</i> is amended as set out in Schedule 2.	15
<b>5</b>	<b>Amendment of Petroleum Products Subsidy Act 1997 No 112</b>	
	The <i>Petroleum Products Subsidy Act 1997</i> is amended as set out in Schedule 3.	
<b>6</b>	<b>Amendment of Revenue Laws (Reciprocal Powers) Act 1987 No 86</b>	20
	The <i>Revenue Laws (Reciprocal Powers) Act 1987</i> is amended as set out in Schedule 4.	
<b>7</b>	<b>Amendment of Stamp Duties Act 1920 No 47</b>	
	The <i>Stamp Duties Act 1920</i> is amended as set out in Schedule 5.	25
<b>8</b>	<b>Amendment of Taxation Administration Act 1996 No 97</b>	
	The <i>Taxation Administration Act 1996</i> is amended as set out in Schedule 6.	

**Schedule 1 Amendment of Duties Act 1997**

(Section 3)

**[1] Section 11 What is "dutiabale property"?**

Omit "ADRs" from section 11 (f) (iii).  
Insert instead "an ADR".

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**[2] Section 11 (f) (iv)**

Insert after section 11 (f) (iii):

or

(iv) instalment warrants providing beneficial ownership in respect of shares in a NSW company,

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**[3] Section 11 (f)**

Omit "and 'ADRs' " from the Note to the paragraph.  
Insert instead ", 'ADR' and 'instalment warrants' ".

**[4] Section 11 (j) (vii)**

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Insert after section 11 (j) (vi):

(vii) a ship or vessel,

**[5] Section 30 Partitions**

Omit "dutiabale property" from section 30 (1).  
Insert instead "property (some or all of which is dutiabale property)".

20

**[6] Section 30 (3) (a)**

Omit "the dutiabale property transferred, or agreed to be transferred, to a person by the partition".  
Insert instead "the property the subject of the partition".



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- [7] Section 30 (3) (b)**
- Omit the paragraph. Insert instead:
- (b) the consideration paid by a party to the partition in respect of the transfer to the person of dutiable property. 5
- [8] Section 48 Certain transfers not chargeable with duty**
- Insert “and the duty otherwise chargeable on the transfer is \$2 or \$10” after “63” in section 48 (2).
- [9] Section 54 Change in trustees**
- Omit “ad valorem duty is chargeable in respect of the transfer” from section 54 (3). 10
- Insert instead “the transfer is chargeable with the same duty as a transfer to a beneficiary under and in conformity with the trusts subject to which the property is held”.
- [10] Section 61 Transfer of property from one superannuation fund to another** 15
- Omit “, an eligible rollover fund and an exempt public sector superannuation scheme” from section 61 (5).
- Insert instead “and an eligible rollover fund”.
- [11] Section 66 Exemptions—marketable securities** 20
- Insert after section 66 (4) (c):
- , or
- (d) a transfer of marketable securities by or on behalf of an applicant for an instalment warrant to a trustee in exchange for the issue of an instalment warrant by a warrant issuer to the applicant or the nominee of the applicant, or 25
- (e) a transfer of marketable securities from a trustee to an instalment warrant holder in accordance with the terms of issue of the instalment warrant. 30

**[12] Section 66 (8A)**

Insert after section 66 (8):

**(8A) ADRs**

No duty is chargeable under this Chapter on a transfer, or an agreement for the sale or transfer: 5

(a) of an ADR that relates to shares quoted on the Australian Stock Exchange or a recognised stock exchange located outside Australia or an ADR that relates to rights to shares that upon issue, on exercise of those rights, will be quoted on the Australian Stock Exchange or a recognised stock exchange located outside Australia, to: 10

(i) a foreign resident on the foreign resident's own behalf, or

(ii) a foreign resident acting on behalf of a trustee for another foreign resident, and 15

(b) that is to be registered on an overseas register of legal or beneficial title.

**[13] Section 68 Exemptions—break-up of marriages and de facto relationships 20**

Insert after section 68 (1) (b) (ii):

(iia) an agreement that the Chief Commissioner is satisfied has been made for the purpose of dividing matrimonial property as a consequence of the dissolution or annulment of the marriage, or 25

**[14] Section 96 Transfer by corporation of principal place of residence to principal shareholder or spouse**

Insert “, or would be so exempt but for the land value of the land” after “effect” in section 96 (1) (c). 30

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**[15] Section 97 Transfer of principal place of residence by special trust to beneficiary etc**

Insert “, or would be so exempt but for the land value of the land” after “effect” in section 97 (d).

**[16] Section 98 Transfer of principal place of residence by corporation to beneficiary of special trust** 5

Insert “, or would be so exempt but for the land value of the land” after “effect” in section 98 (d).

**[17] Section 108 Land holdings of private corporations**

Insert “or a profit a prendre” after “creditor” in section 108 (1). 10

**[18] Section 118 How duty is charged on relevant acquisitions**

Omit the definition of *C* in section 118 (4).

Insert instead:

*C* is the sum of:

- (a) the duty under this Act paid or payable in respect of: 15
  - (i) a dutiable transaction in relation to the shares or units, or
  - (ii) a capital reduction or a rights alteration under Part 3 by which an interest in the private corporation was acquired, or 20
  - (iii) an allotment under Part 5 by which an interest in the private corporation was acquired, and
- (b) any duty of a like nature so paid or payable under a law of another Australian jurisdiction. 25

**[19] Section 119 Exemptions**

Omit section 119 (4).

**[20] Section 122 Phasing-in of duty**

Insert "exceeds \$1 million but" after "private corporation" where firstly occurring.

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**[21] Section 123 Agreements for sale or conveyance of land**

Insert after section 123 (2):

- (3) In this section, a reference to a *land-rich private corporation* includes a reference to a subsidiary of the corporation.

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**[22] Section 132 When does a liability for duty arise?**

Insert "otherwise than in circumstances to which Part 5 applies" after "person".

**[23] Section 145 Imposition of duty**

Insert after section 145 (2) (b):

15

, or

- (c) it did not arise from a manual client order or an automated client order, and an individual, being the broker or an employee or agent of the broker, who is present in New South Wales, instructed a SEATS operator to report a trade to the market.

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**[24] Section 146 What are "marketable securities"?**

Insert after section 146 (d):

- (e) instalment warrants.

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**[25] Section 149 Exemptions**

Insert “(not acting on his or her own account)” after “broker” where firstly occurring in section 149 (1) (a).

**[26] Section 149 (1) (a) (i)**

Insert “or will pay” after “paid”.

5

**[27] Section 151A**

Insert after section 151:

**151A Duty at concessional rate—New Zealand and Papua New Guinea corporations**

Duty is payable by a broker at the concessional rate on a sale or purchase of marketable securities of a body corporate incorporated under the law of New Zealand or Papua New Guinea.

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**[28] Section 152 Marketable securities held on broker’s own account**

Omit “paragraph (a)” from section 152 (1) (b).

Insert instead “subsection (1) (a) or (2) (a)”.

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**[29] Section 152 (1) (d)**

Omit “paragraph (c)”. Insert instead “subsection (1) (c) or (2) (c)”.

**[30] Section 152 (2) (b)**

Omit “paragraph (a)”. Insert instead “subsection (1) (a) or (2) (a)”.

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**[31] Section 152 (2) (d)**

Omit “paragraph (c)”. Insert instead “subsection (1) (c) or (2) (c)”.

- [32] Section 155 Additional duty on marketable securities held otherwise than for short terms**
- Insert “principal” before “broker” where firstly occurring in section 155 (1) (d).
- [33] Section 155 (3) (b)** 5
- Omit “purchased”. Insert instead “sold”.
- [34] Section 157 Records of sales, purchases and transactions—generally**
- Insert after section 157 (1) (f):
- (g) in the case of a sale, purchase or transaction that is dutiable at the concessional rate or that is exempt from duty, such particulars as are required to establish that the sale, purchase or transaction is dutiable at a concessional rate or is exempt from duty. 10  
15
- [35] Section 166 What is the “cost” of a lease?**
- Insert “or in advance of the lease and any amount paid or payable for the right to use land under the lease” after “lease” in section 166 (1) (a).
- [36] Section 173 Estimate and subsequent adjustment** 20
- Insert at the end of section 173 (5):
- A periodic estimate and a periodic assessment of duty may be made more than 5 years after the initial estimate.
- [37] Section 181 Hire of goods to which this Chapter applies—jurisdictional nexus** 25
- Omit “during the course of the hire” from section 181 (1).  
Insert instead “during any period for which a liability to duty is required to be determined”.

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**[38] Section 191 Credit for duty paid in another Australian jurisdiction**

Insert at the end of section 191:

- (2) Despite subsection (1), the duty on a special hiring agreement that is chargeable with the maximum amount of duty of \$10,000 cannot be reduced below \$6,000.

5

**[39] Section 207 Who is liable to pay the duty?**

Insert "or the person bound" after "mortgagor".

**[40] Section 208 When does a liability arise?**

Omit "duty was last paid on it" from section 208 (2).  
Insert instead "a liability to duty last arose in respect of it".

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**[41] Section 213 Secured amount limited**

Omit ", until such time (if any) as a greater amount of advances is secured by the mortgage" from section 213 (1).

**[42] Section 218 Collateral securities**

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Insert "paid or" before "payable" in the definition of *C* in section 218 (1).

**[43] Section 221 Eligible mortgages under first home purchase scheme**

Insert "or a mortgage in support of such an eligible mortgage" after "Chapter 2" in section 221 (1).

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**[44] Section 221 (2)**

Omit "the mortgage". Insert instead "such a mortgage".

**[45] Section 236 Circumstances in which duty is payable by the insured person**

Omit “(not being a registered insurer)” from section 236 (1).

**[46] Section 259 What insurance is exempt from duty?**

Insert at the end of section 259: 5

(2) For the purposes of subsection (1) (l) a contract is an *annuity* if it satisfies the following requirements:

(a) the contract provides for the periodic payment of money to the annuitant in fee for life or for a specified term of years as an annual or more frequent entitlement, 10

(b) the periodic payment is a sum certain expressed as a dollar amount, but may be varied according to a predetermined formula,

(c) the periodic payments are not derived from the money paid for the contract but are derived solely from the contract and comprise income and not the repayment of capital. 15

**[47] Section 267 Exemptions**

Insert after section 267 (7): 20

**(7A) Vehicles purchased by TPIs**

Duty under this Chapter is not chargeable in respect of an application to register a motor vehicle in the name of a veteran who is totally and permanently incapacitated and who is eligible for the special rate of pension under section 24 of the Commonwealth *Veterans' Entitlements Act 1986*. 25

**[48] Section 288 Stamping of instruments**

Insert “, or that effects or evidences a dutiable transaction,” after “this Act”. 30



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**[49] Section 296 Stamping of instruments after execution**

Omit "must cause it" from section 296 (1).

Insert instead "or any dutiable transaction must cause the instrument, or an instrument that effects or evidences the transaction,".

**[50] Section 297 Stamping taken to constitute an assessment** 5

Insert "evidence of" before "an assessment".

**[51] Dictionary**

Omit the definitions of *ADRs*, *depository receipt* and *depository shares*.

**[52] Dictionary** 10

Insert in alphabetical order:

*ADR* means a negotiable certificated receipt issued by a depository resident outside Australia acknowledging the interest of the registered holder of the receipt in shares in a NSW company held by the depository, or deposited with a depository to hold, as trustee for the holder. 15

*instalment warrant* means a warrant:

(a) that is issued by the warrant issuer in accordance with the Business Rules of the Australian Stock Exchange, and 20

(b) that is an option contract within the meaning of section 9 of the *Corporations Law*, and

(c) that provides beneficial ownership in respect of marketable securities that are quoted on the market operated by the Australian Stock Exchange, and 25

(d) that provides legal ownership of marketable securities to the warrant holder on payment of the final instalment, being a payment that the warrant holder makes under the terms of issue of the warrant. 30

**[53] Dictionary, definition of "complying superannuation fund"**

Insert "and an exempt public sector superannuation scheme" after "1993".

**[54] Dictionary, definition of "index trust"**

Insert after paragraph (f):

- (g) Tower 20 Leaders Index Trust.

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**[55] Dictionary, definition of "IR"**

Omit the definition. Insert instead:

*IR* means any security, not being an option contract within the meaning of section 9 of the *Corporations Law*, issued by a trustee that provides:

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- (a) beneficial ownership, to the holder of the security, of marketable securities that are quoted on the market operated by the Australian Stock Exchange, and

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- (b) legal ownership of the marketable securities to the holder of the security on payment of the final instalment, being a payment that the holder is obliged to make under the terms of issue of the security.

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**[56] Dictionary, definition of "private company"**

Insert "the Australian Stock Exchange or" after "on".

**[57] Dictionary, definition of "public unit trust scheme"**

Insert after paragraph (c):

, or

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- (d) that, in the opinion of the Chief Commissioner, will be a public unit trust scheme within 12 months after the Chief Commissioner gives written notification of that opinion to a person who has requested the Chief Commissioner to express that opinion in relation to the unit trust scheme.

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**Schedule 2    Amendment of Land Tax Management  
Act 1956**

(Section 4)

- [1]    Section 10 Land exempted from tax**
- Omit section 10 (1I). 5
- [2]    Section 10A Residential use and occupation—concession on  
death of owner**
- Omit section 10A (5).
- [3]    Section 10T Concession for unoccupied land intended to be  
owner's principal place of residence** 10
- Insert after section 10T (3) (b):
- , or
- (c) the person or any joint owner of the land owns  
land outside New South Wales which is the  
principal place of residence of the person or joint  
owner. 15

**Schedule 3 Amendment of Petroleum Products Subsidy Act 1997**

(Section 5)

**[1] Section 4 Payment of subsidies**

Insert "in relation to such zones as may be prescribed" after "New South Wales" in section 4 (1). 5

**[2] Section 5 Entitlement to subsidies**

Insert after section 5 (1) (b):

or

- (c) sells diesel fuel for a marine purpose, or used or intends to use diesel fuel for a marine purpose, 10

**[3] Section 5 (1)**

Omit "them". Insert instead "the petroleum products or diesel fuel".

**[4] Section 5 (4) (c)**

Insert after section 5 (4) (b): 15

, or

- (c) the person has been paid, or is entitled to, a rebate under a law of the Commonwealth under which the rebate is required to include the amount of the subsidy in respect of those petroleum products. 20

**[5] Section 7 Refund of subsidy**

Insert ", except as provided by subsection (3A)" after "that year" in section 7 (3).

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**[6] Section 7 (3A)**

Insert after section 7 (3):

(3A) The Chief Commissioner, having regard to the circumstances of the case, may reduce or remit the amount otherwise payable under subsection (3).

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**[7] Section 8 Registration**

Insert "on or from premises within a zone prescribed for the purposes of section 4 (1)" after "New South Wales" in section 8 (1).

**[8] Section 25 Right of review**

Insert after section 25 (2):

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(3) If this section commences before the commencement of the Act that establishes the Administrative Decisions Tribunal:

(a) a right of review to the Administrative Decisions Tribunal in respect of a decision of the Chief Commissioner referred to in subsection (1) or (2) is to be construed as a right of appeal to the District Court against the decision, and

15

(b) the District Court may hear and determine any appeal made to it under paragraph (a).

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**[9] Section 31A**

Insert after section 31:

**31A Transitional provision**

(1) This section applies for the period commencing on the date of commencement of section 5 and ending on 1 January 1999 or such later date as may be specified by the Governor by order published in the Gazette on or before 1 January 1999.

25

- (2) During the period for which this section applies, a registered person, being a registered wholesaler, who, in the course of a business or activity conducted by the registered person, sells petroleum products to an unregistered consumer where: 5
- (a) the petroleum products are delivered by the registered person to and unloaded at the premises of the consumer in a zone prescribed for the purposes of section 4 (1), and
  - (b) the registered wholesaler makes out an invoice or delivery docket in respect of the sale that includes the name of the consumer and the address to which the petroleum products were delivered and at which they were unloaded, and 10
  - (c) the price charged in respect of the sale includes the rate of the subsidy prescribed for that zone, 15
- is entitled to a subsidy in respect of the petroleum products at the rate of the subsidy prescribed for that zone, except as provided by section 5 (4) and subject to section 5 (5) and (6). 20

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**Schedule 4 Amendment of Revenue Laws  
(Reciprocal Powers) Act 1987**

(Section 6)

**Section 3 Definitions**

Insert after paragraph (e) of the definition of *New South Wales revenue law* in section 3 (1):

- (f) the *Petroleum Products Subsidy Act 1997*,

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**Schedule 5 Amendment of Stamp Duties Act 1920**

(Section 7)

**[1] Section 1A Application of this Act after commencement of Duties Act 1997 on 1 July 1998**

Insert after section 1A (1):

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(1A) The Second Schedule does not apply to instruments first executed on or after 1 July 1998.

**[2] Section 3 Definitions**

Insert in section 3 (1) in alphabetical order:

*complying superannuation fund* means a fund that is a complying superannuation fund for the purposes of Part IX of the Commonwealth *Income Tax Assessment Act 1936* in accordance with section 45 of the Commonwealth *Superannuation Industry (Supervision) Act 1993* and includes a regulated exempt public sector superannuation scheme within the meaning of section 299W of the Commonwealth *Superannuation Industry (Supervision) Act 1993*. 10  
15

**[3] Section 3 (1), definition of "IR"**

Omit "the Commonwealth of Australia".

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Insert instead "the Commonwealth government or the government of a State or Territory".

**[4] Section 73 Certain conveyances not chargeable with ad valorem duty**

Omit "within the meaning of section 267 of the *Income Tax Assessment Act 1936* of the Commonwealth" from section 73 (2AA) (d). 25



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**[5] Section 74D Definitions**

Omit paragraph (ix) of the definition of *hiring arrangement* in section 74D (1).

Insert instead:

(ix) an arrangement under which a motor vehicle is subleased by an employee to an employer in connection with the employee's remuneration or other employment benefits, or 5

(x) an arrangement prescribed by the regulations. 10

**[6] Section 84G Duty on motor vehicle certificates of registration**

Insert after section 84G (1) (ka):

(kb) a motor vehicle certificate of registration issued in the name of a veteran who is totally and permanently incapacitated and who is eligible for a special rate of pension under section 24 of the Commonwealth *Veterans' Entitlements Act 1986*, or 15

**[7] Section 84G (3) 20**

Omit "subsection (5)". Insert instead "subsections (3AA) and (5)".

**[8] Section 84G (3AA)**

Insert after section 84G (3):

(3AA) The value of a new motor vehicle does not include any amount for sales tax if the vehicle was purchased by a purchaser who was not liable to pay sales tax. 25

**[9] Section 97A Definitions and application of Subdivision 3**

Insert "independent options" after "registered" in the definition of *options trader* in section 97A (1).

**[10] Section 97AB Returns to be lodged and duty paid**

Insert after section 97AB (2) (e):

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, or

- (f) any sale or purchase of marketable securities or rights in respect of marketable securities of a body corporate incorporated under the law of New Zealand or Papua New Guinea.

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**[11] Section 98 Definitions**

Omit "within the meaning of section 267 of the *Income Tax Assessment Act 1936* of the Commonwealth" from paragraph (a) of the definition of *excluded person* in section 98 (1).

**[12] Section 98U Exempt accounts**

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Omit section 98U (1) (p). Insert instead:

- (p) an account kept with a bank which is a registered person by an organisation entitled to privileges and immunities under section 6 of, and the First Schedule to, the Commonwealth *International Organisations (Privileges and Immunities) Act 1963*, or
- (q) an account prescribed for the purposes of this paragraph,

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**[13] Second Schedule—General Exemptions From Stamp Duty Under Part 3**

Omit paragraph (52). Insert instead:

- (52) A transfer or transfers, on any one day, of shares or units:
- (a) to the trustee of an index trust in exchange for the issue of units in the trust, or 5
  - (b) from the trustee of an index trust in exchange for the redemption of units in the trust,

where the total amount of securities so transferred between the transferor and transferee represents a portfolio of securities in such volumes as are contained in the All Ordinaries Index on that day. 10

In this paragraph, *index trust* means any of the following:

- Benchmark Australian All Ordinaries Trust 15
- Australian Index Trust
- Industrial Index Trust
- Resources Index Trust
- Property Index Trust
- Gold Index Trust 20
- Tower 20 Leaders Index Trust

**[14] Second Schedule—General Exemptions From Stamp Duty Under Part 3**

Insert after paragraph (52):

- (53) A contract the making of which under the *Home Building Act 1989* is compulsory. 25
- (54) An agreement made under the *Commonwealth Income Tax Assessment Act 1936* for the purpose of complying with that Act.
- (55) An accommodation bond agreement entered into under the *Commonwealth Aged Care Act 1997*. 30

**[15] Tenth Schedule Savings, transitional and other provisions**

Insert after clause 47 (1):

- (1A) However, the amendments referred to in subclause (1) do not apply to premiums paid in relation to Class 2 insurance within the meaning of section 86 (1), being: 5
- (a) premiums received on or after 7 May 1997 for a policy of insurance, or for the renewal of a policy of insurance, that was current before that date but not fully paid and that had a period of cover that extended past 1 July 1997, or 10
  - (b) premiums due before 1 July 1997 but received on or after that date.

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**Schedule 6 Amendment of Taxation  
Administration Act 1996**

(Section 8)

**[1] Section 9 Reassessment**

Insert after section 9 (3) (b):

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, or

- (c) the reassessment is authorised to be made more than 5 years after the initial assessment by another taxation law.

**[2] Section 18 Entitlement to refund**

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Omit "and shown in a notice of assessment" from section 18 (1).

**[3] Section 111A**

Insert after section 111:

**111A Refusal by Chief Commissioner to exercise functions**

The Chief Commissioner may refuse to exercise any function under a taxation law concerning an instrument, transaction or return (including the stamping or marking of an instrument) if any information, evidence, instrument or record concerning the instrument, transaction or return is not provided to the Chief Commissioner in accordance with a requirement of a taxation law.

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**[4] Schedule 1 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Duties Act 1997*

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**[5] Schedule 1, Part 3**

Insert after Part 2:

**Part 3 Provisions relating to Stamp Duties Act 1920 arising from enactment of Duties Act 1997** 5

**19 Existing assessments under Stamp Duties Act 1920**

An assessment made under the *Stamp Duties Act 1920* before 1 July 1998 is taken to have been made under Part 3, except as provided by clause 28.

**20 Assessments of existing liabilities under Stamp Duties Act 1920** 10

The power to make an assessment under Part 3 extends to a tax liability existing under the *Stamp Duties Act 1920* before 1 July 1998.

**21 Refunds of tax paid under Stamp Duties Act 1920 before 1 July 1998** 15

Part 4 extends to tax paid under the *Stamp Duties Act 1920* before 1 July 1998.

**22 Existing refund applications under the Stamp Duties Act 1920** 20

Part 4 extends to an application for a refund of tax that was made under the *Stamp Duties Act 1920* to the Chief Commissioner before 1 July 1998 and that had not been determined by the Chief Commissioner as at that date.

**23 Form of returns** 25

Section 34 extends to an approval that was given under the *Stamp Duties Act 1920* before 1 July 1998 and that is in force immediately before that date.

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**24 Approval of special tax return arrangements**

Division 2 of Part 6 extends to an approval that was given under the *Stamp Duties Act 1920* before 1 July 1998 and that is in force immediately before that date.

**25 Duty unpaid under the Stamp Duties Act 1920**

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Part 7 extends to tax that is payable under the *Stamp Duties Act 1920* but remains unpaid immediately before 1 July 1998.

**26 Records**

Sections 51, 52, 53 and 54 extend to records required to be kept under the *Stamp Duties Act 1920* immediately before 1 July 1998.

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**27 Secrecy**

Division 3 of Part 9 extends to information obtained under or in relation to the administration of the *Stamp Duties Act 1920* before 1 July 1998.

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**28 Objections and appeals**

- (1) Part 10, in its application to the *Stamp Duties Act 1920*, applies only to a notice of assessment, or a notice of decision or determination of the Chief Commissioner, served on or after 1 July 1998.
- (2) The *Stamp Duties Act 1920*, as in force immediately before 1 July 1998, continues to apply to a notice of assessment, or a notice of decision or determination of a tax officer, served before 1 July 1998 as if the *Duties Act 1997* had not been enacted.
- (3) Sections 104 and 105 apply to an objection that is allowed, or an appeal that is upheld, on or after 1 July 1998, despite the other provisions of this clause.

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State Revenue Legislation Amendment Bill 1998

Schedule 6      Amendment of Taxation Administration Act 1996

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**29 Writing off of tax**

Section 110 extends to tax under the *Stamp Duties Act 1920* that was unpaid before 1 July 1998.



STATE REVENUE LEGISLATION AMENDMENT BILL

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Schedule of the amendments referred to in the Legislative Council's Message of  
3 June 1998.

No. 1 Page 5, clause 4. Insert after line 23:

- (a) the Minister is satisfied that the establishment of the committee would be to the benefit of the committee's proposed constituents, and

No. 2 Page 6, clause 6, line 34. Omit "(if any)".

No. 3 Page 7, clause 6, line 1. Omit "there are to be elected members and".

No. 4 Page 7, clause 6. Insert after line 19:

- (3) More than half of the members of the committee are to be members elected from among the committee's constituents.

No. 5 Page 15, clause 21. Insert after line 34:

- (5) In making a recommendation referred to in subsection (4):

- (a) the Minister must first consider whether it would be fair and practicable for those assets, or any part of them, to be returned to persons who are, or who have recently been, constituents of the committee and, if so, must recommend accordingly, and
  - (b) in relation to any assets remaining after the provisions of paragraph (a) have been complied with, the Minister must then consider whether there is any other organisation having the same general objects as those of the committee and, if so, must recommend that those remaining assets be transferred to that organisation or, if there is more than one such organisation, to each of those organisations in such proportions as the Minister considers appropriate, and
  - (c) in relation to any assets remaining after the provisions of paragraphs (a) and (b) have been complied with, the Minister must then consider how best those remaining assets can be dealt with in the public interest and must recommend accordingly.
  - (6) In considering the matters referred to in subsection (5) (a), (b) and (c), the Minister must consult with the members of the committee.
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