



New South Wales

State Revenue Legislation Further Amendment Bill 1999

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Accommodation Levy Act 1997* to abolish the levy on accommodation provided on or after 1 July 2000, and
- (b) to amend the *Duties Act 1997*:
 - (i) to enable the payment of duty on “off the plan” purchases to be deferred for up to 12 months, and
 - (ii) to limit the duty payable on certain transactions where a person acquires property in which the person already has a beneficial interest, and
 - (iii) to increase the discount for early payment of instalments of duty paid under the first home purchase scheme, and
 - (iv) to clarify certain exemptions from marketable securities duty relating to “nomineeing” transactions, and

- (v) to clarify the liability to duty of instalment warrants, and
 - (vi) to make it clear that a trustee is not liable to pay mortgage duty under certain provisions relating to debenture issues, and
 - (vii) to change the exemption scheme for registration of demonstrator motor vehicles, and
 - (viii) to make further provision with respect to transactions entered into for the purpose of enabling an undertaking to become a managed investment scheme, and
- (c) to amend the *Health Insurance Levies Act 1982*:
- (i) to clarify the procedure for the remittance of contributions to the State Ambulance Insurance Plan by authorised agents, and
 - (ii) for the purposes of statute law revision, and
- (d) to amend the *Pay-roll Tax Act 1971*:
- (i) to enable the Chief Commissioner of State Revenue to recover pay-roll tax debts owed by corporations from the directors and former directors of those corporations in certain circumstances, and
 - (ii) to make changes to the provisions relating to employment agents, and
- (e) to amend the *Taxation Administration Act 1996* to make it clear that a refusal to refund tax does not give rise to a right of objection.

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 1 January 2000, except as otherwise indicated in the notes below.

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

Clause 4 is a formal provision giving effect to the amendments to the *Duties Act 1997* set out in Schedule 2.

Clause 5 is a formal provision giving effect to the amendments to the *Health Insurance Levies Act 1982* set out in Schedule 3.

Clause 6 is a formal provision giving effect to the amendments to the *Pay-roll Tax Act 1971* set out in Schedule 4.

Clause 7 is a formal provision giving effect to the amendments to the *Taxation Administration Act 1996* set out in Schedule 5.

Schedule 1 Amendment of Accommodation Levy Act 1997

The amendments abolish the accommodation levy from 1 July 2000.

Schedule 1 [1] inserts Part 1A in the Act. It provides that the Act does not apply in respect of residential accommodation provided for use or occupation on or after 1 July 2000. Accordingly, no levy is charged on such accommodation.

The new part will not affect any liability to pay a levy charged on residential accommodation provided for use or occupation before 1 July 2000.

The manager of a place of accommodation will be required to submit to the Chief Commissioner of State Revenue a final return, in respect of the return period of June 2000, on or before 15 July 2000, together with the accommodation levy required to be paid in respect of that return period.

A transitional provision is included that ensures that any amount payable after 30 June 2000 for accommodation provided before 1 July 2000 is included in the calculations for June 2000.

Schedule 1 [2] removes a provision that would have provided for a review of the Act after it had been in operation for 5 years. Instead, the Act will cease to have effect on 1 September 2003.

Schedule 2 Amendment of Duties Act 1997

Liability for duty on “off the plan” purchases

At present, the payment of duty on an “off the plan” purchase agreement (being an agreement for the sale or transfer of land on which a residence is to be erected or developed before the completion of the sale or transfer) may be partially deferred. Five percent of the duty is to be paid on stamping of the agreement, and the remainder at a later stage. **Schedule 2 [2]** allows payment of the duty to be completely deferred to a later stage. Liability to pay duty on the agreement will not arise until one of the following occurs:

- (a) completion of the agreement,

- (b) the assignment of the whole or any part of the purchaser's interest under the agreement,
- (c) the expiration of 12 months after the date of the agreement.

Schedule 2 [13] is a transitional provision.

Transfer of property by trustee to beneficial owner

Schedule 2 [3] provides for the calculation of duty if dutiable property that is vested in a person as trustee of a statutory trust, as a consequence of the making of an order under section 66G of the *Conveyancing Act 1919*, is transferred or agreed to be transferred by the trustee to a person who already has a beneficial interest in the property. In such a case, the duty is to be calculated by deducting from the unencumbered value of the dutiable property or the consideration for the transfer or agreement, whichever is the greater, the proportion of that amount that is the same as the proportion of the purchaser's beneficial interest in the dutiable property immediately before the transfer or agreement.

Marketable securities duty on "nominee transactions"

Section 66 of the *Duties Act 1997* sets out exemptions from duty on certain transactions involving marketable securities.

Certain exemptions apply to "nominee transactions" (ie transfers of marketable securities to or from nominees where there is no change in the beneficial ownership of the marketable securities).

At present, section 66 exempts certain transfers to or from a trustee or nominee of the beneficial owner, or a custodian of the trustee. **Schedule 2 [4]** adds to this list transfers to or from a sub-custodian of a custodian of a trustee or nominee of a beneficial owner. It also makes other changes for the purpose of making it clear that the exemption applies only if the trustee, nominee, custodian or sub-custodian at all stages holds the marketable securities solely for the beneficial owner, a trustee or nominee of the beneficial owner or a custodian of a trustee or nominee of the beneficial owner.

Duty of \$10 will be chargeable if the marketable securities are not quoted on the Australian Stock Exchange (see **Schedule 2 [1]**).

A separate exemption also applies to transfers of marketable securities to or from certain named broker nominee companies or to or from a nominee company that holds marketable securities solely for the purpose of facilitating marketable security transaction settlements by a broker. **Schedule 2 [5]** provides that in such a case the exemption will apply only if the transfer is made solely for the purpose of facilitating a marketable security transaction settlement and there is no change in

the beneficial ownership of the marketable securities (other than as a result of an on-market transaction settlement).

Discount for first home purchasers

At present, a person who has the benefit of the first home purchase scheme may choose to pay out, at a discount, the total of all instalments of duty that are due to be paid under the Act in connection with the purchase. The discount ranges from 10 to 25 percent, depending on the number of instalments remaining.

Schedule 2 [6] provides for a 50 percent discount on early payment of instalments. It allows a person who has the benefit of the first home purchase scheme to choose to pay out, at a discount of 50 percent, all instalments of duty remaining at the time.

The provision will be taken to have commenced on 23 June 1999.

Mortgage duty associated with debenture issues

Section 226 of the Act contains special provisions relating to the payment of duty on mortgages associated with the issue of debentures by a corporation. The provisions operate if the corporation and the trustee for the debenture holders give a written undertaking in an approved form to the Chief Commissioner of State Revenue. **Schedule 2 [7]** makes it clear that it is the corporation, and not the trustee, that is liable to pay the duty in accordance with that undertaking.

Exemption for demonstrator motor vehicles

At present, the Chief Commissioner of State Revenue may issue exemption authorities to motor dealers for use in the registration of demonstrator motor vehicles. An application by a motor dealer to register a motor vehicle is not chargeable with duty if, at the time the application is made, the dealer produces an exemption authority to the Roads and Traffic Authority.

Schedule 2 [8] replaces those provisions. Duty will not be chargeable on an application for registration of a motor vehicle only if the motor vehicle is a demonstrator motor vehicle and the motor dealer produces an exemption authority that has been completed by the dealer. The Chief Commissioner will be able to enter into arrangements for the issue of exemption authorities. If a motor dealer produces an exemption authority in connection with the registration of a motor vehicle that is not a demonstrator motor vehicle the motor dealer will be guilty of an offence, and the Chief Commissioner will be able to recover the duty that should have been paid.

Schedule 2 [9] is a consequential amendment.

Managed investment schemes

Under transitional arrangements provided for by the Act, certain transactions entered into by a responsible entity for the purpose of enabling an undertaking to become a managed investment scheme under the *Corporations Law* are charged duty at a special rate.

Schedule 2 [11] corrects a cross-reference in that transitional provision. It will be taken to have commenced on 1 July 1998 (when the transitional provision commenced).

A further provision is added in order to extend similar transitional arrangements to instruments executed by a custodian of a responsible entity for the same purpose (see **Schedule 2 [12]**). That provision will be taken to have commenced on 1 July 1999.

Instalment warrants

An “instalment warrant” is defined as a warrant that, among other things, is an option contract within the meaning of section 9 of the *Corporations Law*. **Schedule 2 [14]** omits this element of the definition.

Savings and transitional

Schedule 2 [10] provides for the making of savings and transitional regulations.

Schedule 3 Amendment of Health Insurance Levies Act 1982

Remittance of contributions to the State Ambulance Insurance Plan

At present, contributions to the State Ambulance Insurance Plan are collected by authorised agents and remitted to the Chief Commissioner of State Revenue, after the authorised agent has deducted any commission that the authorised agent is entitled to retain under the Act.

Schedule 3 [3] clarifies this procedure by requiring authorised agents to submit a monthly return to the Chief Commissioner, together with a payment calculated in accordance with a formula set out in that provision. The formula is based on the number of contributors to the State Ambulance Insurance Plan at the beginning of the month, the type of contributions made and the prescribed rate at which contributions are made.

Schedule 3 [4] provides for an annual adjustment to those payments, in order to take account of any discrepancies between the total amount paid by the authorised agent over the year and the total amount that is actually required to be remitted to the Chief Commissioner. (A discrepancy may occur, for example, because a contributor dies or becomes a pensioner.)

Schedule 3 [2] allows the maximum commission to be specified on any basis. (At present, commission is calculated by reference to weekly contributions.)

Schedule 3 [5] is a transitional provision.

Statute law revision (definition of “basic health benefits”)

Schedule 3 [1] makes an amendment for the purpose of updating the definition of “basic health benefits” in the Act. As a result of Commonwealth legislation, which came into effect on 1 July 1997, the expressions “basic private table” and “basic table” have been replaced with “applicable benefits arrangement”. Those expressions, which are used in the definition of “basic health benefits”, are updated accordingly.

The amendment will be taken to have commenced on 1 July 1997.

Schedule 4 Amendment of Pay-roll Tax Act 1971

Liability of directors of corporation to pay tax

Schedule 4 [6] introduces provisions that allow the Chief Commissioner of State Revenue to recover pay-roll tax debts of corporations from the directors, or former directors, of those corporations in certain circumstances.

The provisions apply if a corporation fails to pay an assessment amount in accordance with a notice of assessment issued by the Chief Commissioner. The Chief Commissioner may then serve a notice (called a compliance notice) on any person who:

- (a) is a director of the corporation, or
- (b) was a director of the corporation at the time when the corporation first became liable to pay the pay-roll tax included in the assessment amount or at any time afterwards (a *former director*).

The compliance notice advises the director or former director that if the failure to pay the assessment amount is not rectified within a time specified in the notice, the director will become liable to pay the assessment amount.

The failure by the corporation to pay the assessment amount is taken to be rectified if:

- (a) the assessment amount is paid, or
- (b) the Chief Commissioner makes a special arrangement with the corporation for the payment of the assessment amount, or
- (c) the Board of Review waives or defers payment of any of the assessment amount, or
- (d) an administrator of the corporation is appointed under Part 5.3A of the *Corporations Law*, or
- (e) the corporation begins to be wound up within the meaning of the *Corporations Law*.

If the failure to pay the assessment amount is not rectified within the period specified in the compliance notice, the director or directors on whom it is served become jointly and severally liable with the corporation to pay the assessment amount.

If the failure to pay the assessment amount is rectified because of a special arrangement or the deferral of payment of the assessment amount, and the corporation fails to pay the assessment amount in accordance with the arrangement or deferral, a further compliance notice may be issued by the Chief Commissioner.

A director or former director from whom the debt is recovered will have a right to be indemnified by the corporation and to recover a contribution from any other director or former director of the corporation who is liable to pay the assessment amount.

It will be a defence to the recovery of an assessment amount from a director or former director if the director or former director establishes that he or she:

- (a) took all reasonable steps to ensure that the corporation rectified the failure to pay the assessment amount, or
- (b) was unable, because of illness or for some other similar good reason, to take steps to ensure the corporation rectified that failure.

Schedule 4 [1] is a consequential amendment.

Schedule 4 [7] provides for the making of savings and transitional regulations.

Schedule 4 [8] makes it clear that the new provisions extend to pay-roll debts incurred by a corporation before the commencement of the provisions. However, the provisions will not allow the Chief Commissioner to recover a tax debt owed by a corporation from a former director of the corporation if the former director ceased to be a director of the corporation before the commencement of the provisions.

The provisions will commence on the date of assent.

Employment agents

Section 3C of the *Pay-roll Tax Act 1971* provides for the application of the Act to employment agency contracts. An employment agent is a person who procures the services of another person (a contract worker) for a client and receives remuneration from the client for the services provided by the contract worker to the client. An employment agent is deemed to be an employer under the Act.

The Act provides that an employment agent is not liable to pay-roll tax in relation to an employment agency contract if:

- (a) the contract worker is liable to pay pay-roll tax in respect of the wages paid for those services, or
- (b) the wages paid or payable under the contract would have been exempt from pay-roll tax had the contract worker been paid those wages by the client instead of by the employment agent, or
- (c) the client is not registered or required to be registered as an employer under the Act.

Schedule 4 [2]–[5] add a requirement that, in order to come within any of the exceptions referred to in paragraphs (a)–(c) above, a declaration, in a form approved by the Chief Commissioner, must be lodged with the employment agent by the contract worker or the client.

If a declaration is lodged and in fact the exception does not apply, or ceases to apply, the amendments provide that either the employment agent (in the case referred to in paragraph (a)) or the client (in the cases referred to in paragraph (b) and (c)) will be liable to pay pay-roll tax in relation to the wages paid under the employment agency contract (see **Schedule 4 [5]**).

The exception referred to in paragraph (c) is also changed to make it clear that pay-roll tax must be paid on the employment agency contract if the client would be required to be registered under the Act if the client had been the employer in relation to all employment agency contracts to which the client is a party (see **Schedule 4 [4]**).

Schedule 5 Amendment of Taxation Administration Act 1996

Schedule 5 [1] makes it clear that the procedure for objecting to decisions of the Chief Commissioner of State Revenue does not apply in respect of a refusal by the Chief Commissioner to refund any tax paid.

Schedule 5 [3] is a transitional provision and **Schedule 5 [2]** allows further savings and transitional provisions to be made by the regulations.



New South Wales

State Revenue Legislation Further Amendment Bill 1999

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Accommodation Levy Act 1997 No 32	2
4 Amendment of Duties Act 1997 No 123	2
5 Amendment of Health Insurance Levies Act 1982 No 159	2
6 Amendment of Pay-roll Tax Act 1971 No 22	2
7 Amendment of Taxation Administration Act 1996 No 97	2
Schedules	
1 Amendment of Accommodation Levy Act 1997	3
2 Amendment of Duties Act 1997	5
3 Amendment of Health Insurance Levies Act 1982	11
4 Amendment of Pay-roll Tax Act 1971	14
5 Amendment of Taxation Administration Act 1996	20



New South Wales

State Revenue Legislation Further Amendment Bill 1999

No. , 1999

A Bill for

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

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>State Revenue Legislation Further Amendment Act 1999</i> .	3 4
2 Commencement	5
(1) This Act commences or is taken to have commenced on 1 January 2000, except as provided by this section.	6 7
(2) The following provisions commence or are taken to have commenced on the dates indicated:	8 9
Schedule 2 [6] on 23 June 1999	10
Schedule 2 [10] on the date of assent	11
Schedule 2 [11] on 1 July 1998	12
Schedule 2 [12] on 1 July 1999	13
Schedule 3 [1] on 1 July 1997	14
Schedule 3 [2], [3], [4] and [5] on 1 February 2000	15
Schedule 4 [1], [6], [7] and [8] on the date of assent.	16
3 Amendment of Accommodation Levy Act 1997 No 32	17
The <i>Accommodation Levy Act 1997</i> is amended as set out in Schedule 1.	18 19
4 Amendment of Duties Act 1997 No 123	20
The <i>Duties Act 1997</i> is amended as set out in Schedule 2.	21
5 Amendment of Health Insurance Levies Act 1982 No 159	22
The <i>Health Insurance Levies Act 1982</i> is amended as set out in Schedule 3.	23 24
6 Amendment of Pay-roll Tax Act 1971 No 22	25
The <i>Pay-roll Tax Act 1971</i> is amended as set out in Schedule 4.	26
7 Amendment of Taxation Administration Act 1996 No 97	27
The <i>Taxation Administration Act 1996</i> is amended as set out in Schedule 5.	28 29

Schedule 1	Amendment of Accommodation Levy Act 1997	1
		2
	(Section 3)	3
[1] Part 1A		4
	Insert after Part 1:	5
Part 1A	Abolition of accommodation levy on 1 July 2000	6
		7
5A	No levy on accommodation provided on or after 1 July 2000	8
(1)	This Act does not apply in respect of residential accommodation provided for use or occupation on or after 1 July 2000.	9 10 11
(2)	Accordingly, no levy is charged by this Act for residential accommodation provided for use or occupation on or after that date.	12 13 14
(3)	This section does not affect any liability to pay a levy charged by this Act for residential accommodation provided for use or occupation before 1 July 2000.	15 16 17
(4)	For the purposes of this Act, accommodation provided for overnight use on 30 June 1999 is taken to have been provided before 1 July 2000.	18 19 20
5B	Final return	21
	Despite section 14:	22
(a)	June 2000 is a return period for the purposes of that section, and	23 24
(b)	the return date for the return period of June 2000 is 15 July 2000, and	25 26
(c)	a return is not required to be lodged with the Chief Commissioner for any period commencing on or after 1 July 2000.	27 28 29

5C Transitional 1

For the purposes of this Act, any amount paid or payable after 2
30 June 2000 for residential accommodation provided for use 3
or occupation before 1 July 2000 is taken to have been paid in 4
June 2000. Accordingly, any such amount is to be included in 5
the calculation of the levy for the period of June 2000. 6

[2] Section 20 7

Omit the section. Insert instead: 8

20 Act ceases to have effect on 1 September 2003 9

(1) This Act ceases to have effect on 1 September 2003. 10

(2) This section does not affect any liability that arises, before 11
1 September 2003: 12

(a) to pay an accommodation levy required to be paid 13
under this Act, or 14

(b) to lodge a return with the Chief Commissioner. 15

Schedule 2	Amendment of Duties Act 1997	1
	(Section 4)	2
[1]	Section 48A	3
	Insert after section 48:	4
	48A Nomineeing transactions—unlisted marketable securities	5
	Despite section 66, duty of \$10 is chargeable on a transfer of marketable securities, being marketable securities that are not quoted on the Australian Stock Exchange, if the transfer would otherwise be exempt from duty under section 66 (4) (a).	6 7 8 9
[2]	Section 49A	10
	Omit the section. Insert instead:	11
	49A Purchases “off the plan”	12
	(1) Liability for duty on an off the plan purchase agreement arises:	13
	(a) on completion of the agreement, or	14
	(b) on the assignment of the whole or any part of the purchaser’s interest under the agreement, or	15 16
	(c) on the expiration of 12 months after the date of the agreement,	17 18
	whichever first occurs.	19
	(2) This section applies despite section 12.	20
	(3) Nothing in this section prevents the Chief Commissioner from accepting payment of duty and stamping an off the plan purchase agreement at any time after the agreement has been executed.	21 22 23 24
	(4) In this section:	25
	<i>off the plan purchase agreement</i> means an agreement for the sale or transfer of dutiable property, being land on which a residence is to be erected or developed before completion of the sale or transfer.	26 27 28 29

[3] Section 56A	1
Insert after section 56:	2
56A Transfer of property subject to a statutory trust to a beneficial owner	3
	4
(1) This section applies if dutiable property that is vested in a person as trustee of a statutory trust as a consequence of the making of an order under section 66G of the <i>Conveyancing Act 1919</i> is transferred or agreed to be transferred by the trustee to one or more of the beneficial owners of the dutiable property.	5 6 7 8 9
(2) The dutiable value of the dutiable property that is the subject of the transfer or agreement is to be calculated by deducting from the unencumbered value of the dutiable property or the consideration for the transfer or agreement, whichever is the greater, the proportion of that amount that is the same as the proportion of the purchaser's beneficial interest in the dutiable property immediately before the transfer or agreement.	10 11 12 13 14 15 16
[4] Section 66 Exemptions—marketable securities	17
Omit section 66 (4) (a), (b) and (b1). Insert instead:	18
(a) a transfer of marketable securities between any of the following persons:	19
(i) the beneficial owner,	20
(ii) a trustee or nominee of the beneficial owner,	21
(iii) a custodian of a trustee or nominee of the beneficial owner,	22
(iv) a sub-custodian of a custodian of a trustee or nominee of the beneficial owner,	23 24 25 26
but only if:	27
(v) there is no change in the beneficial ownership of the marketable securities, and	28 29
(vi) if the transferee is a person referred to in subparagraph (ii)–(iv), the transferee is to hold the marketable securities solely for another person referred to in subparagraph (i)–(iii) and there is no contemplation of the marketable securities being held for any other person, and	30 31 32 33 34 35

- (vii) if the transferor is a person referred to in subparagraph (ii)–(iv), the marketable securities were held by the person solely for another person referred to in subparagraph (i)–(iii) and, since the time when the marketable securities were first transferred or issued to the transferor, no person has held the marketable securities other than solely for a person referred to in subparagraph (i)–(iii), or

Note. Duty of \$10 is chargeable if the marketable securities are not quoted on the Australian Stock Exchange (see section 48A).

[5] Section 66 (4) (c)

Omit the paragraph. Insert instead:

- (c) without limiting paragraph (a), a transfer of marketable securities to or from:
 - (i) SECH Nominees Pty Limited, or
 - (ii) CHESSE Depository Nominees Pty Limited, or
 - (iii) a nominee company that holds marketable securities solely for the purpose of facilitating marketable security transaction settlements by a SCH participant,

but only if the transfer is made solely for the purpose of facilitating a marketable security transaction settlement, and there is no change in the beneficial ownership of the marketable securities (except as a result of an on-market transaction settlement), or

[6] Section 87 Discount for full payment of remaining duty

Omit section 87 (1). Insert instead:

- (1) A person or persons to whom this Subdivision applies may choose at any time to pay out, at a discount of 50%, the total of all instalments of duty remaining at that time.

[7] Section 226 Payment of duty on mortgages associated with debenture issues

Insert “binds the corporation” after “30 days) and” in section 226 (3).

[8] Section 270 Exemptions for motor dealers	1
Omit section 270 (2)–(5). Insert instead:	2
(2) Demonstrator motor vehicles—new motor vehicles	3
The Chief Commissioner may approve arrangements for the issue to motor dealers of exemption authorities to be used in connection with the registration of demonstrator motor vehicles of the dealer.	4 5 6 7
(3) Duty under this Chapter is not chargeable on an application by a motor dealer to register a motor vehicle if the motor vehicle is a demonstrator motor vehicle and, at the time the application for registration is made, the dealer produces an exemption authority that has been completed by the dealer.	8 9 10 11 12
(4) A motor dealer must not produce an exemption authority in connection with the registration of a motor vehicle that is not a demonstrator motor vehicle. Maximum penalty: 100 penalty units.	13 14 15 16
(5) If a motor dealer produces an exemption authority in connection with the registration of a motor vehicle that is not a demonstrator motor vehicle, the Chief Commissioner may recover any duty that would have been chargeable on the application for registration, together with any interest and penalty tax payable.	17 18 19 20 21 22
[9] Section 270 (6)	23
Insert in alphabetical order:	24
<i>exemption authority</i> means an exemption authority issued in accordance with arrangements approved by the Chief Commissioner.	25 26 27
[10] Schedule 1 Savings, transitional and other provisions	28
Insert at the end of clause 1 (1):	29
<i>State Revenue Legislation Further Amendment Act 1999</i>	30

[11] Schedule 1	1
Omit “Chapter 5C” from subclause (2) (b) of clause 16 (Managed investment schemes—novation of contracts) of Part 3 (Provisions consequent on enactment of State Revenue Legislation Amendment Act 1999), as so numbered on the date of introduction into the Legislative Assembly of the Bill for this Act.	2 3 4 5 6
Insert instead “Part 11.2”.	7
[12] Schedule 1	8
Insert after clause 16 of Part 3 (Provisions consequent on enactment of State Revenue Legislation Amendment Act 1999), as so numbered on the date of introduction into the Legislative Assembly of the Bill for this Act, with appropriate clause numbering:	9 10 11 12
Managed investment schemes—transactions entered into by custodians	13 14
(1) This clause applies to a transaction entered into or an instrument executed by a custodian of a responsible entity, or by a custodian of a responsible entity and the responsible entity, to replace a transaction entered into or an instrument executed by a body holding the office of trustee or representative and management company who has retired from that office to enable an undertaking to become a managed investment scheme.	15 16 17 18 19 20 21 22
(2) This clause applies only to transactions that occur and instruments that are executed in relation to a managed investment scheme on or after 1 July 1999 and before:	23 24 25
(a) 1 July 2000, or	26
(b) the date on which the scheme became a registered scheme within the meaning of Division 11 of Part 11.2 of the <i>Corporations Law</i> ,	27 28 29
whichever first occurs.	30
(3) Despite the other provisions of this Act, a transaction or instrument to which this clause applies is chargeable with duty in accordance with this clause.	31 32 33

State Revenue Legislation Further Amendment Bill 1999

Schedule 2 Amendment of Duties Act 1997

(4)	The amount of duty chargeable in respect of the transaction or instrument is:	1
		2
(a)	the amount of duty that would be chargeable in respect of the transaction or instrument but for this clause, less the amount of duty paid (under this Act or the <i>Stamp Duties Act 1920</i>) in relation to the transaction or instrument that is being replaced, or	3
		4
		5
		6
		7
(b)	\$10,	8
	whichever is the greater.	9
[13]	Schedule 1	10
	Insert at the end of the Schedule, with appropriate Part and clause numbers:	11
Part	Provisions consequent on enactment of State Revenue Legislation Further Amendment Act 1999	12
		13
		14
	“Off the plan” purchases	15
(1)	Section 49A, as in force immediately before 1 January 2000, continues to apply in respect of any off the plan purchase agreement that was stamped “interim stamp only” under that section before that date.	16
		17
		18
		19
(2)	Section 49A, as substituted by the <i>State Revenue Legislation Further Amendment Act 1999</i> , extends to any off the plan purchase agreement executed before 1 January 2000 in respect of which no duty had been paid by that date.	20
		21
		22
		23
[14]	Dictionary	24
	Omit paragraph (b) from the definition of “instalment warrant”.	25

Schedule 3	Amendment of Health Insurance Levies Act 1982	1
		2
	(Section 5)	3
[1]	Section 4 Definitions	4
	Omit “the basic private table or basic table of the organisation” from the definition of <i>basic health benefits</i> in section 4 (1).	5
		6
	Insert instead “an applicable benefits arrangement (within the meaning of the <i>National Health Act 1953</i> of the Commonwealth) of the organisation”.	7
		8
[2]	Section 16D Commission for authorised agents	9
	Omit “is entitled to retain, as commission, such amount from each weekly contribution” from section 16D (1).	10
		11
	Insert instead “is entitled to a commission on contributions, being such amount”.	12
		13
[3]	Section 16F	14
	Omit the section. Insert instead:	15
	16F Remittance of contributions by authorised agents	16
	An authorised agent must, on or before the 15th day of each month:	17
		18
	(a) lodge a return with the Chief Commissioner, in a form approved by the Chief Commissioner, for that month, and	19
		20
		21
	(b) pay to the Chief Commissioner an amount calculated in accordance with the following formula:	22
		23
		24
	$A = (S + 2F) \times C \times D \times 1/7 - E$	25
		26
	where:	27
		28
	A is the amount in dollars to be paid to the Chief Commissioner,	29
		30

S is the number of contributors to single membership at the beginning of the month, 1
2
F is the number of contributors to family membership at the beginning of the month, 3
4
C is the prescribed rate in force during the month, 5
D is the number of days in the month, 6
E is the authorised agent's commission (determined in accordance with section 16D) on contributions for the month. 7
8
9

[4] Section 16G 10

Insert after section 16G: 11

16G Annual adjustment 12

- (1) If the amount paid to the Chief Commissioner by an authorised agent under section 16F for a year exceeds the actual amount payable by the authorised agent for that year, the authorised agent may apply for a refund of an amount equal to the difference and the Chief Commissioner is to refund that difference. 13
14
15
16
17
18
- (2) If the actual amount payable by an authorised agent for a year exceeds the amount paid to the Chief Commissioner by the authorised agent for the year under section 16F, the authorised agent is to pay the difference to the Chief Commissioner by the date on which the authorised agent is required to lodge a return for the first month of the next year. 19
20
21
22
23
24
- (3) In this section: 25
actual amount payable for a year means the total of all contributions to the State Ambulance Insurance Plan for the year collected by an authorised agent, less the total of all commission deducted from those contributions by the authorised agent in accordance with section 16D. 26
27
28
29
30
year means a period commencing on and including 1 February and ending on and including the following 31 January. 31
32

[5] Schedule 3 Transitional provisions	1
Insert after Part 4:	2
Part 5 Provision consequent on enactment of State Revenue Legislation Further Amendment Act 1999	3 4 5
6 Application of amendments	6
(1) The amendments made to Part 3A by the amending Act do not apply in respect of contributions to the State Ambulance Insurance Plan that are received by an authorised agent before 1 February 2000.	7 8 9 10
(2) Accordingly, such a contribution, the membership of the contributor and the commission on the contribution is not to be included in the calculation of the following:	11 12 13
(a) the amount payable to the Chief Commissioner under the section 16F, as substituted by the amending Act,	14 15
(b) any adjustment under section 16G.	16
(3) The provisions of Part 3A, as in force immediately before 1 February 2000, continue to apply in respect of any contribution to the State Ambulance Insurance Plan received by an authorised agent before 1 February 2000.	17 18 19 20
(4) In this clause:	21
<i>amending Act</i> means the <i>State Revenue Legislation Further Amendment Act 1999</i> .	22 23

Schedule 4 Amendment of Pay-roll Tax Act 1971	1
(Section 6)	2
[1] Section 3 Definitions	3
Insert in alphabetical order in section 3 (1):	4
<i>Board of Review</i> means the Board of Review constituted under section 33.	5 6
[2] Section 3C Employment agents	7
Insert “and a declaration to that effect has been given by the contract worker to the employment agent” after “those services” in section 3C (4) (a).	8 9
[3] Section 3C (4) (b)	10
Insert “and a declaration to that effect has been given by the client to the employment agent” after “employment agent”.	11 12
[4] Section 3C (4) (c)	13
Omit the paragraph. Insert instead:	14
(c) if the client of the employment agent:	15
(i) is not registered or required to be registered as an employer under this Act, and	16 17
(ii) would not be required to be registered as an employer under this Act if the client were the employer in respect of the wages paid or payable under all the employment agency contracts to which the client is a party,	18 19 20 21 22
and a declaration to that effect has been given by the client to the employment agent.	23 24
[5] Section 3C (5)–(8)	25
Omit section 3C (5). Insert instead:	26
(5) If a contract worker gives a declaration to an employment agent under subsection (4) (a), and that paragraph does not apply or at any time ceases to apply to the contract worker, the	27 28 29

employment agent is liable to pay pay-roll tax in respect of the wages paid or payable under the employment agency contract during any period in which the paragraph does not apply. 1
2
3

(6) If a client of an employment agent gives a declaration to the employment agent under subsection (4) (b), and that paragraph does not apply or at any time ceases to apply in respect of the wages paid or payable under the employment agency contract, the client, and not the employment agent, is liable to pay pay-roll tax in respect of the wages paid or payable under the employment agency contract during any period in which the paragraph does not apply. 4
5
6
7
8
9
10
11

(7) If a client of an employment agent gives a declaration to the employment agent under subsection (4) (c), and that paragraph does not apply or at any time ceases to apply to the client, the client, and not the employment agent, is liable to pay pay-roll tax in respect of the wages paid or payable under the employment agency contract during any period in which the paragraph does not apply. 12
13
14
15
16
17
18

(8) A declaration under subsection (4) is to be in a form approved by the Chief Commissioner. 19
20

[6] Part 5A, sections 31B–31F 21

Insert after Part 5: 22

Part 5A Recovery of tax from directors and former directors of corporations 23
24

31B Definitions 25

In this Part: 26

assessment amount means the amount of pay-roll tax that a corporation has been assessed as being liable to pay, as set out in a notice of assessment, including any interest or penalty tax specified in the notice of assessment as being payable by the corporation. 27
28
29
30
31

special arrangement for the payment of an assessment amount means an arrangement for the payment of tax made by the Chief Commissioner under section 47 of the *Taxation Administration Act 1996*. 1
2
3
4

31C Liability of directors and former directors of corporation for failure to pay tax 5
6

- (1) If a corporation fails to pay an assessment amount in accordance with a notice of assessment issued by the Chief Commissioner, the Chief Commissioner may serve a compliance notice on one or more of the following persons: 7
8
9
10
- (a) a person who is a director of the corporation, 11
 - (b) a person who was a director of the corporation at the time the corporation first became liable to pay the pay-roll tax, or any part of the pay-roll tax, that is included in the assessment amount or at any time afterwards (referred to in this Part as a *former director*). 12
13
14
15
16
- (2) A compliance notice is a notice that advises the director or former director on whom it is served that if the failure to pay the assessment amount is not rectified within the period specified in the notice, being a period of not less than 21 days, the director or former director will be liable to pay the assessment amount. 17
18
19
20
21
22
- (3) For the purposes of this Part, a failure to pay an assessment amount is rectified if: 23
24
- (a) the assessment amount is paid, or 25
 - (b) the Chief Commissioner makes a special arrangement with the corporation for the payment of the assessment amount, or 26
27
28
 - (c) the Board of Review waives or defers payment of some or all of the assessment amount, or 29
30
 - (d) an administrator of the corporation is appointed under Part 5.3A of the *Corporations Law*, or 31
32
 - (e) the corporation begins to be wound up within the meaning of the *Corporations Law*. 33
34

(4)	If the failure to pay the assessment amount is not rectified within the period specified in the compliance notice, the director or former director on whom the compliance notice was served is jointly and severally liable with the corporation to pay the assessment amount.	1 2 3 4 5
(5)	A person does not cease to be liable to pay an assessment amount because the person ceases to be a director of the corporation.	6 7 8
31D	Failure to comply with special arrangements	9
	If:	10
(a)	a failure by a corporation to pay an assessment amount is rectified because of a special arrangement for the payment of the assessment amount, or because payment of part or all of the assessment amount is deferred by the Board of Review, and	11 12 13 14 15
(b)	the corporation fails to pay the assessment amount in accordance with the terms of the special arrangement or deferral,	16 17 18
	the Chief Commissioner may serve a further compliance notice in respect of the assessment amount, or so much of the assessment amount as remains unpaid, and this Part applies accordingly.	19 20 21 22
31E	Right of indemnity and contribution	23
	If a director or former director of a corporation is liable to pay an assessment amount under this Part and an amount is paid by the director or former director in discharge of that liability, the director or former director is entitled:	24 25 26 27
(a)	to be indemnified for payment of that amount by the corporation, and	28 29
(b)	to recover a contribution from any other director or former director of the corporation who is liable to pay the assessment amount under this Part, as if the directors and former directors who are liable to pay the assessment amount had jointly guaranteed payment of the assessment amount.	30 31 32 33 34 35

31F	Defences	1
	In proceedings for the recovery of an assessment amount from a director or former director of a corporation under this Part, it is a defence to the recovery of that amount if the director or former director establishes that:	2
		3
		4
		5
	(a) the director or former director took all reasonable steps that were possible in the circumstances to ensure that the corporation rectified the failure to pay the assessment amount, or	6
		7
		8
		9
	(b) the director or former director was unable, because of illness or for some other similar good reason, to take steps to ensure that the corporation rectified the failure to pay the assessment amount.	10
		11
		12
		13
[7]	Schedule 6 Savings, transitional and other provisions	14
	Insert at the end of clause 1 (1):	15
	<i>State Revenue Legislation Further Amendment Act 1999</i>	16
[8]	Schedule 6, Part 5	17
	Insert after Part 4:	18
Part 5	Provisions consequent on enactment of State Revenue Legislation Further Amendment Act 1999	19
		20
		21
8	Liability of directors of corporation	22
	(1) Part 5A extends to an assessment amount that includes pay-roll tax that a corporation first became liable to pay before the commencement of that Part.	23
		24
		25
	(2) A compliance notice may be served in respect of a failure to pay such an assessment amount, whether the notice of assessment was issued by the Chief Commissioner before or after the commencement of Part 5A.	26
		27
		28
		29

-
- (3) However, Part 5A does not make a person who was a director of a corporation before the commencement of Part 5A but is not a director of the corporation at that commencement liable for the payment of an assessment amount owed by the corporation, unless the person again becomes a director of the corporation at any time after the commencement of Part 5A.

1
2
3
4
5
6

Schedule 5	Amendment of Taxation Administration Act 1996	1
		2
	(Section 7)	3
[1]	Section 86 Objection	4
	Insert after section 86 (1A):	5
	(1B) A reference in subsection (1) (b) to a decision does not include a refusal by the Chief Commissioner to refund tax paid by the taxpayer.	6 7 8
[2]	Schedule 1 Savings, transitional and other provisions	9
	Insert at the end of clause 1 (1):	10
	<i>State Revenue Legislation Further Amendment Act 1999</i>	11
[3]	Schedule 1, Part 4	12
	Insert after Part 3:	13
	Part 4 Provisions arising from enactment of State Revenue Legislation Further Amendment Act 1999	14 15 16
	30 Objections	17
	Section 86 (1B), as inserted by the <i>State Revenue Legislation Further Amendment Act 1999</i> , is taken to extend to any refusal by the Chief Commissioner to refund tax paid by a taxpayer that was made by the Chief Commissioner before the commencement of that subsection.	18 19 20 21 22