

STAMP DUTIES (FINANCIAL INSTITUTIONS DUTY) AMENDMENT BILL, 1982

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are to amend the Stamp Duties Act, 1920 ("the Act")—

- (a) to require the payment of stamp duty in respect of receipts of financial institutions and other persons, being certain receipts received on and after 1st December, 1982, at the rate of—
 - (i) except in the case of receipts referred to in subparagraph (ii), 0.03 per centum of the amount of the receipts; or
 - (ii) in the case of receipts comprising a single amount of not less than \$1,000,000, \$300 per receipt;
- (b) to require the payment of stamp duty on an amount determined by reference to certain short term liabilities in a month of operators in the short term money market at the rate of 0.005 per centum per month; and
- (c) to remove, on and from 1st January, 1983, the liability for payment of certain stamp duties in respect of—
 - (i) discount arrangements;
 - (ii) instalment purchase arrangements;
 - (iii) loan instruments; and
 - (iv) transfers and assignments of mortgages.

The Bill, by clause 5 and Schedule 1, inserts a new Division, Division 29, which contains Subdivisions 1–5, into Part III of the Act.

Subdivision 1 contains an interpretation provision for the purposes of the proposed Division, it specifies the receipts to which the proposed Division does not apply and it provides that the Crown is bound by the proposed Division.

Subdivision 2 contains provisions specifying the circumstances in which persons, some or all of whom engage in the provision of finance, may be grouped together for the purposes of the proposed Division.

Subdivision 3 contains provisions relating to the making out and submission of periodic returns to the Commissioner of Stamp Duties ("the Commissioner") by certain financial institutions and other persons, those financial institutions and other persons being referred to in the proposed Division as "designated persons", and the payment of duty in relation to the submission of those returns.

The Subdivision provides that designated persons having certain designated receipts during the period of 12 months ending 30th November, 1982, of not less than \$5,000,000 or designated receipts during the month ending 30th November, 1982, of not less than \$416,666 shall, before 1st January, 1983, apply to the Commissioner for registration. Other persons not satisfying those requirements may apply for registration. The Subdivision specifies the circumstances in which an applicant for registration may be registered and the circumstances in which the Commissioner may cancel a person's registration.

The Subdivision requires a registered person, and a person who is not registered but who is required to be registered, to make out, within 21 days of the end of each month, a monthly return as to his dutiable receipts, to lodge the return with the Commissioner and pay to the Commissioner, as stamp duty, the amount of stamp duty payable in respect of the dutiable receipts to which the return relates. A person who is a party to a transaction with a designated person who is unregistered is similarly required to make out and lodge a return with the Commissioner as to the amounts paid by him to the designated person and to pay stamp duty in respect of the payment of those amounts, except where the stamp duty is previously paid by the designated person.

Subdivision 4 contains provisions relating to the making out and submission of periodic returns to the Commissioner by certain operators in the short term money market, those operators being referred to in the proposed Division as "short term dealers", and the payment of duty in relation to the submission of those returns.

The Subdivision provides for the certification of persons by the Commissioner as short term dealers, the cancellation of that certification and the keeping of separate bank accounts by certain short term dealers in respect of their short term dealings.

The Subdivision requires a short term dealer to make out, within 21 days of the end of each month, a monthly return as to certain short term dealings during the month, to lodge the return with the Commissioner and pay to the Commissioner, as stamp duty, the amount of duty determined by reference to the short term dealings to which the return relates. The Subdivision also exempts a short term dealer from payment of certain stamp duty otherwise payable by him under Subdivision 3.

Subdivision 5 contains miscellaneous provisions relating to the exemption from liability to stamp duty of receipts deposited to the credit of certain accounts, the keeping of records and the making of regulations.

The Bill also amends the Act—

- (a) to remove the liability for payment of certain stamp duties (Schedule 2); and
- (b) to enable the making of regulations for the purposes of Division 29 proposed to be inserted into Part III of the Act and to provide, in relation to any such regulation—
 - (i) that it may take effect as from 1st December, 1982, or a later day; and

- (ii) that, (except in the case of a regulation published in the Gazette on or before 31st December, 1982) in so far as it takes effect from a date that is earlier than the date of its publication in the Gazette, it shall not operate so as to prejudice existing rights or impose liabilities,
(Schedule 1 (2)).

The Bill contains certain transitional provisions and other provisions of a minor, consequential or ancillary nature.

**STAMP DUTIES (FINANCIAL INSTITUTIONS DUTY)
AMENDMENT BILL, 1982**

No. , 1982.

A BILL FOR

An Act to amend the Stamp Duties Act, 1920, with respect to the imposition of duty on certain receipts and liabilities of financial institutions and other persons, to remove liability for payment of certain duties and for certain other purposes.

Stamp Duties (Financial Institutions Duty) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 Short title.

1. This Act may be cited as the "Stamp Duties (Financial Institutions Duty) Amendment Act, 1982".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

10 (2) Except as provided by subsection (1), this Act shall be deemed to have commenced on 1st December, 1982.

Principal Act.

3. The Stamp Duties Act, 1920, is referred to in this Act as the Principal Act.

15 Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS.

20 SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE REMOVAL OF LIABILITY FOR PAYMENT OF CERTAIN DUTIES.

SCHEDULE 3.—TRANSITIONAL AND OTHER PROVISIONS.

Stamp Duties (Financial Institutions Duty) Amendment.

Amendment of Act No. 47, 1920.

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Transitional and other provisions.

5 6. Schedule 3 has effect.

SCHEDULE 1.

(Sec. 5.)

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
IMPOSITION OF DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS.**

10 (1) Section 1—

Before the matter relating to Part IV, insert:—

DIVISION 29.—*Returns of financial institutions, etc.*—ss.
98–98W.

Subdivision 1.—Preliminary—ss. 98–98B.

15 *Subdivision 2.—Constitution of groups*—ss. 98C–98H.

Subdivision 3.—Duty in relation to receipts returns—ss.
98I–98M.

Subdivision 4.—Short term dealings—ss. 98N–98S.

Subdivision 5.—Miscellaneous—ss. 98T–98W.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

(2) Section 9 (2)–(4)—

5 Omit section 9 (2) and (3), insert instead:—

(2) Except as provided by subsection (3), section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

10 (3) Notwithstanding anything to the contrary in the Interpretation Act, 1897, or any other Act, a regulation made in respect of anything which by Division 29 of Part III is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying the provisions of that Division or any matter appearing
15 under the heading “Receipts Return” or “Short Term Dealers Return” in the Second Schedule to this Act into effect may take effect as from 1st December, 1982, or a later day.

(4) To the extent to which a provision of a regulation referred to in subsection (3) (not being a regulation published in the Gazette on or before 31st December, 1982) takes effect from a date that is
20 earlier than the date of its publication in the Gazette, the provision does not operate so as—

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that
25 person existing before the date of its publication therein; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

(3) Part III, Division 29—

5 After section 97B, insert:—

DIVISION 29.—*Returns of financial institutions, etc.**Subdivision 1.—Preliminary.***Interpretation: Pt. III, Div. 29.**

10 98. (1) For the purposes of this Division and of the matter
appearing under the heading “Receipts Return” or “Short Term
Dealers Return” in the Second Schedule to this Act, unless inconsistent
with the context or subject-matter—

15 “bank” means a bank within the meaning of the Banking Act
1959 of the Parliament of the Commonwealth as amended
and in force for the time being or a bank constituted by a
law of a State or of the Commonwealth, but does not
include the Reserve Bank of Australia;

20 “building society” means a society registered or incorporated as a
building society, permanent building society, co-operative
housing society or similar society under a law in force in a
State or a Territory relating to those societies, but does not
include an association registered under any such law;

25 “co-operative society” means a society registered under the
Co-operation Act, 1923, or under a law that corresponds
to that Act, being a law of another State or of a Territory,
but does not include a building society;

“credit contract” has the same meaning as in the Consumer
Credit Act, 1981;

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

5 “credit provider” has the same meaning as in the Consumer
Credit Act, 1981;

“credit union” means a society or other body of persons—

10 (a) that is registered or incorporated as a credit union
or credit society, under the law in force in a State
or a Territory relating to credit unions or credit
societies; or

(b) the principal business of which consists of borrow-
ing money from its members or intended members
and lending money so borrowed to its members and
which is registered or incorporated under the law
15 in force in a State or a Territory,

but does not include an association of credit unions, a
union of associations of credit unions or an amalgamated
association of credit unions or a building society;

20 “dealer” has the same meaning as in the Securities Industry
(New South Wales) Code;

“dealing”, in relation to securities, has the same meaning as in
the Securities Industry (New South Wales) Code;

“designated person” means—

25 (a) a financial institution; or

(b) a person prescribed for the purposes of this
definition;

“designated receipts” means—

(a) the receipts of a financial institution; or

30 (b) the receipts prescribed for the purposes of this
definition in relation to a person prescribed for the
purposes of the definition in this section of “desig-
nated person”;

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

“dutiable receipts” means—

- 5 (a) the designated receipts of a designated person who
 is—
- (i) registered under this Division; or
- (ii) required to apply to the Commissioner for
 registration under this Division; or
- 10 (b) the designated receipts to which the provisions of
 section 98K (1), other than paragraph (c) (i) of
 that subsection, apply;

“exempt account” means an account in respect of which a
certificate issued under section 98U is in force;

15 “financial institution” means—

- (a) a bank;
- (b) a dealer;
- (c) a trustee company;
- (d) a credit provider; or
- 20 (e) a management company under a deed approved
 under Division 6 of Part IV of the Companies
 (New South Wales) Code or under a corresponding
 law of another State or a Territory,

25 and includes any person whose sole or principal business is
 that of the provision of finance, but does not include a
 person who is prescribed not to be a financial institution
 for the purposes of this definition;

“group” means a group constituted for the purposes of this
Division;

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

“loan” has the meaning ascribed thereto in section 82A (1);

5 “month” has the meaning ascribed to “calendar month” in
section 74C (7);

“prescribed short term dealer” means a short term dealer who—

(a) except as provided by paragraph (b), is not a
registered person; or

10 (b) is a registered person in respect of whom the
Commissioner has imposed a condition as referred
to in section 98o (2);

“receipt” includes a payment, repayment, deposit or subscription
and the crediting of an account;

15 “receipts return” means a return made out as referred to in
section 98J or 98K;

“registered person” means a person who, pursuant to section
98I, is registered under this Division;

20 “securities” has the same meaning as in the Securities Industry
(New South Wales) Code;

“short term dealer” means a person whose certification as a
short term dealer pursuant to section 98o is in force;

“short term dealer’s account” means the account kept by a short
term dealer under section 98P;

25 “short term dealers return” means a return made out as referred
to in section 98R;

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

“short term dealing” means—

- 5 (a) the making or receiving of a deposit (other than a deposit to the credit of an account with a bank which is repayable on demand or to the credit of a current account, in either case, kept by the bank for another person); or
- 10 (b) a dealing in—
- (i) securities;
 - (ii) bills of exchange;
 - (iii) promissory notes;
 - (iv) certificates of deposit;
 - 15 (v) interest bearing deposits; or
 - (vi) any matter or thing prescribed for the purposes of this definition,

where—

- 20 (c) the amount of the deposit or the amount involved in the dealing is not less than \$100,000 or the dealing (not being a dealing in a security) is in a bill of exchange, promissory note, certificate of deposit or interest bearing deposit or any matter or thing prescribed for the purposes of this definition
- 25 having a nominal value on the day on which the dealing is entered into or a face value of not less than \$100,000;
- (d) the amount of the deposit or the amount involved in the dealing (including a dealing in a security) is deposited or invested—
- 30 (i) at call;
- (ii) for a term not exceeding 185 days;
 - (iii) for a term not exceeding 185 days and thereafter at call; or

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

5 (iv) in respect of a dealing referred to in para-
graph (b), in a security, bill of exchange,
promissory note, certificate of deposit or
interest bearing deposit or any matter or
thing prescribed for the purposes of this
10 definition having a term exceeding 185 days;
and

(e) the dealing is completed not later than 185 days
after the date of deposit or investment of the
amount;

15 “short term liability”, in relation to a short term dealer,
includes a deposit with or financial accommodation
received, whether by a loan or borrowing (including a
borrowing in respect of which a security, bill of exchange
or promissory note is issued) or otherwise by the short
20 term dealer of an amount of not less than \$100,000 (other
than, in the case of a short term dealer being a bank, a
deposit to the credit of an account with the bank which
is repayable on demand or to the credit of a current account,
in either case, kept by the bank for another person),
where—

25 (a) in the case of a deposit, the amount deposited is
deposited at call or for a term not exceeding 185
days or for a term not exceeding 185 days and
thereafter at call; or

30 (b) in the case of a borrowing, the amount borrowed,
irrespective of the nature of the borrowing, is
repayable at call or within a term not exceeding 185
days or within a term not exceeding 185 days and
thereafter at call,

35 and any other liability of a short term nature which may
be prescribed for the purposes of this definition, but does
not include a liability which is prescribed not to be a short
term liability for the purposes of this definition;

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

“Territory” means a Territory of the Commonwealth;

5 “trustee company” means—

- (a) the Public Trustee;
- (b) a trustee company within the meaning of the
Trustee Companies Act, 1964;
- 10 (c) a corporation that is constituted under the law of
another State or of a Territory and, in the opinion
of the Commissioner, corresponds in that State or
Territory to the Public Trustee or a trustee company
referred to in paragraph (b); or
- 15 (d) a corporation or class of persons prescribed as a
corporation or class of persons for the purposes
of this definition.

(2) In this Division, a reference to the provision of finance
includes a reference to—

- 20 (a) the borrowing of money or the obtaining of other financial
accommodation, including the issue of share capital by a
building society;
- (b) the dealing in—
 - (i) securities;
 - (ii) bills of exchange;
 - 25 (iii) promissory notes;
 - (iv) certificates of deposit;
 - (v) interest bearing deposits; or
 - (vi) any matter or thing prescribed for the purposes of
this subparagraph;
- 30 (c) the lending of money, with or without security;
- (d) the purchase, acquisition, discounting or factoring of debts
due to another person; and

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

- 5 (e) the provision of credit within the meaning of the Consumer Credit Act, 1981, pursuant to a credit contract or proposed credit contract by a credit provider.

10 (3) In this Division and in the matter appearing under the heading "Receipts Return" or "Short Term Dealers Return" in the Second Schedule to this Act, unless inconsistent with the context or subject-matter—

- (a) a reference to a receipt is a reference to a receipt of money;

- 15 (b) a reference (except in Subdivision 2) to a person, a designated person, a registered person or a short term dealer includes a reference to a person, a designated person, a registered person or a short term dealer who is resident or domiciled in New South Wales, who carries on business wholly or partly in New South Wales, who enters into a transaction as a consequence of which he receives a receipt, a designated receipt or a dutiable receipt or who is prescribed for the purposes of this paragraph; and

- 20 (c) a reference to a receipt, a designated receipt or a dutiable receipt includes a reference to—

- 25 (i) a receipt, a designated receipt or a dutiable receipt received within New South Wales; or

- 30 (ii) a receipt, a designated receipt or a dutiable receipt received outside New South Wales, but only where the receipt, the designated receipt or the dutiable receipt received relates to, and to the extent only that it relates to, goods supplied or to be supplied in New South Wales, services rendered or to be rendered in New South Wales, property situated in New South Wales, any matter or thing done or to be done in New South Wales or such contracts, arrangements or transactions as may be prescribed for the purposes of this subparagraph.
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Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

5 (4) In this Division, a reference to a person who, or an act,
matter or thing which, may be prescribed for the purposes of this
Division, a provision of this Division or the matter appearing under
the heading "Receipts Return" or "Short Term Dealers Return" in
the Second Schedule to this Act includes a reference to a person of
10 a class or description of persons who, or an act, matter or thing of a
class or description of acts, matters or things which, may be so
prescribed.

15 (5) In this Division, a reference to a person, a designated
person, a registered person or a short term dealer who is resident or
domiciled in New South Wales includes, in the case of a corporation,
a reference to a corporation which is registered or required to be
registered under any of the provisions of the Companies (New South
Wales) Code, whether incorporated in New South Wales or not.

20 (6) Where money is, after it is received (otherwise than by
the crediting of an account) by a designated person, credited by the
designated person to an account in the books or other records of the
designated person, the money shall, for the purposes of this Division,
be deemed not to have been received by the designated person before
it is first so credited.

25 (7) Where money received is or includes an amount of money
in a currency other than Australian currency, the value of the money
shall, for the purposes of this Division, be expressed at the equivalent
rate of exchange current at the time at which the money was received.

30 (8) The exchange of money for money shall not, for the
purposes of this Division, constitute a receipt, except to the extent,
if any, to which a party to the exchange receives an amount which is
greater than the amount paid or given by him.

35 (9) Subsection (8) does not apply to or in respect of an
exchange involving a bill of exchange (other than the issuing of
a bank cheque, the issuing of travellers cheques or the cashing of a
cheque) or a promissory note.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

5 (10) Where a person receives a consideration, other than
money (whether or not in consideration of his having given credit
to any person), whereby any debt or obligation or part of a debt
or obligation owing to that person is settled, satisfied, discharged or
met, the person shall, when he receives the consideration, be deemed,
10 for the purposes of this Division, to have received an amount of
money equal to the amount of the debt or obligation or part of the
debt or obligation that has been settled, satisfied, discharged or met.

15 (11) Unless the contrary intention appears, a reference in
this Division to a preceding month or to a preceding number of months
is a reference to the month of the year or the number of months of
the year preceding the month in which the question arises.

(12) For the purposes of this Division, a reference to the
crediting of an account includes a reference to—

- 20 (a) the depositing of money to the credit of the account by
the person in whose name the account is kept or by another
person;
- (b) without limiting the generality of paragraph (a), the
transfer of money to the credit of the account from another
account of the person in whose name the account is kept
or from an account of another person; and
- 25 (c) the transfer between ledgers or divisions in an account of
a person where different terms and conditions apply in
respect of those ledgers or divisions.

30 (13) For the purposes of this Division, the crediting of an
account of a person, including the crediting of an account effected by
means of an entry or record made by use of a machine or device, shall
be deemed to constitute a receipt of money by the person whose
account is so credited.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

5 (14) A receipt to the credit of a bank account which is an
exempt account shall, unless the receipt has been credited to an
account or accounts in the books or other records of the person in
whose name the bank account is kept, be deemed to be a receipt of
that person otherwise than to the credit of the bank account.

Receipts to which this Division does not apply.

10 98A. This Division does not apply to or in respect of a receipt of a
designated person, being—

- 15 (a) a receipt to the extent that it is for the sale of goods by the
designated person, otherwise than under a credit contract, a
hiring arrangement within the meaning of section 74D or a
lease within the meaning of section 76;
- (b) a receipt of money constituted solely by reason of the
reversing of an entry previously made in an account kept
by the designated person in error or by reason of the
dishonour of a cheque;
- 20 (c) a receipt comprising the crediting of an exempt account;
- (d) in relation to a dealer, a receipt by the dealer (not being a
fee, brokerage, commission or other charge made by the
dealer) from—
- 25 (i) the initial issue by the Commonwealth of securities
or Treasury Notes;
- (ii) the initial issue, negotiating or giving, as agent for a
principal, of securities, bills of exchange, promissory
notes or certificates of deposit, not being a receipt
received in such circumstances as may be
30 prescribed; or
- (iii) a dealing by the dealer in a marketable security,
being a dealing in respect of which stamp duty has
been paid or is payable under section 96 or 97AB;

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

- 5 (e) in relation to a trustee company, the initial receipt by the trustee company of the assets of a deceased person;
- (f) a receipt by or to the credit of an account kept on behalf of the Association of New South Wales Credit Unions Limited, the Association of Central Credit Unions Limited or the Co-operative Federation of N.S.W. Limited;
- 10 (g) a receipt prescribed for the purposes of this section; or
- (h) a receipt prescribed for the purposes of this section in relation to a designated person prescribed for the purposes of this section.

Crown bound by Division, etc.

15 98B. This Division, the provisions of this Act which relate to the interpretation of words and expressions used in this Division and the provisions of this Act which relate to or are necessary or convenient for the implementation and enforcement of this Division bind the Crown not only in right of New South Wales but also, so far as the

20 legislative power of Parliament permits, the Crown in all its other capacities.

*Subdivision 2.—Constitution of groups.***Membership of a group of persons engaged in provision of finance.**

25 98c. (1) For the purposes of this Division, a person is a member of a group of persons engaged in the business of the provision of finance if—

- (a) that person is one of the persons who constitute a group for the purposes of this Division; and

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

5 (b) there is not in force a determination under subsection (2)
or (3) by the Commissioner that that person is not a
member of the group.

10 (2) The Commissioner may determine that a person who
would, but for the determination, be a member of a group for the
purposes of this Division is not a member of the group of persons
engaged in the business of the provision of finance if he is satisfied
that that person has continuously engaged in the business of the
provision of finance independently of the group and will continue to
engage in the business of the provision of finance independently of
the group and is not subject to control by any other member of the
15 group.

(3) The Commissioner may determine that a person who
would, but for the determination, be a member of a group for the
purposes of this Division is not a member of any group for the
purposes of this Division if he is satisfied that the person is not
engaging in and has no intention of engaging in the business of
the provision of finance.
20

(4) A determination made under subsection (2) or (3)
shall come into force on and from the date specified in the notice
given by the Commissioner under subsection (5) (being a date that
is the date of the notice or before the date of the notice) and shall
continue in force until it is revoked by the Commissioner and notice
of the revocation has been served on the person in respect of whom
the determination was made.
25

(5) Notice of a determination under subsection (2) shall be
given by the Commissioner to the person in respect of whom the
determination was made and to all the members of the group con-
cerned who he considers are engaged in the business of the provision
of finance.
30

(6) The Commissioner may at any time revoke a deter-
mination made under subsection (2) or (3).
35

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—continued.**

5 (7) Notice of the revocation of a determination made under subsection (2) or (3) shall be given by the Commissioner to the person in respect of whom the determination was made and to all the members of the group in respect of which the determination was made who he considers are engaged in the business of the provision of finance.

10 **Grouping of corporations.**

15 98D. For the purposes of this Division, corporations constitute a group if they are related to each other (within the meaning of the Companies (New South Wales) Code) or associated with each other (within the meaning of that Code) and any of them is engaged in the business of the provision of finance.

Grouping where employees used in another business.

98E. For the purposes of this Division, if—

- 20 (a) an employee of an employer, or 2 or more employees of an employer, performs or perform duties solely or mainly for or in connection with a business carried on by that employer and another person or other persons or by another person or other persons; or
- 25 (b) an employer has, in respect of the employment of, or the performance of duties by, one or more of his employees, an agreement, arrangement or undertaking (whether formal or informal, whether expressed or implied and whether or not the agreement, arrangement or undertaking includes provisions in respect of the supply of goods or services or goods and services) with another person or other persons relating to a business carried on by that other person or
- 30 those other persons, whether alone or together with another person or other persons,

that employer and—

- (c) each such other person; or

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

- (d) both or all of those other persons,
5 constitute a group.

Grouping of commonly controlled businesses.

98F. (1) In this section, "voting share" has the meaning ascribed thereto in section 5 (1) of the Companies (New South Wales) Code.

- 10 (2) A reference in this section to 2 businesses does not include a reference to 2 businesses both of which are owned by the same person, not being a trustee, or by the trustee or trustees of a trust.

- 15 (3) For the purposes of this Division, where the same person has, or the same persons have together, a controlling interest, as referred to in subsection (4), in each of 2 businesses, the persons who carry on those businesses constitute a group.

- 20 (4) For the purposes of subsection (3), the same person has, or the same persons have together, a controlling interest in each of 2 businesses if that person has, or those persons have together, a controlling interest under any of the following paragraphs in one of the businesses and a controlling interest under the same or another of the following paragraphs in the other business:—

- 25 (a) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation, if the directors, or a majority of the directors, or one or more of the directors, being a director or directors who is or are entitled to exercise a majority in voting power at meetings of the directors of the corporation, are or is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions
30 or wishes of that person or of those persons together;

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

- 5 (b) a person has, or persons have together, a controlling interest
in a business, being a business carried on by a corporation
that has a share capital, if that person or those persons
together could (whether directly or indirectly) exercise,
control the exercise of or substantially influence the exercise
10 of, half or more than half of the voting power attached to
voting shares issued by the corporation;
- (c) a person has, or persons have together, a controlling interest
in a business, being a business carried on by a partnership,
if that person or those persons—
- 15 (i) owns, or own together (whether beneficially or not)
half or more than half of the capital of the partner-
ship; or
- (ii) is, or are together, entitled (whether beneficially or
not) to half or more than half of the profits of the
partnership;
- 20 (d) a person has, or persons have together, a controlling interest
in a business, being a business carried on under a trust,
if that person (whether or not as the trustee of another
trust) is the beneficiary, or those persons (whether
or not as the trustees of another trust) are together the
25 beneficiaries, in respect of half or more than half of the
value of the interests in the trust first mentioned in this
paragraph;
- (e) a person has a controlling interest in a business if, whether
or not he is a trustee of a trust, he is the sole owner of
the business, or persons, being 2 or more trustees of a
trust, have a controlling interest in a business if they are
30 the owners of the business.

35 (5) Where a corporation has a controlling interest under
subsection (4) in a business, it shall be deemed to have a controlling
interest in any other business in which another corporation that is
related to it (within the meaning of the Companies (New South
Wales) Code) has a controlling interest.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

(6) Where—

- 5 (a) a person has, or persons have together, a controlling interest
under subsection (4) in a business; and
- (b) the person or persons who carry on that business has or
have such a controlling interest in another business,
- 10 the person or persons referred to in paragraph (a) shall be deemed
to have a controlling interest in the other business referred to in
paragraph (b).

(7) Where—

- (a) a person is a beneficiary under a trust; or
- (b) 2 or more persons together are beneficiaries under a trust,
- 15 in respect of half or more than half of the value of the interests in
that trust and the trustee or trustees of that trust has or have under
subsection (4) a controlling interest in a business, that beneficiary
or those beneficiaries shall, for the purpose of subsection (4), be
deemed to have a controlling interest in that business.

20 **Smaller groups subsumed into larger groups.**

- 98G. (1) Notwithstanding any other provision of this Division
(except subsection (2)), where a person is, whether or not by virtue
of this subsection, a member of 2 or more groups (each of which is
in subsection (2) referred to as a smaller group), all of the members
- 25 of those groups constitute, for the purposes of this Division, one group.

(2) Except for the purpose of determining whether a group
is constituted under subsection (1), a group which, but for this
subsection, would be a smaller group ceases to be a group if its
members are members of a group constituted under subsection (1).

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—continued.****Beneficiaries under discretionary trusts.**

5 98H. A person who, as the result of the exercise of a power or
discretion by the trustee of a discretionary trust or by any other person
or by that trustee and any other person, may benefit under that trust
shall be deemed, for the purposes of this Division, to be a beneficiary
10 in respect of half or more than half of the value of the interests in
that trust.

*Subdivision 3.—Duty in relation to receipts returns.***Registration.**

98I. (1) A designated person (not being a member of a group)
who, and each designated person who is a member of a group which—

15 (a) during the year ending 30th November, 1982, had receipts
of not less than \$5,000,000 which, if this Division had been
in force at the time those receipts were received, would
have been designated receipts; or

20 (b) during the month of November, 1982, had receipts of not
less than \$416,666 which, if this Division had been in force
at the time those receipts were received, would have been
designated receipts,

shall, before 1st January, 1983, apply to the Commissioner for
registration under this Division.

25 (2) A designated person (who is not a registered person or
a member of a group) and each designated person (who is not a
registered person) who is a member of a group, being a person who
or group which—

30 (a) in the preceding period of 12 months had receipts of not less
than \$5,000,000 (or, where some other amount is pre-
scribed, the prescribed amount); or

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

- 5 (b) in the preceding month had receipts of not less than
\$416,666 (or, where some other amount is prescribed,
the prescribed amount),

which are (or, in so far as this Division was not in force at the time
those receipts were received, would, if this Division had been so in
force, have been) designated receipts, shall, within 15 days after
10 the end of that month, apply to the Commissioner for registration
under this Division.

(3) A person, not being a person to whom subsection (1) or
(2) applies, may, at any time, apply to the Commissioner for
registration under this Division.

15 (4) The Commissioner—

- (a) shall, upon receipt of an application under subsection (1)
or (2), register the applicant; and
(b) may, upon receipt of an application under subsection (3),
register the applicant.

20 (5) The Commissioner, at his discretion, or upon an applica-
tion being made to him by a registered person who is registered
pursuant to subsection (4) (a), may cancel the registration under
this Division of the person—

(a) if—

- 25 (i) in the preceding month, the person (not being a
member of a group) or the group of which the
person is a member had designated receipts of less
than \$416,666 (or, where some other amount is
prescribed, the prescribed amount); or
30 (ii) in the preceding period of 12 months, the person
(not being a member of a group) or the group of
which the person is a member had designated

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—continued.**

5 receipts of less than \$5,000,000 (or, where some
other amount is prescribed, the prescribed amount);
and

- 10 (b) if the Commissioner is satisfied, from a consideration of
such matters as he thinks relevant, that the receipts of the
designated person, at any time during the succeeding period
of 12 months, are likely to be such that the person will not
be required to re-apply to the Commissioner for registration
under this Division during that period.

15 (6) The Commissioner, at his discretion, may, at any time,
cancel the registration of a registered person who is registered
pursuant to subsection (4) (b).

(7) A person who fails to comply with this section is guilty
of an offence and liable to a fine not exceeding \$5,000.

Return to be made out in respect of dutiable receipts.

20 98J. (1) A registered person and a designated person who, purs-
uant to section 98I, is required to apply to the Commissioner for
registration under this Division shall, within 21 days after the end
of—

(a) except as provided by paragraph (b), each month; or

25 (b) where, in relation to a registered person, the Commissioner
approves a period longer than a month, each such longer
period,

make out a return.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

(2) For the purposes of subsection (1), a return—

- 5 (a) shall be in a form approved by the Commissioner; and
- (b) shall, in addition to such other matters as may be required to be specified in the form, specify—
- 10 (i) the total amount of dutiable receipts, not being dutiable receipts referred to in subparagraph (ii); and
- (ii) the number of dutiable receipts, the amount of which was a single amount of not less than \$1,000,000 (or, where some other amount is prescribed, the prescribed amount),
- 15 received during the month or the longer period, as the case may be, to which the return relates, by the person required to make out the return.

(3) A person who is required under subsection (1) to make out a return shall, within 21 days after the end of the month or the longer period, as the case may be, to which the return relates—

20

- (a) lodge the return with the Commissioner; and
- (b) pay to the Commissioner, as stamp duty, the amount of stamp duty payable in respect of the dutiable receipts to which the return relates.

25 (4) A registered person or a designated person who, pursuant to section 98I, is required to apply to the Commissioner for registration under this Division and who fails to comply with this section is guilty of an offence and liable to a fine not exceeding \$5,000 together with twice the amount of duty of which Her Majesty has

30 been deprived by any such failure.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.***Transactions with unregistered persons.**

5 98K. (1) Where—

(a) a person is a party to any transaction (whether within or outside New South Wales) with a designated person who—

(i) is resident or domiciled within or outside New South Wales; or

10 (ii) carries on business wholly or partly within or outside New South Wales,

and who is not registered under this Division;

(b) the designated person, pursuant to the transaction, receives, in any month, a designated receipt from the firstmentioned person; and

15

(c) the designated receipt—

(i) is a dutiable receipt; or

(ii) would, if the designated person were subject to this Division, be a dutiable receipt,

20 the firstmentioned person shall, within 42 days after the end of the month in which the designated receipt is received by the designated person, make out a return.

(2) For the purposes of subsection (1), a return—

(a) shall be in a form approved by the Commissioner;

25 (b) shall, in addition to such other matters as may be required to be specified in the form, specify—

(i) the total amount of dutiable receipts, not being dutiable receipts referred to in subparagraph (ii); and

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

- 5 (ii) the number of dutiable receipts, the amount of
which was a single amount of not less than
\$1,000,000 (or, where some other amount is
prescribed, the prescribed amount),
received during the month to which the return relates, by
the designated person from the person required to make
10 out the return;
- 15 (c) shall be duly stamped with duty (which, in so far as the
amount of the duty does not exceed \$10, may be denoted by
an adhesive stamp) as duty on a receipts return (and for
that purpose, notwithstanding section 26, be deemed to be
first executed at the time the return is made out); and
- (d) shall be retained by the person required, under subsection
(1), to make out the return for a period of 12 months after
the return is made out.
- 20 (3) This section does not apply to or in respect of a person
who is an approved person for the purposes of section 98L.
- (4) A person who fails to comply with this section is guilty
of an offence and liable to a fine not exceeding \$1,000 together with
twice the amount of duty of which Her Majesty has been deprived by
any such failure.
- 25 (5) It is a defence to a prosecution under this section if the
defendant proves that he used all due diligence to determine, but was
unable to determine, from information which he could reasonably
be expected to acquire whether—
- 30 (a) the designated person who received the designated receipt
was not registered under this Division;
- (b) the designated receipt was a dutiable receipt; or
- (c) the designated receipt would, if the designated person were
subject to this Division, have been a dutiable receipt.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

5 (6) Notwithstanding section 131A, for the purposes of this Division, the Commissioner may, from time to time, publish in the Gazette a list of registered persons and may forward a copy of a list so published to a person who is an approved person for the purposes of section 98L or any other person.

10 **Payment by person, other than designated person, of duty on receipts other than by stamping.**

98L. (1) A person liable to the payment of duty under section 98K may apply to the Commissioner in a form approved by the Commissioner for approval to pay duty in respect of dutiable receipts in accordance with the provisions of this section.

15 (2) The Commissioner may approve or refuse to approve an application under subsection (1).

(3) Where the Commissioner approves an application under subsection (1), he shall specify in his approval the date upon which the approval comes into force.

20 (4) A person whose application under subsection (1) has been approved by the Commissioner is, while the approval is in force, an approved person for the purposes of this section.

25 (5) Except as provided by this section, an approved person is not liable to pay duty, as duty on a receipts return, in respect of any dutiable receipt received from him by a designated person.

(6) An approved person, within 42 days after the end of—

(a) except as provided by paragraph (b), each month; or

(b) where, in relation to the approved person, the Commissioner approves a period longer than a month, each such longer period,

30

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

shall—

- 5 (c) lodge with the Commissioner a return in a form approved
by the Commissioner specifying, in addition to such other
matters as may be required to be specified in the form—
- (i) the total amount of dutiable receipts, not being
dutiable receipts referred to in subparagraph (ii);
10 and
- (ii) the number of dutiable receipts, the amount of
which was a single amount of not less than
\$1,000,000 (or, where some other amount is pre-
scribed, the prescribed amount),
- 15 received, during the month or the longer period, as the case
may be, to which the return relates, by the designated
person from the approved person; and
- (d) pay to the Commissioner, as stamp duty, the amount of
stamp duty that, but for subsection (5), would have been
20 payable in respect of the dutiable receipts to which the
return relates.

(7) A person who fails to comply with this section is guilty
of an offence and liable to a fine not exceeding \$5,000 together with
twice the amount of duty of which Her Majesty has been deprived by
any such failure.

25

(8) It is a defence to a prosecution under this section if the
defendant proves that he used all due diligence to determine, but was
unable to determine, from information which he could reasonably
be expected to acquire whether—

- 30 (a) the designated person who received the designated receipt
was not registered under this Division;
- (b) the designated receipt was a dutiable receipt; or
- (c) the designated receipt would, if the designated person were
subject to this Division, have been a dutiable receipt.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

5 (9) The Commissioner may, by an instrument in writing,
cancel any approval granted under this section—

(a) on application by the person to whom the approval was
granted; or

(b) for any reason he considers sufficient,

10 and shall, in any such instrument, specify the date on and from which
the approval ceases to be in force.

(10) An approval cancelled as referred to in subsection (9)
shall cease to be in force on and from the date specified in the
instrument by which the approval is cancelled.

Circumstances in which ss. 98K and 98L do not apply.

15 98M. Nothing in section 98K or 98L requires a person, in relation
to a designated receipt, to—

(a) make out a receipts return;

(b) duly stamp the return with duty as duty on a receipts
return;

20 (c) lodge a return with the Commissioner; or

(d) pay to the Commissioner any amount as stamp duty,

where stamp duty or any amount as stamp duty is paid to the Com-
missioner, before the expiration of the period limited for payment of
that duty under those sections, by the designated person who receives
25 the designated receipt.

*Subdivision 4.—Short term dealings.***Application for certification as short term dealer.**

98N. A person may apply to the Commissioner for certification as
a short term dealer.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—continued.****Certification as short term dealer.**

5 98o. (1) On receipt of an application under section 98N from a person, the Commissioner may certify the person as a short term dealer if he is satisfied that the person complies with—

- 10 (a) where no requirements are prescribed as referred to in paragraph (b), such requirements as may be determined from time to time by the Commissioner; or
- (b) such requirements as may be prescribed.

(2) The Commissioner may, in certifying a registered person as a short term dealer, impose a condition that the registered person comply with section 98P.

15 **Short term dealer's account.**

 98P. Where a prescribed short term dealer pays amounts received by him in respect of his short term dealings (being amounts in respect of which stamp duty is not payable pursuant to section 98s) into an account with a bank which is a registered person, he shall

20 not pay any other amounts received by him into that account.

Cancellation of certification as short term dealer.

 98Q. The Commissioner may, at any time, cancel the certification of a person certified as a short term dealer, if—

- 25 (a) the person fails, at any relevant time, to satisfy the requirements referred to in section 98o (1) or breaches, at any time, a condition imposed under section 98o (2);
- (b) the person contravenes this Act; or
- (c) in the opinion of the Commissioner, any circumstance arises which has the effect of removing the liability of the
- 30 short term dealer to pay duty in respect of a short term dealers return.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—continued.****Return to be made out in respect of short term liabilities.**

5 98R. (1) A short term dealer shall, within 21 days after the end
of—

(a) except as provided by paragraph (b), each month; or

(b) where, in relation to a short term dealer, the Commissioner
10 approves a period longer than a month, each such longer
period,

make out a return.

(2) For the purposes of subsection (1), a return—

(a) shall be in a form approved by the Commissioner; and

15 (b) shall, in addition to such other matters as may be required
to be specified in the form, specify—

(i) in the case of a short term dealer who is not a
prescribed short term dealer and who is not a
member of a group—the amount comprising one-
third of the sum of the short term liabilities in
20 respect of his Australian based operations at the
close of each day during the month or the longer
period, as the case may be, to which the return
relates divided by the number of days in that month,
or that longer period, as the case may be;

25 (ii) in the case of a short term dealer who is not a
prescribed short term dealer and who is a member
of a group—the amount comprising one-third of
the sum of the short term liabilities of the group in
respect of their Australian based operations at the
close of each day during the month or the longer
30 period, as the case may be, to which the return
relates divided by the number of days in that month,
or that longer period, as the case may be; and

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

- 5 (iii) in the case of a prescribed short term dealer—the
amount comprising the sum of the credit balances
in his short term dealer's account at the close of
each day during the month or the longer period,
as the case may be, to which the return relates
divided by the number of days in that month or that
10 longer period, as the case may be.

(3) A short term dealer who is required under subsection
(1) to make out a return shall, within 21 days after the end of the
month or the longer period, as the case may be, to which the return
relates—

- 15 (a) lodge the return with the Commissioner; and
(b) pay to the Commissioner, as stamp duty, the amount of
stamp duty payable in respect of—
- 20 (i) in the case of a short term dealer who is not a
prescribed short term dealer and who is not a
member of a group—the amount comprising one-
third of the sum of the short term liabilities in
respect of his Australian based operations at the
close of each day during the month or the longer
period, as the case may be, to which the return
relates divided by the number of days in that month,
25 or that longer period, as the case may be;
- 30 (ii) in the case of a short term dealer who is not a
prescribed short term dealer and who is a member
of a group—the amount comprising one-third of
the sum of the short term liabilities of the group
in respect of their Australian based operations at
the close of each day during the month or the longer
period, as the case may be, to which the return
relates divided by the number of days in that month,
35 or that longer period, as the case may be; and

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—continued.**

- (iii) in the case of a prescribed short term dealer—the amount comprising the sum of the credit balances in his short term dealer's account at the close of each day during the month or the longer period, as the case may be, to which the return relates divided by the number of days in that month or that longer period, as the case may be.

(4) A short term dealer who fails to comply with this section is guilty of an offence and liable to a fine not exceeding \$5,000 together with twice the amount of duty of which Her Majesty has been deprived by any such failure.

Exemption from payment of certain duty.

98s. Nothing in Subdivision 3 requires a short term dealer to specify in any receipts return required to be made out by him, as a dutiable receipt, or to pay stamp duty in respect of a receipt received by him, being—

- (a) the proceeds derived from a short term dealing;
- (b) a receipt creating a short term liability (not being, where the short term dealer is a bank, a deposit to the credit of an account with the bank which is repayable on demand or to the credit of a current account, in either case, kept by the bank for another person);
- (c) the repayment or redemption of an amount deposited or invested in a short term dealing; or
- (d) an amount prescribed for the purposes of this section, but not being a receipt comprising a fee, brokerage, commission or other charge made by the short term dealer or interest received otherwise than as an integral part of the repayment of principal.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.**Subdivision 5.—Miscellaneous.*5 **Applications for exempt accounts.**

98T. A person may apply to the Commissioner for approval of an account as an exempt account and shall, in his application, give full particulars of the receipts which are or are proposed to be deposited to the credit of the account.

10 **Exempt accounts.**

98U. (1) On receipt of an application under section 98T, the Commissioner, if he is satisfied that the account is—

- 15 (a) an account with a bank which is a registered person of a registered person other than a bank, being an account in which the registered person deposits only his designated receipts, not including such receipts as may be prescribed for the purposes of this paragraph;
- (b) an account of a short term dealer kept in respect of his short term dealings in accordance with section 98P;
- 20 (c) an account with a bank which is a registered person of a Department of the Government of the Commonwealth or of a State or Territory, an authority of the Commonwealth or of a State or Territory or a local government council (other than such a Department, authority or council the
- 25 sole or principal function of which is to carry on an activity in the nature of a business, whether or not for profit), not being an account kept in relation to a transaction or transactions entered into by or on behalf of the Department, authority or council in connection with the carrying on of
- 30 an activity in the nature of a business, whether or not for profit;

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

5 (d) a clearing or settlement account kept with a bank which is a registered person by 2 or more persons, or by another person on behalf of 2 or more persons, being—

(i) building societies;

(ii) co-operative societies;

(iii) credit unions;

10 (iv) dealers within the meaning of section 97A (1);

(v) futures brokers;

(vi) wool buyers or sellers; or

(vii) persons prescribed for the purposes of this subparagraph;

15 (e) subject to subsection (7), a clearing or settlement account kept, otherwise than with a bank, by the trustee or manager of assets the subject of a deed approved under Division 6 of Part IV of the Companies (New South Wales) Code or or under a corresponding law of another State or a
20 Territory;

(f) an account kept with a bank which is a registered person, being the trust account of a dealer;

(g) an account kept with a bank which is a registered person, being a foreign exchange clearing account or foreign
25 exchange settlement account; or

(h) an account prescribed for the purposes of this paragraph,
may issue to the applicant a certificate of approval of the account as an exempt account and specify, in the certificate, the receipts, or the receipts of a class or description of receipts, which may be
30 deposited to the credit of the account.

(2) The Commissioner shall, in a certificate issued under subsection (1), specify the date on and from which the account to which the certificate relates shall be an exempt account, being the date of the certificate or a date which is before or after the date of
35 the certificate.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

5 (3) Where a certificate in force under subsection (1) is issued in respect of an account kept with a bank, the bank shall, on the production to it of the certificate, designate the account as an exempt account.

10 (4) A person shall not direct the payment of any amount to the credit of an exempt account unless the amount comprises a receipt, or a receipt of a class or description of receipts, specified in the certificate issued in respect of the account.

(5) Where the Commissioner—

- 15 (a) is satisfied that an amount has been paid to the credit of an exempt account in contravention of subsection (4); or
(b) cancels the registration of a registered person or the certification of a short term dealer who keeps an exempt account or on whose behalf an exempt account is kept,

20 the Commissioner shall cancel the certificate issued in respect of the account and send a copy of a notice of cancellation of the certificate to the person to whom the certificate was issued and, where the account was kept with a bank, to the bank.

25 (6) Where a copy of a notice of cancellation of a certificate is, under subsection (5), sent to a bank, the bank shall, on receipt of the copy of the notice, cancel the designation, as an exempt account, of the account to which the notice relates.

30 (7) Where the Commissioner has issued a certificate of approval of an account referred to in subsection (1) (e) kept by a trustee as so referred to as an exempt account, he shall not issue such a certificate in respect of such an account kept by a manager as so referred to, and where the Commissioner has issued such a certificate in respect of such an account kept by the trustee, he shall not issue such a certificate in respect of such an account kept by the manager.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—continued.****Keeping of records.**

5 98v. (1) In this section, "books" includes any register or other record of information and any accounts or accounting records (within the meaning of the Companies (New South Wales) Code) however compiled, recorded or stored and also includes any other document.

10 (2) A designated person and a short term dealer shall keep or cause to be kept in New South Wales sufficient books and records to enable him to calculate accurately the particulars which are to be set out in returns required to be submitted to the Commissioner under this Division and those books and records, as well as all working papers used in making those calculations, shall be kept available for
15 inspection for a period of not less than 3 years after the period to which each such return relates or for such lesser period as the Commissioner may determine in any particular case.

20 (3) A designated person or a short term dealer who fails to comply with this section is guilty of an offence and liable to a fine not exceeding \$5,000.

Regulations—passing on of duty, etc.

98w. The regulations may—

- 25 (a) authorise, control or prohibit the making of charges or the implementation of practices or procedures by a designated person which require or have the effect of requiring—
- (i) a person from whom the designated person receives a designated receipt, whether or not that receipt is a dutiable receipt; or

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

- 5 (ii) a person otherwise involved in the provision of
finance by a designated person,
to pay to the designated person any amount equivalent to
or by way of payment of or towards any amount of duty
paid or payable by the designated person in relation to
designated receipts;
- 10 (b) make provision for or with respect to the reduction,
adjustment or refund of any stamp duty paid or payable
under this Division; and
- 15 (c) authorise the making out of a receipts return on behalf
of a group and provide for the circumstances in which and
the person by whom such a return may be lodged with the
Commissioner.

(4) Section 127B (1)—

After “return” where secondly occurring, insert “or within the period
within which he is required to lodge the return”.

20 (5) Section 127C (1)—

After “return” where secondly occurring, insert “or within the period
within which he is required to lodge the return”.

(6) Section 145 (3)—

- 25 Omit “subsections (2) and (3) of section 9 of this Act”, insert
instead “section 9 (1A) and (2)”.

*Stamp Duties (Financial Institutions Duty) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

(7)(a) Second Schedule—

- 5 Before the matter appearing under the heading “REPLICA—”,
insert:—

RECEIPTS RETURN— Upon the dutiable receipts required to be specified in a receipts return—		
10 (a) Upon the total amount of dutiable receipts, not being dutiable receipts referred to in paragraph (b)	An amount equal to 0.03 per centum of the total amount of those dutiable receipts.	The person who is re- quired to make out the receipts return.
15 (b) Upon a dutiable receipt where the amount received is a single amount of not less than \$1,000,000 (or, where some other amount is prescribed, the prescribed amount)	300.00	
20		

(b) Second Schedule—

After the matter appearing under the heading “TRANSFER OF
SHARES—”, insert:—

SHORT TERM DEALERS RETURN— Upon—		
25 (a) in the case of a short term dealer who is not a prescribed short term dealer and who is not a member of a group—the amount comprising one- third of the sum of the short term liabilities in respect of his Australian based operations at the close of each day during the month or the longer period, as the case may be, to which the return relates divided by the number of days in that month, or that longer period, as the case may be	An amount equal to 0.005 per centum per month or longer period, as the case may be, of such amount.	The short term dealer
30		
35		

*Stamp Duties (Financial Institutions Duty) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

SHORT TERM DEALERS RETURN— <i>continued</i>		
5	(b) in the case of a short term dealer who is not a prescribed short term dealer and who is a member of a group—the amount comprising one-third of the sum of the short term liabilities of the group in respect of their Australian based operations at the close of each day during the month or the longer period, as the case may be, to which the return relates divided by the number of days in that month, or that longer period, as the case may be	An amount equal to 0.005 per centum per month or longer period, as the case may be, of such amount.
10		
15	(c) in the case of a prescribed short term dealer—the amount comprising the sum of the credit balances in his short term dealer's account at the close of each day during the month or the longer period, as the case may be, to which the return relates divided by the number of days in that month or that longer period, as the case may be	The short term dealer.
20		
25		

SCHEDULE 2.

(Sec. 5.)

30 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE REMOVAL OF
LIABILITY FOR PAYMENT OF CERTAIN DUTIES.

(1) (a) Section 1—

From the matter relating to Division 13 of Part III, omit "74c",
insert instead "74CAA".

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE REMOVAL OF
LIABILITY FOR PAYMENT OF CERTAIN DUTIES—*continued.*

(b) Section 1—

- 5 From the matter relating to Division 17 of Part III, omit “75E”,
insert instead “75F”.

(c) Section 1—

From the matter relating to Division 20 of Part III, omit “82D”,
insert instead “82E”.

10 (d) Section 1—

From the matter relating to Division 27 of Part III, omit “97B”,
insert instead “97AD”.

(e) Section 1—

After the matter relating to Division 27 of Part III, insert:—

- 15 **DIVISION 28.—*Transfer, etc., of certain mortgages and
debentures—ss. 97AE, 97B.***

(2) Section 74CAA—

After section 74C, insert:—

- 20 **Charging of duty on and application of Division to instruments, etc.,
made on or after 1.1.1983.**

74CAA. (1) Notwithstanding any other provision of this Act, duty
shall not be chargeable in respect of—

- (a) an instrument made out on or after 1st January, 1983, in
respect of a discount arrangement; or

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE REMOVAL OF
LIABILITY FOR PAYMENT OF CERTAIN DUTIES—*continued.*

(b) a discount arrangement made on or after 1st January, 1983.

5 (2) Without derogating from subsection (1), this Division
does not apply to or in respect of an instrument or discount arrange-
ment referred to in that subsection.

(3) Section 75F—

After section 75E, insert:—

10 **Charging of duty on and application of Division to instruments, etc.,
made on or after 1.1.1983.**

75F. (1) Notwithstanding any other provision of this Act, duty
shall not be chargeable in respect of—

15 (a) an instrument constituting or evidencing the terms and
conditions of a credit purchase agreement or a hire purchase
agreement, being an instrument made on or after 1st
January, 1983; or

20 (b) a credit purchase agreement, a hire purchase agreement or
a sale or an exercise of an option following the sale as the
case may be to which a credit arrangement relates, being
an agreement or sale made or an option exercised on or
after 1st January, 1983.

25 (2) Without derogating from subsection (1), this Division
does not apply to or in respect of an instrument, agreement, sale or
exercise of an option referred to in that subsection.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE REMOVAL OF
LIABILITY FOR PAYMENT OF CERTAIN DUTIES—*continued.*

(4) Section 82E—

5 After section 82D, insert:—

**Charging of duty on and application of Division to loan instruments,
etc., made on or after 1.1.1983.**

82E. (1) Notwithstanding any other provision of this Act, duty
shall not be chargeable in respect of—

10 (a) a loan instrument made out on or after 1st January, 1983,
in respect of a loan; or

(b) a loan made on or after 1st January, 1983, in respect of
which no loan instrument has been made out before that
date.

15 (2) Without derogating from subsection (1), this Division
does not apply to or in respect of an instrument or loan referred to
in that subsection.

(3) Where an approved person for the purposes of section
82D has not, before 1st January, 1983, received from or on behalf
20 of a person to whom the approved person has, before that day, made
a short term loan any payment of money for or towards the payment
of stamp duty in respect of the short term loan, being stamp duty
which would, but for this section, be payable on or after that day, no
stamp duty shall be payable by the approved person or any other
25 person in respect of that loan on or after that day.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 2—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE REMOVAL OF
LIABILITY FOR PAYMENT OF CERTAIN DUTIES—continued.****(5) Part III, Division 28—**

5 After section 97AD, insert:—

DIVISION 28.—*Transfer, etc., of certain mortgages and debentures.*

Charging of duty on transfer, etc., of certain mortgages.

10 97AE. Notwithstanding any other provision of this Act, duty shall not be chargeable in respect of a transfer or assignment of any mortgage, being a transfer or assignment made on or after 1st January, 1983.

(6) Section 97B—

After “mortgage”, insert “, being an assignment or transfer made before 1st January, 1983,”.

15 **(7) Section 51 (3)—**

After section 51 (2), insert:—

(3) Notwithstanding any other provision of this Act, duty shall not be chargeable in respect of a bill of exchange (not being a cheque) or promissory note issued on or after 1st January, 1983.

20

SCHEDULE 3.**(Sec. 6.)****TRANSITIONAL AND OTHER PROVISIONS.****Interpretation: Sch. 3.**

25 1. Except in so far as the context or subject-matter otherwise indicates or requires, expressions used in this Schedule have the same meanings as in the Principal Act, as amended by this Act, or Division 29 of Part III of the Principal Act, as so amended.

Initial payments of stamp duty on certain returns.

2. (1) Notwithstanding any provision of the Principal Act, as amended by this Act, the Commissioner may, in respect of—

30 (a) except as provided by paragraph (b), the period from 1st December, 1982, to 31st March, 1983; or

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 3—*continued.*

TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(b) where the Commissioner, generally or in any particular case or class of cases, approves a longer period not extending beyond 30th November, 1983, such longer period as is so approved,

make such arrangements as he thinks fit with a designated person or short term dealer for the payment, otherwise than in accordance with the provisions of the Principal Act, as so amended, of duty on a receipts return or short term dealers return.

(2) The arrangements made under subclause (1) may include arrangements relating to the basis or means of the calculation of the amount of duty to be paid on a receipts return or short term dealers return.

(3) A person who makes a payment in accordance with a basis or means of calculation referred to in subclause (2) shall be deemed to have made the payment in accordance with the provisions of the Principal Act, as amended by this Act.

(4) An arrangement made under subclause (1) with a designated person or short term dealer shall be such arrangement as will result, in respect of the period for which the arrangement is made, in the receipt of an amount of duty which, so far as is practicable, is not less than the amount of duty the designated person or short term dealer would be liable to pay if the arrangement had not been made.

20 Making out of first return, etc.

3. (1) Nothing in section 98J or 98R of the Principal Act, as amended by this Act, requires a registered person, a designated person who, pursuant to section 98I of the Principal Act, as so amended, is required to apply to the Commissioner for registration under Division 29 of Part III of the Principal Act, as so amended, or a short term dealer—

(a) to make out a receipts return or a short term dealers return;

(b) to duly stamp a receipts return or a short term dealers return with duty as duty on a receipts return or a short term dealers return;

(c) to lodge a receipts return or a short term dealers return with the Commissioner; or

(d) to pay to the Commissioner any amount as stamp duty,

as the case may require, before 25th January, 1983.

*Stamp Duties (Financial Institutions Duty) Amendment.*SCHEDULE 3—*continued.*TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(2) Nothing in section 98K of the Principal Act, as amended by this Act, requires a person who is a party to any transaction involving the provision of financial
5 accommodation by a designated person—

(a) to make out a receipts return; or

(b) to duly stamp a receipts return with duty as duty on a receipts return,
before 8th February, 1983.

(3) Nothing in section 98L of the Principal Act, as amended by this Act, requires
10 a person who is an approved person for the purposes of that section—

(a) to lodge a return with the Commissioner; or

(b) to pay to the Commissioner any amount as stamp duty,
before 8th February, 1983.

Effect of certain contracts, etc.

15 4. Nothing contained in any law or in any contract or agreement or any other instrument (including an instrument constituting a trust) made before 1st December, 1982, between a designated person or a short term dealer and any other person, prevents the designated person or short term dealer, for the purpose of enabling the designated
20 person or short term dealer to pay duty as duty on a receipts return in respect of dutiable receipts received by him pursuant to the contract, agreement or instrument or to pay duty as duty on a short term dealers return in respect of short term liabilities acquired or discharged by him pursuant to the contract, agreement or instrument—

(a) from having recourse to, without being liable to make a refund of, any money the subject of the contract, agreement or instrument; or

25 (b) from charging to or recovering from any person an amount equivalent to the amount of duty payable—

(i) as duty on a receipts return in respect of dutiable receipts received by the designated person pursuant to the contract, agreement or instrument; or

30 (ii) as duty on a short term dealers return in respect of short term liabilities acquired or discharged by the short term dealer pursuant to the contract, agreement or instrument,

or both, and, to such extent as may be necessary, the contract, agreement or instrument shall be deemed to empower the designated person or short term dealer to do either
35 or both of the things referred to in paragraphs (a) and (b).

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 3—*continued.*TRANSITIONAL AND OTHER PROVISIONS—*continued.***Transitional arrangements—exempt accounts.**

5 (1) A person to whom the Commissioner, under section 98U of the Principal Act, as amended by this Act, may issue a certificate of approval in respect of an account as an exempt account, may, at any time before 25th January, 1983, in respect of an account kept by him with a bank, give notice to the bank where that account is kept of his intention to apply to the Commissioner under section 98T of the Principal Act, as so amended, for the issue of a certificate of approval of the account
10 as an exempt account and may request the bank to designate the account as an interim exempt account.

(2) A person who gives notice to the bank under subclause (1) in respect of an account shall forthwith give a copy of the notice to the Commissioner and make an application under section 98T of the Principal Act, as amended by this Act, for
15 approval of the account as an exempt account.

(3) Where a notice is given to a bank under subclause (1), the bank shall designate the account as an interim exempt account.

(4) Where a certificate of approval of an account to which a notice given to a bank under subclause (1) relates is issued under section 98U of the Principal
20 Act, as amended by this Act, the account shall be an exempt account and shall be deemed to have become an exempt account on the date on which the notice was given to the bank.

(5) An interim exempt account shall, for the purposes of the Principal Act, as amended by this Act, be deemed to be an exempt account until—

- 25 (a) it becomes an exempt account as referred to in subclause (4); or
(b) the Commissioner, by notice of cancellation given to the bank at which the account is kept, directs that the designation of the account as an interim exempt account be cancelled,

whichever first occurs.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1982

(\$1.50)

**STAMP DUTIES (FINANCIAL INSTITUTIONS DUTY)
AMENDMENT ACT, 1982, No. 133**

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 133, 1982.

An Act to amend the Stamp Duties Act, 1920, with respect to the imposition of duty on certain receipts and liabilities of financial institutions and other persons, to remove liability for payment of certain duties and for certain other purposes. [Assented to, 15th December, 1982.]

Stamp Duties (Financial Institutions Duty) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Stamp Duties (Financial Institutions Duty) Amendment Act, 1982".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall be deemed to have commenced on 1st December, 1982.

Principal Act.

3. The Stamp Duties Act, 1920, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE REMOVAL OF LIABILITY FOR PAYMENT OF CERTAIN DUTIES.

SCHEDULE 3.—TRANSITIONAL AND OTHER PROVISIONS.

Stamp Duties (Financial Institutions Duty) Amendment.

Amendment of Act No. 47, 1920.

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Transitional and other provisions.

6. Schedule 3 has effect.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
IMPOSITION OF DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS.

(1) Section 1—

Before the matter relating to Part IV, insert:—

DIVISION 29.—*Returns of financial institutions, etc.*—ss.
98–98W.

Subdivision 1.—Preliminary—ss. 98–98B.

Subdivision 2.—Constitution of groups—ss. 98C–98H.

Subdivision 3.—Duty in relation to receipts returns—ss.
98I–98M.

Subdivision 4.—Short term dealings—ss. 98N–98S.

Subdivision 5.—Miscellaneous—ss. 98T–98W.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

(2) Section 9 (2)–(4)—

Omit section 9 (2) and (3), insert instead:—

(2) Except as provided by subsection (3), section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(3) Notwithstanding anything to the contrary in the Interpretation Act, 1897, or any other Act, a regulation made in respect of anything which by Division 29 of Part III is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying the provisions of that Division or any matter appearing under the heading “Receipts Return” or “Short Term Dealers Return” in the Second Schedule to this Act into effect may take effect as from 1st December, 1982, or a later day.

(4) To the extent to which a provision of a regulation referred to in subsection (3) (not being a regulation published in the Gazette on or before 31st December, 1982) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

(3) Part III, Division 29—

After section 97B, insert:—

DIVISION 29.—*Returns of financial institutions, etc.*

Subdivision 1.—Preliminary.

Interpretation: Pt. III, Div. 29.

98. (1) For the purposes of this Division and of the matter appearing under the heading “Receipts Return” or “Short Term Dealers Return” in the Second Schedule to this Act, unless inconsistent with the context or subject-matter—

“bank” means a bank within the meaning of the Banking Act 1959 of the Parliament of the Commonwealth as amended and in force for the time being or a bank constituted by a law of a State or of the Commonwealth, but does not include the Reserve Bank of Australia;

“building society” means a society registered or incorporated as a building society, permanent building society, co-operative housing society or similar society under a law in force in a State or a Territory relating to those societies, but does not include an association registered under any such law;

“co-operative society” means a society registered under the Co-operation Act, 1923, or under a law that corresponds to that Act, being a law of another State or of a Territory, but does not include a building society;

“credit contract” has the same meaning as in the Consumer Credit Act, 1981;

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

“credit provider” has the same meaning as in the Consumer Credit Act, 1981;

“credit union” means a society or other body of persons—

- (a) that is registered or incorporated as a credit union or credit society, under the law in force in a State or a Territory relating to credit unions or credit societies; or
- (b) the principal business of which consists of borrowing money from its members or intended members and lending money so borrowed to its members and which is registered or incorporated under the law in force in a State or a Territory,

but does not include an association of credit unions, a union of associations of credit unions or an amalgamated association of credit unions or a building society;

“dealer” has the same meaning as in the Securities Industry (New South Wales) Code;

“dealing”, in relation to securities, has the same meaning as in the Securities Industry (New South Wales) Code;

“designated person” means—

- (a) a financial institution; or
- (b) a person prescribed for the purposes of this definition;

“designated receipts” means—

- (a) the receipts of a financial institution; or
- (b) the receipts prescribed for the purposes of this definition in relation to a person prescribed for the purposes of the definition in this section of “designated person”;

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

“dutiable receipts” means—

- (a) the designated receipts of a designated person who is—
 - (i) registered under this Division; or
 - (ii) required to apply to the Commissioner for registration under this Division; or
- (b) the designated receipts to which the provisions of section 98K (1), other than paragraph (c) (i) of that subsection, apply;

“exempt account” means an account in respect of which a certificate issued under section 98U is in force;

“financial institution” means—

- (a) a bank;
- (b) a dealer;
- (c) a trustee company;
- (d) a credit provider; or
- (e) a management company under a deed approved under Division 6 of Part IV of the Companies (New South Wales) Code or under a corresponding law of another State or a Territory,

and includes any person whose sole or principal business is that of the provision of finance, but does not include a person who is prescribed not to be a financial institution for the purposes of this definition;

“group” means a group constituted for the purposes of this Division;

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

“loan” has the meaning ascribed thereto in section 82A (1);

“month” has the meaning ascribed to “calendar month” in section 74C (7);

“prescribed short term dealer” means a short term dealer who—

- (a) except as provided by paragraph (b), is not a registered person; or
- (b) is a registered person in respect of whom the Commissioner has imposed a condition as referred to in section 98o (2);

“receipt” includes a payment, repayment, deposit or subscription and the crediting of an account;

“receipts return” means a return made out as referred to in section 98J or 98K;

“registered person” means a person who, pursuant to section 98I, is registered under this Division;

“securities” has the same meaning as in the Securities Industry (New South Wales) Code;

“short term dealer” means a person whose certification as a short term dealer pursuant to section 98o is in force;

“short term dealer’s account” means the account kept by a short term dealer under section 98P;

“short term dealers return” means a return made out as referred to in section 98R;

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

“short term dealing” means—

- (a) the making or receiving of a deposit (other than a deposit to the credit of an account with a bank which is repayable on demand or to the credit of a current account, in either case, kept by the bank for another person); or
- (b) a dealing in—
 - (i) securities;
 - (ii) bills of exchange;
 - (iii) promissory notes;
 - (iv) certificates of deposit;
 - (v) interest bearing deposits; or
 - (vi) any matter or thing prescribed for the purposes of this definition,

where—

- (c) the amount of the deposit or the amount involved in the dealing is not less than \$100,000 or the dealing (not being a dealing in a security) is in a bill of exchange, promissory note, certificate of deposit or interest bearing deposit or any matter or thing prescribed for the purposes of this definition having a nominal value on the day on which the dealing is entered into or a face value of not less than \$100,000;
- (d) the amount of the deposit or the amount involved in the dealing (including a dealing in a security) is deposited or invested—
 - (i) at call;
 - (ii) for a term not exceeding 185 days;
 - (iii) for a term not exceeding 185 days and thereafter at call; or

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

- (iv) in respect of a dealing referred to in paragraph (b), in a security, bill of exchange, promissory note, certificate of deposit or interest bearing deposit or any matter or thing prescribed for the purposes of this definition having a term exceeding 185 days; and
- (e) the dealing is completed not later than 185 days after the date of deposit or investment of the amount;

“short term liability”, in relation to a short term dealer, includes a deposit with or financial accommodation received, whether by a loan or borrowing (including a borrowing in respect of which a security, bill of exchange or promissory note is issued) or otherwise by the short term dealer of an amount of not less than \$100,000 (other than, in the case of a short term dealer being a bank, a deposit to the credit of an account with the bank which is repayable on demand or to the credit of a current account, in either case, kept by the bank for another person), where—

- (a) in the case of a deposit, the amount deposited is deposited at call or for a term not exceeding 185 days or for a term not exceeding 185 days and thereafter at call; or
- (b) in the case of a borrowing, the amount borrowed, irrespective of the nature of the borrowing, is repayable at call or within a term not exceeding 185 days or within a term not exceeding 185 days and thereafter at call,

and any other liability of a short term nature which may be prescribed for the purposes of this definition, but does not include a liability which is prescribed not to be a short term liability for the purposes of this definition;

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

“Territory” means a Territory of the Commonwealth;

“trustee company” means—

- (a) the Public Trustee;
- (b) a trustee company within the meaning of the Trustee Companies Act, 1964;
- (c) a corporation that is constituted under the law of another State or of a Territory and, in the opinion of the Commissioner, corresponds in that State or Territory to the Public Trustee or a trustee company referred to in paragraph (b); or
- (d) a corporation or class of persons prescribed as a corporation or class of persons for the purposes of this definition.

(2) In this Division, a reference to the provision of finance includes a reference to—

- (a) the borrowing of money or the obtaining of other financial accommodation, including the issue of share capital by a building society;
- (b) the dealing in—
 - (i) securities;
 - (ii) bills of exchange;
 - (iii) promissory notes;
 - (iv) certificates of deposit;
 - (v) interest bearing deposits; or
 - (vi) any matter or thing prescribed for the purposes of this subparagraph;
- (c) the lending of money, with or without security;
- (d) the purchase, acquisition, discounting or factoring of debts due to another person; and

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

- (e) the provision of credit within the meaning of the Consumer Credit Act, 1981, pursuant to a credit contract or proposed credit contract by a credit provider.

(3) In this Division and in the matter appearing under the heading "Receipts Return" or "Short Term Dealers Return" in the Second Schedule to this Act, unless inconsistent with the context or subject-matter—

- (a) a reference to a receipt is a reference to a receipt of money;
- (b) a reference (except in Subdivision 2) to a person, a designated person, a registered person or a short term dealer includes a reference to a person, a designated person, a registered person or a short term dealer who is resident or domiciled in New South Wales, who carries on business wholly or partly in New South Wales, who enters into a transaction as a consequence of which he receives a receipt, a designated receipt or a dutiable receipt or who is prescribed for the purposes of this paragraph; and
- (c) a reference to a receipt, a designated receipt or a dutiable receipt includes a reference to—
 - (i) a receipt, a designated receipt or a dutiable receipt received within New South Wales; or
 - (ii) a receipt, a designated receipt or a dutiable receipt received outside New South Wales, but only where the receipt, the designated receipt or the dutiable receipt received relates to, and to the extent only that it relates to, goods supplied or to be supplied in New South Wales, services rendered or to be rendered in New South Wales, property situated in New South Wales, any matter or thing done or to be done in New South Wales or such contracts, arrangements or transactions as may be prescribed for the purposes of this subparagraph.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

(4) In this Division, a reference to a person who, or an act, matter or thing which, may be prescribed for the purposes of this Division, a provision of this Division or the matter appearing under the heading "Receipts Return" or "Short Term Dealers Return" in the Second Schedule to this Act includes a reference to a person of a class or description of persons who, or an act, matter or thing of a class or description of acts, matters or things which, may be so prescribed.

(5) In this Division, a reference to a person, a designated person, a registered person or a short term dealer who is resident or domiciled in New South Wales includes, in the case of a corporation, a reference to a corporation which is registered or required to be registered under any of the provisions of the Companies (New South Wales) Code, whether incorporated in New South Wales or not.

(6) Where money is, after it is received (otherwise than by the crediting of an account) by a designated person, credited by the designated person to an account in the books or other records of the designated person, the money shall, for the purposes of this Division be deemed not to have been received by the designated person before it is first so credited.

(7) Where money received is or includes an amount of money in a currency other than Australian currency, the value of the money shall, for the purposes of this Division, be expressed at the equivalent rate of exchange current at the time at which the money was received.

(8) The exchange of money for money shall not, for the purposes of this Division, constitute a receipt, except to the extent, if any, to which a party to the exchange receives an amount which is greater than the amount paid or given by him.

(9) Subsection (8) does not apply to or in respect of an exchange involving a bill of exchange (other than the issuing of a bank cheque, the issuing of travellers cheques or the cashing of a cheque) or a promissory note.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.***AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.***

(10) Where a person receives a consideration, other than money (whether or not in consideration of his having given credit to any person), whereby any debt or obligation or part of a debt or obligation owing to that person is settled, satisfied, discharged or met, the person shall, when he receives the consideration, be deemed, for the purposes of this Division, to have received an amount of money equal to the amount of the debt or obligation or part of the debt or obligation that has been settled, satisfied, discharged or met.

(11) Unless the contrary intention appears, a reference in this Division to a preceding month or to a preceding number of months is a reference to the month of the year or the number of months of the year preceding the month in which the question arises.

(12) For the purposes of this Division, a reference to the crediting of an account includes a reference to—

- (a) the depositing of money to the credit of the account by the person in whose name the account is kept or by another person;
- (b) without limiting the generality of paragraph (a), the transfer of money to the credit of the account from another account of the person in whose name the account is kept or from an account of another person; and
- (c) the transfer between ledgers or divisions in an account of a person where different terms and conditions apply in respect of those ledgers or divisions.

(13) For the purposes of this Division, the crediting of an account of a person, including the crediting of an account effected by means of an entry or record made by use of a machine or device, shall be deemed to constitute a receipt of money by the person whose account is so credited.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—continued.**

(14) A receipt to the credit of a bank account which is an exempt account shall, unless the receipt has been credited to an account or accounts in the books or other records of the person in whose name the bank account is kept, be deemed to be a receipt of that person otherwise than to the credit of the bank account.

Receipts to which this Division does not apply.

98A. This Division does not apply to or in respect of a receipt of a designated person, being—

- (a) a receipt to the extent that it is for the sale of goods by the designated person, otherwise than under a credit contract, a hiring arrangement within the meaning of section 74D or a lease within the meaning of section 76;
- (b) a receipt of money constituted solely by reason of the reversing of an entry previously made in an account kept by the designated person in error or by reason of the dishonour of a cheque;
- (c) a receipt comprising the crediting of an exempt account;
- (d) in relation to a dealer, a receipt by the dealer (not being a fee, brokerage, commission or other charge made by the dealer) from—
 - (i) the initial issue by the Commonwealth of securities or Treasury Notes;
 - (ii) the initial issue, negotiating or giving, as agent for a principal, of securities, bills of exchange, promissory notes or certificates of deposit, not being a receipt received in such circumstances as may be prescribed; or
 - (iii) a dealing by the dealer in a marketable security, being a dealing in respect of which stamp duty has been paid or is payable under section 96 or 97AB;

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

- (e) in relation to a trustee company, the initial receipt by the trustee company of the assets of a deceased person;
- (f) a receipt by or to the credit of an account kept on behalf of the Association of New South Wales Credit Unions Limited, the Association of Central Credit Unions Limited or the Co-operative Federation of N.S.W. Limited;
- (g) a receipt prescribed for the purposes of this section; or
- (h) a receipt prescribed for the purposes of this section in relation to a designated person prescribed for the purposes of this section.

Crown bound by Division, etc.

98B. This Division, the provisions of this Act which relate to the interpretation of words and expressions used in this Division and the provisions of this Act which relate to or are necessary or convenient for the implementation and enforcement of this Division bind the Crown not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

*Subdivision 2.—Constitution of groups.***Membership of a group of persons engaged in provision of finance.**

98c. (1) For the purposes of this Division, a person is a member of a group of persons engaged in the business of the provision of finance if—

- (a) that person is one of the persons who constitute a group for the purposes of this Division; and

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

- (b) there is not in force a determination under subsection (2) or (3) by the Commissioner that that person is not a member of the group.

(2) The Commissioner may determine that a person who would, but for the determination, be a member of a group for the purposes of this Division is not a member of the group of persons engaged in the business of the provision of finance if he is satisfied that that person has continuously engaged in the business of the provision of finance independently of the group and will continue to engage in the business of the provision of finance independently of the group and is not subject to control by any other member of the group.

(3) The Commissioner may determine that a person who would, but for the determination, be a member of a group for the purposes of this Division is not a member of any group for the purposes of this Division if he is satisfied that the person is not engaging in and has no intention of engaging in the business of the provision of finance.

(4) A determination made under subsection (2) or (3) shall come into force on and from the date specified in the notice given by the Commissioner under subsection (5) (being a date that is the date of the notice or before the date of the notice) and shall continue in force until it is revoked by the Commissioner and notice of the revocation has been served on the person in respect of whom the determination was made.

(5) Notice of a determination under subsection (2) shall be given by the Commissioner to the person in respect of whom the determination was made and to all the members of the group concerned who he considers are engaged in the business of the provision of finance.

(6) The Commissioner may at any time revoke a determination made under subsection (2) or (3).

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

(7) Notice of the revocation of a determination made under subsection (2) or (3) shall be given by the Commissioner to the person in respect of whom the determination was made and to all the members of the group in respect of which the determination was made who he considers are engaged in the business of the provision of finance.

Grouping of corporations.

98D. For the purposes of this Division, corporations constitute a group if they are related to each other (within the meaning of the Companies (New South Wales) Code) or associated with each other (within the meaning of that Code) and any of them is engaged in the business of the provision of finance.

Grouping where employees used in another business.

98E. For the purposes of this Division, if—

- (a) an employee of an employer, or 2 or more employees of an employer, performs or perform duties solely or mainly for or in connection with a business carried on by that employer and another person or other persons or by another person or other persons; or
- (b) an employer has, in respect of the employment of, or the performance of duties by, one or more of his employees, an agreement, arrangement or undertaking (whether formal or informal, whether expressed or implied and whether or not the agreement, arrangement or undertaking includes provisions in respect of the supply of goods or services or goods and services) with another person or other persons relating to a business carried on by that other person or those other persons, whether alone or together with another person or other persons,

that employer and—

- (c) each such other person; or

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.***AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.***

(d) both or all of those other persons,
constitute a group.

Grouping of commonly controlled businesses.

98F. (1) In this section, "voting share" has the meaning ascribed thereto in section 5 (1) of the Companies (New South Wales) Code.

(2) A reference in this section to 2 businesses does not include a reference to 2 businesses both of which are owned by the same person, not being a trustee, or by the trustee or trustees of a trust.

(3) For the purposes of this Division, where the same person has, or the same persons have together, a controlling interest, as referred to in subsection (4), in each of 2 businesses, the persons who carry on those businesses constitute a group.

(4) For the purposes of subsection (3), the same person has, or the same persons have together, a controlling interest in each of 2 businesses if that person has, or those persons have together, a controlling interest under any of the following paragraphs in one of the businesses and a controlling interest under the same or another of the following paragraphs in the other business:—

- (a) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation, if the directors, or a majority of the directors, or one or more of the directors, being a director or directors who is or are entitled to exercise a majority in voting power at meetings of the directors of the corporation, are or is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions, or wishes of that person or of those persons together;

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

- (b) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation that has a share capital, if that person or those persons together could (whether directly or indirectly) exercise, control the exercise of or substantially influence the exercise of, half or more than half of the voting power attached to voting shares issued by the corporation;
- (c) a person has, or persons have together, a controlling interest in a business, being a business carried on by a partnership, if that person or those persons—
 - (i) owns, or own together (whether beneficially or not) half or more than half of the capital of the partnership; or
 - (ii) is, or are together, entitled (whether beneficially or not) to half or more than half of the profits of the partnership;
- (d) a person has, or persons have together, a controlling interest in a business, being a business carried on under a trust, if that person (whether or not as the trustee of another trust) is the beneficiary, or those persons (whether or not as the trustees of another trust) are together the beneficiaries, in respect of half or more than half of the value of the interests in the trust first mentioned in this paragraph;
- (e) a person has a controlling interest in a business if, whether or not he is a trustee of a trust, he is the sole owner of the business, or persons, being 2 or more trustees of a trust, have a controlling interest in a business if they are the owners of the business.

(5) Where a corporation has a controlling interest under subsection (4) in a business, it shall be deemed to have a controlling interest in any other business in which another corporation that is related to it (within the meaning of the Companies (New South Wales) Code) has a controlling interest.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

(6) Where—

- (a) a person has, or persons have together, a controlling interest under subsection (4) in a business; and
- (b) the person or persons who carry on that business has or have such a controlling interest in another business,

the person or persons referred to in paragraph (a) shall be deemed to have a controlling interest in the other business referred to in paragraph (b).

(7) Where—

- (a) a person is a beneficiary under a trust; or
- (b) 2 or more persons together are beneficiaries under a trust,

in respect of half or more than half of the value of the interests in that trust and the trustee or trustees of that trust has or have under subsection (4) a controlling interest in a business, that beneficiary or those beneficiaries shall, for the purpose of subsection (4), be deemed to have a controlling interest in that business.

Smaller groups subsumed into larger groups.

98G. (1) Notwithstanding any other provision of this Division (except subsection (2)), where a person is, whether or not by virtue of this subsection, a member of 2 or more groups (each of which is in subsection (2) referred to as a smaller group), all of the members of those groups constitute, for the purposes of this Division, one group.

(2) Except for the purpose of determining whether a group is constituted under subsection (1), a group which, but for this subsection, would be a smaller group ceases to be a group if its members are members of a group constituted under subsection (1).

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.***Beneficiaries under discretionary trusts.**

98H. A person who, as the result of the exercise of a power or discretion by the trustee of a discretionary trust or by any other person or by that trustee and any other person, may benefit under that trust shall be deemed, for the purposes of this Division, to be a beneficiary in respect of half or more than half of the value of the interests in that trust.

*Subdivision 3.—Duty in relation to receipts returns.***Registration.**

98I. (1) A designated person (not being a member of a group) who, and each designated person who is a member of a group which—

- (a) during the year ending 30th November, 1982, had receipts of not less than \$5,000,000 which, if this Division had been in force at the time those receipts were received, would have been designated receipts; or
- (b) during the month of November, 1982, had receipts of not less than \$416,666 which, if this Division had been in force at the time those receipts were received, would have been designated receipts,

shall, before 1st January, 1983, apply to the Commissioner for registration under this Division.

(2) A designated person (who is not a registered person or a member of a group) and each designated person (who is not a registered person) who is a member of a group, being a person who or group which—

- (a) in the preceding period of 12 months had receipts of not less than \$5,000,000 (or, where some other amount is prescribed, the prescribed amount); or

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—continued.**

- (b) in the preceding month had receipts of not less than \$416,666 (or, where some other amount is prescribed, the prescribed amount),

which are (or, in so far as this Division was not in force at the time those receipts were received, would, if this Division had been so in force, have been) designated receipts, shall, within 15 days after the end of that month, apply to the Commissioner for registration under this Division.

- (3) A person, not being a person to whom subsection (1) or (2) applies, may, at any time, apply to the Commissioner for registration under this Division.

- (4) The Commissioner—

- (a) shall, upon receipt of an application under subsection (1) or (2), register the applicant; and
(b) may, upon receipt of an application under subsection (3), register the applicant.

- (5) The Commissioner, at his discretion, or upon an application being made to him by a registered person who is registered pursuant to subsection (4) (a), may cancel the registration under this Division of the person—

- (a) if—

- (i) in the preceding month, the person (not being a member of a group) or the group of which the person is a member had designated receipts of less than \$416,666 (or, where some other amount is prescribed, the prescribed amount); or
(ii) in the preceding period of 12 months, the person (not being a member of a group) or the group of which the person is a member had designated

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

receipts of less than \$5,000,000 (or, where some other amount is prescribed, the prescribed amount); and

- (b) if the Commissioner is satisfied, from a consideration of such matters as he thinks relevant, that the receipts of the designated person, at any time during the succeeding period of 12 months, are likely to be such that the person will not be required to re-apply to the Commissioner for registration under this Division during that period.

(6) The Commissioner, at his discretion, may at any time, cancel the registration of a registered person who is registered pursuant to subsection (4) (b).

(7) A person who fails to comply with this section is guilty of an offence and liable to a fine not exceeding \$5,000.

Return to be made out in respect of dutiable receipts.

98J. (1) A registered person and a designated person who, pursuant to section 98I, is required to apply to the Commissioner for registration under this Division shall, within 21 days after the end of—

- (a) except as provided by paragraph (b), each month; or
- (b) where, in relation to a registered person, the Commissioner approves a period longer than a month, each such longer period,

make out a return.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

(2) For the purposes of subsection (1), a return—

(a) shall be in a form approved by the Commissioner; and

(b) shall, in addition to such other matters as may be required to be specified in the form, specify—

(i) the total amount of dutiable receipts, not being dutiable receipts referred to in subparagraph (ii); and

(ii) the number of dutiable receipts, the amount of which was a single amount of not less than \$1,000,000 (or, where some other amount is prescribed, the prescribed amount),

received during the month or the longer period, as the case may be, to which the return relates, by the person required to make out the return.

(3) A person who is required under subsection (1) to make out a return shall, within 21 days after the end of the month or the longer period, as the case may be, to which the return relates—

(a) lodge the return with the Commissioner; and

(b) pay to the Commissioner, as stamp duty, the amount of stamp duty payable in respect of the dutiable receipts to which the return relates.

(4) A registered person or a designated person who, pursuant to section 98I, is required to apply to the Commissioner for registration under this Division and who fails to comply with this section is guilty of an offence and liable to a fine not exceeding \$5,000 together with twice the amount of duty of which Her Majesty has been deprived by any such failure.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.***Transactions with unregistered persons.**

98K. (1) Where—

- (a) a person is a party to any transaction (whether within or outside New South Wales) with a designated person who—
 - (i) is resident or domiciled within or outside New South Wales; or
 - (ii) carries on business wholly or partly within or outside New South Wales,and who is not registered under this Division;
- (b) the designated person, pursuant to the transaction, receives, in any month, a designated receipt from the firstmentioned person; and
- (c) the designated receipt—
 - (i) is a dutiable receipt; or
 - (ii) would, if the designated person were subject to this Division, be a dutiable receipt,

the firstmentioned person shall, within 42 days after the end of the month in which the designated receipt is received by the designated person, make out a return.

(2) For the purposes of subsection (1), a return—

- (a) shall be in a form approved by the Commissioner;
- (b) shall, in addition to such other matters as may be required to be specified in the form, specify—
 - (i) the total amount of dutiable receipts, not being dutiable receipts referred to in subparagraph (ii);and

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

- (ii) the number of dutiable receipts, the amount of which was a single amount of not less than \$1,000,000 (or, where some other amount is prescribed, the prescribed amount),

received during the month to which the return relates, by the designated person from the person required to make out the return;

- (c) shall be duly stamped with duty (which, in so far as the amount of the duty does not exceed \$10, may be denoted by an adhesive stamp) as duty on a receipts return (and for that purpose, notwithstanding section 26, be deemed to be first executed at the time the return is made out); and
- (d) shall be retained by the person required, under subsection (1), to make out the return for a period of 12 months after the return is made out.

(3) This section does not apply to or in respect of a person who is an approved person for the purposes of section 98L.

(4) A person who fails to comply with this section is guilty of an offence and liable to a fine not exceeding \$1,000 together with twice the amount of duty of which Her Majesty has been deprived by any such failure.

(5) It is a defence to a prosecution under this section if the defendant proves that he used all due diligence to determine, but was unable to determine, from information which he could reasonably be expected to acquire whether—

- (a) the designated person who received the designated receipt was not registered under this Division;
- (b) the designated receipt was a dutiable receipt; or
- (c) the designated receipt would, if the designated person were subject to this Division, have been a dutiable receipt.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

(6) Notwithstanding section 131A, for the purposes of this Division, the Commissioner may, from time to time, publish in the Gazette a list of registered persons and may forward a copy of a list so published to a person who is an approved person for the purposes of section 98L or any other person.

Payment by person, other than designated person, of duty on receipts other than by stamping.

98L. (1) A person liable to the payment of duty under section 98K may apply to the Commissioner in a form approved by the Commissioner for approval to pay duty in respect of dutiable receipts in accordance with the provisions of this section.

(2) The Commissioner may approve or refuse to approve an application under subsection (1).

(3) Where the Commissioner approves an application under subsection (1), he shall specify in his approval the date upon which the approval comes into force.

(4) A person whose application under subsection (1) has been approved by the Commissioner is, while the approval is in force, an approved person for the purposes of this section.

(5) Except as provided by this section, an approved person is not liable to pay duty, as duty on a receipts return, in respect of any dutiable receipt received from him by a designated person.

(6) An approved person, within 42 days after the end of—

- (a) except as provided by paragraph (b), each month; or
- (b) where, in relation to the approved person, the Commissioner approves a period longer than a month, each such longer period,

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

shall—

- (c) lodge with the Commissioner a return in a form approved by the Commissioner specifying, in addition to such other matters as may be required to be specified in the form—
 - (i) the total amount of dutiable receipts, not being dutiable receipts referred to in subparagraph (ii); and
 - (ii) the number of dutiable receipts, the amount of which was a single amount of not less than \$1,000,000 (or, where some other amount is prescribed, the prescribed amount),

received, during the month or the longer period, as the case may be, to which the return relates, by the designated person from the approved person; and

- (d) pay to the Commissioner, as stamp duty, the amount of stamp duty that, but for subsection (5), would have been payable in respect of the dutiable receipts to which the return relates.

(7) A person who fails to comply with this section is guilty of an offence and liable to a fine not exceeding \$5,000 together with twice the amount of duty of which Her Majesty has been deprived by any such failure.

(8) It is a defence to a prosecution under this section if the defendant proves that he used all due diligence to determine, but was unable to determine, from information which he could reasonably be expected to acquire whether—

- (a) the designated person who received the designated receipt was not registered under this Division;
- (b) the designated receipt was a dutiable receipt; or
- (c) the designated receipt would, if the designated person were subject to this Division, have been a dutiable receipt.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

(9) The Commissioner may, by an instrument in writing, cancel any approval granted under this section—

- (a) on application by the person to whom the approval was granted; or
- (b) for any reason he considers sufficient,

and shall, in any such instrument, specify the date on and from which the approval ceases to be in force.

(10) An approval cancelled as referred to in subsection (9) shall cease to be in force on and from the date specified in the instrument by which the approval is cancelled.

Circumstances in which ss. 98K and 98L do not apply.

98M. Nothing in section 98K or 98L requires a person, in relation to a designated receipt, to—

- (a) make out a receipts return;
- (b) duly stamp the return with duty as duty on a receipts return;
- (c) lodge a return with the Commissioner; or
- (d) pay to the Commissioner any amount as stamp duty,

where stamp duty or any amount as stamp duty is paid to the Commissioner, before the expiration of the period limited for payment of that duty under those sections, by the designated person who receives the designated receipt.

*Subdivision 4.—Short term dealings.***Application for certification as short term dealer.**

98N. A person may apply to the Commissioner for certification as a short term dealer.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.***Certification as short term dealer.**

98o. (1) On receipt of an application under section 98N from a person, the Commissioner may certify the person as a short term dealer if he is satisfied that the person complies with—

- (a) where no requirements are prescribed as referred to in paragraph (b), such requirements as may be determined from time to time by the Commissioner; or
- (b) such requirements as may be prescribed.

(2) The Commissioner may, in certifying a registered person as a short term dealer, impose a condition that the registered person comply with section 98p.

Short term dealer's account.

98p. Where a prescribed short term dealer pays amounts received by him in respect of his short term dealings (being amounts in respect of which stamp duty is not payable pursuant to section 98s) into an account with a bank which is a registered person, he shall not pay any other amounts received by him into that account.

Cancellation of certification as short term dealer.

98q. The Commissioner may, at any time, cancel the certification of a person certified as a short term dealer, if—

- (a) the person fails, at any relevant time, to satisfy the requirements referred to in section 98o (1) or breaches, at any time, a condition imposed under section 98o (2);
- (b) the person contravenes this Act; or
- (c) in the opinion of the Commissioner, any circumstance arises which has the effect of removing the liability of the short term dealer to pay duty in respect of a short term dealers return.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.***Return to be made out in respect of short term liabilities.**

98R. (1) A short term dealer shall, within 21 days after the end of—

- (a) except as provided by paragraph (b), each month; or
- (b) where, in relation to a short term dealer, the Commissioner approves a period longer than a month, each such longer period,

make out a return.

(2) For the purposes of subsection (1), a return—

- (a) shall be in a form approved by the Commissioner; and
- (b) shall, in addition to such other matters as may be required to be specified in the form, specify—
 - (i) in the case of a short term dealer who is not a prescribed short term dealer and who is not a member of a group—the amount comprising one-third of the sum of the short term liabilities in respect of his Australian based operations at the close of each day during the month or the longer period, as the case may be, to which the return relates divided by the number of days in that month, or that longer period, as the case may be;
 - (ii) in the case of a short term dealer who is not a prescribed short term dealer and who is a member of a group—the amount comprising one-third of the sum of the short term liabilities of the group in respect of their Australian based operations at the close of each day during the month or the longer period, as the case may be, to which the return relates divided by the number of days in that month, or that longer period, as the case may be; and

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

- (iii) in the case of a prescribed short term dealer—the amount comprising the sum of the credit balances in his short term dealer's account at the close of each day during the month or the longer period, as the case may be, to which the return relates divided by the number of days in that month or that longer period, as the case may be.

(3) A short term dealer who is required under subsection (1) to make out a return shall, within 21 days after the end of the month or the longer period, as the case may be, to which the return relates—

- (a) lodge the return with the Commissioner; and
- (b) pay to the Commissioner, as stamp duty, the amount of stamp duty payable in respect of—
 - (i) in the case of a short term dealer who is not a prescribed short term dealer and who is not a member of a group—the amount comprising one-third of the sum of the short term liabilities in respect of his Australian based operations at the close of each day during the month or the longer period, as the case may be, to which the return relates divided by the number of days in that month, or that longer period, as the case may be;
 - (ii) in the case of a short term dealer who is not a prescribed short term dealer and who is a member of a group—the amount comprising one-third of the sum of the short term liabilities of the group in respect of their Australian based operations at the close of each day during the month or the longer period, as the case may be, to which the return relates divided by the number of days in that month, or that longer period, as the case may be; and

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

- (iii) in the case of a prescribed short term dealer—the amount comprising the sum of the credit balances in his short term dealer's account at the close of each day during the month or the longer period, as the case may be, to which the return relates divided by the number of days in that month or that longer period, as the case may be.

(4) A short term dealer who fails to comply with this section is guilty of an offence and liable to a fine not exceeding \$5,000 together with twice the amount of duty of which Her Majesty has been deprived by any such failure.

Exemption from payment of certain duty.

98s. Nothing in Subdivision 3 requires a short term dealer to specify in any receipts return required to be made out by him, as a dutiable receipt, or to pay stamp duty in respect of a receipt received by him, being—

- (a) the proceeds derived from a short term dealing;
- (b) a receipt creating a short term liability (not being, where the short term dealer is a bank, a deposit to the credit of an account with the bank which is repayable on demand or to the credit of a current account, in either case, kept by the bank for another person);
- (c) the repayment or redemption of an amount deposited or invested in a short term dealing; or
- (d) an amount prescribed for the purposes of this section,

but not being a receipt comprising a fee, brokerage, commission or other charge made by the short term dealer or interest received otherwise than as an integral part of the repayment of principal.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—continued.***Subdivision 5.—Miscellaneous.***Applications for exempt accounts.**

98T. A person may apply to the Commissioner for approval of an account as an exempt account and shall, in his application, give full particulars of the receipts which are or are proposed to be deposited to the credit of the account.

Exempt accounts.

98U. (1) On receipt of an application under section 98T, the Commissioner, if he is satisfied that the account is—

- (a) an account with a bank which is a registered person of a registered person other than a bank, being an account in which the registered person deposits only his designated receipts, not including such receipts as may be prescribed for the purposes of this paragraph;
- (b) an account of a short term dealer kept in respect of his short term dealings in accordance with section 98P;
- (c) an account with a bank which is a registered person of a Department of the Government of the Commonwealth or of a State or Territory, an authority of the Commonwealth or of a State or Territory or a local government council (other than such a Department, authority or council the sole or principal function of which is to carry on an activity in the nature of a business, whether or not for profit), not being an account kept in relation to a transaction or transactions entered into by or on behalf of the Department, authority or council in connection with the carrying on of an activity in the nature of a business, whether or not for profit;

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

- (d) a clearing or settlement account kept with a bank which is a registered person by 2 or more persons, or by another person on behalf of 2 or more persons, being—
 - (i) building societies;
 - (ii) co-operative societies;
 - (iii) credit unions;
 - (iv) dealers within the meaning of section 97A (1);
 - (v) futures brokers;
 - (vi) wool buyers or sellers; or
 - (vii) persons prescribed for the purposes of this subparagraph;
 - (e) subject to subsection (7), a clearing or settlement account kept, otherwise than with a bank, by the trustee or manager of assets the subject of a deed approved under Division 6 of Part IV of the Companies (New South Wales) Code or under a corresponding law of another State or a Territory;
 - (f) an account kept with a bank which is a registered person, being the trust account of a dealer;
 - (g) an account kept with a bank which is a registered person, being a foreign exchange clearing account or foreign exchange settlement account; or
 - (h) an account prescribed for the purposes of this paragraph, may issue to the applicant a certificate of approval of the account as an exempt account and specify, in the certificate, the receipts, or the receipts of a class or description of receipts, which may be deposited to the credit of the account.
- (2) The Commissioner shall, in a certificate issued under subsection (1), specify the date on and from which the account to which the certificate relates shall be an exempt account, being the date of the certificate or a date which is before or after the date of the certificate.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

(3) Where a certificate in force under subsection (1) is issued in respect of an account kept with a bank, the bank shall, on the production to it of the certificate, designate the account as an exempt account.

(4) A person shall not direct the payment of any amount to the credit of an exempt account unless the amount comprises a receipt, or a receipt of a class or description of receipts, specified in the certificate issued in respect of the account.

(5) Where the Commissioner—

- (a) is satisfied that an amount has been paid to the credit of an exempt account in contravention of subsection (4); or
- (b) cancels the registration of a registered person or the certification of a short term dealer who keeps an exempt account or on whose behalf an exempt account is kept,

the Commissioner shall cancel the certificate issued in respect of the account and send a copy of a notice of cancellation of the certificate to the person to whom the certificate was issued and, where the account was kept with a bank, to the bank.

(6) Where a copy of a notice of cancellation of a certificate is, under subsection (5), sent to a bank, the bank shall, on receipt of the copy of the notice, cancel the designation, as an exempt account, of the account to which the notice relates.

(7) Where the Commissioner has issued a certificate of approval of an account referred to in subsection (1) (e) kept by a trustee as so referred to as an exempt account, he shall not issue such a certificate in respect of such an account kept by a manager as so referred to, and where the Commissioner has issued such a certificate in respect of such an account kept by the manager, he shall not issue such a certificate in respect of such an account kept by the trustee.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.***Keeping of records.**

98v. (1) In this section, "books" includes any register or other record of information and any accounts or accounting records (within the meaning of the Companies (New South Wales) Code) however compiled, recorded or stored and also includes any other document.

(2) A designated person and a short term dealer shall keep or cause to be kept in New South Wales sufficient books and records to enable him to calculate accurately the particulars which are to be set out in returns required to be submitted to the Commissioner under this Division and those books and records, as well as all working papers used in making those calculations, shall be kept available for inspection for a period of not less than 3 years after the period to which each such return relates or for such lesser period as the Commissioner may determine in any particular case.

(3) A designated person or a short term dealer who fails to comply with this section is guilty of an offence and liable to a fine not exceeding \$5,000.

Regulations—passing on of duty, etc.

98w. The regulations may—

- (a) authorise, control or prohibit the making of charges or the implementation of practices or procedures by a designated person which require or have the effect of requiring—
 - (i) a person from whom the designated person receives a designated receipt, whether or not that receipt is a dutiable receipt; or

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

- (ii) a person otherwise involved in the provision of finance by a designated person,

to pay to the designated person any amount equivalent to or by way of payment of or towards any amount of duty paid or payable by the designated person in relation to designated receipts;
 - (b) make provision for or with respect to the reduction, adjustment or refund of any stamp duty paid or payable under this Division; and
 - (c) authorise the making out of a receipts return on behalf of a group and provide for the circumstances in which and the person by whom such a return may be lodged with the Commissioner.
- (4) Section 127B (1)—

After “return” where secondly occurring, insert “or within the period within which he is required to lodge the return”.
- (5) Section 127C (1)—

After “return” where secondly occurring, insert “or within the period within which he is required to lodge the return”.
- (6) Section 145 (3)—

Omit “subsections (2) and (3) of section 9 of this Act”, insert instead “section 9 (1A) and (2)”.

*Stamp Duties (Financial Institutions Duty) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

(7) (a) Second Schedule—

Before the matter appearing under the heading “REPLICA—”,
insert:—

<p>RECEIPTS RETURN— Upon the dutiable receipts required to be specified in a receipts return— (a) Upon the total amount of dutiable receipts, not being dutiable receipts referred to in paragraph (b) (b) Upon a dutiable receipt where the amount received is a single amount of not less than \$1,000,000 (or, where some other amount is prescribed, the prescribed amount)</p>	<p>An amount equal to 0.03 per centum of the total amount of those dutiable receipts. 300.00</p>	<p>} The person who is re- quired to make out the receipts return.</p>
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(b) Second Schedule—

After the matter appearing under the heading “TRANSFER OF
SHARES—”, insert:—

<p>SHORT TERM DEALERS RETURN— Upon— (a) in the case of a short term dealer who is not a prescribed short term dealer and who is not a member of a group—the amount comprising one-third of the sum of the short term liabilities in respect of his Australian based operations at the close of each day during the month or the longer period, as the case may be, to which the return relates divided by the number of days in that month, or that longer period, as the case may be</p>	<p>} An amount equal to 0.005 per centum per month or longer period, as the case may be, of such amount.</p>	<p>} The short term dealer.</p>
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Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE IMPOSITION OF
DUTY WITH RESPECT TO FINANCIAL INSTITUTIONS—*continued.*

SHORT TERM DEALERS RETURN—*continued*

- (b) in the case of a short term dealer who is not a prescribed short term dealer and who is a member of a group—the amount comprising one-third of the sum of the short term liabilities of the group in respect of their Australian based operations at the close of each day during the month or the longer period, as the case may be, to which the return relates divided by the number of days in that month, or that longer period, as the case may be
- (c) in the case of a prescribed short term dealer—the amount comprising the sum of the credit balances in his short term dealer's account at the close of each day during the month or the longer period, as the case may be, to which the return relates divided by the number of days in that month or that longer period, as the case may be

An amount equal to
0.005 per centum
per month or longer
period, as the case
may be, of such
amount.

The short term dealer.

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE REMOVAL OF
LIABILITY FOR PAYMENT OF CERTAIN DUTIES.

(1) (a) Section 1—

From the matter relating to Division 13 of Part III, omit "74c",
insert instead "74CAA".

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE REMOVAL OF
LIABILITY FOR PAYMENT OF CERTAIN DUTIES—*continued.*

(b) Section 1—

From the matter relating to Division 17 of Part III, omit “75E”,
insert instead “75F”.

(c) Section 1—

From the matter relating to Division 20 of Part III, omit “82D”,
insert instead “82E”.

(d) Section 1—

From the matter relating to Division 27 of Part III, omit “97B”,
insert instead “97AD”.

(e) Section 1—

After the matter relating to Division 27 of Part III, insert:—

DIVISION 28.—*Transfer, etc., of certain mortgages and
debentures—ss. 97AE, 97B.*

(2) Section 74CAA—

After section 74C, insert:—

**Charging of duty on and application of Division to instruments, etc.,
made on or after 1.1.1983.**

74CAA. (1) Notwithstanding any other provision of this Act, duty
shall not be chargeable in respect of—

- (a) an instrument made out on or after 1st January, 1983, in
respect of a discount arrangement; or

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE REMOVAL OF
LIABILITY FOR PAYMENT OF CERTAIN DUTIES—*continued.*

(b) a discount arrangement made on or after 1st January, 1983.

(2) Without derogating from subsection (1), this Division does not apply to or in respect of an instrument or discount arrangement referred to in that subsection.

(3) Section 75F—

After section 75E, insert:—

**Charging of duty on and application of Division to instruments, etc.,
made on or after 1.1.1983.**

75F. (1) Notwithstanding any other provision of this Act, duty shall not be chargeable in respect of—

- (a) an instrument constituting or evidencing the terms and conditions of a credit purchase agreement or a hire purchase agreement, being an instrument made on or after 1st January, 1983; or
- (b) a credit purchase agreement, a hire purchase agreement or a sale or an exercise of an option following the sale as the case may be to which a credit arrangement relates, being an agreement or sale made or an option exercised on or after 1st January, 1983.

(2) Without derogating from subsection (1), this Division does not apply to or in respect of an instrument, agreement, sale or exercise of an option referred to in that subsection.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 2—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE REMOVAL OF
LIABILITY FOR PAYMENT OF CERTAIN DUTIES—continued.****(4) Section 82E—**

After section 82D, insert:—

**Charging of duty on and application of Division to loan instruments,
etc., made on or after 1.1.1983.**

82E. (1) Notwithstanding any other provision of this Act, duty shall not be chargeable in respect of—

- (a) a loan instrument made out on or after 1st January, 1983, in respect of a loan; or
- (b) a loan made on or after 1st January, 1983, in respect of which no loan instrument has been made out before that date.

(2) Without derogating from subsection (1), this Division does not apply to or in respect of an instrument or loan referred to in that subsection.

(3) Where an approved person for the purposes of section 82D has not, before 1st January, 1983, received from or on behalf of a person to whom the approved person has, before that day, made a short term loan any payment of money for or towards the payment of stamp duty in respect of the short term loan, being stamp duty which would, but for this section, be payable on or after that day, no stamp duty shall be payable by the approved person or any other person in respect of that loan on or after that day.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 2—continued.

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE REMOVAL OF
LIABILITY FOR PAYMENT OF CERTAIN DUTIES—continued.**

(5) Part III, Division 28—

After section 97AD, insert:—

DIVISION 28.—*Transfer, etc., of certain mortgages and debentures.*

Charging of duty on transfer, etc., of certain mortgages.

97AE. Notwithstanding any other provision of this Act, duty shall not be chargeable in respect of a transfer or assignment of any mortgage, being a transfer or assignment made on or after 1st January, 1983.

(6) Section 97B—

After “mortgage”, insert “, being an assignment or transfer made before 1st January, 1983,”.

(7) Section 51 (3)—

After section 51 (2), insert:—

(3) Notwithstanding any other provision of this Act, duty shall not be chargeable in respect of a bill of exchange (not being a cheque) or promissory note issued on or after 1st January, 1983.

SCHEDULE 3.

TRANSITIONAL AND OTHER PROVISIONS.

(Sec. 6.)

Interpretation: Sch. 3.

1. Except in so far as the context or subject-matter otherwise indicates or requires, expressions used in this Schedule have the same meanings as in the Principal Act, as amended by this Act, or Division 29 of Part III of the Principal Act, as so amended.

Initial payments of stamp duty on certain returns.

2. (1) Notwithstanding any provision of the Principal Act, as amended by this Act, the Commissioner may, in respect of—

- (a) except as provided by paragraph (b), the period from 1st December, 1982, to 31st March, 1983; or

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 3—*continued.*TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (b) where the Commissioner, generally or in any particular case or class of cases, approves a longer period not extending beyond 30th November, 1983, such longer period as is so approved,

make such arrangements as he thinks fit with a designated person or short term dealer for the payment, otherwise than in accordance with the provisions of the Principal Act, as so amended, of duty on a receipts return or short term dealers return.

(2) The arrangements made under subclause (1) may include arrangements relating to the basis or means of the calculation of the amount of duty to be paid on a receipts return or short term dealers return.

(3) A person who makes a payment in accordance with a basis or means of calculation referred to in subclause (2) shall be deemed to have made the payment in accordance with the provisions of the Principal Act, as amended by this Act.

(4) An arrangement made under subclause (1) with a designated person or short term dealer shall be such arrangement as will result, in respect of the period for which the arrangement is made, in the receipt of an amount of duty which, so far as is practicable, is not less than the amount of duty the designated person or short term dealer would be liable to pay if the arrangement had not been made.

Making out of first return, etc.

3. (1) Nothing in section 98J or 98R of the Principal Act, as amended by this Act, requires a registered person, a designated person who, pursuant to section 98I of the Principal Act, as so amended, is required to apply to the Commissioner for registration under Division 29 of Part III of the Principal Act, as so amended, or a short term dealer—

- (a) to make out a receipts return or a short term dealers return;
- (b) to duly stamp a receipts return or a short term dealers return with duty as duty on a receipts return or a short term dealers return;
- (c) to lodge a receipts return or a short term dealers return with the Commissioner; or
- (d) to pay to the Commissioner any amount as stamp duty,

as the case may require, before 25th January, 1983.

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 3—*continued.*TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(2) Nothing in section 98K of the Principal Act, as amended by this Act, requires a person who is a party to any transaction involving the provision of financial accommodation by a designated person—

- (a) to make out a receipts return; or
- (b) to duly stamp a receipts return with duty as duty on a receipts return, before 8th February, 1983.

(3) Nothing in section 98L of the Principal Act, as amended by this Act, requires a person who is an approved person for the purposes of that section—

- (a) to lodge a return with the Commissioner; or
- (b) to pay to the Commissioner any amount as stamp duty, before 8th February, 1983.

Effect of certain contracts, etc.

4. Nothing contained in any law or in any contract or agreement or any other instrument (including an instrument constituting a trust) made before 1st December, 1982, between a designated person or a short term dealer and any other person, prevents the designated person or short term dealer, for the purpose of enabling the designated person or short term dealer to pay duty as duty on a receipts return in respect of dutiable receipts received by him pursuant to the contract, agreement or instrument or to pay duty as duty on a short term dealers return in respect of short term liabilities acquired or discharged by him pursuant to the contract, agreement or instrument—

- (a) from having recourse to, without being liable to make a refund of, any money the subject of the contract, agreement or instrument; or
- (b) from charging to or recovering from any person an amount equivalent to the amount of duty payable—
 - (i) as duty on a receipts return in respect of dutiable receipts received by the designated person pursuant to the contract, agreement or instrument; or
 - (ii) as duty on a short term dealers return in respect of short term liabilities acquired or discharged by the short term dealer pursuant to the contract, agreement or instrument,

or both, and, to such extent as may be necessary, the contract, agreement or instrument shall be deemed to empower the designated person or short term dealer to do either or both of the things referred to in paragraphs (a) and (b).

Stamp Duties (Financial Institutions Duty) Amendment.

SCHEDULE 3—*continued.*TRANSITIONAL AND OTHER PROVISIONS—*continued.***Transitional arrangements—exempt accounts.**

5. (1) A person to whom the Commissioner, under section 98u of the Principal Act, as amended by this Act, may issue a certificate of approval in respect of an account as an exempt account, may, at any time before 25th January, 1983, in respect of an account kept by him with a bank, give notice to the bank where that account is kept of his intention to apply to the Commissioner under section 98t of the Principal Act, as so amended, for the issue of a certificate of approval of the account as an exempt account and may request the bank to designate the account as an interim exempt account.

(2) A person who gives notice to the bank under subclause (1) in respect of an account shall forthwith give a copy of the notice to the Commissioner and make an application under section 98t of the Principal Act, as amended by this Act, for approval of the account as an exempt account.

(3) Where a notice is given to a bank under subclause (1), the bank shall designate the account as an interim exempt account.

(4) Where a certificate of approval of an account to which a notice given to a bank under subclause (1) relates is issued under section 98u of the Principal Act, as amended by this Act, the account shall be an exempt account and shall be deemed to have become an exempt account on the date on which the notice was given to the bank.

(5) An interim exempt account shall, for the purposes of the Principal Act, as amended by this Act, be deemed to be an exempt account until—

- (a) it becomes an exempt account as referred to in subclause (4); or
- (b) the Commissioner, by notice of cancellation given to the bank at which the account is kept, directs that the designation of the account as an interim exempt account be cancelled,

whichever first occurs.

In the name and on behalf of Her Majesty I assent to this Act.

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 15th December, 1982.*