

## STAMP DUTIES (FURTHER AMENDMENT) BILL, 1982 (No. 2)

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### EXPLANATORY NOTE

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

The objects of this Bill are to amend certain provisions of the Stamp Duties Act, 1920 ("the Principal Act") in order to counter certain methods of avoiding stamp duty, to impose duty on a copy of an unstamped original instrument, to remove certain exemptions from stamp duty on cheques and to make amendments of an ancillary nature.

The Bill contains the following provisions:—

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Principal Act.

Clause 4. Arrangement.

Clause 5. Amendment of the Principal Act in accordance with Schedules 1–10.

Schedule 1 makes it an offence to fail for 6 months to cause an instrument chargeable with duty to be duly stamped and, where the offence is committed by a corporation, makes a director of the corporation equally liable unless he shows that he used all due diligence to prevent the commission of the offence.

Schedule 2 ensures that, in certain cases where the consideration for a conveyance of property is not money (e.g., an issue of shares) duty is paid on the unencumbered value of the property.

Schedule 3—

- (a) requires the payment of ad valorem duty on such of the property conveyed to the beneficiary as is not substantially the same as, or is not the proceeds of re-investment of, property originally subject to the trust;
- (b) imposes on certain declarations of trust chargeable with ad valorem duty a minimum duty of \$200 and on certain other declarations of trust a fixed duty of \$200; and
- (c) amends the provisions of the Principal Act relating to the nominal duty imposed on a conveyance to give effect to a change of trustees.

Schedule 4 charges with duty an unexecuted copy of an instrument chargeable with duty that has not been paid.



Schedule 5 limits the exemption from duty of a loan security issued outside the State and authorises reduced rates of duty in the case of certain short term securities.

Schedule 6 deals with the duty chargeable on the certificate of registration of a motor vehicle where the applicant for the certificate is considered to have understated the value of the motor vehicle.

Schedule 7—

- (a) removes certain advantages obtained by issuing more than one policy of insurance relating to the same property; and
- (b) imposes duty on a "loss of profits" policy of insurance issued outside the State in respect of a business carried on in the State.

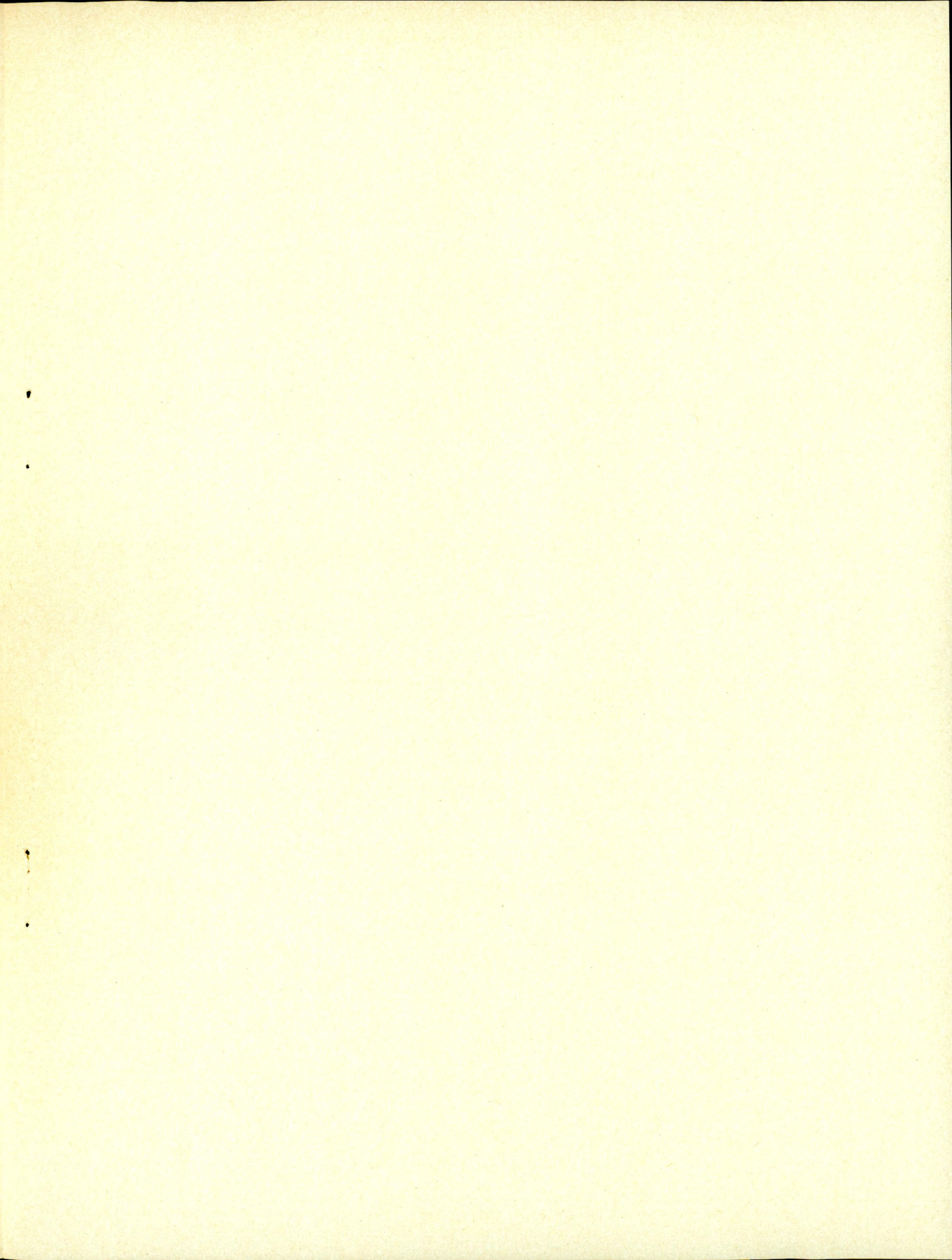
Schedule 8 deals with duty on transfers of shares in a corporation incorporated in the State where the transfer is effected on a register kept outside the State.

Schedule 9 removes the exemption from duty of cheques drawn by permanent and non-terminating building societies and amends the exemption from stamp duty applicable in the case of public hospitals.

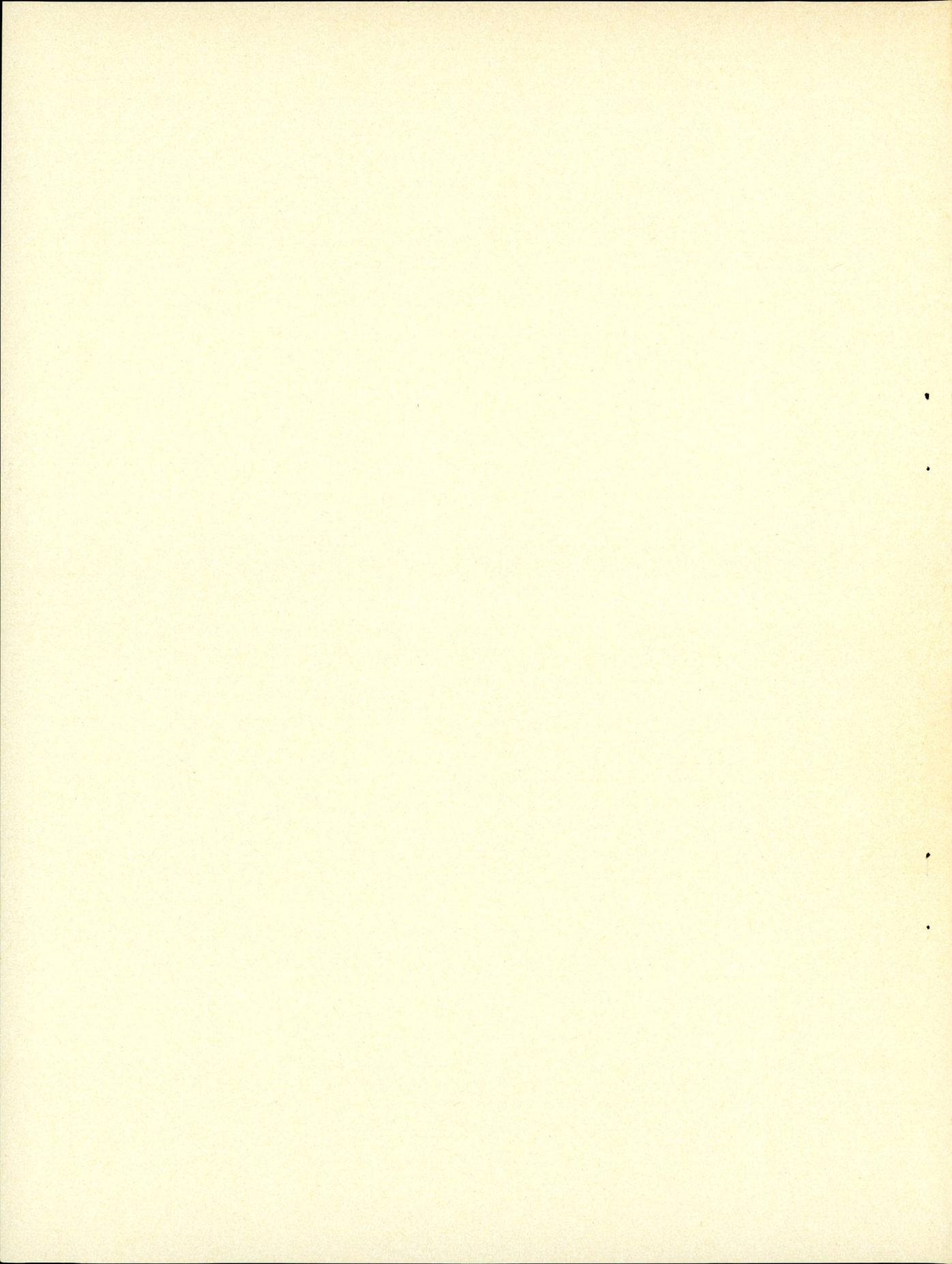
Schedule 10—

- (a) makes certain ancillary amendments;
  - (b) increases the penalties for registering an unstamped instrument and for obstructing an inspector;
  - (c) provides for the manner of serving notices; and
  - (d) extends the powers of the Commissioner to divulge to other revenue-collecting authorities information received by him that is relevant to the functions of those authorities.
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*PROOF*

**STAMP DUTIES (FURTHER AMENDMENT) BILL, 1982 (No. 2)**

No. , 1982.

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**A BILL FOR**

An Act to amend the Stamp Duties Act, 1920, to minimise avoidance of stamp duty and for other purposes.

[MR BOOTH—25 *November*, 1982.]

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*Stamp Duties (Further Amendment).*

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**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 (Further Amendment) Act, 1982".

**Commencement.**

2. (1) Except as provided by subsection (2), this Act shall commence 10 on the date of assent to this Act.

(2) Section 5, in its application to Schedules 1, 3, 4 and 8, and Schedules 1, 3, 4 and 8 shall be deemed to have commenced on 20th October, 1982.

**Principal Act.**

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

**Schedules.**

4. This Act contains the following Schedules:—

20 SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE NON-PRODUCTION OF INSTRUMENTS FOR STAMPING.

SCHEDULE 2.—AMENDMENT TO THE PRINCIPAL ACT RELATING TO CERTAIN CONVEYANCES.



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*Stamp Duties (Further Amendment).*

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- SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRUSTS.
- SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT IMPOSING DUTY ON COPIES OF INSTRUMENTS.
- 5 SCHEDULE 5.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LOAN SECURITIES.
- SCHEDULE 6.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO MOTOR VEHICLE CERTIFICATES OF REGISTRATION.
- 10 SCHEDULE 7.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLICIES OF INSURANCE.
- SCHEDULE 8.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRANSFERS OF SHARES.
- SCHEDULE 9.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO GENERAL EXEMPTIONS FROM DUTY.
- 15 SCHEDULE 10.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

**Amendment of Act No. 47, 1920.**

5. The Principal Act is amended in the manner set forth in Schedules 1-10.
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*Stamp Duties (Further Amendment).*

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SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE NON-PRODUCTION  
OF INSTRUMENTS FOR STAMPING.

5 (1) Section 25 (1)–(1E)—

Omit section 25 (1), insert instead:—

10 (1) Except where other express provision is made by this or any other Act, a person primarily liable with respect to any instrument chargeable with duty shall cause it to be duly stamped or, in accordance with the provisions of section 41 (5), 42 (7) or 78D (5), marked “interim stamp only”—

15 (a) where it was first executed on or after 20th October, 1982, and before the date of assent to the Stamp Duties (Further Amendment) Act, 1982—within 6 months after that date of assent; or

(b) where it was first executed on or after that date of assent—within 6 months after it was first executed.

(1A) A person who contravenes subsection (1) of this section is guilty of an offence and liable—

20 (a) where proceedings for the offence are disposed of as provided by subsection (1D) (c) (i) of this section—to a penalty not exceeding—

(i) \$5,000; or

25 (ii) an amount equal to the amount of duty chargeable on the instrument to which the proceedings relate, whichever is the lesser; or

30 (b) where proceedings for the offence are disposed of as provided by subsection (1D) (c) (ii) of this section—to a penalty not exceeding an amount equal to the amount of duty chargeable on the instrument to which the proceedings relate.



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*Stamp Duties (Further Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
NON-PRODUCTION OF INSTRUMENTS FOR STAMPING—*continued.*

- 5 (1B) An allegation, in an information for an offence under subsection (1A) of this section, that a specified instrument has not been duly stamped or marked “interim stamp only” is evidence of the truth of the allegation.
- (1C) Where an information is laid for an offence by a corporation under subsection (1A) of this section and—
- 10 (a) the corporation is convicted of the offence; or
- (b) the information is dealt with, and an order made, under section 75B of the Justices Act, 1902,
- 15 a person who, at any time during the period of 6 months referred to in subsection (1) of this section in relation to the instrument to which the offence relates was, within the meaning of the Companies (New South Wales) Code, a director of the corporation is guilty of the same offence, and liable to the penalty prescribed for the offence, unless the court is satisfied that he used all due diligence to prevent the commission of the offence by the corporation.
- 20 (1D) Proceedings for an offence under subsection (1A) or (1C) of this section—
- (a) may not be instituted without the consent of the Minister;
- (b) subject to that consent, may be instituted at any time; and
- (c) may be disposed of—
- 25 (i) before a court of petty sessions constituted by a stipendiary magistrate sitting alone; or
- (ii) before the Supreme Court in its summary jurisdiction.



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*Stamp Duties (Further Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
NON-PRODUCTION OF INSTRUMENTS FOR STAMPING—*continued.*

5 (1E) Where proceedings are instituted for an offence under subsection (1A) or (1C) of this section, the consent of the Minister under subsection (1D) (a) of this section to the institution of the proceedings shall be presumed unless the contrary is proved.

(2) Section 25 (2), (2A)—

Omit section 25 (2), insert instead:—

10 (2) Except where other express provision is made by this or any other Act, where an instrument chargeable with duty and first executed on or after 20th October, 1982, is not duly stamped within 2 months after it was first executed, it shall be charged with and become subject to, in addition to the duty with which it is chargeable—

15 (a) where it is duly stamped within 3 months after it was first executed—a fine of 20 per cent on the amount of the duty;

(b) where it is not duly stamped in accordance with paragraph (a) of this subsection but is duly stamped within 4 months after it was first executed—a fine of 25 per cent on the amount of the duty; or

20 (c) where it is not duly stamped in accordance with paragraph (a) or (b) of this subsection—a fine of 100 per cent on the amount of the duty.

25 (2A) Where, under subsection (1) of this section as enacted immediately before 20th October, 1982, the period within which an instrument first executed on or after that date and before the date of assent to the Stamp Duties (Further Amendment) Act, 1982, was required to be duly stamped had not commenced because the instrument had not been received within the State as provided by that subsection as so enacted, the instrument shall, for the purposes of subsection (2) of this section, be deemed to have been first executed

30 on that date of assent.



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*Stamp Duties (Further Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
NON-PRODUCTION OF INSTRUMENTS FOR STAMPING—*continued.*

- (3) Section 25 (3)—  
5 Omit “Every such fine”, insert instead “A fine under subsection (2)  
of this section”.
- (4) Section 25 (3A), (3B)—  
After “under” wherever occurring, insert “subsection (2) of”.
- (5) Section 25 (3C)—  
10 Omit the subsection, insert instead:—  
(3C) Subsection (2) of this section extends to cases where an  
instrument has been marked “interim stamp only” in accordance with  
the provisions of section 41 (5), 42 (7) or 78D (5) and so extends  
as if it had been amended by omitting from paragraphs (a) and (b)  
15 the words “after it was first executed” wherever occurring and by  
inserting instead the words “after the instrument was marked ‘interim  
stamp only’ ”.
- (6) Section 25 (4)—  
20 Omit “therein provided”, insert instead “provided by subsection (2)  
of this section”.
- (7) Section 25 (5)—  
Omit “this section” wherever occurring, insert instead “subsection  
(2) of this section”.
- (8) Section 25 (6)—  
25 After section 25 (5), insert:—  
(6) This section, as enacted immediately before 20th October,  
1982, applies to and in respect of an instrument chargeable with duty  
that was first executed before that date in the same way as it would  
have applied to and in respect of the instrument if the Stamp Duties  
30 (Further Amendment) Act, 1982, had not been enacted.
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*Stamp Duties (Further Amendment).*

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SCHEDULE 2.

(Sec. 5.)

AMENDMENT TO THE PRINCIPAL ACT RELATING TO CERTAIN  
CONVEYANCES.

5 Section 69 (1) (f)—

Omit "instrument.", insert instead:—

instrument,

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unless the duty so charged would be less than the amount of duty that would be chargeable if the conveyance were charged with ad valorem duty on the unencumbered value of the property conveyed, in which case the conveyance is to be charged with ad valorem duty on the unencumbered value of that property.

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SCHEDULE 3.

(Sec. 5.)

15 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRUSTS.

(1) (a) Section 73 (1) (b)—

Omit the paragraph, insert instead:—

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(b) A conveyance not made for valuable consideration and made to a beneficiary under and in conformity with the trusts contained in a conveyance, declaration of trust or other instrument on which ad valorem stamp duty imposed by an Act in force at the time of its execution has been paid or which, by an Act so in force, was exempt from stamp duty, but only to the extent that the



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*Stamp Duties (Further Amendment).*

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SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRUSTS—*continued.*

5 conveyance to the beneficiary is a conveyance of property that the Commissioner is satisfied is wholly or substantially the same as—

- 10 (i) property that, at the time of the execution of the instrument containing the trusts, was held or to be held by the trustees upon those trusts and was property in respect of which that ad valorem duty was paid or that exemption applied;
- (ii) property representing the proceeds of re-investment of property referred to in subparagraph (i) of this paragraph; or
- 15 (iii) property referred to in both subparagraph (i) and subparagraph (ii) of this paragraph.

## (b) Section 73 (1) (f)—

After section 73 (1) (e), insert:—

- 20 (f) A conveyance not made for valuable consideration and made to a beneficiary by a trustee under and in conformity with the trusts contained in a will or arising on an intestacy and in either case in respect of property on which death duty or duty under an Act imposing duties on the estates of deceased persons has been paid or which, by such an Act, is exempt from death duty or in respect of which no death duty is, by virtue of such an
- 25 Act, chargeable.

## (c) Section 73 (1A)—

After section 73 (1), insert:—

- 30 (1A) For the purposes of this section, paragraph (4) (b) of the matter appearing in the Second Schedule under the heading “CONVEYANCES OF ANY PROPERTY” and paragraph (4) of the matter appearing in the Second Schedule under the heading



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*Stamp Duties (Further Amendment).*

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SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRUSTS—*continued.*

5           “TRANSFER OF SHARES”, where the amount of \$200 duty chargeable pursuant to paragraph (2) (a) of the matter appearing in the Second Schedule under the heading “DECLARATION OF TRUST” is paid in respect of an instrument, ad valorem stamp duty shall, to the extent of that amount, be deemed to have been paid on the instrument.

(d) Section 73 (2A)–(2AD)—

10           Omit section 73 (2A), insert instead:—

15           (2A) Where a conveyance made for nominal consideration is consequential upon the execution of an instrument referred to in subsection (1) (a) (i), (ii) or (iii) of this section (whether the trust affected by the instrument is expressed or implied) the duty with which the conveyance is to be charged is 1 dollar if—

20           (a) where, by the instrument upon the execution of which the conveyance is consequential, a new or additional trustee is appointed—the conveyance, upon taking effect, would operate to vest the trust property for which the new or additional trustee is appointed in the persons who become and are the trustees for performing the trust; or

25           (b) where, by the instrument upon the execution of which the conveyance is consequential, a trustee retires—the conveyance, upon taking effect, would operate to vest in the continuing trustees alone the trust property that was vested jointly in the trustee who retired and the continuing trustees,

30           and the Commissioner is satisfied—

(c) that, subject to subsection (2AA) of this section, none of the persons who, after the appointment of a new or additional trustee by the instrument upon the



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*Stamp Duties (Further Amendment).*

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SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRUSTS—*continued.*

5 execution of which the conveyance is consequential,  
are the trustees for performing the trust is, or can  
become, a beneficiary under the trust; or

(d) that, subject to subsection (2AA) of this section, none  
of the continuing trustees remaining after the retire-  
ment of a trustee pursuant to the instrument upon the  
10 execution of which the conveyance is consequential is,  
or can become, a beneficiary under the trust.

(2AA) A reference in subsection (2A) (c) or (d) of this  
section to trustees (whether as trustees for performing a trust or  
as continuing trustees) does not include a reference to—

- 15 (a) the Public Trustee;
- (b) a trustee company within the meaning of the Trustee  
Companies Act, 1964;
- 20 (c) a corporation that is constituted under the law of another  
State or of a Territory of the Commonwealth 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) of this subsection; or
- 25 (d) a corporation or class of persons prescribed by the regu-  
lations (which may be made to take effect on or after  
20th October, 1982) as a corporation or class of per-  
sons for the purposes of this subsection.

(2AB) Where the Commissioner is not satisfied as provided  
by subsection (2A) (c) or (d) of this section, the duty  
chargeable on a conveyance of property that is consequential  
upon the execution of an instrument referred to in subsection  
30 (1) (a) (i), (ii) or (iii) of this section and that has the  
operation referred to in subsection (2A) (a) or (b) of this  
section is the same duty as would be chargeable if the conveyance  
were a conveyance to a beneficiary under and in conformity  
with the trusts to which the instrument relates except that, where  
35 that duty is ad valorem stamp duty, it is not chargeable in  
relation to property that the Commissioner is satisfied is wholly  
or substantially property subject to those trusts in respect of



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*Stamp Duties (Further Amendment).*

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SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRUSTS—*continued.*

5 which ad valorem stamp duty has previously been paid on the instrument creating the trusts or under this subsection or is property representing the proceeds of re-investment of any such property.

(2AC) Where—

10 (a) duty pursuant to subsection (2AB) of this section has been paid on a conveyance of property that is consequential upon the execution of an instrument referred to in subsection (1) (a) (i), (ii) or (iii) of this section and has the operation referred to in subsection (2A) (a) or (b) of this section; and

15 (b) under and in conformity with the trusts to which the instrument relates the property subject to the trusts is vested in a beneficiary (other than a trustee for performing those trusts) by an instrument on which duty under section 73 (2) or ad valorem duty has been paid, or which is exempt from duty,

20 the Commissioner shall refund the amount of duty referred to in paragraph (a) of this subsection, less 1 dollar.

25 (2AD) A conveyance not made for valuable consideration is chargeable with a duty of 1 dollar if it is made to the trustees appointed (otherwise than pursuant to an instrument referred to in subsection (1) (a) (i), (ii) or (iii) of this section) to perform the trusts created by an instrument on which ad valorem stamp duty imposed by an Act in force at the time of its execution has been paid or which, by an Act so in force, was exempt from stamp duty but only to the extent that the property  
30 comprised in the conveyance to the trustees is the same property as the property in respect of which ad valorem duty was paid on that instrument or in respect of which that exemption applied.



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*Stamp Duties (Further Amendment).*


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 SCHEDULE 3—*continued.*

 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRUSTS—*continued.*

## (2) (a) Second Schedule—

5 Omit paragraph (4) (b) of the matter appearing under the heading “CONVEYANCES OF ANY PROPERTY”, insert instead:—

- 10 (b) A conveyance not made for valuable consideration and made to a beneficiary under and in conformity with the trusts contained in a conveyance, declaration of trust or other instrument on which ad valorem stamp duty imposed by an Act in force at the time of its execution has been paid or which, by an Act so in force, was exempt from stamp duty, but only to the extent that the conveyance to the beneficiary is a conveyance of property that the Commissioner is satisfied is wholly or substantially the same as—
- 15 (i) property that, at the time of the execution of the instrument containing the trusts, was held or to be held by the trustees upon those trusts and was property in respect of which that ad valorem duty was paid or that exemption applied;
- 20 (ii) property representing the proceeds of re-investment of property referred to in paragraph (i) of this subparagraph; or
- (iii) property referred to in both paragraph (i) and paragraph (ii) of this subparagraph.
- 6.00 | The transferee.

## 25 (b) Second Schedule—

Omit paragraph (4) (f) of the matter appearing under the heading “CONVEYANCES OF ANY PROPERTY”, insert instead:—

- (f) A conveyance referred to in section 73 (2A) or (2AD). . . . | 1.00 | The transferee.

## (c) Second Schedule—

30 After paragraph (4) (f) of the matter appearing under the heading “CONVEYANCES OF ANY PROPERTY” and the matter relating thereto, insert:—

- 35 (g) A conveyance not made for valuable consideration and made to a beneficiary by a trustee under and in conformity with the trusts contained in a will or arising on an intestacy and in either case in respect of property on which death duty or duty under an Act imposing duties on the estates of deceased persons has been paid or which by such an Act is exempt from death duty or in respect of which no death duty is, by virtue of such an Act, chargeable . . .
- 6.00 | The transferee.



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*Stamp Duties (Further Amendment).*


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SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRUSTS—*continued.*

## (d) Second Schedule—

5 Omit paragraph (2) of the matter appearing under the heading  
 “DECLARATION OF TRUST”, insert instead:—

10	(2) (a) Any instrument declaring that any property vested or to be vested in the person executing the instrument is or shall be held in trust for the person or persons or purpose or purposes mentioned therein notwithstanding that the beneficial owner or person entitled to appoint that property may not have assented thereto.	200.00 or the same duty as would be chargeable if the instrument were a conveyance of the property comprised therein, whichever is the greater.	The person declaring the trust or the person directing the declaration of the trust.
15	(b) Any instrument declaring that any property not identified therein and to be vested in the person executing the instrument shall be held in trust for the person or persons or purpose or purposes mentioned therein notwithstanding that the beneficial owner or person entitled to appoint that property may not have joined therein or assented thereto.	200.00.	The person declaring the trust or the person directing the declaration of the trust.

## (3) (a) Second Schedule—

25 Omit paragraph (4) of the matter appearing under the heading  
 “TRANSFER OF SHARES”, insert instead:—

30	(4) Upon the transfer of shares without valuable consideration to the person beneficially entitled thereto under and in conformity with the trusts contained in a conveyance, declaration of trust or other instrument on which ad valorem stamp duty imposed by an Act in force at the time of its execution has been paid or which, by an Act so in force, was exempt from stamp duty but only to the extent that the shares are any one or more of the following:—	6.00 or ad valorem duty at the rate of 6c for every \$10 (or part thereof) of the value of the shares, whichever is the lower.	The transferee.
35	(a) the same shares as, at the time of the execution of the instrument creating the trusts, were held or to be held by the trustees upon those trusts and were shares in respect of which that ad valorem duty was paid or that exemption applied;		
40	(b) shares that the Commissioner is satisfied represent the proceeds of re-investment of shares referred to in subparagraph (a) of this paragraph; and		
45	(c) bonus shares issued by reason of a holding of shares referred to in subparagraph (a) or (b) of this paragraph.		



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*Stamp Duties (Further Amendment).*


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SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRUSTS—*continued.*

## (b) Second Schedule—

5                   After paragraph (6) of the matter appearing under the heading  
 “TRANSFER OF SHARES”, insert:—

- |    |  |  |                 |
|----|--|--|-----------------|
| 10 | (7) Upon the transfer of shares without valuable consideration to the person beneficially entitled thereto under and in conformity with the trusts contained in a will or arising or an intestacy and in either case in respect of shares on which death duty or duty under an Act imposing duties on the estates of deceased persons has been paid or which, by such an Act, were exempt from death duty or in respect of which no death duty is, by virtue of such an Act, chargeable. | 6.00 or ad valorem duty at the rate of 6c for every \$10 (or part thereof) of the value of the shares, whichever is the lower. | The transferee. |
|----|--|--|-----------------|

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## SCHEDULE 4.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT IMPOSING DUTY ON  
 COPIES OF INSTRUMENTS.

## (1) Section 1—

20                   Omit the matter relating to Division 11 of Part III, insert instead:—

DIVISION 11.—*Conveyances by possessory application*—ss. 73A,  
 73B.

DIVISION 11A.—*Copies of instruments*—ss. 73C, 73D.



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*Stamp Duties (Further Amendment).*

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SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IMPOSING DUTY ON  
COPIES OF INSTRUMENTS—*continued.*

## (2) Section 29 (2)—

5 At the end of section 29, insert:—

(2) Subsection (1) of this section applies to and in respect of an unexecuted copy of an instrument referred to in that subsection (being an instrument that was first executed on or after 20th October, 1982) in the same way as it applies to the instrument unless—

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(a) the court is satisfied that the instrument of which it is a copy is duly stamped; or

(b) the copy is duly stamped in accordance with section 73D.

## (3) Part III, Division 11, heading—

15 Omit the heading, insert instead:—

DIVISION 11.—*Conveyances by possessory application.*

## (4) Part III, Division 11A—

After Division 11, insert:—

DIVISION 11A.—*Copies of instruments.*

20 **Interpretation.**

73C. For the purposes of this Division and of the matter appearing under the heading “COPIES OF INSTRUMENTS” in the Second Schedule—

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“copy”, in relation to an original instrument, means an unexecuted instrument in which, in the opinion of the Commissioner, the matter contained in the original instrument is wholly or substantially reproduced, whether or not the



*Stamp Duties (Further Amendment).*SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IMPOSING DUTY ON  
COPIES OF INSTRUMENTS—*continued.*

5 matter reproduced has the same appearance as the matter contained in the original instrument, but does not include a replica within the meaning of section 89B;

“original instrument” means an instrument that is chargeable with duty otherwise than pursuant to section 73D (1).

**Certain copies of instruments to be dutiable.**

10 73D. (1) A copy of an original instrument is chargeable with duty if the original instrument was executed on or after 20th October, 1982, and such a copy is so chargeable as if it had been executed in the same way as the original instrument and had been first executed at the same time as the original instrument unless the Commissioner is  
15 satisfied—

- (a) that the original instrument has been duly stamped; or
- (b) that a copy of the original instrument has been duly stamped in accordance with this subsection.

20 (2) Where a copy of an original instrument is duly stamped in accordance with subsection (1) of this section, the original instrument shall be deemed to have been duly stamped.

## (5) Second Schedule—

After paragraph (7) of the matter appearing under the heading “CONVEYANCES OF ANY PROPERTY”, insert:—

## 25 COPY OF INSTRUMENT—

Being a copy referred to in section 73D

The same duty as the original instrument.

The person primarily liable in respect of the original instrument.



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*Stamp Duties (Further Amendment).*

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## SCHEDULE 5.

(Sec. 5.)

## AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LOAN SECURITIES.

## (1) Section 84B (3A) (a)—

5 Omit “Act, that is not chargeable with duty in New South Wales under section 84F (2) of this Act; and”, insert instead:—  
Act—

- 10 (i) where duty is chargeable under section 84F (2) on that foreign security; or
- (ii) where duty is not so chargeable—to the extent to which ad valorem stamp duty has been paid or is payable in respect of the loan security in another State or a Territory of the Commonwealth; or

## (2) (a) Section 84D (2A), (2B)—

15 After section 84D (2), insert:—

(2A) Notwithstanding subsection (2) of this section, an undertaking referred to in that subsection shall be construed as if—

20 (a) the reference in that subsection to “the total amount subscribed” did not include a reference to amounts repayable at call or in less than 30 days; and

(b) the reference in that subsection to “40 cents for every \$100 and for any remaining fractional part of \$100” were—

25 (i) in the case of money that is repayable at or after the expiration of a period of not less than 30 days and not more than 3 months—a reference to 20 cents for every \$1,000 and for any remaining fractional part of \$1,000; or



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*Stamp Duties (Further Amendment).*


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SCHEDULE 5—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LOAN SECURITIES—  
*continued.*

5 (ii) in the case of money that is repayable at or after the expiration of a period of not less than 3 months and not more than 6 months—a reference to 20 cents for every \$100 and for any remaining fractional part of \$100.

10 (2B) For the purposes of subsection (2A) of this section, money repayable at call after a specified period shall be regarded as money repayable at the expiration of that period.

(b) Section 84D (6)—

After section 84D (5), insert:—

15 (6) In this section, a reference to an amount subscribed for in respect of debentures includes a reference to an amount represented by debentures issued upon the conversion or renewal of an existing holding of debentures or other marketable securities.

(3) Section 84F (2)—

Omit “Where”, insert instead “To the extent to which”.

20

## SCHEDULE 6.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO MOTOR VEHICLE  
CERTIFICATES OF REGISTRATION.

(1) (a) Section 84G (2)—

25 Omit “duty’:”, insert instead “duty’.”.

(b) Section 84G (2)—

Omit the proviso.



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*Stamp Duties (Further Amendment).*

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SCHEDULE 6—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO MOTOR VEHICLE  
CERTIFICATES OF REGISTRATION—*continued.*

## (2) Section 84G (2A)—

5 After section 84G (2), insert:—

(2A) Duty is not payable under subsection (2) of this section in the case of a motor vehicle certificate of registration issued to a person who is engaged principally in the trade or business of buying or selling motor vehicles and is the holder of a dealer's licence or a  
10 wholesaler's licence under the Motor Dealers Act, 1974, where the certificate of registration—

(a) has been obtained for the purpose of the resale of the motor vehicle in respect of which it is issued; and

15 (b) is not in respect of a "demonstrator motor vehicle" within the meaning of the definition of that expression in section 4 (1) of the Motor Dealers Act, 1974, paragraph (b) of that definition excepted.

## (3) Section 84G (3)—

Omit "paragraph (a) of".

## 20 (4) Section 84G (5), (6), (7)—

Omit section 84G (5), insert instead:—

(5) Where, in the opinion of the Commissioner, the amount of the market value of a motor vehicle stated under subsection (3) of this section by an applicant for a certificate of registration in respect of the motor vehicle is less than the true market value of the  
25 motor vehicle, the Commissioner may make a further assessment of the duty payable on the basis that the value of the motor vehicle was—

30 (a) the amount of the consideration paid for the acquisition of the motor vehicle by the applicant;



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*Stamp Duties (Further Amendment).*

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SCHEDULE 6—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO MOTOR VEHICLE  
CERTIFICATES OF REGISTRATION—*continued.*

5 (b) such other amount as, in the opinion of the Commissioner,  
is the true market value of the motor vehicle; or

(c) if the applicant satisfies the Commissioner that the value of  
the motor vehicle was some other amount—that other  
amount.

10 (6) The Commissioner may recover any additional duty payable  
as a result of an assessment under subsection (5) of this section or,  
as the case may require, shall refund to the applicant any overpay-  
ment of duty, the amount of any additional duty or any refund being  
denoted on the certificate of registration.

15 (7) For the purposes of this Act, a motor vehicle certificate of  
registration issued on or after the date of assent to the Stamp  
Duties (Further Amendment) Act, 1982, shall, if it was issued as a  
result of an application therefor, be deemed to have been issued and  
first executed at the time at which payment of the fee, or of part of  
20 the fee, for the issue of the certificate of registration is first recorded,  
by cash register imprint or otherwise, in accordance with the  
regulations under the Motor Traffic Act, 1909.

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SCHEDULE 7.

(Sec. 5.)

25 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLICIES OF  
INSURANCE.

(1) Section 86A (2)—

At the end of section 86A, insert:—

30 (2) Subsection (1) of this section does not apply in respect of  
any policy of insurance that is one of a number of policies of insurance  
whereby the same property is covered in respect of the same risk.



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*Stamp Duties (Further Amendment).*

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SCHEDULE 7—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLICIES OF  
INSURANCE—*continued.*

## (2) (a) Section 88B (2A), (2B)—

5           After section 88B (2), insert:—

10           (2A) A person resident in New South Wales who effects insurance against loss of profits of a business carried on in New South Wales (whether or not the business is carried on elsewhere) for which insurance a policy of insurance is, or is to be, issued outside New South Wales shall, within 1 month after effecting the insurance, furnish to the Commissioner a return containing such particulars and information as to the insurance as are prescribed in relation to a return under subsection (1) of this section.

15           (2B) A return furnished under subsection (2A) of this section shall be liable to the same duty as would have been chargeable if the insurance to which it relates had been effected under a policy of insurance issued in New South Wales in respect of such proportion of the sum insured as the insurer attributes to the carrying on in New South Wales of the business to which the policy of insurance relates.

20

## (b) Section 88B (3)—

After “of this section”, insert “or who effects insurance of the nature referred to in subsection (2A)”.

## 25 (c) Section 88B (3) (a), (b)—

Omit “that subsection” wherever occurring, insert instead subsection (2) or (2A) of this section, as the case may require.

## (d) Section 88B (4)—

Omit “of this section”, insert instead “or (2A)”.



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*Stamp Duties (Further Amendment).*

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SCHEDULE 7—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLICIES OF  
INSURANCE—*continued.*

## (3) (a) Section 88C (1A)—

5                   After section 88C (1), insert:—

## (1A) A person—

10                   (a) with whom there is effected by a person resident in  
New South Wales insurance against loss of profits of  
a business carried on in New South Wales (whether  
or not the business is also carried on elsewhere) and  
who in connection therewith issued a policy of insur-  
ance, or a renewal of such a policy, outside New  
South Wales; or

15                   (b) who, for or on behalf of a person resident in New  
South Wales, arranges insurance against loss of profits  
of a business carried on in New South Wales (whether  
or not the business is carried on elsewhere) for which  
insurance a policy of insurance, or a renewal of such  
a policy, is, or is to be, issued outside New South  
20                   Wales,

shall, at the time or times prescribed in respect of a return  
under subsection (1) of this section, furnish a return to the  
Commissioner specifying such particulars of the policy or  
renewal as are prescribed in respect of a return under that  
25                   subsection.

## (b) Section 88C (2)—

After “fifty-six”, insert “or of any insurance of the nature  
referred to in section 88B (2A) effected by that person”.

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*Stamp Duties (Further Amendment).*

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## SCHEDULE 8.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
TRANSFERS OF SHARES.

5 (1) (a) Section 96A (2)—

Omit “New South Wales where—”, insert instead “New South  
Wales.”.

(b) Section 96A (2) (i), (ii)—

Omit the paragraphs.

10 (2) Section 96B—

After section 96A, insert:—

**Share transfers on branch register.**

15 96B. (1) A corporation or company incorporated in New South  
Wales that, pursuant to section 262 (1) of the Companies (New  
South Wales) Code, keeps a branch register shall, at the prescribed  
time or, if the regulations so provide, at times directed by the Com-  
missioner, lodge with the Commissioner a return specifying in relation  
20 to an entry in that register of a transfer of shares executed on or after  
20th October, 1982 (not being an entry to which, by virtue of sub-  
section (5) of this section, this section does not apply) such particu-  
lars and information as may be prescribed.

25 (2) A return lodged under subsection (1) of this section is,  
except to the extent that subsection (3) of this section otherwise  
provides, chargeable with the same duty as would, in the aggregate,  
have been payable under this Act if the transfers of shares to which  
the return relates had been transfers executed in New South Wales  
and had been registered in a register kept in New South Wales under  
section 256 of the Companies (New South Wales) Code.

30 (3) Where stamp duty is, in the place where a branch  
register referred to in subsection (1) of this section is kept, paid on a  
transfer of shares to which an entry specified in a return under  
subsection (1) relates and the amount of duty so paid—

35 (a) is equal to or greater than the amount of duty that, but for  
this paragraph, would be chargeable under subsection (2)  
of this section—no duty is so chargeable; or



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*Stamp Duties (Further Amendment).*

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SCHEDULE 8—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRANSFERS OF SHARES  
—*continued.*

- 5 (b) is less than the amount of duty that, but for this paragraph, would be chargeable under subsection (2) of this section—the amount of duty chargeable under that subsection is an amount equal to the difference between the amount so paid and the amount that, but for this paragraph, would be chargeable under subsection (2) of this section.
- 10 (4) The duty chargeable on a return lodged under subsection (1) of this section is payable on the lodging of the return by the corporation or company that lodges the return.
- 15 (5) This section does not apply to an entry in a register that is prescribed by the regulations as an exempt entry for the purposes of this subsection and a regulation made for those purposes may relate to entries made before or after the regulation takes effect.
- 20 (6) A payment of duty under this section by a corporation or company shall be deemed to be a payment on behalf of the transferees to whom the entries on the return chargeable with the duty relate and the proportion of the duty attributable to such an entry relating to a transferee—
- (a) may be deducted by the corporation or company from any money payable to that transferee by the corporation or company; or
- 25 (b) may be recovered as a debt owing by that transferee to the corporation or company.
- (7) A corporation or company that contravenes subsection (1) of this section is guilty of an offence and liable to a penalty not exceeding \$2,000.



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*Stamp Duties (Further Amendment).*

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## SCHEDULE 9.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO GENERAL EXEMPTIONS  
FROM DUTY.

## 5 (1) (a) Second Schedule—

Omit paragraph (8) (a) of the matter appearing under the heading "GENERAL EXEMPTIONS FROM STAMP DUTY UNDER PART III".

- 10 (b) After "branch" in paragraph (8) (e) of the matter appearing under the heading "GENERAL EXEMPTIONS FROM STAMP DUTY UNDER PART III", insert ", not being a bill of exchange or order given by a non-terminating or permanent building society registered under the Building and Co-operative Societies Act, 1901, the Co-operation Act, 1923, or the Permanent Building Societies Act, 1967, in respect of money payable by virtue of its rules or those Acts".

## (2) Second Schedule—

20 After paragraph (8) of the matter appearing under the heading "GENERAL EXEMPTIONS FROM STAMP DUTY UNDER PART III", insert:—

- 25 (8A) In the case of registered societies and branches under the Friendly Societies Act, 1912, and co-operative housing societies and Starr-Bowkett societies under the Co-operation Act, 1923—any bill of exchange or order given by any such society or branch in respect of money payable by virtue of its rules or of those Acts.

## (3) Second Schedule—

After "behalf of" in paragraph (10) of the matter appearing under the heading "GENERAL EXEMPTIONS FROM STAMP DUTY UNDER PART III", insert "or for the purposes of".

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*Stamp Duties (Further Amendment).*

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## SCHEDULE 10.

(Sec. 5.)

## MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

- (1) Section 9 (1B)—
- 5       After section 9 (1A), insert:—
- (1B) A provision of a regulation may—
- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- 10       (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.
- 15 (2) Section 24—
- Omit “ten dollars”, insert instead “\$500”.
- (3) Section 38 (1A)—
- Omit “Division 2 of”.
- (4) Section 38A (3)—
- 20       Omit the subsection.
- (5) Section 74F (7), (7A)—
- Omit section 74F (7), insert instead:—
- (7) An approved person shall—
- 25       (a) not later than such day as has for the time being been notified to him in writing for the purposes of this subsection before or after the date of assent to the Stamp Duties (Further Amendment) Act, 1982, lodge with the Commissioner a return in the form, and setting out the particulars for the time being prescribed in relation to this subsection as enacted before or after that date of assent; and
- 30



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*Stamp Duties (Further Amendment).*

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SCHEDULE 10—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (b) subject to subsection (7A) of this section, when he lodges that return, pay to the Commissioner as stamp duty an amount calculated at the rate of  $1\frac{1}{2}$  per cent of the total amount in respect of hiring arrangements received during each calendar month that is within such period of calendar months as is specified in the notification under paragraph (a) of this subsection.

10 (7A) Where the total amount received during a calendar month in respect of hiring arrangements does not exceed \$400, no stamp duty is payable in respect of that calendar month.

(6) Section 127B (1)—

Omit “, as an approved person under any provision of this Act,”.

15 (7) (a) Section 127C (1)—

Omit “who is, as an approved person under any provision of this Act,”, insert instead “is”.

(b) Section 127C (1)—

Omit “who” where secondly occurring.

20 (c) Section 127C (2)—

Omit “who”.

(8) (a) Section 129B (1)—

Omit “five hundred dollars”, insert instead “\$2,000”.

(b) Section 129B (1)—

25 Omit “ten dollars”, insert instead “\$50”.



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*Stamp Duties (Further Amendment).*

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SCHEDULE 10—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (9) Section 129C—

After section 129B, insert:—

5       **Service of notices, etc.**

129C. (1) A notice or other document required or authorised by this Act or the regulations to be served or given by the Commissioner shall be deemed to have been duly served or given—

10           (a) if delivered personally to, or if left at the last known place of abode or business in or out of the State of, the person on or to whom the notice or other document is to be served or given; or

15           (b) if sent by prepaid letter post, addressed to that person at his last known place of business or abode in or out of the State.

(2) Service of a notice or other document in accordance with subsection (1) (b) of this section shall, prima facie, be deemed to have been effected at the time when it would be delivered in the ordinary course of post.

20           (3) The provisions of this section are in addition to, and do not derogate from, any other provision of this Act relating to the service of a notice or other document or the provisions of section 528 of the Companies (New South Wales) Code.

## (10) Section 131A (4)—

25       Omit the subsection, insert instead:—

(4) Notwithstanding anything in this section, the Commissioner may divulge, communicate or refer to—

30           (a) the Commissioner of Taxation, a Second Commissioner of Taxation, or a Deputy Commissioner of Taxation, of the Commonwealth;



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*Stamp Duties (Further Amendment).*

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SCHEDULE 10—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) the Commissioner of Pay-roll Tax;
- (c) the Commissioner of Land Tax;
- 5 (d) the Commissioner for Business Franchise Licences (Tobacco);
- (e) the Commissioner for Business Franchise Licences (Petroleum Products);
- 10 (f) any other authority responsible for collecting revenue of the State; or
- (g) the authority administering an Act of another State, or a Territory of the Commonwealth, relating to stamp duties or death duties or similar legislation,

15 any information, or a copy of any document, that comes to his knowledge or into his possession and is relevant to the exercise or performance of the powers, authorities, duties or functions of the person to whom it is divulged, communicated or referred.



