

FIRST PRINT

**BUSINESS FRANCHISE LICENCES (TOBACCO)
(INFORMATION DISCLOSURE) AMENDMENT BILL 1987**

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Revenue Laws (Reciprocal Powers) Bill 1987.

The object of this Bill is to authorise the Chief Commissioner for Business Franchise Licences (Tobacco) to perform the functions of a State taxation officer under the Taxation Administration Act 1953 of the Commonwealth and to amend the Business Franchise Licences (Tobacco) Act 1975 with a view to relaxing the provisions of that Act relating to the disclosure of information, and the publication of records and documents, obtained in connection with the administration or execution of that Act. The amendments are consequential on the proposed Revenue Laws (Reciprocal Powers) Act 1987.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on the day when the proposed Revenue Laws (Reciprocal Powers) Act 1987 commences.

Clause 3 is a formal provision giving effect to the Schedule of amendments to the Principal Act.

Schedule 1 (1) amends section 3 of the Principal Act, which defines certain expressions for the purposes of that Act, by inserting in subsection (1) of that section a definition of "New South Wales revenue law".

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Schedule 1 (2) amends section 5 of the Principal Act, which provides for the appointment of a Chief Commissioner for Business Franchise Licences (Tobacco) and other officers for the purposes of that Act. The amendment authorises the Chief Commissioner for Business Franchise Licences (Tobacco) to perform the functions of a State taxation officer under Part IIIA of the Taxation Administration Act 1953 of the Commonwealth. That Part is designed to facilitate co-operation between Commonwealth and State revenue authorities.

Schedule 1 (3) replaces section 24 of the Principal Act, which, with certain exceptions, prohibits a person from disclosing information, or publishing records or documents, obtained in connection with the administration or execution of that Act. The substituted section will extend the categories of cases in which information, records and documents so obtained may be disclosed or published. In particular, it will be possible to disclose such information or publish such records or documents for the purposes of another New South Wales revenue law (such as the Stamp Duties Act 1920) and for the purposes of the proposed Revenue Laws (Reciprocal Powers) Act 1987. The Chief Commissioner for Business Franchise Licences (Tobacco) will, for certain specified purposes, be able to disclose such information or publish such records or documents to specified persons and local authorities so as to enable them to exercise or perform powers, authorities, duties or functions conferred or imposed on them by law. It will be an offence for information, records or documents communicated by the Chief Commissioner under subsection (2) of the proposed section to be disclosed or published unless the disclosure or publication is made with the Chief Commissioner's consent or so as to enable a person or local authority to exercise or perform, for a purpose specified in that subsection, a power, authority, duty or function conferred or imposed on the person or authority by law. Other minor departures from the existing section are being made in consequence of the proposed Revenue Laws (Reciprocal Powers) Act 1987.

**BUSINESS FRANCHISE LICENCES (TOBACCO)
(INFORMATION DISCLOSURE) AMENDMENT BILL 1987**

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TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 63, 1975

**SCHEDULE 1—AMENDMENTS TO THE BUSINESS FRANCHISE LICENCES
(TOBACCO) ACT 1975**



**BUSINESS FRANCHISE LICENCES (TOBACCO)
(INFORMATION DISCLOSURE) AMENDMENT BILL 1987**

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to amend the Business Franchise Licences (Tobacco) Act 1975 for the purpose of making further provision with respect to the disclosure of information, and the publication of records and documents, obtained in connection with the administration or execution of that Act and for related purposes.

*Business Franchise Licences (Tobacco) (Information Disclosure) Amendment
1987*

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 "Business Franchise Licences (Tobacco) (Information Disclosure) Amendment Act 1987".

Commencement

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

(2) Except as provided by subsection (1), this Act shall commence on the commencement of the Revenue Laws (Reciprocal Powers) Act 1987.

Amendment of Act No. 63, 1975

3. The Business Franchise Licences (Tobacco) Act 1975 is amended in
15 the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 3)

**AMENDMENTS TO THE BUSINESS FRANCHISE LICENCES
(TOBACCO) ACT 1975**

20 (1) Section 3 (Interpretation)—

Section 3 (1), definition of "New South Wales revenue law"—

After the definition of "licensee", insert:

"New South Wales revenue law" means any of the following:

- (a) the Stamp Duties Act 1920;
- 25** (b) the Gaming and Betting (Poker Machines) Taxation Act 1956;
- (c) the Land Tax Act 1956;
- (d) the Land Tax Management Act 1956;

*Business Franchise Licences (Tobacco) (Information Disclosure) Amendment
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SCHEDULE 1—*continued*

AMENDMENTS TO THE BUSINESS FRANCHISE LICENCES
(TOBACCO) ACT 1975—*continued*

- (e) the Pay-roll Tax Act 1971;
- (f) the Registered Clubs Act 1976;
- (g) the Business Franchise Licences (Petroleum Products) Act 1982;
- 5 (h) the Liquor Act 1982;
- (i) the Health Insurance Levies Act 1982;
- (j) any other prescribed Act, being an Act by which a tax, fee, duty or other impost is levied and collected by the State;
- 10 (2) Section 5 (**Chief Commissioner, Deputy Chief Commissioner and other officers**)—
 - Section 5 (10)—
 - After section 5 (9), insert:
 - 15 (10) The Chief Commissioner is authorised to perform the functions of a State taxation officer under Part IIIA of the Taxation Administration Act 1953 of the Commonwealth.
- (3) Section 24—
 - Omit the section, insert instead:
 - Disclosure of information etc.**
 - 20 24. (1) Except as provided by subsections (2), (4) and (5), a person shall not disclose information, or publish a record or document, obtained by that or another person in connection with the administration or execution of this Act or the regulations, unless the disclosure or publication is made—
 - 25 (a) with the consent of the person from whom the information, record or document was so obtained;
 - (b) in connection with the administration or execution of this Act, the regulations, a New South Wales revenue law or the Revenue Laws (Reciprocal Powers) Act 1987; or

*Business Franchise Licences (Tobacco) (Information Disclosure) Amendment
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SCHEDULE 1—*continued*

AMENDMENTS TO THE BUSINESS FRANCHISE LICENCES
(TOBACCO) ACT 1975—*continued*

(c) for the purpose of any legal proceedings arising out of this Act, the regulations, a New South Wales revenue law or the Revenue Laws (Reciprocal Powers) Act 1987 or of any report of any such proceedings.

5 Penalty: \$10,000.

(2) The Chief Commissioner may, if of the opinion that it is necessary to do so for the purpose of enforcing a law that creates an offence or provides for the imposition of a penalty, or for the purpose of protecting the public revenue, disclose information, or
10 publish a record, referred to in subsection (1) to—

(a) the Solicitor-General;

(b) the Secretary of the Attorney General's Department;

(c) the Director of Public Prosecutions;

(d) the Crown Advocate;

15 (e) a Crown Prosecutor;

(f) a member of the Police Force of or above the rank of Inspector;

(g) the council of a city, municipality or shire; or

(h) a member, officer or employee of such a council,

20 so as to enable that person or council to exercise or perform a power, authority, duty or function conferred or imposed on the person or council by law.

(3) A person shall not disclose information, or publish a record, communicated in accordance with subsection (2) unless the
25 disclosure or publication is made—

(a) with the consent of the Chief Commissioner; or

*Business Franchise Licences (Tobacco) (Information Disclosure) Amendment
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SCHEDULE 1—*continued*

AMENDMENTS TO THE BUSINESS FRANCHISE LICENCES
(TOBACCO) ACT 1975—*continued*

(b) so as to enable a person to exercise or perform for a purpose referred to in that subsection a power, authority, duty or function conferred or imposed on the person by law.

5 Penalty: \$10,000.

10 (4) If a record referred to in subsection (1) has been transferred to the Archives Authority of New South Wales in accordance with the Archives Act 1960, the Chief Commissioner may, when the record has been in existence for 30 years or more, give that Authority approval to disclose, divulge or otherwise publish the record.

(5) Subsection (1) does not—

15 (a) prevent the disclosure of information, or the publication of a record or document, in accordance with a lawful requirement of the Commonwealth Statistician;

(b) prevent a record or document from being made available to, or disposed of or otherwise dealt with by, the Archives Authority of New South Wales in accordance with the Archives Act 1960; or

20 (c) apply to information, or a record, obtained for the purposes of this Act under a corresponding law within the meaning of section 3 (1) of the Revenue Laws (Reciprocal Powers) Act 1987.

25 (6) In this section, a reference to a record or document includes a reference to a part of a record or document and to a copy of a record or document.

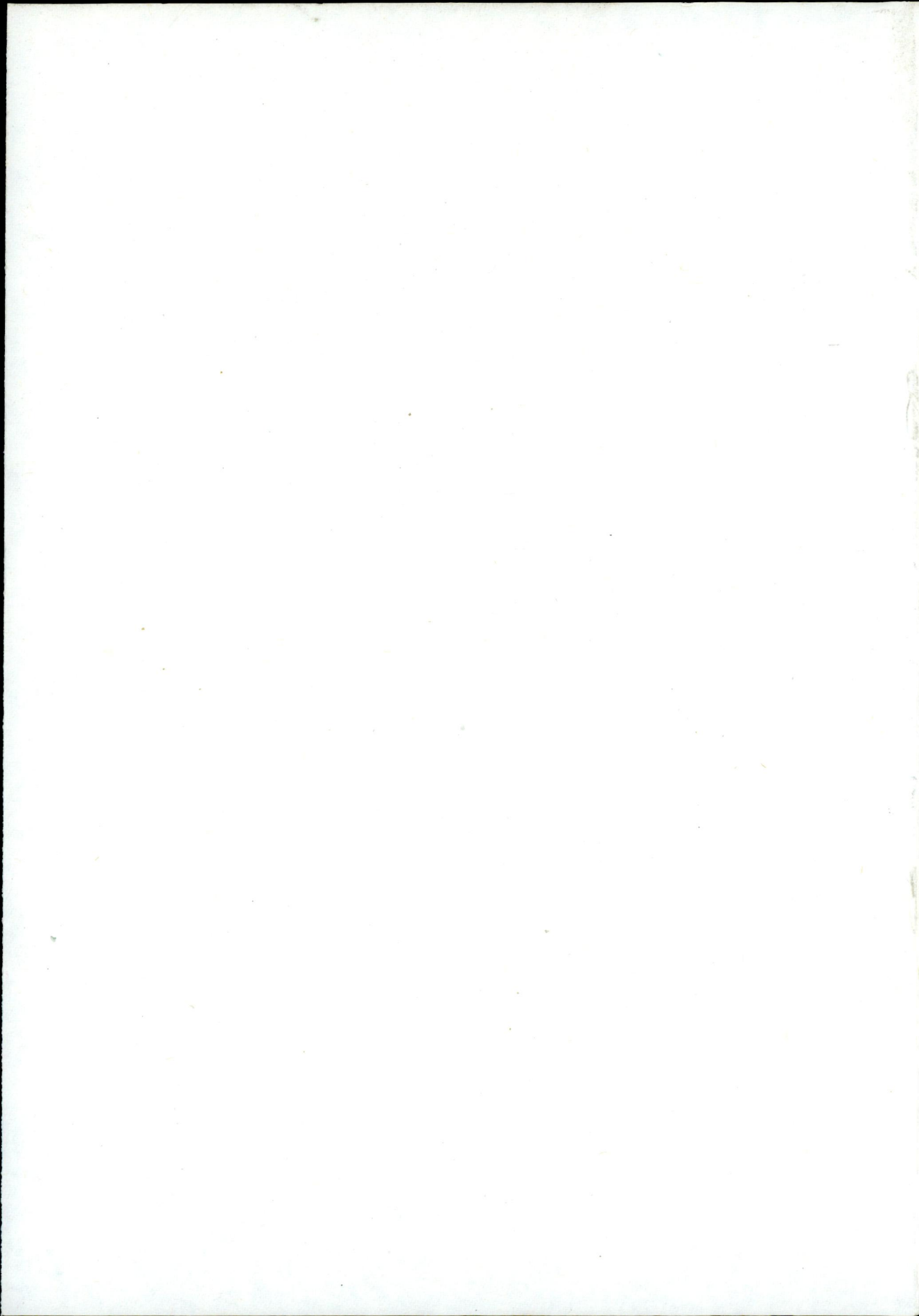
*Business Franchise Licences (Tobacco) (Information Disclosure) Amendment
1987*

SCHEDULE 1—*continued*

AMENDMENTS TO THE BUSINESS FRANCHISE LICENCES
(TOBACCO) ACT 1975—*continued*

5 (7) Subject to subsection (5), this section applies to information, records and documents obtained by a person in connection with the administration or execution of this Act whether before or after the commencement of the Business Franchise Licences (Tobacco) (Information Disclosure) Amendment Act 1987.





**BUSINESS FRANCHISE LICENCES (TOBACCO)
(INFORMATION DISCLOSURE) AMENDMENT ACT 1987
No. 90**

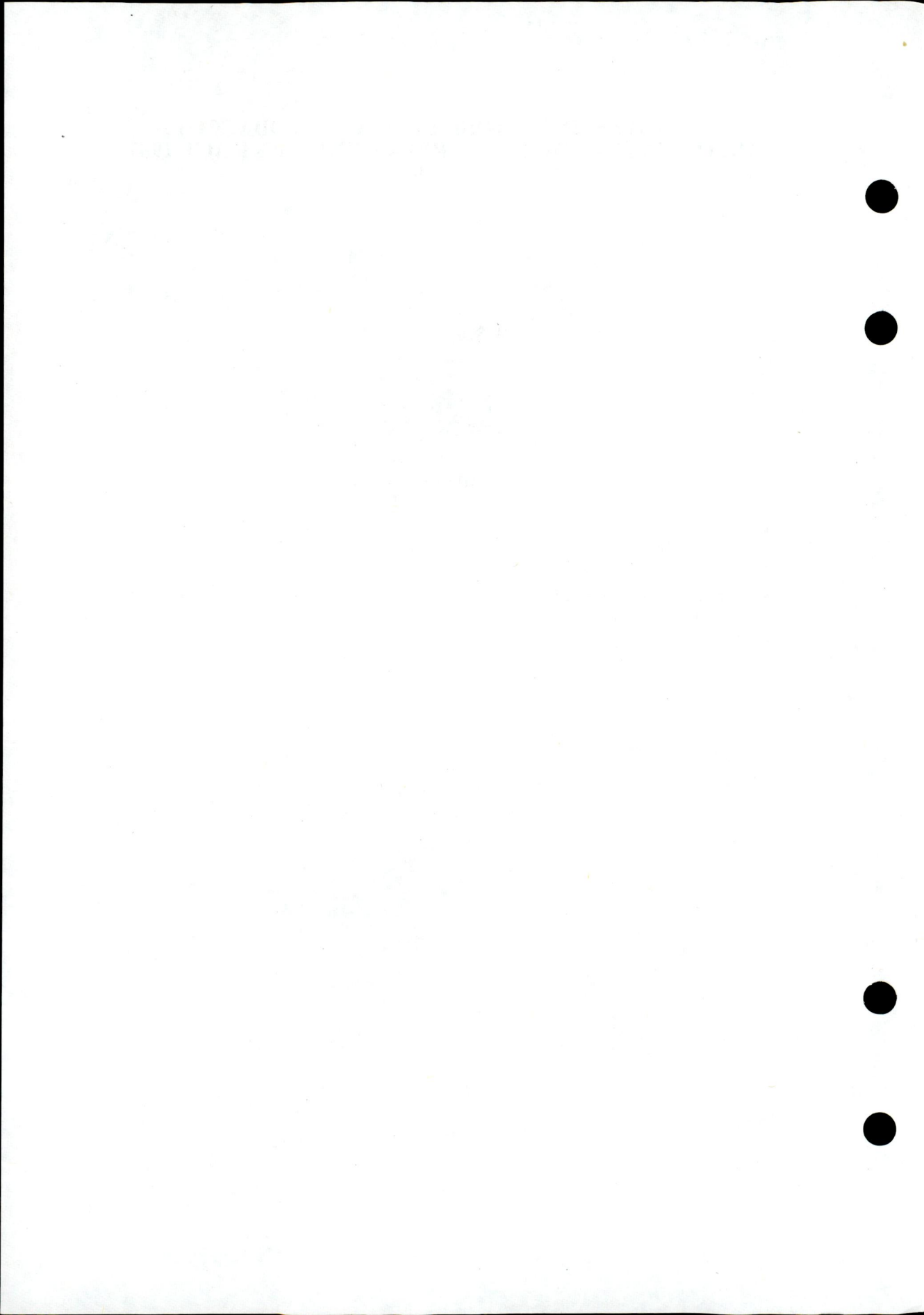
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 63, 1975

SCHEDULE 1—AMENDMENTS TO THE BUSINESS FRANCHISE LICENCES
(TOBACCO) ACT 1975



**BUSINESS FRANCHISE LICENCES (TOBACCO) (INFORMATION
DISCLOSURE) AMENDMENT ACT 1987 No. 90**

NEW SOUTH WALES



Act No. 90, 1987

An Act to amend the Business Franchise Licences (Tobacco) Act 1975 for the purpose of making further provision with respect to the disclosure of information, and the publication of records and documents, obtained in connection with the administration or execution of that Act and for related purposes. [Assented to 12 June 1987]

*Business Franchise Licences (Tobacco) (Information Disclosure) Amendment
1987*

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 "Business Franchise Licences (Tobacco) (Information Disclosure) Amendment Act 1987".

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 commence on the commencement of the Revenue Laws (Reciprocal Powers) Act 1987.

Amendment of Act No. 63, 1975

3. The Business Franchise Licences (Tobacco) Act 1975 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE BUSINESS FRANCHISE LICENCES
(TOBACCO) ACT 1975

(1) Section 3 (**Interpretation**)—

Section 3 (1), definition of "New South Wales revenue law"—

After the definition of "licensee", insert:

"New South Wales revenue law" means any of the following:

- (a) the Stamp Duties Act 1920;
- (b) the Gaming and Betting (Poker Machines) Taxation Act 1956;
- (c) the Land Tax Act 1956;
- (d) the Land Tax Management Act 1956;

*Business Franchise Licences (Tobacco) (Information Disclosure) Amendment
1987*

SCHEDULE 1—*continued*

AMENDMENTS TO THE BUSINESS FRANCHISE LICENCES
(TOBACCO) ACT 1975—*continued*

- (e) the Pay-roll Tax Act 1971;
 - (f) the Registered Clubs Act 1976;
 - (g) the Business Franchise Licences (Petroleum Products) Act 1982;
 - (h) the Liquor Act 1982;
 - (i) the Health Insurance Levies Act 1982;
 - (j) any other prescribed Act, being an Act by which a tax, fee, duty or other impost is levied and collected by the State;
- (2) Section 5 (**Chief Commissioner, Deputy Chief Commissioner and other officers**)—
- Section 5 (10)—
- After section 5 (9), insert:
- (10) The Chief Commissioner is authorised to perform the functions of a State taxation officer under Part IIIA of the Taxation Administration Act 1953 of the Commonwealth.
- (3) Section 24—
- Omit the section, insert instead:
- Disclosure of information etc.**
24. (1) Except as provided by subsections (2), (4) and (5), a person shall not disclose information, or publish a record or document, obtained by that or another person in connection with the administration or execution of this Act or the regulations, unless the disclosure or publication is made—
- (a) with the consent of the person from whom the information, record or document was so obtained;
 - (b) in connection with the administration or execution of this Act, the regulations, a New South Wales revenue law or the Revenue Laws (Reciprocal Powers) Act 1987; or

SCHEDULE 1—*continued*

AMENDMENTS TO THE BUSINESS FRANCHISE LICENCES
(TOBACCO) ACT 1975—*continued*

- (c) for the purpose of any legal proceedings arising out of this Act, the regulations, a New South Wales revenue law or the Revenue Laws (Reciprocal Powers) Act 1987 or of any report of any such proceedings.

Penalty: \$10,000.

(2) The Chief Commissioner may, if of the opinion that it is necessary to do so for the purpose of enforcing a law that creates an offence or provides for the imposition of a penalty, or for the purpose of protecting the public revenue, disclose information, or publish a record, referred to in subsection (1) to—

- (a) the Solicitor-General;
- (b) the Secretary of the Attorney General's Department;
- (c) the Director of Public Prosecutions;
- (d) the Crown Advocate;
- (e) a Crown Prosecutor;
- (f) a member of the Police Force of or above the rank of Inspector;
- (g) the council of a city, municipality or shire; or
- (h) a member, officer or employee of such a council,

so as to enable that person or council to exercise or perform a power, authority, duty or function conferred or imposed on the person or council by law.

(3) A person shall not disclose information, or publish a record, communicated in accordance with subsection (2) unless the disclosure or publication is made—

- (a) with the consent of the Chief Commissioner; or

SCHEDULE 1—*continued*

AMENDMENTS TO THE BUSINESS FRANCHISE LICENCES
(TOBACCO) ACT 1975—*continued*

- (b) so as to enable a person to exercise or perform for a purpose referred to in that subsection a power, authority, duty or function conferred or imposed on the person by law.

Penalty: \$10,000.

(4) If a record referred to in subsection (1) has been transferred to the Archives Authority of New South Wales in accordance with the Archives Act 1960, the Chief Commissioner may, when the record has been in existence for 30 years or more, give that Authority approval to disclose, divulge or otherwise publish the record.

(5) Subsection (1) does not—

- (a) prevent the disclosure of information, or the publication of a record or document, in accordance with a lawful requirement of the Commonwealth Statistician;
- (b) prevent a record or document from being made available to, or disposed of or otherwise dealt with by, the Archives Authority of New South Wales in accordance with the Archives Act 1960; or
- (c) apply to information, or a record, obtained for the purposes of this Act under a corresponding law within the meaning of section 3 (1) of the Revenue Laws (Reciprocal Powers) Act 1987.
- (6) In this section, a reference to a record or document includes a reference to a part of a record or document and to a copy of a record or document.

*Business Franchise Licences (Tobacco) (Information Disclosure) Amendment
1987*

SCHEDULE 1—*continued*

AMENDMENTS TO THE BUSINESS FRANCHISE LICENCES
(TOBACCO) ACT 1975—*continued*

(7) Subject to subsection (5), this section applies to information, records and documents obtained by a person in connection with the administration or execution of this Act whether before or after the commencement of the Business Franchise Licences (Tobacco) (Information Disclosure) Amendment Act 1987.