

FIRST PRINT

**PAY-ROLL TAX (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 amend the Pay-roll Tax Act 1971 with a view to relaxing the provisions of that Act relating to the disclosure of information, and the publication of records, 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.

Clause 4 is a saving provision consequential on the insertion into the Principal Act of the definition of "record".

Schedule 1 (1) amends section 3 of the Principal Act, which defines certain expressions for the purposes of that Act. Because it will be redundant, the definition of "corresponding law" is to be omitted. Definitions of "New South Wales revenue law" and "record" are being inserted in subsection (1) of that section.

Pay-roll Tax (Information Disclosure) Amendment 1987

Schedule 1 (2) amends section 4 of the Principal Act, which provides for the appointment of a Chief Commissioner of Pay-roll Tax and other officers for the purposes of that Act. The amendment in effect replaces section 5 (2A) of the Principal Act, which is being repealed by Schedule 1 (3). It authorises the Chief Commissioner of Pay-roll Tax 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 taxation authorities.

Schedule 1 (3) replaces section 5 of the Principal Act, which prohibits, with certain exceptions, a person from disclosing information obtained in connection with the administration or execution of that Act. Under the substituted section, it will continue to be an offence to disclose information obtained in connection with the administration or execution of that Act. In addition, it will, with similar exceptions, be an offence for a person to publish records so obtained. The substituted section will extend the categories of cases in which information and records so obtained may be disclosed or published. In particular, it will be possible to disclose such information or publish such records 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 of Pay-roll Tax will, for certain specified purposes, be able to disclose such information or publish such records to specified persons 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 or records 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 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.

Schedule 1 (4)-(7) amend sections 16, 35, 44 and 45 of the Principal Act, which respectively confer power to obtain information and evidence, prescribe certain offences under the Principal Act, require certain persons to preserve certain books or accounts, and enable certain officers to have access to buildings, places, books, documents and papers for the purpose of administering or executing the Act. The amendments are consequential on the insertion of the definition of "record" in the Principal Act and the proposed enactment of the Revenue Laws (Reciprocal Powers) Bill 1987.

Schedule 1 (8) replaces section 50 of the Principal Act, which provides for the taking of proceedings for offences against the Principal Act. The amendment is consequential on the enactment of the Local Courts Act 1982.

**PAY-ROLL TAX (INFORMATION DISCLOSURE)
AMENDMENT BILL 1987**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 22, 1971
4. Saving

SCHEDULE 1—AMENDMENTS TO THE PAY-ROLL TAX ACT 1971



**PAY-ROLL TAX (INFORMATION DISCLOSURE)
AMENDMENT BILL 1987**

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to amend the Pay-roll Tax Act 1971 for the purpose of making further provision with respect to the disclosure of information, and the publication of records, obtained in connection with the administration or execution of that Act and for related purposes.

Pay-roll Tax (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 "Pay-roll Tax (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. 22, 1971

3. The Pay-roll Tax Act 1971 is amended in the manner set forth in
15 Schedule 1.

Saving

4. Books or accounts kept under section 44 of the Pay-roll Tax Act 1971
(as in force immediately before the commencement of this Act) shall be
20 deemed to be prescribed records for the purposes of that section (as in force
on and after that commencement).

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE PAY-ROLL TAX ACT 1971

(1) Section 3 (**Interpretation**)—

25 (a) Section 3 (1), definition of "corresponding law"—

Omit the definition.

*Pay-roll Tax (Information Disclosure) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE PAY-ROLL TAX ACT 1971—*continued*

(b) Section 3 (1), definition of “New South Wales revenue law”—

After the definition of “month”, insert:

“New South Wales revenue law” means any of the following:

- (a) the Stamp Duties Act 1920;
- 5 (b) the Gaming and Betting (Poker Machines) Taxation Act 1956;
- (c) the Land Tax Act 1956;
- (d) the Land Tax Management Act 1956;
- (e) the Business Franchise Licences (Tobacco) Act 1975;
- 10 (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;
- 15 (j) any other prescribed Act, being an Act by which a tax, fee, duty or other impost is levied and collected by the State;

(c) Section 3 (1), definition of “record”—

After the definition of “person”, insert:

- 20 “record” includes book, account, deed, writing, document and any other source of information compiled, recorded or stored in written form, or on microfilm, or by electronic process, or in any other manner or by any other means;

*Pay-roll Tax (Information Disclosure) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE PAY-ROLL TAX ACT 1971—*continued*(2) Section 4 (**Chief Commissioner, Deputy Chief Commissioner and other officers**)—

Section 4 (10)—

After section 4 (9), insert:

- 5 (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 5—

Omit the section, insert instead:

10 **Disclosure of information etc.**

5. (1) Except as provided by subsections (2), (4) and (5), a person shall not disclose information, or publish a record, 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—

- 15 (a) with the consent of the person from whom the information or record was so obtained;
- 20 (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
- (c) for the purposes of any legal proceedings arising out of this Act, the regulations, a New South Wales revenue law or the Revenue Laws (Reciprocal Laws) Act 1987 or of any report of any such proceedings.

25 Penalty: \$10,000.

SCHEDULE 1—*continued*AMENDMENTS TO THE PAY-ROLL TAX ACT 1971—*continued*

(2) The Chief Commissioner may—

5 (a) 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—

(i) the Solicitor-General;

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

(iii) the Director of Public Prosecutions;

10 (iv) the Crown Advocate;

(v) a Crown Prosecutor; or

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

15 (b) if of the opinion that it is necessary to do so for the purpose of the administration or execution of the Country Industries (Pay-roll Tax Rebates) Act 1977, disclose information, or publish a record, to the Director of the Department of Industrial Development and Decentralisation,

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

25 (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

30 (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.

Pay-roll Tax (Information Disclosure) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PAY-ROLL TAX ACT 1971—*continued*

5 (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—

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

(b) prevent a record 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

15 (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.

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

25 (7) Subject to subsection (5), this section applies to information and records obtained by a person in connection with the administration or execution of this Act whether before or after the commencement of the Pay-roll Tax (Information Disclosure) Amendment Act 1987.

(4) Section 16 (**Power to obtain information and evidence**)—

Section 16 (1)—

Omit “books, documents and other papers whatsoever”, insert instead “records”.

30 (5) Section 35 (**Offences**)—

Section 35 (1) (b)—

Omit “books or papers”, insert instead “records”.

Pay-roll Tax (Information Disclosure) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PAY-ROLL TAX ACT 1971—*continued*

(6) Section 44 (**Preservation of records**)—

(a) Section 44 (1)—

(i) Omit “proper books or accounts”, insert instead “such records as may be prescribed”.

5 (ii) Omit “those books or accounts”, insert instead “those records”.

(b) Section 44 (2)—

Omit “any books, accounts or documents”, insert instead “records”.

10 (7) Section 45 (**Access to records**)—

(a) Omit “places, books, documents and other papers”, insert instead “places and records”.

(b) Omit “books, documents or papers”, insert instead “records”.

(8) Section 50—

15 Omit the section, insert instead:

Proceedings for offences

50. Proceedings for an offence against this Act or the regulations may be taken before a Local Court constituted by a Magistrate sitting alone.

**PAY-ROLL TAX (INFORMATION DISCLOSURE)
AMENDMENT ACT 1987 No. 89**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 22, 1971
4. Saving

SCHEDULE 1—AMENDMENTS TO THE PAY-ROLL TAX ACT 1971

THE NATIONAL ARCHIVES
COLLECTIONS

1914-1918
1919-1920
1921-1922

1923-1924

1925-1926
1927-1928
1929-1930

1931-1932

**PAY-ROLL TAX (INFORMATION DISCLOSURE) AMENDMENT
ACT 1987 No. 89**

NEW SOUTH WALES



Act No. 89, 1987

An Act to amend the Pay-roll Tax Act 1971 for the purpose of making further provision with respect to the disclosure of information, and the publication of records, obtained in connection with the administration or execution of that Act and for related purposes. [Assented to 12 June 1987]

Pay-roll Tax (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 "Pay-roll Tax (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. 22, 1971

3. The Pay-roll Tax Act 1971 is amended in the manner set forth in Schedule 1.

Saving

4. Books or accounts kept under section 44 of the Pay-roll Tax Act 1971 (as in force immediately before the commencement of this Act) shall be deemed to be prescribed records for the purposes of that section (as in force on and after that commencement).

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE PAY-ROLL TAX ACT 1971

(1) Section 3 (**Interpretation**)—

(a) Section 3 (1), definition of "corresponding law"—

Omit the definition.

SCHEDULE 1—*continued*AMENDMENTS TO THE PAY-ROLL TAX ACT 1971—*continued*

(b) Section 3 (1), definition of “New South Wales revenue law”—

After the definition of “month”, 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;
- (e) the Business Franchise Licences (Tobacco) Act 1975;
- (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;

(c) Section 3 (1), definition of “record”—

After the definition of “person”, insert:

“record” includes book, account, deed, writing, document and any other source of information compiled, recorded or stored in written form, or on microfilm, or by electronic process, or in any other manner or by any other means;

Pay-roll Tax (Information Disclosure) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PAY-ROLL TAX ACT 1971—*continued*

(2) Section 4 (**Chief Commissioner, Deputy Chief Commissioner and other officers**)—

Section 4 (10)—

After section 4 (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 5—

Omit the section, insert instead:

Disclosure of information etc.

5. (1) Except as provided by subsections (2), (4) and (5), a person shall not disclose information, or publish a record, 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 or record 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
- (c) for the purposes 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.

SCHEDULE 1—*continued*AMENDMENTS TO THE PAY-ROLL TAX ACT 1971—*continued*

(2) The Chief Commissioner may—

(a) 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—

(i) the Solicitor-General;

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

(iii) the Director of Public Prosecutions;

(iv) the Crown Advocate;

(v) a Crown Prosecutor; or

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

(b) if of the opinion that it is necessary to do so for the purpose of the administration or execution of the Country Industries (Pay-roll Tax Rebates) Act 1977, disclose information, or publish a record, to the Director of the Department of Industrial Development and Decentralisation,

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

(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.

SCHEDULE 1—*continued*AMENDMENTS TO THE PAY-ROLL TAX ACT 1971—*continued*

(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, in accordance with a lawful requirement of the Commonwealth Statistician;
- (b) prevent a record 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 includes a reference to a part of a record and to a copy of a record.

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

(4) Section 16 (**Power to obtain information and evidence**)—

Section 16 (1)—

Omit “books, documents and other papers whatsoever”, insert instead “records”.

(5) Section 35 (**Offences**)—

Section 35 (1) (b)—

Omit “books or papers”, insert instead “records”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PAY-ROLL TAX ACT 1971—*continued*(6) Section 44 (**Preservation of records**)—

(a) Section 44 (1)—

- (i) Omit “proper books or accounts”, insert instead “such records as may be prescribed”.
- (ii) Omit “those books or accounts”, insert instead “those records”.

(b) Section 44 (2)—

Omit “any books, accounts or documents”, insert instead “records”.

(7) Section 45 (**Access to records**)—

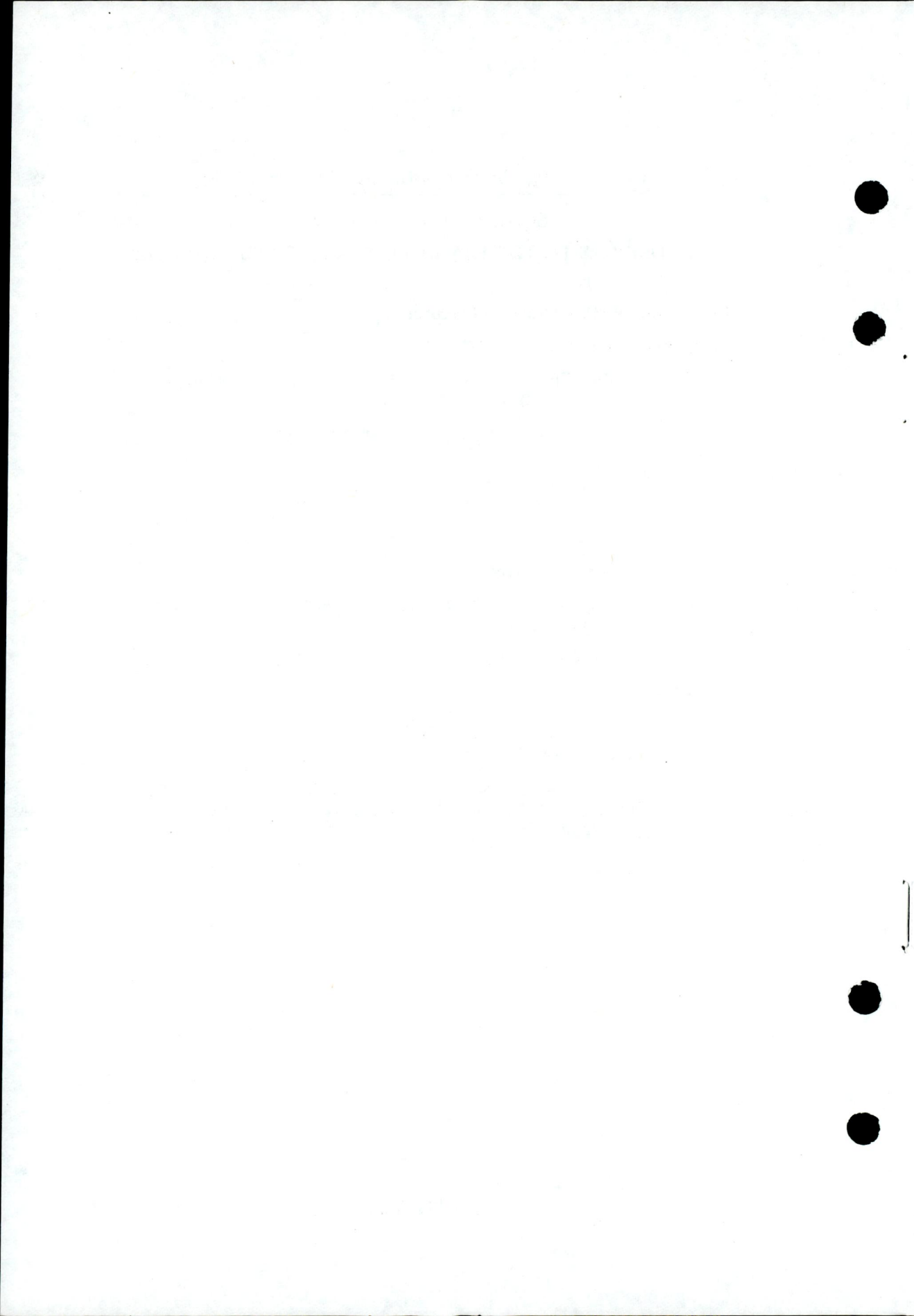
- (a) Omit “places, books, documents and other papers”, insert instead “places and records”.
- (b) Omit “books, documents or papers”, insert instead “records”.

(8) Section 50—

Omit the section, insert instead:

Proceedings for offences

50. Proceedings for an offence against this Act or the regulations may be taken before a Local Court constituted by a Magistrate sitting alone.



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