

STAMP DUTIES (AMENDMENT) BILL 1985

EXPLANATORY NOTE

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

The following Bills are cognate with this Bill:

Business Franchise Licences (Petroleum Products) (Administration) Amendment Bill 1985;

Business Franchise Licences (Tobacco) (Administration) Amendment Bill 1985;

Health Insurance Levies (Administration) Amendment Bill 1985;

Land Tax Management (Administration) Amendment Bill 1985;

Pay-roll Tax (Administration) Amendment Bill 1985.

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

- (a) to increase the nominal rates of duty imposed by the Principal Act from \$6 to \$10 (Schedule 1 (1), (2) and (3) (a) and (b));
- (b) to abolish the nominal duty of \$6 that is presently imposed on certificates of incorporation of companies (Schedule 1 (3) (c));
- (c) to vary the ad valorem rates of duty imposed by the Principal Act in relation to conveyances of property so that the new rates will be—
 - (i) where the consideration for the conveyance does not exceed \$14,000—\$1.25 for every \$100 or part thereof;
 - (ii) where the consideration for the conveyance exceeds \$14,000 but does not exceed \$30,000—\$175 plus \$1.50 for every \$100 or part thereof by which the consideration exceeds \$14,000;
 - (iii) where the consideration for the conveyance exceeds \$30,000 but does not exceed \$80,000—\$415 plus \$1.75 for every \$100 or part thereof by which the consideration exceeds \$30,000; and

(iv) where the consideration for the conveyance exceeds \$80,000—\$1,290 plus \$3.50 for every \$100 or part thereof by which the consideration exceeds \$80,000.

(Schedule 1 (3) (d));

- (d) to enact, with minor modifications, the provisions that were to have been enacted by the Stamp Duties (Amendment) Act 1984 in relation to London Stock Exchange share transactions (Schedule 2);
- (e) to provide for the appointment of a Deputy Chief Commissioner for the purposes of the Principal Act (Schedule 3 (2));
- (f) to extend the class of persons who may be the subject of an approval under section 38C of the Principal Act in relation to the payment of duty by return (Schedule 3 (3));
- (g) to clarify the ambit of the exemption set out in section 63 (5) of the Principal Act in relation to the making of contract notes (Schedule 3 (4));
- (h) to exempt certain classes of annuity from liability to duty (Schedule 3 (5));
- (i) to provide that certain conveyances, not made for valuable consideration, from a trustee to a beneficiary are to be charged with nominal stamp duty (Schedule 3 (6) and (21) (a) and (c));
- (j) to provide that hiring arrangements in respect of certain invalid aids are exempt from payment of stamp duty (Schedule 3 (7));
- (k) to reduce the stamp duty payable in respect of hiring arrangements by the amount of stamp duty that has been paid in respect of the arrangement in any other State or Territory (Schedule 3 (8));
- (l) to impose a maximum duty of \$10,000 in respect of hiring arrangements generally (Schedule 3 (9) and (21) (b));
- (m) to provide that stamp duty on certain leases is refundable where the lease is rescinded, cancelled or annulled before the commencement of the term of the lease (Schedule 3 (10));
- (n) to provide that, where duty has been paid on the issue of a debenture, duty is not payable in respect of any subsequent issue of a certificate in respect of the same debenture (Schedule 3 (11)—proposed section 84EA);
- (o) to abolish loan security duty in respect of regulated contracts within the meaning of the Credit Act 1984 (Schedule 3 (11)—proposed section 84EB);
- (p) to ensure that certain classes of security are covered by the provisions of the Principal Act relating to mortgage-backed securities (Schedule 3 (12));

- (q) to require an application under the Motor Traffic Act 1909 for a motor vehicle certificate of registration to be accompanied by a form specifying the market value of the motor vehicle, to provide for a penalty of \$5,000 or imprisonment for 12 months, or both, for the furnishing of false or misleading information in such a form, and to impose an additional duty of double the amount of any duty chargeable as a consequence of the undervaluing of the motor vehicle (Schedule 3 (13));
 - (r) to abolish stamp duty on a transfer of shares effected for the sole purpose of replacing an identical parcel of shares previously borrowed from the transferee (Schedule 3 (14) and (21) (d));
 - (s) to increase the rate of interest, from 8 per cent per annum to 20 per cent per annum, in relation to unpaid death duty (Schedule 3 (17));
 - (t) to enable the Minister, under circumstances that are to be prescribed by the regulations under the Principal Act, to authorise the stamping of dutiable instruments on which duty has not yet been paid (Schedule 3 (19)—proposed section 129D);
 - (u) to provide that conveyances effected by certain instruments amending specified declarations of trust (in particular, declarations of trust in relation to public unit trust schemes and approved superannuation schemes) are liable to a fixed duty of \$200 (Schedule 3 (21) (a));
 - (v) to exempt certain conveyances (that is, conveyances arising out of the appointment of new trustees for certain industrial organisations and conveyances arising out of the amalgamation of certain industrial organisations) from liability to stamp duty (Schedule 3 (21) (e)); and
 - (w) to make other amendments of a minor, consequential or ancillary nature, and to amend the Stamp Duties (Amendment) Act 1984 as a consequence of the amendments referred to in paragraph (d) above (Schedule 4).
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1980 JAN 14 10 10 AM

STAMP DUTIES (AMENDMENT) BILL 1985

No. , 1985

A BILL FOR

An Act to amend the Stamp Duties Act 1920 in relation to rates of duty and in relation to certain other matters; and to amend the Stamp Duties (Amendment) Act 1984 in certain minor respects.

See also Business Franchise Licences (Petroleum Products) (Administration) Amendment Bill 1985; Business Franchise Licences (Tobacco) (Administration) Amendment Bill 1985; Health Insurance Levies (Administration) Amendment Bill 1985; Land Tax Management (Administration) Amendment Bill 1985; Pay-roll Tax (Administration) Amendment Bill 1985.

Stamp Duties (Amendment) 1985

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 (Amendment) Act 1985".

Commencement

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.
- 10 (2) Schedule 2, and section 5 in its application to that Schedule, shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Principal Act

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

Schedules

4. This Act contains the following Schedules:

SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO RATES OF STAMP DUTY

- 20 SCHEDULE 2—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO LONDON STOCK EXCHANGE
TRANSACTIONS

SCHEDULE 3—MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT

- 25 SCHEDULE 4—AMENDMENTS TO THE STAMP DUTIES
(AMENDMENT) ACT 1984

Amendment of Act No. 47, 1920

5. The Principal Act is amended in the manner set forth in Schedules
1-3.

Stamp Duties (Amendment) 1985

Amendment of Act No. 26, 1984

6. The Stamp Duties (Amendment) Act 1984 is amended in the manner set forth in Schedule 4.

SCHEDULE 1

5

(Sec. 5)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO RATES OF
STAMP DUTY

(1) Sections 41 (3A), 66 (6) (b)—

Omit "\$6" wherever occurring, insert instead "\$10".

10 (2) Sections 66B (2), 66C (5), 69 (2), 72, 73 (2), 74 (1), 78D (5), 85—

Omit "six dollars" wherever occurring, insert instead "\$10".

(3) (a) Second Schedule—

Omit "6.00" wherever occurring, insert instead "10.00".

(b) Second Schedule—

15 Omit "six dollars" wherever occurring, insert instead "\$10".

(c) Second Schedule—

Omit paragraph (iii) under the heading "COMPANIES".

(d) Second Schedule—

20 Omit the matter relating to paragraph (1) under the heading
"CONVEYANCES OF ANY PROPERTY", insert instead:

Stamp Duties (Amendment) 1985

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO RATES
OF STAMP DUTY—*continued*

5	(1) Upon every conveyance of any property (other than shares or rights to shares referred to in paragraph (1) under the heading "Transfer of Shares" or a mortgage referred to in paragraph (1) under the heading "Mortgage" herein) on a sale for a consideration in money or money's worth of not less than the unencumbered value of the property—		The purchaser or, in the case of an exchange, the person deemed to be the purchaser.
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	(a) where the amount of such consideration does not exceed \$14,000	\$1.25 for every \$100 or part thereof.	
20	(b) where the amount of such consideration exceeds \$14,000 but does not exceed \$30,000	\$175 plus \$1.50 for every \$100 or part thereof by which the amount exceeds \$14,000.	
25			
30	(c) where the amount of such consideration exceeds \$30,000 but does not exceed \$80,000	\$415 plus \$1.75 for every \$100 or part thereof by which the amount exceeds \$30,000.	
35	(d) where the amount of such consideration exceeds \$80,000	\$1,290 plus \$3.50 for every \$100 or part thereof by which the amount exceeds \$80,000.	
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SCHEDULE 2

(Sec. 5)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LONDON
STOCK EXCHANGE TRANSACTIONS

5 (1) Section 96A (1)—

After “Act”, insert “, and of paragraph (f) of the exemptions under that heading,”.

(2) Section 97 (5)—

After section 97 (4), insert:

10 (5) This section does not apply to or in respect of a transfer of a marketable security or right thereto upon which a relevant transaction included in a return lodged under section 97E is consequential.

(3) Part III, Division 28A—

15 After Division 28, insert:

DIVISION 28A—*Transfer of shares—London Stock Exchange*

Interpretation

97C. (1) In this Division—

20 “broker” means a person, firm or corporation who or which is a member of the London Stock Exchange;

“jobber” means a person who is a jobber according to the rules and practices of the London Stock Exchange;

“London Stock Exchange” means The Stock Exchange of the United Kingdom;

25 “month” means a month designated by name in the calendar;

“prescribed corporation” means a corporation declared by the Governor under section 97D to be a prescribed corporation for the purposes of this Division;

“relevant transaction” means any procedure by which—

30 (a) as a consequence of the disposition of the beneficial interest in marketable securities vested in a prescribed corporation as trustee for a person; and

*Stamp Duties (Amendment) 1985*SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LONDON
STOCK EXCHANGE TRANSACTIONS—*continued*

(b) without any further vesting of the marketable securities,

the prescribed corporation ceases to hold the marketable securities as trustee for that person and commences to hold the marketable securities as trustee for another person.

(2) A reference in this Division to marketable securities is a reference to marketable securities, or rights to marketable securities, of any corporation which is incorporated in New South Wales or which, being incorporated outside New South Wales, has a register in New South Wales in which the marketable securities or rights are registered.

Declaration as prescribed corporation

97D. The Governor may, by order published in the Gazette, declare a specified corporation that is incorporated in New South Wales, or being incorporated outside New South Wales carries on business in New South Wales, to be a prescribed corporation for the purposes of this Division.

Duty payable in relation to relevant transactions

97E. (1) A prescribed corporation shall, on or before the 28th day of each month (other than the month in which this Division commences)—

(a) lodge with the Chief Commissioner a return in the prescribed form setting forth the prescribed particulars and information relating to all relevant transactions to which effect was given by the prescribed corporation during the last preceding month; and

(b) pay to the Chief Commissioner as stamp duty an amount calculated at the rate of 60 cents for every \$100, and also for any remaining part of \$100, of the consideration for each disposition of marketable securities upon which a relevant transaction to which the return relates is consequential.

*Stamp Duties (Amendment) 1985*SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LONDON
STOCK EXCHANGE TRANSACTIONS—*continued*

(2) Subsection (1) does not apply to or in respect of a relevant transaction that is consequential upon a disposition of any marketable securities that—

- 5 (a) is specified in paragraph (a), (b), (c) or (d) of the exemptions appearing under the heading “TRANSFER OF SHARES” in the Second Schedule;
- (b) is made by or to a person who is a New South Wales dealer as defined in section 97A (1);
- 10 (c) is, in accordance with the rules and practices of the London Stock Exchange, a stock loan transaction;
- (d) is made to a member of the London Stock Exchange as principal, where the beneficial interest of the member in the marketable securities is disposed of within the period of 2 clear days (not including any day on which the London Stock Exchange is closed for business) that next succeeds the acquisition of the marketable securities by the member;
- 15 (e) is made by a member of the London Stock Exchange as principal within the period of 2 clear days (not including any day on which the London Stock Exchange is closed for business) that next succeeds the acquisition of the marketable securities by the member as principal; or
- 20 (f) is made by a jobber to another jobber.
- (3) Where a relevant transaction is made—
- 25 (a) by a prescribed corporation as trustee for a broker to the prescribed corporation as trustee for a jobber; or
- (b) by a prescribed corporation as trustee for a jobber to the prescribed corporation as trustee for a broker,

30 the amount payable under subsection (1) (b) in respect of that relevant transaction shall be one half of the amount that would otherwise be payable.

*Stamp Duties (Amendment) 1985*SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LONDON
STOCK EXCHANGE TRANSACTIONS—*continued*

5 (4) Where a prescribed corporation also carries on business in a place outside New South Wales and stamp duty is, in that place, paid by the prescribed corporation as a consequence of a relevant transaction arising from a disposition of marketable securities of a corporation incorporated in New South Wales which are registered, recorded or entered on a branch register of members of the latter corporation lawfully kept in that place and the amount of stamp duty so paid—

10 (a) is equal to, or greater than, the amount of stamp duty that, but for this paragraph, would be chargeable under subsection (1) in relation to the disposition—no duty is so chargeable; or

15 (b) is less than the amount of stamp duty that, but for this paragraph, would be chargeable under subsection (1) in relation to the disposition—the amount of duty chargeable under subsection (1) is an amount equal to the difference between the amount so paid and the amount that, but for this paragraph, would be chargeable under that subsection.

20 (5) A payment of duty under this section by a prescribed corporation shall be deemed to be a payment on behalf of the transferee to whom the disposition by reference to which the duty was calculated relates, and the proportion of the duty attributable in relation to any such transferee—

25 (a) may be deducted by the prescribed corporation from any money payable to the transferee by the corporation; or

(b) may be recovered as a debt owing by the transferee to the prescribed corporation.

30 (6) A prescribed corporation shall, in such form and manner (if any) as may be prescribed in the case of a transfer referred to in paragraph (f) of the exemptions appearing under the heading "TRANSFER OF SHARES" in the Second Schedule, endorse the instrument as being exempt from stamp duty, and shall affix its stamp to the instrument and note thereon the date of the endorsement.

*Stamp Duties (Amendment) 1985*SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LONDON
STOCK EXCHANGE TRANSACTIONS—*continued*

(7) An instrument endorsed in accordance with subsection (6) shall be deemed to be duly stamped.

5 (8) A prescribed corporation that contravenes subsection (1) is guilty of an offence and liable to a penalty not exceeding \$2,000 and, in addition, to a penalty not exceeding double the amount of duty that would have been payable but for the contravention.

(4) Second Schedule—

10 After paragraph (e) (as inserted by Schedule 3 (21) (d)) of the exemptions appearing under the heading “TRANSFER OF SHARES”, insert:

(f) Any transfer of shares to or by a prescribed corporation within the meaning of Division 28A of Part III that is—

15 (i) a transfer to the prescribed corporation as trustee for the transferor;

(ii) a transfer to the prescribed corporation as trustee for a person for whose benefit the shares were held by the transferor in trust immediately before the transfer, where the transferor is—

20 (A) the Public Trustee;

(B) a trustee company within the meaning of the Trustee Companies Act 1964;

25 (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 Chief Commissioner, corresponds in that State or Territory to the Public Trustee or a trustee company referred to in subparagraph (B); or

30 (D) a corporation or a class of persons prescribed for the purposes of this subparagraph;

*Stamp Duties (Amendment) 1985*SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LONDON
STOCK EXCHANGE TRANSACTIONS—*continued*

(iii) a transfer by the prescribed corporation, as trustee, to the person recorded by it as the person for whose benefit the shares are held by it in trust;

5 (iv) a transfer by the prescribed corporation, as trustee, to another person as trustee for—

(A) the person recorded by the prescribed corporation as the person for whose benefit the shares were held by it in trust; or

10 (B) the beneficial owner of the shares purchased under a relevant transaction upon which duty was paid or which was exempt from duty and on whose behalf the prescribed corporation held the shares in trust,

where the new trustee is—

15 (C) the Public Trustee;

(D) a trustee company within the meaning of the Trustee Companies Act 1964;

20 (E) a corporation that is constituted under the law of another State or of a Territory of the Commonwealth and, in the opinion of the Chief Commissioner, corresponds in that State or Territory to the Public Trustee or a trustee company referred to in subparagraph (D); or

25 (F) a corporation or a class of persons prescribed for the purposes of this subparagraph;

*Stamp Duties (Amendment) 1985*SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LONDON
STOCK EXCHANGE TRANSACTIONS—*continued*

- 5 (v) a transfer by the prescribed corporation, as trustee, to a person (not being a person referred to in subparagraph (iii) or a new trustee referred to in subparagraph (iv)) who is the beneficial owner of the shares purchased under a relevant transaction upon which duty has been paid or which is exempt from duty, and on whose behalf the prescribed corporation held the shares in trust; or
- 10 (vi) a transfer which is, in accordance with the rules and practices of the London Stock Exchange, a stock loan transaction.

SCHEDULE 3

(Sec. 5)

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT

- 15 (1) (a) Section 3 (1), definition of “Approved superannuation scheme”—

After the definition of “Appointed day”, insert:

20 “Approved superannuation scheme” means a superannuation scheme that establishes a superannuation fund of a kind for the time being approved by the Commonwealth Commissioner of Taxation for the purposes of section 23 (jaa), 23 (ja), 23F or 23FB of the Income Tax Assessment Act 1936 of the Commonwealth, but does not include a superannuation scheme, or a superannuation scheme that belongs to a class of superannuation schemes, declared by the regulations not to be an approved superannuation

25 scheme for the purposes of this definition.

Stamp Duties (Amendment) 1985

SCHEDULE 3—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(b) Section 3 (1), definition of “Deputy Chief Commissioner”—

After the definition of “Corporate debt security”, insert:

“Deputy Chief Commissioner” means the person holding
the office of Deputy Chief Commissioner of Stamp
Duties for the time being.

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

Omit the definition, insert instead:

“Die” includes any plate, type, tool, machine or implement
whatever used (whether or not used for any other purpose)
for expressing or denoting any duty or the fact that any
duty or fine has been paid or that an instrument is duly
stamped or is not chargeable with any duty, and also
includes any part of any such plate, type, tool, machine or
implement.

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(d) Section 3 (1), definition of “Public unit trust scheme”—

After the definition of “Public hospital”, insert:

“Public unit trust scheme” means—

(a) a unit trust scheme any of the units of which are
listed for quotation on—

20

(i) the Sydney Stock Exchange; or

(ii) any other stock exchange prescribed for the
purposes of this definition; or

(b) a unit trust scheme—

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(i) which is the subject of a deed approved
under Division 6 of Part IV of the
Companies (New South Wales) Code;

(ii) any of the units of which have been offered
to the public; and

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(iii) in respect of which no fewer than 50 persons hold units.

(e) Section 3 (1), definition of “Stamp”—

After “impressed”, insert “or imprinted”.

5 (f) Section 3 (1), definitions of “Superannuation scheme”, “Unit”—

After the definition of “Stamped”, insert:

“Superannuation scheme” includes a retirement, provident or benefit scheme.

10 “Unit”, in relation to a unit trust scheme, means any right or interest (whether described as a unit or a sub-unit or otherwise) of a beneficiary under the scheme.

(g) Section 3 (3)—

After section 3 (2), insert:

15 (3) For the purposes of the definition of “Public unit trust scheme” in subsection (1), units in a unit trust scheme shall be taken to be offered to the public if and only if—

(a) an offer is made to the public or to a section of the public to subscribe for or purchase the units; or

20 (b) an invitation is issued to the public or to a section of the public to make offers to subscribe for or purchase the units.

(2) (a) Section 8 (2A), (2B)—

After section 8 (2), insert:

25 (2A) There shall be a Deputy Chief Commissioner of Stamp Duties, who shall assist the Chief Commissioner in the administration of this Act.

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(2B) The person for the time being holding office or acting as Deputy Secretary of the Department of Finance shall also hold office as Deputy Chief Commissioner.

(b) Section 8 (6)–(8)—

5 Omit “the Commissioner” wherever occurring, insert instead “the Deputy Chief Commissioner”.

(c) Section 8 (9)—

After “Chief Commissioner”, insert “or Deputy Chief Commissioner”.

10 (3) (a) Section 38C (1)—

Omit “liable to the payment of stamp duty under the provisions of this Act”.

(b) Section 38C (8)—

15 After “‘Stamp Duty’ ”, insert “, together with such other matter as may be prescribed in respect of instruments of that class.”.

(4) Section 63 (5)—

20 Omit “in accordance with the provisions of section 97AA of this Act”, insert instead “pursuant to the requirements of section 97AA (1) or which, pursuant to section 97AA (3), are not required to be so recorded”.

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(5) Section 71 (3)—

After section 71 (2), insert:

- 5 (3) Notwithstanding any other provision of this Act, duty shall not be chargeable in respect of any instrument whereby an annuity—
- (a) is issued, created or sold by a company registered under the Life Insurance Act 1945 of the Commonwealth, the Government Insurance Office of New South Wales or a prescribed person; or
- 10 (b) is purchased by a person from any such company, the Government Insurance Office of New South Wales or a prescribed person,

where the issue, creation, sale or purchase, as the case may be, occurs on or after 6 February 1985.

15 (6) Section 73 (1) (g)—

After section 73 (1) (f), insert:

- 20 (g) A conveyance first executed on or after 19 July 1985, not made for valuable consideration and made to a beneficiary by a trustee, being a conveyance of property the subject of a trust for sale contained in a will and 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
- 25 such an Act, chargeable.

(7) Section 74D, definition of “Hiring arrangement”—

- (a) From paragraph (ii), omit “or” where lastly occurring.

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(b) At the end of paragraph (iii), insert:

; or

(iv) any arrangement made for the use, by a person who is partially or totally incapacitated, of an invalid aid or prosthetic device or of any similar aid, device or appliance.

(8) (a) Section 74E (2) (b)—

After “nature”, insert “of an amount not less than the amount payable under subsection (1) in respect of such a hiring arrangement”.

(b) Section 74E (3) (a)—

After “Act or”, insert “unless duty of an amount not less than the duty so payable has been paid”.

(9) (a) Section 74F (7) (b)—

Omit “calculated at the rate of 1½ per cent of the total amount in respect of hiring arrangements received”, insert instead “equal to the sum of the amounts calculated, in respect of each hiring arrangement, at the rate of 1½ per cent of the total amount received in respect of each such hiring arrangement”.

(b) Section 74F (7B)—

After section 74F (7A), insert:

(7B) Nothing in subsection (7) requires an approved person to pay to the Chief Commissioner as stamp duty an amount or amounts totalling more than \$10,000 in respect of any one hiring arrangement.

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(10) Section 78B (2)—

At the end of section 78B, insert:

5 (2) Where duty has been paid upon any lease for any term of not less than 2 years executed after the commencement of the Stamp Duties (Amendment) Act 1985 and the lease is subsequently rescinded, cancelled or annulled before the commencement of the term in respect of which duty was paid, the Chief Commissioner shall, upon application in writing made to the Chief Commissioner within 3 months after the lease is
10 rescinded, cancelled or annulled and upon the lease upon which duty was paid being given up to the Chief Commissioner, refund to the lessee or (where the benefit of the lease has been transferred or assigned by the lessee) to the transferee or assignee the whole of the duty so paid.

15 (11) Sections 84EA, 84EB—

After section 84E, insert:

Re-issue of certificates of debentures not liable to duty

20 84EA. To the extent to which duty, as duty on a loan security or as duty on a foreign security, as defined in section 84F (1), has been paid in relation to a debenture, any certificate subsequently issued in relation to that debenture, or any part thereof, is not liable to duty under this Act.

Exemption of certain loan securities from duty

25 84EB. (1) For the purposes of this section, “regulated contract” means a regulated contract within the meaning of the Credit Act 1984, and includes a contract that would (but for section 18 (1) of that Act) be a regulated contract within the meaning of that Act.

30 (2) Notwithstanding any other provision of this Act, duty shall not be chargeable in respect of a loan security in so far as it secures the payment or repayment of an amount payable or repayable under a regulated contract.

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(12) (a) Section 84FA (1), definition of “mortgage”—

After “land” where secondly occurring, insert “, whether the land is situated in New South Wales or elsewhere”.

(b) Section 84FA (1), definition of “mortgage-backed security”—

- 5 (i) In paragraph (c), after “instruments”, insert “, or property of a class or description of property,”.
- (ii) In paragraph (d), after “instrument” wherever occurring, insert “or property”.
- (iii) Before “comprising”, insert “or property”.
- 10 (iv) In paragraph (h), after “instruments”, insert “, or property of a class or description of property,”.

(c) Section 84FA (2)—

Omit “1st January, 1985”, insert instead “15 November 1984”.

(13) (a) Section 84G (3)—

- 15 Omit “stated in writing”, insert instead “specified, in the form referred to in subsection (3A),”.

(b) Section 84G (3A), (3B)—

After section 84G (3), insert:

- 20 (3A) An application for a motor vehicle certificate of registration shall be accompanied by a statement, in or to the effect of the form for the time being approved by the Chief Commissioner, specifying—

- (a) the market value of the vehicle as at the time of the making of the application; and
- 25 (b) such other matters as the Chief Commissioner may require to be specified in the form.

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

5 (3B) Any person who, in purported compliance with a requirement under subsection (3A), furnishes information which is false or misleading in a material particular is guilty of an offence and liable to a penalty not exceeding \$5,000 or imprisonment for 12 months, or both.

(c) Section 84G (4)—

Omit “The duty so chargeable may be denoted by an adhesive stamp which is to be affixed and cancelled at the time of issue of such certificate.”.

10 (d) Section 84G (5)—

Omit “stated under subsection (3)”, insert instead “specified in accordance with subsection (3A)”.

(e) Section 84G (5A)—

After section 84G (5), insert:

15 (5A) Where the Chief Commissioner makes an assessment under subsection (5) that the true market value of a motor vehicle is greater than the market value of the motor vehicle specified in the statement referred to in subsection (3A), the motor vehicle certificate of registration is chargeable with—

20 (a) the additional duty payable as a result of the assessment; and

(b) a fine of double the additional duty so payable.

(f) Section 84G (6)—

25 After “duty” where firstly occurring, insert “(including any fine chargeable under subsection (5A))”.

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(14) Section 97AA (3) (f), (g)—

At the end of section 97AA (3) (f), insert:

; or

- 5 (g) of any sale or purchase which comprises a transfer to which paragraph (c), (d) or (e) of the exemptions appearing under the heading "TRANSFER OF SHARES" in the Second Schedule applies.

(15) Section 97AB (2A)—

(a) After "provisions of", insert "subsection (1) or".

10 (b) Omit "1st January, 1985", insert instead "15 November 1984".

(16) Section 97AC (1)—

Omit the subsection, insert instead:

(1) After—

- 15 (a) recording the details of a sale or purchase as required by section 97AA (1);
- (b) making a sale or purchase to which that subsection does not apply by virtue of the operation of section 97AA (3) (c), (d), (e), (f) or (g); or
- 20 (c) effecting a transfer of shares for the sole purpose of replacing an identical parcel of shares previously borrowed from the transferee,

25 the New South Wales dealer shall endorse the transfer with a statement that the stamp duty (if any) has been or will be paid by the dealer, and shall affix the dealer's stamp to the transfer and note thereon the date of the endorsement.

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(17) Section 121 (2A)—

After section 121 (2), insert:

5 (2A) Notwithstanding subsection (1), interest shall, on and from the commencement of the Stamp Duties (Amendment) Act 1985, be payable in accordance with that subsection at the rate of 20 per cent per annum of the amount of the duty payable and which remains unpaid on or after that date.

(18) Section 129B (2)—

After “Act”, insert “(other than section 84G (3B))”.

10 (19) Section 129D—

After section 129C, insert:

Deferred payments for certain stamped instruments

15 129D. (1) The Minister may, in such circumstances as may be prescribed, authorise the stamping of instruments upon which duty is payable notwithstanding that the duty has not yet been paid.

20 (2) Notwithstanding subsection (1), an instrument shall not be stamped pursuant to an authority referred to in that subsection unless an undertaking, in a form approved by the Chief Commissioner, has been given by a prescribed person, or a person belonging to a prescribed class of persons, with respect to the payment of duty in respect of the instrument.

25 (3) An authority referred to in subsection (1) shall provide for the manner in which, and the time within which, unpaid duty shall be paid in respect of instruments stamped in pursuance of the authority.

30 (4) An instrument that has been stamped in pursuance of an authority referred to in subsection (1) shall, except for the purposes of the recovery of any unpaid duty (including any fine with which the instrument is charged under section 25) in respect of the instrument, be deemed to be duly stamped.

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

5 (5) Where the duty payable in respect of an instrument that has been stamped pursuant to an authority referred to in subsection (1) is not paid in accordance with the terms of the authority, section 25 shall apply to the payment of that duty in the same manner as if the instrument had not been so stamped.

10 (6) Notwithstanding any other provision of this Act, any instrument which purports to have been duly stamped at any time on or after 10 April 1985 and on or before 22 May 1985 shall not be deemed not to have been duly stamped by reason only that any duty payable under this Act in relation to the instrument was not paid on or before that time.

(20) (a) Section 131A (4) (b)—

After “Tax” where firstly occurring, insert “, the Deputy Chief Commissioner of Pay-roll Tax”.

15 (b) Section 131A (4) (c)—

After “Tax” where firstly occurring, insert “, the Deputy Chief Commissioner of Land Tax”.

(c) Section 131A (4) (d)—

20 After “(Tobacco)” where firstly occurring, insert “, the Deputy Chief Commissioner for Business Franchise Licences (Tobacco)”.

(d) Section 131A (4) (e)—

After “(Petroleum Products)” where firstly occurring, insert “, the Deputy Chief Commissioner for Business Franchise Licences (Petroleum Products)”.

25 (e) Section 131A (4) (e1)—

After section 131A (4) (e), insert:

(e1) the Chief Commissioner for Health Insurance Levies, the Deputy Chief Commissioner for Health Insurance Levies or the Commissioner for Health Insurance Levies;

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(21) (a) Second Schedule—

After paragraph (4) (g) under the heading “CONVEYANCES OF ANY PROPERTY”, insert:

5	(h) A conveyance first executed on or after 19 July 1985, not made for valuable consideration and made to a beneficiary by a trustee, being a conveyance of property the subject of a trust for sale contained in a will and 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.	10.00	The transferee.
10			
15			
20			
25	(i) Any instrument (being an instrument which, but for this subparagraph, would be chargeable with ad valorem duty) which amends or varies the effect of an instrument establishing a public unit trust scheme, where the firstmentioned instrument—		
30			
35	(i) is not an instrument of the kind referred to in subparagraph (a);		

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

5	(ii) does not convey, or have the effect of conveying, any property the subject of the scheme to any person who is a trustee under the scheme or to any person who does not hold units in the scheme; and		
10			
15	(iii) does not have the effect of reducing the number of persons who hold units in the scheme.	200.00	The parties to the instrument.
20	(j) Any instrument (being an instrument which, but for this subparagraph, would be chargeable with ad valorem duty) which amends or varies the effect of an instrument establishing an approved superannuation scheme, where the firstmentioned instrument—		
25			
30	(i) is not an instrument of the kind referred to in subparagraph (a); and		
35	(ii) does not convey, or have the effect of conveying, any property the subject of the scheme to any person who is a trustee under the scheme or to any person who is not a member of the		
40	scheme.	200.00	The parties to the instrument.

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(b) Second Schedule—

After the word “greater” appearing in the second column under the heading “HIRING ARRANGEMENT”, insert “, but in any case not exceeding \$10,000”.

5 (c) Second Schedule—

After paragraph (7) under the heading of “TRANSFER OF SHARES”, insert:

10	(8) Upon a transfer of shares first executed on or after 19 July 1985, not made for valuable consideration and made to a beneficiary by a trustee, being a transfer of shares the subject of a trust for sale contained in a will and in respect of shares on which the death duty or duty under an Act imposing duties on the estates of deceased persons has been paid or which, by such an Act, are exempt from death duty or in respect of which no death duty is, by virtue of such an Act, chargeable.	10.00 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.
15			
20			
25			

(d) Second Schedule—

30 After paragraph (d) of the exemptions appearing under the heading “TRANSFER OF SHARES”, insert:

(e) Any transfer of shares listed on a stock exchange in Australia made for the sole purpose of replacing an identical parcel of shares previously borrowed from the transferee.

35

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(e) Second Schedule—

After paragraph (24) under the heading “GENERAL EXEMPTIONS FROM STAMP DUTY UNDER PART III”, insert:

- 5 (25) Any conveyance of property to a new or additional trustee or any conveyance of property to the remaining trustee or trustees as a consequence of the retirement of a trustee without any new trustee being appointed in place of the retiring trustee, being a conveyance made pursuant to, or in accordance with, the rules of—
- 10 (a) an association of employees or employers registered as an organization under the Conciliation and Arbitration Act 1904 of the Commonwealth;
- 15 (b) an industrial union of employers or employees registered under the Industrial Arbitration Act 1940;
- (c) the Labor Council of New South Wales; or
- (d) any body of a kind referred to in subparagraph (a) or (b) which is approved for the time being by the Minister, and where the conveyance is for such purposes as the Minister may approve.
- 20 (26) Any conveyance of property made pursuant to, or in accordance with, the rules of—
- (a) an association of employees or employers registered as an organization under the Conciliation and Arbitration Act 1904 of the Commonwealth;
- 25 (b) an industrial union of employers or employees registered under the Industrial Arbitration Act 1940; or
- (c) any body of a kind referred to in subparagraph (a) or (b) which is approved for the time being by the Minister,
- 30 where the conveyance is made to another such association, union or body as a consequence of the amalgamation of 2 or more such associations, unions or bodies.
-

Stamp Duties (Amendment) 1985

SCHEDULE 4

(Sec. 6)

AMENDMENTS TO THE STAMP DUTIES (AMENDMENT) ACT 1984

- (1) (a) Section 2 (1)—
5 Omit “subsections (2) and”, insert instead “subsection”.
- (b) Section 2 (2)—
 Omit the subsection.
- (2) Section 4—
 Omit the matter relating to Schedule 4.
- 10 (3) Schedule 4—
 Omit the Schedule.
-

STAMP DUTIES (AMENDMENT) ACT 1985 No. 219

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

* * * * *

Act No. 219, 1985

An Act to amend the Stamp Duties Act 1920 in relation to rates of duty and in relation to certain other matters; and to amend the Stamp Duties (Amendment) Act 1984 in certain minor respects. [Assented to, 11th December, 1985.]

See also Business Franchise Licences (Petroleum Products) (Administration) Amendment Act 1985; Business Franchise Licences (Tobacco) (Administration) Amendment Act 1985; Health Insurance Levies (Administration) Amendment Act 1985; Land Tax Management (Administration) Amendment Act 1985; Pay-roll Tax (Administration) Amendment Act 1985.

Stamp Duties (Amendment) 1985

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 (Amendment) Act 1985".

Commencement

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

(2) Schedule 2, and section 5 in its application to that Schedule, shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

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 RATES OF STAMP DUTY

SCHEDULE 2—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO LONDON STOCK EXCHANGE
TRANSACTIONS

SCHEDULE 3—MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT

SCHEDULE 4—AMENDMENTS TO THE STAMP DUTIES
(AMENDMENT) ACT 1984

Amendment of Act No. 47, 1920

5. The Principal Act is amended in the manner set forth in Schedules 1-3.

Stamp Duties (Amendment) 1985

Amendment of Act No. 26, 1984

6. The Stamp Duties (Amendment) Act 1984 is amended in the manner set forth in Schedule 4.

SCHEDULE 1

(Sec. 5)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO RATES OF
STAMP DUTY

- (1) Sections 41 (3A), 66 (6) (b)—
Omit "\$6" wherever occurring, insert instead "\$10".
- (2) Sections 66B (2), 66C (5), 69 (2), 72, 73 (2), 74 (1), 78D (5), 85—
Omit "six dollars" wherever occurring, insert instead "\$10".
- (3) (a) Second Schedule—
Omit "6.00" wherever occurring, insert instead "10.00".
(b) Second Schedule—
Omit "six dollars" wherever occurring, insert instead "\$10".
(c) Second Schedule—
Omit paragraph (iii) under the heading "COMPANIES".
(d) Second Schedule—
Omit the matter relating to paragraph (1) under the heading
"CONVEYANCES OF ANY PROPERTY", insert instead:

Stamp Duties (Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO RATES
OF STAMP DUTY—*continued*

<p>(1) Upon every conveyance of any property (other than shares or rights to shares referred to in paragraph (1) under the heading "Transfer of Shares" or a mortgage referred to in paragraph (1) under the heading "Mortgage" herein) on a sale for a consideration in money or money's worth of not less than the unencumbered value of the property—</p>		<p>The purchaser or, in the case of an exchange, the person deemed to be the purchaser.</p>
<p>(a) where the amount of such consideration does not exceed \$14,000</p>	<p>\$1.25 for every \$100 or part thereof.</p>	
<p>(b) where the amount of such consideration exceeds \$14,000 but does not exceed \$30,000</p>	<p>\$175 plus \$1.50 for every \$100 or part thereof by which the amount exceeds \$14,000.</p>	
<p>(c) where the amount of such consideration exceeds \$30,000 but does not exceed \$80,000</p>	<p>\$415 plus \$1.75 for every \$100 or part thereof by which the amount exceeds \$30,000.</p>	
<p>(d) where the amount of such consideration exceeds \$80,000 ..</p>	<p>\$1,290 plus \$3.50 for every \$100 or part thereof by which the amount exceeds \$80,000.</p>	

Stamp Duties (Amendment) 1985

SCHEDULE 2

(Sec. 5)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LONDON
STOCK EXCHANGE TRANSACTIONS

(1) Section 96A (1)—

After “Act”, insert “, and of paragraph (f) of the exemptions under that heading.”.

(2) Section 97 (5)—

After section 97 (4), insert:

(5) This section does not apply to or in respect of a transfer of a marketable security or right thereto upon which a relevant transaction included in a return lodged under section 97E is consequential.

(3) Part III, Division 28A—

After Division 28, insert:

DIVISION 28A—Transfer of shares—London Stock Exchange

Interpretation

97C. (1) In this Division—

“broker” means a person, firm or corporation who or which is a member of the London Stock Exchange;

“jobber” means a person who is a jobber according to the rules and practices of the London Stock Exchange;

“London Stock Exchange” means The Stock Exchange of the United Kingdom;

“month” means a month designated by name in the calendar;

“prescribed corporation” means a corporation declared by the Governor under section 97D to be a prescribed corporation for the purposes of this Division;

“relevant transaction” means any procedure by which—

- (a) as a consequence of the disposition of the beneficial interest in marketable securities vested in a prescribed corporation as trustee for a person; and

Stamp Duties (Amendment) 1985

SCHEDULE 2—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LONDON
STOCK EXCHANGE TRANSACTIONS—*continued*

- (b) without any further vesting of the marketable securities,

the prescribed corporation ceases to hold the marketable securities as trustee for that person and commences to hold the marketable securities as trustee for another person.

(2) A reference in this Division to marketable securities is a reference to marketable securities, or rights to marketable securities, of any corporation which is incorporated in New South Wales or which, being incorporated outside New South Wales, has a register in New South Wales in which the marketable securities or rights are registered.

Declaration as prescribed corporation

97D. The Governor may, by order published in the Gazette, declare a specified corporation that is incorporated in New South Wales, or being incorporated outside New South Wales carries on business in New South Wales, to be a prescribed corporation for the purposes of this Division.

Duty payable in relation to relevant transactions

97E. (1) A prescribed corporation shall, on or before the 28th day of each month (other than the month in which this Division commences)—

- (a) lodge with the Chief Commissioner a return in the prescribed form setting forth the prescribed particulars and information relating to all relevant transactions to which effect was given by the prescribed corporation during the last preceding month; and
- (b) pay to the Chief Commissioner as stamp duty an amount calculated at the rate of 60 cents for every \$100, and also for any remaining part of \$100, of the consideration for each disposition of marketable securities upon which a relevant transaction to which the return relates is consequential.

Stamp Duties (Amendment) 1985

SCHEDULE 2—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LONDON STOCK EXCHANGE TRANSACTIONS—*continued*

(2) Subsection (1) does not apply to or in respect of a relevant transaction that is consequential upon a disposition of any marketable securities that—

- (a) is specified in paragraph (a), (b), (c) or (d) of the exemptions appearing under the heading “TRANSFER OF SHARES” in the Second Schedule;
- (b) is made by or to a person who is a New South Wales dealer as defined in section 97A (1);
- (c) is, in accordance with the rules and practices of the London Stock Exchange, a stock loan transaction;
- (d) is made to a member of the London Stock Exchange as principal, where the beneficial interest of the member in the marketable securities is disposed of within the period of 2 clear days (not including any day on which the London Stock Exchange is closed for business) that next succeeds the acquisition of the marketable securities by the member;
- (e) is made by a member of the London Stock Exchange as principal within the period of 2 clear days (not including any day on which the London Stock Exchange is closed for business) that next succeeds the acquisition of the marketable securities by the member as principal; or
- (f) is made by a jobber to another jobber.

(3) Where a relevant transaction is made—

- (a) by a prescribed corporation as trustee for a broker to the prescribed corporation as trustee for a jobber; or
- (b) by a prescribed corporation as trustee for a jobber to the prescribed corporation as trustee for a broker,

the amount payable under subsection (1) (b) in respect of that relevant transaction shall be one half of the amount that would otherwise be payable.

Stamp Duties (Amendment) 1985

SCHEDULE 2—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LONDON
STOCK EXCHANGE TRANSACTIONS—*continued*

(4) Where a prescribed corporation also carries on business in a place outside New South Wales and stamp duty is, in that place, paid by the prescribed corporation as a consequence of a relevant transaction arising from a disposition of marketable securities of a corporation incorporated in New South Wales which are registered, recorded or entered on a branch register of members of the latter corporation lawfully kept in that place and the amount of stamp duty so paid—

- (a) is equal to, or greater than, the amount of stamp duty that, but for this paragraph, would be chargeable under subsection (1) in relation to the disposition—no duty is so chargeable; or
- (b) is less than the amount of stamp duty that, but for this paragraph, would be chargeable under subsection (1) in relation to the disposition—the amount of duty chargeable under subsection (1) is an amount equal to the difference between the amount so paid and the amount that, but for this paragraph, would be chargeable under that subsection.

(5) A payment of duty under this section by a prescribed corporation shall be deemed to be a payment on behalf of the transferee to whom the disposition by reference to which the duty was calculated relates, and the proportion of the duty attributable in relation to any such transferee—

- (a) may be deducted by the prescribed corporation from any money payable to the transferee by the corporation; or
- (b) may be recovered as a debt owing by the transferee to the prescribed corporation.

(6) A prescribed corporation shall, in such form and manner (if any) as may be prescribed in the case of a transfer referred to in paragraph (f) of the exemptions appearing under the heading “TRANSFER OF SHARES” in the Second Schedule, endorse the instrument as being exempt from stamp duty, and shall affix its stamp to the instrument and note thereon the date of the endorsement.

Stamp Duties (Amendment) 1985

SCHEDULE 2—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LONDON
STOCK EXCHANGE TRANSACTIONS—*continued*

(7) An instrument endorsed in accordance with subsection (6) shall be deemed to be duly stamped.

(8) A prescribed corporation that contravenes subsection (1) is guilty of an offence and liable to a penalty not exceeding \$2,000 and, in addition, to a penalty not exceeding double the amount of duty that would have been payable but for the contravention.

(4) Second Schedule—

After paragraph (e) (as inserted by Schedule 3 (21) (d)) of the exemptions appearing under the heading “TRANSFER OF SHARES”, insert:

(f) Any transfer of shares to or by a prescribed corporation within the meaning of Division 28A of Part III that is—

(i) a transfer to the prescribed corporation as trustee for the transferor;

(ii) a transfer to the prescribed corporation as trustee for a person for whose benefit the shares were held by the transferor in trust immediately before the transfer, where the transferor is—

(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 of the Commonwealth and, in the opinion of the Chief Commissioner, corresponds in that State or Territory to the Public Trustee or a trustee company referred to in sub-paragraph (B); or

(D) a corporation or a class of persons prescribed for the purposes of this subparagraph;

Stamp Duties (Amendment) 1985

SCHEDULE 2—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LONDON
STOCK EXCHANGE TRANSACTIONS—*continued*

- (iii) a transfer by the prescribed corporation, as trustee, to the person recorded by it as the person for whose benefit the shares are held by it in trust;
- (iv) a transfer by the prescribed corporation, as trustee, to another person as trustee for—
 - (A) the person recorded by the prescribed corporation as the person for whose benefit the shares were held by it in trust; or
 - (B) the beneficial owner of the shares purchased under a relevant transaction upon which duty was paid or which was exempt from duty and on whose behalf the prescribed corporation held the shares in trust,

where the new trustee is—

- (C) the Public Trustee;
- (D) a trustee company within the meaning of the Trustee Companies Act 1964;
- (E) a corporation that is constituted under the law of another State or of a Territory of the Commonwealth and, in the opinion of the Chief Commissioner, corresponds in that State or Territory to the Public Trustee or a trustee company referred to in sub-paragraph (D); or
- (F) a corporation or a class of persons prescribed for the purposes of this subparagraph;

*Stamp Duties (Amendment) 1985*SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LONDON
STOCK EXCHANGE TRANSACTIONS—*continued*

- (v) a transfer by the prescribed corporation, as trustee, to a person (not being a person referred to in subparagraph (iii) or a new trustee referred to in subparagraph (iv)) who is the beneficial owner of the shares purchased under a relevant transaction upon which duty has been paid or which is exempt from duty, and on whose behalf the prescribed corporation held the shares in trust; or
- (vi) a transfer which is, in accordance with the rules and practices of the London Stock Exchange, a stock loan transaction.

SCHEDULE 3

(Sec. 5)

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT

- (1) (a) Section 3 (1), definition of “Approved superannuation scheme”—

After the definition of “Appointed day”, insert:

“Approved superannuation scheme” means a superannuation scheme that establishes a superannuation fund of a kind for the time being approved by the Commonwealth Commissioner of Taxation for the purposes of section 23 (jaa), 23 (ja), 23F or 23FB of the Income Tax Assessment Act 1936 of the Commonwealth, but does not include a superannuation scheme, or a superannuation scheme that belongs to a class of superannuation schemes, declared by the regulations not to be an approved superannuation scheme for the purposes of this definition.

Stamp Duties (Amendment) 1985

SCHEDULE 3—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(b) Section 3 (1), definition of “Deputy Chief Commissioner”—

After the definition of “Corporate debt security”, insert:

“Deputy Chief Commissioner” means the person holding the office of Deputy Chief Commissioner of Stamp Duties for the time being.

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

Omit the definition, insert instead:

“Die” includes any plate, type, tool, machine or implement whatever used (whether or not used for any other purpose) for expressing or denoting any duty or the fact that any duty or fine has been paid or that an instrument is duly stamped or is not chargeable with any duty, and also includes any part of any such plate, type, tool, machine or implement.

(d) Section 3 (1), definition of “Public unit trust scheme”—

After the definition of “Public hospital”, insert:

“Public unit trust scheme” means—

- (a) a unit trust scheme any of the units of which are listed for quotation on—
 - (i) the Sydney Stock Exchange; or
 - (ii) any other stock exchange prescribed for the purposes of this definition; or
- (b) a unit trust scheme—
 - (i) which is the subject of a deed approved under Division 6 of Part IV of the Companies (New South Wales) Code;
 - (ii) any of the units of which have been offered to the public; and

Stamp Duties (Amendment) 1985

SCHEDULE 3—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(iii) in respect of which no fewer than 50 persons hold units.

(e) Section 3 (1), definition of “Stamp”—

After “impressed”, insert “or imprinted”.

(f) Section 3 (1), definitions of “Superannuation scheme”, “Unit”—

After the definition of “Stamped”, insert:

“Superannuation scheme” includes a retirement, provident or benefit scheme.

“Unit”, in relation to a unit trust scheme, means any right or interest (whether described as a unit or a sub-unit or otherwise) of a beneficiary under the scheme.

(g) Section 3 (3)—

After section 3 (2), insert:

(3) For the purposes of the definition of “Public unit trust scheme” in subsection (1), units in a unit trust scheme shall be taken to be offered to the public if and only if—

(a) an offer is made to the public or to a section of the public to subscribe for or purchase the units; or

(b) an invitation is issued to the public or to a section of the public to make offers to subscribe for or purchase the units.

(2) (a) Section 8 (2A), (2B)—

After section 8 (2), insert:

(2A) There shall be a Deputy Chief Commissioner of Stamp Duties, who shall assist the Chief Commissioner in the administration of this Act.

Stamp Duties (Amendment) 1985

SCHEDULE 3—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(2B) The person for the time being holding office or acting as Deputy Secretary of the Department of Finance shall also hold office as Deputy Chief Commissioner.

(b) Section 8 (6)–(8)—

Omit “the Commissioner” wherever occurring, insert instead “the Deputy Chief Commissioner”.

(c) Section 8 (9)—

After “Chief Commissioner”, insert “or Deputy Chief Commissioner”.

(3) (a) Section 38c (1)—

Omit “liable to the payment of stamp duty under the provisions of this Act”.

(b) Section 38c (8)—

After “‘Stamp Duty’ ”, insert “, together with such other matter as may be prescribed in respect of instruments of that class,”.

(4) Section 63 (5)—

Omit “in accordance with the provisions of section 97AA of this Act”, insert instead “pursuant to the requirements of section 97AA (1) or which, pursuant to section 97AA (3), are not required to be so recorded”.

Stamp Duties (Amendment) 1985

SCHEDULE 3—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(5) Section 71 (3)—

After section 71 (2), insert:

(3) Notwithstanding any other provision of this Act, duty shall not be chargeable in respect of any instrument whereby an annuity—

(a) is issued, created or sold by a company registered under the Life Insurance Act 1945 of the Commonwealth, the Government Insurance Office of New South Wales or a prescribed person; or

(b) is purchased by a person from any such company, the Government Insurance Office of New South Wales or a prescribed person,

where the issue, creation, sale or purchase, as the case may be, occurs on or after 6 February 1985.

(6) Section 73 (1) (g)—

After section 73 (1) (f), insert:

(g) A conveyance first executed on or after 19 July 1985, not made for valuable consideration and made to a beneficiary by a trustee, being a conveyance of property the subject of a trust for sale contained in a will and 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.

(7) Section 74D, definition of “Hiring arrangement”—

(a) From paragraph (ii), omit “or” where lastly occurring.

Stamp Duties (Amendment) 1985

SCHEDULE 3—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(b) At the end of paragraph (iii), insert:

; or

(iv) any arrangement made for the use, by a person who is partially or totally incapacitated, of an invalid aid or prosthetic device or of any similar aid, device or appliance.

(8) (a) Section 74E (2) (b)—

After “nature”, insert “of an amount not less than the amount payable under subsection (1) in respect of such a hiring arrangement”.

(b) Section 74E (3) (a)—

After “Act or”, insert “unless duty of an amount not less than the duty so payable has been paid”.

(9) (a) Section 74F (7) (b)—

Omit “calculated at the rate of 1½ per cent of the total amount in respect of hiring arrangements received”, insert instead “equal to the sum of the amounts calculated, in respect of each hiring arrangement, at the rate of 1½ per cent of the total amount received in respect of each such hiring arrangement”.

(b) Section 74F (7B)—

After section 74F (7A), insert:

(7B) Nothing in subsection (7) requires an approved person to pay to the Chief Commissioner as stamp duty an amount or amounts totalling more than \$10,000 in respect of any one hiring arrangement.

Stamp Duties (Amendment) 1985

SCHEDULE 3—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(10) Section 78B (2)—

At the end of section 78B, insert:

(2) Where duty has been paid upon any lease for any term of not less than 2 years executed after the commencement of the Stamp Duties (Amendment) Act 1985 and the lease is subsequently rescinded, cancelled or annulled before the commencement of the term in respect of which duty was paid, the Chief Commissioner shall, upon application in writing made to the Chief Commissioner within 3 months after the lease is rescinded, cancelled or annulled and upon the lease upon which duty was paid being given up to the Chief Commissioner, refund to the lessee or (where the benefit of the lease has been transferred or assigned by the lessee) to the transferee or assignee the whole of the duty so paid.

(11) Sections 84EA, 84EB—

After section 84E, insert:

Re-issue of certificates of debentures not liable to duty

84EA. To the extent to which duty, as duty on a loan security or as duty on a foreign security, as defined in section 84F (1), has been paid in relation to a debenture, any certificate subsequently issued in relation to that debenture, or any part thereof, is not liable to duty under this Act.

Exemption of certain loan securities from duty

84EB. (1) For the purposes of this section, “regulated contract” means a regulated contract within the meaning of the Credit Act 1984, and includes a contract that would (but for section 18 (1) of that Act) be a regulated contract within the meaning of that Act.

(2) Notwithstanding any other provision of this Act, duty shall not be chargeable in respect of a loan security in so far as it secures the payment or repayment of an amount payable or repayable under a regulated contract.

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(12) (a) Section 84FA (1), definition of “mortgage”—

After “land” where secondly occurring, insert “, whether the land is situated in New South Wales or elsewhere”.

(b) Section 84FA (1), definition of “mortgage-backed security”—

(i) In paragraph (c), after “instruments”, insert “, or property of a class or description of property,”.

(ii) In paragraph (d), after “instrument” wherever occurring, insert “or property”.

(iii) Before “comprising”, insert “or property”.

(iv) In paragraph (h), after “instruments”, insert “, or property of a class or description of property,”.

(c) Section 84FA (2)—

Omit “1st January, 1985”, insert instead “15 November 1984”.

(13) (a) Section 84G (3)—

Omit “stated in writing”, insert instead “specified, in the form referred to in subsection (3A),”.

(b) Section 84G (3A), (3B)—

After section 84G (3), insert:

(3A) An application for a motor vehicle certificate of registration shall be accompanied by a statement, in or to the effect of the form for the time being approved by the Chief Commissioner, specifying—

(a) the market value of the vehicle as at the time of the making of the application; and

(b) such other matters as the Chief Commissioner may require to be specified in the form.

Stamp Duties (Amendment) 1985

SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(3B) Any person who, in purported compliance with a requirement under subsection (3A), furnishes information which is false or misleading in a material particular is guilty of an offence and liable to a penalty not exceeding \$5,000 or imprisonment for 12 months, or both.

(c) Section 84G (4)—

Omit “The duty so chargeable may be denoted by an adhesive stamp which is to be affixed and cancelled at the time of issue of such certificate.”.

(d) Section 84G (5)—

Omit “stated under subsection (3)”, insert instead “specified in accordance with subsection (3A)”.

(e) Section 84G (5A)—

After section 84G (5), insert:

(5A) Where the Chief Commissioner makes an assessment under subsection (5) that the true market value of a motor vehicle is greater than the market value of the motor vehicle specified in the statement referred to in subsection (3A), the motor vehicle certificate of registration is chargeable with—

- (a) the additional duty payable as a result of the assessment; and
- (b) a fine of double the additional duty so payable.

(f) Section 84G (6)—

After “duty” where firstly occurring, insert “(including any fine chargeable under subsection (5A))”.

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(14) Section 97AA (3) (f), (g)—

At the end of section 97AA (3) (f), insert:

; or

- (g) of any sale or purchase which comprises a transfer to which paragraph (c), (d) or (e) of the exemptions appearing under the heading "TRANSFER OF SHARES" in the Second Schedule applies.

(15) Section 97AB (2A)—

(a) After "provisions of", insert "subsection (1) or".

(b) Omit "1st January, 1985", insert instead "15 November 1984".

(16) Section 97AC (1)—

Omit the subsection, insert instead:

(1) After—

- (a) recording the details of a sale or purchase as required by section 97AA (1);
- (b) making a sale or purchase to which that subsection does not apply by virtue of the operation of section 97AA (3) (c), (d), (e), (f) or (g); or
- (c) effecting a transfer of shares for the sole purpose of replacing an identical parcel of shares previously borrowed from the transferee,

the New South Wales dealer shall endorse the transfer with a statement that the stamp duty (if any) has been or will be paid by the dealer, and shall affix the dealer's stamp to the transfer and note thereon the date of the endorsement.

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(17) Section 121 (2A)—

After section 121 (2), insert:

(2A) Notwithstanding subsection (1), interest shall, on and from the commencement of the Stamp Duties (Amendment) Act 1985, be payable in accordance with that subsection at the rate of 20 per cent per annum of the amount of the duty payable and which remains unpaid on or after that date.

(18) Section 129B (2)—

After “Act”, insert “(other than section 84G (3B))”.

(19) Section 129D—

After section 129C, insert:

Deferred payments for certain stamped instruments

129D. (1) The Minister may, in such circumstances as may be prescribed, authorise the stamping of instruments upon which duty is payable notwithstanding that the duty has not yet been paid.

(2) Notwithstanding subsection (1), an instrument shall not be stamped pursuant to an authority referred to in that subsection unless an undertaking, in a form approved by the Chief Commissioner, has been given by a prescribed person, or a person belonging to a prescribed class of persons, with respect to the payment of duty in respect of the instrument.

(3) An authority referred to in subsection (1) shall provide for the manner in which, and the time within which, unpaid duty shall be paid in respect of instruments stamped in pursuance of the authority.

(4) An instrument that has been stamped in pursuance of an authority referred to in subsection (1) shall, except for the purposes of the recovery of any unpaid duty (including any fine with which the instrument is charged under section 25) in respect of the instrument, be deemed to be duly stamped.

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(5) Where the duty payable in respect of an instrument that has been stamped pursuant to an authority referred to in subsection (1) is not paid in accordance with the terms of the authority, section 25 shall apply to the payment of that duty in the same manner as if the instrument had not been so stamped.

(6) Notwithstanding any other provision of this Act, any instrument which purports to have been duly stamped at any time on or after 10 April 1985 and on or before 22 May 1985 shall not be deemed not to have been duly stamped by reason only that any duty payable under this Act in relation to the instrument was not paid on or before that time.

(20) (a) Section 131A (4) (b)—

After “Tax” where firstly occurring, insert “, the Deputy Chief Commissioner of Pay-roll Tax”.

(b) Section 131A (4) (c)—

After “Tax” where firstly occurring, insert “, the Deputy Chief Commissioner of Land Tax”.

(c) Section 131A (4) (d)—

After “(Tobacco)” where firstly occurring, insert “, the Deputy Chief Commissioner for Business Franchise Licences (Tobacco)”.

(d) Section 131A (4) (e)—

After “(Petroleum Products)” where firstly occurring, insert “, the Deputy Chief Commissioner for Business Franchise Licences (Petroleum Products)”.

(e) Section 131A (4) (e1)—

After section 131A (4) (e), insert:

- (e1) the Chief Commissioner for Health Insurance Levies, the Deputy Chief Commissioner for Health Insurance Levies or the Commissioner for Health Insurance Levies;

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(21) (a) Second Schedule—

After paragraph (4) (g) under the heading “CONVEYANCES OF ANY PROPERTY”, insert:

(h) A conveyance first executed on or after 19 July 1985, not made for valuable consideration and made to a beneficiary by a trustee, being a conveyance of property the subject of a trust for sale contained in a will and 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.	10.00	The transferee.
(i) Any instrument (being an instrument which, but for this subparagraph, would be chargeable with ad valorem duty) which amends or varies the effect of an instrument establishing a public unit trust scheme, where the firstmentioned instrument— (i) is not an instrument of the kind referred to in subparagraph (a);		

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(ii) does not convey, or have the effect of conveying, any property the subject of the scheme to any person who is a trustee under the scheme or to any person who does not hold units in the scheme; and	200.00	The parties to the instrument.
(iii) does not have the effect of reducing the number of persons who hold units in the scheme.		
(j) Any instrument (being an instrument which, but for this subparagraph, would be chargeable with ad valorem duty) which amends or varies the effect of an instrument establishing an approved superannuation scheme, where the firstmentioned instrument—	200.00	The parties to the instrument.
(i) is not an instrument of the kind referred to in subparagraph (a); and		
(ii) does not convey, or have the effect of conveying, any property the subject of the scheme to any person who is a trustee under the scheme or to any person who is not a member of the scheme.		

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(b) Second Schedule—

After the word “greater” appearing in the second column under the heading “HIRING ARRANGEMENT”, insert “, but in any case not exceeding \$10,000”.

(c) Second Schedule—

After paragraph (7) under the heading of “TRANSFER OF SHARES”, insert:

- | | | |
|---|--|------------------------|
| <p>(8) Upon a transfer of shares first executed on or after 19 July 1985, not made for valuable consideration and made to a beneficiary by a trustee, being a transfer of shares the subject of a trust for sale contained in a will and in respect of shares on which the death duty or duty under an Act imposing duties on the estates of deceased persons has been paid or which, by such an Act, are exempt from death duty or in respect of which no death duty is, by virtue of such an Act, chargeable.</p> | <p>10.00 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.</p> | <p>The transferee.</p> |
|---|--|------------------------|

(d) Second Schedule—

After paragraph (d) of the exemptions appearing under the heading “TRANSFER OF SHARES”, insert:

- (e) Any transfer of shares listed on a stock exchange in Australia made for the sole purpose of replacing an identical parcel of shares previously borrowed from the transferee.

*Stamp Duties (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(e) Second Schedule—

After paragraph (24) under the heading “GENERAL EXEMPTIONS FROM STAMP DUTY UNDER PART III”, insert:

(25) Any conveyance of property to a new or additional trustee or any conveyance of property to the remaining trustee or trustees as a consequence of the retirement of a trustee without any new trustee being appointed in place of the retiring trustee, being a conveyance made pursuant to, or in accordance with, the rules of—

- (a) an association of employees or employers registered as an organization under the Conciliation and Arbitration Act 1904 of the Commonwealth;
- (b) an industrial union of employers or employees registered under the Industrial Arbitration Act 1940;
- (c) the Labor Council of New South Wales; or
- (d) any body of a kind referred to in subparagraph (a) or (b) which is approved for the time being by the Minister, and where the conveyance is for such purposes as the Minister may approve.

(26) Any conveyance of property made pursuant to, or in accordance with, the rules of—

- (a) an association of employees or employers registered as an organization under the Conciliation and Arbitration Act 1904 of the Commonwealth;
- (b) an industrial union of employers or employees registered under the Industrial Arbitration Act 1940; or
- (c) any body of a kind referred to in subparagraph (a) or (b) which is approved for the time being by the Minister,

where the conveyance is made to another such association, union or body as a consequence of the amalgamation of 2 or more such associations, unions or bodies.

Stamp Duties (Amendment) 1985

SCHEDULE 4

(Sec. 6)

AMENDMENTS TO THE STAMP DUTIES (AMENDMENT) ACT 1984

- (1) (a) Section 2 (1)—
Omit “subsections (2) and”, insert instead “subsection”.
- (b) Section 2 (2)—
Omit the subsection.
- (2) Section 4—
Omit the matter relating to Schedule 4.
- (3) Schedule 4—
Omit the Schedule.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1985

