

**LAND TAX MANAGEMENT (AMENDMENT) ACT 1989 No. 222**

NEW SOUTH WALES



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**LAND TAX MANAGEMENT (AMENDMENT) ACT 1989 No. 222**

NEW SOUTH WALES



**Act No. 222, 1989**

An Act to amend the Land Tax Management Act 1956 with respect to the exemption from land tax of land used and occupied for boarding-houses for low-income persons and other purposes; to make further provision with respect to appeals; and for other purposes. [Assented to 21 December 1989]

**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Land Tax Management (Amendment) Act 1989.

**Commencement**

2. (1) This Act commences, or is to be taken to have commenced, on 1 January 1990, except as provided by this section.

(2) The provisions of Schedules 1(3) and 3, and section 3 in its application to those provisions, commence on the date of assent.

**Amendment of Land Tax Management Act 1956 No. 26**

3. The Land Tax Management Act 1956 is amended as set out in Schedules 1, 2 and 3.

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**SCHEDULE 1 - AMENDMENTS RELATING TO EXEMPTIONS**

(Sec. 3)

(1) Section 3 (**Definitions**):

After section 3 (4), insert:

(5) Despite paragraph (b) of the definition of "Owner" in subsection (1), a person occupying:

- (a) land owned by the Crown under a lease entered into or renewed prior to 1 January 1986 and the terms of which relating to rental payable have not been varied since that date; or
- (b) land owned by a council of an area (within the meaning of the Local Government Act 1919), a county council or a public authority under a lease entered into or renewed prior to 1 January 1989 and the terms of which relating to rental payable have not been varied since that date,

is not, for the purposes of this Act, to be regarded as the owner of the land during the period of the lease or renewal.

SCHEDULE 1 - AMENDMENTS RELATING TO  
EXEMPTIONS - *continued*

(2) Section 10Q:

After section 10P, insert:

**Exemption - boarding-houses for low-income persons**

10Q. (1) In this section:

"**boarding-house**" includes rooming houses, serviced rooms and flatettes and furnished or unfurnished rooms (with or without resident managers) but does not include premises in respect of which a hotelier's licence under the Liquor Act 1982 is in force.

(2) This section applies to land within the Counties of Cumberland, Illawarra and Northumberland.

(3) Land to which this section applies is exempted from taxation under this Act leviable or payable in respect of the year commencing on 1 January 1990 or any succeeding year if:

- (a) the land is used and occupied primarily for a boarding-house for low-income persons; and
- (b) application for the exemption is made in accordance with this section; and
- (c) the Chief Commissioner is satisfied that the land is used and occupied in accordance with guidelines approved by the Treasurer for the purposes of this section.

(4) This section does not apply to an owner of land in respect of a tax year unless:

- (a) the owner applies to the Chief Commissioner for the exemption, in the form approved by the Chief Commissioner; and
- (b) the application is made before 31 January in that year unless the Chief Commissioner allows it to be made later; and
- (c) the owner furnishes the Chief Commissioner with such evidence as the Chief Commissioner may request for the purpose of enabling the Chief

**SCHEDULE 1 - AMENDMENTS RELATING TO  
EXEMPTIONS - *continued***

Commissioner to determine whether there is an entitlement to the exemption.

**(3) Schedule 2 (Savings and transitional provisions):**

After clause 7, insert:

**Public companies - exemptions for primary production**

8. Land used for primary production and owned by a public company that was, immediately before the commencement of the Land Tax Management (Amendment) Act 1988, entitled for a tax year commencing before 1 January 1989 to be declared by the Governor to be a company to which section 10 (1) (s), as then in force, applied is exempt from taxation leviable or payable in respect of that tax year.

**SCHEDULE 2 - AMENDMENTS RELATING TO APPEALS**

(Sec. 3)

**(1) Section 35 (Objections):**

(a) Omit section 35 (1), insert instead:

(1) A taxpayer who is dissatisfied with an assessment of land tax by the Chief Commissioner may object to the assessment.

(b) From section 35 (2), omit ", alteration or addition".

**(2) Sections 38A - 38BF:**

Omit sections 38A and 38B, insert instead:

**Appeal etc. against decision on objection**

38A. (1) An objector dissatisfied with the decision of the Chief Commissioner on an objection may request the Chief Commissioner to approve in writing of an appeal by the objector to the Supreme Court against the decision.

(2) Such a request must be in writing and be lodged with the Chief Commissioner within 30 days (or such longer

SCHEDULE 2 - AMENDMENTS RELATING TO  
APPEALS - *continued*

period as the Chief Commissioner may allow for reasonable cause shown) after the objector is informed under section 37 of the Chief Commissioner's decision on the objection.

(3) If the Chief Commissioner does not comply with a request under subsection (1) within 60 days after it is made and the objector:

- (a) has provided the Chief Commissioner with any information required by the Chief Commissioner in relation to the assessment concerned; and
- (b) lodges with the Chief Commissioner a notice in writing requiring the Chief Commissioner to comply with the request,

the Chief Commissioner must comply with the request not later than 30 days after the notice is lodged.

(4) The objector may appeal to the Supreme Court against the decision within 14 days after the Chief Commissioner grants approval under this section to the appeal.

**Nature of appeal**

38B. (1) An appeal to the Supreme Court under this Part is by way of rehearing of the original objection to the Chief Commissioner and is limited to the grounds of the original objection.

(2) On giving its decision, the Court may determine the amount of any land tax payable as a result of the decision (including any additional land tax or additional land tax by way of penalty).

(3) Part 4 applies to the Court's assessment of land tax in the same way as that Part applies to the assessment of land tax by the Chief Commissioner.

SCHEDULE 2 - AMENDMENTS RELATING TO  
APPEALS - *continued*

**Onus on objector**

38BA. On an objection or appeal under this Part, the objector bears the onus of establishing on the balance of probabilities that the land tax in question was incorrectly assessed.

**Payment of land tax assessed by Supreme Court**

38BB. (1) If the land tax assessed by the Supreme Court under this Part:

- (a) is greater than the amount paid by the objector, the objector is liable to pay the difference; or
- (b) is less than the amount paid by the objector, the Chief Commissioner is to refund the difference to the objector, together with interest on the difference at the prescribed rate.

(2) Interest payable under this section is payable from the date on which the amount concerned was paid by the objector until the date it is refunded.

**Liability not affected by objection etc.**

38BC. (1) Except to the extent otherwise permitted by the Chief Commissioner, the lodging of an objection or an appeal to the Supreme Court does not affect any liability of an objector to pay land tax in accordance with this Act.

(2) A permission under this section must be in writing.

**Lodgment with Chief Commissioner**

38BD. For the purposes of this Part, something is lodged with the Chief Commissioner by being addressed to the Chief Commissioner and lodged at or sent by post to any office of the Chief Commissioner.

**Commissioner may state case**

38BE. (1) The Chief Commissioner may, if the Chief Commissioner thinks fit, state a case on any question of law



SCHEDULE 2 - AMENDMENTS RELATING TO  
APPEALS - *continued*

arising with regard to the assessment of land tax and forward that case to the Supreme Court for its opinion.

(2) The Supreme Court is to give its opinion on any case forwarded to it and cause the Chief Commissioner to be notified of that opinion.

**Assessment includes amendment of assessment**

38BF. In this Division, "assessment" includes amendment of assessment, but the right of a person to object against the amendment of an assessment is limited to a right to object against the particular alterations or additions made as a result of the amendment.

(3) Schedule 2 (**Savings and transitional provisions**):

At the end of Schedule 2, insert:

*Land Tax Management (Amendment) Act 1989*

**Pending objections**

9. (1) In this clause:

"**1988 amending Act**" means the Land Tax Management (Amendment) Act 1988;

"**1989 amending Act**" means the Land Tax Management (Amendment) Act 1989;

"**new appeal provisions**" means the provisions of Part 5, as amended by the 1989 amending Act.

(2) An objection made under the provisions of Part 5 as in force before the commencement of the new appeal provisions is to be dealt with under the new appeal provisions unless:

(a) in the case of an objection made under the provisions of Part 5 as in force immediately before the commencement of the 1988 amending Act, the objector has (before the commencement of the new appeal provisions) requested the objection to be

**SCHEDULE 2 - AMENDMENTS RELATING TO  
APPEALS - *continued***

treated as an appeal or the time for making such a request has expired; and

- (b) in the case of an objection made under the provisions of Part 5 as in force immediately before the commencement of the 1989 amending Act, the objector has (before the commencement of the new appeal provisions) required a case to be stated to the Supreme Court or the time for requiring a case to be stated has expired.

**SCHEDULE 3 - AMENDMENT BY WAY OF  
STATUTE LAW REVISION**

(Sec. 3)

**Section 47 (Land tax to be first charge on land):**

Omit section 47 (1B), insert instead:

- (1B) The prescribed fee is to be paid:
  - (a) by affixing a New South Wales Duty Stamp to the value of the prescribed fee to the application; or
  - (b) in such manner as may be approved by the Chief Commissioner.

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[*Minister's second reading speech made in -  
Legislative Assembly on 21 November 1989  
Legislative Council on 29 November 1989*]





FIRST PRINT

## LAND TAX MANAGEMENT (AMENDMENT) BILL 1989

NEW SOUTH WALES



### EXPLANATORY NOTE

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

This Bill is cognate with the Pay-roll Tax (Amendment) Bill 1989.

The object of this Bill is to amend the Land Tax Management Act 1956:

- (a) to provide an exemption from land tax for land owned by the Crown, public authorities, county councils and local councils and which is leased, where the leases concerned were executed or renewed prior to extension of liability for land tax to that land; and
- (b) to provide an exemption from land tax for boarding-houses for low-income persons meeting guidelines approved by the Treasurer, with effect from the 1990 tax year; and
- (c) to restore the exemption from land tax for land used for primary production that is owned by a public company, where the public company met the primary production income test for tax years preceding the 1989 tax year; and
- (d) to update the objection and appeal provisions of the Act to provide for appeals by summons along the lines of the Business Franchise Licences (Petroleum Products) Act 1987; and
- (e) to clarify, by way of statute law revision, the manner in which fees for certificates as to land tax charged on land may be paid.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act.

**Clause 3** is a formal provision that gives effect to the Schedules of amendments to the Principal Act.

**SCHEDULE 1 - AMENDMENTS RELATING TO EXEMPTIONS**

**Lessees of land owned by the Crown, local councils, county councils and public authorities**

Amendments to the Principal Act made by the Land Tax Management (Further Amendment) Act 1985 and the Land Tax Management (Amendment) Act 1988 have had, or will have, the effect of extending liability for land tax to lessees of land owned by the Crown, local councils, county councils and public authorities.

The Bill inserts a provision into the Principal Act to make an exception in the case of lessees who occupied land under a lease entered into or renewed when the relevant land was exempt from land tax and whose rental has not been reviewed to take account of the imposition of land tax. The amendment provides that for the purposes of the Principal Act such lessees are not to be regarded as the owner of the land concerned during the period of the lease or renewal. (Schedule 1 (1) - proposed section 3 (5)).

**Boarding-houses for low-income persons**

The Bill inserts provisions into the Principal Act that exempt from land tax land used and occupied primarily for a boarding-house for low-income persons. The main features of the exemption are as follows:

- \* it applies to premises (including rooming houses, serviced rooms and flatettes and furnished or unfurnished rooms with or without resident managers) but not to premises in respect of which a hotelier's licence under the Liquor Act 1982 is in force
- \* it applies only if the land is within the Sydney, Wollongong and Newcastle Metropolitan areas and the boarding-house complies with guidelines approved by the Treasurer
- \* the exemption applies only for the tax year commencing 1 January 1990 and succeeding tax years
- \* the exemption does not apply automatically but must be applied for and supporting evidence furnished.

(Schedule 1 (2) - proposed section 10Q)

**Exemption for primary production land - public companies**

The Bill inserts a provision to restore, in a limited form, the exemption from land tax for land owned by a public company and used for primary production that applied prior to amendments made by the Land Tax Management (Amendment) Act 1988. The amendment will ensure that those companies formerly entitled to be declared by the Governor to be subject to the exemption will not be liable for tax for any tax year for which the company could have been declared to be such a company. (Schedule 1 (3) - proposed clause 8 of Schedule 2).

**SCHEDULE 2 - AMENDMENTS RELATING TO APPEALS**

**Objections and appeals**

The Bill updates provisions dealing with objections and appeals against assessments of land tax and amendments of assessments under the Principal Act. Currently, a dissatisfied objector has a right to require the Chief Commissioner to state a case for decision by the Supreme Court. Under the new provisions, a dissatisfied objector can appeal directly to the Supreme Court by filing a summons as provided in Part 51A of the Supreme Court Rules. The appeal cannot proceed unless the objector has given the Chief Commissioner the information requested in connection with the matter. If the objector is successful, the Chief Commissioner is required to pay interest on any land tax that was overpaid.

The onus of establishing that land tax has been incorrectly assessed or that an assessment has been incorrectly amended is placed on the objector.

Provision is also made to enable the Chief Commissioner to state a case on a question of law for decision by the Supreme Court. (Schedule 2 (2) - proposed sections 38A-38BF).

Consequential amendments are made to section 35. (Schedule 2 (1)).

The new provisions will apply to an objection made before the commencement of those provisions, except where the objection has been treated as an appeal or where a case has already been stated to the Supreme Court or the time for stating the case has expired. (Schedule 2 (3) - proposed clause 9 of Schedule 2).

**SCHEDULE 3 - AMENDMENT BY WAY OF STATUTE LAW REVISION**

The Bill amends section 47 to make it clear that fees for certificates as to land tax charged on land may be paid either by affixing a duty stamp to the relevant application or in such other manner as may be approved by the Chief Commissioner.

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FIRST PRINT

**LAND TAX MANAGEMENT (AMENDMENT) BILL 1989**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

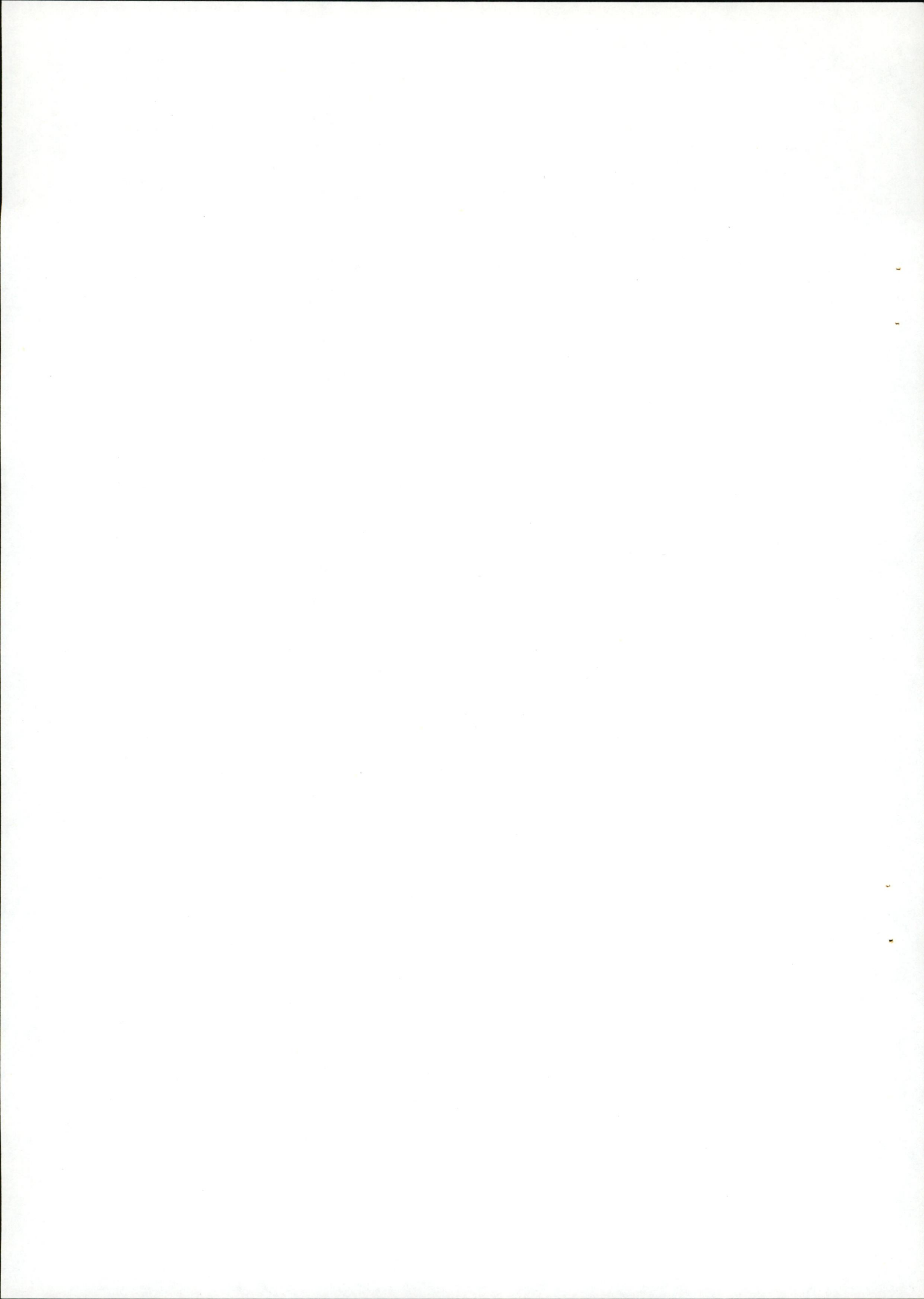
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**LAND TAX MANAGEMENT (AMENDMENT) BILL 1989**

NEW SOUTH WALES



No. , 1989

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**A BILL FOR**

An Act to amend the Land Tax Management Act 1956 with respect to the exemption from land tax of land used and occupied for boarding-houses for low-income persons and other purposes; to make further provision with respect to appeals; and for other purposes.

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Land Tax Management (Amendment) Act 1989.

**Commencement**

2. (1) This Act commences, or is to be taken to have commenced, on 1 January 1990, except as provided by this section.

(2) The provisions of Schedules 1(3) and 3, and section 3 in its application to those provisions, commence on the date of assent.

**Amendment of Land Tax Management Act 1956 No. 26**

3. The Land Tax Management Act 1956 is amended as set out in Schedules 1, 2 and 3.

---

**SCHEDULE 1 - AMENDMENTS RELATING TO EXEMPTIONS**

(Sec. 3)

(1) Section 3 (**Definitions**):

After section 3 (4), insert:

(5) Despite paragraph (b) of the definition of "Owner" in subsection (1), a person occupying:

- (a) land owned by the Crown under a lease entered into or renewed prior to 1 January 1986 and the terms of which relating to rental payable have not been varied since that date; or
- (b) land owned by a council of an area (within the meaning of the Local Government Act 1919), a county council or a public authority under a lease entered into or renewed prior to 1 January 1989 and the terms of which relating to rental payable have not been varied since that date,

is not, for the purposes of this Act, to be regarded as the owner of the land during the period of the lease or renewal.

SCHEDULE 1 - AMENDMENTS RELATING TO  
EXEMPTIONS - *continued*

(2) Section 10Q:

After section 10P, insert:

**Exemption - boarding-houses for low-income persons**

10Q. (1) In this section:

**"boarding-house"** includes rooming houses, serviced rooms and flatettes and furnished or unfurnished rooms (with or without resident managers) but does not include premises in respect of which a hotelier's licence under the Liquor Act 1982 is in force.

(2) This section applies to land within the Counties of Cumberland, Illawarra and Northumberland.

(3) Land to which this section applies is exempted from taxation under this Act leviable or payable in respect of the year commencing on 1 January 1990 or any succeeding year if:

- (a) the land is used and occupied primarily for a boarding-house for low-income persons; and
- (b) application for the exemption is made in accordance with this section; and
- (c) the Chief Commissioner is satisfied that the land is used and occupied in accordance with guidelines approved by the Treasurer for the purposes of this section.

(4) This section does not apply to an owner of land in respect of a tax year unless:

- (a) the owner applies to the Chief Commissioner for the exemption, in the form approved by the Chief Commissioner; and
- (b) the application is made before 31 January in that year unless the Chief Commissioner allows it to be made later; and
- (c) the owner furnishes the Chief Commissioner with such evidence as the Chief Commissioner may request for the purpose of enabling the Chief

SCHEDULE 1 - AMENDMENTS RELATING TO  
EXEMPTIONS - *continued*

Commissioner to determine whether there is an entitlement to the exemption.

(3) Schedule 2 (**Savings and transitional provisions**):

After clause 7, insert:

**Public companies - exemptions for primary production**

8. Land used for primary production and owned by a public company that was, immediately before the commencement of the Land Tax Management (Amendment) Act 1988, entitled for a tax year commencing before 1 January 1989 to be declared by the Governor to be a company to which section 10 (1) (s), as then in force, applied is exempt from taxation leviable or payable in respect of that tax year.

SCHEDULE 2 - AMENDMENTS RELATING TO APPEALS

(Sec. 3)

(1) Section 35 (**Objections**):

(a) Omit section 35 (1), insert instead:

(1) A taxpayer who is dissatisfied with an assessment of land tax by the Chief Commissioner may object to the assessment.

(b) From section 35 (2), omit ", alteration or addition".

(2) Sections 38A - 38BF:

Omit sections 38A and 38B, insert instead:

**Appeal etc. against decision on objection**

38A. (1) An objector dissatisfied with the decision of the Chief Commissioner on an objection may request the Chief Commissioner to approve in writing of an appeal by the objector to the Supreme Court against the decision.

(2) Such a request must be in writing and be lodged with the Chief Commissioner within 30 days (or such longer

SCHEDULE 2 - AMENDMENTS RELATING TO  
APPEALS - *continued*

period as the Chief Commissioner may allow for reasonable cause shown) after the objector is informed under section 37 of the Chief Commissioner's decision on the objection.

(3) If the Chief Commissioner does not comply with a request under subsection (1) within 60 days after it is made and the objector:

- (a) has provided the Chief Commissioner with any information required by the Chief Commissioner in relation to the assessment concerned; and
- (b) lodges with the Chief Commissioner a notice in writing requiring the Chief Commissioner to comply with the request,

the Chief Commissioner must comply with the request not later than 30 days after the notice is lodged.

(4) The objector may appeal to the Supreme Court against the decision within 14 days after the Chief Commissioner grants approval under this section to the appeal.

**Nature of appeal**

38B. (1) An appeal to the Supreme Court under this Part is by way of rehearing of the original objection to the Chief Commissioner and is limited to the grounds of the original objection.

(2) On giving its decision, the Court may determine the amount of any land tax payable as a result of the decision (including any additional land tax or additional land tax by way of penalty).

(3) Part 4 applies to the Court's assessment of land tax in the same way as that Part applies to the assessment of land tax by the Chief Commissioner.

SCHEDULE 2 - AMENDMENTS RELATING TO  
APPEALS - *continued*

**Onus on objector**

38BA. On an objection or appeal under this Part, the objector bears the onus of establishing on the balance of probabilities that the land tax in question was incorrectly assessed.

**Payment of land tax assessed by Supreme Court**

38BB. (1) If the land tax assessed by the Supreme Court under this Part:

- (a) is greater than the amount paid by the objector, the objector is liable to pay the difference; or
- (b) is less than the amount paid by the objector, the Chief Commissioner is to refund the difference to the objector, together with interest on the difference at the prescribed rate.

(2) Interest payable under this section is payable from the date on which the amount concerned was paid by the objector until the date it is refunded.

**Liability not affected by objection etc.**

38BC. (1) Except to the extent otherwise permitted by the Chief Commissioner, the lodging of an objection or an appeal to the Supreme Court does not affect any liability of an objector to pay land tax in accordance with this Act.

(2) A permission under this section must be in writing.

**Lodgment with Chief Commissioner**

38BD. For the purposes of this Part, something is lodged with the Chief Commissioner by being addressed to the Chief Commissioner and lodged at or sent by post to any office of the Chief Commissioner.

**Commissioner may state case**

38BE. (1) The Chief Commissioner may, if the Chief Commissioner thinks fit, state a case on any question of law



SCHEDULE 2 - AMENDMENTS RELATING TO  
APPEALS - *continued*

arising with regard to the assessment of land tax and forward that case to the Supreme Court for its opinion.

(2) The Supreme Court is to give its opinion on any case forwarded to it and cause the Chief Commissioner to be notified of that opinion.

**Assessment includes amendment of assessment**

38BF. In this Division, "assessment" includes amendment of assessment, but the right of a person to object against the amendment of an assessment is limited to a right to object against the particular alterations or additions made as a result of the amendment.

(3) Schedule 2 (**Savings and transitional provisions**):

At the end of Schedule 2, insert:

*Land Tax Management (Amendment) Act 1989*

**Pending objections**

9. (1) In this clause:

"**1988 amending Act**" means the Land Tax Management (Amendment) Act 1988;

"**1989 amending Act**" means the Land Tax Management (Amendment) Act 1989;

"**new appeal provisions**" means the provisions of Part 5, as amended by the 1989 amending Act.

(2) An objection made under the provisions of Part 5 as in force before the commencement of the new appeal provisions is to be dealt with under the new appeal provisions unless:

(a) in the case of an objection made under the provisions of Part 5 as in force immediately before the commencement of the 1988 amending Act, the objector has (before the commencement of the new appeal provisions) requested the objection to be

**SCHEDULE 2 - AMENDMENTS RELATING TO  
APPEALS - *continued***

treated as an appeal or the time for making such a request has expired; and

- (b) in the case of an objection made under the provisions of Part 5 as in force immediately before the commencement of the 1989 amending Act, the objector has (before the commencement of the new appeal provisions) required a case to be stated to the Supreme Court or the time for requiring a case to be stated has expired.

**SCHEDULE 3 - AMENDMENT BY WAY OF  
STATUTE LAW REVISION**

(Sec. 3)

Section 47 (**Land tax to be first charge on land**):

Omit section 47 (1B), insert instead:

- (1B) The prescribed fee is to be paid:
    - (a) by affixing a New South Wales Duty Stamp to the value of the prescribed fee to the application; or
    - (b) in such manner as may be approved by the Chief Commissioner.
-