

FIRST PRINT

STAMP DUTIES (AMENDMENT) BILL 1993

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend the Stamp Duties Act 1920 so as:

- (a) to authorise the introduction of "Taxline" which is a system that enables instruments to be stamped without having to be produced to the Chief Commissioner of Stamp Duties if information concerning the instruments is electronically transmitted to the Chief Commissioner and the appropriate amount of duty is paid by electronic funds transfer; and
- (b) to grant exemptions from payment of financial institutions duty in respect of:
 - receipts of Credit Union Settlement Services Limited
 - receipts deposited to the settlement account of Lawpoint Pty Limited for the purposes of the Solicitors Electronic Information and Settlement Information Network.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision which gives effect to the Schedule of amendments to the Stamp Duties Act 1920.

Clause 4 provides that explanatory notes appearing in the Bill do not form part of the proposed Act.

Schedule 1 makes the amendments to the Stamp Duties Act 1920 described above. Each amendment is explained in detail in the explanatory note relating to the amendment concerned.

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STAMP DUTIES (AMENDMENT) BILL 1993

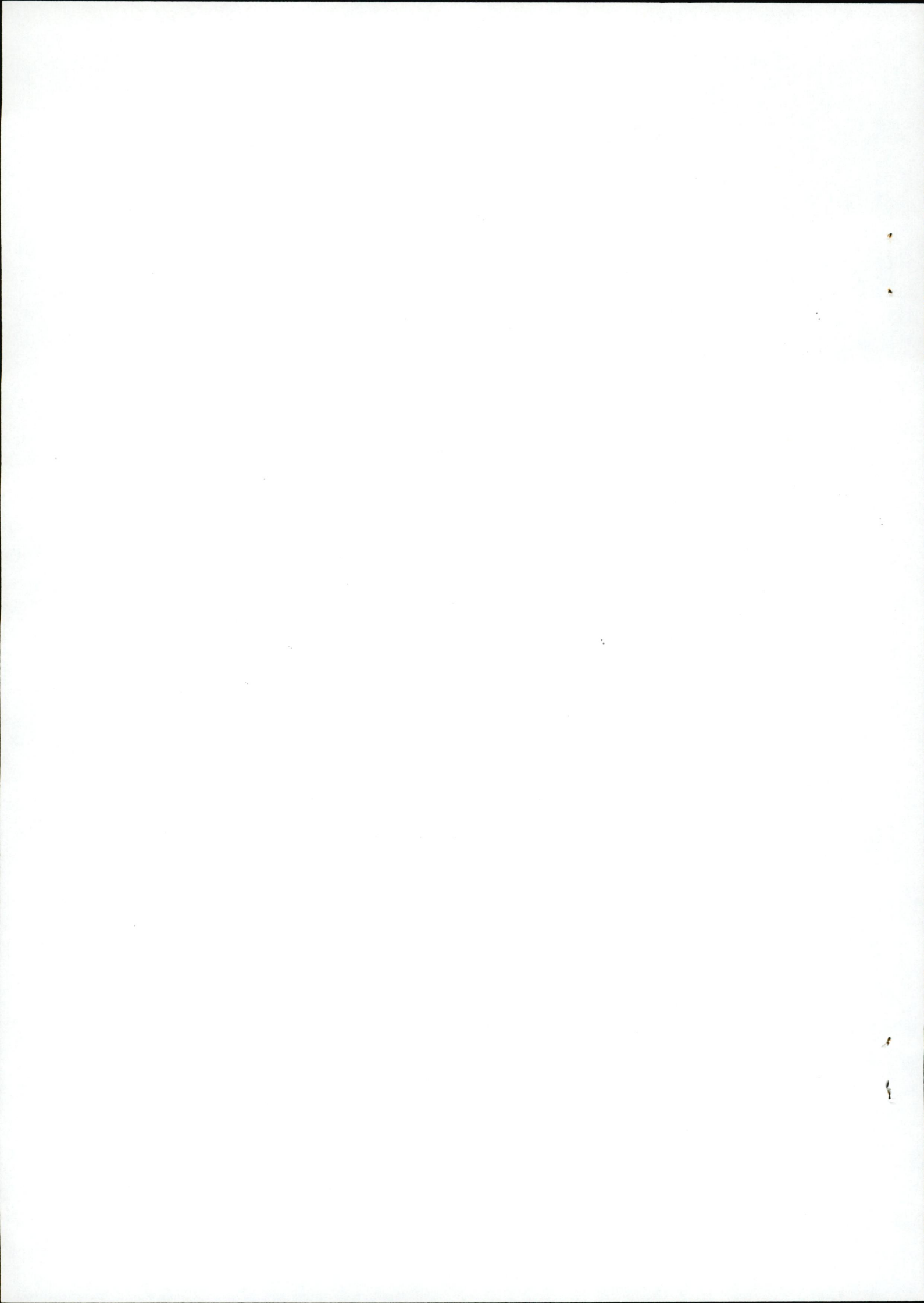
NEW SOUTH WALES



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4. Explanatory notes

SCHEDULE 1—AMENDMENTS



STAMP DUTIES (AMENDMENT) BILL 1993

NEW SOUTH WALES



No. , 1993

A BILL FOR

An Act to amend the Stamp Duties Act 1920 to enable the assessment and payment of duty using electronic data information techniques; and for other purposes.

*Stamp Duties (Amendment) 1993***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Stamp Duties (Amendment) Act 1993.

Commencement

- 5 2. This Act commences on the date of assent.

Amendment of Stamp Duties Act 1920 No. 47

3. The Stamp Duties Act 1920 is amended as set out in Schedule 1.

Explanatory notes

- 10 4. Matter appearing under the heading "Explanatory note" in Schedule 1 does not form part of this Act.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

Stamping of instruments in accordance with the Taxline system(1) Section 3 (**Definitions**):

- 15 (a) From the definition of "Stamp" in section 3 (1), omit "or an adhesive stamp", insert instead "an adhesive stamp or an adhesive label".
- (b) In the definition of "Stamped" in section 3 (1), after "adhesive stamps", insert "or adhesive labels".

20 (2) Sections 38D–38F:

After section 38C, insert:

The Taxline system

38D. (1) The Taxline system enables an approved person, in accordance with arrangements made under this section:

- 25 (a) to obtain an assessment of stamp duty (and any fine) on an instrument by electronically transmitting information concerning the instrument to the Chief Commissioner; and

Stamp Duties (Amendment) 1993

SCHEDULE 1—AMENDMENTS—*continued*

- (b) to pay stamp duty (and any fine) on the instrument by electronic funds transfer in accordance with the assessment; and
- (c) to stamp the instrument by fixing an adhesive label to it which bears an authorisation number issued for the instrument by the Chief Commissioner and such other particulars as are determined by the Chief Commissioner and which is in a form approved by the Chief Commissioner, 5
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- without the need for the instrument to be produced to the Chief Commissioner.
- (2) A person may apply to the Chief Commissioner for approval to use the Taxline system.
- (3) An application is to be made in the form approved by the Chief Commissioner. 15
- (4) The Chief Commissioner may approve or refuse an application.
- (5) If the Chief Commissioner approves an application, the Chief Commissioner is to specify the terms of the approval, the date on which the approval commences and the instruments to which the approval applies. 20
- (6) A person whose application is approved is, while the approval remains in force, an approved person for the purposes of this section. 25
- (7) An approval may be amended at any time:
- (a) by agreement between the Chief Commissioner and the approved person; or
- (b) by written notice given by the Chief Commissioner to the approved person. 30
- (8) An approval remains in force until it is cancelled by the Chief Commissioner or until the approved person surrenders it.
- (9) The Chief Commissioner may cancel an approval at any time for any reason and without the necessity to give prior notice to the approved person. The Chief Commissioner must give written notice to the person of the cancellation. 35

Stamp Duties (Amendment) 1993

SCHEDULE 1—AMENDMENTS—*continued***Assessment and stamping of instruments under the Taxline system**

5 38E. (1) For the purposes of this Act, the issue, under the Taxline system, of an adhesive label for an instrument by the Chief Commissioner comprises an assessment of the duty (and any fine) in relation to the instrument.

10 (2) An approved person for the purposes of section 38D, or a person authorised by the approved person, must, on receipt of an adhesive label bearing the authorisation number issued for the instrument by the Chief Commissioner, fix the adhesive label to the face of the instrument.

15 (3) An instrument is taken to be duly stamped if there is fixed to the face of it an adhesive label bearing the authorisation number issued for the instrument by the Chief Commissioner.

(4) An adhesive label is not an adhesive stamp for the purposes of this Act.

Fines relating to adhesive labels

20 38F. (1) A person who:

(a) sells an adhesive label or offers an adhesive label for sale; or

(b) fraudulently utters an adhesive label; or

25 (c) fraudulently fixes an adhesive label to an instrument other than the instrument for which the adhesive label was issued; or

(d) fraudulently removes an adhesive label, or fraudulently causes an adhesive label to be removed, from an instrument; or

30 (e) fraudulently utters an instrument to which an adhesive label is fixed knowing that the adhesive label was not issued for that instrument; or

35 (f) in relation to an adhesive label, practises or is concerned in any fraudulent act, contrivance or device with the intention of evading duty under this Act,

is liable to a fine not exceeding 50 penalty units.

Stamp Duties (Amendment) 1993

SCHEDULE 1—AMENDMENTS—*continued*

(2) In this section, “**adhesive label**” means an adhesive label issued by the Chief Commissioner.

EXPLANATORY NOTE—items (1) and (2)

Items (1) and (2) make amendments to the Stamp Duties Act 1920 that will enable the Chief Commissioner to assess and collect stamp duty (and fines) and arrange for the stamping of instruments using a system to be known as “Taxline”. Under the system, persons approved by the Chief Commissioner will be authorised to stamp instruments by fixing to them adhesive labels issued by the Chief Commissioner. A label for an instrument will be issued only after information concerning the instrument is electronically conveyed to the Office of State Revenue and duty on the instrument is paid by electronic funds transfer. 5
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“Taxline” is to be administered entirely at the discretion of the Chief Commissioner. A person’s approval to use the system may be cancelled by the Chief Commissioner at any time and for any reason. 15

The issue of an adhesive label for an instrument by the Chief Commissioner comprises an assessment of duty in relation to the instrument (proposed section 38E (1)).

An instrument to which an adhesive label issued for it by the Chief Commissioner is fixed is taken to be duly stamped for the purposes of the Stamp Duties Act 1920 (proposed section 38E (3)). 20

A maximum fine of 50 penalty units (currently \$5,000) may be imposed for abuses of the system (proposed section 38F).

The amendments made by item (1) are consequential on the statement made in proposed section 38E (4). Those amendments are to make it clear that an adhesive label is a stamp, but is not an adhesive stamp, for the purposes of the Stamp Duties Act 1920. The provisions of that Act relating to adhesive stamps (such as the necessity for cancellation and the rounding down of amounts) are not appropriate for adhesive labels. 25

Exemptions from payment of financial institutions duty

(3) Section 98A (**Receipts to which this Division does not apply**):

In section 98A (f), after “the Association of Central Credit Unions Limited”, insert “, Credit Union Settlement Services Limited”. 30

(4) Section 98U (**Exempt accounts**):

After section 98U (1) (g), insert:

(g1) an account kept with a bank which is a registered person, being a settlement account of Lawpoint Pty 35

Stamp Duties (Amendment) 1993

SCHEDULE 1—AMENDMENTS—*continued*

Limited in which only receipts for the purposes of the Solicitors Electronic Information and Settlement Interchange Network are deposited; or

5 EXPLANATORY NOTE—items (3) and (4)

The amendment made by item (3) will exempt receipts of Credit Union Settlement Services Limited from payment of financial institutions duty. This company is an association of credit unions operating in New South Wales, Victoria and Queensland and provides similar services to other companies whose receipts are exempt from payment of duty.

10 The amendment made by item (4) will enable the Chief Commissioner to approve the settlement account of Lawpoint Pty Limited as an exempt account so that receipts deposited to the account will be exempt from payment of financial institutions duty. Exemption from duty will facilitate the introduction of the Solicitors Electronic Information and Settlement Interchange Network (SEISIN) which is designed to improve conveyancing practice in New South Wales.

STAMP DUTIES (AMENDMENT) ACT 1993 No. 41

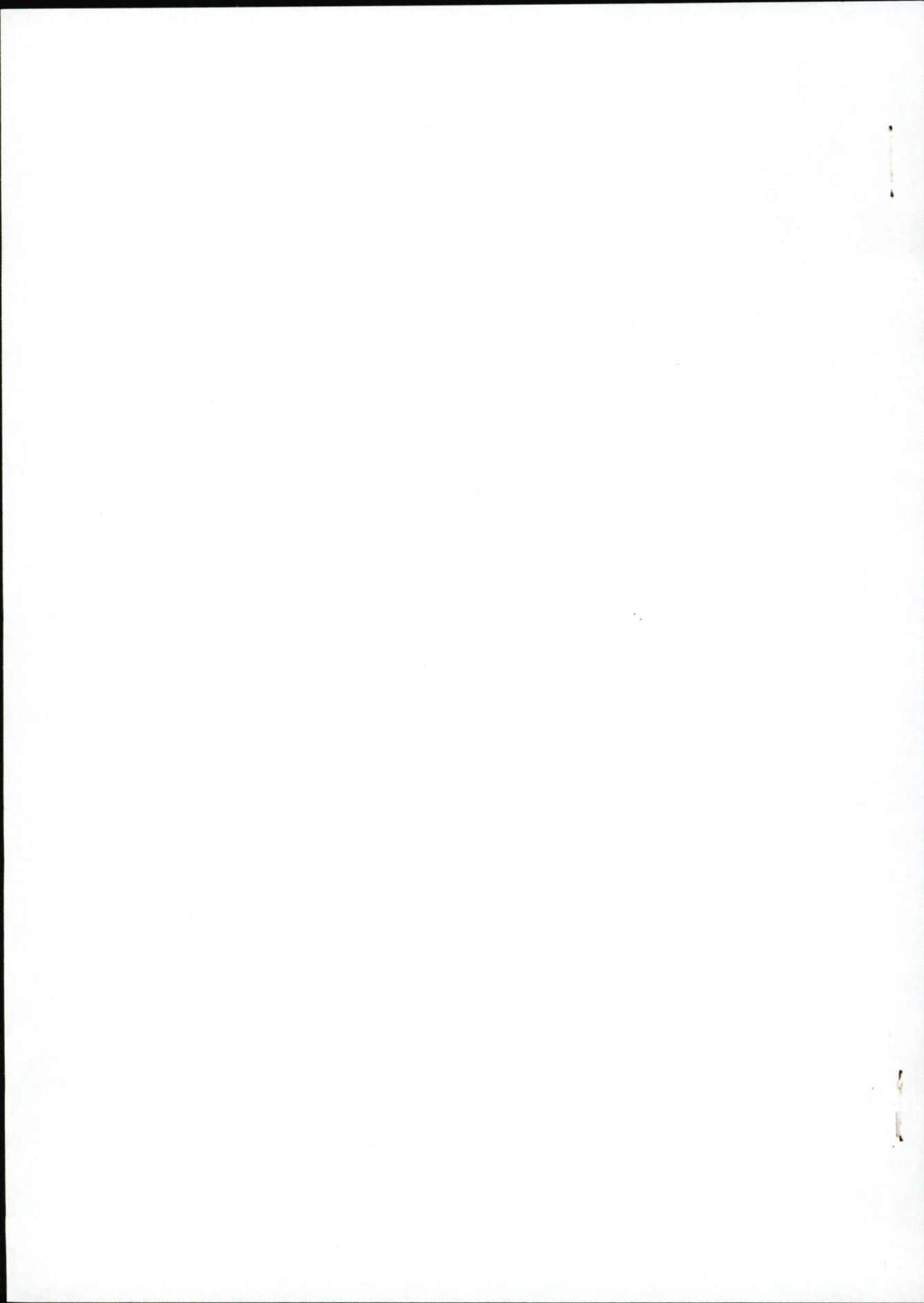
NEW SOUTH WALES



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SCHEDULE 1—AMENDMENTS



STAMP DUTIES (AMENDMENT) ACT 1993 No. 41

NEW SOUTH WALES



Act No. 41, 1993

An Act to amend the Stamp Duties Act 1920 to enable the assessment and payment of duty using electronic data information techniques; and for other purposes. [Assented to 8 June 1993]

Stamp Duties (Amendment) Act 1993 No. 41

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Stamp Duties (Amendment) Act 1993.

Commencement

2. This Act commences on the date of assent.

Amendment of Stamp Duties Act 1920 No. 47

3. The Stamp Duties Act 1920 is amended as set out in Schedule 1.

Explanatory notes

4. Matter appearing under the heading "Explanatory note" in Schedule 1 does not form part of this Act.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

Stamping of instruments in accordance with the Taxline system

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

- (a) From the definition of "Stamp" in section 3 (1), omit "or an adhesive stamp", insert instead " , an adhesive stamp or an adhesive label".
- (b) In the definition of "Stamped" in section 3 (1), after "adhesive stamps", insert "or adhesive labels".

(2) Sections 38D–38F:

After section 38C, insert:

The Taxline system

38D. (1) The Taxline system enables an approved person, in accordance with arrangements made under this section:

- (a) to obtain an assessment of stamp duty (and any fine) on an instrument by electronically transmitting information concerning the instrument to the Chief Commissioner; and

Stamp Duties (Amendment) Act 1993 No. 41

SCHEDULE 1—AMENDMENTS—*continued*

- (b) to pay stamp duty (and any fine) on the instrument by electronic funds transfer in accordance with the assessment; and
- (c) to stamp the instrument by fixing an adhesive label to it which bears an authorisation number issued for the instrument by the Chief Commissioner and such other particulars as are determined by the Chief Commissioner and which is in a form approved by the Chief Commissioner,

without the need for the instrument to be produced to the Chief Commissioner.

(2) A person may apply to the Chief Commissioner for approval to use the Taxline system.

(3) An application is to be made in the form approved by the Chief Commissioner.

(4) The Chief Commissioner may approve or refuse an application.

(5) If the Chief Commissioner approves an application, the Chief Commissioner is to specify the terms of the approval, the date on which the approval commences and the instruments to which the approval applies.

(6) A person whose application is approved is, while the approval remains in force, an approved person for the purposes of this section.

(7) An approval may be amended at any time:

- (a) by agreement between the Chief Commissioner and the approved person; or
- (b) by written notice given by the Chief Commissioner to the approved person.

(8) An approval remains in force until it is cancelled by the Chief Commissioner or until the approved person surrenders it.

(9) The Chief Commissioner may cancel an approval at any time for any reason and without the necessity to give prior notice to the approved person. The Chief Commissioner must give written notice to the person of the cancellation.

SCHEDULE 1—AMENDMENTS—*continued*

Assessment and stamping of instruments under the Taxline system

38E. (1) For the purposes of this Act, the issue, under the Taxline system, of an adhesive label for an instrument by the Chief Commissioner comprises an assessment of the duty (and any fine) in relation to the instrument.

(2) An approved person for the purposes of section 38D, or a person authorised by the approved person, must, on receipt of an adhesive label bearing the authorisation number issued for the instrument by the Chief Commissioner, fix the adhesive label to the face of the instrument.

(3) An instrument is taken to be duly stamped if there is fixed to the face of it an adhesive label bearing the authorisation number issued for the instrument by the Chief Commissioner.

(4) An adhesive label is not an adhesive stamp for the purposes of this Act.

Fines relating to adhesive labels

38F. (1) A person who:

- (a) sells an adhesive label or offers an adhesive label for sale; or
- (b) fraudulently utters an adhesive label; or
- (c) fraudulently fixes an adhesive label to an instrument other than the instrument for which the adhesive label was issued; or
- (d) fraudulently removes an adhesive label, or fraudulently causes an adhesive label to be removed, from an instrument; or
- (e) fraudulently utters an instrument to which an adhesive label is fixed knowing that the adhesive label was not issued for that instrument; or
- (f) in relation to an adhesive label, practises or is concerned in any fraudulent act, contrivance or device with the intention of evading duty under this Act,

is liable to a fine not exceeding 50 penalty units.

(2) In this section, “**adhesive label**” means an adhesive label issued by the Chief Commissioner.

Stamp Duties (Amendment) Act 1993 No. 41

SCHEDULE 1—AMENDMENTS—*continued*

EXPLANATORY NOTE—items (1) and (2)

Items (1) and (2) make amendments to the Stamp Duties Act 1920 that will enable the Chief Commissioner to assess and collect stamp duty (and fines) and arrange for the stamping of instruments using a system to be known as “Taxline”. Under the system, persons approved by the Chief Commissioner will be authorised to stamp instruments by fixing to them adhesive labels issued by the Chief Commissioner. A label for an instrument will be issued only after information concerning the instrument is electronically conveyed to the Office of State Revenue and duty on the instrument is paid by electronic funds transfer.

“Taxline” is to be administered entirely at the discretion of the Chief Commissioner. A person’s approval to use the system may be cancelled by the Chief Commissioner at any time and for any reason.

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The amendments made by item (1) are consequential on the statement made in proposed section 38E (4). Those amendments are to make it clear that an adhesive label is a stamp, but is not an adhesive stamp, for the purposes of the Stamp Duties Act 1920. The provisions of that Act relating to adhesive stamps (such as the necessity for cancellation and the rounding down of amounts) are not appropriate for adhesive labels.

Exemptions from payment of financial institutions duty

(3) Section 98A (**Receipts to which this Division does not apply**):

In section 98A (f), after “the Association of Central Credit Unions Limited”, insert “, Credit Union Settlement Services Limited”.

(4) Section 98U (**Exempt accounts**):

After section 98U (1) (g), insert:

(g1) an account kept with a bank which is a registered person, being a settlement account of Lawpoint Pty Limited in which only receipts for the purposes of the Solicitors Electronic Information and Settlement Interchange Network are deposited; or

Stamp Duties (Amendment) Act 1993 No. 41

SCHEDULE 1—AMENDMENTS—*continued*

EXPLANATORY NOTE—items (3) and (4)

The amendment made by item (3) will exempt receipts of Credit Union Settlement Services Limited from payment of financial institutions duty. This company is an association of credit unions operating in New South Wales, Victoria and Queensland and provides similar services to other companies whose receipts are exempt from payment of duty.

The amendment made by item (4) will enable the Chief Commissioner to approve the settlement account of Lawpoint Pty Limited as an exempt account so that receipts deposited to the account will be exempt from payment of financial institutions duty. Exemption from duty will facilitate the introduction of the Solicitors Electronic Information and Settlement Interchange Network (SEISIN) which is designed to improve conveyancing practice in New South Wales.

[*Minister's second reading speech made in—
Legislative Assembly on 13 May 1993
Legislative Council on 20 May 1993*]