

1994—No. 669

LAND TAX MANAGEMENT ACT 1956—REGULATION

(Relating to trusts)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Land Tax Management Act 1956, has been pleased to make the Regulation set forth hereunder.

PETER COLLINS, Q.C., M.P.
Treasurer.

Commencement

1. This Regulation commences on 31 December 1994.

Amendment

2. The Land Tax Management Regulation 1992 is amended by inserting after clause 4 the following clause:

Discretionary trusts and special trusts—trusts excluded from definitions in section 3 of the Act

4A. (1) A trust is declared not to be a “discretionary trust” or a “special trust” for the purposes of the Act in relation to any land tax year (after the 1995 land tax year) that next follows a year of income in relation to which the trust is:

- (a) a complying superannuation fund (within the meaning of section 42 of the Commonwealth Act); or
- (b) a complying approved deposit fund (within the meaning of section 43 of the Commonwealth Act); or
- (c) a pooled superannuation trust (within the meaning of section 44 of the Commonwealth Act).

(2) A trust is declared not to be a “discretionary trust” or a “special trust” for the purposes of the Act in relation to the 1995 land tax year if the trust:

- (a) is a regulated superannuation fund (within the meaning of the Commonwealth Act), or is taken under the Commonwealth Act to have been a regulated superannuation fund, at midnight on 31 December 1994; or
 - (b) is an approved deposit fund (within the meaning of the Commonwealth Act) at midnight on 31 December 1994; or
 - (c) is a pooled superannuation trust (within the meaning of the Commonwealth Act) at midnight on 31 December 1994.
- (3) In this clause:
- “Commonwealth Act”** means the Superannuation Industry (Supervision) Act 1993 of the Commonwealth;
- “1995 land tax year”** means the land tax year commencing on 1 January 1995;
- “year of income”** has the same meaning as in the Commonwealth Act.
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EXPLANATORY NOTE

At present, under the Land Tax Act 1956 land tax is payable on land the subject of a special trust at a rate of 1.5 cents for each \$1 of taxable value, with no tax free threshold. The object of this Regulation is to exclude certain trusts from the definitions of “discretionary trust” and “special trust” in the Land Tax Management Act 1956 so that the excluded trusts will receive the benefit of a tax free threshold applying to land which is not the subject of a special trust. The excluded trusts are certain superannuation trusts that are regulated under the Superannuation Industry (Supervision) Act 1993 of the Commonwealth.

The Regulation also contains a transitional provision relating to the 1995 land tax year which allows for the fact that regulation of the trusts concerned under the Commonwealth Act commenced only in the 1994–1995 financial year.

This Regulation is made under the Land Tax Management Act 1956, in particular paragraph (d) of the definition of “discretionary trust”, and paragraph (f) of the definition of “special trust”, in section 3 (1) of the Act and section 82 of the Act (the general regulation making power).
