

1995—No. 565

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.

MICHAEL EGAN,
Treasurer.

The Land Tax Management Regulation 1992 is amended by inserting after clause 4A (2) the following subclause:

(2A) A trust is declared not to be a “discretionary trust” or a “special trust” for the purposes of the Act in relation to the land tax year that next follows the year in which the trust was established if the trust was established after 30 June in that year and:

- (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 in the year in which it was established; or
- (b) is an approved deposit fund (within the meaning of the Commonwealth Act) at midnight on 31 December in the year in which it was established; or
- (c) is a pooled superannuation trust (within the meaning of the Commonwealth Act) at midnight on 31 December in the year in which it was established.

EXPLANATORY NOTE

Clause 4A of the Land Tax Management Regulation 1992 excludes certain trusts from the definitions of “discretionary trust” and “special trust” in the Land Tax Management Act 1956. The effect of the clause is to allow the excluded trusts to obtain the benefit of a tax-free threshold (in relation to land tax) that is not available in respect of land subject to a special trust (which includes a discretionary trust). The trusts concerned are those that are a “complying superannuation trust fund”, “complying approved deposit fund” or “pooled superannuation trust”, within the meaning of sections 42, 43 and 44, respectively, of the Superannuation Industry (Supervision) Act 1993 of the Commonwealth. However, other provisions of that Act are such that trusts that are established after 30 June in any year (“new trusts”) cannot meet the criteria set out in sections 42–44 in time to avail themselves of the tax-free threshold in respect of the first land tax year of the trusts’ existences.

The object of this Regulation is to ensure that new trusts that could obtain the benefit of the tax-free threshold in the second and subsequent land tax years of their existence can also obtain it in the first such year. The Regulation does this by providing that new trusts that, as at midnight on 31 December of the year in which they are established, meet certain other criteria specified in the Superannuation Industry (Supervision) Act 1993 of the Commonwealth (being criteria that the new trusts are able to meet as at that date) are excluded from the definitions of “discretionary trust” and “special trust” in respect of that first year.

This Regulation is made under the Land Tax Management Act 1956, in particular under paragraph (d) of the definition of “discretionary trust” and paragraph (9 of the definition of “special trust” in section 3 (1), and section 82 (the general regulation-making power).
