

LAND TAX MANAGEMENT (FURTHER AMENDMENT) ACT 1985
No. 215

New South Wales



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ELIZABETHÆ II REGINÆ

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Act No. 215, 1985

An Act to amend the Land Tax Management Act 1956 with respect to liability for land tax and other matters. [Assented to, 11th December, 1985.]

See also Land Tax (Further Amendment) Act 1985.

Land Tax Management (Further 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 "Land Tax Management (Further Amendment) Act 1985".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Section 3, in its application to a provision of Schedule 1, shall commence, or be deemed to have commenced, as the case requires, on the day on which the provision commences or is deemed to have commenced.

(3) Schedule 1 (1) (c) (ii) and (5) shall be deemed to have commenced on 31 December 1981.

(4) Schedule 1 (4) shall commence on 1 July 1986.

(5) Except as provided by subsections (1)—(4) and section 4, this Act shall commence on 31 December 1985.

Amendment of Act No. 26, 1956

3. The Land Tax Management Act 1956 is amended in the manner set forth in Schedule 1.

Application of certain amendments—leases from charitable or educational institutions, religious societies, etc.

4. (1) The amendments made by section 3 and Schedule 1 (3) (c), (d), (h) and (i) shall not, except as provided by subsection (2), apply to or in respect of any year commencing before 1 January 1989.

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- (2) The amendments referred to in subsection (1)—
- (a) shall apply to and in respect of the year commencing on 1 January 1987 and each subsequent year in relation to land that is leased or occupied under a lease or tenancy entered into before 1 January 1987 and under which the lessee or tenant is liable to pay to the lessor or owner an amount equal to the land tax attributable to the land or part occupied under the lease or tenancy; and
 - (b) where, in relation to land that is leased or occupied under a lease or tenancy entered into before 1 January 1989, the rental payable is or could be reviewed, or the lease or tenancy could be determined, by the lessor or owner at any time after 1 January 1986 and before 1 January 1989, shall apply to and in respect of each year occurring after the year in which the rental payable is or could be so reviewed or the lease or tenancy could be so determined.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE LAND TAX MANAGEMENT ACT 1956

- (1) (a) Section 3 (1), definition of “Discretionary trust”—

Omit the definition, insert instead:

“Discretionary trust” means—

- (a) a trust under which the vesting of the whole or any part of the capital of the trust estate, or the whole or any part of the income from that capital, or both—
 - (i) is required to be determined by a person either in respect of the identity of the beneficiaries, or the quantum of interest to be taken, or both; or
 - (ii) will occur in the event that a discretion conferred under the trust is not exercised; or
- (b) a trust which is, by or under the regulations, declared to be a discretionary trust for the purposes of this Act,

Land Tax Management (Further Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE LAND TAX MANAGEMENT ACT 1956—
continued

but does not include—

- (c) a trust which is solely a charitable trust; or
- (d) a trust which is, by or under the regulations, declared not to be a discretionary trust for the purposes of this Act.

(b) Section 3 (1), definition of “Owner”—

Omit the definition, insert instead:

“Owner” includes—

- (a) in relation to land, every person who jointly or severally, whether at law or in equity—
 - (i) is entitled to the land for any estate of freehold in possession; or
 - (ii) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise;
- (b) in relation to any land owned by the Crown, a person occupying any such land pursuant to a lease or licence, other than—
 - (i) a lease to which section 21 applies; or
 - (ii) a lease or licence, or a lease or licence of a class or description of leases or licences, prescribed for the purposes of this subparagraph;
- (c) in relation to any leasehold estate in land, whether legal or equitable (other than under any lease to which paragraph (b) applies), a person, or a person who is a member of a class or description of persons, prescribed for the purposes of this paragraph; and
- (d) a person who, by virtue of this Act, is deemed to be the owner.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE LAND TAX MANAGEMENT ACT 1956—
continued

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

- (i) Omit “the Government Insurance Office of New South Wales, the Rural Bank of New South Wales,”.
- (ii) After “Local Government Superannuation Board,”, insert “the Albury-Wodonga (New South Wales) Corporation, a corporation constituted under section 4 or 23A of the Growth Centres (Development Corporations) Act 1974,”.

(d) Section 3 (1), definition of “Special trust”—

After the definition of “Residential unit”, insert:

“Special trust” means—

- (a) a discretionary trust;
- (b) a trust—
 - (i) under which the trustee has active management duties;
 - (ii) the whole or any part of the trust property of which comprises land; and
 - (iii) the interests of the beneficiaries under which in relation to that trust property which comprises land are not such as to constitute those beneficiaries owners of that land for the purposes of this Act; or
- (c) a trust which is, by or under the regulations, declared to be a special trust for the purposes of this Act,

*Land Tax Management (Further Amendment) 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE LAND TAX MANAGEMENT ACT 1956—
continued

but does not include—

- (d) a trust which is solely a charitable trust;
- (e) a trust established by a will, but only during the period being—
 - (i) where the testator died on or before 31 December 1985—the period ending on 31 December 1986; or
 - (ii) where the testator dies after 31 December 1985—the period ending on the expiration of 12 months after the date of death of the testator; or
- (f) a trust which is, by or under the regulations, declared not to be a special trust for the purposes of this Act.

(2) Section 9A (1B)—

After section 9A (1A), insert:

(1B) Where—

- (a) the Valuer-General furnishes to a council within the meaning of the Local Government Act 1919 a valuation of the land value of land to which subsection (1) applies, being a land value by reference to which the adjusted value of the land is determined; and
- (b) that land value is not used by the council for the purpose of making or levying a rate under that Act,

a person liable to pay land tax assessed with respect to the adjusted value may apply to the council for a determination of the attributable part, within the meaning of section 160C of that Act, of that land value and any such application shall be dealt with by the council and the Valuer-General and, notwithstanding section 160C (6) of that Act, determined by the Valuer-General as if it were an application pursuant to section 160C (2) of that Act.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE LAND TAX MANAGEMENT ACT 1956—
continued

(3) (a) Section 10 (1)—

Omit “and 10E”, insert instead “,10E, 10F and 10G”.

(b) Section 10 (1) (a)—

After “Crown”, insert “(not being land occupied under a tenure referred to in paragraph (b) of the definition of “Owner” in section 3 (1))”.

(c) Section 10 (1) (d)—

After “trust for”, insert “, and used and occupied solely by,”.

(d) Section 10 (1) (e)—

Omit the paragraph, insert instead:

(e) land owned by or in trust for, and used and occupied solely by, a religious society if the society, however formed or constituted, is carried on solely for religious, charitable or educational purposes, including the support of the aged or infirm clergy or ministers of the society, or their wives or widows or children, and not for pecuniary profit;

(e) Section 10 (1) (g) (iii)—

After “society”, insert (not being a building society within the meaning of section 10G)”.

(f) Section 10 (1) (k)—

Omit “, as amended by subsequent Acts”, insert instead “(not being a hospital benefits or medical benefits organisation registered under the National Health Act 1953, as amended by subsequent Acts, of the Commonwealth)”.

(g) Section 10 (1) (l), (m)—

Omit the paragraphs.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE LAND TAX MANAGEMENT ACT 1956—
continued

(h) Section 10 (1i)—

After section 10 (1H), insert:

(1i) Where—

- (a) land to which the provisions of subsection (1) (d), (e) or (g) (iv) would apply if the land were used and occupied solely, or used or occupied solely, as the case requires, by the institutions, societies or persons referred to in those provisions; and
- (b) the land is partly used and occupied, or partly used or occupied, as the case requires, by persons other than those institutions, societies or persons,

the adjusted value of that land shall, for the purpose of the assessment of those institutions, societies or persons, be reduced to an amount which bears the same proportion to that adjusted value as the rental value of the part so used and occupied, or used or occupied, as the case requires, or intended to be so used and occupied, or so used or occupied, as the case requires, by those other persons bears to the total rental value of that land.

(i) Section 10 (2) (a), (2A) (b)—

Before “(f)” wherever occurring, insert “(d), (e),”.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE LAND TAX MANAGEMENT ACT 1956—
continued

(j) Section 10 (2AA)—

After section 10 (2A), insert:

(2AA) For the purposes of subsection (1) (d), (e) and (g) (iv), the use and occupation, or use or occupation, as the case requires, of any land or part of any land by any institution, society or person of a kind referred to in subsection (1) (d), (e) or (g) (iv)—

(a) which is affiliated with the owner of the land;

(b) with which that owner is affiliated; or

(c) which is controlled by or controls that owner,

shall not be deemed to be use and occupation, or use or occupation, as the case requires, by a person other than that owner.

(4) Section 10A—

Omit the section.

(5) Section 10D (1) (b)—

After “section 4”, insert “or 23A”.

*Land Tax Management (Further Amendment) 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE LAND TAX MANAGEMENT ACT 1956—
continued

(6) Sections 10F, 10G—

After section 10E, insert:

Taxation of land owned by the Government Insurance Office and State Bank

10F. Nothing in this Act operates to exempt from taxation under this Act any land owned by the Government Insurance Office of New South Wales or the State Bank of New South Wales.

Taxation of land owned by building societies

10G. (1) In this section—

“building society” means—

- (a) a permanent building society registered under the Permanent Building Societies Act 1967;
- (b) an association registered under the Permanent Building Societies Act 1967;
- (c) a building society to which Division 6 of Part II of the Co-operation Act 1923 applies; or
- (d) an association, or union of associations, of building societies referred to in paragraph (c).

(2) The amount of land tax payable by a building society for the year commencing on 1 January 1986 shall be reduced by two-thirds.

(3) The amount of land tax payable by a building society for the year commencing on 1 January 1987 shall be reduced by one-third.

(4) This section has effect notwithstanding any other provision of this Act.

(7) Section 27 (2A)—

Omit “discretionary trust” wherever occurring, insert instead “special trust”.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE LAND TAX MANAGEMENT ACT 1956—
continued

(8) (a) Section 34—

Omit “Where”, insert instead “(1) Except as provided by subsection (2), where”.

(b) Section 34 (2)—

At the end of section 34, insert:

(2) The reference in section 33 (ii) to the amount of land tax payable in respect of the land or interest by the primary taxpayer is, where the primary taxpayer is the joint owners of land in respect of which a reduction of tax has been allowed under section 3A (2) or 3C (2) of the Land Tax Act 1956, a reference to the proportion of the whole land tax that, but for section 3A (2) or 3C (2) of the Land Tax Act 1956 would be the tax payable under that Act in respect of all the land owned by the primary taxpayer.
