

STAMP DUTIES (AMENDMENT) ACT 1988 No. 130

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
 2. Commencement
 3. Amendment of Stamp Duties Act 1920 No. 47
- SCHEDULE 1—AMENDMENTS RELATING TO THE BOARD OF REVIEW
SCHEDULE 2—AMENDMENTS RELATING TO ACQUISITIONS OF COMPANY
AND UNIT TRUST INTERESTS DUTIABLE AS CONVEYANCES OF LAND
SCHEDULE 3—AMENDMENTS RELATING TO RENTAL-PURCHASE SCHEMES
SCHEDULE 4—AMENDMENTS RELATING TO FLOOD-PRONE HOUSING
SCHEME
SCHEDULE 5—MISCELLANEOUS AMENDMENTS
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STAMP DUTIES (AMENDMENT) ACT 1988 No. 130

NEW SOUTH WALES



Act No. 130, 1988

An Act to amend the Stamp Duties Act 1920 to constitute a Board of Review, to make further provision relating to acquisitions of company and unit trust interests dutiable as conveyances of land, to make provision relating to rental-purchase schemes and flood-prone housing schemes and for other purposes. [Assented to 30 December 1988]

Stamp Duties (Amendment) 1988

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

1. This Act may be cited as the Stamp Duties (Amendment) Act 1988.

Commencement

2. (1) This Act commences on 1 January 1989, except as provided by this section.

- (2) Schedule 2 (1) and (3) shall be taken to have commenced on 1 September 1988.

- (3) Schedule 3 shall be taken to have commenced on 26 April 1988.

- (4) Schedule 5 (1), (13) and (16) (e) commence on a day to be appointed by proclamation.

- (5) Schedule 5 (2) shall be taken to have commenced on 21 November 1986.

- (6) Schedule 5 (10) shall be taken to have commenced on 22 September 1988.

- (7) Schedule 5 (11) shall be taken to have commenced on 1 June 1988.

- (8) Schedule 5 (15) shall be taken to have commenced on 29 April 1988.

- (9) Schedule 5 (16) (a) shall be taken to have commenced on 7 March 1988.

- (10) Schedule 5 (16) (f) shall be taken to have commenced on 30 November 1987.

- (11) Schedule 5 (16) (g) shall be taken to have commenced on 1 May 1988.

- (12) Schedule 5 (16) (h) shall be taken to have commenced on 24 June 1988.

- (13) Schedule 5 (17) shall be taken to have commenced on 2 June 1988.

- (14) Section 3 in its application to a provision of Schedules 1-5 shall commence or be taken to have commenced on the day on which the provision commences or is taken to have commenced.

Amendment of Stamp Duties Act 1920 No. 47

3. The Stamp Duties Act 1920 is amended as set out in Schedules 1-5.
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*Stamp Duties (Amendment) 1988***SCHEDULE 1—AMENDMENTS RELATING TO THE BOARD OF REVIEW**

(Sec. 3)

(1) Part 2, Division 1, heading—

After the heading to Part 2, insert:

Division 1—General

(2) Part 2, Division 2—

After section 15, insert:

Division 2—Board of Review**Board of review**

15A. (1) There shall be a Board of Review consisting of—

- (a) the Chief Commissioner; and
- (b) the Auditor-General; and
- (c) the Secretary of the Treasury.

(2) A member of the Board of Review may appoint a person to act in the place of the member at meetings of the Board.

(3) An acting member, while so acting, shall have the functions of, and shall be taken to be, a member of the Board of Review.

Waiver of duty

15B. The Board of Review may waive the payment of duty, either wholly or in part, if it is satisfied that—

- (a) the person liable to pay it is in such circumstances that the exaction of the full amount of duty would result in serious hardship for the person or the person's dependants; or
- (b) the person liable to pay it has died and that person's dependants are in such circumstances that the exaction of the full amount of duty would result in serious hardship for them.

Deferral of duty

15C. (1) The Board of Review may defer the payment of duty, either wholly or in part—

- (a) in such circumstances; and
- (b) for such period; and
- (c) subject to such conditions,

as it thinks fit.

(2) Such a deferral, and any condition to which it is subject, may be amended, extended or revoked at any time.

*Stamp Duties (Amendment) 1988***SCHEDULE 1—AMENDMENTS RELATING TO THE BOARD OF REVIEW—*continued*****Effect of waiver or deferral**

15D. (1) If the Board of Review waives or defers the payment of duty, the Chief Commissioner shall make such notation on the instrument in respect of which the duty is waived or deferred as the Chief Commissioner thinks fit and the instrument shall, on the making of the notation, be taken to have been duly stamped.

(2) The making of a notation on an instrument in respect of which the duty is deferred does not, if the deferral ceases, affect the liability of the person liable to pay the duty or the power of the Chief Commissioner to take steps to recover the unpaid duty.

Writing off of duty

15E. (1) If the Board of Review is satisfied that all reasonable efforts have been made to recover, or that it is impracticable or unduly expensive to make further efforts to recover, unpaid duty, the Board may direct that the unpaid duty be written off.

(2) The writing off of unpaid duty does not affect the liability of the person liable to pay the duty or the power of the Chief Commissioner to take steps to recover the unpaid duty.

Chief Commissioner may exercise some of the Board of Review's functions

15F. The Chief Commissioner may exercise the functions of the Board of Review under sections 15B and 15C if the amount of the unpaid duty is less than \$1,000 in any particular case for any financial year.

SCHEDULE 2—AMENDMENTS RELATING TO ACQUISITIONS OF COMPANY AND UNIT TRUST INTERESTS DUTIABLE AS CONVEYANCES OF LAND

(Sec. 3)

(1) Section 99A (Interpretation)—

Section 99A (1), definition of "land"—

Omit the definition, insert instead:

"land" means any estate or interest in land, whether the land is situated in New South Wales or elsewhere, but does not include the estate or interest of a mortgagee, chargee or other encumbrancee in land;

(2) Sections 99J, 99K—

After section 99I, insert:

Stamp Duties (Amendment) 1988

SCHEDULE 2—AMENDMENTS RELATING TO ACQUISITIONS OF
COMPANY AND UNIT TRUST INTERESTS DUTIABLE AS
CONVEYANCES OF LAND—*continued*

Rescission of agreement for sale or conveyance of land

99J. (1) If an agreement (whether or not in writing) for the sale or conveyance of land to a person which causes that person or any other person to become a landholder or designated landholder or to become entitled to land is rescinded, annulled or otherwise terminated (except by completion)—

- (a) any requirement to lodge a statement under section 99C or 99E in relation to the entitlement ceases; and
- (b) the Chief Commissioner shall assess or reassess the liability to duty or fine of any statement under section 99C or 99E relating to the landholder or designated landholder as if no entitlement to the land had ever been created by the agreement.

(2) If, on a reassessment, the amount of duty payable in respect of the statement is less than the amount actually paid, the Chief Commissioner shall refund the difference and any fine paid in respect of the difference, less \$25.

Application of Division to certain financial arrangements

99K. (1) If the person lodging a statement under section 99C or 99E relating to the acquisition of a land use entitlement in relation to a landholder or a majority interest or an interest, referred to in section 99E (1), in a designated landholder—

- (a) informs the Chief Commissioner at the time the statement is lodged that the acquisition is effected for the purpose of securing financial accommodation; and
- (b) the Chief Commissioner is satisfied that the acquisition is effected for that purpose,

the statement, in so far as it relates to that acquisition, is not chargeable with duty, except as provided by subsection (2).

(2) The statement is chargeable with duty at the expiration of the period of 5 years after the date of the acquisition (or such longer period as may be determined by the Chief Commissioner in any particular case) if the land use entitlement, majority interest or interest the subject of the acquisition is not—

- (a) reacquired by the person from whom it was acquired; or
- (b) in the case of an acquisition by way of mortgage, conveyed by the mortgagee to a third person in exercise of the mortgagee's power of sale,

within that period (or that longer period).

Stamp Duties (Amendment) 1988

**SCHEDULE 2—AMENDMENTS RELATING TO ACQUISITIONS OF
COMPANY AND UNIT TRUST INTERESTS DUTIABLE AS
CONVEYANCES OF LAND—*continued***

(3) Sections 99C and 99E do not apply to the reacquisition by a person of the land use entitlement, majority interest or interest concerned.

(3) Tenth Schedule, Part 2—

After Part 1, insert:

PART 2—STAMP DUTIES (AMENDMENT) ACT 1988

Acquisition of certain interests not chargeable with duty

3. No duty is chargeable under Division 30 of Part 3 in respect of the acquisition prior to 1 September 1988 of an interest in a landholder in so far as the landholder's interest in land was that of a lessee or a mortgagee, chargee or other encumbrancee.

**SCHEDULE 3—AMENDMENTS RELATING TO RENTAL-
PURCHASE SCHEMES**

(Sec. 3)

(1) Section 40A (**Options**)—

After section 40A (2), insert:

(3) This section does not apply to an agreement by which an option is given or taken in accordance with an approved rental-purchase agreement under Schedule 2B.

(2) Part 3, Division 3C—

After Division 3B, insert:

Division 3C—Rental-purchase schemes

Rental-purchase schemes

45AA. Schedule 2B has effect.

(3) Schedule 2B—

After Schedule 2A, insert:

SCHEDULE 2B—RENTAL-PURCHASE SCHEMES

(Sec. 45AA)

The nature of a rental-purchase scheme

1. (1) A rental-purchase scheme is a scheme under which the operator of the scheme purchases land on which there is a house or on which the operator builds a house, leases the house to a prospective purchaser and grants the prospective purchaser an option to purchase the property within a specified period.

(2) In this clause, "house" includes a lot under the Strata Titles Act 1973 or the Strata Titles (Leasehold) Act 1986 comprising a dwelling.

Stamp Duties (Amendment) 1988

SCHEDULE 3—AMENDMENTS RELATING TO RENTAL-PURCHASE SCHEMES—*continued*
Approval of operator of scheme

2. (1) A person who operates or proposes to operate a rental-purchase scheme may apply to the Chief Commissioner to be an approved person for the purposes of this Schedule.

(2) An application for such an approval shall be made in the form and manner determined by the Chief Commissioner.

(3) The application may be granted unconditionally or subject to conditions or may be refused.

Approval of rental-purchase agreement

3. The Chief Commissioner may, for the purposes of this Schedule, approve rental-purchase agreements entered into or proposed to be entered into by an approved person.

Revocation of approvals

4. The Chief Commissioner may, by giving 30 days' notice in writing to an approved person, revoke the approval of the person or the approval of the person's rental-purchase agreements, or both.

Exemption from duty—agreements and conveyances

5. (1) If an approved person—

- (a) enters into, as purchaser, an agreement for the sale or conveyance or a conveyance of any land; and
- (b) satisfies the Chief Commissioner that the land is being purchased for the purpose of entering into an approved rental-purchase agreement or agreements,

the agreement or conveyance is exempt from duty.

(2) If—

- (a) any land the subject of an agreement or conveyance referred to in subclause (1)—
 - (i) does not become the subject of an approved rental-purchase agreement within 12 months after the execution of the agreement or conveyance; or
 - (ii) is sold otherwise than as a consequence of the exercise of an option under an approved rental-purchase agreement; or
- (b) the approved person breaches any condition to which the person's approval is subject; or
- (c) the person's approval is revoked,

the agreement or conveyance referred to in subclause (1) thereupon becomes liable to duty and becomes so liable as if it were first executed at the time at which it becomes so liable.

(3) If, on the occurrence of an event referred to in subclause (2) (a), (b) or (c), part of the land the subject of an agreement or conveyance referred to in subclause (1) has, in accordance with this clause, become the subject

*Stamp Duties (Amendment) 1988***SCHEDULE 3—AMENDMENTS RELATING TO RENTAL-PURCHASE SCHEMES—*continued***

of an approved rental-purchase agreement or agreements and part has not, the liability to duty of the agreement or conveyance shall be calculated, at the rates specified in paragraph (1) under the heading “Conveyances of Any Property” in the Second Schedule, on the unencumbered value at the date of the agreement or conveyance of the part that has not become the subject of an approved rental-purchase agreement or agreements.

(4) The Chief Commissioner may from time to time, before or after the expiration of the 12-month period referred to in subclause (2) (a) (i), extend that period.

Exemption from duty—approved rental-purchase agreement

6. An approved rental-purchase agreement is exempt from duty.

Liability for certain duty not affected

7. Nothing in this Schedule exempts from duty an agreement for the sale or conveyance of any property or a conveyance of any property entered into as a consequence of the exercise of an option under an approved rental-purchase agreement.

SCHEDULE 4—AMENDMENTS RELATING TO FLOOD-PRONE HOUSING SCHEME

(Sec. 3)

(1) Part 3, Division 3D—

After Division 3C, insert:

Division 3D—Flood-prone housing scheme**Administration of the scheme**

45AB. (1) The Chief Commissioner shall administer the scheme set out in Schedule 2C.

(2) The scheme confers no rights on a person except to the extent determined by the Chief Commissioner.

(3) Schedule 2C has effect.

(2) Schedule 2C—

After Schedule 2B, insert:

SCHEDULE 2C—FLOOD-PRONE HOUSING SCHEME

(Sec. 45AB)

The nature of the scheme

1. This scheme is intended to assist a person who, as an owner of a home on flood-prone land, has entered into a contract for the sale of the land to the council of the local government area in which the land is situated and then purchases another home. The scheme enables such a person to choose to pay stamp duty on the contract for the purchase of the new home by instalments over a period of 5 years (instead of at the time of purchase).

*Stamp Duties (Amendment) 1988***SCHEDULE 4—AMENDMENTS RELATING TO FLOOD-PRONE HOUSING SCHEME—*continued*****Commencement**

2. Contracts executed on or after 1 January 1989 are eligible for consideration under the scheme.

Eligible persons

3. A person may apply under the scheme if—

(a) the person was the owner of at least 50 per cent of the beneficial interest in the land sold or being sold to the council; and

(b) the person has entered into a contract for the purchase of a home intended to be occupied as the person's principal place of residence.

Eligible contracts

4. The contract for the purchase of the new home is eligible for consideration under the scheme if the amount paid for the home is the full market value. Wholly or partially gifted property is not eligible.

Other provisions

5. Clauses 7 and 9–15 of Schedule 2A apply to this scheme in the same way as they apply to the First Home Purchase Scheme.

Definitions

6. In this Schedule—

“contract” means an agreement for sale or conveyance or a conveyance;

“home” means a private dwelling and includes a farming property on which a private dwelling is erected.

SCHEDULE 5—MISCELLANEOUS AMENDMENTS

(Sec. 3)

(1) Section 3 (Interpretation)—

(a) Section 3 (1), definition of “Marketable security”—

(i) In paragraph (b), after “not;”, insert “and”.

(ii) From paragraph (b1), omit “security; and”, insert instead “security.”.

(iii) Omit paragraph (c).

(b) Section 3 (2), definition of “Share”—

Omit “and any right or interest (whether described as a unit or sub-unit or otherwise) of a beneficiary under a unit trust scheme”.

(2) Section 44 (Transactions to which this Division applies)—

Section 44 (1) (b)—

After “New South Wales” where secondly occurring, insert “, being property of the kind referred to in paragraph (a), (c), (d), (e) or (f) or prescribed, or of a class prescribed, for the purposes of this subsection”.

*Stamp Duties (Amendment) 1988*SCHEDULE 5—MISCELLANEOUS AMENDMENTS—*continued*

- (3) Section 44A (**Payment of duty on statements in absence of dutiable instruments**)—
- (a) Section 44A (7) (a)—
After “property”, insert “(other than any goods, wares or merchandise to which section 43B (1) applies)”.
- (b) Section 44A (7) (b)—
After “consideration”, insert “(other than consideration relating to any goods, wares or merchandise to which section 43B (1) applies)”.
- (4) Section 46A (**Cheque defined**)—
After “that Act”, insert “and a banker’s draft”.
- (5) Section 66E (**Conveyance between married couple**)—
Omit section 66E (2) (c), insert instead:
(c) the conveyor was the married couple or one of them, the conveyee was the married couple or one of them and no other person was a conveyor or conveyee; and
- (6) Section 77 (**Leases, how to be charged in respect of produce etc.**)—
- (a) Section 77 (2) (a) (iv)—
Omit “and”.
- (b) After section 77 (2) (a) (iv), insert:
(v) exceeds 40 years—no part of such value; and
- (7) Section 78G—
After section 78F, insert:
Lease substantially in conformity with earlier lease
78G. (1) A lease which the Chief Commissioner is satisfied—
(a) is executed in order to replace an earlier lease; and
(b) is in substantially the same terms as the earlier lease,
is subject to a credit of the amount of duty paid in respect of the earlier lease, except as provided by subsection (2).
(2) The minimum amount of duty payable in respect of any such lease is \$10.
- (8) Section 83 (**Interpretation**)—
Section 83 (1), definition of “Loan security”—
(a) From paragraph (c), omit “or”.

*Stamp Duties (Amendment) 1988*SCHEDULE 5—MISCELLANEOUS AMENDMENTS—*continued*

(b) At the end of paragraph (d), insert:

; or

(e) an instrument executed (whether or not in New South Wales) after 1 January 1989 which, on the deposit of documents of title over property in New South Wales or instruments creating a charge on property in New South Wales, evidences the terms of a mortgage or becomes a mortgage.

(9) Section 84 (**Limited and unlimited loan securities**)—

(a) Section 84 (3B)–(3D)—

After section 84 (3A), insert:

(3B) In subsection (3A)—

(a) a reference to an advance or an additional advance includes a reference to the increase in the amount of any contingent liability referred to in subsection (3C); and

(b) a reference to the amount payable or repayable under or secured by the loan security includes a reference to the amount of any contingent liability dutiable under subsection (3C).

(3C) If—

(a) the security for an advance to a borrower is or includes a guarantee or an indemnity; and

(b) a loan security is used or is capable of being used (whether directly or through a chain of arrangements) to recover the whole or any part of an amount payable by the guarantor or indemnifying party as a result of any default by the borrower or any party to the arrangements,

the loan security shall, unless the Chief Commissioner is satisfied that there is no connection between the loan security and any indebtedness of the borrower, be liable to duty as a loan security—

(c) in the case of a loan security of the type referred to in subsection (1)—in accordance with subsection (1), (2) or (2A)—

(i) in respect of the total amount secured or to be ultimately recoverable under the loan security; and

(ii) in respect of the contingent liability under the guarantee or indemnity (or, where there is more than one guarantee or indemnity, the greatest contingent liability) as if that liability was an advance; or

 SCHEDULE 5—MISCELLANEOUS AMENDMENTS—*continued*

(d) in the case of a loan security of the type referred to in subsection (3)—in accordance with subsection (3) as if the advances made under or secured by the loan security included the amount of the contingent liability under the guarantee or indemnity (or, where there is more than one guarantee or indemnity, the greatest contingent liability).

(3D) Nothing in subsection (3C) requires duty to be paid more than once in respect of an advance.

(b) Section 84 (6B)—

After section 84 (6A), insert:

(6B) Section 25 (Terms on which instruments may be stamped after execution) applies to and in respect of an instrument which evidences the terms of a mortgage or becomes a mortgage as referred to in paragraph (e) of the definition of “Loan security” in section 83 (1) as if a reference in section 25 to the date on which an instrument is first executed were a reference to the date on which the documents of title or instruments evidencing the terms of a mortgage were first deposited, or the instrument becomes a mortgage, as so referred to.

(10) Section 84^{CAA}—

After section 84^{CA}, insert:

Refinancing of loans to primary producers

84^{CAA}. Notwithstanding any other provision of this Act, duty is not chargeable on so much of the advance under a loan security as secures the balance outstanding under an earlier loan security where each such loan security applies to the same, or substantially the same, land and that land is land used for primary production within the meaning of section 43B or is land used for commercial fishing (including fish farms and oyster farms).

(11) Part 3, Division 21B—

After Division 21A, insert:

Division 21B—Loan-backed securities

Charging of duty on issue etc. of loan-backed securities

84^{FB}. (1) In this section—

“bank” means a bank within the meaning of the Banking Act 1959 of the Commonwealth or a bank constituted by a law of a State or of the Commonwealth;

“government body” means—

(a) the Commonwealth;

*Stamp Duties (Amendment) 1988*SCHEDULE 5—MISCELLANEOUS AMENDMENTS—*continued*

- (b) the Government of New South Wales;
- (c) the Government or Administration of any other State or any Territory of the Commonwealth;
- (d) a municipal corporation, other local governing body or public authority constituted by or under a law of the Commonwealth or the Government of New South Wales or the Government or Administration of any other State or any Territory of the Commonwealth; or
- (e) a corporation the principal business of which is the supply and distribution, by a system of reticulation, in New South Wales or in any other State or any Territory of the Commonwealth, of water, gas or electricity;

“loan-backed security” means—

- (a) an instrument or property creating, conferring or comprising a right or interest (whether described as a unit, bond or otherwise) of or on a beneficiary in a scheme under which the profits, distributions of capital or income in which beneficiaries participate arise or arises from the acquisition, holding, management or disposal of a pool of loans, or any instrument which evidences such a right or interest; or
- (b) a corporate debt security—
 - (i) the payments under which by the corporation, company or society which issues or makes the instrument are derived substantially from the acquisition, holding, management or disposal of a pool of loans; and
 - (ii) which is secured by a mortgage or charge over a pool of loans; or
- (c) an instrument of a class or description of instruments, or property of a class or description of property, prescribed to be a loan-backed security for the purposes of this definition;

“mortgage-backed security” has the same meaning as in section 84^{FA} (1);

“permanent building society” means a permanent building society listed in the Second Schedule to the Co-operation Act 1923 or registered under the Permanent Building Societies Act 1967;

“pool of loans” means a pool of loans which is comprised substantially of any one or more of the following:

- (a) cash;

 SCHEDULE 5—MISCELLANEOUS AMENDMENTS—*continued*

- (b) notes, debentures, loans, stock, promissory notes, bonds or other securities of a government body;
- (c) bills of exchange, promissory notes or other negotiable instruments accepted, drawn or endorsed by a bank, a permanent building society or a government body;
- (d) deposits with, or the acquisition of certificates of deposits or any other security issued by, a bank, a permanent building society or a government body;
- (e) loan-backed securities;
- (f) mortgage-backed securities;
- (g) a guaranteed investment contract of a type approved by the Chief Commissioner;
- (h) assets of a class or description of assets prescribed for the purposes of this definition.

(2) Notwithstanding any other provision of this Act, duty (other than duty payable in respect of receipts within the meaning of section 98 (1) or a short term dealers return within the meaning of Division 29) shall not be chargeable in respect of an instrument which is or effects—

- (a) the issue or making of a loan-backed security;
 - (b) the transfer or assignment of, or other dealing in, a loan-backed security;
 - (c) the discharge, redemption, cancellation or termination of a loan-backed security;
 - (d) any instrument that, in the opinion of the Chief Commissioner, was executed for the purpose of creating, issuing or marketing loan-backed securities;
 - (e) a mortgage or other charge over the interest of a person in a pool of loans, being a mortgage or other charge relating to loan-backed securities issued by the person to secure the repayment of financial accommodation provided to the person;
 - (f) a policy of insurance covering any or all assets in a pool of loans or a pool of loans acquired for the purpose of issuing loan-backed securities;
 - (g) any option agreement relating to any or all assets in a pool of loans or a pool of loans, being a pool of loans acquired or held for the purpose of issuing loan-backed securities;
- or

*Stamp Duties (Amendment) 1988*SCHEDULE 5—MISCELLANEOUS AMENDMENTS—*continued*

- (h) an agreement for the sale or conveyance, or a conveyance, of assets of the type specified in the definition of “pool of loans” in subsection (1), being an agreement for the sale or conveyance, or a conveyance, executed for the purpose of creating or issuing loan-backed securities,

but only so far as the instrument relates to loan-backed securities.

(12) Section 84G (**Duty on motor vehicle certificates of registration**)—

Section 84G (1) (e), (f)—

At the end of section 84G (1) (e), insert:

; or

(f) a motor vehicle certificate of registration issued—

- (i) in respect of a demonstrator motor vehicle within the meaning of section 4 (1) of the Motor Dealers Act 1974 (paragraph (b) of that definition excepted) which has not previously been registered under the Motor Traffic Act 1909 or a law of another State or a Territory of the Commonwealth which corresponds to the Motor Traffic Act 1909; and
- (ii) to a person who is engaged principally in the trade or business of buying or selling motor vehicles, who is the holder of a dealer’s licence or a wholesaler’s licence under the Motor Dealers Act 1974 and who is the holder of, and who complies with the conditions imposed in respect of, an exemption authority issued by or with the approval of the Chief Commissioner.

(13) Section 95AA—

After section 95, insert:

Definition of marketable securities for the purposes of this Division

95AA. In this Division, “marketable security” includes a right or interest (whether described as a unit or sub-unit or otherwise) of a beneficiary under a unit trust scheme.

(14) Section 96A (**Duty on certain transfers of shares**)—

(a) Section 96A (2)—

After “New South Wales” where secondly occurring, insert “and the transfer of which is registered on that register or a register of members kept in a place prescribed for the purposes of section 96B (1A) (a) (i),”.

 SCHEDULE 5—MISCELLANEOUS AMENDMENTS—*continued*

(b) After section 96A (2), insert:

(3) If, by the operation of this section, a person is liable on a transfer of shares to duty under this Act and duty under the law of a place outside New South Wales, the amount of duty chargeable under this Act shall be reduced by the amount of duty paid or payable under that other law.

(15) Section 98U (**Exempt accounts**)—

Section 98U (1) (e)—

After “Territory”, insert “or a deed approved under a regulation made for the purposes of Division 1A of Part 3 of the Permanent Building Societies Act 1967 or under a corresponding law of another State or a Territory”.

(16) Second Schedule—

(a) Second Schedule, under the heading “CONVEYANCES OF ANY PROPERTY”—

At the end of paragraph (4) (j) (ii), insert:

; and (iii) is not executed for the sole purpose of amending the instrument establishing the approved superannuation scheme to ensure that the scheme will comply with those requirements under the Occupational Superannuation Standards Act 1987 of the Commonwealth which entitle the scheme to an exemption from taxation or to a concessional rate of taxation under the Income Tax Assessment Act 1936 of the Commonwealth.	
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*Stamp Duties (Amendment) 1988*SCHEDULE 5—MISCELLANEOUS AMENDMENTS—*continued*

(j1) Any instrument to which subparagraph (j) would apply but for subparagraph (j) (iii).	10.00	The parties to the instrument.
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- (b) Second Schedule, under the heading “DECLARATION OF TRUST”—

Omit paragraph (2) (c).

- (c) Second Schedule—

Omit the heading “GUARANTEE—” and the matter relating to that heading.

- (d) Second Schedule—

Omit the heading “LETTER OR POWER OF ATTORNEY or other instrument in the nature of—” and the matter relating to that heading.

- (e) Second Schedule—

After the matter relating to “SHORT TERM DEALERS RETURN”, insert:

UNIT TRUST SCHEMES— Upon the transfer of any units in a unit trust scheme—		
(a) where all trust property is situated in New South Wales	Duty at the rate of 6 cents for every \$10 (or part thereof) of the consideration for the transfer or the unencumbered value of the units, whichever is the greater.	The transferee.

*Stamp Duties (Amendment) 1988*SCHEDULE 5—MISCELLANEOUS AMENDMENTS—*continued*

(b) where some, but not all, trust property is situated in New South Wales . . .	Duty at the rate of 6 cents for every \$10 (or part thereof) of the ratio of the value of trust property situated in New South Wales to the total value of all trust property multiplied by the consideration for the transfer or the unencumbered value of the units, whichever is the greater.	The transferee.
Exemptions—		
(a) Paragraphs (e), (f) and (g) of the <i>Exemptions</i> appearing under the heading "TRANSFER OF SHARES" apply to a transfer of units in a unit trust scheme in the same way as they apply to a transfer of shares.		
(f) Second Schedule, under the heading "GENERAL EXEMPTIONS FROM STAMP DUTY UNDER PART 3"—		
After paragraph (33), insert:		
(34) A conveyance of property, in compliance with a requirement of the State Compensation Board, between—		
(a) a licensed insurer, or a person who was a licensed insurer, under the Workers' Compensation Act 1926 and an insurer licensed under the Workers Compensation Act 1987;		
(b) licensed insurers under the Workers Compensation Act 1987; or		
(c) the Board and a licensed insurer under the Workers Compensation Act 1987.		
(g) Second Schedule, under the heading "GENERAL EXEMPTIONS FROM STAMP DUTY UNDER PART 3"—		
After paragraph (34), insert:		
(35) An instrument, being—		
(a) an agreement for the sale or conveyance, or a conveyance, of land; or		

*Stamp Duties (Amendment) 1988*SCHEDULE 5—MISCELLANEOUS AMENDMENTS—*continued*

- (b) a loan security executed to finance or assist the purchase of that land (but only to the extent to which the amount secured by the loan security is to finance or assist that purchase),
if the purchaser or borrower, or at least one of the purchasers or borrowers—
- (c) is a tenant of the Department of Housing at the date of first execution of the instrument;
- (d) will obtain not less than 25 per cent of the beneficial ownership of the land; and
- (e) intends to use the land as his or her principal place of residence.
- (h) Second Schedule, under the heading “GENERAL EXEMPTIONS FROM STAMP DUTY UNDER PART 3”—
After paragraph (35), insert:
- (36) A conveyance of property made at the direction of the State Compensation Board—
- (a) from an insurer licensed under the Workers Compensation Act 1987 to a custodian nominated by the Board; or
- (b) from such a custodian to another such custodian.
- (37) A custodian agreement executed by the State Compensation Board and an insurer licensed under the Workers Compensation Act 1987 (whether or not there are any other parties to the agreement).
- (38) An agreement executed at the direction of the State Compensation Board between a custodian nominated by the Board and an insurer licensed under the Workers Compensation Act 1987.
- (i) Second Schedule, under the heading “GENERAL EXEMPTIONS FROM STAMP DUTY UNDER PART 3”—
After paragraph (38), insert:
- (39) A guarantee executed on or after 1 January 1989.
- (40) A letter or power of attorney executed on or after 1 January 1989.
- (17) Schedule 2A (**First Home Purchase Scheme**)—
From clause 5 (2), omit “\$105,000”, insert instead “\$125,000 or such other amount as may be prescribed by the regulations”.
- (18) Tenth Schedule (**Savings, Transitional and Other Provisions**)—
After clause 3, insert:
- Duty in respect of certain guarantees**
4. (1) A guarantee executed before 16 May 1988 is to be taken to be duly stamped if it has been stamped with the duty applicable to a guarantee which does not relate to more than one distinct matter within the meaning of section 17, even though it may relate to several such distinct matters.
- (2) Despite section 17, a guarantee executed on or after 16 May 1988 having more than one guarantor is liable to duty in respect of—
- (a) not more than one joint guarantee contained in the instrument; and

Stamp Duties (Amendment) 1988

SCHEDULE 5—MISCELLANEOUS AMENDMENTS—*continued*

(b) each guarantor in the instrument,
and is not otherwise liable to duty as a guarantee.

Charging of leases in respect of produce

5. Section 77 (2), as amended by the Stamp Duties (Amendment) Act 1988, applies to a lease whether executed before, on or after 1 January 1989.

Charging of duty in respect of certain loan securities

6. The provisions of section 84 (3B) and (3C), as inserted by the Stamp Duties (Amendment) Act 1988, apply to—

- (a) a loan security executed on or after 1 January 1989; and
- (b) a guarantee or indemnity whether executed before, on or after 1 January 1989.

Exemption from duty—certain agreements entered into by tenants of the Department of Housing

7. (1) Paragraph (35) of the General Exemptions from Stamp Duty under Part 3 in the Second Schedule does not apply to an agreement for sale or conveyance, or a conveyance, entered into by a purchaser pursuant to an application made on or before 29 November 1987 to purchase the land the subject of the agreement or conveyance.

(2) An agreement for sale or conveyance of the kind referred to in paragraph (35) of the General Exemptions from Stamp Duty under Part 3 in the Second Schedule which was executed on or after 1 February 1988 but in respect of which the property the subject of the agreement was not conveyed until on or after 1 May 1988 is exempt from duty.

[*Minister's second reading speech made in—
Legislative Assembly on 17 November 1988
Legislative Council on 13 December 1988*]
