

**LAND TAX MANAGEMENT (AMENDMENT) ACT 1989 No. 222**

**NEW SOUTH WALES**



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**LAND TAX MANAGEMENT (AMENDMENT) ACT 1989 No. 222**

NEW SOUTH WALES



**Act No. 222, 1989**

An Act to amend the Land Tax Management Act 1956 with respect to the exemption from land tax of land used and occupied for boarding-houses for low-income persons and other purposes; to make further provision with respect to appeals; and for other purposes. [Assented to 21 December 1989]

*Land Tax Management (Amendment) 1989*

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

**Short title**

1. This Act may be cited as the Land Tax Management (Amendment) Act 1989.

**Commencement**

2. (1) This Act commences, or is to be taken to have commenced, on 1 January 1990, except as provided by this section.

(2) The provisions of Schedules 1(3) and 3, and section 3 in its application to those provisions, commence on the date of assent.

**Amendment of Land Tax Management Act 1956 No. 26**

3. The Land Tax Management Act 1956 is amended as set out in Schedules 1, 2 and 3.

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**SCHEDULE 1 - AMENDMENTS RELATING TO EXEMPTIONS**

(Sec. 3)

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

After section 3 (4), insert:

(5) Despite paragraph (b) of the definition of "Owner" in subsection (1), a person occupying:

- (a) land owned by the Crown under a lease entered into or renewed prior to 1 January 1986 and the terms of which relating to rental payable have not been varied since that date; or
- (b) land owned by a council of an area (within the meaning of the Local Government Act 1919), a county council or a public authority under a lease entered into or renewed prior to 1 January 1989 and the terms of which relating to rental payable have not been varied since that date,

is not, for the purposes of this Act, to be regarded as the owner of the land during the period of the lease or renewal.

SCHEDULE 1 - AMENDMENTS RELATING TO  
EXEMPTIONS - *continued*

(2) Section 10Q:

After section 10P, insert:

**Exemption - boarding-houses for low-income persons**

10Q. (1) In this section:

"**boarding-house**" includes rooming houses, serviced rooms and flatettes and furnished or unfurnished rooms (with or without resident managers) but does not include premises in respect of which a hotelier's licence under the Liquor Act 1982 is in force.

(2) This section applies to land within the Counties of Cumberland, Illawarra and Northumberland.

(3) Land to which this section applies is exempted from taxation under this Act leviable or payable in respect of the year commencing on 1 January 1990 or any succeeding year if:

- (a) the land is used and occupied primarily for a boarding-house for low-income persons; and
- (b) application for the exemption is made in accordance with this section; and
- (c) the Chief Commissioner is satisfied that the land is used and occupied in accordance with guidelines approved by the Treasurer for the purposes of this section.

(4) This section does not apply to an owner of land in respect of a tax year unless:

- (a) the owner applies to the Chief Commissioner for the exemption, in the form approved by the Chief Commissioner; and
- (b) the application is made before 31 January in that year unless the Chief Commissioner allows it to be made later; and
- (c) the owner furnishes the Chief Commissioner with such evidence as the Chief Commissioner may request for the purpose of enabling the Chief

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SCHEDULE 1 - AMENDMENTS RELATING TO  
EXEMPTIONS - *continued*

Commissioner to determine whether there is an entitlement to the exemption.

(3) Schedule 2 (**Savings and transitional provisions**):

After clause 7, insert:

**Public companies - exemptions for primary production**

8. Land used for primary production and owned by a public company that was, immediately before the commencement of the Land Tax Management (Amendment) Act 1988, entitled for a tax year commencing before 1 January 1989 to be declared by the Governor to be a company to which section 10 (1) (s), as then in force, applied is exempt from taxation leviable or payable in respect of that tax year.

**SCHEDULE 2 - AMENDMENTS RELATING TO APPEALS**

(Sec. 3)

(1) Section 35 (**Objections**):

(a) Omit section 35 (1), insert instead:

(1) A taxpayer who is dissatisfied with an assessment of land tax by the Chief Commissioner may object to the assessment.

(b) From section 35 (2), omit ", alteration or addition".

(2) Sections 38A - 38BF:

Omit sections 38A and 38B, insert instead:

**Appeal etc. against decision on objection**

38A (1) An objector dissatisfied with the decision of the Chief Commissioner on an objection may request the Chief Commissioner to approve in writing of an appeal by the objector to the Supreme Court against the decision.

(2) Such a request must be in writing and be lodged with the Chief Commissioner within 30 days (or such longer

SCHEDULE 2 - AMENDMENTS RELATING TO  
APPEALS - *continued*

period as the Chief Commissioner may allow for reasonable cause shown) after the objector is informed under section 37 of the Chief Commissioner's decision on the objection.

(3) If the Chief Commissioner does not comply with a request under subsection (1) within 60 days after it is made and the objector:

- (a) has provided the Chief Commissioner with any information required by the Chief Commissioner in relation to the assessment concerned; and
- (b) lodges with the Chief Commissioner a notice in writing requiring the Chief Commissioner to comply with the request,

the Chief Commissioner must comply with the request not later than 30 days after the notice is lodged.

(4) The objector may appeal to the Supreme Court against the decision within 14 days after the Chief Commissioner grants approval under this section to the appeal.

**Nature of appeal**

38B. (1) An appeal to the Supreme Court under this Part is by way of rehearing of the original objection to the Chief Commissioner and is limited to the grounds of the original objection.

(2) On giving its decision, the Court may determine the amount of any land tax payable as a result of the decision (including any additional land tax or additional land tax by way of penalty).

(3) Part 4 applies to the Court's assessment of land tax in the same way as that Part applies to the assessment of land tax by the Chief Commissioner.

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SCHEDULE 2 - AMENDMENTS RELATING TO  
APPEALS - *continued*

**Onus on objector**

38BA. On an objection or appeal under this Part, the objector bears the onus of establishing on the balance of probabilities that the land tax in question was incorrectly assessed.

**Payment of land tax assessed by Supreme Court**

38BB. (1) If the land tax assessed by the Supreme Court under this Part:

- (a) is greater than the amount paid by the objector, the objector is liable to pay the difference; or
- (b) is less than the amount paid by the objector, the Chief Commissioner is to refund the difference to the objector, together with interest on the difference at the prescribed rate.

(2) Interest payable under this section is payable from the date on which the amount concerned was paid by the objector until the date it is refunded.

**Liability not affected by objection etc.**

38BC. (1) Except to the extent otherwise permitted by the Chief Commissioner, the lodging of an objection or an appeal to the Supreme Court does not affect any liability of an objector to pay land tax in accordance with this Act.

(2) A permission under this section must be in writing.

**Lodgment with Chief Commissioner**

38BD. For the purposes of this Part, something is lodged with the Chief Commissioner by being addressed to the Chief Commissioner and lodged at or sent by post to any office of the Chief Commissioner.

**Commissioner may state case**

38BE. (1) The Chief Commissioner may, if the Chief Commissioner thinks fit, state a case on any question of law

SCHEDULE 2 - AMENDMENTS RELATING TO  
APPEALS - *continued*

arising with regard to the assessment of land tax and forward that case to the Supreme Court for its opinion.

(2) The Supreme Court is to give its opinion on any case forwarded to it and cause the Chief Commissioner to be notified of that opinion.

**Assessment includes amendment of assessment**

38BF. In this Division, "assessment" includes amendment of assessment, but the right of a person to object against the amendment of an assessment is limited to a right to object against the particular alterations or additions made as a result of the amendment.

(3) Schedule 2 (**Savings and transitional provisions**):

At the end of Schedule 2, insert:

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**Pending objections**

9. (1) In this clause:

"**1988 amending Act**" means the Land Tax Management (Amendment) Act 1988;

"**1989 amending Act**" means the Land Tax Management (Amendment) Act 1989;

"**new appeal provisions**" means the provisions of Part 5, as amended by the 1989 amending Act.

(2) An objection made under the provisions of Part 5 as in force before the commencement of the new appeal provisions is to be dealt with under the new appeal provisions unless:

(a) in the case of an objection made under the provisions of Part 5 as in force immediately before the commencement of the 1988 amending Act, the objector has (before the commencement of the new appeal provisions) requested the objection to be



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SCHEDULE 2 - AMENDMENTS RELATING TO  
APPEALS - *continued*

treated as an appeal or the time for making such a request has expired; and

- (b) in the case of an objection made under the provisions of Part 5 as in force immediately before the commencement of the 1989 amending Act, the objector has (before the commencement of the new appeal provisions) required a case to be stated to the Supreme Court or the time for requiring a case to be stated has expired.

SCHEDULE 3 - AMENDMENT BY WAY OF  
STATUTE LAW REVISION

(Sec. 3)

Section 47 (**Land tax to be first charge on land**):

Omit section 47 (1B), insert instead:

(1B) The prescribed fee is to be paid:

- (a) by affixing a New South Wales Duty Stamp to the value of the prescribed fee on the application; or
- (b) in such manner as may be approved by the Chief Commissioner.

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[*Minister's second reading speech made in -  
Legislative Assembly on 21 November 1989  
Legislative Council on 29 November 1989*]