

**LAND TAX MANAGEMENT (FURTHER AMENDMENT) ACT  
1990 No. 88**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

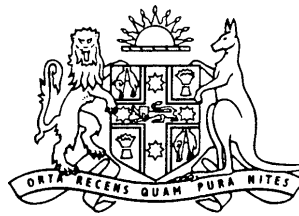
1. Short title
2. Commencement
3. Amendment of Land Tax Management Act 1956 No. 26
4. Amendment of Valuation of Land Act 1916 No. 2
5. Explanatory notes

SCHEDULE 1—AMENDMENT OF LAND TAX MANAGEMENT ACT 1956

---

**LAND TAX MANAGEMENT (FURTHER AMENDMENT) ACT  
1990 No. 88**

NEW SOUTH WALES



**Act No. 88,1990**

An Act to amend the Land Tax Management Act 1956 to make further provision with respect to the rate of, exemptions from and reductions in land tax; to make consequential amendments to the Valuation of Land Act 1916; and for other purposes. [Assented to 7 December 1990]

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

**Short title**

1. This Act may be cited as the Land Tax Management (Further Amendment) Act 1990.

**Commencement**

2. (1) This Act commences on 31 December 1990, except as provided by this section.

(2) Schedule 1 (2), and section 3 in its application to that provision, is taken to have commenced on 31 December 1988.

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

3. The Land Tax Management Act 1956 is amended as set out in Schedule 1.

**Amendment of Valuation of Land Act 1916 No. 2**

4. The Valuation of Land Act 1916 is amended by inserting at the end of section 70D the following subsection:

(2) Despite subsection (1), the Valuer-General is not required to determine and publish an equalisation factor or equalisation factors in respect of the years commencing 1 January 1991 and 1 January 1992.

**Explanatory notes**

5. Matter appearing under the heading "Explanatory note" in Schedule 1 does not form part of this Act.

---

**SCHEDULE 1 - AMENDMENT OF LAND TAX MANAGMENET  
ACT 1956**

(Sec. 3)

**Amendment: 17% increase in adjusted values**

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

From section 3 (1), omit the definition of "Equalisation factor", insert instead:

SCHEDULE 1—AMENDMENT OF LAND TAX MANAGEMENT  
ACT 1956—*continued*

**"Equalisation factor"** means:

- (a) except as provided by paragraph (b), the equalisation factor determined under Part 6A of the Valuation of Land Act 1916; or
- (b) in respect of the tax years commencing on 1 January 1991 and 1 January 1992, the equalisation factor determined under that Part applicable for the year commencing on 1 January 1990 multiplied by 1.17.

**Explanatory note—item (1)**

Item (1) imposes a uniform increase of 17% on the equalisation factor determined by the Valuer-General for the purposes of the 1990 land tax year and applies that increased equalisation factor for the 1991 and 1992 land tax years. The amendment will result in a 17% increase in adjusted values (the value of land on which land tax is calculated) for 1991 and 1992.

**Amendment: exemption for certain lessees of Crown land**

(2) Section 3 (**Definitions**):

From section 3 (5) (a), omit "1 January 1986", insert instead "1 January 1987".

**Explanatory note—item (2)**

Item (2) will extend the exemption from liability for land tax for persons occupying Crown land under a lease by applying the exemption to leases entered into or renewed prior to 1 January 1987, rather than 1 January 1986 as at present.

**Amendment: company title residential units**

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

From the definition of "Residential unit" in section 3 (1), omit paragraph (b) (ii).

(4) Section 9B (**Reduction in adjusted value for residential units**)  
(as inserted by Act No. 35, 1990):

- (a) Omit section 9B (1) (b).
- (b) From section 9B (3) (c), omit "or shareholders".

SCHEDULE 1 - AMENDMENT OF LAND TAX MANAGEMENT  
ACT 1956 - *continued*

- (c) Omit section 9B (5) (b), insert instead:
  - (b) the application is made by all the owners of the land; and
- (d) From section 9B (7) (a), omit "or a shareholder".
- (e) From section 9B (7) (b), omit "or shareholder" wherever occurring.

(5) Section 21A

After section 21, insert:

**Company title units deemed to be strata lots**

21 A. (1) This section applies to land if:

- (a) the land is owned by a company in which all the issued shares are owned by persons each of whom, because of that share ownership, has an exclusive right to occupy a part of a building on the land; and
- (b) the area of the land is not more than 2,100 square metres or the Chief Commissioner is satisfied that the whole of the land is reasonably used in connection with the occupation of the building.

(2) For the purposes of assessing land tax in respect of land to which this section applies:

- (a) each shareholder is deemed to be the owner of that part of the building that the shareholder is entitled to occupy because of that share ownership; and
- (b) each such part of the building is deemed to be a strata lot under the Strata Titles Act 1973; and
- (c) the company is not to be regarded as the owner of the land.

(3) For the purposes of the application of section 95 (Land tax) of the Strata Titles Act 1973 to and in respect of a part of a building deemed by this section to be a strata lot, the proportion that the unit entitlement of that lot bears to the aggregate unit entitlement is:

- (a) unless paragraph (b) applies, the proportion that the deemed owner's shareholding in respect of the

SCHEDULE 1—AMENDMENT OF LAND TAX MANAGEMENT ACT. 1956—*continued*

lot bears to the total issued share capital of the company; or

- (b) if the Chief Commissioner is not satisfied as to the fairness and reasonableness of the proportion obtained in accordance with paragraph (a), the proportion arrived at by the Chief Commissioner on a redetermination in accordance with subsection (4).

(4) The Chief Commissioner's redetermination is to be by reference to the proportion that the floor area of the deemed lot bears to the total floor area that is separately occupied, or capable of being used for separate occupation, in the building.

(5) This section applies to land tax payable in respect of the year commencing on 1 January 1991 and any succeeding year.

**Explanatory note—items (3)—(5)**

Items (3)—(5) will provide that for land tax purposes the owners of shares in a company title unit scheme, and not the company, are to be regarded as the owners of the land on which the units are situated and each unit is to be considered to be a strata lot for land tax purposes. The value of the land will be apportioned among the shareholders in proportion to their shareholdings in the company or (if the Chief Commissioner is not satisfied that that is a fair and reasonable proportion) in proportion to the floor area of the building occupied by the shareholder.

**Amendment: exemption for commercial nursing homes**

- (6) Section 10 (**Land exempted from tax**):

(a) Omit section 10 (1) (g) (viii), insert instead:

(viii) a private hospital within the meaning of the Private Hospitals and Day Procedure Centres Act 1988 not carried on for pecuniary profit;

(b) After section 10 (1) (g) (ix), insert:

(x) a nursing home within the meaning of the Nursing Homes Act 1988;

SCHEDULE 1—AMENDMENT OF LAND TAX MANAGEMENT  
ACT 1956—*continued*

**Explanatory note—item (6)**

Item (6) will extend the land tax exemption that currently applies to nursing homes not carried on for pecuniary profit so that it will apply to all nursing homes (even those carried on for pecuniary profit).

**Amendment: exemption for primary production land**

(7) Section 10 (**Land exempted from tax**):

(a) Omit section 10 (1) (p), (q) and (s), insert instead:

(p) with respect to taxation leviable or payable in respect of the year commencing on 1 January 1991 or any succeeding year, land that:

(i) is land used for primary production in the course of the carrying on of a business of primary production; or

(ii) is land used for primary production (whether or not in the course of carrying on a business of primary production) if the land is within a “rural” or “non-urban” zone under a planning instrument or is land that the Chief Commissioner is satisfied is rural land;

(b) From section 10 (1) (t), omit “, other than land in respect of which the society is jointly assessable with a public company that is not a company to which a declaration under paragraph (s) relates”.

(c) Omit section 10 (1 A), (1B) and (1C).

**Explanatory note—item (7)**

Item (7) amends and simplifies provisions dealing with land tax exemptions for land used for primary production. Currently, there are 4 separate grounds for an exemption, as follows:

- \* land used for primary production (but with the exemption not available in certain cases involving ownership by a company or trustee)
- \* land used for primary production and owned by an Australian exempt proprietary company (but with the exemption not applying in certain cases where another company is involved as joint owner)
- \* rural or non-urban land that is owned by a public company and used for primary production

SCHEDULE 1—AMENDMENT OF LAND TAX MANAGEMENT  
ACT 1956—*continued*

- \* any land owned by a public company that is used for primary production for the purpose of a business of primary production
- Under the proposed amendments there will only be 2, simplified, grounds for exemption:
- \* any rural land used for primary production
  - \* any land used for primary production in the course of a business of primary production

**Amendment: increased tax-free threshold for certain residential land**

(8) Section 10 (**Land exempted from tax**):

Omit section 10 (4) and (5), insert instead:

(4) Where a parcel of land would, but for the fact that it exceeds 2,100 square metres in area, be exempted under subsection (1) (r) (ii) or (iii) or section 10H, the adjusted value of that parcel is, for assessment purposes, to be reduced by the sum of the following amounts (but not so as to produce a negative value):

- (a) \$160,000; and
- (b) an amount that bears to that adjusted value the same proportion as 2,100 square metres bears to the area of the parcel.

(5) Where a parcel of land would, but for the fact that it exceeds 2 hectares in area, be exempted under subsection (1) (u), the adjusted value of that parcel is, for assessment purposes, to be reduced by the sum of the following amounts (but not so as to produce a negative value):

- (a) \$160,000; and
- (b) an amount that bears to that adjusted value the same proportion as 2 hectares bears to the area of the parcel.

**Explanatory note—item (8)**

Item (8) will increase the threshold below which no land tax is payable from \$160,000 to \$320,000 in respect of land used solely as the owner's principal place of residence and which would be exempt from land tax but for the fact that the area of the land exceeds 2,100 square metres or 2 hectares where subdivision is prevented.



SCHEDULE 1—AMENDMENT OF LAND TAX MANAGEMENT  
ACT 1956—*continued*

The increased tax-free threshold will apply only to the taxpayer's principal place of residence and will not extend to other assessable land owned by the taxpayer.

**Amendment: exemption for retirement villages and nursing homes**

(9) Section 10R:

After section 10Q, insert:

**Retirement villages and nursing homes—exemption/  
reduction**

10R. (1) In this section:

"**nursing home**" has the same meaning as in the Nursing Homes Act 1988;

"**retirement village**" means a complex containing residential premises (whether or not including hostel units) predominantly or exclusively occupied by retired persons in pursuance of:

- (a) a residential tenancy agreement or any other lease or licence; or
- (b) a right conferred by shares; or
- (c) the ownership of residential premises subject to a right or option of repurchase or conditions restricting the subsequent disposal of the premises; or
- (d) any other scheme or arrangement prescribed for the purposes of this definition.

(2) Land is exempt from taxation under this Act if the land is used and occupied as:

- (a) a retirement village; or
  - (b) a retirement village and a nursing home,
- and for no other purpose.

(3) If the Chief Commissioner is satisfied that part only of land is used and occupied as referred to in subsection (2), the adjusted value of the land is to be reduced for the purposes of land tax by an amount calculated as follows:

SCHEDULE 1—AMENDMENT OF LAND TAX MANAGEMENT  
ACT 1956—*continued*

$$R = A \times \frac{B}{C}$$

where:

R = the reduction in adjusted value;

A = the adjusted value of the land before reduction;

B = the area of the land used and occupied as referred to in subsection (2);

C = the total area of the land.

(4) For the purposes of this section, land does not cease to be used and occupied for the purpose of a retirement village, or a retirement village and a nursing home, merely because any building or improvement on the land is used or occupied for a purpose ancillary to that purpose.

(5) This section applies to land tax payable in respect of the year commencing on 1 January 1991 and any succeeding year.

**Explanatory note—item (9)**

Item (9) will provide a land tax concession for land used for the purpose of a retirement village, or a retirement village and a nursing home. If the whole of the land is used for such a purpose, the land will be exempt from tax. If part only is used, there will be a proportionate reduction in the taxable value of the land.

**Amendment: public housing schemes—liability of NSW Land and Housing Corporation**

(10) Section 10S:

Before section 11, insert:

**Tax liability in respect of certain housing schemes**

10S. (1) In this section:

"eligible land" means:

- (a) land owned by N.S.W. Housing No. 1 Pty. Limited that the Chief Commissioner is satisfied is the subject of an arrangement known as the Public Equity Partnership Arrangement in which the New South Wales

SCHEDULE 1 - AMENDMENT OF LAND TAX MANAGEMENT  
ACT 1956 - *continued*

Land and Housing Corporation is a participant;

- (b) land of which the trustee of the FANMAC Pooled Superannuation Trust No. 1 is an owner and which the Chief Commissioner is satisfied is the subject of a scheme known as the Rent/Buy Scheme in which the New South Wales Land and Housing Corporation is a participant;

**"eligible owner"** means N.S.W. Housing No. 1 Pty. Limited or the trustee of the FANMAC Pooled Superannuation Trust No. 1.

(2) The New South Wales Land and Housing Corporation is to pay, on behalf of an eligible owner, so much of the total liability of the eligible owner for land tax in a year as the Chief Commissioner determines and certifies to be the proportion of that total that is referable to eligible land.

(3) The payment is to be regarded as an expense of the New South Wales Land and Housing Corporation.

(4) This section applies to land tax payable in respect of the year commencing on 1 January 1991 and any succeeding year.

**Explanatory note—item (10)**

Item (10) requires the Director of Housing to pay (as an expense of the NSW Land and Housing Corporation) the land tax liabilities of N.S.W. Housing No. 1 Pty. Limited and FANMAC Pooled Superannuation Trust No. 1 in respect of land that is the subject of the public housing initiatives known as the Public Equity Partnership Arrangement and the Rent/Buy Scheme.

**Amendment: payment by instalments**

- (11) Section 14 (**Assessments to be made**):

At the end of section 14, insert:

- (2) An assessment can be made even if the time for lodging returns has not yet expired.

SCHEDULE 1—AMENDMENT OF LAND TAX MANAGEMENT  
ACT 1956— *continued*

(12) Section 39:

Omit the section, insert instead:

**Date for payment of land tax**

39. (1) Land tax payable by a taxpayer is due and payable as required by the relevant notice of assessment served on the taxpayer concerned.

(2) The Chief Commissioner may permit a taxpayer to pay land tax by instalments, at the times and in the amounts determined by the Chief Commissioner, and the notice of assessment may require payment accordingly.

(3) No payment of land tax is required earlier than 30 days after service of the notice of assessment on the taxpayer.

(4) If an instalment of land tax is not paid within 14 days after the due date, any remaining instalments become due and payable immediately or at such later date as the notice of assessment may allow.

(5) In this section:

"**notice of assessment**" includes a notice of amended assessment.

(13) Section 40 (**Additional land tax in case of default**):

From section 40 (2), omit “, or payment by instalments,”.

(14) Section 41:

Omit the section, insert instead:

**Extension of time for payment**

41. The Chief Commissioner may, in such cases as the Chief Commissioner thinks fit, extend the time for payment of any land tax or additional land tax, whether imposed by way of penalty or otherwise.

SCHEDULE 1—AMENDMENT OF LAND TAX MANAGEMENT  
ACT 1956— *continued*

**Explanatory note—items (11)—(14)**

Items (11) - (14) will enable the Chief Commissioner to introduce a scheme for the payment of land tax by interest-free instalments. Currently, no general scheme exists for payment of land tax by instalments although the Chief Commissioner has power, in individual cases, to permit payment by this means but penalties for late payment still apply.

**Amendment: savings and transitional provisions**

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

After clause 13, insert:

*Land Tax Management (Further Amendment)  
Act 1990*

**Payment by instalments**

14. The amendments made by the Land Tax Management (Further Amendment) Act 1990 to sections 39, 40 and 41 do not apply in respect of a tax year before the tax year that commences on 1 January 1992.

**Increased tax-free threshold for residential land**

15. The amendments made by the Land Tax Management (Further Amendment) Act 1990 to section 10 (4) and (5) apply to land tax payable in respect of the year commencing on 1 January 1991 and any succeeding year.

**Explanatory note - item (15)**

Item (15) inserts consequential savings and transitional provisions into the Act. The new provisions for payment of land tax by instalments will not start until the 1992 tax year and the increased tax-free threshold for certain residential land will not apply until the 1991 tax year.

---

*[Minister's second reading speech made in—  
Legislative Assembly on 14 November 1990  
Legislative Council on 27 November 1990]*