

**STATE REVENUE LEGISLATION (AMENDMENT) ACT
1994 No. 48**

NEW SOUTH WALES



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SUMMARY OF PROVISIONS AFFECTED

Business Franchise Licences (Petroleum Products) Act 1987

<i>Provision affected</i>	<i>Amending Schedule</i>
The whole Act (except s 9)	1 (7)
s 9	1 (6)
s 13	1 (8)
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s 52BA	1 (5)
s 62	12
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s 75	1 (10)

Business Franchise Licences (Tobacco) Act 1987

<i>Provision affected</i>	<i>Amending Schedule</i>
The whole Act (except s 9)	2 (3)
s 9	2 (2)
s 13	2 (4)
s 52BA	2 (1)
s 69	12
s 72	2 (5)
s 82	2 (6)

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Debits Tax Act 1990

<i>Provision affected</i>	<i>Amending Schedule</i>
s. 3	3 (1)
s. 41	12
Schedule 3	3 (2)

Health Insurance Levies Act 1982

<i>Provision affected</i>	<i>Amending Schedule</i>
s. 10	4 (1)
s. 10A	4 (2)
s. 11	4 (3)
s. 11A	4 (4)
s. 12	4 (5)
s. 20	12
Schedule 3	4 (6)

Health Insurance Levies Regulation 1983

<i>Provision affected</i>	<i>Amending provision</i>
The whole Regulation	cl. 7

Land Tax Management Act 1956

<i>Provision affected</i>	<i>Amending Schedule</i>
s. 3	5 (5)
s. 4	5 (13)
s. 6	12
s. 10	5 (14)
s. 10B	5 (15)
s. 10T	5 (8), (16)
s. 21C	5 (6)
s. 26	5 (9)
S. 47	5 (10)
s. 55	5 (11)
s. 61	5 (1)
s. 61A	5 (2)
s. 62	5 (3)
ss. 62HA-62HE	5 (4)
s. 62J	5 (12)
Schedule 2	5 (7)

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Pay-roll Tax Act 1971

<i>Provision affected</i>	<i>Amending Schedule</i>
s. 3	6 (1)
s. 5	12
s. 6	6 (2)
s. 10	6 (3)
s. 13A	6 (4)
s. 16I	6 (5)
s. 46B	6 (6)
s. 50A	6 (7)
Schedule 6	6 (8)

Revenue Laws (Reciprocal Powers) Act 1987

<i>Provision affected</i>	<i>Amending Schedule</i>
s. 3	7 (1)
s. 4	7 (2)
s. 5	7 (3)
s. 9	7 (4)
s. 10	7 (5)
s. 12	7 (6), 12
s. 13	12
ss. 16A–16C	7 (7)

Stamp Duties Act 1920

<i>Provision affected</i>	<i>Amending Schedule</i>
s. 3	9 (1), 11 (1), (4), (10), (11)
s. 3A	11 (9)
s. 8	11 (2)
s. 8A	11 (3)
s. 9	11 (13)
s. 38E	11 (15)
s. 40A	11 (16)
ss. 40B, 40C	11 (17)
s. 44	9 (2), (19), 11 (5)
s. 44A	9 (3), 11 (6)
s. 44F	11 (7)
s. 66E	10 (1)
s. 66G	10 (2)
s. 73	10 (3)
s. 74E	10 (4)
s. 74F	10 (5)
s. 75A	11 (12)
s. 88	11 (24)

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Stamp Duties Act 1920—continued

<i>Provision affected</i>	<i>Amending Schedule</i>
s. 84	10 (6), (7)
s. 84CAB	10 (8)
s. 84CAC	10 (9)
s. 88I	11 (25)
s. 91	11 (26)
Part 3, Division 26A, ss 94B–94M	9 (20)
Part 3, Division 27, heading	9 (4)
s. 95	9 (5)
s. 95AA	9 (6)
s. 95A	9 (7)
s. 96	9 (8)
s. 96A	9 (9)
s. 96B	9 (10)
Part 3, Division 27, Subdivision 2, heading	9 (11)
s. 97	9 (21)
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s. 97A	9 (13), 10 (10)
s. 97AB	9 (14)
s. 97AC	9 (22)
ss 97ADG–97ADI	10 (11)
s. 97C	9 (15)
s. 97D	9 (16)
s. 98	8 (1), 11 (27)
s. 98A	8 (2), 11 (18)
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s. 98O	8 (5)
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s. 98W	8 (9)
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Second Schedule—Stamp Duties and Exemptions	9 (18), 10 (12), 11 (8), (23), (29)
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Stamp Duties (Financial Institutions Duty) Regulation 1982

<i>Provision affected</i>	<i>Amending provision</i>
cl. 3	cl. 12
cll. 4–8	cl. 12
cll. 11–15	cl. 12

Stamp Duties Regulation 1991

<i>Provision affected</i>	<i>Amending provision</i>
cl. 6	cl. 13

Valuation of Land Act 1916

<i>Provision affected</i>	<i>Amending Schedule</i>
Long title	13 (1)
s. 4	13 (2)
s. 14A	13 (3)
s. 27	13 (1), (4)
s. 27B	13 (5)
s. 58	13 (1)
s. 58AB	13 (6)
s. 58AD	13 (1)

**STATE REVENUE LEGISLATION (AMENDMENT) ACT
1994 No. 48**

NEW SOUTH WALES



Act No. 48, 1994

An Act to make miscellaneous amendments to certain State revenue legislation, and for other purposes. [Assented to 2 June 1994]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the State Revenue Legislation (Amendment) Act 1994.

Commencement

2. (1) This Act commences on the date of assent, except as provided by this section.

(2) Section 13 and Schedules 1 (4), 8 (8), 9 and 11 (24)–(29) commence on a day or days to be appointed by proclamation.

(3) Sections 6 and 7 and Schedules 4, 6 (3) (a)–(e), (g) and (h), 8 (1) (a), in so far as it inserts the definition of “rollover” into section 98 (1) of the Stamp Duties Act 1920, (d) and (e) and 10 (1)–(5), (10), (11) and (15) commence on 1 July 1994.

(4) Schedule 5 (2)–(4) are taken to have commenced on 31 December 1992.

(5) Schedule 5 (8) is taken to have commenced on 28 January 1994.

(6) Schedule 5 (14) (e) is taken to have commenced on 9 April 1990.

(7) Schedule 6 (3) (f) is taken to have commenced on 1 January 1992.

(8) Schedule 6 (3) (i) and (j) are taken to have commenced on 1 September 1993 (the day on which the Charitable Fundraising Act 1991 commenced).

(9) Schedule 8 (2) (e), in so far as it inserts paragraph (ib) into section 98A of the Stamp Duties Act 1920, is taken to have commenced on 9 November 1993.

(10) Schedule 8 (7) (b) is taken to have commenced on 1 May 1993.

(11) Schedule 10 (7)–(9) are taken to have commenced on 1 January 1993.

(12) Schedule 10 (13) is taken to have commenced on 1 July 1992.

Amendment of Business Franchise Licences (Petroleum Products) Act 1987 No. 94

3. The Business Franchise Licences (Petroleum Products) Act 1987 is amended as set out in Schedule 1.

State Revenue Legislation (Amendment) Act 1994 No. 48

Amendment of Business Franchise Licences (Tobacco) Act 1987 No. 93

4 The Business Franchise Licences (Tobacco) Act 1987 is amended as set out in Schedule 2.

Amendment of Debits Tax Act 1990 No. 112

5 The Debits Tax Act 1990 is amended as set out in Schedule 3.

Amendment of Health Insurance Levies Act 1982 No. 159

6 The Health Insurance Levies Act 1982 is amended as set out in Schedule 4.

Repeal of Health Insurance Levies Regulation 1983

7 The Health Insurance Levies Regulation 1983 is repealed.

Amendment of Land Tax Management Act 1956 No. 26

8 The Land Tax Management Act 1956 is amended as set out in Schedule 5.

Amendment of Pay-roll Tax Act 1971 No. 22

9 The Pay-roll Tax Act 1971 is amended as set out in Schedule 6.

Amendment of Revenue Laws (Reciprocal Powers) Act 1987 No. 86

10 The Revenue Laws (Reciprocal Powers) Act 1987 is amended as set out in Schedule 7.

Amendment of Stamp Duties Act 1920 No. 47

11 The Stamp Duties Act 1920 is amended as set out in Schedules 8–11.

Amendment of Stamp Duties (Financial Institutions Duty) Regulation 1982

12 The Stamp Duties (*Financial Institutions Duty*) Regulation 1982 is amended:

- (a) by omitting from clause 3 (1) the definitions of “approved superannuation scheme”, “finance contract”, “pastoral finance company”, “Protective Commissioner” and “retailer” ;
- (b) by omitting clauses 4–8 and 11–15.

Amendment of Stamp Duties Regulation 1991

13. The Stamp Duties Regulation 1991 is amended by omitting clause 6.

Amendment of various Acts

14. Each Act specified in Schedule 12 is amended as set out in that Schedule.

Amendment of Valuation of Land Act 1916 No. 2

15. The Valuation of Land Act 1916 is amended as set out in Schedule 13.

Transitional provision—disclosure of information

16. The amendments made by section 14 and Schedule 12 apply to information or records obtained by a person whether before, on or after the date of assent to this Act.

Explanatory notes

17. The matter appearing under the heading “Explanatory note” in any of the Schedules does not form part of this Act.

SCHEDULE 1—AMENDMENT OF BUSINESS FRANCHISE LICENCES (PETROLEUM PRODUCTS) ACT 1987

(Sec. 3)

Extension of off-road diesel fuel scheme(1) Section 48B (**Definitions**):

(a) In section 48B, insert in alphabetical order:

“marine purpose” means the purpose of propelling diesel-engined marine vessels on water;

(b) In the definition of **“off-road purpose”** in section 48B, after **“any purpose”**, insert **“(including marine purposes)”**.(2) Section 48C (**Authorities to sell diesel fuel for off-road purposes**):

In section 48C (3), after **“authorities”** where secondly occurring, insert **“, the variation or revocation of conditions of authorities (whether imposed by the regulations or the Chief Commissioner)”**.

(3) Section 48D (**Permits to purchase diesel fuel for off-road purposes**):

In section 48D (3), after **“permits”** where secondly occurring, insert **“, the variation or revocation of conditions of permits (whether imposed by the regulations or the Chief Commissioner)”**.

(4) Sections 48EA, 48EB:

After section 48E, insert:

Permit not required for sale and purchase of diesel fuel for marine purposes

48EA. (1) The holder of an authority is authorised to sell diesel fuel for marine purposes to any person, subject to and in accordance with the regulations and the conditions of the authority.

(2) A permit is not required for the purchase of diesel fuel for marine purposes.

Records to be kept

48EB. The regulations may require the holder of an authority or permit and a purchaser of diesel fuel for marine

SCHEDULE 1—AMENDMENT OF BUSINESS FRANCHISE
LICENCES (PETROLEUM PRODUCTS) ACT 1987— *continued*

purposes to keep records in respect of sales and purchases of the diesel fuel and may make other provision concerning any such records.

Explanatory note—items(1)–(4)

Under the Business Franchise Licences (Petroleum Products) Act 1987 the fee for a licence to sell petroleum products is calculated according to the value of the petroleum products sold by the licensee in a particular period. However, if the Chief Commissioner grants a licensee an authority to sell diesel fuel for off-road purposes, sales of diesel fuel are not taken into account when calculating the licence fee. At present, the holder of an authority is only authorised to sell diesel fuel for off-road purposes to the holder of a permit (also granted by the Chief Commissioner).

Items (1)–(4) extend this scheme to allow the holder of an authority to sell diesel fuel for use in propelling marine vessels on water to any person (whether or not that person holds a permit under the Act). The holder of an authority will be required to comply with the regulations and the conditions of the authority with respect to such sales. The proposed amendments also provide that the holder of an authority or permit or a purchaser of diesel fuel for marine purposes may be required to keep records of sales and purchases of diesel fuel.

Powers of Tribunal

(5) Section 52BA:

After section 52B, insert:

Furnishing of information and documents to, and giving evidence before, the Tribunal

52BA. (1) For the purposes of a review, the Tribunal may, by notice in writing served on any person, require the person to do any one or more of the following:

- (a) to send to the Tribunal, on or before a day specified in the notice, a statement setting out such information as is so specified;
- (b) to send to the Tribunal, on or before a day specified in the notice, such documents as are so specified;
- (c) to attend at a hearing before the Tribunal, on a day specified in the notice, to give evidence.

(2) The day specified in the notice must be not less than 21 days after service of the notice or such shorter period as the Tribunal on the application of the appellant or the Chief Commissioner directs.

SCHEDULE 1—AMENDMENT OF BUSINESS FRANCHISE
LICENCES (PETROLEUM PRODUCTS) ACT 1987—*continued*

(3) If documents are given to the Tribunal under this section, the Tribunal:

- (a) may take possession of, and make copies of or take extracts from, the documents; and
- (b) may keep possession of the documents for such period as is necessary for the purposes of the investigation to which they relate; and
- (c) during that period must permit them to be inspected at all reasonable times by persons who would be entitled to inspect them if they were not in the possession of the Tribunal.

(4) A person, other than a licensee or an employee or representative of a licensee, who attends at a hearing because of a notice under this section is entitled to be paid by the State such allowances as are prescribed by the regulations or (subject to the regulations) as are approved by the Treasurer.

(5) A person must not, without reasonable excuse, fail to comply with a notice served under this section.

Maximum penalty: 100 penalty units or imprisonment for 6 months, or both.

Explanatory note—item (5)

Item (5) gives the Business Franchise Licence Fees (Petroleum Products) Appeals Tribunal power to require a person to provide information or attend a hearing in connection with the review of a licence fee assessment. It will be an offence not to comply with such a requirement. The proposed amendment also allows witnesses to be paid an allowance for attending at a hearing.

Updating of Act

(6) Section 9:

Omit the section, insert instead:

Grouping of related bodies corporate

9. Bodies corporate constitute a group if each is a related body corporate (within the meaning of the Corporations Law) with respect to the other.

(7) The whole Act. (except for section 9):

Omit “corporation” and “corporations” wherever occurring, insert instead “body corporate” and “bodies corporate” respectively.

State Revenue Legislation (Amendment) Act 1994 No. 48

**SCHEDULE 1—AMENDMENT OF BUSINESS FRANCHISE
LICENCES (PETROLEUM PRODUCTS) ACT 1987— *continued***

- (8) Sections 13 (Corporate business) and 14 (Corporate relationship):
 Omit “(within the meaning of the Companies (New South Wales) Code)” wherever occurring, insert instead “(within the meaning of the Corporations Law)”.
- (9) Section 65 (Information given by officers of bodies corporate):
 (a) In section 65 (1), after “officer” where firstly occurring, insert “(within the meaning of the Corporations Law)”.
 (b) From section 65 (1), omit “(within the meaning of the Companies (New South Wales) Code)”.
- (10) Section 75 (Service of documents by Chief Commissioner):
 From section 75 (2), omit “sections 528, 529 and 530 of the Companies (New South Wales) Code”, insert instead “sections 220 and 363 of the Corporations Law”.

Explanatory no—items (6)–(10)

Items (7), (8), (9) and (10) update references in the Act to the Companies (New South Wales) Code to the Corporations Law and replace references to particular sections with the equivalent section or term in the current Corporations Law. The term “corporation” is replaced by the broader term “body corporate” to make it clear that the Act applies to all bodies corporate and not merely to corporations within the meaning of the Corporations Law.

Item (6) of the proposed amendments repeals and remakes section 9 for the same purposes.

**SCHEDULE 2—AMENDMENT OF BUSINESS FRANCHISE
LICENCES (TOBACCO) ACT 1987**

(Sec. 4)

Powers of Tribunal

- (1) Section 54BA:

After section 54B, insert:

Furnishing of information and documents to, and giving evidence before, the Tribunal

54BA. (1) For the purposes of a review, the Tribunal may, by notice in writing served on any person, require the person to do any one or more of the following:

**SCHEDULE 2—AMENDMENT OF BUSINESS FRANCHISE
LICENCES (TOBACCO) ACT 1987—*continued***

- (a) to send to the Tribunal, on or before a day specified in the notice, a statement setting out such information as is so specified;
- (b) to send to the Tribunal, on or before a day specified in the notice, such documents as are so specified;
- (c) to attend at a hearing before the Tribunal, on a day specified in the notice, to give evidence.

(2) The day specified in the notice must be not less than 21 days after service of the notice or such shorter period as the Tribunal on the application of the appellant or the Chief Commissioner directs.

(3) If documents are given to the Tribunal under this section, the Tribunal:

- (a) may take possession of, and make copies of or take extracts from, the documents; and
- (b) may keep possession of the documents for such period as is necessary for the purposes of the investigation to which they relate; and
- (c) during that period must permit them to be inspected at all reasonable times by persons who would be entitled to inspect them if they were not in the possession of the Tribunal.

(4) A person, other than a licensee or an employee or representative of a licensee, who attends at a hearing because of a notice under this section is entitled to be paid by the State such allowances as are prescribed by the regulations or (subject to the regulations) as are approved by the Treasurer.

(5) A person must not, without reasonable excuse, fail to comply with a notice served under this section.

Maximum penalty: 100 penalty units or imprisonment for 6 months, or both.

Explanatory note—item (1)

Item (1) gives the Business Franchise Licence Fees (Tobacco) Appeals Tribunal power to require a person to provide information or attend a hearing in connection with the review of a licence fee assessment. It will be an offence not to comply with such a requirement. The proposed amendment also allows witnesses to be paid an allowance for attending at a hearing.

SCHEDULE 2—AMENDMENT OF BUSINESS FRANCHISE
LICENCES (TOBACCO) ACT 1987— *continued*

Updating of Act

(2) Section 9:

Omit the section, insert instead:

Grouping of related bodies corporate

9. Bodies corporate constitute a group if each is a related body corporate (within the meaning of the Corporations Law) with respect to the other.

(3) The whole Act (except for section 9):

Omit “corporation” and “corporations” wherever occurring, insert instead “body corporate” and “bodies corporate” respectively.

(4) Sections 13 (**Corporate business**) and 14 (**Corporate relationship**):

Omit “(within the meaning of the Companies (New South Wales) Code)” wherever occurring, insert instead “(within the meaning of the Corporations Law)”.

(5) Section 72 (**Information given by officers of bodies corporate**):

- (a) In section 72 (1), after “officer” where firstly occurring, insert “(within the meaning of the Corporations Law)”.
- (b) From section 72 (1), omit “(within the meaning of the Companies (New South Wales) Code)”.

(6) Section 82 (**Service of documents by Chief Commissioner**):

From section 82 (2), omit “sections 528, 529 and 530 of the Companies (New South Wales) Code”, insert instead “sections 220 and 363 of the Corporations Law”.

Explanatory note—items (2)–(6)

Items (3), (4), (5) and (6) update references in the Act to the Companies (New South Wales) Code to the Corporations Law and replace references to particular sections or defined terms with the equivalent section or term in the current Corporations Law. The term “corporation” is replaced by the broader term “body corporate” to make it clear that the Act applies to all bodies corporate and not merely to corporations within the meaning of the Corporations Law.

Item (2) of the proposed amendments repeals and remakes section 9 for the same purposes.

SCHEDULE 3—AMENDMENT OF DEBITS TAX ACT 1990

(Sec. 5)

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

From paragraph (d) of the definition of “excluded debit” in section 3 (1), omit “section 121B”, insert instead “section 121D”.

(2) Schedule 3 (**Transitional provisions**):

After clause 5 (2), insert:

(3) Despite the other provisions of this clause, anything done or purporting to be done before 31 December 1993 under the arrangement made under clause 2 is taken to have been validly done.

Explanatory note—items (1) and (2)

The amendment in item (1) corrects a wrong cross-reference.

The amendment in item (2) recognises that the arrangement entered into between the Chief Commissioner and the Commonwealth Commissioner of Taxation for the assessment, receipt and collection of debits tax by the Commonwealth on behalf of the State was extended from 31 December 1992 to 31 December 1993 and validates anything done or purporting to be done under the arrangement during the period of its extension.

**SCHEDULE 4—AMENDMENT OF HEALTH INSURANCE
LEVIES ACT 1982**

(Sec. 6)

Payment of monthly levy

(1) Section 10:

Omit the section, insert instead:

Monthly levy payable

10. An organisation which, on the first day in any month, carries on the business in New South Wales of providing health benefits to contributors is liable to pay to the Chief Commissioner, on or before the 15th day of that month, the monthly levy calculated in accordance with section 10A.

SCHEDULE 4—AMENDMENT OF HEALTH INSURANCE
LEVIES ACT 1982—*continued*

Explanatory note—item(1)

Section 10 currently provides that any organisation that carries on the business of providing health benefits to contributors, in any month, will be liable for a monthly levy payable on or before the 15th day of the third month following the month on which it carried on that business (e.g. a monthly levy for June is currently payable on or before 15 September). However, if the organisation ceases to carry on that business, any monthly levy accrued, but remaining unpaid, is payable ‘immediately on the cessation of business.

The proposed amendment to section 10 removes the 3 month delay in payment of the levy and provides instead that any organisation carrying on such a business, on the first day of any month, is required to pay the monthly levy on or before the 15th day of the same month (i.e. the levy for 1 July 1994 will be payable on or before 15 July 1994 and so on). The provisions requiring payment of any outstanding monthly levies immediately on the date of the cessation of business are consequentially omitted.

Calculation of monthly levy

(2) Section 10A (Calculation of monthly levy):

- (a) From section 10A (1), omit “any relevant month”, insert instead “a month”.
- (b) From section 10A (1), omit the words “is the amount in dollars of the monthly levy to be obtained”, insert instead “is the monthly levy in dollars”.
- (c) From section 10A (1), omit “the relevant month” wherever occurring, insert instead “the month”.
- (d) From section 10A (2), omit the definition of “relevant month”.
- (e) Omit section 10A (3) (b), insert instead:
 - (b) are members of one or more of the following classes of contributors:
 - (i) persons who contribute to an organisation for the purpose of securing entitlement only to benefits other than basic health benefits;

SCHEDULE 4—AMENDMENT OF HEALTH INSURANCE
LEVIES ACT 1982—*continued*

(ii) persons who hold one or more of the following cards issued to them by the Commonwealth:

- Concession Card
- Health Benefits Card
- Pensioner Health Benefits and Transport Concession Card
- Pharmaceutical Benefits Concession Card and Social Security Card;

(iii) persons who are in receipt of a service pension under Part III of the Veterans' Entitlements Act 1986 of the Commonwealth,

Explanatory note—item (2)

Section 10A sets out the formula for calculating the monthly levy. The proposed amendments to section 10A remove references to "relevant month" as a consequence of the proposed amendment to section 10. Section 10A (3), which specifies certain contributors who are not to be counted for the purposes of calculating the monthly levy, is amended to incorporate into the Act those classes of persons currently prescribed under the Health Insurance Levies Regulation 1983 (which is to be consequentially repealed).

Monthly returns

(3) Section 11 (Requirement to furnish a monthly return):
Omit "(or has, within the previous 3 months, carried on)".

Explanatory note—item (3)

Section 11 is consequentially amended as a result of the proposed amendment to section 10.

Assessment of monthly levy

(4) Section 11A:

After section 11, insert:

Assessment of monthly levy by organisations in certain circumstances

11A, (1) If an organisation is liable to pay a monthly levy under section 10 but is unable to determine accurately the number of contributors for the purpose of calculating the

SCHEDULE 4—AMENDMENT OF HEALTH INSURANCE
LEVIES ACT 1982—*continued*

amount of the levy, the organisation is to make an estimate of the number of its contributors for the purpose of paying the levy.

(2) The organisation must, once the precise number of contributors becomes known to it, inform the Chief Commissioner of the number of contributors.

(3) The organisation:

(a) must then assess the difference between the amount paid and the amount of the monthly levy; and

(b) must pay any additional amount required or it may apply for a refund if the amount paid exceeds the monthly levy.

(4) An application for any such refund is to be made to the Chief Commissioner within 3 years following the payment of the relevant monthly levy.

(5) Section 12 (Assessment of monthly levy by Chief Commissioner):

(a) Omit section 12 (1).

(b) From section 12 (2), omit “and, for that purpose, may make such a determination of the matters referred to in subsection

(1) as he considers reasonable in the circumstances of the case, notwithstanding any determination made by the organisation under subsection (1)”, insert instead “having regard to any relevant information or assessment under section 11A”.

Explanatory note—items (4) and (5)

Assessment of monthly levy by organisations in certain circumstances (items (4) and (5) (a))

Section 12 (1) currently permits an organisation which is liable to pay a monthly levy but is unable to determine the precise number of contributors who are permanently resident outside New South Wales (and thereby exempted for the purpose of the calculation of the levy) or any other matter (including the number of single or family contributors (or both)), to make what it considers a reasonable determination of its liability.

The proposed amendments will replace section 12 (1) with section 11A which requires an organisation that is unable to determine the number of its contributors when the monthly levy is due to estimate those numbers for the purpose of paying the levy. The organisation must then inform the Chief

**SCHEDULE 4—AMENDMENT OF HEALTH INSURANCE
LEVIES ACT 1982—*continued***

Commissioner when it obtains the information allowing the precise monthly levy to be calculated and, on the basis of that information, pay any additional levy required or apply for a refund.

Assessment of monthly levy by Chief Commissioner (item (5) (b))

Section 12 (2) is consequentially amended as a result of the proposed insertion of section 11A and the omission of section 12 (1). The amendment makes it clear that the Chief Commissioner can assess the monthly levy payable by any organisation including assessments made by an organisation under proposed section 11A.

Transitional provisions

(6) Schedule 3 (Transitional provisions):

(a) After “1 February 1993” in clause 4, insert “and before 1 July 1994”.

(b) After clause 4, insert:

Application of amendments made by State Revenue Legislation (Amendment) Act 1994

5. (1) Without limiting the generality of section 30 of the Interpretation Act 1987, the amendments to this Act made by the State Revenue Legislation (Amendment) Act 1994 do not affect:

(a) any liability (which arose before 1 July 1994) to pay a monthly levy on or before the date on which it would have been due if the amendments had not taken effect; and

(b) the requirement to furnish a return with that monthly levy in accordance with section 11 as in force immediately before the commencement of the amendments.

(2) An adjustment of the prescribed rate applies to the calculation of the monthly levy for the month in which the adjustment is made only if the adjustment takes effect on the first day of that month.

Explanatory note—item(6)

The transitional provisions inserted by item (6) will remove any doubt that the amendments to the Act will not affect any liability to pay a monthly levy that arose before the commencement of the amendments. Such a levy will be due on

**SCHEDULE 4—AMENDMENT OF HEALTH INSURANCE
LEVIES ACT 1982—*continued***

or before the date it would have been due if the amendments had not been made, and it must be accompanied by the return required under section 11 as in force before the commencement of the amendments.

A provision has been included to remove any doubt that where there is an adjustment of the prescribed rate that adjustment will only affect the calculation of the monthly levy for the month in which the adjustment is made if the adjustment takes effect on the first day of that month.

**SCHEDULE 5—AMENDMENT OF LAND TAX
MANAGEMENT ACT 1956**

(Sec. 8)

Valuation of land

(1) Section 61 (**Valuing rent-controlled land**):

Omit section 61 (3) and (4), insert instead:

(3) The Chief Commissioner is not required to make a determination as to whether land is rent-protected unless the owner of the land has applied to the Chief Commissioner for the determination (in the form required by the Chief Commissioner and accompanied by such supporting information as the Chief Commissioner may request).

(2) Section 61A:

After section 61, insert:

Valuing Crown lease restricted land

61A. (1) Land that is “Crown lease restricted” is to have its land value determined taking into account the restrictions on the disposition or manner of use that apply to the land by reason of its being the subject of the lease concerned.

(2) Land is “Crown lease restricted” if it is subject to a lease referred to in section 58F of the Valuation of Land Act 1916.

(3) Section 62:

Omit the section, insert instead:

Deductions: profitable expenditure and subdivision

62. In determining the land value of land, there is to be deducted the amount of any allowance or allowances

**SCHEDULE 5—AMENDMENT OF LAND TAX MANAGEMENT
ACT 1956—continued**

ascertained under Divisions 2 (Allowances for profitable expenditure) and 2A (Allowances for subdivision).

(4) Part 7, Division 2A:

After Division 2 of Part 7, insert:

Division 2A—Allowances for subdivision**Definition**

62HA. In this Division, “subdivider”, in relation to a lot in a deposited plan, means the person who, immediately before the registration of the plan, owned all the land comprising the lots in the plan.

Lots which qualify for subdivision allowance

62HB. (1) A lot in a deposited plan qualifies for an allowance (a “subdivision allowance”) under this Division if the lot is owned by the subdivider.

(2) If a lot qualifies for a subdivision allowance, the Chief Commissioner is to ascertain the allowance in respect of that lot in accordance with this Division.

(3) An allowance (including a nil allowance) ascertained by the Chief Commissioner under this Division is to be entered by the Chief Commissioner in the Register in respect of a land value to which it relates and is to be shown in any assessment to which it is applicable.

How subdivision allowance is ascertained

62HC. (1) The amount of the subdivision allowance in respect of a lot in a deposited plan is the proportionate amount of the discount from sale price of all lots in that plan that in the opinion of the Chief Commissioner would be applicable to the lot.

(2) The “discount from sale price”, in relation to lots in a deposited plan, means the amount (if any) that in the opinion of the Chief Commissioner is the difference between:

- (a) the total of the land values of the lots had they been sold separately; and
- (b) the total of the land values of the lots had they been sold to one person.

State Revenue Legislation (Amendment) Act 1994 No. 48

SCHEDULE 5—AMENDMENT OF LAND TAX MANAGEMENT
ACT 1956—*continued*

(3) The allowance to be ascertained in respect of a particular land value is to be calculated as at the date as at which that land value is ascertained.

When allowance is not available

62HD. A subdivision allowance under this Division is not available in respect of a lot in a deposited plan:

- (a) if any building is erected, or any works are carried out, on the lot after the registration of the plan; or
- (b) if no such building is erected and no such works are carried out—on and from the 31 December following the third anniversary of the registration of the plan.

Allowance can be objected against

62HE. (1) An objection may be made to an allowance under this Division as if it were a land value.

(2) The right to object in respect of the land value of land includes the right to object on the ground that an allowance under this Division in respect of the land value has not been made.

Explanatory note—items (1)–(4)

Valuing rent-controlled land (item (1))

Section 61 of the Land Tax Management Act 1956 provides that land that the Chief Commissioner has determined is “rent-protected” is to have its land value determined by taking into account any restriction imposed by the Landlord and Tenant (Amendment) Act 1948 (“the 1948 Act”) on the rent at which the premises or a part of the premises on the land may be let. Land is “rent-protected” if there is a fair rent applicable to the premises or a part of the premises on the land under the 1948 Act.

Currently, under section 61, the Chief Commissioner is not required to make a determination that land is rent-protected unless the owner applies for the determination and provides supporting information requested by the Chief Commissioner and the Rent Controller under the 1948 Act certifies to the Chief Commissioner that the land is rent-protected.

The Rent Controller has informed the Chief Commissioner that it is not possible to provide the certificates required. The proposed amendments therefore remove the requirement for certification by the Rent Controller and substitute a requirement that the Chief Commissioner be satisfied that the land is rent-protected on the basis of appropriate information supplied by the owner.

SCHEDULE 5—AMENDMENT OF LAND TAX MANAGEMENT
ACT 1956—*continued*

Valuing land leased from the Crown (item (2))

Under section 58F of the Valuation of Land Act 1916 (which replaced section 160E of the Local Government Act 1919), the Valuer-General is required to furnish a “land rating factor” in respect of land held under certain classes of lease from the Crown. That factor is the land value of the land reduced by the amount attributable to the restrictions on the disposition or manner of use that apply to the land by reason of its being the subject of the lease concerned.

Before the repeal and re-enactment of Part 7 of the Land Tax Management Act 1956 (which included section 54), section 54 (1C) of that Act required a land rating factor, where determined under section 160E, to be taken to be the land value of the land for land tax purposes.

Item (2) of the proposed amendments preserves the substance of the old section 54 (1C) by requiring a valuation of land under the Land Tax Management Act 1956 to take the restrictions on disposition and use into account if the land concerned is held under a lease referred to in section 58F of the Valuation of Land Act 1916.

Allowances for subdivision (items (3) and (4))

Under the Valuation of Land Act 1916, certain allowances are noted on the valuation roll when land is valued (eg. an allowance for expenditure by the owner, occupier or lessee on improvements to the land). The Land Tax Management (Amendment) Act 1992 (“the amending Act”) inserted similar provisions into the Land Tax Management Act 1956 in relation to the determination of the value of land for the purposes of that Act.

Item (4) of the proposed amendments provides for allowances in respect of subdivision similar to those provided by section 58AB of the Valuation of Land Act 1916. Those allowances were not included in the amending Act.

Item (3) of the proposed amendments makes a consequential amendment.

Liability of lessees of land owned by public authorities

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

After the definition of “Company” in section 3 (1), insert:

“Crown” includes a statutory body representing the Crown.

(6) Section 21C (Liability of lessees of land owned by the Crown etc.):

- (a) From section 21C (1) and (2) and (6) (d) and (g), omit “, a county council or a public authority” wherever occurring, insert instead “or a county council”.

SCHEDULE 5—AMENDMENT OF LAND TAX MANAGEMENT
ACT 1956—*continued*

- (b) From section 21C (2), omit “, county council or public authority”, insert instead “or county council”.
- (c) From section 21C (6) (c), omit “(other than the Crown in the capacity of a public authority)”.
- (d) Omit section 21C (6) (e).
- (e) From section 21C (7), omit “other than land owned by a public authority”.

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

At the end of Schedule 2, insert:

State Revenue Legislation (Amendment) Act 1994

Leases from public authorities

23. The amendments made to section 21C by the State Revenue Legislation (Amendment) Act 1994 do not create a liability for land tax in respect of a lease exempted from the operation of that section by section 21C (6) (d) before the date of commencement of the amendments.

Explanatory note—items (5)–(7)

Items (5)–(7) are intended to clarify the application of the Land Tax Management Act 1956 to statutory bodies that represent the Crown.

As there may be a differing liability under the Act for lessees of Crown land and lessees of land owned by public authorities, item (7) preserves the position existing before the amendment in relation to leases of existing lessees.

Miscellaneous

- (8) Section 10T (Concession for unoccupied land intended to be owner’s principal place of residence):
 - (a) After section 10T (2), insert:
 - (2A) Subsection (2) (a) does not apply in respect of the land referred to in subsection (4) (b).
 - (b) Omit subsection (4), insert instead:
 - (4) This section applies to a person’s ownership of land only for the 2 tax years immediately following the tax year in which:
 - (a) the person became owner; or

**SCHEDULE 5—AMENDMENT OF LAND TAX MANAGEMENT
ACT 1956—*continued***

- (b) the person, whose land was eligible for an exemption from tax under section 10 (1) (r) or for a reduction in land value under section 10 (4) in that tax year, ceased to be able to use and occupy the land as his or her principal place of residence because of damage to or destruction of the residence on the land by an event such as fire, earthquake, storm, accident or malicious damage,

unless the Chief Commissioner extends or further extends its operation in a particular case on the basis of an acceptable delay in that case.

(4A) This section does not apply in respect of land referred to in subsection (4) (b) unless the land concerned was the principal place of residence, for the purposes of section 10 (1) (r) or (4), of the person referred to in subsection (4) (b) immediately before the relevant damage or destruction occurred.

(9) Section 26 (Purchaser and vendor):

After section 26 (2), insert:

(2A) The Chief Commissioner may exempt the vendor from the operation of subsection (1) (c) if:

- (a) the agreement for sale has been completed by conveyance and the conveyance has been registered or otherwise recorded by the Registrar-General; and
- (b) the vendor does not have, under the agreement or otherwise, an option to re-purchase the land concerned or an entitlement to share in profits on a future sale of the land and does not retain a similar interest in, or entitlement in relation to, the land; and
- (c) the Chief Commissioner is satisfied that the agreement for sale was made in good faith and not for the purpose of evading the payment of land tax.

(2B) An exemption granted under subsection (2A) is of no effect in respect of a particular tax year if, at any time during that year, the vendor obtains an option, entitlement or interest referred to in subsection (2A) (b).

SCHEDULE 5—AMENDMENT OF LAND TAX MANAGEMENT
ACT 1956—*continued*

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

- (a) After “certified” in section 47 (1C), insert “against the Chief Commissioner and”.
- (b) After “land” in section 47 (1C) (b), insert “(other than a genuine purchaser for value who has not obtained possession of the land)”.

(11) Section 55 (**Chief Commissioner to ascertain land values**):

After section 55 (4), insert:

(5) A land value in relation to a land tax year may be ascertained even if the land concerned did not exist, as at the 1 July preceding the tax year, in the form of the parcel of land in which it exists at the time its value is ascertained. If any part of the land concerned was, as at that 1 July, included in another parcel of land for which a value as at that date has been ascertained, the Chief Commissioner is to reascertain the value of that other parcel.

(12) Section 62J (**Land that is eligible to have unutilised value ascertained**):

From section 62J (1) (a) and (b), omit “on which there is a single dwelling-house used or occupied as such” wherever occurring, insert instead “used or occupied solely as the site of a single dwelling-house and”.

Explanatory note—items (8)–(12)

Bushfire and similar relief (item (8))

On 28 January 1994, the Treasurer issued a Press Release stating that the residents who had lost their homes in the recent bushfires would be allowed up to 2 years to rebuild without being subject to land tax. A further extension may be granted if there has been justifiable delay. Item (8) gives effect to this commitment and extends it to apply to other similar cases, such as earthquake, storm, accident or malicious damage.

Sale and leaseback of land (item (9))

At present, under section 26 of the Land Tax Management Act 1956, when land is sold and then leased back by the vendor, the vendor remains liable for land tax as a secondary owner. The purchaser is the primary taxpayer but the vendor is also liable to pay land tax although a deduction from the tax payable by the vendor is allowed to prevent double taxation. The effect of the present provision is to impose a land tax burden on a vendor that would not be incurred if the vendor leased similar land from someone else.

**SCHEDULE 5—AMENDMENT OF LAND TAX MANAGEMENT
ACT 1956—*continued***

The proposed amendment enables the Chief Commissioner of Land Tax to exempt a vendor from the payment of land tax in the circumstances described if the sale has been completed and the Chief Commissioner is satisfied that the agreement for sale was made in good faith and not for the purpose of evading the payment of land tax.

Effect of land tax certificates (item (10))

Item (10) (a) provides that the conclusive evidence afforded by a land tax certificate issued under section 47 of the Land Tax Management Act 1956 is conclusive evidence only against the Chief Commissioner of Land Tax.

Item (10) (b) is intended to clarify that a purchaser under a contract who has not entered into possession of the land is not an owner of the land and is not precluded from accepting the accuracy of a land tax certificate.

Ascertainment of land values (item (11))

Item (11) makes it clear that the Chief Commissioner may ascertain the value of a particular parcel of land even if the land came into existence in the form of that parcel (for example, as the result of a subdivision) after the valuation date.

Unutilised value allowance (item (12))

An owner of land that is used or occupied as the site of a single dwelling house but which is zoned or otherwise designated for the purposes of industry, commerce, residential flat buildings or residential subdivision is entitled, under section 9A of the Land Tax Management Act 1956, to postponement of part of the land tax payable in respect of the land value of the land for up to 5 years.

The amount of land tax that may be postponed under section 9A is based on “unutilised value”, that is, that part of the value of the land that is attributable to the zoning or designation for industry, commerce, residential units or residential subdivision.

Currently, under section 62J, land is eligible to have an unutilised value allowance ascertained if it comprises a parcel of land on which there is a single dwelling house used or occupied as such and the land is zoned or otherwise designated for the purposes of industry, commerce, residential flat buildings or residential subdivision.

The proposed amendment makes it clear that the eligibility to have an unutilised land value allowance ascertained arises only if the land is used or occupied solely as the site of a single dwelling house.

Statute law revision

- (13) Section 4 (Chief Commissioner, Deputy Chief Commissioner and other officers):

Omit subsection (10).

SCHEDULE 5—AMENDMENT OF LAND TAX MANAGEMENT
ACT 1956—*continued*

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

(a) Omit section 10 (1) (f) (i) and (ii), insert instead:

(i) an association of employers or employees registered as an organisation under Part IX of the Industrial Relations Act 1988 of the Commonwealth;

(b) Omit section 10 (1) (f) (iii), insert instead:

(iii) an industrial organisation of employers or employees registered or recognised as such under the Industrial Relations Act 1991;

(c) From section 10 (1) (f) (iv), omit “subparagraphs (i)–(iii)”, insert instead “subparagraph (i) or (ii)”.

(d) From section 10 (1) (f) (v), omit “subparagraphs (i)–(iv)”, insert instead “subparagraph (i), (iii) or (iv)”.

(e) Omit section 10 (1) (g) (ii), insert instead:

(ii) the provision of a child care service the subject of a licence under the Children (Care and Protection) Act 1987, a residential child care centre licensed under that Act or a school registered under the Education Reform Act 1990;

(f) From section 10 (1) (g) (ix), omit “the Mental Health Act 1958”, insert instead “the Mental Health Act 1990”.

(15) Section 10B (**Taxation of land owned by certain authorities**):

Omit section 10B (1), insert instead:

(1) In this section, “prescribed authority” means:

- (a) the State Authorities Superannuation Board; and
- (b) the Building Services Corporation.

(16) Section 10T (**Concession for unoccupied land intended to be owner’s principal place of residence**):

After “section” in subsection (3), insert “9C or”.

SCHEDULE 5—AMENDMENT OF LAND TAX MANAGEMENT
ACT 1956—*continued*

Explanatory note—items (13)–(16)

Arrangements for use of other staff (item (13))

Item (13) omits a provision made redundant by the enactment of the Public Sector Management Act 1988.

Obsolete references (items (14) (a)–(d) and (f) and (15))

Items (14) (other than (14) (e)) and (15) of the proposed amendments remove or update obsolete references by way of statute law revision and make consequential amendments.

Exemptions from land tax for certain child day care centres and kindergartens (item (14) (e))

Section 10 (1) (g) (ii) of the Act previously granted an exemption from land tax to a “place licensed” under Part 7 of the Child Welfare Act 1939. Such places included certain non-residential (as well as residential) child care centres. The repeal of the relevant provisions of the Child Welfare Act 1939 necessitated an amendment to section 10 (1) (g) (ii). That amendment had the unintended consequence of removing the exemption in so far as it applied to non-residential centres.

The premises on which non-residential child care is provided are not licensed under the Children (Care and Protection) Act 1987 (which replaced the repealed provisions of the Child Welfare Act 1939). Instead, the relevant licence specifies the person or body to whom it is granted, the child care service to which it relates and the person authorised by the licence to have the overall supervision of the provision of that child care service.

Item (14) (e) of the proposed amendment reinstates the exemption from land tax for non-residential child care centres (so far as is possible), with effect from the date of its removal, by providing an exemption for land used or occupied solely as a site for the provision of a child care service the subject of such a licence. The proposed amendment also updates an obsolete reference.

Unoccupied land intended as residence (item (16))

Section 10T of the Land Tax Management Act 1956 grants a concession to a new owner of land who has acquired the land with the intention that it becomes his or her principal place of residence. Intended use and occupation in this case is to be regarded as actual use and occupation so as to give effect to the concession. However, the concession is not available if the new owner already owns land which is used and occupied as the principal place of residence. One category of land (namely, a flat) has been inadvertently omitted from the exceptions to this concession and item (16) remedies this omission.

SCHEDULE 6—AMENDMENT OF PAY-ROLL TAX ACT 1971

(Sec. 9)

Amendments

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

From section 3 (1), omit the definition of “council”, insert instead:

“council” has the same meaning as in the Local Government Act 1993;

“county council” has the same meaning as in the Local Government Act 1993;

(2) Section 6 (**Wages liable to pay-roll tax**):

Omit section 6 (1) (a), insert instead:

(a) are wages that are paid or payable in New South Wales, other than wages so paid or payable:

(i) to a person who does not perform or render any services to that employer in New South Wales during any part of the relevant month and performs or renders those services wholly in one other State; or

(ii) to a person for services performed or rendered wholly outside Australia for more than 6 months after wages were first paid to that person for services so performed or rendered; or

(3) Section 10 (**Exemption from pay-roll tax**):

(a) Omit section 10 (1) (b), insert instead:

(a1) by a religious institution;

(a2) by a public benevolent institution (other than an instrumentality of the State);

(b) by a public hospital;

(b) Omit section 10 (1) (e), insert instead:

(e) by or on behalf of a council or county council, except to the extent that the wages were paid for or in connection with the following trading undertakings:

SCHEDULE 6—AMENDMENT OF PAY-ROLL TAX ACT 1971—
continued

- (i) the supply of electricity, water, sewerage services, gas, liquefied petroleum gas or hydraulic power and the supply and installation of associated fittings and appliances and of pipes and apparatus;
 - (ii) the operation of an abattoir or a public food market, parking station, cemetery, crematorium or hostel;
 - (iii) the operation of a coal mine and the supply and distribution of coal;
 - (iv) the operation of a transport service;
 - (v) the supply of building materials;
 - (vi) a prescribed activity;
 - (vii) the construction of any building or work or the installation of plant, machinery or equipment for use in or in connection with any of the activities listed in subparagraphs (i)–(v);
- (c) In section 10 (1) (j) and (j1), after “organisation” wherever occurring, insert “(other than a school or college, statutory body or an instrumentality of the State)”.
- (d) From section 10 (1) (k), omit “or a statutory body”, insert instead “, statutory body or an instrumentality of the State”.
- (e) Omit section 10 (1) (l).
- (f) At the end of section 10 (1) (n), insert:
; or
- (o) to an employee in respect of any period during which the employee was taking part in bush fire fighting activities as a volunteer member of a bush fire brigade under the Bush Fires Act 1949 (but not in respect of wages paid or payable as recreation leave, annual leave, long service leave or sick leave).
- (g) In section 10 (1A), after “Paragraphs”, insert “(a1), (a2),”.
- (h) From section 10 (2), omit “(k) and (l)” and “, institution or statutory body”, insert instead “and (k)” and “or institution” respectively.
- (i) In section 10 (2), after “(j),” insert “(j1)”.

SCHEDULE 6—AMENDMENT OF PAY-ROLL TAX ACT 1971—
continued

- (j) From section 10 (2), omit “charitable work of the charity”, insert instead “charitable, benevolent, philanthropic or patriotic work of the charity or the charitable work of the organisation”.
- (4) Section 13A (**Inclusion of fringe benefits in returns etc.**):
- (a) From section 13A (2), omit “fringe benefits taxable amount” wherever occurring, insert instead “aggregate fringe benefits amount”.
- (b) In section 13A (2) (a), after “within the meaning of” where firstly occurring, insert “section 136 of”.
- (c) In section 13A (2) (b), after “within the meaning of” where firstly occurring, insert “section 136 of”.
- (5) Section 16I (**Designated group employers**):
- In section 16I (1), after “may”, insert “, with the approval of the Chief Commissioner,”.
- (6) Section 46B (**Signature by or for employers**):
- In section 46B (1) (d), after “council” where firstly occurring, insert “or county council”.
- (7) Section 50A:
- After section 50, insert:
- Savings, transitional and other provisions
50A. Schedule 6 has effect.
- (8) Schedule 6:
- After Schedule 5, insert:

**SCHEDULE 6—SAVINGS, TRANSITIONAL AND
OTHER PROVISIONS**

(Sec. 50A)

Part 1—Preliminary

Savings and transitional regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

SCHEDULE 6—AMENDMENT OF PAY-ROLL TAX ACT 1971—
continued

State Revenue Legislation (Amendment) Act 1994

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2—Provisions consequent on the enactment of the State Revenue Legislation (Amendment) Act 1994

Application of amendments to certain wages

2. The amendments made by Schedule 6 (3) (a)–(e) and (g) to the State Revenue Legislation (Amendment) Act 1994 extend to wages paid or payable before 1 July 1994 but not so as to affect exemptions already granted in respect of wages paid or payable before that date.

Explanatory note—items (1)–(8)

Amendments by way of statute law revision

Local Government Act 1993 consequential. Items (1), (3) (b) and (6) make amendments that are consequential on the enactment of the Local Government Act 1993. Item (3) (b) amends section 10 (1) (e) to specify the kind of trading activities of a council that are exempted from pay-roll tax. Item (6) amends section 46B to ensure that a document is taken to be lodged by a county council under the new Act if it is signed by an employee authorised by that council.

Charitable Fundraising Act 1991 consequential. Item (3) (i) amends section 10 (2) to include a reference to the exemption contained in section 10 (1) (j1), which was inserted by the Charitable Fundraising Act 1991. Section 10 (2) ensures that certain exemptions under section 10 (1) apply to wages which are paid or payable to employees in respect of the time they are engaged in charitable work. Item (3) (i) makes a consequential amendment to that section.

**SCHEDULE 6—AMENDMENT OF PAY-ROLL TAX ACT 1971—
*continued***

Clarification Item (2) replaces section 6 (1) (a) with a new paragraph to make it clear that pay-roll tax is not payable on any wages for services performed or rendered wholly in one other State during the relevant calendar month.

Bush fires

Item (3) (f) amends section 10 (1) to ensure that certain wages that are paid or payable to an employee during any period in which the employee was a volunteer bush fire fighter are not subject to pay-roll tax.

Exemptions for state government instrumentalities

Item (3) (a) and (c)–(e) makes amendments to certain exemptions from the payment of pay-roll tax to ensure that State instrumentalities are excluded from the operation of the exemptions. Item (3) (g) and (h) makes consequential amendments to section 10 (1A) and (2).

Value of fringe benefits

Item (4) amends section 13A to ensure that recent changes to section 136 of the Fringe Benefits Tax Assessment Act 1986 of the Commonwealth by which the term “fringe benefits taxable amount” was replaced by the term “aggregate fringe benefits amount” are reflected in the section.

Designated group employers

Item (5) amends section 16I to enable the Chief Commissioner of Pay-roll Tax to accept or reject a designated group employer nominated by a group of employers for the purposes of the Act.

Transitional provisions

Items (7) and (8) will enable the making of savings and transitional regulations as a consequence of the amendment of the Pay-roll Tax Act 1971 and also provide that certain amendments made by the proposed Act concerning wages that are not liable to pay-roll tax extend to wages paid or payable before the commencement of the amendments.

**SCHEDULE 7—AMENDMENT OF REVENUE LAWS
(RECIPROCAL POWERS) ACT 1987**

(Sec. 10)

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

- (a) From the definition of “authorised revenue officer” in section 3 (1), omit “by virtue of section 4 or 5”, insert instead “under section 4, 5 or Part 4A”.

SCHEDULE 7—AMENDMENT OF REVENUE LAWS
(RECIPROCAL POWERS) ACT 1987—*continued*

- (b) In the definition of “Commonwealth revenue officer” in section 3 (1), after “other impost,”, insert “or any other person engaged in the administration or execution of such a law,”.
 - (c) In the definition of “New South Wales revenue officer” in section 3 (1), after “New South Wales revenue law,”, insert “or any other person engaged in the administration or execution of such a law,”.
 - (d) In section 3 (1), from the definition of “officer”, omit “the meaning ascribed to that expression by the Companies (New South Wales) Code”, insert instead “the same meaning as it has in section 82A of the Corporations Law”.
 - (e) In the definition of “State revenue officer” in section 3 (1), after “other impost,”, insert “or any other person engaged in the administration or execution of such a law,”.
 - (f) Omit section 3 (4).
- (2) Section 4 (Investigation by a designated Commonwealth or State revenue officer):**
From section 4 (1), omit “ , or authorise in writing another Commonwealth or State revenue officer appointed for the purpose of or in connection with the administration or execution of that law to exercise,”.
- (3) Section 5 (Investigation on behalf of a designated Commonwealth or State revenue officer):**
From section 5 (1), omit “ , or another New South Wales revenue officer authorised by that officer,”.
- (4) Section 9 (Power of the relevant principal New South Wales revenue officer to obtain information and evidence):**
Omit section 9 (7) and (8).
- (5) Section 10 (Power of a designated Commonwealth or State revenue officer to obtain information and evidence):**
Omit section 10 (7) and (8).
- (6) Section 12 (Provision of information to certain persons and bodies):**
(a) From section 12 (1), omit “ , and any person authorised by that officer,”.

SCHEDULE 7—AMENDMENT OF REVENUE LAWS
(RECIPROCAL POWERS) ACT 1987—*continued*

- (b) From section 12 (1) (a), omit “ , or a person designated by such an officer,”.
- (c) Omit section 12 (1) (b), insert instead:
- (b) the Australian Securities Commission, or a person authorised by that Commission, for the purposes of the administration or execution of any law that is:
- (i) a national scheme law within the meaning of the Corporations (New South Wales) Act 1990; or
- (ii) a relevant Act for the purposes of the Companies and Securities (Interpretation and Miscellaneous Provisions) Act 1980 of the Commonwealth; or
- (iii) a relevant Code for the purposes of a law of a State corresponding to that Commonwealth Act;
- (d) Omit section 12 (1) (f).
- (7) Part 4A (sections 16A–16C):
After Part 4, insert:

PART 4A—DELEGATION POWERS

Delegation by relevant principal New South Wales revenue officers

16A. (1) **Delegation.** A relevant principal New South Wales revenue officer may delegate any of his or her functions or powers under this Act (other than this power of delegation) to a New South Wales revenue officer.

(2) **Subdelegation.** That New South Wales revenue officer may in turn subdelegate to another New South Wales revenue officer any function or power so delegated if authorised by the terms of the delegation to do so.

Delegation by prescribed New South Wales revenue officers

16B. (1) **Delegation.** The New South Wales revenue officer prescribed in respect of a New South Wales revenue law for the purposes of section 12 may delegate any of his or her functions or powers under that section (other than this power of delegation) to another New South Wales revenue officer.

SCHEDULE 7—AMENDMENT OF REVENUE LAWS
(RECIPROCAL POWERS) ACT 1987—*continued*

(2) **Subdelegation.** That other New South Wales revenue officer may in turn subdelegate to another New South Wales revenue officer any function or power so delegated if authorised by the terms of the delegation to do so.

Delegation by Commonwealth or State revenue officers

16C. (1) **Delegation.** A Commonwealth or State revenue officer may delegate any of his or her functions or powers under this Act (other than this power of delegation) to another Commonwealth or State revenue officer.

(2) **Subdelegation.** That other Commonwealth or State revenue officer may in turn subdelegate to another Commonwealth or State revenue officer any function or power so delegated if authorised by the terms of the delegation to do so.

Explanatory note—items (1)–(7)

Amendment of certain definitions

Item (1) (b), (c) and (e) extends the definitions of “Commonwealth revenue officer”, “New South Wales revenue officer” and “State revenue officer” to include persons engaged in the administration or execution of the revenue law concerned (currently the definitions relate to persons holding particular “offices” under the revenue law concerned).

Removal of restriction on the making of orders

Section 3 (3) of the Act provides for the Governor-in-Council by orders:

- to declare a revenue law of the Commonwealth or another State to be a recognised revenue law for the purposes of the Act; and
- to designate an office under that law to be the designated Commonwealth or State revenue office for that law; and
- to declare the holder of a New South Wales revenue office to be the relevant principal New South Wales revenue officer for that law.

Currently, section 3 (4) requires that such an order be made only if the Commonwealth or the State concerned has, or has agreed, to give reciprocal functions and powers to appropriate New South Wales officers. Item (1) (f) omits this requirement.

Delegation powers

Item (7) inserts new Part 4A which set out the general delegation powers of the various officers who exercise powers and functions under the Act (currently the Act in this regard provides only for the delegation of certain specific powers and functions). Consequential amendments on the insertion of Part 4A are made by items (1) (a), (2)–(5) and (6) (a) and (b).

**SCHEDULE 7—AMENDMENT OF REVENUE LAWS
(RECIPROCAL POWERS) ACT 1987—*continued***

Statute law revision

Item (1) (d) amends the definition of “officer” of a corporation by replacing a reference to superseded legislation.

Item (6) (c) omits a reference to the National Companies and Securities Commission (which has been abolished) and replaces it with a reference to the Australian Securities Commission (the body that assumed the functions of the National Companies and Securities Commission). Item (6) (d) makes a consequential amendment.

**SCHEDULE 8—AMENDMENT OF STAMP DUTIES ACT
1920—FINANCIAL INSTITUTIONS DUTY**

(Sec. 11)

Definitions

(1) Section 98 (**Definitions**):

(a) In section 98 (1), insert in alphabetical order:

“excluded person” means any of the following:

- (a) a corporation whose sole or principal business is the operation of a complying superannuation fund within the meaning of section 267 of the Income Tax Assessment Act 1936 of the Commonwealth;
- (b) a corporation that is registered under the Life Insurance Act 1945 of the Commonwealth;
- (c) a corporation whose sole or principal business is insurance business within the meaning of the Insurance Act 1973 of the Commonwealth;
- (d) a corporation that is a registered medical benefits organisation or a registered hospital benefits organisation under the National Health Act 1953 of the Commonwealth;
- (e) a dealer. (not being a person referred to in paragraph (a), (c), (d) or (e) of the definition of “financial institution”) who does not carry on a business of dealing in securities except:
 - (i) in the capacity of official receiver or trustee within the meaning of the Bankruptcy Act 1966 of the Commonwealth; or

SCHEDULE 8—AMENDMENT OF STAMP DUTIES ACT 1920—
FINANCIAL INSTITUTIONS DUTY—*continued*

- (ii) in the capacity of administrator, liquidator or provisional liquidator of a corporation, or of controller of property of a corporation, or as a person appointed by a court to carry on the business concerned;
- (f) a dealer (being a corporation that is not a person referred to in paragraph (a), (c), (d) or (e) of the definition of “financial institution”) that carries on, or holds itself out as carrying on, a business of dealing in debentures of that corporation but does not carry on a business of dealing in any other securities;
- (g) a licensed insurer under the Workers Compensation Act 1987;
- (h) a retailer;
- (i) a pastoral finance company;

“finance contract” means:

- (a) a credit contract; or
- (b) a contract or agreement made with a body corporate that, if made with a natural person, would be a credit contract;

“foreign exchange hedging agreement” means a contract or agreement the effect of which is to hedge, cover or change a liability to pay or an entitlement to receive:

- (a) in foreign currency (or Australian dollar equivalent) into another foreign currency (or Australian dollar equivalent) or into Australian dollars; or
- (b) in Australian dollars into a foreign currency (or Australian dollar equivalent);

“group return” means a return made out in accordance with section 98JA by a registered person on behalf of a group of which the person is a member, where the receipts specified in the return are the sum of the dutiable receipts of each member of the group;

SCHEDULE 8—AMENDMENT OF STAMP DUTIES ACT 1920—
FINANCIAL INSTITUTIONS DUTY—*continued*

“hiring arrangement” means a hiring arrangement within the meaning of section 74D;

“pastoral finance company” means:

- (a) a person whose sole or principal business is that of financing pastoral pursuits or whose sole or principal business is that of a stock or station agent to whom an order in force under section 11 of the Banking Act 1959 of the Commonwealth applies; or
- (b) a person, a substantial part of whose business is, in the Chief Commissioner’s opinion, that of financing pastoral pursuits or a substantial part of whose business is, in the Chief Commissioner’s opinion, that of a stock or station agent to whom such an order applies and who is approved by the Chief Commissioner as a pastoral finance company;

“Protective Commissioner” means the person holding the office of Protective Commissioner under the Protected Estates Act 1983;

“retailer” means:

- (a) a person whose sole or principal business is that of selling goods by retail; or
- (b) a person, a substantial part of whose business is, in the Chief Commissioner’s opinion, that of selling goods by retail and who is approved by the Chief Commissioner as a retailer;

“rollover” of a term deposit means the renewal with or the retention by a financial institution of the whole or part of the term deposit (either at call or for a further specified period and with or without accrued interest) at the end of the specified period for which the term deposit was previously made;

- (b) From section 98 (1), omit the definitions of “designated person”, “designated receipts” and “short term dealing”, insert instead:

SCHEDULE 8—AMENDMENT OF STAMP DUTIES ACT 1920—
FINANCIAL INSTITUTIONS DUTY—*continued*

“designated person” means:

- (a) a financial institution; or
- (b) a retailer; or
- (c) a pastoral finance company; or
- (d) the Protective Commissioner;

“designated receipts” means:

- (a) receipts of a financial institution; **or**
- (b) receipts of a retailer (including interest and charges) received in relation to the repayment of the whole or any part of the amount financed under a finance contract or a hiring arrangement; or
- (c) receipts of a pastoral finance company (including interest and charges) received in relation to the repayment of the whole or any part of the amount financed under a finance contract or a hiring arrangement; or
- (d) receipts of the Protective Commissioner;

“short term dealing” means:

- (a) the making or receiving of a deposit (other than a deposit to the credit of an account with a bank that is repayable on demand or to the credit of a current account, in either case, kept by the bank for another person) if the amount of the deposit is not less than \$50,000 and is deposited:
 - (i) at call; or
 - (ii) for a term not exceeding 185 days; or
 - (iii) for a term not exceeding 185 days and thereafter at call; or
- (b) the making or receiving of a loan or advance if the amount of the loan or advance is not less than \$50,000 and is loaned or advanced:
 - (i) at call; or
 - (ii) for a term not exceeding 185 days; or
 - (iii) for a term not exceeding 185 days and thereafter at call; or

SCHEDULE 8—AMENDMENT OF STAMP DUTIES ACT 1920—
FINANCIAL INSTITUTIONS DUTY—*continued*

- (c) a dealing in securities, bills of exchange, promissory notes, certificates of deposit, or interest bearing deposits, if the amount involved in the dealing is not less than \$50,000 or the dealing (not being a dealing in a security) is in a bill of exchange, promissory note, certificate of deposit or interest bearing deposit having a nominal value on the day on which the dealing is entered into or a face value of not less than \$50,000, and the amount involved in the dealing is invested:
 - (i) at call; or
 - (ii) for a term not exceeding 185 days; or
 - (iii) for a term not exceeding 185 days and thereafter at call; or
 - (iv) in respect of a dealing in a security, bill of exchange, promissory note, certificate of deposit or interest bearing deposit having a term exceeding 185 days, but the dealing is completed not later than 185 days after the date of investment of the amount; or
 - (d) a dealing in securities for the purpose of a securities lending arrangement, if the dealing is completed within 185 days; or
 - (e) a foreign exchange dealing for the purposes of a foreign exchange hedging agreement if the amount involved in the dealing is not less than \$50,000, and the dealing is completed not later than 185 days after the date on which the agreement was entered into; or
 - (f) a futures contract within the meaning of section 72 of the Corporations Law if the amount involved in the contract is not less than \$50,000, and the contract is completed within 185 days;
- (c) In section 98 (1), from the definition of “financial institution”, omit “a person who is prescribed not to be a financial institution for the purposes of this definition”, insert instead “an excluded person”.

SCHEDULE 8—AMENDMENT OF STAMP DUTIES ACT 1920—
FINANCIAL INSTITUTIONS DUTY—*continued*

(d) after section 98 (1), insert:

(1A) The amount of \$50,000 referred to in the definition of “short term liability” in subsection (1) is, in the case of a term deposit that is rolled over, taken to include any amount of money added to the deposit when it is rolled over. (The purpose of this subsection is to ensure that the amount added is not, for the purposes of this Division, treated as a separate deposit.)

(e) After section 98 (14), insert:

(15) If a term deposit constitutes a short term dealing and the amount involved in the dealing is rolled over into a deposit or investment that does not constitute a short term dealing, the amount rolled over is taken to be a receipt for the purposes of this Division.

Explanatory note—item (1)

Section 98 of the Stamp Duties Act 1920 defines a number of expressions for the purposes of Division 29 of Part 3 of that Act (which requires financial institutions to pay stamp duty in respect of dutiable receipts). The amendment introduces some further definitions for those purposes. Among the additional expressions defined are “finance contract”, “pastoral finance company”, “Protective Commissioner” and “retailer”. Similar definitions are currently to be found in the Stamp Duties (Financial Institutions Duty) Regulation 1982.

The definitions of “designated person”, “designated receipts” and “short term dealing” are being replaced. A designated person will include not only a financial institution but also a retailer, a pastoral finance company and the Protective Commissioner. (Most of the obligations set out in Division 29 are imposed on “designated persons” and registered persons who are “designated persons”.) “Designated receipts” will include not only receipts of financial institutions but also certain receipts of retailers, pastoral finance companies and the Protective Commissioner.

The definition of “short term dealing” is clarified. Proposed paragraph (a), (c) and (d) of the definition clarify the dealings contained in the current definition. Paragraph (b) rectifies an anomaly whereby the making or receiving of a loan did not qualify as a short term dealing but would be subject to duty as a short term liability. This amendment is taken to have commenced on 24 September 1993 in accordance with the Variation to Statute signed by the Treasurer on that date (see clause 38 (1) in Schedule 11 (30)). Proposed paragraphs (e) and (f) relate to foreign exchange hedging contracts and futures contracts. Similar provisions are currently contained in clause 11 of Stamp Duties (Financial Institutions Duty) Regulation 1982. Those provisions are to be repealed by clause 12 of the proposed Act. The provisions in relation to foreign exchange, hedging contracts have been amended to overcome a technical deficiency. This

SCHEDULE 8—AMENDMENT OF STAMP DUTIES ACT 1920—
FINANCIAL INSTITUTIONS DUTY—*continued*

amendment is taken to have commenced on 9 November 1993 in accordance with the Variation to Statute signed by the Treasurer on 14 December 1993 (see clause 38 (2) in Schedule 11 (30)).

A definition of “excluded person” is introduced for the purposes of the definition of “financial institution”. The effect of this is that persons and organisations (such as superannuation funds, insurance companies, medical benefits funds, official receivers, trustees in bankruptcy, company controllers, administrators and liquidators, certain dealers in securities and licensed insurers under the Workers Compensation Act 1987) will not be treated as financial institutions with the result that they are not required to be registered for the purposes of Division 29. (Most of those persons and organisations are already excluded from registration under the Division by virtue of the Regulation mentioned above.)

The definition of “group return” is for the purposes of proposed section 98JA (Return made out by group member in respect of group dutiable receipts). (See item (4) of this Schedule.)

Proposed section 98 (1A) is intended to make it clear that an amount added to a term deposit that is rolled over is to be treated as part of the deposit and not as a separate amount when determining whether a deposit is not less than \$50,000 for the purposes of the definition of “short term liability” in section 98 (1). The effect is that stamp duty under Division 29 will be payable on the renewal or retention of a single amount rather than two amounts (which, dealt with separately, would attract a slightly higher amount of duty).

While a receipt comprising the rollover of a term deposit will not be subject to FID (see item (2) (d)), proposed section 98 (15) provides that a rollover from a short term dealing into a non-short term dealing is a receipt for the purposes of Division 29 and will therefore be subject to FID.

Receipts not subject to FID

(2) Section 98A (**Receipts to which this Division does not apply**):

- (a) At the end of section 98A (a), (b), (c), (d), (da), (e), (f) and (g), insert “or”.
- (b) From section 98A (b), omit “or by reason of the dishonour of a cheque”.
- (c) **After** section 98A (b), insert:
 - (ba) a receipt that is reversed because a cheque is dishonoured; or
 - (bb) a receipt comprising the reversal of a debit because a cheque is dishonoured; or

SCHEDULE 8—AMENDMENT OF STAMP DUTIES ACT 1920—
FINANCIAL INSTITUTIONS DUTY—*continued*

(d) After section 98A (c), insert:

- (ca) a receipt comprising the crediting of an account of the designated person (not being a customer's account) where there is a corresponding debit to a customer's account in respect of a payment of duty under this Division or a payment of tax under the Debits Tax Act 1990; or
- (cb) a receipt comprising the rollover of a term deposit, except as provided by section 98 (15); or

(e) After section 98A (i), insert:

- (ia) the initial receipt by the Protective Commissioner of the assets of a patient or incapable person within the meaning of the Mental Health Act 1990 or a protected person within the meaning of the Protected Estates Act 1983; or
- (ib) a receipt which, as a result of a corresponding debit to a customer's account with the designated person, is credited to another account of the customer with that person only because:
 - a branch of the designated person has closed or branches of that person have been amalgamated; or
 - the customer has lost a passbook or automatic teller machine card; or
 - the designated person has changed the processing system by which it records customers' transactions,
 except so much of the receipt (if any) as comprises the crediting of interest not previously credited to an account; or

Explanatory note—item (2)

Section 98A specifies those receipts to which Division 29 of Part 3 of the Act does not apply. The amendment specifies the following further kinds of receipts to which the Division will not apply:

- receipts of money represented by cheques that are subsequently dishonoured;
- receipts comprising the recrediting of a dishonoured cheque to the drawer's account;

SCHEDULE 8—AMENDMENT OF STAMP DUTIES ACT 1920—
FINANCIAL INSTITUTIONS DUTY—*continued*

- receipts comprising the crediting of accounts where there are corresponding debits to customers' accounts in respect of payments of duty under Division 29 or tax under the Debits Tax Act 1990;
- receipts comprising the rollover of a term deposit (except a rollover from a short term dealing into a non-short term dealing);
- receipts by the Protective Commissioner of assets of patients and incapable persons (as defined by the Mental Health Act 1990) and protected persons (as defined by the Protected Estates Act 1983);
- receipts which, having been previously credited to customers' accounts with the designated person concerned, are credited to another account in circumstances beyond the control of those customers.

Duty payable following lodgment of return

(3) Section 98J (**Return to be made out in respect of dutiable receipts**):

(a) After section 98J (3), insert:

(3A) The Chief Commissioner may, in the case of a retailer or pastoral finance company that has lodged a return under subsection (3), exempt the retailer or company from payment of stamp duty in respect of the dutiable receipts to which the return relates if:

- (a) no certificate under section 98U (1) of the Act is in force in respect of an account of the retailer or company, being either an account referred to in paragraph (a) of that subsection or an account to which paragraph (g2) of that subsection applies; and
- (b) the Chief Commissioner is otherwise satisfied that it is proper to do so.

(3B) The Chief Commissioner may reduce, refund or adjust stamp duty paid or payable by a financial institution whose sole or principal business is not that of the provision of finance.

(b) After section 98J (4), insert:

(5) This section does not apply to a member of a group to the extent that section 98JA is complied with in respect of the member.

SCHEDULE 8—AMENDMENT OF STAMP DUTIES ACT 1920—
FINANCIAL INSTITUTIONS DUTY—*continued*

Explanatory note—item (3)

Section 98J requires certain persons periodically to make out returns, lodge those returns with the Chief Commissioner of Stamp Duties and pay the stamp duty payable in respect of the receipts to which the returns relate.

Proposed subsection (3A) of the section will allow the Chief Commissioner to exempt a retailer or pastoral finance company from the payment of duty if the Chief Commissioner has not issued an exemption certificate under section 98U (1) in respect of an account of the retailer or company.

Proposed 98J (3B) will enable the Chief Commissioner to reduce, refund or adjust stamp duty paid or payable by a financial institution whose sole or principal business is not that of providing finance.

A further amendment is designed to make it clear that section 98J does not apply to a member of a group to the extent that proposed section 98JA (Return made out by group member in respect of group dutiable receipts) is complied with in respect of the member.

Group returns

(4) Section 98JA:

After section 98J, insert:

Return made out by group member in respect of group dutiable receipts

98JA. (1) A registered person who is a member of a group may apply to the Chief Commissioner for approval to lodge group returns under this section on behalf of the members of the group.

(2) An application must contain such information relating to the members of the group as the Chief Commissioner requires.

(3) The Chief Commissioner may, for the purposes of this section, approve or refuse to approve the group member making the application, and must notify the group member in writing of the decision.

(4) The members of a group are not required to comply with section 98J (1) if, within 21 days after the end of:

- (a) except as provided by paragraph (b)—each month; or
- (b) where the Chief Commissioner approves a longer period than a month—each such longer period,

SCHEDULE 8—AMENDMENT OF STAMP DUTIES ACT 1920—
FINANCIAL INSTITUTIONS DUTY—*continued*

an approved group member makes out a group return for those members.

(5) The group return:

(a) must be in a form approved by the Chief Commissioner; and

(b) must, in addition to any other matters required to be specified in the form, specify:

(i) the total amount of dutiable receipts, not being dutiable receipts referred to in subparagraph (ii); and

(ii) the number of dutiable receipts, the amount of which was a single amount of not less than \$2,000,000 (or, where some other amount is prescribed by the regulations, the prescribed amount),

received during the month or longer period to which the return relates by the members of the group.

(6) An approved group member who makes out a return under this section must, within 21 days after the end of the month or longer period to which the group return relates:

(a) lodge the return with the Chief Commissioner; and

(b) pay to the Chief Commissioner, as stamp duty, the amount of stamp duty payable in respect of the dutiable receipts to which the return relates.

(7) An approved group member who fails to comply with subsection (6) is guilty of an offence.

Maximum penalty: 50 penalty units and twice the amount of duty of which Her Majesty has been deprived by any such failure.

(8) If an approved group member who makes out a group return is also a short term dealer, no other member of the group who is a short term dealer is required to make out a short term dealers return if, because of section 98R (3B), no duty would be payable on such a return.

(9) The Chief Commissioner may, by notice in writing to the group member whose application under this section is approved, cancel the approval at any time for any reason the

SCHEDULE 8—AMENDMENT OF STAMP DUTIES ACT 1920—
FINANCIAL INSTITUTIONS DUTY—*continued*

Chief Commissioner thinks sufficient. The cancellation has effect from the date specified for the purpose in the notice of cancellation.

Explanatory note—item (4)

Proposed section 98IA will:

- enable the Chief Commissioner to give approval for a person (such as a financial institution) registered with the Chief Commissioner under section 98I to make out returns on behalf of the members of a group; and
- provide for the making out and lodgement of group returns and for the payment of stamp duty in respect of the receipts to which those returns relate.

Short term dealers

(5) Section 98O (Certification as a short term dealer):

Omit section 98O (1), insert instead:

(1) The Chief Commissioner may certify as a short term dealer a person who has made an application under section 98N.

(1A) The Chief Commissioner must not certify as a short term dealer an applicant who is not a registered person and who fails to lodge with the Chief Commissioner an undertaking that complies with subsection (1C).

(1B) The Chief Commissioner may refuse to certify as a short term dealer an applicant who is a registered person but who fails to lodge with the Chief Commissioner an undertaking that complies with subsection (1C) if required by the Chief Commissioner to lodge such an undertaking.

(1C) The undertaking must be in writing in a form determined by the Chief Commissioner and be to the effect that, in relation to the applicant's short term dealer's account, the applicant:

- (a) will use the account only for making:
 - (i) payments to another bank account of the dealer or to another member of the group (if any) of which the dealer is a member; or

SCHEDULE 8—AMENDMENT OF STAMP DUTIES ACT 1920—
FINANCIAL INSTITUTIONS DUTY—*continued*

- (ii) payments in respect of short term dealings; or
- (iii) payments of such class as the Chief Commissioner specifies or approves; and

(b) will maintain the account in credit.

(6) Section 98R (**Return to be made out in respect of short term liabilities**):

After section 98R (3), insert:

(3A) The Chief Commissioner may enter into such arrangements as the Chief Commissioner thinks fit for the payment of stamp duty in accordance with subsection (3) with short term dealers who are not prescribed short term dealers but are members of a group.

(3B) If a short term dealer who is not a prescribed short term dealer but is a member of a group pays duty in accordance with subsection (3), the amount of duty payable by each other member of the group is reduced by the extent to which that amount has been paid by that dealer.

Explanatory note—items (5) and (6)

Section 98O enables the Chief Commissioner of Stamp Duties to certify a person as a short term dealer for the purposes of Division 29 of Part 3 of the Act. The amendments replace subsection (1) of the section with 4 new subsections. The Chief Commissioner will be able to refuse an application to certify the applicant as a short term dealer if the applicant fails to enter into an undertaking with the Chief Commissioner to the effect that the applicant will use the short term dealer's account only for making:

- payments to another bank account of the dealer or to another member of the group (if any) of which the dealer is a member; or
- payments in respect of short term dealings; or
- payments of such class as the Chief Commissioner approves,

and will ensure the account is kept in credit.

Section 98R requires short term dealers to make out returns in respect of short term liabilities (as defined in section 98).

Proposed subsection (3A) of the section will enable the Chief Commissioner to enter into arrangements for the payment of stamp duty with short term dealers who are not prescribed short term dealers but who are members of a group.

Proposed subsection (3B) provides for the liability of a member of a group to be reduced by the extent by which a short term dealer has satisfied that liability.

SCHEDULE 8—AMENDMENT OF STAMP DUTIES ACT 1920—
FINANCIAL INSTITUTIONS DUTY—*continued*

Exempt accounts

(7) Section 98U (**Exempt accounts**):

- (a) At the end of section 98U (1) (a), (b), (c), (d), (e) and (f), insert “or”.
- (b) After section 98U (1) (e), insert:
- (e1) a clearing or settlement account kept by FTS (NSW) Pty Ltd with a bank which is a registered person for the purpose of enabling money to be credited or debited directly to permanent building societies’ accounts; or
- (c) After section 98U (1) (g1), insert:
- (g2) an account kept with a bank which is a registered person by a retailer or pastoral finance company (being in either case a registered person), being an account:
- in which the retailer or company deposits designated receipts or receipts that are not designated receipts, or both; and
 - in respect of which the retailer or company has given the Chief Commissioner a written undertaking in accordance with subsection (1A); or
- (d) After section 98U (1), insert:
- (1A) For the purposes of subsection (1) (g2), an undertaking must be in a form determined by the Chief Commissioner to the effect that, if the Chief Commissioner issues a certificate under subsection (1) in respect of the account concerned, the retailer or pastoral finance company will, within 14 days (or such other period as may be specified in the certificate) after depositing a non-designated receipt in the account, deposit that receipt or an equivalent amount in an account with a bank that is a registered person, not being an exempt amount.

Explanatory note—item (7)

Section 98U provides for the exemption of accounts from the operation of Division 29 of Part 3 of the Act.

The first amendment (item (7) (b)) will enable the Chief Commissioner to certify as an exempt account a clearing or settlement account kept with a bank by FTS (NSW) Pty Ltd (a company owned by the Australian Association of

SCHEDULE 8—AMENDMENT OF STAMP DUTIES ACT 1920—
FINANCIAL INSTITUTIONS DUTY—*continued*

Permanent Building Societies and some of the permanent building societies that are members of the Association) for the purpose of enabling money to be credited or debited directly to permanent building societies' accounts.

The second amendment (item (7) (c) and (d)) will enable the Chief Commissioner to certify as exempt accounts certain accounts kept with a bank by retailers and pastoral finance companies.

(8) Section 98U (**Exempt accounts**):

After section 98U (1) (g2), insert:

- (g3) an account kept with a bank which is a registered person by ASX Settlement and Transfer Corporation Pty. Limited, being an account in which only amounts that are to be used for the payment of stamp duty on transactions under Division 26A in accordance with this Act and the corresponding Acts of other States and Territories are deposited; or

Explanatory note—item (8)

Item (8) will enable the Chief Commissioner to certify as an exempt account the account of ASX Settlement and Transfer Corporation Pty. Limited which is used only to deposit money relating to CHESS transactions in order to pay stamp duty on those transactions. The exemption will avoid the imposition of a duty on a duty. It is consequential on the amendment made by Schedule 9 (2).

Passing on of duty

(9) Section 98W

Omit the section, insert instead:

Duty can be passed on

98W. (1) A designated person who is required to pay stamp duty in respect of a receipt may charge or receive from the person from whom the receipt is received an amount purporting to be stamp duty payable under this Division if the amount is not more than the amount of stamp duty paid or payable by the designated person under this Division in respect of the receipt.

(2) Subsection (1) allows a designated person to charge or receive an amount from a person that is not more than the amount of stamp duty paid or payable under this Division in respect of the total amount of receipts received by the

**SCHEDULE 8—AMENDMENT OF STAMP DUTIES ACT 1920—
FINANCIAL INSTITUTIONS DUTY—*continued***

designated person from the person concerned in the course of a month or other period determined by the designated person.

(3) A designated person must not charge a person an amount referred to in subsection (1) or (2) unless the charge is made within 12 months after the day on which the designated person receives the relevant receipt.

(4) If an amount referred to in this section comprises or includes a fraction of a cent, the fraction is to be disregarded for the purposes of this section. However, if in rounding down an amount of stamp duty a fraction of a cent is so disregarded, the fraction can nevertheless be included in the next periodic charge (if any) that the designated person imposes on the person concerned in respect of stamp duty.

(5) A designated person who contravenes this section is guilty of an offence.

Maximum penalty: 50 penalty units.

Explanatory note—item (9)

The existing section 98W enables regulations to be made for the purpose of enabling stamp duty payable under Division 29 of Part 3 of the Act to be passed on to customers. This section is being replaced by a new section dealing with the extent to which designated persons (such as financial institutions) can pass stamp duty on to their customers and others from whom they receive dutiable receipts.

**SCHEDULE 9—AMENDMENT OF STAMP DUTIES ACT
1920—TRANSFER OF MARKETABLE SECURITIES**

(Sec. 11)

Nexus for liability to stamp duty on off market share transactions**(1) Section 3 (Definitions):**

- (a) From the definition of “Mining company” in section 3 (1), omit “whether incorporated in or out of New South Wales”, insert instead “whether a NSW company or not”.
- (b) Insert in section 3 (1), in alphabetical order:

“**NSW company**” means a company incorporated or taken to be incorporated under the Corporations Law of New South Wales.

SCHEDULE 9—AMENDMENT OF STAMP DUTIES ACT 1920—
TRANSFER OF MARKETABLE SECURITIES—*continued*

“Stock” means any share in stocks or funds of any Government or in the capital, stock, or funded debt of any company, corporation or society.

“Transfer” of shares or rights to shares includes a conveyance of or an agreement to convey shares or rights to shares.

(2) Section 44 (**Transactions to which this Division applies**):

(a) Omit section 44 (1) (f), insert instead:

(f) shares or rights to shares of a NSW company or of a corporation incorporated outside Australia which are registered on a register of members of the corporation kept in New South Wales; or

(b) From section 44 (1A) (b), omit “a company incorporated in New South Wales”, insert instead “a NSW company”.

(3) Section 44A (**Payment of duty on statements in absence of dutiable instruments**):

(a) Omit section 44A (2), insert instead:

(2) A person, being a party to a transaction which causes or results in a change in the beneficial ownership of an estate or interest in the shares of:

(a) a NSW company; or

(b) a corporation incorporated outside Australia if the estate or interest is registered on a register of members of the corporation kept in New South Wales,

must lodge with the Chief Commissioner a statement in respect of the transaction.

(b) After section 44A (2B), insert:

(2C) A person is not required to lodge a statement under subsection (2) in respect of a transaction which causes or results in a change in the beneficial ownership of an estate or interest in shares in a company which is registered, recorded or entered on a register of the members of the company lawfully kept in the United Kingdom:

(a) in respect of which ad valorem duty in accordance with the law of the United Kingdom is paid; or

(b) which is exempt from duty under the law of the United Kingdom.

SCHEDULE 9—AMENDMENT OF STAMP DUTIES ACT 1920—
TRANSFER OF MARKETABLE SECURITIES—*continued*

- (4) Part 3, Division 27, heading:
Omit the heading, insert instead:

Division 27—Shares-transfer

Subdivision 1—Off market share transfers

- (5) Section 95 (**Definition of stock**):
Omit the section,
- (6) Section 95AA (**Definition of marketable securities for the purposes of this Division**):
Omit the section.
- (7) Section 95A (**Marketable securities may be short-dated**):
Omit the section.
- (8) Section 96 (**Stamping of transfers of marketable securities**):
Omit the section.
- (9) Section 96A (**Duty on certain transfers of shares**):
- (a) From section 96A (1), omit “corporation or company incorporated in New South Wales or”, insert instead “NSW company”.
 - (b) From section 96A (1), omit “New South **Wales**” where secondly occurring, insert instead “Australia”.
 - (c) Omit section 96A (2) and (3), insert instead:
 - (1A) A transfer of marketable securities of a NSW company which is registered, recorded or entered on a register of the members of the company lawfully kept in the, United Kingdom and which is stamped with ad valorem duty, or is exempt from duty, in accordance with the law of the United Kingdom is not liable to duty under this Act.
 - (2) This section does not apply to a transfer of shares or of the rights to any shares which are deemed to be duly stamped under section 94H or 97AC (3).
 - (3) During the period on and from 16 August 1993 up to and including the day before the date of commencement of subsection (2), as substituted by the State Revenue

SCHEDULE 9—AMENDMENT OF STAMP DUTIES ACT 1920—
TRANSFER OF MARKETABLE SECURITIES—*continued*

Legislation (Amendment) Act 1994, subsection (2) as in force during that period does not apply to a transfer of shares unless the transfer:

- (a) was stamped with ad valorem duty in accordance with the law of a place prescribed for the purposes of section 96B (1A) (a) (i), as in force during that period; or
- (b) was exempt from duty in such a prescribed place; or
- (c) was not liable to duty in such a prescribed place.

(10) Section 96B (**Share transfers on registers outside New South Wales**):

Omit the section.

(11) Part 3, Division 27, Subdivision 2, heading:

Before section 97, insert:

Subdivision 2—Requirement to stamp transfer of marketable securities before registration

(12) Part 3, Division 27, Subdivision 3, heading:

Before section 97A, insert:

Subdivision 3—Transfers involving brokers

(13) Section 97A (**Definitions and application of Subdivision 3**):

- (a) From the definition of “Australian Options Market” in section 97A (1), omit “the Stock Option Trading Regulations”, insert instead “section 7 of the Business Rules”.
- (b) After the definition of “Futures contract” in section 97A (1), insert:

“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.
- (c) In the definition of “Options trader” in section 97A (1), after “Exchange”, insert “Limited”.

SCHEDULE 9—AMENDMENT OF STAMP DUTIES ACT 1920—
TRANSFER OF MARKETABLE SECURITIES—*continued*

(14) Section 97AB (**Returns to be lodged and duty paid**):

- (a) From section 97AB (1)(b), omit “subsections (1A) and (2)”, insert instead “subsection (2)”.
- (b) Omit section 97AB (1A).
- (c) From section 97AB (2A), omit “or subsection (1A)”.

(15) Section 97C (**Definitions**):

- (a) From section 97C (1), omit the definition of “corresponding law”.
- (b) Omit section 97C (2) (a)–(d), insert instead:
 - (a) a NSW company; or
 - (b) a corporation incorporated outside Australia if the marketable securities or rights are registered on a register of members of the corporation kept in New South Wales.

(16) Section 97D (**Declarations by the Governor**):

- (a) From section 97D (1), omit “that is incorporated in New South Wales, or being incorporated outside New South Wales”, insert instead “that is a NSW company or, not being a NSW company,”.
- (b) Omit section 97D (2) and (3).

(17) Section 127 (**Valuation of shares**):

From section 127 (1) (a), omit “whether incorporated in or out of New South Wales”, insert instead “whether or not it is a NSW company”.

(18) Second Schedule—Stamp Duties and Exemptions:

- (a) From paragraphs (1), (2), (3) and (3A) of the matter relating to “CONVEYANCES OF ANY PROPERTY”, omit “referred to in paragraph (1) under the heading “Transfer of Shares” wherever occurring.
- (b) From paragraph (1) of the matter relating to “TRANSFER OF SHARES”, omit “any corporation or company incorporated in New South Wales or which being incorporated out of New South Wales”, insert instead “a NSW company or a corporation or company incorporated outside Australia that”.

SCHEDULE 9—AMENDMENT OF STAMP DUTIES ACT 1920—
TRANSFER OF MARKETABLE SECURITIES—*continued*

- (c) Omit paragraph (1) (a) of the matter relating to “TRANSFER OF SHARES” and the matter “0.025” opposite that subparagraph in the column headed “Amount of Duty”.
- (d) Omit from the column headed “Amount of Duty” opposite the matter relating to “TRANSFER OF SHARES”, “6c for every \$10” wherever occurring and by inserting instead “60c for every \$100”.

Explanatory note—items (1)–(18)

The nexus for liability to stamp duty on off market share transactions is to be changed to the place of incorporation of the company whose shares are transferred. To achieve this object, a definition is introduced into the Stamp Duties Act 1920 by item (1) (b) of “NSW company”. A NSW company is defined to mean a body that is incorporated or taken to be incorporated as a company under the Corporations Law of New South Wales. Items (1) (a), (2), (3), (9) (a) and (b), (15) (b), (16) (a), (17) and (18) (b) make changes consequential on the introduction of this definition.

Items (6), (8), (10), (14), (15) (a), (16) (b) and (18) (c) remove provisions that are not appropriate having regard to the change of nexus or that are not used.

Item (18) (a) makes it clear, consequent on the definition of transfer of shares inserted in item (1) (b), that the conveyance rates of stamp duty will generally not apply to a transfer of shares.

Item (18) (d) re-expresses the rate of duty on share transfers so as to be consistent with the rate of duty specified for SCH-regulated transfers of marketable securities dealt with in the amendments made by items (19)–(22).

Item (9) (c) will close a loophole whereby shares can be transferred without the payment of ad valorem duty by changing registers by ensuring that ad valorem duty is paid in another jurisdiction before New South Wales duty ceases to be chargeable.

Items (4), (11) and (12) clarify the structure and arrangement of provisions in Division 27 of Part 3.

Items (1) (b) (the definition of “Stock”), (5) and (13) (b) make consequential amendments.

Items (7) and (13) (a) and (c) make amendments by way of statute law revision.

SCHEDULE 9—AMENDMENT OF STAMP DUTIES ACT 1920—
TRANSFER OF MARKETABLE SECURITIES—*continued*

SCH-regulated transfers

(19) Section 44 (**Transactions to which this Division applies**):

Omit section 44 (3), insert instead:

(3) This Division does not apply to the transfer of a marketable security on which duty has been paid under Division 26A.

(20) Part 3, Division 26A:

After Division 26, insert:

Division 26A—SCH-regulated transfers

Subdivision 1—Duty on certain SCH-regulated transfers

Definitions

94B. In this Division:

“error transaction” means each of the following transfers:

- (a) an SCH-regulated transfer made to reverse an SCH-regulated transfer that was made mistakenly not more than 7 days earlier;
- (b) the SCH-regulated transfer so reversed;

“identification code”, in relation to an SCH participant, means a code that, for the purposes of the SCH business rules, is the SCH participant’s identification code, or one of the SCH participant’s identification codes, as the case may be;

“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;

“proper SCH transfer” has the same meaning as in section 9 of the Corporations Law;

“relevant company” means:

- (a) a NSW company; or
- (b) a foreign company (within the meaning of section 9 of the Corporations Law) with a registered office under the Corporations Law that is situated in New South Wales;

SCHEDULE 9—AMENDMENT OF STAMP DUTIES ACT 1920—
TRANSFER OF MARKETABLE SECURITIES—*continued*

“**relevant SCH participant**”, in relation to an SCH-regulated transfer, means the participant who is liable under this Division to pay duty chargeable in respect of the transfer, or, if no duty is chargeable, the SCH participant who would be so liable if duty were chargeable;

“**SCH**” means the securities clearing house registered by the Chief Commissioner under this Division;

“**SCH business rules**” has the same meaning as in section 9 of the Corporations Law;

“**SCH participant**” has the same meaning as in section 9 of the Corporations Law;

“**SCH-regulated transfer**” has the same meaning as in section 9 of the Corporations Law;

“**transfer document**” has the same meaning as in section 1097 of the Corporations Law;

“**transfer identifier**”, in relation to an SCH-regulated transfer, means the distinctive number allocated to the transfer by SCH;

“**transfer value**”, in relation to an SCH-regulated transfer of a marketable security, means:

- (a) in the case of a transfer on sale—the consideration for the sale or the unencumbered value of the security at the date of the sale, whichever is the greater; or
- (b) in any other case—the unencumbered value of the security at the date of the transfer.

Application of Division

94C. (1) This Division applies to an SCH-regulated transfer of a marketable security only where:

- (a) the transfer is a proper SCH transfer; and
- (b) the transfer is made otherwise than on a sale or purchase of the security to which Division 27 or 28A applies; and

SCHEDULE 9—AMENDMENT OF STAMP DUTIES ACT 1920—
TRANSFER OF MARKETABLE SECURITIES—*continued*

(c) the security is:

- (i) a share or a right in respect of a share, of a relevant company; or
 - (ii) a unit in a unit trust scheme the principal register of which is situated in New South Wales; and
- (d) there is a change in the beneficial ownership of the marketable security; and
- (e) the body approved as the securities clearing house under section 779B of the Corporations Law is registered by the Chief Commissioner under this Division.

(2) This Division does not require the payment of duty in respect of the following:

- (a) a transfer of shares referred to in paragraph (6), (7) or (8) under the heading “Transfer of shares” in the Second Schedule;
- (b) a transfer referred to in paragraph (a), (b), (d), (e) or (h) of the exemptions under the heading “Transfer of shares” in the Second Schedule;
- (c) an issue or transfer referred to in paragraph (42) of the General Exemptions from Stamp Duty under Part 3 in the Second Schedule;
- (d) an error transaction.

Liability to duty of SCH-regulated transfers

94D. (1) An SCH-regulated transfer of a marketable security to which this Division applies is chargeable with duty at the rate of 60 cents per \$100, or part, of the transfer value of the marketable security.

(2) If the SCH-regulated transfer of the marketable security is made within 2 months after an instrument of transfer of the marketable security to or for the benefit of the same transferee is first executed, the instrument is not chargeable with duty under this Act.

SCH participant liable to pay duty

94E. (1) If duty is chargeable in respect of an SCH-regulated transfer of a marketable security, the SCH

SCHEDULE 9—AMENDMENT OF STAMP DUTIES ACT 1920—
TRANSFER OF MARKETABLE SECURITIES—*continued*

participant who is a party to the transfer, or, if there is more than one, the SCH participant who acts for the transferee under the transfer, is liable to pay the duty.

(2) If the SCH participant liable to pay duty in respect of an SCH-regulated transfer is not the transferee under the transfer, the participant may recover from the transferee the amount of the duty paid as a debt by action in a court of competent jurisdiction and may, in reimbursement of that amount, retain any money in the participant's hands belonging to the transferee.

Record of SCH-regulated transfers

94F. (1) A record must be made in accordance with this section immediately on the making of an SCH-regulated transfer of marketable securities to which this Division applies.

(2) The record must be made by the relevant SCH participant.

(3) The record must show the following particulars:

- (a) the date of the transfer;
- (b) the transfer identifier of the transfer;
- (c) the name of the transferee and, unless another SCH participant controls the transferor's holding, the name of the transferor;
- (d) the identification code of the SCH participant making the record and the identification code of the other SCH participant (if any) who is a party to the transfer;
- (e) the quantity and full description of the marketable security transferred;
- (f) the transfer value of the marketable securities;
- (g) the consideration payable in respect of the transfer;
- (h) the amount of duty chargeable in respect of the transfer;
- (i) if ad valorem duty is not chargeable in respect of the transfer, the duty-type category for the transfer;
- (i) in the case of an error transaction to reverse an earlier transfer that was made mistakenly, the transfer identifier of that earlier transfer.

SCHEDULE 9—AMENDMENT OF STAMPED DUTIES ACT 1920—
TRANSFER OF MARKETABLE SECURITIES—*continued*

(4) An SCH participant may, in any record made in accordance with this section, incorporate additional information for the participant's own use.

(5) The record must be kept in an accessible form for a period of not less than 5 years from the date of the transfer.

(6) An SCH participant who fails to make or keep a record as required by this section is guilty of an offence.

Penalty: 20 penalty units.

Particulars to be included by relevant SCH participant in transfer document

94G. The relevant SCH participant must include in the transfer document for an SCH-regulated transfer to which this Division applies the particulars required by the Chief Commissioner under the conditions of registration of SCH.

Penalty: 20 penalty units.

Relevant SCH participant's identification code equivalent to stamping

94H. When the relevant SCH participant includes the participant's identification code in the transfer document for an SCH-regulated transfer to which this Division applies, the transfer document is taken to be duly stamped but without affecting the participant's liability to pay any duty payable under section 94I.

Returns to be lodged and duty paid

94I. (1) The relevant SCH participant must, not more than 7 days after the end of a month in which the participant has been party to an SCH-regulated transfer to which this Division applies:

- (a) lodge with SCH a return in respect of the transfer in the form and containing the details required by the Chief Commissioner under the conditions of registration of SCH; and
- (b) if duty is payable in respect of the transfer, pay the duty to SCH.

SCHEDULE 9—AMENDMENT OF STAMP DUTIES ACT 1920—
TRANSFER OF MARKETABLE SECURITIES—*continued*

(2) Sections 127B and 127C apply in respect of a return required to be lodged with SCH and duty required to be paid to SCH in the same way as they apply in respect of a return required to be lodged with the Chief Commissioner and duty required to be paid to the Chief Commissioner,

Subdivision 2—The Securities Clearing House

Registration as the securities clearing house

94J. (1) The Chief Commissioner must, on application (in a form approved by the Chief Commissioner) by the body approved as the securities clearing house under section 779B of the Corporations Law, register the body under this Division.

(2) The registration is subject to conditions determined by the Chief Commissioner from time to time and notified to SCH by writing.

(3) The registration continues in force:

- (a) until cancelled on the application of the body registered; and
- (b) subject to an order of suspension made by the Chief Commissioner for a specified period for contravention of this Division or a condition of the registration.

Monthly return

94K. (1) SCH must, on or before the fifteenth day of each month:

- (a) lodge with the Chief Commissioner a return in the form and containing the particulars required by the Chief Commissioner under the conditions of registration of SCH; and
- (b) pay to the Chief Commissioner any duty paid to SCH under this Act in respect of an SCH-regulated transfer made in the preceding month.

(2) SCH is liable to pay a penalty to the Chief Commissioner of 10% per annum on the amount of any duty payable under this section that remains unpaid.

SCHEDULE 9—AMENDMENT OF STAMP DUTIES ACT 1920—
TRANSFER OF MARKETABLE SECURITIES—*continued*

Returns to be kept by SCH

94L. SCH must keep a return lodged with it by an SCH participant under this Division in an accessible form for a period of not less than 5 years from the date on which it was lodged.

Disclosure to SCH of information

94M. Nothing in this Act prevents the disclosure to SCH of information acquired in, or in connection with, the administration of this Division.

(21) Section 97 (**Transfer of shares liable to duty not to be registered unless duly stamped**):

After section 97 (5), insert:

- (6) This section does not prevent the registration of
 - (a) an SCH-regulated transfer (within the meaning of section 94B) if the transfer document (within the meaning of that section) is taken by section 94H to be duly stamped; or
 - (b) a transfer referred to in section 97AC (1A) that is deemed by section 97AC (3) to be duly stamped.

(22) Section 97AC (**Endorsement as to payment of duty**):

(a) After section 97AC (1), insert:

(1A) A New South Wales dealer who is an SCH participant may, if the sale, purchase or transfer referred to in subsection (1) is an SCH-regulated transfer, instead of endorsing the transfer as required by that subsection, include the dealer's identification code in the transfer document in accordance with section 94G.

- (b) In section 97AC (2), after "transfer", insert ", or includes the dealer's identification code in the transfer document,".
- (c) In section 97AC (3), after "purchase", insert ", or the transfer document on having the dealer's identification code included in it in accordance with the SCH business rules,".
- (d) In section 97AC (4), after "transfer" where firstly occurring, insert "or transfer document".

SCHEDULE 9—AMENDMENT OF STAMP DUTIES ACT 1920—
TRANSFER OF MARKETABLE SECURITIES—*continued*

(e) In section 97AC (4), after “endorsed”, insert “, or the dealer’s identification code is included in the transfer document,”.

(f) After section 97AC (4), insert:

(5) Expressions used in this section that are defined in section 94B have the same meanings as in that section.

Explanatory note—items (19)–(22)

Items (19)–(22) provide for the payment of stamp duty on the transfer of marketable securities that are listed on the Australian Stock Exchange where the transfer takes place electronically via the Clearing House Electronic Subregister System (CHESS), which is a securities clearing house controlled by the ASX Settlement and Transfer Corporation Pty. Limited, a wholly owned subsidiary of the Australian Stock Exchange Limited.

Commonwealth legislation was put in place to authorise CHESS with the enactment of Part 5—Implementing the Clearing House Subregister System—of the Corporate Law Reform Act 1992 which amended the Corporations Law by, among other things, inserting a new Part 7.2A—The Securities Clearing House. The provisions in items (19)–(22) adopt much of the terminology of the Corporations Law.

Item (19) removes the requirement of Division 3A of Part 3 that would otherwise necessitate the lodging of a written statement with the Chief Commissioner in respect of the electronically effected CHESS transaction.

Item (20) inserts a new Division 26A—SCH-regulated transfers—into Part 3. (SCH is the acronym for Securities Clearing House.) Subdivision 1—Duty on certain SCH-regulated transfers—of the new Division contains the following provisions:

Proposed section 94B contains definitions for the purposes of the new Division. Many of the definitions have the same meanings as in the Corporations Law.

Proposed section 94C provides for the application of the new Division. Principally, it applies to an SCH-regulated transfer of a marketable security which is effected in accordance with the SCH business rules and which results in a change in the beneficial ownership of the marketable security.

Proposed section 94D imposes duty on SCH-regulated transfers at the rate of 60 cents per \$100, or part, of the transfer value of the marketable security.

Proposed section 94E specifies the SCH participant who is liable to pay the duty.

Proposed section 94F requires SCH participants to keep records of the making of SCH-regulated transfers of marketable securities.

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**SCHEDULE 9—AMENDMENT OF STAMP DUTIES ACT 1920—
TRANSFER OF MARKETABLE SECURITIES—*continued***

Proposed section 94G makes it an offence for an SCH participant to fail to include particulars required by the Chief Commissioner in the document that is taken under the SCH business rules to effect the transfer of the marketable security (the transfer document).

Proposed section 94H provides that a transfer document is taken to be duly stamped if the SCH participant includes the participant's identification code in it.

Proposed section 94I requires SCH participants to lodge monthly returns with SCH of SCH-regulated transfers and to pay the requisite duty in respect of those transfers to SCH.

Subdivision 2—The Securities Clearing House—of the new Division contains the following provisions:

Proposed section 94J provides for the registration by the Chief Commissioner of the body approved as the securities clearing house under section 779B of the Corporations Law.

Proposed section 94K requires SCH to lodge a monthly return with the Chief Commissioner and to pay to the Chief Commissioner the duty paid to it in respect of SCH-regulated transfers made in the month to which the return relates.

Proposed section 94E requires SCH to keep returns lodged with it by SCH participants for not less than 5 years.

Proposed Section 94M authorises the disclosure to SCH of information acquired in relation to the administration of the new Division.

Item (22) enables a NSW broker, or a broker's agent, who is an SCH participant to include the participant's identification code in a transfer document effected through CHESS instead of endorsing the transfer as would otherwise be required by the section.

**SCHEDULE 10—AMENDMENT OF STAMP DUTIES ACT
1920—EXEMPTIONS FROM AND REDUCTIONS IN DUTY**

(Sec. 11)

Conveyance between married couple

(1) Section 66E (**Conveyance between married couple**):

Omit section 66E (2) (a) (iii), insert instead:

- (iii) tenants in common in shares, other than equal shares, and the resulting share of the person to whom the property is conveyed is less than a half share; or

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SCHEDULE 10—AMENDMENT OF STAMP DUTIES ACT 1920—
EXEMPTIONS FROM AND REDUCTIONS IN DUTY—*continued*

- (iv) tenants in common in shares, other than equal shares, and, if the resulting share of the person to whom the property is conveyed is more than a half share, the shares are proportionate to the contributions of the parties towards the purchase and improvement of the property or are in such proportions (if any) as may be prescribed and have been created in circumstances (if any) as may be prescribed;

Explanatory note—item (1)

Under the Act, conveyances of shares in homes between married couples are exempt if they result in both persons having an equal share or shares which reflect their contributions to the acquisition and improvement of the home. Item (1) exempts from duty a conveyance of a share in a home between a married couple (this includes a de facto couple) if the conveyance results in the person who is getting the property having less than a half share, whether or not this reflects contributions to the acquisition and improvement of the home. A conveyance which results in the person who is getting the property having more than a half share will not be exempt from duty unless it reflects contributions to the acquisition and improvement of the home.

Transfer to former bankrupt

- (2) Section 66G:

After section 66F, insert:

Conveyance back to bankrupt by trustee

66G. A conveyance of real property is exempt from stamp duty if it is a conveyance of property back to a former bankrupt by the trustee of the estate of the former bankrupt.

Explanatory note—item (2)

At present, transmission of the real property of a bankrupt to the trustee in bankruptcy of the bankrupt is exempt from stamp duty under the Act. Transfers back to the bankrupt by the trustee are generally exempted by Act of Grace. Item (2) inserts proposed section 66G which exempts from stamp duty such transfers back to the former bankrupt.

SCHEDULE 10—AMENDMENT OF STAMP DUTIES ACT 1920—
EXEMPTIONS FROM AND REDUCTIONS IN DUTY—*continued*

Transfers to beneficial owners

(3) Section 73 (**Certain conveyances not chargeable with ad valorem duty**):

After section 73 (2AE), insert:

(2AF) A conveyance of a marketable security or a unit in a unit trust scheme or of a right to acquire a marketable security or a unit in a unit trust scheme is not to be charged with ad valorem duty as a conveyance but is to be charged with duty of \$10, if the Chief Commissioner is satisfied that the conveyance:

- (a) conveys the same property previously conveyed in a conveyance not subject to duty because of subsection (2AE); and
- (b) conveys the property to the person who has the beneficial interest in the property conveyed and who had the beneficial interest at the time of that previous conveyance.

Explanatory note—item (3)

Item (3) provides for a transfer of a marketable security by a trustee or manager of the security back to a person having a beneficial interest in the security to be subject only to a duty of \$10. By virtue of section 73 (2AE) of the Act, a transfer of such an interest by the person having the beneficial interest to a trustee or manager is subject only to duty of \$2.

Interstate hiring arrangements

(4) Section 74E (**Instrument to be made out**):

Omit section 74E (3C), insert instead:

(3C) In a case in which an amount of stamp duty (or duty of a like nature) is paid or payable on a hiring arrangement under a law of another State or Territory, the amount of duty chargeable under this Act is reduced by the lesser of:

- (a) the amount of the duty paid or payable under the other law; or
- (b) the amount of duty otherwise payable under this Act.

SCHEDULE 10—AMENDMENT OF STAMP DUTIES ACT 1920—
EXEMPTIONS FROM AND REDUCTIONS IN DUTY—*continued*

(5) Section 74F (**Payment of duty on hiring arrangements by return**):

Omit section 74F (7C), insert instead:

(7C) In a case in which an amount of stamp duty (or duty of a like nature) is paid or payable on a hiring arrangement under a law of another State or Territory, the amount of duty chargeable under this Act is reduced by the lesser of:

- (a) the amount of the duty paid or payable under the other law; or
- (b) the amount of duty otherwise payable under this Act.

Explanatory note—items (4) and (5)

Hiring arrangements are subject to duty under the Act but the Act provides for duty to be offset against duty paid in other jurisdictions in respect of a hiring arrangement if the owner or hirer under such an agreement resides outside New South Wales. Items (4) and (5) extend the current provisions to provide for duty chargeable on a hiring arrangement to be reduced by the amount of any duty paid in another jurisdiction or, if that amount is greater than the duty paid in New South Wales, the amount of New South Wales duty.

Additional advances to primary producers who have obtained the exemption for refinancing

(6) Section 84 (**Limited and unlimited loan securities**):

After section 84 (3A), insert:

(3AA) For the purposes of subsection (3A), an advance in relation to which duty is not chargeable because of section 84CAA is to be treated as if duty, as duty on a loan security, has previously been paid on the amount of the advance.

Explanatory note—item (6)

Currently, primary producers who refinance loans have an exemption from stamp duty under section 84CAA of the Act but are liable for duty on additional advances after the refinancing occurs. Under section 84 (3A) of the Act, duty need not be paid on an additional advance secured by a loan security if the additional advance does not result in the amount advanced being more than the amount on which duty has already been paid in respect of the loan security. Item (6) amends section 84 to give the refinanced loan security the benefit of the duty that would have been payable under the original loan security.

SCHEDULE 10—AMENDMENT OF STAMP DUTIES ACT 1920—
EXEMPTIONS FROM AND REDUCTIONS IN DUTY—*continued*

Exemption from duty for certain home loan refinancing transactions

(7) Section 84 (**Limited and unlimited loan securities**):

After section 84 (3B), insert:

(3BA) For the purposes of subsection (3A), an advance in relation to which duty is not chargeable because of section 84CAC is to be treated as if duty, as duty on a loan security, has previously been paid on the amount of the advance.

(8) Section 84CAB (**Transfer of loan securities**):

In section 84CAB (4), after “section 84CAA”, insert “or 84CAC”.

(9) Section 84CAC:

After section 84CAB, insert:

Exemption for certain home loan transactions:

84CAC. (1) **Exemption.** An advance under a loan security relating to the refinancing or transfer of a loan security over a person’s home is not liable to duty, to the extent that it relates to the refinancing or transfer, if the transaction satisfies all of the criteria in this section,

(2) **Kind of transaction.** The advance must:

- (a) be under a loan security that secures the balance outstanding under an earlier loan security over the person’s home or must be made under or in connection with the transfer of a loan security over the person’s home; and
- (b) be made on or after 1 January 1993 and before 1 July 1994; and
- (c) be in respect of an amount of not more than \$120,000.

(3) **Parties.** All the parties need not be the same as the original parties to the loan security over the person’s home.

(4) **Who is eligible?** The advance must be made to a natural person or persons whose taxable income, or combined taxable income, is not more than \$40,000 and the loan security concerned must be over the person’s or persons’ principal place of residence.

SCHEDULE 10—AMENDMENT OF STAMP DUTIES ACT 1920—
EXEMPTIONS FROM AND REDUCTIONS IN DUTY—*continued*

Explanatory note--items (7)–(9)

Item (9) inserts new section 84CAC which provides for an exemption from duty for persons refinancing a home loan in the period from 1 January 1993 to 1 July 1994. The exemption extends to collateral securities but is restricted to advances of \$120,000 or less and to persons having a taxable income, or combined taxable income, of less than \$40,000. Item (7) amends section 84 to enable an additional advance secured by any such loan security to obtain the benefit of section 84 (3A) (see explanation above). Item (8) makes a consequential amendment.

Exemption from duty—sales and purchases on behalf of warrant-issuers

(10) Section 97A (**Definitions and application of Subdivision 3**):

In section 97A (1), insert in alphabetical order:

“Warrant” means a contract that is an option contract within the meaning of section 9 of the Corporations Law and that is admitted to trading status on the stock market of the Australian Stock Exchange Limited in accordance with section 8 of the Business Rules of the Australian Stock Exchange Limited.

“Warrant-issuer” means a person who is a warrant-issuer under the Business Rules of the Australian Stock Exchange Limited.

(11) Sections **97ADG–97ADI**:

After section 97ADF, insert:

Exemption from duty—sales and purchases on behalf of warrant-issuers as market makers

97ADG. No stamp duty is payable in accordance with the provisions of section 97AB (1) in respect of any sale or purchase of marketable securities or rights in respect of marketable securities if the sale or purchase:

- (a) was made on behalf of a warrant-issuer in his or her capacity as a warrant-issuer and as principal; and
- (b) was made for hedging purposes.

SCHEDULE, 10—AMENDMENT OF STAMP DUTIES ACT 1920—
EXEMPTIONS FROM AND REDUCTIONS IN DUTY—*continued*

Sales and purchases to be recorded by warrant-issuers

97ADH. (1) A warrant-issuer must, forthwith on a sale or purchase of marketable securities, or rights in respect of marketable securities, in respect of which no stamp duty is payable under section 97ADG being made by a dealer on behalf of the warrant-issuer in his or her capacity as a warrant-issuer, make a record of the sale or purchase showing:

- (a) the date of the sale or purchase; and
- (b) the name of the dealer by whom the sale or purchase was effected; and
- (c) the quantity and full description of the marketable securities or rights sold or purchased; and
- (d) the purchase or selling price of each marketable security or right and in total; and
- (e) in the case of the sale of marketable securities or rights, the date on which the marketable securities or rights were purchased.

(2) A warrant-issuer keeping the record may incorporate in it additional information for his or her own use.

(3) The record must be kept in a permanent form and must be retained by the warrant-issuer by whom it is made for a period of at least 5 years from the date of the sale or purchase or at least 3 years from the last day on which the warrant may be exercised, whichever period ends last.

(4) The record required to be kept under this section by a warrant-issuer must be kept separately from any record required to be kept by the warrant-issuer in any capacity other than as a warrant-issuer.

(5) The Chief Commissioner may require a warrant-issuer to keep such additional records, as the Chief Commissioner considers necessary, of sales or purchases.

(6) A warrant-issuer who, in contravention of the provisions of this section, fails to make or keep and retain any such record or additional records is liable to a fine for each such offence not exceeding 5 penalty units.

SCHEDULE 10—AMENDMENT OF STAMP DUTIES ACT 1920—
EXEMPTIONS FROM AND REDUCTIONS IN DUTY—*continued*

Returns to be lodged and duty paid

97ADI. (1) A warrant-issuer must, not later than 7 days after the end of each month:

- (a) lodge with the Chief Commissioner a return, in a form approved by the Chief Commissioner, of sales and purchases details of which have been recorded in accordance with section 97ADH being:
 - (i) in the case of a sale of marketable securities or rights in respect of marketable securities, those sales during the month which have occurred more than 30 days after the last day on which the relevant warrant could be exercised; and
 - (ii) in the case of a purchase of marketable securities or rights in respect of marketable securities, those marketable securities or rights which, during the month, have been held for more than 30 days after the last day on which the relevant warrant could be exercised; and
- (b) pay to the Chief Commissioner, as stamp duty in respect of the sales and purchases included in the return, an amount calculated on the consideration for each such sale and each such purchase for which duty has not previously been paid:
 - (i) if the consideration is less than \$100, at the rate of 7 cents for every \$25 and also for any remaining fractional part of \$25; and
 - (ii) if the consideration is \$100 or more, at the rate of 30 cents for every \$100 and also for any remaining fractional part of \$100,

of the sale price or the purchase price, as the case may be.

(2) A warrant-issuer is not required to lodge a return if a “NIL” return would otherwise be lodged.

(3) A person who contravenes this section is liable to a fine not exceeding 5 penalty units.

**SCHEDULE 10—AMENDMENT OF STAMP DUTIES ACT 1920—
EXEMPTIONS FROM AND REDUCTIONS IN DUTY—*continued***

Explanatory note—items (10) and (11)

Item (11) inserts provisions that create an exemption from stamp duty for the sale and purchase of marketable securities and rights on behalf of warrant-issuers for hedging purposes. A warrant-issuer issues warrants, which are option contracts for the sale of shares. This exemption is consistent with exemptions given to options and futures traders in the preceding sections of the Act.

Item (10) inserts definitions of “warrant” and “warrant-issuer” for the purposes of these provisions.

Loan securities

(12) Second Schedule—Stamp Duties and Exemptions:

- (a) In paragraph (b) of the exemptions under the heading “LOAN SECURITY”, after “clause 11” , insert “or 28”.
- (b) After paragraph (b) of the exemptions under the heading “LOAN SECURITY” , insert:
 - (b1) A loan security in support of any such eligible mortgage.

Explanatory note—item (12)

Item (12) updates the exemptions for loan securities and mortgages relating to the first home purchase scheme. Loan securities in support of eligible mortgages under the scheme are to be added to the Schedule 2 exemptions, instead of being dealt with only in Schedule 2A. Item (15) makes a consequential amendment.

Exemptions from duty—assignment of tax losses

(13) Second Schedule—General Exemptions from Stamp Duty under Part a

After paragraph (32), insert:

- (33) Any instrument executed solely for the purpose of complying with section 80G (6) (c) and (6A), 160ZP (7) (c) or (7AA) or 160AFE (1D) (c) or (1DA) of the Income Tax Assessment Act 1936 of the Commonwealth.

Explanatory note—item (13)

Item (13) exempts from stamp duty agreements executed solely for the purposes of the provisions of the Income Tax Assessment Act 1936 of the Commonwealth which permit the transfer of tax losses, capital losses and tax credits between corporations within a corporate group.

SCHEDULE 10—AMENDMENT OF STAMP DUTIES ACT 1920—
EXEMPTIONS FROM AND REDUCTIONS IN DUTY—*continued*

Exemptions from duty—leases to Home Care Service

- (14) Second Schedule—General Exemptions from Stamp Duty under Part 3:

After paragraph (44), insert:

(45) Any lease of premises to the Home Care Service of New South Wales.

Explanatory note--item (14)

Item (14) exempts from stamp duty leases of premises to the Home Care Service of New South Wales. Currently the Service is required to apply for an exemption for each lease under paragraph (24) of the Second Schedule.

First Home Purchase Scheme

- (15) Schedule 2A (**First Home Purchase Scheme**):

(a) Omit clause 19 (2) and (3), insert instead:

(2) A couple may apply under the scheme as long as one of them has not owned real property, or a company title dwelling, in Australia either solely or with someone else.

(b) At the end of clause 21, insert:

(3) A person is not eligible if the person owns or has owned real property, or a company title dwelling, in Australia either solely or with someone else. However, this does not apply to a person who is one of an eligible couple under clause 19 (2).

(c) Omit clause 25 (5).

Explanatory note—item (15)

Currently the scheme under which first home buyers may apply to pay a reduced rate of duty or to pay duty by instalments over 5 years applies to a person who is buying his or her first home, even though that person owns or has previously owned an investment property. Item (15) amends the scheme (contained in Schedule 2A) to prohibit any such person from being eligible under the scheme if the person owns or has owned property in Australia. However, if the person is one of a couple where the other person has never owned property then the couple will be eligible under the scheme.

SCHEDULE 11—AMENDMENT OF STAMP DUTIES ACT
1920—MISCELLANEOUS

(Sec. 11)

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

From section 3 (1), omit the definitions of “Assistant Commissioner” and “Deputy Commissioner”.

(2) Section 8 (**Chief Commissioner and other officers**):

(a) From section 8 (2), omit “Secretary of the Department of Finance”, insert instead “Secretary of the Treasury”.

(b) From section 8 (2B), omit “Deputy Secretary of the Department of Finance”, insert instead “Executive Director, Office of State Revenue”.

(c) From section 8 (3), omit “Public Service Act 1979”, insert instead “Public Sector Management Act 1988”.

(d) Omit section 8 (4) and (5), insert instead:

(4) Such other staff, including one or more inspectors, as may be necessary for the administration of this Act may be appointed under Part 2 of the Public Sector Management Act 1988.

(5) A person may, while holding office as Commissioner, also hold office as Commissioner under any other enactment administered by the Minister.

(3) Section 8A (**Certain powers etc. of Assistant Commissioner**):

Omit the section.

Explanatory note—items (1)–(3)

Items (1)–(3) remove provisions relating to the positions of Assistant Commissioner and Deputy Commissioner, which no longer exist. References to former officers of the Department of Finance are also updated.

Company title dwellings(4) Section 3 (**Definitions**):

In the definition of “Company title dwelling” in section 3 (1), omit “owned” where firstly occurring, insert instead “on land in New South Wales owned or leased”.

SCHEDULE 11—AMENDMENT OF STAMP DUTIES ACT 1920—
MISCELLANEOUS—*continued*

(5) Section 44 (**Transactions to which this Division applies**):

After section 44 (1A), insert:

(1B) This Division applies to a transaction which, on or after the date of assent to the State Revenue Legislation (Amendment) Act 1994, involves the redemption and issue to another person of shares which confer an exclusive right to occupation of a company title dwelling, whether or not the company is a NSW Company or has a register of members in New South Wales.

(6) Section 44A (**Payment of duty on statements in absence of dutiable instruments**):

(a) After section 44A (1A), insert:

(1B) A person, being a party to a transaction to which this Division applies by virtue of section 44 (1B), must lodge with the Chief Commissioner a statement in respect of the transaction.

(b) In section 44A (3), after “ownership”, insert “ or, in the case of a statement for the purposes of subsection (1B), after the date of issue of the shares concerned,”.

(c) In section 44A (5), after “statement”, insert “(not being a statement for the purposes of subsection (1B))”.

(d) After section 44A (5), insert:

(5A) A statement for the purposes of subsection (1B) is taken to be an instrument effecting the transaction to which it relates and is chargeable with ad valorem duty as set out in the Second Schedule under the heading “Conveyances of Any Property”.

(e) In section 44A (6), after “occurs”, insert “or, in the case of a statement for the purposes of subsection (1B), on the date of issue of the shares concerned”.

(f) In section 44A (7) (a), after “occurs”, insert “or, in the case of a statement for the purposes of subsection (1B), on the date of issue of the shares concerned”.

SCHEDULE 11—AMENDMENT OF STAMP DUTIES ACT 1920—
MISCELLANEOUS—*continued*

(7) Section 44F:

After section 44E, insert:

Ascertainment of value of property

44F. Section 68 (Ascertainment of the value of property conveyed) applies to and in respect of a statement under section 44A (1B) in the same way as it applies to and in respect of a conveyance chargeable with ad valorem duty under this Act.

(8) Second Schedule—Stamp Duties and Exemptions:

In paragraph (3B), under the heading “CONVEYANCES OF ANY PROPERTY”, after “transfer of shares”, insert “, or the redemption and issue of shares,”.

Explanatory note—items (4)–(8)

Item (4) amends the definition of “Company title dwelling” to include the situation where the company leases the property as well as the situation where the company owns the property.

Currently, a transfer of shares in a company which owns a company title dwelling is subject to duty in the same way as the conveyance of the real property concerned would be. Items (5)–(8) extend this treatment to the redemption and issue of shares in any such company.

Calculation of time

(9) Section 3A:

After section 3, insert:

Calculation of time

3A. (1) This section applies to the calculation of a period of time for the purposes of determining when the payment of duty is due, and when fines are incurred, under this Act.

(2) A month is taken to be a period commencing at the beginning of a day of one of the 12 named months (within the meaning of the Interpretation Act 1987) and ending:

- (a) at the end of the corresponding day of the next named month; or
- (b) if there is no such corresponding day, at the end of the next named month.

SCHEDULE 11—AMENDMENT OF STAMP DUTIES ACT 1920—
MISCELLANEOUS—*continued*

(3) A period of 2 or more months is taken to be a period commencing at the beginning of a day of one of the 12 named months (within the meaning of the Interpretation Act 1987) and ending:

- (a) at the end of the corresponding day of the last named month within the period; or
- (b) if there is no such corresponding day, at the end of that named month.

(4) Section 36 (except subsection (1)) of the Interpretation Act 1987 applies to the calculation of a period of time to which this section applies.

Explanatory note—item (9)

Item (9) sets out the method for calculating a period of time for the purposes of determining when duty becomes payable or a fine is incurred under the Act.

Public unit trust scheme

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

- (a) From paragraph (a) (i) of the definition of “Public unit trust scheme” in section 3 (1), omit “Sydney Stock Exchange”, insert instead “Australian Stock Exchange”.
- (b) From paragraph (b) (i) of the definition of “Public unit trust scheme” in section 3 (1), omit “Division 6 of Part IV of the Companies (New South Wales) Code or the corresponding provisions of a law in force in another State or a Territory”, insert instead “Division 5 of Part 7.12 of the Corporations Law or a corresponding law”.

Explanatory note—item(10)

Item (10) updates references to the Stock Exchange and to the superseded Companies Code contained in the definition of “Public unit trust scheme” in the Act.

Removal of obsolete words

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

From section 3 (1), omit “References in this Act to gifts for the relief of poverty or the promotion of education include only gifts that have to be applied in New South Wales and that are intended to benefit the public or part of the public.”.

SCHEDULE 11—AMENDMENT OF STAMP DUTIES ACT 1920—
MISCELLANEOUS—*continued*(12) Section 75A (**Interpretation and duty on instalment purchase arrangements**):

From the definition of “credit arrangement” in section 75A (1), omit “at a rate exceeding nine per centum per annum, such rate being calculated as hereinafter provided.”.

Explanatory note—items (11) and (12)

Item (11) omits words referring to gifts that are now unnecessary because death duty and differential rates of duty on gifts have been abolished.

Item (12) omits words referring to a rate of interest calculated under provisions that have been omitted from the Act.

Bills of exchange(13) Section 9 (**Regulations**):

Omit section 9 (1A).

(14) Second Schedule—General Exemptions from Stamp Duty under Part 3:

Omit paragraphs (19) (a) and (29) (a).

Explanatory note—items (13) and (14)

Items (13) and (14) omit obsolete references to bills of exchange.

The Taxline system(15) Section 38E (**Assessment and stamping of instruments under the Taxline system**):

From section 38E (3), omit “duly”.

Explanatory note—item (15)

Item (15) amends the provisions relating to the Taxline system. The Taxline system allows approved persons to obtain an assessment of duty on an instrument by electronically transmitting information concerning the instrument to the Chief Commissioner, to pay the duty by electronic funds transfer and to stamp the instrument by fixing to it an adhesive label issued by the Chief Commissioner, and to do so without having to produce the instrument to the Chief Commissioner.

SCHEDULE 11—AMENDMENT OF STAMP DUTIES ACT 1920—
MISCELLANEOUS—*continued*

The amendment provides that an instrument to which an adhesive label is attached is stamped, rather than being “duly” stamped. Omission of the word “duly” has the consequence that duty shortpaid can be recovered and duty overpaid can be refunded.

Put and call options

(16) Section 40A (**Options**):

After section 40A (3), insert:

(4) This section does not apply to an option on which duty is paid or payable under section 40B (1).

(17) Sections 40B, 40C:

After section 40A, insert:

Put and call options to buy property

40B. (1) If both an option to purchase any property (other than stock, a marketable security or a unit in a unit trust scheme) and an option to sell the property are in force at the same time, and they involve the same purchasers and vendors, any instrument creating the options is liable to ad valorem duty as if it were a conveyance of the property. However, if more than one instrument is liable under this subsection as if it were a conveyance of the same property, only one of the instruments is to be charged with the ad valorem duty. Each of the other instruments is to be charged with duty of \$10.

(2) Any instruments assigning options to purchase and sell property referred to in subsection (1) are liable to ad valorem duty in the same way as those options. However, if more than one instrument is liable under this subsection as if it were a conveyance of the same property, only one of the instruments is to be charged with the ad valorem duty. Each of the other instruments is to be charged with duty of \$10.

(3) An agreement made in pursuance of and by the exercise of an instrument for which ad valorem duty has been paid under this section is liable to duty of \$10.

(4) Any conveyance of property in pursuance of any instrument for which ad valorem duty has been paid under this section, or in pursuance of an agreement for which duty has been paid under this section, is liable to duty of \$2.

**SCHEDULE 11—AMENDMENT OF STAMP DUTIES ACT 1920—
MISCELLANEOUS—*continued***

(5) The persons liable to pay the duty are the parties to the instrument.

Put and call options not proceeded with

40C. (1) If options to purchase and sell any property (other than stock, a marketable security or a unit in a unit trust scheme), in force at the same time, and involving the same purchasers and vendors (whether or not as assignees of previous purchasers and vendors), expire without being exercised, the options are liable to duty under section 40A instead of section 40B.

(2) The difference between any duty paid by a person under section 40B, and that payable by the person under section 40A, less \$25, must be refunded to the person or the person's executors, administrators or assigns.

(3) Application for a refund is to be made in the form approved by the Chief Commissioner not later than 12 months after the duty first becomes payable under section 40A instead of section 40B.

Explanatory note—items (16) and (17)

Proposed section 40B, as inserted by item (17), imposes duty as for a conveyance of property where an option to buy and an option to sell a property are both in force at the same time over the same property and as between the same parties (whether or not as assignees). Such a transaction has the same effect as a sale of the property and is now to be treated as such. Proposed section 40C, as inserted by item (17), provides for a refund of duty if the option is not exercised or expires.

Returns of financial institutions

(18) Section 98A (**Receipts to which this Division does not apply**):

From section 98A (da), omit "121B", insert instead "121D".

Explanatory note—item (18)

Item (18) corrects an incorrect cross reference to a provision of the Income Tax Assessment Act 1936 of the Commonwealth.

**SCHEDULE 11—AMENDMENT OF STAMP DUTIES ACT 1920—
MISCELLANEOUS—*continued***

Service of documents on Chief Commissioner

(19) Section 129CA:

After section 129C, insert:

Service of documents on Chief Commissioner

129CA. A notice, summons or other document required to be served on the Chief Commissioner in connection with court proceedings may be served:

- (a) by being lodged at the office of the Chief Commissioner with an officer authorised in writing by the Chief Commissioner to accept service of documents on the Chief Commissioner's behalf; or
- (b) if provision is made by any other law for the service of such a document, by serving the document in accordance with that law.

Explanatory note—item (19)

Item (19) inserts a provision that enables documents relating to court proceedings to be served on the Chief Commissioner by being lodged at the office of the Chief Commissioner with an officer authorised by the Chief Commissioner to accept service. The provision does not remove any other lawful method of serving such documents on the Chief Commissioner.

Access to records

(20) Section 131:

Omit the section, insert instead:

Access to and impounding of records

131. (1) An officer authorised by the Chief Commissioner must be given full and free access at all reasonable times to all records for the purpose of exercising functions under this Act or the regulations, including for the purpose of making routine inspections of records to ensure that the provisions of this Act or the regulations are being complied with.

(2) An officer authorised by the Chief Commissioner is not entitled to enter or remain on or in any building or place if,

SCHEDULE 11—AMENDMENT OF STAMP DUTIES ACT 1920—
MISCELLANEOUS—*continued*

on being requested by the occupier of the building or place for proof of authority, the officer does not produce an authority in writing signed by the Chief Commissioner stating that the officer is authorised to exercise the functions under this section.

(3) An officer authorised by the Chief Commissioner may require a person to produce for inspection any records in the custody or under the control of the person to which the officer is entitled to have access because of this section.

(4) A person must not, without reasonable excuse, refuse an officer access to, or fail to comply with a requirement under subsection (3) to produce, records to which the officer is entitled to have access because of this section.

Maximum penalty: 1 penalty unit.

(5) The officer may make extracts from or copies of my record to which the officer is entitled to have access because of this section.

(6) The officer may impound any instrument which ought to be but is not stamped or is insufficiently stamped and hand the instrument to the Chief Commissioner.

(7) The Chief Commissioner may impound any instrument which ought to be but is not stamped or is insufficiently stamped.

(8) The Chief Commissioner may retain any impounded instrument until the duty or fine or both have been paid.

Explanatory note—item (20)

Item (20) makes further provision relating to the inspection of records. The new provisions will entitle an inspector or other officer authorised by the Chief Commissioner to be given access to documents for the purposes of exercising functions under the Act, including for the purposes of making routine inspections to ensure that the Act and the regulations are being complied with. Other powers of inspectors and officers that are currently contained in the Act, such as the power to take copies of documents and to impound instruments, are included in the new provisions.

SCHEDULE 1—AMENDMENT OF STAMP DUTIES ACT 1920—
MISCELLANEOUS—*continued*

Release of certain information

(21) Section 131A (**Disclosure of information etc.**)

At the end of section 131A (5), insert:

; or

- (f) prevent the disclosure or publication of a record in accordance with section 131AA.

(22) Section 131AA:

After section 131A, insert:

Release of certain information

131AA. (1) The Archives Authority may disclose, divulge or otherwise publish a record that has been transferred to the Authority by the Chief Commissioner if the record is or forms part of a death duty file which came into existence before 1939.

(2) The Archives Authority may disclose, divulge or otherwise publish a record that has been transferred to the Authority by the Chief Commissioner if the record:

- (a) is or forms part of a death duty file which came into existence during or after 1939; and
- (b) in the case of a record that has been in existence for less than 30 years, does not show the assessment, or the basis of assessment, of any death duty for a particular estate.

Explanatory note—items (21) and (22)

Items (21) and (22) enable the Archives Authority to release, in certain circumstances, records forming part of death duty files transferred to the Authority's keeping by the Chief Commissioner.

Instruments relating to trustees

(23) Second Schedule—Stamp Duties and Exemptions:

Omit the matter appearing in the column headed “Persons primarily liable” opposite paragraph (4) (a) under the heading “CONVEYANCES OF ANY PROPERTY”, insert instead:

The parties to the instrument or any one or more of them.

SCHEDULE 11—AMENDMENT OF STAMP DUTIES ACT 1920—
MISCELLANEOUS—*continued*

Explanatory note—item (23)

Item (23) makes the parties to instruments appointing trustees and other instruments relating to trustees primarily liable for the duty payable, instead of the “transferee”.

NSW company

(24) Section 83 (**Definitions**):

- (a) From the definition of “corporation” in section 83 (1), omit “whether incorporated in New South Wales or elsewhere”, insert instead “whether or not a NSW company”.
- (b) From section 83 (S), omit “a company incorporated in New South Wales”, insert instead “a NSW company”.

(25) Section 88I (**Application of ss 88G and 88H to companies**):

Omit section 88I (1), insert instead:

(1) For the purposes of sections 88G and 88H, “**person resident in New South Wales**” and “**person**” include, in the case of a company, a NSW company and a company (not being a NSW company) that carries on business in New South Wales.

(26) Section 91 (**Duty on certain transfers of units in unit trust schemes**):

From section 91 (2), omit “a company incorporated in New South Wales”, insert instead “a NSW company”.

(27) Section 98 (**Definitions**):

From section 98 (5), omit “a corporation which is registered or required to be registered under any of the provisions of the Companies (New South Wales) Code, whether incorporated in New South Wales or not”, insert instead “a corporation within the meaning of the Corporations Law that carries on business in New South Wales, whether or not it is a NSW company”.

(28) Section 99A (**Definitions**):

From the definition of “private company” in section 99A (1), omit “incorporated in New South Wales”, insert instead “a NSW company”.

SCHEDULE 11—AMENDMENT OF STAMP DUTIES ACT 1920—
MISCELLANEOUS—*continued*

(29) Second Schedule—Stamp Duties and Exemptions:

From paragraph (3B) of the matter appearing under the heading “CONVEYANCES OF ANY PROPERTY”, omit “incorporated in New South Wales”, insert instead “a NSW company”.

Explanatory note—items (24)–(29)

The amendments in Schedule 9 (1)–(18) to this Bill change the nexus for liability to stamp duty on off market share transactions. The nexus is to be the place of incorporation of the company whose shares are transferred. The concept of place of incorporation is embodied in a new definition (inserted by Schedule 9 (1) (b) to this Bill) of “NSW company”. The concept of place of incorporation also has significance for provisions of the Stamp Duties Act 1920 other than those relating to off market share transactions. Items (24)–(29) make consequential amendments to other provisions of the Act where place of incorporation is relevant so that the definition of “NSW company” may be used consistently throughout the Act.

Savings and transitional provisions

(30) Tenth Schedule—Savings, Transitional and Other Provisions

After Part 10, insert:

**PART 11—STATE REVENUE LEGISLATION
(AMENDMENT) ACT 1994**

Application of amendments generally

37. (1) A provision of this Act as in force before the amendment of the provision by the State Revenue Legislation (Amendment) Act 1994 continues to apply to an instrument referred to in the provision which was executed, or a transaction referred to in the provision which was entered into, before the date on which the amendment commenced or is taken to have commenced, except as provided by this Part.

(2) An amendment made to this Act by the State Revenue Legislation (Amendment) Act 1994 does not apply to an instrument which was executed, or a transaction which was entered into, before the date on which the amendment commenced or is taken to have commenced, except as provided by this Part or the amendment.

**SCHEDULE 11—AMENDMENT OF STAMP DUTIES ACT 1920—
MISCELLANEOUS—*continued*****Short term dealings**

38. (1) A transaction that falls within paragraph (b) of the definition of “short term dealing”, as substituted by the State Revenue Legislation (Amendment) Act 1994, in section 98 (1) and that occurred on or after 24 September 1993 is taken to be a short term dealing to which Division 29 of Part 3 applied as from the date on which the transaction occurred.

(2) A transaction that falls within paragraph (e) of the definition of “short term dealing”, as substituted by the State Revenue Legislation (Amendment) Act 1994, in section 98 (1) and that occurred on or after 9 November 1993 is taken to be a short term dealing to which Division 29 of Part 3 applied as from the date on which the transaction occurred.

Explanatory note—item (30)

Item (30) inserts savings and transitional provisions consequential on the enactment of the proposed Act.

**SCHEDULE 12—AMENDMENT OF VARIOUS ACTS—
DISCLOSURE OF INFORMATION**

(Sec. 14)

Amendments**Business Franchise Licences (Petroleum Products) Act 1987 No. 94:****Section 62 (Disclosure of information):**

After section 62 (1), insert:

(1A) The Chief Commissioner, or any person employed in connection with the administration of this Act, the regulations or a New South Wales revenue law, is not required to disclose or produce in any court any information or record referred to in subsection (1) except:

- (a) if it is necessary to do so for the purposes of the administration or execution of this Act, the regulations or a New South Wales revenue law; or
- (b) if the requirement is made for the purposes of enabling a person referred to in subsection (2) to exercise a function conferred or imposed on the person by law.

SCHEDULE 12—AMENDMENT OF VARIOUS ACTS—
DISCLOSURE OF INFORMATION—*continued*

Business Franchise Licences (Tobacco) Act 1987 No. 93:

Section 69 (Disclosure of information):

After section 69 (1), insert:

(1A) The Chief Commissioner, or any person employed in connection with the administration of this Act, the regulations or a New South Wales revenue law, is not required to disclose or produce in any court any information or record referred to in subsection (1) except:

- (a) if it is necessary to do so for the purposes of the administration or execution of this Act, the regulations or a New South Wales revenue law; or
- (b) if the requirement is made for the purposes of enabling a person referred to in subsection (2) to exercise a function conferred or imposed on the person by law.

Debits Tax Act 1990 No. 112:

Section 41 (Disclosure of information):

After section 41 (1), insert:

(1A) The Chief Commissioner, or any person employed in connection with the administration of this Act, the regulations or a New South Wales revenue law, is not required to disclose or produce in any court any information or record referred to in subsection (1) except:

- (a) if it is necessary to do so for the purposes of the administration or execution of this Act, the regulations or a New South Wales revenue law; or
- (b) if the requirement is made for the purposes of enabling a person referred to in subsection (2) to exercise a function conferred or imposed on the person by law.

Health Insurance Levies Act 1982 No. 159:

Section 20 (Disclosure of information):

After section 20 (1), insert:

(1A) The Chief Commissioner, or any person employed in connection with the administration of this Act or a New

SCHEDULE 12—AMENDMENT OF VARIOUS ACTS—
DISCLOSURE OF INFORMATION—*continued*

South Wales revenue law, is not required to disclose or produce in any court any information or record referred to in subsection (1) except:

- (a) if it is necessary to do so for the purposes of the administration or execution of this Act or a New South Wales revenue law; or
- (b) if the requirement is made for the purposes of enabling a person referred to in subsection (2) to exercise a function conferred or imposed on the person by law.

Land Tax Management Act 1956 No. 26:

Section 6 (Disclosure of information):

After section 6 (1), insert:

(1A) The Chief Commissioner, or any person employed in connection with the administration of this Act, the regulations or a New South Wales revenue law, is not required to disclose or produce in any court any information or record referred to in subsection (1) except:

- (a) if it is necessary to do so for the purposes of the administration or execution of this Act, the regulations or a New South Wales revenue law; or
- (b) if the requirement is made for the purposes of enabling a person referred to in subsection (2) to exercise a function conferred or imposed on the person by law.

Pay-roll Tax Act 1971 No. 22:

Section 5 (Disclosure of information):

After section 5 (1), insert:

(1A) The Chief Commissioner, or any person employed in connection with the administration of this Act, the regulations or a New South Wales revenue law, is not required to disclose or produce in any court any information or record referred to in subsection (1) except:

- (a) if it is necessary to do so for the purposes of the administration or execution of this Act, the regulations or a New South Wales revenue law; or

SCHEDULE 12—AMENDMENT OF VARIOUS ACTS—
DISCLOSURE OF INFORMATION—*continued*

- (b) if the requirement is made for the purposes of enabling a person referred to in subsection (2) to exercise a function conferred or imposed on the person by law.

Revenue Laws (Reciprocal Powers) Act 1987 No. 86:

- (1) Section 12 (**Provision of information to certain Commonwealth and State officers**):

After section 12 (3), insert:

(3A) A New South Wales revenue officer is not required to disclose or produce in any court any information or record referred to in subsection (3) except if it is necessary to do so for the purposes of the administration or execution of this Act or any law referred to in subsection (3) (b).

- (2) Section 13 (**Information obtained under a corresponding law**):

After section 13 (1), insert:

(1A) Any such person is not required to disclose or produce in any court any information or record referred to in subsection (1) except if it is necessary to do so for the purposes of the administration or execution of this section or of that New South Wales revenue law.

Stamp Duties Act 1920 No. 47:

Section 131A (**Disclosure of information**):

After section 131A (1), insert:

(1A) The Chief Commissioner, or any person employed in connection with the administration of this Act, the regulations or a New South Wales revenue law, is not required to disclose or produce in any court any information or record referred to in subsection (1) except:

- (a) if it is necessary to do so for the purposes of the administration or execution of this Act, the regulations or a New South Wales revenue law; or
- (b) if the requirement is made for the purposes of enabling a person referred to in subsection (2) to exercise a function conferred or imposed on the person by law.

**SCHEDULE 12—AMENDMENT OF VARIOUS ACTS—
DISCLOSURE OF INFORMATION—*continued***

Explanatory note

The amendments provide that State revenue officers who obtain confidential information or records under the Act concerned are not required to disclose or produce the information or records in any court except when it is for the purposes of the execution or administration of the Act concerned or for the purposes of enabling certain law enforcement agencies to exercise their powers under law. In other words, a State revenue officer is not obliged, or can refuse, to produce confidential information in a court (e.g. by way of a subpoena) if the matter before the court does not concern the administration or execution of the particular revenue law or the enforcement of a law protecting the public revenue.

**SCHEDULE 13—AMENDMENT OF VALUATION OF
LAND ACT 1916**

(Sec. 15)

Statute law revision

- (1) Long title and sections 27, 58 and 58AD:
From the long title and sections 27 (3B), 58 (2) (e) (i) and 58AD (a), omit “resumption” wherever occurring, insert instead “compulsory acquisition”.
- (2) Section 4 (**Definitions**):
In section 4 (I), in alphabetical order, insert:
 “Compulsorily acquired” means compulsorily acquired in accordance with the Land Acquisition (Just Terms Compensation) Act 1991 or the Roads Act 1993.
- (3) Section 14A (**Date at which certain values to be determined**):
From section 14A (1) (b) (iv) and (7) (c), omit “or resumption” wherever occurring, insert instead “, compulsory acquisition or registration of the deposited plan”.
- (4) Section 27 (**Where lands are to be separately valued**):
From section 27 (3) and (3A), omit “resumed” wherever occurring, insert instead “compulsorily acquired”.

Explanatory note—items (1)–(4)

Items (1)–(4) of the proposed amendments update obsolete references to resumptions.

SCHEDULE 13—AMENDMENT OF VALUATION OF
LAND ACT 1916—*continued***Valuation of land in subdivisions**

(5) Section 27B:

Omit the section, insert instead:

Lots in subdivisions to be separately valued

27B. (1) The Valuer-General may make valuations, in accordance with this section, of the land in a deposited plan on registration of the plan.

(2) If:

- (a) one or more lots in a deposited plan in which all lots are owned by the same person; or
- (b) one or more lots in a deposited plan that are owned by the same person and included in one valuation (whether or not made under this section),

is or are sold or otherwise conveyed to another person or is or are compulsorily acquired, fresh valuations of the land in the plan or included in the valuation concerned must be made by the Valuer-General in accordance with this section.

(3) Subsection (2) (a) does not apply if the Valuer-General has made a valuation under subsection (1) of the land in the deposited plan concerned.

(4) Separate valuations are to be made in respect of each lot comprising the land that is the subject of the valuation.

(5) However:

- (a) the Valuer-General may, at the Valuer-General's discretion (but subject to section 26 (1)), include adjoining lots that are owned by the same person in the one valuation (which may also include other adjoining land owned by that person); and
- (b) the Valuer-General must (subject to section 28) include in one valuation lots owned by the same person if those lots are worked in one holding for agricultural or pastoral purposes.

(6) Valuations made under this section are to be entered on the valuation roll.

SCHEDULE 13—AMENDMENT OF VALUATION OF
LAND ACT 1916—*continued*

(7) Rates and taxes (other than land tax under the Land Tax Management Act 1956) levied or leviable on the land in the deposited plan for the rating and taxing years following the sale or other conveyance or compulsory acquisition (or, if the valuation was occasioned by the registration of a deposited plan, following that registration) are to be based on valuations made under this section. Those valuations are to be used until the land is included in a later valuation that may be used for rating or taxing purposes,

(8) If part only of a lot in a valuation under this section is subject to a particular rate, the value of the land is to be apportioned so as to show separately the value of that part.

Explanatory note—item (5)

Item (5) repeals and re-enacts section 27B of the Act so as to provide that, if the Valuer-General values the land in a deposited plan, it will not be necessary for fresh valuations to be made on the sale of a lot in the plan (unless the lot concerned is included in a single valuation with other lots in the plan). The proposed amendment also makes it clear that the Valuer-General's discretion under the section to include adjoining lots owned by the same person in a single valuation is subject to section 26 (which specifies certain circumstances in which lots are to be separately valued and other circumstances in which they are to be included in one valuation).

Person entitled to allowance for subdivision

(6) Section 58AB (Allowances for subdivision):

- (a) In section 58AB (1), after “under”, insert “section 19 or”.
- (b) From section 58AB (2), omit “before the sale or other conveyance or resumption which occasioned the valuation under section 27B, owned all the lots in the deposited plan”, insert instead “immediately before the registration of the plan, owned all the land comprising the lots in the plan”,
- (c) After section 58AB (4), insert:

(4A) The allowance to be made under this section is to be calculated as at the date as at which the land value of the lot concerned is determined.

SCHEDULE 13—AMENDMENT OF VALUATION OF
LAND ACT 1916—*continued***Explanatory note--item (6)**

Item (6 (a)) makes it clear that a person entitled to an allowance for subdivision is to be given that allowance on a general valuation (as well as on a valuation under section 27B).

Item (6) (b) makes it clear that the person who was the owner (other than the equitable owner) of all the land comprising the lots in a particular deposited plan at the time the plan was registered is the person entitled to any allowances available under section 58AB for that subdivision.

Item (6) (c) makes it clear that any allowance under section 58AB is to be determined as at the date at which the land value is determined.

A clarification similar to that in item (6) (b), and a provision similar to that in item (6) (c), is proposed to be inserted in the Land Tax Management Act 1956 elsewhere in this Act in relation to allowances for subdivision when land is being valued for land tax purposes.

*[Minister's second reading speech made in—
Legislative Assembly on 3 May 1994
Legislative Council on 12 May 1994]*