

**STATE REVENUE LEGISLATION (FURTHER AMENDMENT)
ACT 1994 No. 72**

NEW SOUTH WALES



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**STATE REVENUE LEGISLATION (FURTHER AMENDMENT)
ACT 1994 No. 72**

NEW SOUTH WALES



Act No. 72, 1994

An Act to amend the Pay-roll Tax Act 1971 to increase the threshold below which pay-rolls are exempt from pay-roll tax; to make miscellaneous amendments to certain State revenue Acts and other Acts; and for other purposes. [Assented to 23 November 1994]

State Revenue Legislation (Further Amendment) Act 1994 No. 72

The Legislature of New South Wales enacts:

Short title

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

Commencement

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

(2) Section 3, Schedule 1 and Schedule 4 (13) and (28) (a), in so far as it inserts paragraph (id) into section 98A of the Stamp Duties Act 1920, commence on 1 July 1995.

(3) Sections 7 and 8 Schedule 2, Part 1 of Schedule 3 and Schedule 4 (17)–(27) and (29) commence or are taken to have commenced on 1 January 1995.

(4) Part 2 of Schedule 3 commences on 1 January 1996.

(5) Part 3 of Schedule 3 commences on 1 July 1996.

(6) Schedule 4 (1) (b), (15) and (16) are taken to have commenced on 1 September 1994.

(7) Schedule 4 (3), (3), (6) and (33) are taken to have commenced on 14 September 1994.

(8) Schedule 4 (8), (9), (10) and (28) (a), in so far as it inserts paragraph (ic) into section 98A of the Stamp Duties Act 1920, are taken to have commenced on 1 January 1994.

(9) Schedule 4 (12), (14) and (32) (h), (i) and (j) are taken to have commenced on 1 July 1994.

(10) Schedule 4 (30) (c), in so far as it inserts paragraphs (g4) and (g5) into section 98U (1) of the Stamp Duties Act 1920, is taken to have commenced on 20 September 1994.

(11) Schedule 4 (32) (a)–(c) and (e) are taken to have commenced on 1 July 1993.

(12) Schedule 4 (32) (d), (f), (g) and (k) are taken to have commenced on 1 November 1989.

(13) Schedule 4 (32) (l) is taken to have commenced on 15 September 1994.

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Amendment of Debits Tax Act 1990 No. 112

3. The Debits Tax Act 1990 is amended as set out in Schedule 1.

Amendment of Land Tax Management Act 1956 No. 26

4. The Land Tax Management Act 1956 is amended as set out in Schedule 2.

Amendment of Pay-roll Tax Act 1971 No. 22

5. The Pay-roll Tax Act 1971 is amended as set out in Schedule 3.

Amendment of Stamp Duties Act 1920 No. 47

6. The Stamp Duties Act 1920 is amended as set out in Schedule 4.

Amendment of Strata Titles Act 1973 No. 68

7. The Strata Titles Act 1973 is amended by omitting section 95.

Amendment of Strata Titles (Leasehold) Act 1986 No. 219

8. The Strata Titles (Leasehold) Act 1986 is amended by omitting section 127.

SCHEDULE 1—AMENDMENT OF DEBITS TAX ACT 1990

(Sec. 3)

Section 3 (Definitions):

After paragraph (d) of the definition of “excluded debit” in section 3 (1), insert:

- (dl) made to an account kept with a financial institution by a company to which section 84EBA of the Stamp Duties Act 1920 applies; or

SCHEDULE 2—AMENDMENT OF LAND TAX
MANAGEMENT ACT 1956

(Sec. 4)

(1) Section 9AA:

After section 9A, insert:

Strata

9AA. (1) Land tax, in the case of land subject to the Strata Titles Act 1973 or the Strata Titles (Leasehold) Act 1986, is to be levied and paid in respect of each lot comprised in a parcel.

(2) For the purposes of this Act, the land value of a lot comprised in a parcel is an amount that bears to the land value (within the meaning of section 7 (2)) of the parcel the same proportion as the unit entitlement of the lot bears to the aggregate unit entitlement.

(3) Expressions used in this section have the same meanings as in the Strata Titles Act 1973 and the Strata Titles (Leasehold) Act 1986.

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

After section 10 (1) (p), insert:

(p1) land that, in accordance with an approval of the Director-General of National Parks and Wildlife, is primarily used for the maintenance of endangered species native to Australia to assist their preservation;

(3) Section 10Q:

Omit the section, insert instead:

Low cost accommodation—exemption/reduction

10Q.(1) Land is exempted from taxation under this Act leviable or payable in respect of the year commencing on 1 January 1995 or any succeeding year if:

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

SCHEDULE 2—AMENDMENT OF LAND TAX MANAGEMENT
ACT 1956—*continued*

(2) The guidelines may include provisions with respect to the following:

- (a) the circumstances in which accommodation is taken to be low cost accommodation;
- (b) the types and location of premises in which low cost accommodation may be provided;
- (c) the number and types of persons for whom the accommodation must be provided;
- (d) the circumstances in which, and the arrangements under which, the accommodation is provided;
- (e) maximum tariffs for the accommodation;
- (f) periods within which tariffs may not be increased;
- (g) the circumstances in which the applicant is required to give an undertaking to pass on the benefit of the exemption from taxation (or, if subsection (4) applies, the reduction in taxation) to the persons for whom the accommodation is provided in the form of lower tariffs.

(3) A guideline may:

- (a) apply generally or be limited in its application by reference to specified exceptions or factors; or
- (b) apply differently according to different factors of a specified kind,

or both.

(4) If the Chief Commissioner is satisfied that part only of land or premises is used and occupied primarily for low cost accommodation in accordance with the Treasurer's guidelines, the land value of the land is to be reduced for the purposes of land tax in accordance with the principles in section 10R (3)–(3C).

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

- (a) the owner applies to the Chief Commissioner for the exemption or reduction, in the form approved by the Chief Commissioner; and

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SCHEDULE 2—AMENDMENT OF LAND TAX MANAGEMENT
ACT 1956—*continued*

(b) the owner furnishes the Chief Commissioner with such evidence as the Chief Commissioner may request for the purpose of enabling the Chief Commissioner to determine whether there is an entitlement to the exemption or reduction.

(6) Without limiting the other ways in which this section may cease to apply to a person, it ceases to apply to a person if the person breaches an undertaking given as referred to in subsection (2) (g).

(4) Section 21A (**Company title units deemed to be strata lots**):

From section 21A (3), omit “section 95 (Land tax) of the Strata Titles Act 1973”, insert instead “section 9AA”.

(5) Section 21B (**Joint owners of block of flats etc, to be regarded as owners of strata lots**):

From section 21B (3), omit “section 95 (Land tax) of the Strata Titles Act 1973”, insert instead “section 9AA”.

SCHEDULE 3—AMENDMENT OF PAY-ROLL TAX ACT 1971
(Sec. 5)**PART 1****(1) Section 7 (Imposition of pay-roll tax on taxable wages):**

(a) Omit section 7 (a)–(g), insert instead:

(a) ascertained in accordance with Schedule 1 in respect of such of those wages as are paid or payable after the month of June 1994 and before the month of July 1995; and

(b) ascertained in accordance with Schedule 2 in respect of such of those wages as are paid or payable after the month of July 1995.

(b) At the end of section 7, insert:

(2) If taxable wages are paid after a month in which they became payable, pay-roll tax is to be charged in respect of those wages at the rate applicable to the month in which they became payable.

(2) Section 11B (Annual adjustments):

From section 11B (1), omit the definition of “annual amount of pay-roll tax”, insert instead:

“**annual amount of pay-roll tax**”, in relation to an employer, means:

(a) the amount ascertained in accordance with section 17 and Schedule 1 in respect of the employer for the financial year commencing on 1 July 1994; and

(b) the amount ascertained in accordance with section 17 and Schedule 2 in respect of the employer for the financial year commencing on 1 July 1995 or any subsequent financial year.

(3) Section 11C (Adjustment of pay-roll tax when employer ceases to be an employer etc. during a financial year):

From section 11C (1), omit the definition of “total amount of pay-roll tax”, insert instead:

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SCHEDULE 3—AMENDMENT OF PAY-ROLL TAX ACT 1971—
continued

“total amount of pay-roll tax”, in relation to an employer, means:

- (a) the amount ascertained in accordance with section 17 and Schedule 1 in respect of the employer for a prescribed period that falls within the financial year commencing on 1 July 1994; and
- (b) the amount ascertained in accordance with section 17 and Schedule 2 in respect of the employer for a prescribed period that falls within the financial year commencing on 1 July 1995 or any subsequent financial year;

(4) Section 12 (**Registration**):

From section 12 (1), omit “\$9,615”, wherever occurring, insert instead “\$10,576”.

(5) Section 16I (**Designated group employers**):

From section 16I (2) (a) and (3) (a), omit “\$500,000”, wherever occurring, insert instead “\$525,000”.

(6) Section 16K (**Annual adjustments**):

Omit section 16K (2) (a)–(d), insert instead:

- (a) the amount ascertained in accordance with section 17 and Schedule 1 in respect of that member for the financial year commencing on 1 July 1994; or
- (b) the amount ascertained in accordance with section 17 and Schedule 2 in respect of that member for the financial year commencing on 1 July 1995 or any subsequent financial year.

(7) Section 16L (**Adjustment of pay-roll tax when members of a group cease to pay taxable wages or interstate wages during a financial year**):

Omit section 16L (3) (a)–(d), insert instead:

- (a) the amount ascertained in accordance with section 17 and Schedule 1 in respect of that member for a prescribed period that falls within the financial year commencing on 1 July 1994; or

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SCHEDULE 3—AMENDMENT OF PAY-ROLL TAX ACT 1971—
continued

- (b) the amount ascertained in accordance with section 17 and Schedule 2 in respect of that member for a prescribed period that falls within the financial year commencing on 1 July 1995 or any subsequent financial year.

(8) Schedules 1 and 2:

Omit Schedules 2–5, insert instead:

**SCHEDULE 1—CALCULATION OF PAY-ROLL TAX
LIABILITY FOR THE FINANCIAL YEAR COMMENCING
ON 1 JULY 1994**

(Secs. 7, 11B, 11C, 16K, 16L)

**PART 1—EMPLOYERS WHO ARE NOT MEMBERS
OF A GROUP**

Application of Part

1. This Part applies only to an employer who is not a member of a group.

Definitions

2. In this Part:

“**financial year**” means the financial year commencing on 1 July 1994;

“**IW**” represents the total interstate wages paid or payable by the employer concerned during the financial year;

“**TW**” represents the total taxable wages paid or payable by the employer concerned during the financial year.

Pay-roll of employer under \$525,000

3. An employer is not liable to pay pay-roll tax for the financial year if the total taxable wages and interstate wages paid or payable by the employer during that year is less than \$525,000.

Pay-roll of employer \$525,000 or more

4. If the total taxable wages and interstate wages paid or payable by an employer during the financial year is \$525,000 or more, the employer is liable to pay as pay-roll tax for that year the amount of dollars calculated in accordance with the following formula:

$$\left[TW - \left\{ \frac{TW}{TW + IW} \times 525,000 \right\} \right] \times \frac{7}{100}$$

SCHEDULE 3—AMENDMENT OF PAY-ROLL TAX ACT 1971—
continued

**PART 2—GROUPS WITH A DESIGNATED GROUP
EMPLOYER**

Application of Part

5. This Part applies only to an employer who is a member of a group for which there is a designated group employer.

Definitions

6. In this Part:

“**designated group employer**” means a member designated as the designated group employer for a group in accordance with section 161;

“**financial year**” means the financial year commencing on 1 July 1994;

“**group**” means a group for which there is a designated group employer;

“**GIW**” represents the total interstate wages paid or payable by the group concerned during the financial year;

“**GTW**” represents the total taxable wages paid or payable by the group concerned during the financial year;

“**TW**” represents the total taxable wages paid or payable by the employer concerned during the financial year.

Pay-roll of group under \$525,000

7. None of the members of a group is liable to pay pay-roll tax for the financial year if the total taxable wages and interstate wages paid or payable by the group during that year is less than \$525,000.

Pay-roll of group \$525,000 or more

8. (1) If the total taxable wages and interstate wages paid or payable by a group during the financial year is \$525,000 or more, pay-roll tax is payable as provided by subclauses (2) and (3).

(2) The designated group employer for the group is liable to pay as pay-roll tax for the financial year the amount of dollars calculated in accordance with the following formula:

$$\left[\text{TW} - \left\{ \frac{\text{GTW}}{\text{GTW} + \text{GIW}} \times 525,000 \right\} \right] \times \frac{7}{100}$$

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SCHEDULE 3—AMENDMENT OF PAY-ROLL TAX ACT 1971—
continued

(3) Each member of the group (other than that designated group employer) is liable to pay as pay-roll tax for the financial year the amount of dollars calculated in accordance with the following formula:

$$TW \times \frac{7}{100}$$

**PART 3—GROUPS WITH NO DESIGNATED GROUP
EMPLOYER**

Application of Part

9. This Part applies only to an employer who is a member of a group for which there is no designated group employer.

Definitions

10. In this Part:

“**designated group employer**” means a member designated as the designated group employer for a group in accordance with section 161;

“**financial year**” means the financial year commencing on 1 July 1994;

“**GIW**” represents the total interstate wages paid or payable by the group concerned during the financial year;

“**group**” means a group for which there is no designated group employer;

“**GTW**” represents the total taxable wages paid or payable by the group concerned during the financial year;

“**TW**” represents the total taxable wages paid or payable by the employer concerned during the financial year.

Pay-roll of group under \$525,000

11. None of the members of a group is liable to pay pay-roll tax for the financial year if the total taxable wages and interstate wages paid or payable by the group during that year is less than \$525,000.

Pay-roll of group \$525,000 or more

12. If the total taxable wages and interstate wages paid or payable by a group during the financial year is \$525,000 or more, each

State Revenue Legislation (Further Amendment) Act 1994 No. 72SCHEDULE 3—AMENDMENT OF PAY-ROLL TAX ACT 1971—
continued

member of the group is liable to pay as pay-roll tax for that year the amount of dollars calculated in accordance with the following formula:

$$\left[\text{TW} - \left\{ \frac{\text{GTW}}{\text{GTW} + \text{GIW}} \times 525,000 \right\} \right] \times \frac{7}{100}$$

SCHEDULE 2—CALCULATION OF PAY-ROLL TAX
LIABILITY FROM 1 JULY 1995

(Secs. 7, 11B, 11C, 16K, 16L)

PART 1—EMPLOYERS WHO ARE NOT MEMBERS OF A
GROUP**Application of Part**

1. This Part applies only to an employer who is not a member of a group.

Definitions

2. In this Part:

“**financial year**” means the financial year commencing on 1 July 1995 or on 1 July in any subsequent financial year;

“**TW**” represents the total interstate wages paid or payable by the employer concerned during the financial year to which the calculation of the relevant pay-roll tax relates;

“**TW**” represents the total taxable wages paid or payable by the employer concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

Pay-roll of employer under \$550,000

3. An employer is not liable to pay pay-roll tax for a financial year if the total taxable wages and interstate wages paid or payable by the employer during that year is less than \$550,000.

Pay-roll of employer \$550,000 or more

4. If the total taxable wages and interstate wages paid or payable by an employer during a financial year is \$550,000 or more, the employer is liable to pay as pay-roll tax for that year the amount of dollars calculated in accordance with the following formula:

$$\left[\text{TW} - \left\{ \frac{\text{TW}}{\text{TW} + \text{IW}} \times 550,000 \right\} \right] \times \frac{7}{100}$$

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SCHEDULE 3—AMENDMENT OF PAY-ROLL TAX ACT 1971—
continued

**PART 2—GROUPS WITH A DESIGNATED GROUP
EMPLOYER**

Application of Part

5. This Part applies only to an employer who is a member of a group for which there is a designated group employer.

Definitions

6. In this Part:

“**designated group employer**” means a member designated for a group in accordance with section 161;

“**financial year**” means the financial year commencing on 1 July 1995 or on 1 July in any subsequent financial year;

“**group**” means a group for which there is a designated group employer;

“**GIW**” represents the total interstate wages paid or payable by the group concerned during the financial year to which the calculation of the relevant pay-roll tax relates;

“**GTW**” represents the total taxable wages paid or payable by the group concerned during the financial year to which the calculation of the relevant pay-roll tax relates;

“**TW**” represents the total taxable wages paid or payable by the employer concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

Pay-roll of group under \$550,000

7. None of the members of a group is liable to pay pay-roll tax for the financial year if the total taxable wages and interstate wages paid or payable by the group during that year is less than \$550,000.

Pay-roll of group \$550,000 or more

8. (1) If the total taxable wages and interstate wages paid or payable by a group during the financial year is \$550,000 or more, pay-roll tax is payable as provided by subclauses (2) and (3).

(2) The designated group employer for the group is liable to pay as pay-roll tax for the financial year the amount of dollars calculated in accordance with the following formula:

$$\left[\text{TW} - \left\{ \frac{\text{GTW}}{\text{GTW} + \text{GIW}} \times 550,000 \right\} \right] \times \frac{7}{100}$$

SCHEDULE 3—AMENDMENT OF PAY-ROLL TAX ACT 1971—
continued

(3) Each member of the group (other than that designated group employer) is liable to pay as pay-roll tax for the financial year the amount of dollars calculated in accordance with the following formula:

$$TW \times \frac{7}{100}$$

**PART 3—GROUPS WITH NO DESIGNATED GROUP
EMPLOYER**

Application of Part

9. This Part applies only to an employer who is a member of a group for which there is no designated group employer.

Definitions

10. In this Part:

“**designated group employer**” means a member designated as the designated group employer for a group in accordance with section 16l;

“**financial year**” means the financial year commencing on 1 July 1995 or on 1 July in any subsequent financial year;

“**GIW**” represents the total interstate wages paid or payable by the group concerned during the financial year to which the calculation of the relevant pay-roll tax relates;

“**group**” means a group for which there is no designated group employer;

“**GTW**” represents the total taxable wages paid or payable by the group concerned during the financial year to which the calculation of the relevant pay-roll tax relates;

“**TW**” represents the total taxable wages paid or payable by the employer concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

Pay-roll of group under \$550,000

11. None of the members of a group is liable to pay pay-roll tax for the financial year if the total taxable wages and interstate wages paid or payable by the group during that year is less than \$550,000.

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 SCHEDULE 3—AMENDMENT OF PAY-ROLL TAX ACT 1971—
continued
Pay-roll of group \$550,000 or more

12. If the total of the taxable wages and interstate wages paid or payable by a group during the financial year is \$550,000 or more, each member of the group is liable to pay as pay-roll tax for that year the amount of dollars calculated in accordance with the following formula:

$$\left[TW - \left\{ \frac{GTW}{GTW + GIW} \times 550,000 \right\} \right] \times \frac{7}{100}$$

PART 2**(9) Section 7 (Imposition of pay-roll tax on taxable wages):**

- (a) From section 7 (a), omit “1994”, insert instead “1995”.
- (b) From section 7 (a) and (b), omit “1995” wherever occurring, insert instead “1996”.

(10) Section 11B (Annual adjustments):

From the definition of “annual amount of pay-roll tax” in section 11B (1), omit “1994” and “1995”, insert instead “1995” and “1996”, respectively.

(11) Section 11C (Adjustment of pay-roll tax when employer ceases to be an employer etc. during a financial year):

From the definition of “total amount of pay-roll tax” in section 11C (1), omit “1994” and “1995”, insert instead “1995” and “1996”, respectively.

(12) Section 12 (Registration):

From section 12 (1), omit “\$10,576”, wherever occurring, insert instead “\$11,538”.

(13) Section 16I (Designated group employers):

From section 16I (2) (a) and (3) (a), omit “\$525,000”, wherever occurring, insert instead “\$575,000”.

SCHEDULE 3—AMENDMENT OF PAY-ROLL TAX ACT 1971—
continued

(14) Section 16K (**Annual adjustments**):

From section 16K (2), omit “1994” and “1995”, insert instead ‘1995” and “1996”, respectively.

(15) Section 16L (**Adjustment of pay-roll tax when members of a group cease to pay taxable wages or interstate wages during a financial year**):

From section 16L (3), omit “1994” and “1995”, insert instead “1995” and “1996”, respectively.

(16) Schedule 1:

- (a) Omit "1994" wherever occurring, insert instead "1995".
- (b) Omit “\$525,000” wherever occurring, insert instead “\$575,000”.

(17) Schedule 2:

- (a) Omit "1995" wherever occurring, insert instead “1996”.
- (b) Omit “\$550,000” wherever occurring, insert instead “\$600,000”.

PART 3

(18) Section 16I (**Designated group employers**):

From section 16I (2) (a) and (3) (a), omit “\$575,000” wherever occurring, insert instead “\$600,000”.

SCHEDULE 4—AMENDMENT OF STAMP DUTIES ACT 1920

(Sec. 6)

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

- (a) From the definition of “Company title dwelling” in section 3 (1), omit “on land” where firstly occurring.
- (b) In the definition of “NSW company” in section 3 (1), after “New South Wales”, insert “, and includes a body corporate that is incorporated under any other New South Wales Act and that is not a company incorporated or taken to be incorporated under the Corporations Law of another State or a Territory of the Commonwealth”.

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

- (a) Omit section 44A (2).
- (b) From section 44A (2B), omit “subsection (1A), (2) or (2A)”, insert instead “this section”.
- (c) From section 44A (2C), omit “subsection (2)”, insert instead “this section”.

(3) Section 66H:

After section 66G, insert:

Intergenerational rural transfers

66H. (1) Notwithstanding any other provision of this Act, duty is not chargeable in respect of an instrument of conveyance or agreement for sale of land, or of a lease of or permit in respect of land, used or primary production, being an instrument first executed on or after 14 September 1994, if the Treasurer is satisfied that:

- (a) the land was land used for primary production by the transferor immediately before the date of first execution of the instrument; and
- (b) the land will continue to be land used or primary production by the transferee; and

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SCHEDULE 4—AMENDMENT OF STAMP DUTIES ACT 1920—
continued

- (c) the parties to the instrument are parties of a class identified in guidelines approved from time to time by the Treasurer; and
 - (d) the transaction satisfies such other requirements as may be contained in those guidelines.
- (2) Notwithstanding any other provision of this Act, duty is not chargeable in respect of a transfer of shares in a share management fishery within the meaning of the Fisheries Management Act 1994, being a transfer first executed on or after 14 September 1994, if the Treasurer is satisfied that:
- (a) the parties to the instrument are parties of a class identified in guidelines approved from time to time by the Treasurer; and
 - (b) the transaction satisfies such other requirements as may be contained in those guidelines.
- (3) In this section, **“land used for primary production”** has the same meaning as in section 43B (5) and includes:
- (a) an oyster farm or fish farm within the meaning of the Fisheries and Oyster Farms Act 1935; or
 - (b) land subject to an aquaculture permit or aquaculture lease within the meaning of the Fisheries Management Act 1994.
- (4) **Section 73 (Certain conveyances not chargeable with ad valorem duty):**
- Before “duty” in section 73 (2AF) (a), insert “ad valorem”.
- (5) **Section 73AA (Exemption from or reduction in duty for certain conveyances):**
- From section 73AA (1), omit “exemption”.

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SCHEDULE 4—AMENDMENT OF STAMP DUTIES ACT 1920—
continued

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

At the end of section 74F (7A) (c), insert:

; or

(d) exceeds \$6,000—stamp duty is payable only on that part of the amount that is in excess of \$6,000.

(7) Section 78FA (**Exemption from duty—leases of accommodation for aged and disabled persons**):

After “profit” in section 78FA (1) (a) (ii), insert “by the lessor”.

(8) Section 81 (**Definitions**):

Omit the section, insert instead:

Definitions

81. In this Division:

“**complying approved deposit fund**” means an entity that is a complying approved deposit fund in accordance with section 43 of the Superannuation Industry (Supervision) Act 1993 of the Commonwealth;

“**complying superannuation fund**” means an entity that is a complying superannuation fund in accordance with section 42 of the Superannuation Industry (Supervision) Act 1993 of the Commonwealth;

“**pooled superannuation trust**” means an entity that is a pooled superannuation trust in accordance with section 44 of the Superannuation Industry (Supervision) Act 1993 of the Commonwealth.

(9) Section 81A (**Duty on certain instruments relating to superannuation**):

(a) From section 81A (1), omit “complying pooled superannuation trust”, insert instead “pooled superannuation trust”.

SCHEDULE 4—AMENDMENT OF STAMP DUTIES ACT 1920—
continued

(b) After section 81A (1) (b), insert:

- (c) an instrument that is executed in order to set out the terms of custodial arrangements concerning a complying superannuation fund, a complying approved deposit fund or a pooled superannuation trust (whether or not the instrument contains any other terms) or concerning a fund or trust that, in the opinion of the trustees, will be a complying superannuation fund, a complying approved deposit fund or a pooled superannuation trust within 12 months after the instrument takes effect.

(10) Sections 82AA, 82AB:

After section 82, insert:

Duty on certain conveyances of property to trustees or custodians of superannuation funds or trusts

82AA. (1) This section applies to an instrument that the Chief Commissioner is satisfied is an agreement to convey or a conveyance of property to a trustee or custodian of a complying superannuation fund, a complying approved deposit fund or a pooled superannuation trust, or a fund or trust that, in the opinion of the trustees, will be a complying superannuation fund, a complying approved deposit fund or a pooled superannuation trust within 12 months after the agreement to convey or conveyance takes effect, where there is no change in the beneficial ownership of the property.

(2) The duty payable on an instrument to which this section applies is the ad valorem duty as a conveyance or \$200, whichever is the lesser.

(3) The person primarily liable to pay the duty is the transferee.

(4) An instrument on which duty of \$200 has been paid in accordance with an assessment under this section is taken to have been duly stamped with ad valorem duty as a conveyance.

SCHEDULE 4—AMENDMENT OF STAMP DUTIES ACT 1920—
continued

Duty on certain conveyances of securities to trustees or custodians of superannuation schemes or trusts

82AB. (1) A conveyance of or an agreement to convey 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, being a conveyance or agreement to convey that the Chief Commissioner is satisfied:

- (a) is a conveyance to or an agreement to convey to a trustee or custodian of a complying superannuation fund, a complying approved deposit fund or a pooled Superannuation trust, or a fund or trust that, in the opinion of the trustees, will be a complying superannuation fund, a complying approved deposit fund or a pooled superannuation trust within 12 months after the agreement to convey or conveyance takes effect; and
- (b) does not result in changing the persons who have a beneficial interest in the property conveyed or agreed to be conveyed,

is not to be charged with ad valorem duty as a conveyance but is to be charged with duty of \$2.

(2) This section has effect despite section 82AA.

(11) Section 83 (**Definitions**):

- (a) In the definition of “Advance” in section 83 (1), after “provision”, insert “or obtaining”.
- (b) Omit the definition of “Bill facility” from section 83 (1), insert instead:

“Bill facility” means one or more agreements, understandings or arrangements as a consequence of which a bill of exchange or promissory note:

- (a) is drawn, accepted, endorsed or made; and
- (b) is held, negotiated or discounted to obtain funds,

whether or not the funds are obtained from the person who draws, accepts, endorses or makes the bill of

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exchange or promissory note and whether or not the funds are obtained from a person who is a party to any such agreement, understanding or arrangement.

- (c) After “or” in paragraph (a) of the definition of “Financial accommodation” in section 83 (1), insert “funds provided or obtained by means of”.

(12) Section 84CAC (**Exemption for certain home loan transactions**):

From section 84CAC (2) (b), omit “1 July 1994”, insert instead “1 January 1995”.

(13) Section 84EBA:

After section 84EB, insert:

Exemption for loan securities of companies with regional headquarters in NSW

84EBA. Notwithstanding any other provision of this Act, duty is not chargeable in respect of a loan security where the borrower or person bound is a company:

- (a) that is the subject of a determination under section 83CE of the Income Tax Assessment Act 1936 of the Commonwealth and that has established in New South Wales after 1 July 1995 the facilities that comprise its regional headquarters; and
- (b) that satisfies such other requirements as may be imposed from time to time by the Treasurer.

(14) Section 84G (**Duty on motor vehicle certificates of registration**):

After section 84G (1) (k), insert:

- (ka) a motor vehicle certificate of registration issued as a result of the transfer of a motor vehicle from a continued unincorporated industrial organisation or a continued non-industrial organisation (within the meaning of section 615 of the Industrial Relations Act 1991) to an industrial organisation or non-industrial organisation (within the meaning of section 406 (1) of that Act) in compliance with the incorporation provisions of the Industrial Relations Act 1991; or

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

From section 91 (3), omit “6 cents for every \$10”, insert instead “60 cents for every \$100”.

(16) Section 96A (**Duty on certain transfers of shares**):

In section 96A (1), after “NSW company”, insert “or any corporation or company”.

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

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

(1AA) Despite subsection (1) or (2), in the case of a sale or purchase made following the exercise of an option to purchase a marketable security, stamp duty is to be calculated on the premium paid on the option or the consideration for the sale or purchase of the marketable security, whichever is the greater amount (and a reference in subsection (1) or (2) to the consideration is to be construed as a reference to the greater amount).

(b) Omit section 97AB (2), insert instead:

(2) Instead of the stamp duty provided for by subsection (1) (b), a New South Wales dealer is required to pay, in the case of

- (a) any sale made by the dealer, on the dealer’s own account or behalf, of marketable securities or rights in respect of marketable securities purchased by the dealer on or within 3 months of the day of sale; or
- (b) any purchase made by the dealer, on the dealer’s own account or behalf, of marketable securities or rights in respect of marketable securities sold by the dealer on or within 3 months of the day of purchase; or
- (c) any sale or purchase of marketable securities or rights in respect of marketable securities:
 - (i) made on behalf of an options trader in his or her capacity as such and as principal; and
 - (ii) made for hedging purposes; and

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- (iii) of a type in respect of which options are traded or the price of which is included in the calculation of an index in respect of which options are traded; or
 - (d) any sale or purchase of marketable securities or rights in respect of marketable securities:
 - (i) made on behalf of a futures broker in his or her capacity as a futures broker and as principal; and
 - (ii) made for hedging purposes; and
 - (iii) of a type in respect of which futures contracts are traded or the price of which is included in the calculation of an index in respect of which futures contracts are traded; or
 - (e) any sale or purchase of marketable securities or rights in respect of marketable securities:
 - (i) made on behalf of a warrant-issuer in his or her capacity as a warrant-issuer and as principal; and
 - (ii) made for hedging purposes,
 an amount calculated on the consideration for the sale or purchase at the rate of 0.25 cents for every \$100 and also for any remaining fractional part of \$100 of the sale price or purchase price, as the case may be.
 - (c) In section 97AB (2A), after “subsection (1)”, insert “or (2)”.
- (18) **Section 97ADA (Exemption from duty—sales and purchases on behalf of options traders as market makers):**
 Omit the section.
- (19) **Section 97ADB (Sales and purchases to be recorded by options traders):**
 From section 97ADB (1), omit “no stamp duty is payable under section 97ADA”, insert instead “stamp duty is payable under section 97AB (2)”.

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(20) Section 97ADC (**Returns to be lodged and duty paid**):

Omit section 97ADC (1) (b), insert instead:

- (b) pay to the Chief Commissioner as stamp duty, in respect of sales and purchases included in the return, an amount calculated on the consideration for each such sale and each such purchase at the rate of 29.75 cents for every \$100 and also for any remaining fractional part of \$100 of the sale price or purchase price, as the case may be.

(21) Section 97ADD (**Exemption from duty—sales and purchases on behalf of futures brokers as market makers**):

Omit the section.

(22) Section 97ADE (**Sales and purchases to be recorded by futures brokers**):

From section 97ADE (1), omit “no stamp duty is payable under section 97ADD”, insert instead “stamp duty is payable under section 97AB (2)”.

(23) Section 97ADF (**Returns to be lodged and duty paid**):

Omit section 97ADF (1) (b), insert instead:

- (b) pay to the Chief Commissioner as stamp duty, in respect of sales and purchases included in the return, an amount calculated on the consideration for each such sale and each such purchase at the rate of 29.75 cents for every \$100 and also for any remaining fractional part of \$100 of the sale price or purchase price, as the case may be.

(24) Section 97ADG (**Exemption from duty—sales and purchases on behalf of warrant-issuers as market makers**):

Omit the section.

(25) Section 97ADH (**Sales and purchases to be recorded by warrant-issuers**):

From section 97ADH (1), omit “no stamp duty is payable under section 97ADG”, insert instead “stamp duty is payable under section 97AB (2)”.

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continued(26) Section 97ADI (**Returns to be lodged and duty paid**):

Omit section 97ADI (1) (b), insert instead:

- (b) pay to the Chief Commissioner as stamp duty, in respect of sales and purchases included in the return, an amount calculated on the consideration for each such sale and each such purchase at the rate of 29.75 cents for every \$100 and also for any remaining fractional part of \$100 of the sale price or purchase price, as the case may be.

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

(a) Insert in section 98 (1) in alphabetical order:

“broker” means a member organisation of Australian Stock Exchange Limited;

“broker receipts” means the following:

- (a) receipts (after the deduction of any trading losses) in the nature of profits from trading in marketable securities, including dividends;
- (b) brokerage (whether from trading in equities, options, futures, fixed interest or any other means);
- (c) underwriting or sub-underwriting commissions;
- (d) receipts in the nature of profits from trading other than in marketable securities;
- (e) interest, management fees and fees from a member of the group of which the broker is a member;
- (f) receipts from the payment or repayment of loans between the broker and a member of the group of which the broker is a member; and
- (g) receipts from the sale of capital assets not traded in the ordinary course of the business of the broker;

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“corresponding State or Territory” means another State or a Territory of the Commonwealth that is declared by the Governor by an order for the time being in force under subsection (16) to be a corresponding State or Territory for the purposes of this Division;

“New South Wales broker” means a broker:

- (a) that lodges quarterly returns with the Australian Stock Exchange in New South Wales; or
 - (b) that conducts business in New South Wales and that lodges quarterly returns with the Australian Stock Exchange in another State or a Territory of the Commonwealth that is not a corresponding State or Territory;
- (b) Omit the definition of “dealer” from section 98 (1), insert instead:
- “dealer”** has the same meaning as in the Corporations Law, but does not include a broker;
- (c) After paragraph (a) of the definition of “designated person” in section 98 (1), insert:
- (aa) a broker; or
- (d) After paragraph (a) of the definition of “designated receipts” in section 98 (1), insert:
- (aa) broker receipts of a New South Wales broker, being receipts received in or outside New South Wales; or
- (e) After paragraph (f) of the definition of “excluded person” in section 98 (1), insert:
- (fa) a broker;
- (f) From the definition of “rollover” in section 98 (1), omit “and with or without accrued interest”.

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(g) After section 98 (15), insert:

(16) The Governor may, by an order published in the Gazette, declare another State or a Territory of the Commonwealth to be a corresponding State or Territory for the purposes of this Division.

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

(a) From section 98A (d) (iii), omit “section 96 or 97AB”, insert instead “section 94D or the Second Schedule under the heading ‘Transfer of Shares’ ”.

(b) After section 98A (ib), insert:

(ic) a receipt by a financial institution of a payment of farm household support made under the Farm Household Support Act 1992 of the Commonwealth; or

(id) a receipt by a company to which section 84EBA applies; or

(29) Section 98I (**Registration**):

After section 98I (2), insert:

(2A) Subsection (2), in its application to a designated person who is a broker, applies only to a New South Wales broker.

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

(a) After “dealer” in section 98U (1) (f), insert “or broker”

(b) After section 98U (1) (f), insert:

(f1) an account with a bank which is a registered person of:

(i) a New South Wales broker who is a registered person; or

(ii) a broker who lodges quarterly returns with the Australian Stock Exchange in a corresponding State or Territory (within the meaning of section 98 (1));

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(c) After section 98U (1) (g3), insert:

- (g4) an account with a bank which is a registered person, being an account to which are credited only amounts that are received by The Newcastle Chamber of Fruit and Vegetables Industry Co-operative Limited in respect of farm produce (within the meaning of the Farm Produce Act 1983) sold at Newcastle Regional Markets, being amounts that are to be paid to farm produce sellers or producers (within the meaning of that Act); or
- (g5) an account of MasterCard International Inc. with a bank which is a registered person, being an account that is a settlement account for credit and debit card transactions; or
- (g6) an account with a bank which is a registered person, being an account of a person approved under section 38D that is used solely for the payment of duty under the Taxline system; or

(31) Second Schedule—Stamp Duties and Exemptions:

- (a) From paragraph (1) (c) of the matter appearing under the heading “TRANSFER OF SHARES”, omit “\$10” wherever occurring, insert instead “\$100”.
- (b) From the column headed “Amount of Duty” opposite the matter appearing under the heading “TRANSFER OF SHARES”, omit “0.06”, insert instead “0.60”.

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

- (a) In paragraph (14), after “Local Government Act 1993”, insert “or an electricity distributor constituted under Part 2A of the Electricity Act 1945”.
- (b) In paragraph (19), before “a council”, insert “a body, being”.
- (c) In paragraph (19), after “Local Government Act 1993”, insert “or an electricity distributor constituted under Part 2A of the Electricity Act 1945”.

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- (d) From paragraph (19), omit “instruments” where firstly occurring.
- (e) From paragraph (19), omit “such council” wherever occurring, insert instead “such body”.
- (f) From paragraph (19) (d), omit “policy of”.
- (g) In paragraph (19), after “being instruments”, insert “or insurance”.
- (h) After “property” where firstly occurring in paragraph (25), insert “first executed before 1 January 1996”.
- (i) After paragraph (25), insert:

(25A) Any conveyance of property or transaction referred to in section 44 (1) or (1A) between a continued unincorporated industrial organisation or a continued non-industrial organisation as transferrer and an industrial organisation or non-industrial organisation as transferee that arises as a result of the unincorporated body becoming incorporated under the Industrial Relations Act 1991.

In this paragraph:

“continued unincorporated industrial organisation” and **“continued non-industrial organisation”** have the same meanings as in section 615 of the Industrial Relations Act 1991;

“industrial organisation” and **“non-industrial organisation”** have the same meanings as in section 406 (1) of the Industrial Relations Act 1991.
- (j) From paragraph (26) (b), omit “Industrial Arbitration Act 1940”, insert instead “Industrial Relations Act 1991”.
- (k) From paragraph (29) (d), omit “a policy of”.
- (l) After paragraph (45), insert:

(46) A deed of release given to the HomeFund Commissioner in respect of a complaint made under the HomeFund Commissioner Act 1993.

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(33) Schedule 2D—Exemption from Duty for Certain Conveyances:

- (a) In the heading to Schedule 2D, after “EXEMPTION FROM”, insert “OR REDUCTION IN”.
- (b) After “voting entitlement” in paragraph (a) of the definition of “principal shareholder” in clause 2, insert “(whether or not through the holding of shares)”.
- (c) After “voting entitlement” where firstly occurring in paragraph (b) of the definition of “principal shareholder” in clause 2, insert “(whether or not through the holding of shares)”.
- (d) Insert in clause 2 in alphabetical order:
 - “**shareholder**” includes member;
- (e) After clause 7, insert:

Conveyance of land not used and occupied solely as a principal place of residence

7A. (1) If:

- (a) a conveyance of land would be eligible for exemption under clause 4, 5 or 6 but for the fact that the land is not land to which clause 4 (1) (c), 5 (d) or 6 (d) applies because it was not used and occupied solely as a principal place of residence at the relevant time; and
- (b) the land value of the land was entitled to be reduced under section 9C of the Land Tax Management Act 1956 at the relevant time,

the amount on which the conveyance is to be charged with ad valorem duty is to be reduced in the same proportion as the land value was entitled to be reduced under section 9C of the Land Tax Management Act 1956.

(2) This clause applies to a conveyance first executed on or after 14 September 1994.

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(34) Tenth Schedule—Savings, Transitional and Other Provisions:

After clause 38, insert:

Rollovers—s. 98A (cb)

39. Section 98A (cb) is taken to have commenced on, and not to have had effect before, 1 July 1994, despite section 2 of the State Revenue Legislation (Amendment) Act 1994.

*[Minister's second reading speech made in—
Legislative Assembly on 28 October 1994 a.m.
Legislative Council on 18 November 1994]*