

**STAMP DUTIES (MISCELLANEOUS AMENDMENTS) BILL
1990**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Stamp Duties Act 1920 so as:

- (a) in relation to superannuation funds:
 - (i) to reduce in most cases the duty on instruments establishing and amending superannuation funds;
 - (ii) to provide for instruments whereby an employer adopts the rules of a superannuation fund to be liable to the same duty as instruments establishing or amending Superannuation funds;
- (b) to provide an exemption for the transfer of convertible notes in a unit trust scheme;
- (c) to increase the minimum amount of duty;
- (d) to remove any time limitation for the recovery of an administrative fine or penalty;
- (e) to enable the production of certain unstamped instruments as evidence in court proceedings;
- (f) to provide a credit of duty for a variation instrument which is substantially in conformity with the original instrument;
- (g) to impose duty on the transfer of units in a unit trust scheme;
- (h) to clarify the "Claytons contract" provisions in their application to a transfer of shares not registered on a New South Wales register;
- (i) to provide a concession for instruments relating to the Public Equity Partnership Arrangement and the Rent/Buy Scheme;
- (j) to remove the liability to duty of contract notes;
- (k) to provide an exemption from hiring arrangement duty for the hire of on-site caravans;

- (l) to provide for certain variations of leases to be liable for duty;
- (m) to make further provision concerning the interim stamping of leases subject to rent variation;
- (n) to provide an exemption from duty for leases of accommodation for aged or disabled persons;
- (o) to extend the loan security provisions where the secured property comprises shares in a company incorporated in New South Wales;
- (p) to simplify the rate of duty on loan securities and to provide an exemption from loan security duty for small additional advances;
- (q) to tighten the loan security anti-avoidance provisions relating to the use of guarantees, indemnities and other instruments;
- (r) to broaden the exemption for mortgage-backed securities;
- (s) to extend foreign credit provisions relating to the stamping of loan securities dutiable in a number of jurisdictions;
- (t) to provide for a credit to be available on collateral loan securities in respect of duty paid on the same money;
- (u) in relation to insurance:
 - (i) to enable certain insurance returns to be lodged after payment of the premium;
 - (ii) to provide for certain non-cancellable disability income policy renewals to be dutiable under the new insurance provisions;
- (v) to amend the provisions relating to acquisitions of company and unit trust interests dutiable as conveyances of land:
 - (i) to enable the tracing provisions to be effective where the chain of interests passes through a company outside New South Wales;
 - (ii) to strengthen the tracing provisions relating to the interposition in a chain of interests of a discretionary trust;
 - (iii) to give the Chief Commissioner a discretion not to impose duty where the imposition of duty would not be just and reasonable;
- (w) to enable the use, for death duty purposes, of forms approved by the Chief Commissioner instead of form prescribed by the regulations;
- (x) to provide an exemption from nominal duty for instruments which are given the effect of a deed after registration;
- (y) to extend the share scrip lending provision exemption;
- (z) to amend the off-shore banking exemption;
- (aa) to amend provisions which allow an exemption from duty on a conveyance of a family home to members of the family by a family company or the conveyance by a family trust to a beneficiary of land owned by the trust as at 31 December 1986.

The Bill also enacts consequential savings and transitional provisions.

Stamp Duties (Miscellaneous Amendments) 1990

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the provisions of the proposed Act on various days. Those days are specified in the explanatory notes relating to the various amendments.

Clause 3 is a formal provision which gives effect to the Schedules of amendments to the Stamp Duties Act 1920.

Clause 4 amends the Stamp Duties (Amendment) Act 1988 to repeal certain uncommenced provisions relating to the imposition of duty on transfers of units in unit trust schemes.

Clause 5 is a formal provision which gives effect to the Schedule which amends the Land Tax Management Act 1956.

Clause 6 provides that explanatory notes appearing in the Bill do not form part of the proposed Act.

Schedules 1-3 make the amendments to the Stamp Duties Act 1920 described above. Each amendment is explained in detail in the explanatory note relating to the amendment concerned.

Schedule 4 makes an amendment to the Land Tax Management Act 1956 consequential on the amendment made to the Stamp Duties Act 1920 and referred to in paragraph (aa) above. The amendment is explained in detail in the explanatory note relating to the amendment.
