

Act No. 86

REVENUE LAWS (RECIPROCAL POWERS) BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

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

The following Bills are cognate with this Bill:

- Stamp Duties (Information Disclosure) Amendment Bill 1987;
- Land Tax Management (Information Disclosure) Amendment Bill 1987;
- Pay-roll Tax (Information Disclosure) Amendment Bill 1987;
- Business Franchise Licences (Tobacco) (Information Disclosure) Amendment Bill 1987;
- Business Franchise Licences (Petroleum Products) (Information Disclosure) Amendment Bill 1987;
- Health Insurance Levies (Information Disclosure) Amendment Bill 1987.

The object of this Bill is to provide for the reciprocal enforcement of revenue laws by the Commonwealth and the States and the Territories of the Commonwealth.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor-in-Council.

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Clause 3 defines certain expressions used in the proposed Act. Among the expressions defined are "authorised revenue officer", "Commonwealth revenue officer", "corresponding law", "New South Wales revenue law", "recognised revenue law", "relevant principal New South Wales revenue officer" and "State revenue officer". "State" is defined as including a Territory. The clause also makes provision for the Governor-in-Council, by order, to declare a law of the Commonwealth or another State relating to the levying and collection of a tax, fee, duty or other impost to be a recognised revenue law for the purposes of the proposed Act. Such an order will also designate an office under that law to be the designated Commonwealth or State revenue office in respect of that law and for the holder of a New South Wales revenue office to be the relevant principal New South Wales revenue officer in respect of that law. The clause further provides for a law of the Commonwealth or another State which is similar to the proposed Act to be declared to be a corresponding law for the purposes of that Act.

PART 2—INVESTIGATIONS

Clause 4 enables a designated Commonwealth or State revenue officer, with the approval of the relevant principal New South Wales revenue officer, to carry out an investigation in New South Wales in respect of a matter arising under a recognised revenue law. For example, the Comptroller of Stamps in Victoria could, with the approval of the New South Wales Chief Commissioner of Stamp Duties, carry out an investigation in New South Wales into a matter arising under the Stamps Act 1958 of Victoria if some aspect of the matter concerned a person or company whose principal place of business was located in New South Wales.

Clause 5 provides for an investigation into a matter arising under a recognised revenue law to be carried out by the relevant principal New South Wales revenue officer on behalf of the designated Commonwealth or State revenue officer in respect of that law. For example, the Chief Commissioner of Stamp Duties in New South Wales could undertake an investigation into a matter arising under the Stamps Act 1958 of Victoria if requested to do so by the Victorian Comptroller of Stamps.

Clause 6 specifies the general powers of a Commonwealth or State revenue officer and a New South Wales revenue officer for the purposes of the proposed Act. The powers include a power to enter non-residential premises at reasonable times, a power to inspect records, a power to make and take away copies of records and a power to ask questions pertinent to the matter under investigation.

Clause 7 empowers an authorised revenue officer to apply for and obtain a search warrant to search premises at which records may be found that relate to whether or not a recognised law has been or is being contravened or has not been or is not being complied with or at which goods to which that law relates may be found. Such a search warrant would authorise entry to residential premises and would authorise entry to all premises at times other than ordinary business hours.

Clause 8 makes it an offence punishable by a fine not exceeding \$1,000 or imprisonment for a term not exceeding 3 months to obstruct or hinder an authorised revenue officer in the exercise of a power conferred by proposed section 6 or 7 or to fail or refuse, without reasonable excuse, to comply with a requirement made under proposed section 6.

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Clause 9 will empower the relevant principal New South Wales revenue officer to require a person, by notice in writing, to give information to that officer or attend before that officer, or an officer authorised by that officer, to answer questions on oath or to produce records.

Clause 10 provides that a designated Commonwealth or State revenue officer will, if authorised to do so by the relevant principal New South Wales revenue officer, be able to exercise similar powers to those exercisable by that New South Wales revenue officer.

Clause 11 makes it an offence punishable by a fine not exceeding \$20,000 for a person to fail or refuse to comply with a requirement made under proposed section 9 or 10. The clause also specifies certain defences to the offence and provides for other ancillary matters.

PART 3—DISCLOSURE OF INFORMATION ETC.

Clause 12 will empower the prescribed New South Wales revenue officer to communicate to certain Commonwealth and interstate authorities information disclosed or obtained under the proposed Act or a New South Wales revenue law. It will be an offence under the section for a person to make an unauthorised disclosure of information, or to publish any record, obtained by that or another person under the proposed Act or a New South Wales revenue law except in certain specified circumstances, such as for court proceedings arising out of the proposed Act or a recognised revenue law. Such an offence will be punishable by a fine not exceeding \$10,000.

Clause 13 makes it an offence, punishable by a fine not exceeding \$10,000, for a person to make an unauthorised disclosure of information, or publication of records, obtained in accordance with a corresponding law by that person or another person for the purposes of a New South Wales revenue law.

PART 4—EVIDENTIARY MATTERS

Clause 14 is designed to facilitate the use in legal proceedings of answers and information obtained under a corresponding law in connection with a matter arising under a New South Wales revenue law. However, the clause provides that information obtained under a corresponding law for the purposes of a New South Wales revenue law is not admissible in criminal proceedings brought in New South Wales against a person if the information was given by the person in answer to a question that the person would, but for a provision of the corresponding law, have been excused from answering on the grounds of self-incrimination.

Clause 15 provides that, where the designated Commonwealth or State revenue officer concerned has certified a copy of an original record lodged with, or kept or issued by, that officer or another Commonwealth or State revenue officer under a recognised law to be a true copy, that copy is admissible in proceedings arising out of a New South Wales revenue law as if the copy were the original record. The clause also provides for the admissibility in legal proceedings relating to a New South Wales revenue matter of a copy of a primary copy of such a record.

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Clause 16 enables the relevant principal New South Wales revenue officer to certify a copy of a record lodged, kept or issued under a New South Wales revenue law as a true copy for the purpose of having it admitted in evidence in proceedings brought under a recognised revenue law or a corresponding law.

PART 5—MISCELLANEOUS

Clause 17 makes it an offence, punishable by a fine not exceeding \$5,000 or imprisonment for a term not exceeding 12 months, or both, for a person to give an answer that is false or misleading in a material particular in response to a question put by an authorised revenue officer under the proposed Act.

Clause 18 authorises members of the Police Force to provide assistance to authorised revenue officers when those officers are exercising powers conferred by the proposed Act.

Clause 19 provides for proceedings for offences under the proposed Act to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone or before the Supreme Court in the exercise of its summary jurisdiction.

Clause 20 makes it clear that nothing in the proposed Act prevents information lawfully obtained in New South Wales otherwise than under the proposed Act from being used to enforce a Commonwealth or State revenue law.

Clause 21 provides for the making of regulations for the purposes of the proposed Act.

Clause 22 amends section 10 of the Search Warrants Act 1985 by adding to the list of search warrants to which Part III of that Act applies search warrants issued under section 7 of the proposed Act.
