

[Act 1997 No 41]



New South Wales

State Revenue Legislation Further Amendment Bill 1997

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Stamp Duties Act 1920*:
 - (i) to make amendments to the provisions relating to the stamp duty on loan securities to reflect changes made by the introduction of the Uniform Credit Code, and
 - (ii) to overcome the potential to avoid stamp duty on the takeover of a New South Wales public company by means of a capital reduction or rights alteration of shares, and
 - (b) to amend the *Land Tax Management Act 1956* to incorporate in it the provisions of the *Land Tax Management Regulation 1992*, and
 - (c) to repeal the *Land Tax Management Regulation 1992*.
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Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 is a formal provision giving effect to the amendments to the *Stamp Duties Act 1920* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Land Tax Management Act 1956* set out in Schedule 2.

Clause 5 repeals the *Land Tax Management Regulation 1992*.

Schedule 1 Amendment of Stamp Duties Act 1920

Loan securities associated with certain consumer credit contracts

Schedule 1 [1] inserts proposed sections 84EB and 84EBAA into the Act.

Proposed section 84EB exempts from loan security duty advances under consumer credit contracts that do not exceed \$35,000 and that are secured by a loan security. The exemption does not apply if the consumer credit is provided for private housing.

Proposed section 84EBAA provides that loan security duty is not chargeable on so much of an advance to a natural person for the acquisition of farm machinery or a commercial vehicle as is secured by a loan security.

Schedule 1 [5] inserts a transitional provision into the Act to exempt from loan security duty instruments that would have been exempt from duty if the *Consumer Credit (New South Wales) Code* had not commenced. The provision gives effect to a Variation to Statute of the Treasurer that had effect from 1 November 1996, being the date of commencement of the relevant provisions of the Code. The transitional provision covers the period from 1 November 1996 until the commencement, proposed for 1 July 1997, of the sections to be inserted by Schedule 1 [1].

Schedule 1 [4] makes a consequential amendment.

Takeovers of NSW public companies

Schedule 1 [2] inserts proposed Division 27A into Part 3 of the Act, containing sections 97ADJ–97ADN.

Explanatory note

Proposed section 97ADJ contains definitions for the purposes of the proposed Division, including definitions of *capital reduction* and *rights alteration*.

Proposed section 97ADK requires a person to lodge a statement with the Chief Commissioner of State Revenue if the person:

- (a) becomes entitled to at least 50% of the voting shares of a NSW public company by means of capital reduction or rights alteration, or both, or
- (b) being entitled to at least 50% of the voting shares of a NSW public company, becomes entitled to at least 10% more of the voting shares over a period of not more than 12 months by means of capital reduction or rights alteration, or both.

The statement is to be lodged within 2 months after the entitlement arises or such longer period as the Chief Commissioner' approves.

Proposed section 97ADL specifies the information the statement is to contain.

Proposed section 97ADM specifies that duty is chargeable on the statement and provides for the rate of duty, the assessment of duty and the payment of duty.

Proposed section 97ADN makes it an offence for a person to fail to lodge a statement or to lodge a statement that is false or misleading in a material particular.

Schedule 1 [3] makes a consequential amendment.

Schedule 2 Amendment of Land Tax Management Act 1956

Schedule 2 [1]–[6] amend the Act to incorporate in it, without significant alteration, the provisions currently contained in the *Land Tax Management Regulation 1992* made under the Act.

Schedule 2 [7] and **[8]** make consequential amendments of a savings and transitional nature.