

STAMP DUTY ORDINANCE

1978

No. 48 of 1978

An Ordinance relating to the Imposition of Stamp Duty on certain Instruments having a connexion with the Northern Territory

[Assented to 30 June 1978]

BE it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

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| Short title | 1. This Ordinance may be cited as the <i>Stamp Duty Ordinance</i> 1978. |
| Commencement | 2. This Ordinance shall come into operation on 1 July 1978. |
| Incorporation | 3. The <i>Taxation (Administration) Ordinance</i> is incorporated and shall be read as one with this Ordinance. |
| Imposition of duty | 4. Subject to this Ordinance, stamp duty is imposed on the instruments included in the classes of instruments specified in Schedule 1. |
| Rate of duty | 5. The rate of stamp duty on an instrument included in a class of instruments specified in Schedule 1 is the rate specified in that Schedule in relation to that class of instruments. |
| Exemptions | <p>6.(1) Stamp duty is not imposed on an instrument included in a class of instruments specified in Schedule 2.</p> <p>(2) Stamp duty is not imposed on an instrument for which an exemption from stamp duty is provided by the <i>Bankruptcy Act</i> 1966 or the <i>Commonwealth Inscribed Stock Act</i> 1911.</p> <p>(3) Stamp duty is not imposed on an instrument included in a prescribed class of instruments executed by, or by an authority of, the Commonwealth or a State or Territory prescribed for the purposes of this sub-section.</p> <p>(4) Stamp duty is not imposed on an instrument that is a counterpart or copy of another instrument that has been duly stamped.</p> <p>(5) Stamp duty is not imposed by this Ordinance on a cheque drawn before the date of commencement of this Ordinance.</p> <p>(6) Stamp duty is not imposed by this Ordinance on a bill of exchange or promissory note (not being a cheque) by reason of its negotiation, presentment for payment or payment if it has already been duly stamped by reason of its drawing, making presentment for payment or earlier negotiation.</p> |

(7) Stamp duty is not imposed by this Ordinance on a bill of exchange or promissory note (not being a cheque) drawn or made before the date of commencement of this Ordinance by reason of its negotiation, presentment for payment or payment on or after that date.

(8) Stamp duty is not imposed by this Ordinance on an instrument (not being a bill of exchange or promissory note) executed before the commencement of this Ordinance.

(9) Stamp duty on a lease or an instrument of transfer of an estate in fee simple in land or of a lease, that is executed before the commencement of this Ordinance or for which an agreement in writing has been executed before the commencement of this Ordinance and which lease, agreement or transfer, as the case may be, has been lodged with the Commissioner of Taxes for stamping or noting before the expiration of 3 months from the date of commencement of this Ordinance shall be assessed on the lease or the transfer, as the case may be, at the rate that would have applied to that lease or that transfer if the *Taxation (Administration) Ordinance 1978* and this Ordinance had not come into force.

(10) The Commissioner of Taxes may, upon receipt of such evidence as he requires, extend the period of time referred to in sub-section (9) if he is satisfied that a document produced to him for the purposes of sub-section (9) was executed before the commencement of this Ordinance.

(11) Stamp duty is not imposed under this Ordinance on a conveyance—

- (a) executed for the purpose of securing the repayment of a loan or debt in pursuance of a loan security on which duty imposed under this Ordinance has been accounted for in accordance with this Ordinance;
- (b) made for the purpose of effecting the appointment of a new trustee on the retirement of a trustee and under which no beneficial interest passes in the property conveyed; or
- (c) made by a trustee to a beneficiary.

(12) For the purposes of this section—

- (a) where a bill of exchange or promissory note is dated, the bill or note shall, unless the contrary is shown, be deemed to have been drawn or made on that date; and
- (b) an instrument shall be deemed to have been executed on the date on which the last party to the instrument appears to have executed it.

(13) The Regulations may exempt a person from the whole or a part of the operation of this Ordinance.

7. Where an amount of stamp duty payable on a hiring arrangement or a hire-purchase agreement is an amount that is not a multiple of 5 cents, the amount of stamp duty payable is the next lower amount that is a multiple of 5 cents.

Hire-
purchase
agreement

Conveyance
of property

8. Where a conveyance or transfer of an estate in fee simple in land or of a Crown lease of land for a term exceeding 5 years is executed in pursuance of an agreement or a number of agreements which, in the opinion of the Commissioner, constitute one transaction the value of or consideration paid for (whichever is the higher) any chattels included in the agreements or the transaction shall be included in the amount upon which duty is assessed.

Regulations

9. The Administrator may make regulations not inconsistent with this Ordinance prescribing all matters required or permitted to be prescribed by this Ordinance, or necessary or convenient to be prescribed for the carrying out or giving effect to this Ordinance.

SCHEDULE 1

Sections 4 and 5

RATES OF STAMP DUTY

Item No.	Class of instruments	Rate of stamp duty
1.	<i>Cheque</i> drawn or made on a banker at a branch in the Territory	\$0.05
2.	<i>Mining Agreements</i>	\$5.00
3.	<i>Bill of Exchange of Promissory Note</i> (not being a cheque) drawn, made, negotiated, presented for payment, or paid, in the Territory	\$0.05
4.	<i>Companies</i> Upon each of the following instruments:	
	(a) memorandum of association	\$5.00
	(b) articles of association	\$5.00
	(c) every certificate of incorporation	\$5.00
5.	<i>Conveyance of Real Property</i>	
(1)	Conveyance or transfer (not being the grant of a lease) of an estate in fee simple in land situated in the Territory	Where the amount of the consideration for or the value of the property the subject of the conveyance of transfer (whichever is the higher) does not exceed \$100. \$1.00 Exceeds \$100 but does not exceed \$50,000—for every \$100 and also for any remaining fractional part of \$100 of that amount or value \$1.00 Exceeds \$50,000 but does not exceed \$100,000—the duty payable on the first \$50,000 of that amount or value and, in addition, for every \$100, and also for any remaining fractional part of \$100 in excess of the first \$50,000 \$1.50 Exceeds \$100,000 but does not exceed \$250,000—the duty payable on the first \$100,000 of that amount or value, and in addition thereto—for every \$100 and also for any remaining fractional part of \$100 of such amount in excess of \$100,000 \$1.75

	Exceeds \$250,000—the duty payable on the first \$250,000 of such amount, and in addition thereto—for every \$100 and also for any remaining fractional part of \$100 of such amount in excess of \$250,000	\$2·00
(2) Conveyance or transfer (not being the grant of a sub-lease) of a Crown lease for a term exceeding 5 years of land situated in the Territory	At the rate specified in paragraph (1) above	
(3) Conveyance or transfer of a lease (not being a Crown lease or the grant of a sub-lease)	At the rate specified in paragraph (1) above	
6. <i>Deed</i> of any kind whatsoever including any instrument which under the provisions of any statute is given the operation or effect of a deed either before or after registration		\$5·00
7. <i>Foreclosure Order</i> On the unencumbered value of the property included in the order	The same duty as on a conveyance under paragraph (1) of the matter herein under the heading “Conveyance of Real Property”	
8. <i>Guarantee</i> Any instrument (not being an instrument liable to stamp duty as a loan security) guaranteeing or promising to answer for the debt by the party so charged, where such guarantee or promise is the leading object of the instrument—	Under hand	\$0·50
	Under seal	\$5·00
9. <i>Hiring Arrangement</i>	or an amount equal to 1% of the total amount payable under the hiring arrangement, whichever is the greater	\$0·50
10. <i>Hire-Purchase Agreement</i>	or an amount equal to 1% of purchase price whichever is the greater	\$0·50
11. <i>Instrument of Appointment of any Trustee</i>		\$5·00
12. <i>Lease</i> , an agreement for lease, sub-lease, under-lease or the grant of a sub-lease or under-lease of an estate in fee simple in land or a Crown lease for a term exceeding 5 years of land in the Territory		
(1) In respect of the total rent payable during the term without any consideration by way of premium, fine or foregift—	Where such rent— does not exceed \$100	\$0·50
	exceeds \$100 and also for any remaining fractional part of \$100	\$0·50
(2) In respect of a lease where there is an indefinite term	On an amount assessed by the Commissioner to be the equivalent of one year's rent on average within the terms of the lease or agreement (whether the lease or agreement runs for longer than one year or not) for every \$100 and also for any remaining fractional part of \$100 so assessed	\$1·00

(3) In consideration of a sum of money by way of premium, fine or foregift without rent	The same duty as on a conveyance under paragraph (1) under the heading "Conveyances of Real Property" herein	
(4) In consideration of a sum of money by way of premium, fine or foregift, and also of rent whether real or nominal—	On the amount of the premium the same duty as on a conveyance under paragraph (1) under the heading "Conveyances of Real Property" herein And on the rent the same duty as on a lease under paragraph (1) hereof	
(5) Where the consideration is nominal, or where there is no consideration in money or money's worth	The same duty as would be chargeable under paragraph (1) under the heading "Conveyances of Real Property" herein	
(6) Of any other kind whatsoever		\$5.00
(7) A lease made subsequently to and in conformity with a contract or agreement to grant such lease duly stamped		\$0.50
13. <i>Letter or Power of Attorney</i> or other instrument in the nature of—		
(1) For the receipt of the dividends or interest of any stock	Where made for the receipt of one payment only In any other case	\$0.50 \$1.00 \$1.00
(2) For the receipt of any other sum of money, or any bill of exchange or promissory note for any sum of money not exceeding \$40, or any periodical payments not exceeding the annual sum of \$20 (not being hereinbefore charged)		
(3) Of any kind whatsoever not hereinbefore described including the appointment of a receiver by a mortgage		\$5.00
14. <i>Loan Security</i>		
	Where the amount payable or repayable under or secured by the loan security does not exceed \$15,000 or, if that amount is not fixed, where the maximum amount that is or may become payable or repayable under or that is secured by the loan security does not exceed \$15,000.	\$5.00
	Where the amount of maximum amount exceeds \$15,000—	
	for the first \$15,000	\$5.00
	and in addition	
	for every \$100 and also for any remaining fractional part of \$100 in excess of the first \$15,000	\$0.25
15. <i>Transfer or Assignment of a Mortgage</i>		
(1) Upon any transfer of or assignment of any mortgage on a sale thereof for a consideration in money or money's worth of not less than the unencumbered value of the mortgage	For every \$100 and also for any fractional part of \$100 of the consideration for the transfer or assignment	\$0.25

(2) Upon every transfer or assignment of any mortgage made—		
(a) without consideration in money or money's worth; or	The same duty as is payable under paragraph (1) under the heading "Conveyances of Real Property" herein on the conveyance of the mortgage	
(b) upon a consideration in money's worth or less than the unencumbered value of the mortgage		
16. <i>Motor Vehicle Certificate of Registration</i>		
On a motor vehicle certificate of registration	For every \$100 and also for any fractional part of \$100 of the market value of the motor vehicle	\$0.50
17. <i>Policies of Insurance</i> not being a policy of life insurance, or policy under the <i>Workmen's Compensation Ordinance</i>		
(1) Upon every policy and every renewal of a policy of insurance for a term of one year or less	For every \$100 and also for any fractional part of \$100 of premium	\$5.00
(2) Upon every policy and every renewal of a policy of insurance for a term of more than one year	In respect of each year and also of any fractional part of a year in the term—for every \$100 and also for any fractional part of \$100 of premium	\$5.00
(3) Upon every policy and every renewal of a policy of insurance against liability for injury to third persons or property of persons (whether included in any other policy of insurance or not) for which a premium is payable		\$0.25
18. <i>Policy of Life Insurance</i>		
(1) Upon every policy (other than a temporary or term insurance policy)	For every \$100 and also for any fractional part of \$100 of the sum insured.	\$0.05
(2) Upon a temporary or term insurance policy	5% of the first year's premium	
(3) Upon every policy of re-insurance where the original policy of insurance has been duly stamped		\$0.50
(4) Upon every transfer or assignment of a policy of life insurance otherwise than by way of mortgage or release of mortgage	The same duty as on a conveyance under paragraph (1) under the heading "Conveyance of Real Property" herein	
19. <i>Tax Ticket</i> issued under Part VIIA of the <i>Lottery and Gaming Ordinance</i>		\$0.10
20. <i>Transfer of Marketable Securities</i>		
(a) Upon the sale of any marketable security on an Australian Stock Exchange negotiated by or on behalf of a broker in the Territory	For every \$100 and also any fractional part of \$100 of the consideration paid or the unencumbered value (whichever is the greater)	\$0.15
(b) Upon the purchase of any marketable security on an Australian Stock Exchange negotiated by or on behalf of a broker in the Territory	For every \$100 and also any fractional part of \$100 of the consideration paid or the unencumbered value (whichever is the greater)	\$0.15
(c) Upon the sale of any marketable security not dutiable by virtue of paragraph (a)	(i) for every sale involving 2,000 units of marketable security or less	\$2.00
	For every sale involving more than 2,000 units of marketable security for the first 2,000 units	\$2.00

	and in addition for every 100 units and also any remaining fractional part of 100 units in excess of 2,000 units	\$0-10
	or	
	(ii) for every \$100 and also any fractional part of \$100 of the consideration or the unencumbered value (whichever is the greater)	\$0-15
	whichever of (i) or (ii) is the less	
(d) Upon the purchase of any marketable security not dutiable by virtue of paragraph (b)	(i) for every sale involving 2,000 units of marketable security or less	\$2-00
	for every sale involving more than 2,000 units of marketable security for the first 2,000 units	\$2-00
	and in addition for every 100 units and also any remaining fractional part of 100 units in excess of 2,000 units	\$0-10
	or	
	(ii) for every \$100 and also any fractional part of \$100 of the consideration or the unencumbered value (whichever is the greater) . . .	\$0-15
	whichever of (i) or (ii) is the less	

SCHEDULE 2

EXEMPTIONS FROM STAMP DUTY

Section 6

Item No.	Class of exempt instruments
1.	Cheque drawn on a form supplied or used by a banker in pursuance of an authority granted under Division 2 of Part III of the <i>Taxation (Administration) Ordinance</i> .
2.	Any draft or order for the payment of money issued by any duly authorized officer of the Territory on account of the Public Service.
3.	Bill of exchange or promissory note drawn or made by or on behalf of a public hospital, public benevolent institution, religious institution or public educational institution.
4.	Hire-purchase agreement under which the hirer is a public hospital, public benevolent institution, religious institution or public educational institution.
5.	Leases in respect of private domestic residential house.
6.	Conveyance to the Territory or to an authority of the Territory.
7.	Conveyance to the Commonwealth or to an authority of the Commonwealth.
8.	Transfer of fee simple of, or transfer of a Crown lease over, a residential lot, in respect of a transferee who— (a) is acquiring that land for the purpose of personal occupation; and (b) has not previously owned residential land in the Territory.
9.	Conveyance to, or to trustees upon trust for, a public hospital, public benevolent institution, religious institution or public educational institution.
10.	The purchase of a marketable security made by a broker on his own account or behalf, being a purchase of a marketable security that had previously been sold by him on the day of the purchase or within 2 clear days (not including a day on which he is not able to operate as a broker because the Stock Exchange on which he purchased the shares is closed) before the day of the purchase.

11. The sale of a marketable security made by a broker on his own account or behalf, being a sale of a marketable security that had previously been purchased by him on the date of the sale or within 2 clear days (not including a day on which he is unable to operate as a broker because the Stock Exchange on which he sold the shares is closed) before the day of the sale.
12. Transfer of a marketable security where the instrument of transfer bears statements made in respect of the sale and of the purchase of the marketable security to which the transfer relates under the *Taxation (Administration) Ordinance* or under the law of a State or another Territory of the Commonwealth relating to the imposition of stamp duty on transfers of marketable securities to the effect that stamp duty, if payable, has been or will be paid.
13. Transfer of a marketable security issued by a municipal council or other local governing body or by a public authority constituted under a law of the Commonwealth or of a State or Territory of the Commonwealth.
14. Transfer of a marketable security to, or to trustees upon trust for, a public hospital, public benevolent institution, religious institution or public educational institution.
15. Transfer of a marketable security made in consequence of the appointment or retirement of a trustee or other change in trustees in order to vest the marketable security in the trustees for the time being entitled to hold it.
16. Transfer of a marketable security from an executor of a deceased person's will or administrator of a deceased person's estate to another executor of that will or administrator of that estate.
17. Transfer of a marketable security to a beneficiary entitled to it under a will or to a person entitled to it under an intestacy.
18. Transfer of a marketable security from a trustee to a person who contributed the purchase money for the transfer by which the trustee acquired the marketable security, where—
 - (a) any stamp duty (whether under this or another Act or under a law of a State or another Territory of the Commonwealth) on the transfer by which the trustee acquired the marketable security has been paid;
 - (b) the instrument of transfer by which the trustee acquired the marketable security bears statements made in respect of the sale and of the purchase of the marketable security to which the transfer relates under the *Taxation (Administration) Ordinance* or under a law of a State or another Territory of the Commonwealth relating to the imposition of stamp duty on transfers of marketable securities to the effect that stamp duty, if payable, has been or will be paid;
 - (c) stamp duty (whether under this or another Act or under a law of a State or another Territory of the Commonwealth) on the transfer by which the trustee acquired the marketable security was not payable; or
 - (d) the trustee so acquired the marketable security upon its first issue.
19. Transfer of a marketable security to a trustee to be held solely as trustee of the transferor without change in beneficial ownership, and a transfer by way of re-transfer to the transferor.
20. Transfer of a marketable security made solely for the purpose of—
 - (a) qualifying the transferee as the director of a company to act and vote, as directed, on behalf of another company; or
 - (b) re-transferring the marketable security from that director to the other company, being another company that—
 - (i) controls the appointment or removal of all or a majority of the board of directors of that first-mentioned company;
 - (ii) controls more than one-half of the voting power in that first-mentioned company; or
 - (iii) beneficially owns more than one-half of the paid-up capital of that first-mentioned company.
21. Transfer of a marketable security made solely for the purpose of rectifying a clerical error in an instrument of transfer.
22. Transfer of a marketable security made solely by way of security or by way of re-transfer to a person from another person who held the marketable security by way of security.
23. Transfer of a marketable security by a broker to a person (not being a broker) who had, for the purpose of enabling the broker to fulfil a contract to sell marketable securities

in the ordinary course of his business as a broker, transferred a marketable security of the same description to the broker in pursuance of an undertaking by the broker, in consideration of that transfer to the broker, subsequently to transfer a marketable security of the same description to that person.

24. Loan securities where *ad valorem* stamp duty has been paid or is payable in respect of a security issued or made in a State or another Territory.
 25. Any loan or loan security made or given by a council with the meaning of the *Local Government Ordinance*.
 26. Letter or power of attorney—
 - (a) in the form or an order, request, or direction, under hand only, from the proprietor of any stock to any company, or to any officer of any company, or to any banker, to pay the dividends or interest arising from the stock to any person therein named; or
 - (b) for the sole purpose of appointing a proxy to vote at a meeting.
 27. Any policy of insurance upon the property of the Territory Government or any statutory body representing the Territory.
 28. Any policy relating to third-party insurance imposed by the *Motor Vehicles Ordinance* and *Motor Vehicles (Third Party Insurance) Regulations*.
 29. Any policy of insurance taken out by or on behalf of a public hospital, public benevolent institution, religious institution or public educational institution.
 30. Any insurance cover-note in pursuance of which a duly stamped policy is issued within 3 months of the date of the cover-note.
 31. Any policy of insurance issued to the original insured or his personal representative in pursuance of a cover-note which has been duly stamped as a policy.
 32. Any policy of insurance taken out in pursuance of a requirement under the *Workmen's Compensation Ordinance*.
 33. Any policy of insurance for whatever risk taken out in respect of buildings and their contents.
 34. Articles of indenture of apprenticeships.
 35. Wills and testamentary instruments.
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