



## STAMP DUTIES

No. 31 of 1977

### ANALYSIS

1. Short title, citation, and commencement.
2. Appropriation.
3. Amendments of Part III.
4. Exemption or reduction of duty touching certain Federally-aided housing.

\*\*\*\*\*

**AN ACT to amend the Stamp Duties Act 1931 to authorize the making of loans by the Commissioner of Stamp Duties in connection with the payment of duty on instruments relating to the purchases of first homes and to amend that Act in relation to certain Federally-aided housing grants.**

[28 April 1977]

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1—(1)** This Act may be cited as the *Stamp Duties Act 1977*.

Short title,  
citation, and  
commence-  
ment.

**(2)** The *Stamp Duties Act 1931*\*, as subsequently amended, is in this Act referred to as the Principal Act.

\* 22 Geo. V, No. 19. For this Act, as amended to 1968, see Appendix E to the Annual Volume of Statutes for 1968. Subsequently amended by No. 46 of 1969, No. 50 of 1970, No. 46 of 1971, No. 78 of 1972, Nos. 45 and 95 of 1974, No. 56 of 1975, and Nos. 101 and 115 of 1976.

(3) Section 4 shall be deemed to have commenced on 1st January 1977.

Appropriation.

**2** Section 10 of the Principal Act is amended by inserting in subsection (1), after the word “ duties ”, the words “, instalments of loans and other moneys paid to the Commissioner under section 18B,”.

Amendments of Part III.

**3** Part III of the Principal Act is amended—

- (a) by adding at the end of the heading to Division II the word “ generally ”; and
- (b) by inserting after Division II the following Division:—

*“ Division IIA—Loans in connection with payment of duty on instruments relating to the purchase of first homes*

Interpretation.

“ 18A In this Division—

- ‘ building ’ includes a part of a building, a building attached to or conjoined with another building, and a flat or home unit;
- ‘ dwelling ’ means a building intended for use as a single dwelling;
- ‘ loan ’ means a loan by the Commissioner under section 18B (3);
- ‘ long-term interest ’, in relation to land, means an estate in fee simple or an interest of a lessee under a lease that could reasonably be expected to give him reasonable security in his occupation of the land for the remainder of his life.

Loans in connection with the payment of duty on instruments relating to the purchase of first homes.

“ 18B—(1) Subject to this section, a person may obtain a loan from the Commissioner under subsection (3) to enable him to pay duty on an instrument dutiable under the Second Schedule that is made to, by, or with that person in respect of land purchased by him or moneys borrowed by him to finance the purchase of that land, if—

- (a) a dwelling is constructed on that land that is, or will be, the first to be established as a residence—
  - (i) by that person; or
  - (ii) by that person jointly with another person, (whether in this State or elsewhere) on land purchased or held by him for a long term interest;

(b) that dwelling is, or will be, used as that person's usual place of residence and is not being, or will not be, used by him as a means of providing him with a source of income; and

(c) the value of that land (including the dwelling) does not exceed \$50 000.

“(2) For the purposes of paragraph (c) of subsection (1), ‘value’, in relation to land purchased by a person referred to in that subsection, means—

(a) the purchase-price paid by that person for the land, less the cost of any furniture, furnishings, and fittings included in the sale of the land to that person; or

(b) the capital value of the land as contained in the most recent valuation of it made by the Valuer-General,

whichever is the greater.

“(3) A person who wishes to obtain a loan to enable him to pay the duty on an instrument or instruments referred to in subsection (1) shall make a written application for that purpose to the Commissioner and, if he satisfies the Commissioner that he is a person who is entitled under that subsection to obtain such a loan, the Commissioner shall, subject to his entering into an agreement with the Commissioner, make a loan to that person of an amount equal to the amount of duty payable by him on that instrument or those instruments.

“(4) Except as provided in subsection (7), a loan is not subject to the payment of interest.

“(5) The Commissioner may require an applicant under subsection (3) to furnish him with such evidence as the Commissioner deems necessary in order to show to the Commissioner's satisfaction whether or not the applicant is a person who is entitled under subsection (1) to obtain the loan for which he has applied.

“(6) For the purposes of subsection (3), an agreement relating to a loan—

(a) shall provide that—

(i) the amount of the loan shall be repaid to the Commissioner by instalments of such amount as is specified in the agreement over a period of two years commencing on the date of the agreement; and

(ii) the instalments referred to in sub-paragraph (i) are payable at such intervals (being not less than three-monthly intervals) as are specified in the agreement; and

(b) shall be subject to such other terms and conditions as the Commissioner thinks fit and as are specified in the agreement.

“(7) Without limiting the generality of subsection (5) (b), an agreement by a person under subsection (3) may be subject to a condition that if he makes a late payment of an instalment under the agreement he is liable to pay to the Commissioner, within the time specified in the agreement, interest on the instalment at a rate of interest that is 5 per cent higher than the rate of interest payable for the longest period of the last preceding loan sought by the Commonwealth from the public of this State, along with others, for cash.

“(8) Notwithstanding section 9 (1), no duty is payable under the Second Schedule in respect of an agreement under subsection (3).

“(9) Where a person fails to comply with a term or condition of an agreement entered into by him with the Commissioner under subsection (3), the agreement thereupon ceases to have effect and the whole of the duty or the whole of the duty outstanding, as the case may be, on the relevant instrument or instruments and any interest owing under the agreement become payable immediately by that person to the Commissioner and are recoverable in accordance with section 32.

Appropriation.

“18C Loans made by the Commissioner for the purposes of section 18B shall be paid out of the Consolidated Revenue (which, to the necessary extent, is appropriated accordingly).”

Exemption or reduction of duty touching certain Federally-aided housing.

4 Section 75A of the Principal Act is amended—

(a) by omitting subsection (1) and substituting the following subsections:—

“(1) In this section, ‘homes savings grant’ or ‘grant’ means—

(a) a grant under section 20 of the *Homes Savings Grant Act 1964* of the Commonwealth; or

(b) a grant under section 17 of the *Homes Savings Grant Act 1976* of the Commonwealth.

“(1A) Where a person—

(a) has received; or

(b) has been notified by the Secretary of the Department of Environment, Housing and Community Development, that he will receive,

a homes savings grant, duty under this Act shall not be paid, or shall be reduced, as provided in this section.”;

(b) by inserting in subsection (2), before the word “grant”, the word “relevant”;

(c) by omitting subsections (3) and (4) and substituting the following subsections:—

“(3) No such duty as is referred to in subsection (2) shall be paid, if the relevant grant is—

(a) the maximum amount payable under section 22 of the *Homes Savings Grant Act* 1964 of the Commonwealth; or

(b) the appropriate maximum amount payable under paragraph (b) (i), paragraph (b) (ii), or paragraph (b) (iii) of section 31 (1) of the *Homes Savings Grant Act* 1976 of the Commonwealth.

“(4) Where the relevant grant is less than the maximum amount referred to in paragraph (a) of subsection (3) or the appropriate maximum amount referred to in paragraph (b) of that subsection, the duty referred to in subsection (2) shall be reduced by an amount that bears the same relation to the full duty as the grant made or to be made bears to that maximum amount, fractions being disregarded.”; and

(d) by adding at the end the following subsection:—

“(6) A reference in this section to a Commonwealth Act includes that Act as amended from time to time and any Commonwealth Act passed in substitution for that Act.”.

