

STAMP DUTIES AMENDMENT ACT 1985

No. 39 of 1985

TABLE OF PROVISIONS

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| <p>1. Short title.</p> <p>2. Commencement.</p> <p>3. Principal Act.</p> <p>4. Amendment of section 4 of Principal Act (Commissioner of Stamp Duties and Deputy and Acting Commissioners).</p> <p>5. Amendment of section 12 of Principal Act (Cases in which duty may be denoted by adhesive stamps).</p> <p>6. Amendment of section 15 of Principal Act (Late stamping of instruments).</p> <p>7. Amendment of section 18B of Principal Act (Loans in connection with the payment of duty on instruments relating to the purchase of first homes).</p> <p>8. Amendment of section 25 of Principal Act (Assessment and payment of duty on certain instruments where consideration inadequate).</p> <p>9. Insertion in Principal Act of new section 47A.
47A—Duty on policies of insurance payable in certain cases by insured.</p> | <p>10. Amendment of section 60A of Principal Act (Interpretation: Division 3A, Part IV).</p> <p>11. Insertion in Principal Act of new Division 4A, Part IV.
<i>Division 4A—Dispositions of marketable securities by registered trustees</i>
69B—Interpretation: Division 4A, Part IV.
69C—Application for registration as registered trustee.
69D—Monthly returns and duty payable by registered trustees.
69E—Relevant transactions in respect of which duty is not payable or reduced.
69F—Registered trustees to keep books in respect of relevant transactions.
69G—Offences.</p> <p>12. Amendment of Schedule 3 to Principal Act (INSTRUMENTS EXEMPTED FROM DUTY).</p> |
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STAMP DUTIES AMENDMENT ACT 1985

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 No. 39 of 1985
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AN ACT to amend the Stamp Duties Act 1931.

[Royal Assent 14 May 1985]

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—This Act may be cited as the *Stamp Duties Amendment Act* Short title.
 1985.

2—(1) Except as provided in subsection (2), this Act shall Commence-
 commence on the day on which it receives the royal assent.

(2) Section 4 shall commence on such day as may be fixed by proclamation.

3—In this Act, the *Stamp Duties Act 1931** is referred to as the Principal Act.
 Principal Act.

* 22 Geo. V No. 19. For this Act as amended to 1st July 1981, see the continuing Reprint of Statutes. Subsequently amended by Nos. 19 and 24 of 1980, Nos. 44 and 70 of 1981, Nos. 9, 47, 48, 65, and 99 of 1982, Nos. 23, 39, 71, and 86 of 1983, and No. 29 of 1984.

Amendment of section 4 of Principal Act (Commissioner of Stamp Duties and Deputy and Acting Commissioners).

4—Section 4 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:—

(1) Subject to and in accordance with the *Tasmanian State Service Act* 1984, a Commissioner and a Deputy Commissioner may be appointed for the purposes of this Act.

(2) An employee, within the meaning of the *Tasmanian State Service Act* 1984, may be appointed as Commissioner or Deputy Commissioner and may hold any such office in conjunction with his position in the State Service and may be paid, in addition to his salary as an employee employed in the State Service, such additional allowance (if any) as the Head of the Agency, in which that employee is employed, may determine.

Amendment of section 12 of Principal Act (Cases in which duty may be denoted by adhesive stamps).

5—Section 12 (1) of the Principal Act is amended as follows:—

(a) by omitting from paragraph (b) “ \$50 ” and substituting “ \$100 ”;

(b) by omitting from paragraph (f) (ii) “ \$50 ” and substituting “ \$100 ”.

Amendment of section 15 of Principal Act (Late stamping of instruments).

6—Section 15 (2) of the Principal Act is amended by omitting “ \$50 ” and substituting “ \$100 ”.

Amendment of section 18B of Principal Act (Loans in connection with the payment of duty on instruments relating to the purchase of first homes).

7—Section 18B (2) of the Principal Act is amended by omitting paragraph (b) and substituting the following paragraph:—

(b) the capital value of the land determined by the Valuer-General as at the date on which the land was purchased.

Amendment of section 25 of Principal Act (Assessment and payment of duty on certain instruments where consideration inadequate).

8—Section 25 (1) of the Principal Act is amended as follows:—

(a) by omitting from paragraph (d) “, as determined by the Valuer-General ” and substituting “ determined by the Valuer-General as at the date on which that agreement was made ”;

(b) by omitting from paragraph (e) “ as so determined ” and substituting “ determined by the Valuer-General as at the date on which that assignment was made ”;

(c) by omitting from paragraph (f) “ as so determined ” and substituting “ determined by the Valuer-General as at the date on which that instrument was made ”.

9—After section 47 of the Principal Act, the following section is inserted:—

Insertion in Principal Act of new section 47A.

47A—Where the insurer of a policy of insurance is not bound to pay duty payable in respect of that policy and does not pay such duty, the duty on that policy is payable by the insured.

Duty on policies of insurance payable in certain cases by insured.

10—Section 60A of the Principal Act is amended by omitting “ merchant ” where second occurring from the definition of “ credit card ” and substituting “ merchant, or to a person nominated by the merchant for that purpose ”.

Amendment of section 60A of Principal Act (Interpretation: Division 3A, Part IV).

11—After section 69A of the Principal Act, the following Division is inserted:—

Insertion in Principal Act of new Division 4A, Part IV.

Division 4A—Dispositions of marketable securities by registered trustees

69B—In this Division, unless the contrary intention appears—

Interpretation: Division 4A, Part IV.

“ books ” includes any document, register, accounts, or other record of information, and accounting records within the meaning of the Companies (Tasmania) Code, however compiled, recorded, or stored;

“ broker ” means a person who, or firm or corporation which, is a member of The Stock Exchange;

“ jobber ” means a person who, or a firm or corporation which, is recognized as a jobber according to the rules and practices of The Stock Exchange;

“ registered trustee ” means a person who is registered under section 69C (3) and whose registration has not been revoked;

“ relevant transaction ” means a disposition of a marketable security or a right in respect of shares of a body corporate or society which is incorporated in Tasmania made or effected by a registered trustee as trustee for any person to himself as trustee for another person;

“The Stock Exchange” means The Stock Exchange of the United Kingdom.

Application for registration as registered trustee.

69C—(1) A person who—

(a) is a trustee in respect of a marketable security; and

(b) carries on business in Tasmania,

may apply to the Commissioner in a form approved by the Commissioner to be registered as a registered trustee for the purposes of this Act.

(2) On receipt of an application under subsection (1), the Commissioner may—

(a) grant the application; or

(b) refuse to grant the application.

(3) Where the Commissioner grants an application pursuant to subsection (2) (a) he shall register the applicant as a registered trustee for the purposes of this section.

(4) Where the Commissioner refuses to grant the application pursuant to subsection (2) (b) he shall by notice in writing served on the applicant, inform him of the refusal and of the ground on which the refusal is based.

(5) The Commissioner may, in his absolute discretion, at any time by notice in writing, served on the registered trustee, revoke his registration as a registered trustee.

Monthly returns and duty payable by registered trustees.

69D—(1) Where a registered trustee—

(a) is notified of a disposition to a person of a right or interest in a marketable security, or a right in respect of shares which he holds as trustee on behalf of another person; or

(b) is directed to hold a marketable security or a right in respect of shares held on behalf of a person other than a person on behalf of whom he holds that security or right,

he is deemed to have made or effected a relevant transaction.

(2) Subject to section 69E, a registered trustee shall, on or before the tenth day of each month—

- (a) furnish to the Commissioner a return in a form approved by the Commissioner setting out the particulars of the relevant transactions made or effected or deemed to have been made or effected by him during the immediately preceding month; and
- (b) pay to the Commissioner duty on that return of a sum equal to the total amount of duty which would have been payable if each such relevant transaction had been made or effected by an instrument of transfer in respect of which duty is payable under item 36 of Schedule 2.

69E—(1) Section 69D (2) does not apply to or in respect of a relevant transaction where the disposition to which the relevant transaction relates—

Relevant transactions in respect of which duty is not payable or reduced.

- (a) is made by way of security otherwise than to secure the rights of a purchaser or an intended purchaser under a contemplated sale;
- (b) is made in consequence of such a security no longer being required;
- (c) is, in accordance with the rules and practices of The Stock Exchange, a stock loan transaction;
- (d) is made or effected to a broker who—
 - (i) acquired the marketable securities or rights in respect of shares as principal; and
 - (ii) within 2 clear days after that acquisition, disposed of his beneficial interest in those securities or rights;
- (e) is made or effected by a broker as principal within 2 clear days after he acquired the marketable securities or rights in respect of shares as principal; or
- (f) is made or effected by a jobber to another jobber.

(2) Where a relevant transaction is made by a registered trustee—

(a) as trustee for a broker to himself or as trustee for a jobber; or

(b) as trustee for a jobber to himself as trustee for a broker,

the amount payable under section 69D (2) (b) in respect of that relevant transaction shall be one half of the amount that would, but for this subsection, be payable.

(3) For the purposes of this section, “day” means any day other than a day on which The Stock Exchange is closed for business.

Registered trustees to keep books in respect of relevant transactions.

69F—(1) A registered trustee shall keep such books as are necessary to give a true indication of the relevant transactions made or effected by him.

(2) Any books kept by a registered trustee pursuant to subsection (1) shall be retained by the registered trustee for a period of 3 years after the completion of relevant transactions to which they relate.

Offences.

69G—(1) A registered trustee who fails to comply with the provisions of this Division is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$500.

(2) In addition to the penalty imposed under subsection (1), a court may order a person convicted of an offence relating to the non-payment of duty to pay to the Commissioner a sum not exceeding an amount equivalent to twice the amount of duty in respect of the non-payment of which he is so convicted.

Amendment of Schedule 3 to Principal Act (INSTRUMENTS EXEMPTED FROM DUTY).

12—(1) Part I of Schedule 3 to the Principal Act is amended as follows:—

(a) by omitting from item 36 (b) “Commonwealth; and” and substituting “Commonwealth;”;

(b) by omitting from item 36 (c) “person.” and substituting “person; and”;

(c) by inserting the following paragraphs after paragraph (c) of item 36:—

(d) Any transfer of a marketable security or right in respect of shares made in consequence of the appointment or retirement of any trustee or any other change in trustees in order to vest the marketable security or right in the trustees for the time being entitled to hold the marketable security or right; and

(e) Any transfer of a marketable security or right in respect of shares to or by a person to whom Division 4A of Part IV applies.

(2) Part I of Schedule 3 is further amended by inserting the following item after item 37:—

38 | *Return lodged with the Commissioner pursuant to section 69D*

(2)

Any transfer of marketable securities that would be exempt from duty under item 36 of this Schedule if the sale or purchase in respect of which the transfer was executed had not been included in the return.

