

STAMP DUTIES AMENDMENT ACT (No. 2) 1981

No. 70 of 1981

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STAMP DUTIES AMENDMENT ACT (No. 2) 1981

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AN ACT to amend the Stamp Duties Act 1931 for the purpose of increasing certain rates of duty under that Act and for other purposes.

[Royal Assent 30 November 1981]

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. (No. 2) 1981.

2—(1) Except as provided by subsection (2), this Act shall Commence- commence on 1st December 1981. ment.

(2) Sections 8, 9, 10, 11, 12, and 13 shall commence on 1st January 1982.

Principal Act.

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

Amendment of section 25 of Principal Act (Payment of duty where consideration inadequate).

4—Section 25 of the Principal Act is amended by omitting “Notwithstanding any other provision of this Act,” and substituting “Subject to section 26B,”.

Amendment of section 26 of Principal Act (Increased rate of duty where consideration inadequate).

5—Section 26 of the Principal Act is amended by omitting “Notwithstanding any provision of this Act other than section 25,” and substituting “Subject to sections 25 and 26B,”.

Amendment of section 26A of Principal Act (Assessment of duty where whole consideration not provided by transferee).

6—Section 26A of the Principal Act is amended by omitting “For ” and substituting “Subject to section 26B, for ”.

Insertion in Principal Act of new section 26B.

7—After 26A of the Principal Act, the following section is inserted:—

Reduction of duty in certain cases.

26B—(1) Where, but for this section, duty is payable on a transfer or an instrument at the rates specified in Item 28 or Item 36 (b) of Schedule 2 and the transferee or donee is—

- (a) the spouse of the transferor or donor;
- (b) a child or other descendant of the transferor or donor; or
- (c) a trustee of a trust, to the extent that the trust is exclusively in favour of a beneficiary who is a person referred to in paragraph (a) or (b),

duty shall be charged on that transfer or instrument at the appropriate rate specified in Item 13 (a) or Item 36 (a) of Schedule 2, and in accordance with Rule 1 of Schedule 4, notwithstanding Rule 4 of Schedule 4.

(2) For the purposes of this section—

“child” means a child or step-child;

“donor” means a person who executes an instrument for the benefit of another person or persons;

“donee” means a person for whose benefit an instrument is executed;

* 22 Geo. V No. 19. For this Act, as amended to 1st July 1981, see the continuing Reprint of Statutes. Subsequently amended by No. 24 of 1980 and No. 44 of 1981.

“ instrument ” means a settlement, deed of gift, or declaration of trust made otherwise than by testamentary disposition, on which, but for this section, duty would be payable at the rate specified in Item 28 or Item 36 (*b*) of Schedule 2;

“ spouse ”, in relation to a transferor or donor, includes a person who, for the continuous period of 5 years immediately preceding the date of the transfer or instrument, being a person of the opposite sex to the transferor or donor, lived with the transferor or donor as if in a conjugal relationship;

“ transfer ”, “ transferee ”, and “ transferor ” have the meanings respectively assigned to those expressions by section 26A (4).

8—(1) Section 47 (6) of the Principal Act is amended by omitting paragraph (*a*) and substituting the following paragraph:—

(*a*) shall, subject to subsection (6A), be paid monthly, as prescribed, within 10 days after the last day of each month in respect of the premium income received by the insurer during that month; and

Amendment of section 47 of Principal Act (Special provisions relating to the payment of duty on policies of insurance).

(2) Section 47 of the Principal Act is amended by inserting the following subsections after subsection (6):—

(6A) Where the Commissioner is of the opinion that it would be unduly onerous to require an insurer to furnish returns—

(*a*) within the time specified in subsection (6), he may, by notice in writing, vary the time within which that insurer is required to furnish returns in pursuance of that subsection; or

(*b*) relating to each month, he may, by notice in writing, authorize that insurer to furnish returns relating to such other periods as may be specified in the notice,

and the insurer shall, while that notice remains unrevoked, furnish returns accordingly.

(6B) The Commissioner may, at any time, by notice in writing, revoke any notice given in pursuance of subsection (6A).

Amendment of section 55 of Principal Act (Payment of duty on hire-purchase agreements).

9—(1) Section 55 of the Principal Act is amended by omitting subsection (2) and substituting the following subsections:—

(2) Subject to subsection (2A), the duty that is payable on hire-purchase agreements by a person to whom a licence under this section is granted shall be paid monthly, as prescribed, within 10 days after the last day of each month in respect of all hire-purchase agreements to which the owner is a party entered into during that month.

(2A) Where the Commissioner is of the opinion that it would be unduly onerous to require an owner to furnish returns—

(a) within the time specified in subsection (2), he may, by notice in writing, vary the time within which that owner is required to furnish returns in pursuance of that subsection; or

(b) relating to each month, he may, by notice in writing, authorize that owner to furnish returns relating to such other periods as may be specified in the notice,

and the owner shall, while that notice remains unrevoked, furnish returns accordingly.

(2B) The Commissioner may, at any time, by notice in writing, revoke any notice given in pursuance of subsection (2A).

(2) Section 55 (3) of the Principal Act is amended by omitting “quarterly” and substituting “monthly”.

Amendment of section 58 of Principal Act (Special provisions relating to credit transactions).

10—Section 58 of the Principal Act is amended by omitting subsection (2) and substituting the following subsections:—

(2) Subject to subsection (2A), the duty that is payable on credit transactions by a person to whom a licence under this section is granted shall be paid monthly, as prescribed, within 10 days after the last day of each month in respect of all credit transactions to which that person is a party entered into during that month.

(2A) Where the Commissioner is of the opinion that it would be unduly onerous to require a person to furnish returns—

(a) within the time specified in subsection (2), he may, by notice in writing, vary the time within which that person is required to furnish returns in pursuance of that subsection; or

(b) relating to each month, he may, by notice in writing, authorize that person to furnish returns relating to such other periods as may be specified in the notice,

and the person shall, while that notice remains unrevoked, furnish returns accordingly.

(2B) The Commissioner may, at any time, by notice in writing, revoke any notice given in pursuance of subsection (2A).

11—(1) Section 60A (1) of the Principal Act is amended as follows:—

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

(a) by omitting the definition of “quarter”;

(b) by omitting from the definition of “special current account” “quarter” and substituting “month”.

(2) Section 60A (3) of the Principal Act is amended by omitting “quarter” (wherever occurring) and substituting “month”.

12—Section 60c of the Principal Act is amended by omitting “quarter” (wherever occurring) and substituting “month”.

Amendment of section 60c of Principal Act (Aggregation of loans between same lender and borrower).

13—(1) Section 60r (1) (a) of the Principal Act is amended as follows:—

Amendment of section 60r of Principal Act (Returns and payment by approved lenders).

(a) by omitting “within fifteen” and substituting “subject to subsection (1A), within 10”;

(b) by omitting “quarter” (wherever occurring) and substituting “month”.

(2) After section 60I (1) of the Principal Act, the following subsections are inserted:—

(1A) Where the Commissioner is of the opinion that it would be unduly onerous to require an approved lender to furnish returns—

(a) within the time specified in subsection (1), he may, by notice in writing, vary the time within which that approved lender is required to furnish returns in pursuance of that subsection; or

(b) relating to each month, he may, by notice in writing, authorize that approved lender to furnish returns relating to such other periods as may be specified in the notice,

and the approved lender shall, while that notice remains unrevoked, furnish returns accordingly.

(1B) The Commissioner may, at any time, by notice in writing, revoke any notice given in pursuance of subsection (1A).

(3) Section 60I (2) of the Principal Act is amended as follows:—

(a) by omitting “one half” and substituting “one-sixth”;

(b) by omitting “quarter”, wherever occurring, and substituting “month”.

(4) Section 60I (4) (b) of the Principal Act is amended by omitting “one quarter” and substituting “one-twelfth”.

(5) Section 60I (5) of the Principal Act is amended by omitting “quarter” and substituting “month”.

Amendment of section 71 of Principal Act (Additional, or additions to, settlements, &c.).

14—Section 71 (1) of the Principal Act is amended by omitting “Where” and substituting “Subject to section 26B, where”.

Amendment of section 72 of Principal Act (Duty on cheques).

15—Section 72 (4) of the Principal Act is amended by omitting “10” and substituting “15”.

16—Section 73 (5) of the Principal Act is amended by omitting “ 10 ” and substituting “ 15 ”.

Amendment of section 73 of Principal Act (Duty on bankers' drafts, letters of credit, &c.).

17—Section 74 (10) of the Principal Act is amended as follows:—

Amendment of section 74 of Principal Act (Duty to be paid on certain applications under *Traffic Act 1925*).

(a) by omitting the definition of “ application to which this section applies ” and substituting the following definition:—

“ application to which this section applies ” means an application under the *Traffic Act 1925* for—

- (a) the registration of a new motor vehicle;
- (b) the registration of a used motor vehicle;
- or
- (c) the transfer of the registration of a motor vehicle,

but does not include an application which is made by a person who was the owner of the motor vehicle when it was last registered, whether that registration was effected in this State or elsewhere;

(b) by inserting the following definition after the definition of “ motor vehicle ”:—

“ new motor vehicle ” means—

- (a) a motor vehicle which has not, at any time before the date of an application to which this section applies in relation to that motor vehicle, been registered in this State or elsewhere;
- or
- (b) a motor vehicle which has been registered for a period not exceeding 6 months immediately preceding the date of an application to which this section applies in relation to that motor vehicle, but in respect of which no stamp duty has been paid in pursuance of a certificate of exemption granted under subsection (5);

- (c) by omitting from the definition of “registering authority” “*Traffic Act 1925.*” and substituting “*Traffic Act 1925.*”;
- (d) by inserting the following definition after the definition of “registering authority”—

“used motor vehicle” means a motor vehicle which has, at some time before the date of an application to which this section applies in relation to that motor vehicle, been registered in this State or elsewhere, but does not include a motor vehicle which has been registered but in respect of which no stamp duty has been paid in pursuance of a certificate of exemption granted under subsection (5).

Amendment of
Schedule 2 to
Principal Act.

18—(1) Item 5 of Schedule 2 to the Principal Act is amended as follows:—

- (a) by omitting “0·10”, wherever occurring, and substituting “0·15”;
- (b) by omitting “0·01” and substituting “0·015”.

(2) Item 12 of Schedule 2 to the Principal Act is amended by omitting “Contract” and substituting “Subject to section 26B, a contract”.

(3) Item 17 of Schedule 2 to the Principal Act is amended by omitting “0·10” and substituting “0·15”.

(4) Item 18 of Schedule 2 to the Principal Act is amended by omitting “Exchange” and substituting “Subject to section 26B, an exchange”.

(5) Item 23 of Schedule 2 to the Principal Act is amended by omitting “Partition” and substituting “Subject to section 26B, a partition”.

(6) Item 28 of Schedule 2 to the Principal Act is amended by omitting “Settlement” and substituting “Subject to section 26B, a settlement”.

(7) Item 34 (a) (ii) of Schedule 2 to the Principal Act is amended by inserting “, subject to section 26B” after “value of the policy”.

(8) Item 36 (b) of Schedule 2 to the Principal Act is amended by inserting “(subject to section 26B)” before “by way of gift”.

(9) Item 39 of Schedule 2 to the Principal Act is omitted and the following item is substituted:—

	\$	
39	Application to which section 74 applies— (a) in relation to a new motor vehicle— For every \$100 of the value (as ascertained under section 74) of the motor vehicle to which the application relates and also for every fractional part of \$100 of that value.	4·00 By the applicant
	(b) in relation to a used motor vehicle— For every \$100 of the value (as ascertained under section 74) of the motor vehicle to which the application relates and also for every fractional part of \$100 of that value.	3·00 By the applicant

19—The amendment made by section 18 (9) shall expire on 1st December 1983, and, on that expiry, item 39 of Schedule 2 to the Principal Act, as in force immediately prior to the date of assent to this Act, shall have effect as if section 18 (9) had not been enacted. Expiry.

