

STAMP DUTIES AMENDMENT ACT (No. 2) 1982

No. 48 of 1982

TABLE OF PROVISIONS

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| <ol style="list-style-type: none"> 1. Short title. 2. Commencement. 3. Principal Act. 4. Substitution of new section 25 of Principal Act.
25—Assessment and payment of duty on certain instruments where consideration inadequate. 5. Repeal of section 26 of Principal Act (Increased rate of duty where consideration inadequate). 6. Repeal of section 26A of Principal Act (Assessment of duty where whole consideration not provided by transferee). 7. Repeal of section 26B of Principal Act (Reduction of duty in certain cases). | <ol style="list-style-type: none"> 8. Repeal of Division 3A of Part IV of Principal Act (<i>Loans</i>). 9. Amendment of section 71 of Principal Act (Additional, or additions to, settlements, &c.). 10. Amendment of Schedule 2 to Principal Act (SCALE AND RATES OF DUTIES). 11. Amendment of Schedule 4 to Principal Act (RULES TO BE APPLIED IN CALCULATION OF DUTY). 12. Repeal of Schedule 8 to Principal Act (CALCULATION OF INTEREST IN RESPECT OF LOAN WHERE INTEREST IS NOT EXPRESSED IN TERMS OF A RATE). 13. Transitional provision. |
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STAMP DUTIES AMENDMENT ACT (No. 2) 1982

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AN ACT to amend the Stamp Duties Act 1931 for the purposes of abolishing the higher rates of stamp duty payable on instruments effecting the conveyance or transfer of real or personal property in cases where the consideration is inadequate with respect to the value of the property conveyed or transferred, making provision for the assessment by the Commissioner of Stamp Duties of the stamp duty payable on various instruments with respect to real or personal property where the consideration is inadequate with respect to the value of that property, abolishing the stamp duty payable on instruments constituting or evidencing the terms of certain high duty loans, and for related and other purposes.

[Royal Assent 4 November 1982]

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 (No. 2) 1982*. Short title.

2—This Act shall commence on 1st October 1982, but if this Act does not receive the royal assent on or before that day, it shall be deemed to have commenced on that day. Commencement.

Principal Act.

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

Substitution of new section 25 of Principal Act.

4—Section 25 of the Principal Act is repealed and the following section is substituted:—

Assessment and payment of duty on certain instruments where consideration inadequate.

25—(1) Where the Commissioner is of the opinion that the amount of the consideration shown in—

- (a) an agreement for the sale, conveyance, transfer, or exchange of any real property;
- (b) an assignment of a purchaser's rights under an agreement referred to in paragraph (a); or
- (c) any other instrument that effects the conveyance or transfer of, or that otherwise deals with, any real property,

is inadequate with respect to the value of that real property, the Commissioner may—

- (d) in the case of an agreement referred to in paragraph (a), assess the duty payable on the agreement by treating the unencumbered value of the relevant real property, as determined by the Valuer-General, as the consideration for the sale, conveyance, transfer, or exchange of that property;
- (e) in the case of an assignment referred to in paragraph (b), assess the duty payable on the assignment by treating the unencumbered value of the relevant rights, as so determined, as the consideration for the assignment of those rights; or
- (f) in the case of an instrument referred to in paragraph (c), assess the duty payable on the instrument by treating the unencumbered value of the relevant real property, as so determined, as the consideration for the conveyance or transfer of, or for the other dealing with, that property.

(2) In subsection (1), “Valuer-General” means the person appointed as Valuer-General under section 5 (1) of the *Land Valuation Act 1971*.

* 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, and No. 9 of 1982.

(3) Where the Commissioner is of the opinion that the amount of the consideration shown in an instrument that effects the transfer of, or that otherwise deals with, any personal property is inadequate with respect to the value of that personal property, the Commissioner may—

(a) in the case of an instrument that effects the transfer of, or that otherwise deals with, any marketable securities, assess the duty payable on the instrument by treating the value of those securities, as determined in accordance with paragraphs (a) to (e) of section 63, as the consideration for the transfer of, or for the other dealing with, those securities; or

(b) in the case of any other instrument, assess the duty payable on the instrument by treating the market value of the relevant personal property, as determined by a person who is considered by the Commissioner to be competent to value personal property of the kind to which the instrument relates, as the consideration for the transfer of, or for the other dealing with, that property.

(4) Where the Commissioner makes an assessment under subsection (1) or (3) with respect to the duty payable on an instrument to which the appropriate subsection relates, that instrument is subject to duty under the appropriate item in Schedule 2.

(5) In this section—

“personal property” includes an estate or interest in personal property;

“real property” includes an estate or interest in real property.

5—Section 26 of the Principal Act is repealed.

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

6—Section 26A of the Principal Act is repealed.

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

Repeal of section 26B of Principal Act (Reduction of duty in certain cases).

7—Section 26B of the Principal Act is repealed.

Repeal of Division 3A of Part IV of Principal Act (*Loans*).

8—Division 3A of Part IV of the Principal Act is repealed.

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

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

(2) Section 71 of the Principal Act is further amended by omitting subsection (2).

Amendment of Schedule 2 to Principal Act (SCALE AND RATES OF DUTIES).

10—(1) Item 13 (a) of Schedule 2 to the Principal Act is amended by omitting “purchase money or consideration”, wherever occurring, and substituting “purchase money or other consideration for, or the unencumbered value of, that property”.

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

(3) Item 20A of Schedule 2 to the Principal Act is repealed.

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

(5) Item 28 of Schedule 2 to the Principal Act is omitted and the following item is substituted:—

28	Settlement, deed of gift, or declaration of trust made otherwise than by testamentary disposition, either voluntarily or for any consideration other than a consideration in good faith adequate to the value of the property comprised in the settlement, deed of gift, or declaration of trust (being, in the case of such a settlement, deed of gift, or declaration of trust as is referred to in subsection (1A) of section 13, the value specified in the certificate submitted to an assessor pursuant to that subsection).	As on a conveyance	By the person making the settlement, gift, or declaration.
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(6) Item 34 (a) (ii) of Schedule 2 to the Principal Act is amended by omitting “, subject to section 26B”.

(7) Item 36 of Schedule 2 to the Principal Act is amended by omitting paragraph (b) and the words in columns 3 and 4 opposite that paragraph and substituting the following paragraph and words:—

(b) by way of gift, either voluntarily or for a consideration other than a consideration in good faith adequate to the value of the security, if the unencumbered value of the security—	(i) is less than \$100	\$0·14 for each \$25 or fractional part of each \$25.	} By the transferor.
(ii) is \$100 or more	\$0·60 for each \$100 or fractional part of each \$100.	\$0·60 for each \$100 or fractional part of each \$100.	

11—Rule 4 of Schedule 4 to the Principal Act is repealed.

Amendment of Schedule 4 to Principal Act (RULES TO BE APPLIED IN CALCULATION OF DUTY).

12—Schedule 8 to the Principal Act is repealed.

Repeal of Schedule 8 to Principal Act (CALCULATION OF INTEREST IN RESPECT OF LOAN WHERE INTEREST IS NOT EXPRESSED IN TERMS OF A RATE).

13—Notwithstanding sections 8, 10 (3), and 12, the following provisions of the Principal Act shall continue in force in relation to returns and payments required to be made in respect of loans to which Division 3A of Part IV of that Act applied which were made, repaid, or outstanding, before the commencement of this Act as if this Act had not been enacted:—

Transitional provision.

- (a) Division 3A of Part IV;
- (b) item 20A of Schedule 2;
- (c) Schedule 8.

