



## STAMP DUTIES AMENDMENT ACT (No. 3) 1982

No. 65 of 1982

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**AN ACT to amend the Stamp Duties Act 1931 for the purpose of making provision for the exemption of certain instruments from liability for stamp duty.**

[Royal Assent 8 December 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* **Short title.** (No. 3) 1982.

**2**—This Act shall commence on the day on which it receives the **Commence-** royal assent. **ment.**

Principal Act.

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

Amendment of section 3 of Principal Act (Interpretation).

**4**—(1) Section 3 (1) of the Principal Act is amended as follows:—

(a) by inserting after the definition of “duty” the following definition:—

“dwelling” includes house, flat, unit, caravan, houseboat, or other place of residence together with any land, buildings, or improvements appurtenant to the dwelling and used wholly or principally for household purposes;

(b) by inserting after the definition of “marketable securities” the following definitions:—

“marriage” includes a purported marriage that is void;

“matrimonial home” means the dwelling that is or was used habitually or from time to time by the parties, or either of the parties, to a marriage as the only or principal family residence;

“matrimonial property” means property of the parties, or either of the parties, to a marriage and includes any estate or interest in any such property;

(2) Section 3 of the Principal Act is further amended by inserting after subsection (10) the following subsection:—

(11) In this Act, a reference to a party to a marriage includes a reference to a person who was a party to a marriage that has been dissolved or annulled, whether in Australia or elsewhere.

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

**5**—Section 74 (10) of the Principal Act is amended 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—

\* 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 Nos. 44 and 70 of 1981.

- (d) an application 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; or
- (e) an application made by the parties, or either of the parties, to a marriage that has been dissolved or annulled where the application relates to a motor vehicle and is made for the purposes of, or in accordance with—
  - (i) an agreement registered or approved under the *Family Law Act* 1975 of the Commonwealth; or
  - (ii) an order of a court made under that Act.

**6**—(1) Section 79 (1) of the Principal Act is amended by omitting “ out of the Consolidated Revenue, which, to the necessary extent, is appropriated accordingly ”.

Amendment of section 79 of Principal Act (Refunds of duty in certain cases).

(2) Section 79 of the Principal Act is further amended by inserting after subsection (2) the following subsections:—

(3) Where, on or after 4th January 1982—

- (a) an amount of duty has been paid in accordance with this Act as in force immediately before the commencement of the *Stamp Duties Amendment Act* 1982 in respect of—
  - (i) an application under the *Traffic Act* 1925 as mentioned in section 74 (10); or
  - (ii) an instrument making provision for, or with respect to, the conveyance of matrimonial property as mentioned in Part III of Schedule 3, as in force after that commencement; and
- (b) that duty would not have been payable if the application had been made or the instrument had been executed after that commencement,

the Treasurer shall, on an application made to him in accordance with subsection (4), refund an amount equal to the amount of that duty to the person who paid that duty or, if that person is dead or under a legal disability, to the legal personal representative of that person.

(4) An application under subsection (3)—

(a) shall be in writing; and

(b) shall be supported by such evidence as to the applicant's entitlement to the refund as the Treasurer may require,

but is of no effect unless it is made within the period of 12 months commencing on 1st July 1982.

(5) Where the Treasurer has made a refund of duty under subsection (3) to any person, the Treasurer is not liable to make a refund in respect of that duty to any other person who, but for this subsection, may be entitled to a refund under that subsection.

(6) Nothing in subsection (5) affects the right of a person who may, but for that subsection, be entitled to a refund under subsection (3) to recover from a person to whom a refund has been made under that subsection any money owing to the first-mentioned person by way of a trust.

(7) An amount required for a refund of duty under this section is a charge on the Consolidated Revenue Fund and is payable out of that Fund without further appropriation than this subsection.

Amendment of  
Schedule 3 to  
Principal Act.

**7**—Schedule 3 to the Principal Act is amended by inserting the following Part after Division 5 of Part II:—

### PART III

#### FROM DUTIES IMPOSED UNDER SCHEDULE 2 AND RELATING TO MATRIMONIAL PROPERTY

1. An instrument is exempt from duty to the extent that it makes provision for, or with respect to, the conveyance to the parties, or either of the parties, to a marriage of matrimonial property, if—

(a) the marriage is dissolved or annulled (whether before or after the instrument is executed); and

(b) the instrument is—

(i) registered or approved under the *Family Law Act* 1975 of the Commonwealth or executed for the purposes of, or in accordance with, an agreement so registered or approved; or

(ii) an order of a court made under that Act or executed for the purposes of, or in accordance with, any such order.

2. An instrument is exempt from duty to the extent that it makes provision for, or with respect to, the conveyance to the parties, or either of the parties, to a marriage of the matrimonial home, if—

(a) the marriage has not been dissolved or annulled; and

(b) the instrument is—

(i) approved under the *Family Law Act 1975* of the Commonwealth or executed for the purposes of, or in accordance with, another instrument so approved; or

(ii) an order of a court under that Act or executed for the purposes of, or in accordance with, any such order.

