

# LEGISLATIVE ASSEMBLY

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(As sent to the Legislative Council)

(No. 2)

## A BILL

for

An Act to amend the *Stamps Act* 1958.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

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1. (1) This Act may be cited as the *Stamps (Amendment) Act* 1980. Short title.

(2) The *Stamps Act* 1958 is in this Act referred to as the Principal Act. Principal Act No. 6375—  
Reprinted to No. 8624 and, subsequently, amended by Nos. 8747, 8885, 9015, 9019, 9059, 9065, 9120, 9208, 9253 and 9317.

10 (3) The several provisions of this Act shall come into operation on the day or the respective days to be fixed by proclamation or successive proclamations of the Governor in Council published in the *Government Gazette*. Commence-  
ment.

15 2. After section 17 (3) of the Principal Act there shall be inserted the following sub-section: Amendment of  
No. 6375 s. 17.

“(4) Where a mortgage relating to property in Victoria or to any matter or thing done or to be done in any part of Victoria is executed and held in some place outside Victoria the provisions of this Act Evasion of duty  
with respect to  
property in  
Victoria.

shall extend and apply to the mortgage notwithstanding that the mortgage is not in Victoria in all respects as if the mortgage were executed in Victoria.”.

Amendment of  
No. 6375 s. 29.  
Collection of  
duty.

3. (1) In section 29 (1) of the Principal Act—

- (a) after the word “Victoria” there shall be inserted the words “or before any person or body having by law or consent of parties authority to hear receive and examine evidence”;
- (b) for the words “the officer whose duty it is to read the instrument shall” there shall be substituted the words “any person may”; and
- (c) after the word “judge” there shall be inserted the words “or person or body (as the case may be)”.

(2) In section 29 (2) of the Principal Act for the word “officer” there shall be substituted the words “appropriate officer”.

4. (1) In section 32 (3) of the Principal Act after the word “chargeable” (where second occurring) there shall be inserted the words “and the instrument shall be chargeable with that amount except insofar as it is established on objection or appeal that the assessment is excessive”.

(2) After section 32 (3) of the Principal Act there shall be inserted the following sub-sections:

Notice of  
assessment to  
be served.

“(3A) As soon as conveniently may be after an assessment is made under this section the Comptroller shall cause notice in writing of the assessment and of the amount to be paid to be served on the person liable to pay it.

Amount  
payable before  
date specified  
in notice.

(3B) The amount specified in the notice shall be payable on or before the date specified in the notice together with any other amount which may be payable in accordance with any other provision of this Act.

(3C) The omission to give any such notice shall not invalidate the assessment and calculation made by the Comptroller.”.

(3) In section 28 (2) of the Principal Act in paragraph (b) for the expression “30 days after” there shall be substituted the words “the time specified in the”.

Amendment of  
No. 6375 s. 33.  
Default  
assessments.

5. In section 33 (1) of the Principal Act in paragraph (c) the expression “(though he may not have furnished or lodged any statement return or other document)” is repealed.

6. (1) After

6. (1) After section 60A (2) of the Principal Act there shall be inserted the following sub-sections:

Amendment of No. 6375 s. 60A.

“(3) For the purposes of this sub-division and of the Third Schedule, Heading IV.(A).—

Short-dating of marketable securities.

- 5 (a) a marketable security that is sold or purchased is, subject to sub-section (4), short-dated if on the day of its sale or purchase—
  - 10 (i) having been issued for a fixed term which has not expired, it is, at or after the expiration of that term, repayable less than 24 months after its sale or purchase without notice or at the request of the purchaser, or subsequent holder, of the marketable security;
  - 15 (ii) having been issued for a fixed term which has expired, it is repayable without notice but has not been repaid; or
  - 20 (iii) having been issued for a fixed term which has expired or not having been issued for a fixed term, it is repayable at the request of the purchaser, or subsequent holder, of the marketable security;
- 25 (b) “fixed term” in relation to a marketable security, means the period commencing on the day of its issue and ending on the day specified in the terms of its issue as the day on which it matures or, if there is more than one such day specified in the terms of its issue, the last such day;
- 30 (c) a marketable security that is repayable at the request of its holder shall be deemed to be repayable at the expiration of the period, if any, during which the person liable to repay would be entitled to delay repayment if the holder of the marketable security requested repayment or, if there is no such period, on the day of request; and
- 35 (d) a marketable security that is short-dated as referred to in paragraph (a), sub-paragraph (ii), or a marketable security that, having been issued for a fixed term which has expired or not having been issued for a fixed term, is repayable forthwith upon the request of the purchaser, or subsequent holder, of the marketable security shall be deemed to be repayable one month after its sale or
- 40 purchase.

(4) A marketable security that is sold or purchased is not short-dated if it is of a prescribed class of marketable security.”

(2) In section 60B (1) of the Principal Act at the end of paragraph (iv) there shall be inserted the expression “including, if the amount

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of stamp duty is calculated under section 60C (1A), details of how the marketable security was short-dated on the day of the sale or purchase”.

(3) After section 60C (1) of the Principal Act there shall be inserted the following sub-section: 5

Duty payable on short-dated marketable securities.

“(1A) In respect of each sale and each purchase referred to in sub-section (1) (a) of a marketable security which is short-dated a Victorian dealer shall pay, instead of the stamp duty provided for by sub-section (1) (b), as stamp duty for each month and also for any remaining fractional part of a month of the period commencing on the day on which the marketable security is sold or purchased and ending— 10

(a) where the marketable security was issued for a fixed term which has not expired—on the earliest day on which it is repayable at or after the expiration of the fixed term; or 15

(b) where the marketable security was issued for a fixed term which has expired or where the marketable security was not issued for a fixed term—on the earliest day on which it is repayable— 20

an amount calculated on the consideration for the sale or purchase at the rate of 1.25 cents for every \$100 and also for any remaining part of \$100 of the sale price or purchase price, as the case may be.”.

(4) In the Third Schedule to the Principal Act under the heading “IV. (A) TRANSFER OF MARKETABLE SECURITIES—” after paragraph (b) there shall be inserted the following paragraph: 25

“(ba) where the marketable securities transferred are marketable securities which are, on the day of their sale, short-dated—in respect of each month and also of any fractional part of a month of the period commencing on the day on which the marketable securities are sold and ending— 30

(i) where the marketable securities were issued for a fixed term which has not expired—on the earliest day on which they are repayable at or after the expiration of the fixed term; or 35

(ii) where the marketable securities were issued for a fixed term which has expired or where the marketable securities were not issued for a fixed term—on the earliest day on which they are repayable— 40

a stamp duty at the rate of 2.5 cents for every \$100 and also for any fractional part of \$100 of the consideration for the sale;”.

7. At the end of section 68 (1) of the Principal Act there shall be inserted the words "and such conveyance shall be chargeable with the same *ad valorem* duty as a conveyance on sale for the same consideration".

Amendment of No. 6375 s. 68. Charging of conveyance subject to future payment.

5 8. At the end of section 70 (3) of the Principal Act there shall be inserted the following proviso:

Amendment of No. 6375 s. 70. Conveyance giving effect to more than one sale.

10 "Provided that where a conveyance of real property gives effect both to a sale to an original purchaser and a subsequent sale to a sub-purchaser who satisfies the Comptroller that he intends to occupy or to erect a dwelling-house on that real property as his principal place of residence it shall be sufficient for the purposes of this subdivision, without affecting the liability of the original purchaser to pay duty, that the conveyance be stamped with the duty payable by the sub-purchaser."

15 9. After section 83 of the Principal Act there shall be inserted the following section:

New section inserted.

20 "83A. (1) The provisions of this section apply to and in relation to a lease for a definite term of not less than twelve months which provides for payment of rent all or part of which cannot be ascertained at the time the lease is executed.

Application.

(2) Where a lease to which this section applies is executed the lessee shall furnish to the Comptroller an estimate of the total rent payable over the full term of the lease together with particulars thereof to the satisfaction of the Comptroller.

Estimate to be given of total rent.

25 (3) Where—

Calculation of stamp duty payable.

(a) the Comptroller is satisfied with the estimate given under sub-section (2) the stamp duty payable in respect of the lease shall be the stamp duty payable upon a lease where the rent is an amount equal to the amount estimated under sub-section (2);

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(b) the Comptroller is not satisfied with the estimate given under sub-section (2) the stamp duty payable in respect of the lease shall be the stamp duty payable upon a lease where the rent is equal to the amount which the Comptroller estimates will be payable over the full term of the lease.

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(4) The lessee of a lease to which this section applies shall produce to the Comptroller within one month after each anniversary of the commencement of the lease a duly stamped part of the lease together with particulars to the satisfaction of the Comptroller of the amount of rent actually paid in respect of the lease.

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(5) Where in relation to a lease the Comptroller is of opinion that, having regard to particulars furnished under sub-section (4), an amount estimated under sub-section (2) or sub-section (3) (b) is

Re-estimation of rent.

greater

greater or less than the amount which the Comptroller considers will be payable as rent over the full term of the lease, the Comptroller may re-estimate the amount of rent payable over the full term of the lease and—

- (a) where the re-estimated amount exceeds the amount estimated under sub-section (2) or sub-section (3) (b)—additional stamp duty shall be payable as upon a lease pursuant to paragraph (2) (b) under the heading “VIII. LEASE or agreement for a lease of any lands or tenements for any definite or indefinite term—” in the Third Schedule in respect of a consideration which is equal to the difference between the estimated amount and the re-estimated amount, notwithstanding that the difference may not exceed the rate of \$130 per annum; and
- (b) where the re-estimated amount is less than the amount estimated under sub-section (2) or sub-section (3) (b)—the Comptroller shall refund an amount which is equal to the stamp duty payable as upon a lease pursuant to the said paragraph (2) (b) in respect of a consideration which is equal to the difference between the estimated amount and the re-estimated amount, notwithstanding that the difference may not exceed the rate of \$130 per annum.

(6) Notwithstanding anything to the contrary in this section, in respect of a second or subsequent production of a duly stamped part of a lease under sub-section (4) any reference to the amount estimated under sub-section (2) or sub-section (3) (b) shall be read and construed as a reference to the amount of rent last re-estimated by the Comptroller to be payable under sub-section (5) over the full term of the lease.

Construction.

(7) For the purposes of this section “rent” includes any amount payable in respect of a lease being an amount which is unascertainable at the time of the execution of the lease but which, if at that time it had been ascertainable, would have constituted part of the rent.’

Amendment of No. 6375 s. 94. Increase in penalty for using unstamped power of attorney.

10. In section 94 (3) of the Principal Act for the expression “\$10” there shall be substituted the expression “\$100”.

Amendment of No. 6375 s. 98. Notification of amount of stamp duty.

11. For section 98 (2) of the Principal Act there shall be substituted the following sub-section:

“(2) A registered company may in any notice or document relating to premiums due or to be paid in respect of any policy either—

- (a) set out as a separate part of the amount required to be paid an amount designated as stamp duty being an amount

amount not exceeding seven per centum of the premium payable; or

- 5 (b) include in the amount required to be paid an amount on account of stamp duty being an amount not exceeding seven one hundred and sevenths of the amount of the premium payable—

and any such amount designated as stamp duty or being an amount not greater than seven one hundred and sevenths of the amount of the premium payable shall not be regarded as part of the premium chargeable with duty under this subdivision.”.

12. (1) In section 137D of the Principal Act after sub-section (3) there shall be inserted the following sub-sections:

Amendment of No. 6375 s. 137D.

15 “(3A) Where an instrument of variation is executed varying the principal sum secured by a mortgage that instrument of variation shall be deemed to be a mortgage chargeable with stamp duty on the amount secured by the mortgage as varied less the amount of duty previously paid upon the mortgage.

Duty where amount secured by mortgage is varied.

(3B) Stamp duty payable on an instrument of variation of a mortgage shall be denoted by an impressed stamp.”.

20 (2) After section 137E of the Principal Act there shall be inserted the following section:

New section inserted

25 “137EA. Where a mortgage is not stamped as required by this Act the amount to be paid shall be the amount of the duty payable on the mortgage together with a penalty equal to double the amount of that duty.”.

13. (1) In section 137F of the Principal Act after sub-section (5) there shall be inserted the following sub-section:

Amendment of No. 6375 s. 137F.

30 “(6) For the purposes of sub-section (3) a reproduction within the meaning of section 53 of the *Evidence Act* 1958 purporting to be signed—

Reproduction of instrument deemed duplicate.

(a) in the case of an instrument lodged in the office of the Registrar-General—by the Registrar-General;

(b) in the case of an instrument lodged in the Office of Titles—by the Registrar of Titles; or

35 (c) in the case of an instrument filed in the office of the Commissioner for Corporate Affairs—by the Commissioner for Corporate Affairs—

shall be deemed to be a duplicate of that instrument.”.

40 (2) In section 149 of the Principal Act at the end of paragraph (a) (i) of the proviso there shall be inserted the expression “or, if the instrument has been lodged in the office of the Registrar-General,

the

the office of the Registrar of Titles or the office of the Commissioner for Corporate Affairs a reproduction within the meaning of section 53 of the *Evidence Act* 1958 purporting to be signed by the Registrar-General, the Registrar of Titles or the Commissioner for Corporate Affairs (as the case requires)".

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(3) After section 150 (3) of the Principal Act there shall be inserted the following sub-section:

"(4) For the purposes of sub-section (1) and (3) where an instrument has been lodged with the Registrar-General, the Registrar of Titles or the Commissioner for Corporate Affairs it shall be a sufficient compliance with the provisions of those sub-sections that a reproduction within the meaning of section 53 of the *Evidence Act* 1958 purporting to be signed by the Registrar-General, the Registrar of Titles or the Commissioner for Corporate Affairs (as the case requires) is stamped in lieu of the instrument."

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Amendment of  
No. 6375  
s. 140A.  
Communica-  
tion of  
information.

14. In section 140A (1) of the Principal Act—

- (a) the conjunction "or" between paragraphs (a) and (b) is repealed;
- (b) in paragraph (b) for the expression "officer—" there shall be substituted the expression "officer;"
- (c) after paragraph (b) there shall be inserted the following expression:
  - "(c) to the Valuer-General appointed under Part I. of the *Valuation of Land Act* 1960 or to any person authorized by him with respect to the valuation of any property for the purposes of this Act; or
  - (d) to the Commissioner for Corporate Affairs appointed under Part II. of the *Companies Act* 1961 or to any person authorized by him with respect to any undertakings given to the Comptroller under section 137M."

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New section  
inserted.

15. After section 140A of the Principal Act there shall be inserted the following section:

- "140B. (1) The Comptroller shall cause to be kept a register—
- (a) of approved insurers for the purposes of subdivision (11A) of Division 3 of Part II.;
  - (b) of registered persons for the purposes of subdivision (13A) of Division 3 of Part II.; and
  - (c) of approved vendors for the purposes of subdivision (14) of Division 3 of Part II.

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Comptroller to  
keep register  
of certain  
registrations  
and approvals.

(2) The



(2) The register shall be available at the office of the Comptroller for inspection by members of the public during ordinary office hours.

Register available for inspection.

5 (3) The inspection of the register or the giving by the Comptroller of any information recorded in the register shall not be construed as making a record of or divulging or communicating information within the meaning of Section 140A (2)."

Inspection &c. deemed not to be communication of information.

16. In the Third Schedule to the Principal Act under the heading "IV. (A) TRANSFER OF MARKETABLE SECURITIES—"

Amendment of No. 6375 Third Schedule.

10 (a) after paragraph (ba) there shall be inserted the following paragraph:

Transfer to trustee or nominee.

15 "(bb) where such transfer is made by the transferor to a trustee or nominee to be held solely as trustee or nominee of the transferor without any change in beneficial ownership or made by way of re-transfer to such transferor—  
for every such transfer .. .. \$1.00;"  
and

(b) paragraph (6) (g) of the Exemptions is repealed.

(1) The number of...

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