

# LEGISLATIVE ASSEMBLY

Read 1° 26 November 1980

*(Brought in by Mr Thompson and Mr Hamer)*

## A BILL

To amend the *Stamps Act 1958* and for other purposes.

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):

1. (1) This Act may be cited as the *Stamps (Amendment No. 3) Act 1980*. Short title

(2) In this Act the *Stamps Act 1958* is called the Principal Act.

Principal Act  
No. 6375.  
Reprinted to  
No. 8624.  
Subsequently  
amended by  
Nos. 8747, 8885,  
9015, 9019,  
9059, 9065,  
9120, 9208,  
9253, 9317,  
9318, 9403,  
9413, 9427.

(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.

2. In section 17 (4) of the Principal Act—

(a) for the words "a mortgage relating to property" there shall be substituted the words "an instrument which relates to property";

Amendment of  
No. 6375  
s. 17 (4).

- (b) for the words "the mortgage" (wherever occurring) there shall be substituted the words "the instrument".

Amendment of  
No. 6375.

3. (1) For section 55A of the Principal Act there shall be substituted the following section:

"55A. (1) The provisions of this subdivision do not apply to any transfer of a marketable security or right in respect of shares which is made or executed to perfect a sale or purchase to which subdivision (4A) of this Division applies and which is deemed to be duly stamped in accordance with the provisions of that subdivision. 5

(2) Where the Comptroller of Stamps is satisfied that duty has been paid or will be paid under this Act on a transfer of a marketable security or a right in respect of shares in a State or Territory of the Commonwealth proclaimed as a place at which a prescribed branch register may be kept or a country proclaimed as a place at which a prescribed branch register may be kept— 10 15

(a) where duty has been paid under this Act and paid outside of Victoria in respect of that transfer the Comptroller of Stamps shall certify that the amount of duty paid outside Victoria or the amount of duty paid under this Act (whichever amount is less) has been over paid and the Treasurer shall refund that amount accordingly to the person who paid the duty in Victoria; or 20

(b) where the duty is payable outside Victoria and would but for the provisions of this clause be payable in Victoria and the refund under paragraph (a) would have been allowed in Victoria had duty been paid in Victoria and outside Victoria then if the Comptroller is satisfied that duty will be paid on the transfer outside Victoria he may stamp the transfer not chargeable with duty in Victoria." 25 30

(2) After section 55A of the Principal Act there shall be inserted the following section:

Liability to pay  
duty in respect  
of transfers  
of marketable  
securities.

"55B. Any liability to pay duty in respect of the transfer of a marketable security or a right in respect of shares of a municipal or other corporation company or society under this Act shall be a liability of the municipal or other corporation company or society (as the case may be) the transferee and the transferor jointly and severally and the corporation company or society (as the case may be) and the transferor shall be entitled to recover from the transferee in any court of competent jurisdiction any moneys paid by them under this section or may they deduct any moneys paid by them under this section from any moneys due to be paid to the transferee by them." 35 40

(3) In

(3) In section 56 (1) of the Principal Act for the word "transferee" (where first and fourth appearing) there shall be substituted the words "persons liable to pay duty".

5 (4) In section 56 (2) of the Principal Act for the word "transferee" there shall be substituted the words "persons liable to pay duty".

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

10 "(3A) Where duty has already been paid under this Act on a transfer with respect to which a return has been lodged under this section an amount equal to the amount of duty already paid on the transfer shall not be chargeable on the return."

15 (6) In the Third Schedule to the Principal Act under the heading "IV. (A) TRANSFER OF MARKETABLE SECURITIES" the words "in which such marketable securities or rights are registered" are hereby repealed.

4. (1) In section 131AA of the Principal Act there shall be inserted after sub-section (1) the following sub-section— Amendment of  
No. 6375.

20 "(1A) Where more than one loan is or may be made pursuant to an agreement made between a registered person and a borrower whereby the registered person agrees to provide to the borrower during a fixed and determinable period a definite and certain sum of money which in the opinion of the Comptroller is to be used for one project or purpose each loan made pursuant to the original terms and conditions of that agreement shall be a related loan  
25 for the purposes of this sub-division."

(2) In section 131AC (1) (a) (i) of the Principal Act after the expression "short term loans" there shall be inserted the expression "related loans".

30 (3) In section 131AC (1) (a) of the Principal Act—

(a) for sub-paragraph (ii) there shall be substituted the following sub-paragraph—

35 "(ii) in respect of each loan referred to in the last preceding sub-paragraph the amount equal to 2.1 per centum of each loan or \$4000 in respect of each loan (whichever is the lesser amount);"

(b) for sub-paragraph (iv) there shall be substituted the following sub-paragraph—

40 "(iv) in respect of each loan referred to in the last preceding sub-paragraph the amount equal to 0.175 per centum of each loan or \$333 in respect of each loan (whichever is the lesser amount);"

(4) In

(4) In sub-paragraph (xii) of section 131AC (1) (a) of the Principal Act for the words "which secures any of the loans included in the total amount of loans referred to in sub-paragraph (i) or (iii) and in respect of which an amount has not been included under this sub-paragraph in any previous statement but to the extent only to which the amounts so paid are attributable to the loans so included in the total amount of loans referred to in sub-paragraphs (i) or (iii)" there shall be substituted the words "which secures a loan shown pursuant to sub-paragraph (i), (iii) or (xiii) and in respect of which an amount has not been included under this sub-paragraph in any previous statement but to the extent only to which the amount so secured is attributable to that loan less any amount so paid which is in excess of the amount shown pursuant to sub-paragraph (ii), (iv) or (xiv) in respect of the loan to which the instrument relates".

(5) In section 131AC (1) (a) of the Principal Act after sub-paragraph (xii) there shall be inserted the following sub-paragraphs—

"(xiii) the amount of each related loan referred to in section 131AA (1A) made by him during the last preceding month in respect of each agreement referred to in section 131AA (1A);

(xiv) in respect of each related loan made by him during the last month under an agreement referred to in sub-paragraph (xiii) an amount equal to 2.1 per centum of each loan or \$4000 in respect of each loan (whichever is the lesser amount) provided that where the amount of \$4000 has already been paid in respect of a related loan or a number of related loans under that agreement no further duty shall be chargeable; and".

(6) In section 131AC (1) (b) of the Principal Act—

(a) for the expression "(viii) and (xi)" there shall be substituted the expression "(viii), (xi) and (xiv)"; and

(b) after the expression "0.175 per centum of the amount of the loan so repaid" there shall be inserted the expression "or \$333 in respect of that loan (whichever is the lesser amount)".

(7) In section 131AF (2) of the Principal Act after the expression "at the rate of 2.1 per centum" there shall be inserted the expression "or \$4000 (whichever is the lesser)".

(8) In section 131AF (2) of the Principal Act in sub-paragraph (c) after the expression "loan" wherever appearing there shall be inserted the expression "other than a related loan".

(9) In

(9) In section 131AF (2) of the Principal Act after paragraph (d) there shall be inserted the following paragraph—

“(e) a related loan, the amount of the related loan.”.

5 (10) In section 131AF of the Principal Act there shall be inserted after sub-section (2) the following sub-section—

“(2A) Nothing herein contained shall require any person to pay any duty on a note or memorandum of any transaction being a related loan made pursuant to an agreement referred to in section 131AA (1A) where the aggregate amount of duty paid pursuant to  
10 this section in relation to prior related loans pursuant to that agreement is \$4000.”.

5. In section 140 of the Principal Act after sub-section (4) there shall be inserted the following sub-sections:

Amendment of  
No. 6375 s. 140.  
Powers of  
Comptroller  
to delegate  
functions.

“(5) The Comptroller of Stamps may—

15 (a) delegate to any officer of the public service employed in the administration or execution of this Act all or any of his powers or functions under this Act or the regulations (except this power of delegation); and

(b) vary or revoke a delegation given by him.

20 (6) A power or function delegated by the Comptroller of Stamps may be exercised or performed by the delegate—

(a) in accordance with the instrument of delegation; and

25 (b) if the exercise of the power or the performance of the function is dependent upon the opinion belief or state of mind of the Comptroller of Stamps in relation to a matter—upon the opinion, belief or state of mind of the delegate in relation to that matter.

(7) A delegation under this section does not prevent the exercise of the power or the performance of a function by the person who  
30 gave the delegation.”.