

STAMP DUTIES (AMENDMENT) ACT.

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 23, 1967.

An Act to make certain provisions with respect to the payment of stamp duty on instruments and death duty upon estates of deceased persons; for these and other purposes to amend the Stamp Duties Act, 1920-1967; and for purposes connected therewith. [Assented to, 23rd March, 1967.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title
and
citation.

1. (1) This Act may be cited as the "Stamp Duties (Amendment) Act, 1967".

(2)

Stamp Duties (Amendment).

(2) The Stamp Duties Act, 1920, as amended by No. 23, 1967 subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Stamp Duties Act, 1920–1967.

2. The Principal Act is amended—

Amendment
of Act No.
47, 1920.

- (a) (i) by inserting in subsection one of section three at the end of paragraph (b) of the definition of “Marketable security” the following word and new paragraph :—

Sec. 3.
(Interpre-
tation.)

; and

- (c) any right or interest (whether described as a unit or sub-unit or otherwise) of a beneficiary under a unit trust scheme.

- (ii) by inserting in the same subsection next after the definition of “Stamped” the following new definition :—

“Unit trust scheme” means any arrangements made for the purpose, or having the effect, of providing, for persons having funds available for investment, facilities for the participation by them, as beneficiaries under a trust, in any profits or income arising from the acquisition, holding, management or disposal of any property whatsoever pursuant to that trust.

- (iii) by inserting in subsection two of the same section in the definition of “Share” after the word “society” the words “and any right or interest (whether described as a unit or sub-unit or otherwise) of a beneficiary under a unit trust scheme”;

(b)

Stamp Duties (Amendment).

No. 23, 1967

Sec. 25.

(Terms on which instruments may be stamped after execution.)

(b) by omitting subsections one, two and three of section twenty-five and by inserting in lieu thereof the following subsections :—

(1) Except where other express provision is made by this or any other Act, every person primarily liable with respect to any instrument chargeable with duty shall cause it to be duly stamped—

- (a) within two months after it has been first executed in this State or after it has been first received in this State where it was first executed at any place out of this State; or
- (b) within two months after its receipt in this State where it is first executed in this State and is sent out of the State for execution by another party.

(2) Where an instrument to which subsection one of this section applies is not duly stamped in accordance with that subsection, it shall be charged with and become subject to, in addition to the duty with which it is chargeable,—

- (a) where it is duly stamped within three months after its execution or receipt, as referred to in that subsection—a fine of twenty per centum on the amount of the duty;
- (b) where it is not duly stamped in accordance with paragraph (a) of this subsection but is duly stamped within four months after its execution or receipt, as so referred to—a fine of twenty-five per centum on the amount of the duty; and
- (c) where it is not duly stamped in accordance with paragraph (a) or (b) of this subsection—a fine of one hundred per centum on the amount of the duty.

(3)

Stamp Duties (Amendment).

(3) Every such fine shall, immediately upon the instrument becoming subject thereto, become a debt due and payable to Her Majesty by every person liable to the payment of the duty on the instrument and may be recovered from that person by action or suit in any court of competent jurisdiction.

(3A) The Commissioner may remit the whole or any part of any fine incurred under this section.

(3B) The payment of any fine incurred under this section may be denoted on the instrument by a particular stamp.

(3C) This section shall extend to cases where an instrument has been marked "interim stamp only" under the provisions of subsection five of section forty-one, subsection seven of section forty-two, or subsection five of section 78D, but with the following modification, that is to say, for the words "after its execution or receipt, as referred to in that subsection" in paragraph (a) of subsection two and for the words "after its execution or receipt, as so referred to" in paragraph (b) of the same subsection, there shall be substituted the words "after the instrument was marked 'interim stamp only'".

- (c) (i) by inserting in paragraph (b) of subsection four of section forty-one after the word "afore-said" the words ", or on production of the conveyance and on his being satisfied that the agreement or agreements are duly stamped";
- (ii) by omitting from paragraph (a) of subsection seven of the same section the word "three" and by inserting in lieu thereof the word "twelve";
- (iii)

Sec. 41.
(Agreements for sale or conveyance to be chargeable as conveyances.)

Stamp Duties (Amendment).

No. 23, 1967

(iii) by omitting paragraph (c) of the same subsection and by inserting in lieu thereof the following paragraph :—

(c) This subsection shall not apply if the Commissioner is of the opinion that a subsequent sale of the property is a transaction within the meaning of a subsale notwithstanding that the subsequent conveyance or transfer is executed by the person who was the vendor in the cancelled contract.

New
sec. 47A.

(d) by inserting next after section forty-seven the following new section :—

Stamping a
demand bill
of exchange
as a term
bill.

47A. (1) Where a bill of exchange which has been drawn as a bill payable on demand has been accepted as a bill payable otherwise than on demand the bill shall upon its acceptance be deemed for the purposes of this Act to be a bill of exchange payable otherwise than on demand and every holder, whether in due course or for collection only of the bill so accepted shall, before he presents it for payment, or indorses, transfers, or in any manner uses, negotiates or pays it, cause it to be duly stamped as a bill of exchange payable otherwise than on demand, unless it has already been so stamped.

(2) Where a bill of exchange which has been drawn as a bill payable on demand has been indorsed and the indorsement has the effect of limiting the indorsee as a holder of the bill to require payment otherwise than on demand, the bill shall, upon its indorsement, be deemed for the purposes of this Act to be a bill of exchange payable otherwise than on demand and every holder, whether in due course or for collection only of the bill so indorsed shall, before he presents it for payment, or indorses, transfers, or in any manner uses, negotiates or pays

it,

Stamp Duties (Amendment).

it, cause it to be duly stamped as a bill of exchange **No. 23, 1967** payable otherwise than on demand, unless it has already been so stamped.

(3) Where a bill of exchange payable on demand has been drawn in New South Wales and the drawer of the bill or any other person has expressly or by implication signified that the bill may be accepted as a bill payable otherwise than on demand the bill shall for the purposes of this Act be deemed to be a bill of exchange payable otherwise than on demand and shall be duly stamped accordingly.

(4) Where a bill of exchange purporting to be payable on demand is drawn or accepted under any agreement expressed or implied that payment thereof is not to be required or made on demand the bill shall for the purposes of this Act be deemed to be a bill of exchange payable otherwise than on demand and shall be duly stamped accordingly.

- (e) by omitting section 49A and by inserting in lieu thereof the following section :— Subst. sec. 49A.

49A. The duty upon a bill of exchange other than a cheque and upon a promissory note drawn or made in New South Wales may be denoted by adhesive stamps which shall be cancelled in the manner provided by this Act. Adhesive stamps for bills of exchange, other than cheques, and promissory notes.

- (f) by omitting from the definitions of "Credit arrangement" and "Credit purchase agreement" in subsection one of section 75A the words "one hundred and fifty" wherever occurring and by inserting in lieu thereof the words "two hundred"; Sec. 75A. (Interpretation and duty on instalment purchase arrangements.)
- (g) by omitting from section one hundred and one the words "The minimum amount of death duty payable under any assessment shall be twenty cents."; Sec. 101. (Duties on estates of persons dying after the passing of this Act.)

(h)

Stamp Duties (Amendment).

No. 23, 1967

New sec.
101H.Duty on
estates.

- (h) by inserting next after section 101G the following new section :—

101H. The Commissioner may defer the payment of death duty where the amount payable is less than one dollar.

Sec. 102.

(Property subject to duty as part of the estate of deceased person.)

- (i) (i) by inserting at the end of subparagraph (a) of paragraph three of section one hundred and two, the following new provisos :—

Provided that this subparagraph shall not apply to the estate of a deceased person where but for this paragraph the dutiable estate would have included two or more such industrial policies and the aggregate of the amounts payable on such policies including bonuses (if any) exceeds two hundred dollars :

Provided further that in such a case in computing the final balance of the estate of such deceased person an allowance shall be made to the extent of two hundred dollars.

- (ii) by omitting from the same paragraph the definition of an "industrial policy" and by inserting in lieu thereof the following definition :—

In this paragraph an "industrial policy" means an industrial policy for the purposes of the Life Insurance Act 1945 of the Parliament of the Commonwealth of Australia or any Act passed in amendment of or substitution for that Act.

Sec. 107.
(Allowance to be made for debts.)

- (j) (i) by omitting from subsection three of section one hundred and seven the word "three" wherever occurring and by inserting in lieu thereof the word "six";

(ii)

Stamp Duties (Amendment).

- (ii) by inserting next after subsection four of the same section the following new subsection :—

(5) (a) This subsection shall apply in the case of every person who dies after the commencement of the Stamp Duties (Amendment) Act, 1967.

(b) In computing the final balance of the estate of a deceased person allowance shall be made for Federal income taxes assessed in respect of any amount which is included in the assessable income of the trust estate of the deceased person in accordance with the provisions of section 101A of the Income Tax Assessment Act 1936 of the Parliament of the Commonwealth of Australia or any Act passed in amendment of or substitution for that Act, and which is included in the dutiable estate for the purposes of this Act.

- (k) by omitting section 124A;

Sec. 124A.
(Reference to local land board in certain cases.)

- (l) by omitting from subsection one of section one hundred and twenty-eight the word "three" and by inserting in lieu thereof the word "six".

Sec. 128.
(Further claim may be made in case of payment of too little duty.)

3. The Second Schedule to the Principal Act is amended—

Further amendment of Act No. 47, 1920.

- (a) by inserting next after the matter relating to "Cheque" under the heading "Bill of Exchange, Promissory Note and Cheque" the following words and figures :—

Second Schedule—
Bill of Exchange.

Bill of Exchange payable on demand	0.05	The drawer or acceptor of the bill.
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(b)

Stamp Duties (Amendment).

No. 23, 1967
 Second
 Schedule—
 Companies.

(b) by inserting next after paragraph (iii) under the heading "Companies" the following paragraph, figures and words :—

(iv) Memorandum of appointment or power of attorney executed by or on behalf of a foreign company to comply with section 346 (1) (e) of the Companies Act, 1961, as amended (Adhesive stamp may be used in each case.)	3.00	The company.
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Second
 Schedule—
 Duplicate or
 Counterpart
 of an
 agreement
 for the
 hire of a
 motion
 picture film.

(c) by inserting in the first column immediately after the words "Duplicate or Counterpart of an agreement for the hire of a motion picture film." the words "(Adhesive stamp may be used.)".