

STAMP DUTIES (FURTHER AMENDMENT) ACT.

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 92, 1967.

An Act to make certain provisions with respect to the payment of stamp duty on instruments and death duty on estates of deceased persons; for these and other purposes to amend the Stamp Duties Act, 1920-1967; and for purposes connected therewith. [Assented to, 18th December, 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 (Further Amendment) Act, 1967".

(2)

Stamp Duties (Further Amendment).

(2) The Stamp Duties Act, 1920, as amended by subsequent Acts, is in this Act referred to as the Principal Act. No. 92, 1967

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

(4) Sections one, three and five of this Act shall commence upon the day upon which it receives the Royal Assent.

(5) Sections two and four of this Act shall commence upon such day or days as may be respectively appointed by the Governor and notified by proclamation published in the Gazette.

2. The Principal Act is amended—

- (a) by inserting next after section seventy-four the following new short headings and sections :—

Amendment
of Act No.
47, 1920.

New secs.
74A-74G.

Discount Arrangement.

74A. (1) For the purposes of this section and sections 74B and 74C of this Act and of the matter appearing under the heading "Discount Arrangement" in the Second Schedule to this Act, unless inconsistent with the context or subject-matter—

Definitions.

"Accommodation" means the amount paid or payable in accordance with the discount arrangement.

"Discount arrangement" means the purchase, acquisition, discounting or factoring of a book debt by a person in the course of carrying on the business of purchasing, acquiring, discounting or factoring book debts where—

- (a) the accommodation is paid or payable in New South Wales and—

- (i) both the person accommodating and the person accommodated are carrying on any business in New South Wales; or

(ii)

*Stamp Duties (Further Amendment).*No. 92, 1967

- (ii) either the person accommodating or the person accommodated is carrying on any business in New South Wales and stamp duty or duty of a like nature has not been paid or is not payable in accordance with the provisions of any law of the Commonwealth of Australia or of any Territory or State of the Commonwealth (other than New South Wales) on the discount arrangement; or
- (b) the accommodation is paid or payable outside New South Wales and either the person accommodating or the person accommodated is or both of them are carrying on any business in New South Wales and stamp duty or duty of a like nature has not been paid or is not payable in accordance with the provisions of any law of the Commonwealth of Australia or of any Territory or State of the Commonwealth (other than New South Wales) on the discount arrangement;

but does not include the purchase, acquisition, discounting or factoring of—

- (i) any book debt which relates solely to any amount due to any person in the Commonwealth of Australia for goods or other chattels personal which have been exported by that person from the Commonwealth of Australia;

(ii)

Stamp Duties (Further Amendment).

- (ii) any bill of exchange or promissory note at a discount rate (as hereinafter calculated) not exceeding nine per centum per annum; or
- (iii) a marketable security.

“Person accommodated” means the person from whom a book debt has been purchased, acquired, discounted or factored.

“Person accommodating” means the person who has purchased, acquired, discounted or factored a book debt.

“Short term discount arrangement” means a discount arrangement where the debt the subject of the discount arrangement is payable in full within six months from the date such debt was purchased, acquired, discounted or factored and the person accommodating has by the return made under section 74C of this Act elected to treat such discount arrangement as a short term discount arrangement.

(2) For the purposes of the definition of “discount arrangement” the discount rate shall, irrespective of whether a rate of discount is or is not expressed in the instrument constituting or evidencing the discount arrangement, be calculated in accordance with the provisions of the First Schedule to the Money-lenders and Infants Loans Act, 1941, as amended by subsequent Acts, and in making that calculation a reference in that Schedule to “principal” shall be construed as a reference to the amount paid in respect of the discounting of the bill of exchange or promissory note in accordance with the discount arrangement and “interest” shall be construed as the difference between the amount so paid in accordance with the discount arrangement and the amount of the bill of exchange or promissory note.

(3)

Stamp Duties (Further Amendment).

No. 92, 1967

(3) Where the person accommodated carries on business outside New South Wales and the person accommodating makes application to the Commissioner that a discount arrangement be subject to exemption from duty or a reduction of duty the Commissioner may, having regard to the procedures under which the discount arrangement was entered into and any other facts or circumstances he considers relevant, grant such exemption or a reduction.

Instrument
to be
made out.

74B. (1) (a) Subject to the provisions of paragraph (d) of this subsection a person accommodating shall at the time of the making of a discount arrangement make out an instrument.

(b) Such instrument shall clearly and truly set out—

- (i) the full name and address of the person accommodating;
- (ii) the full name and address of the person accommodated;
- (iii) a description of the book debt sufficient to indicate its nature and the amount thereof;
- (iv) the accommodation.

(c) Such instrument shall—

- (i) be marked "Original Instrument" on the front or first page thereof;
- (ii) be stamped as a discount arrangement in accordance with the provisions of this Act, and for such purposes notwithstanding anything contained in section twenty-six of this Act, be deemed to be first executed at the time such instrument is made out; and
- (iii) be retained by the person accommodating for a period of twelve months.

(d)

Stamp Duties (Further Amendment).

(d) This subsection shall not apply **No. 92, 1967**
to and in respect of an approved person referred to
in section 74C of this Act.

(2) (a) Where the person accommodat-
ing is a person resident outside New South Wales or
is not bound by the provisions of this Act, the
person accommodated, if he is resident or domiciled
or carrying on business in New South Wales, shall,
unless duty has been paid on a discount arrange-
ment in accordance with the provisions of this Act,
make out and furnish to the Commissioner a return
in duplicate setting out the information contained
in paragraph (b) of subsection one of this section
and shall pay to the Commissioner the same duty
as if the return were the discount arrangement.

(b) Such return shall be furnished
and such duty paid within two months of the date
of the discount arrangement.

(3) Any person who fails to comply with
any of the provisions of this section shall be liable
to a fine for such offence not exceeding two
hundred dollars.

74c. (1) Any person liable to the payment of
duty under section 74B of this Act may apply to the
Commissioner in a form approved by him for
approval to pay, in accordance with the provisions
of this section, duty in respect of discount arrange-
ments.

Payment of
duty on
discount
arrange-
ments by
return.

(2) The Commissioner may approve or
refuse to approve any such application.

(3) Where the Commissioner approves
any such application he shall in the approval
specify the date upon which the approval comes
into force.

(4)

Stamp Duties (Further Amendment).

No. 92, 1967

(4) A person whose application under subsection one of this section has been approved by the Commissioner is, while the approval is in force, an approved person for the purposes of this section.

(5) Where duty has been paid in respect of a discount arrangement in accordance with the provisions of this section, any instrument evidencing the terms and conditions of such discount arrangement shall not be chargeable with duty as a discount arrangement.

(6) An approved person shall, upon the making of a discount arrangement, make a record of such particulars relating to the discount arrangement as the Commissioner may, by notice in writing given to him, require.

(7) (a) An approved person shall not later than such day in each month as may be notified to him in writing by the Commissioner lodge with the Commissioner a return in the prescribed form and in duplicate setting out the prescribed particulars; and when he lodges that return, pay to the Commissioner as stamp duty an amount equal to the sum of—

- (i) the amount of stamp duty that would have been payable if an instrument in respect of each discount arrangement, not being a short term arrangement, to which the return relates had been made out or executed; and
- (ii) the amount of stamp duty payable in accordance with paragraph (b) of this subsection, in respect of short term discount arrangements to which the return relates.

(b)

Stamp Duties (Further Amendment).

(b) The amount of stamp duty payable in respect of short term discount arrangements to which the return relates shall be an amount equal to one-eighth of one per centum of the sum of—

- (i) the total accommodation paid in respect of short term discount arrangements by the approved person during the calendar month preceding the month in which the return is to be lodged; and
- (ii) the total accommodation paid in respect of short term discount arrangements by the approved person during the nine calendar months preceding the calendar month preceding the month in which the return is to be lodged less the amounts realised on such short term discount arrangements to the end of such calendar month :

Provided that where the amount realised in respect of a short term discount arrangement exceeds the accommodation the amount deducted shall be limited to the amount of such accommodation :

Provided further that where a book debt which is subject to a discount arrangement has been assigned to or taken over by a corporation which is by virtue of subsection five of section six of the Companies Act, 1961, as amended by subsequent Acts, deemed to be related to the person accommodating any consideration paid for the assignment or taking over of the debt is not to be deducted as an amount realised but any amounts realised by such corporation shall be deemed for the purposes of this section to have been realised by the person accommodating.

Stamp Duties (Further Amendment).

No. 92, 1967

In this subsection "calendar month" means the month of January, February, March, April, May, June, July, August, September, October, November or December.

(8) An approved person shall, when he makes out an instrument which but for the provisions of subsection five of this section would be chargeable with duty as a discount arrangement, endorse on that instrument the words "Stamp Duty" followed by the serial number of the notice of approval issued to him by the Commissioner under this section.

(9) An instrument endorsed in accordance with subsection eight of this section shall be deemed to be duly stamped.

(10) A person making any record in accordance with subsection six of this section shall retain that record for a period of two years.

(11) Any person who, in contravention of the provisions of subsection six or ten of this section fails or neglects to make or keep the record referred to in subsection six of this section shall be liable to a fine for such offence not exceeding five hundred dollars.

(12) Any person who, in contravention of subsection seven of this section, fails or neglects—

(a) to lodge with the Commissioner, in duplicate, the prescribed return referred to in that subsection; or

(b)

Stamp Duties (Further Amendment).

(b) to pay in accordance with that subsection **No. 92, 1967** the duty chargeable on a return lodged by him under that subsection,

shall be liable to a fine for each such offence not exceeding two hundred dollars.

(13) Any person, not being an approved person, who endorses on an instrument which is chargeable with duty as a discount arrangement any words or numbers suggesting or implying that the instrument is duly stamped under the provisions of this section shall be liable to a fine for such offence not exceeding two hundred dollars.

(14) The Commissioner may by an instrument in writing cancel any approval granted under this section—

- (a) on application by the person to whom the approval was granted; or
- (b) for any reason he deems sufficient,

and shall in any such instrument specify the date on and from which the approval ceases to be in force.

(15) An approval so cancelled shall cease to be in force on and from the date specified in the instrument by which the approval is cancelled.

Hiring Arrangement.

74D. For the purposes of this section and **Definitions.** sections 74E to 74G of this Act and of the matter appearing under the heading "Hiring Arrangement" in the Second Schedule to this Act, unless inconsistent with the context or subject matter—

"Goods" includes all chattels personal (other than money, livestock and things in action) and any fixture severable from the realty.

"Hiring

Stamp Duties (Further Amendment).

No. 92, 1967

“Hiring arrangement” includes any arrangement under which goods are or may be used at or during any time or times by any person other than the owner of such goods where—

- (a) the arrangement is entered into in New South Wales;
- (b) the goods are supplied or delivered or agreed to be supplied or delivered in New South Wales; or
- (c) the goods may be used in New South Wales,

but does not include—

- (i) any arrangement made under a hire-purchase agreement;
- (ii) any arrangement relating to the use of an electricity, gas or water meter, a motion picture film or a book; or
- (iii) any arrangement made under a lease of real estate where the rental or other consideration in respect of which stamp duty is chargeable under this Act also includes rental or other consideration for goods.

“Hirer” means the person to whom goods are hired under a hiring arrangement.

“Owner” means the person from whom goods are hired under a hiring arrangement.

Instrument
to be made
out.

74E. (1) (a) Subject to the provisions of paragraph (d) of this subsection an owner shall make out an instrument at the time the first or only payment is made under a hiring arrangement.

(b) Such instrument shall clearly and truly set out—

- (i) the full name and address of the owner;
- (ii) the full name and address of the hirer;
- (iii)

Stamp Duties (Further Amendment).

- (iii) a description of the goods sufficient to indicate their nature; No. 92, 1967
- (iv) the total amount payable under the hiring arrangement, or the amount calculated under section 74G of this Act.

(c) Such instrument shall—

- (i) be marked "Original Instrument" on the front or first page thereof;
- (ii) be stamped as a hiring arrangement in accordance with the provisions of this Act, and for such purposes, notwithstanding anything contained in section twenty-six of this Act, be deemed to be first executed at the time such instrument is made out; and
- (iii) be retained by the owner for a period of twelve months.

(d) This subsection shall not apply to and in respect of an approved person referred to in section 74F of this Act or to a hiring arrangement in respect of which the Commissioner has under subsection one of section 74G of this Act required the owner to pay duty as an approved person.

(e) Any instrument not being an instrument made out in accordance with this subsection, which has been made out and which constitutes or evidences the terms and conditions of a hiring arrangement, shall not be chargeable with duty in respect of the hiring arrangement under any other provisions of this Act:

Provided that if the instrument contains or relates to any other distinct matter each such distinct matter is to be separately and distinctly charged with duty in respect of each such matter as if each matter were expressed in a separate instrument.

(2)

Stamp Duties (Further Amendment).

No. 92, 1967

(2) Where the owner is a person resident outside New South Wales the provisions of subsection one of this section shall apply to that person in respect of a hiring arrangement where—

- (a) the hiring arrangement is entered into in New South Wales; or
- (b) the goods are supplied or delivered, or agreed to be supplied or delivered in New South Wales, and stamp duty or duty of a like nature has not been paid or is not payable in accordance with the provisions of any law of the Commonwealth of Australia or of a Territory or of a State of the Commonwealth (other than New South Wales) on the hiring arrangement.

(3) (a) In the case of a hiring arrangement where the owner is a person resident outside New South Wales or is not bound by the provisions of this Act, the hirer if he is resident or domiciled in New South Wales shall, unless duty has been paid on such hiring arrangement in accordance with the provisions of this Act or in accordance with the provisions imposing duty of a like nature by any law of the Commonwealth of Australia or of a Territory or of a State of the Commonwealth, make out and furnish to the Commissioner a return in duplicate setting out the information contained in paragraph (b) of subsection one of this section and shall pay to the Commissioner the same duty as if the return were a hiring arrangement.

(b) Such return shall be furnished and such duty paid within two months of the date the first or only payment is made in accordance with the hiring arrangement.

(4) Any person who fails to comply with any of the provisions of this section shall be liable to a fine for such offence not exceeding two hundred dollars.

Stamp Duties (Further Amendment).

74F. (1) Any person liable to the payment of duty under the provisions of section 74E of this Act may apply to the Commissioner in a form approved by him for approval to pay, in accordance with the provisions of this section, duty in respect of hiring arrangements.

No. 92, 1967
Payment of
duty on
hiring
arrange-
ments by
return.

(2) The Commissioner may approve or refuse to approve any such application.

(3) Where the Commissioner approves any such application he shall in the approval specify the date upon which the approval comes into force.

(4) A person whose application under subsection one of this section has been approved by the Commissioner is, while the approval is in force, an approved person for the purposes of this section.

(5) Where duty has been paid in respect of a hiring arrangement in accordance with the provisions of this section, any instrument evidencing the terms and conditions of such hiring arrangement shall not be chargeable with duty as a hiring arrangement.

(6) An approved person shall, at the time the first or only payment is received in accordance with a hiring arrangement, make a record of such particulars relating to the hiring arrangement as the Commissioner may by notice in writing given to him require.

(7) An approved person shall—

(a) not later than such day in each month as may be notified to him in writing by the Commissioner lodge with the Commissioner a return in the prescribed form and in duplicate setting out the prescribed particulars; and

(b)

*Stamp Duties (Further Amendment).***No. 92, 1967**

- (b) when he lodges that return, pay to the Commissioner as stamp duty an amount calculated at one and one-quarter per centum of the total amount received in respect of hiring arrangements during the calendar month preceding the month in which the return is to be lodged :

Provided that where the total amount received in the month to which the return relates does not exceed one hundred and fifty dollars no stamp duty shall be payable.

In this subsection "calendar month" has the meaning ascribed thereto in subsection seven of section 74C of this Act.

(8) An approved person shall, when he makes out an instrument which but for the provisions of subsection five of this section would be chargeable with duty as a hiring arrangement endorse on that instrument the words "Stamp Duty" followed by the serial number of the notice of approval issued to him by the Commissioner under this section.

(9) An instrument endorsed in accordance with subsection eight of this section shall be deemed to be duly stamped.

(10) A person making any record in accordance with subsection six of this section shall retain that record for a period of two years.

(11) Any person who, in contravention of the provisions of subsection six or ten of this section fails or neglects to make or keep the record referred to in subsection six of this section shall be liable to a fine for such offence not exceeding five hundred dollars.

(12)

Stamp Duties (Further Amendment).

(12) Any person who, in contravention of No. 92, 1967 subsection seven of this section fails or neglects—

- (a) to lodge with the Commissioner, in duplicate the prescribed return referred to in that subsection; or
- (b) to pay in accordance with paragraph (b) of that subsection the duty chargeable on a return lodged by him under that subsection.

shall be liable to a fine for each such offence not exceeding two hundred dollars.

(13) Any person, not being an approved person, who endorses on an instrument which is chargeable with duty as a hiring arrangement any words or numbers suggesting or implying that the instrument is duly stamped under the provisions of this section shall be liable to a fine for such offence not exceeding two hundred dollars.

(14) The Commissioner may by an instrument in writing cancel any approval granted under this section—

- (a) on application by the person to whom the approval was granted; or
- (b) for any reason he deems sufficient,

and shall in any such instrument specify the date on and from which the approval ceases to be in force.

(15) An approval so cancelled shall cease to be in force on and from the date specified in the instrument by which the approval is cancelled:

Provided that, before any approval is cancelled the approved person shall—

- (a) furnish to the Commissioner a statutory declaration stating the total amount which has been received by him in respect of
hiring

Stamp Duties (Further Amendment).

No. 92, 1967

hiring arrangements since he lodged his last return on which stamp duty has been paid under subsection seven of this section together with the total amount still to be received in respect of hiring arrangements subsisting at the time of making such declaration; and

- (b) pay to the Commissioner as stamp duty at the time of lodging such declaration an amount calculated at one and one-quarter per centum of the total of such amounts on which stamp duty has not been paid under subsection seven of this section.

The amount so calculated shall be recoverable as a debt due to the Crown :

Provided further that where the Commissioner is satisfied that it is not reasonably practicable to calculate the total amount still to be paid under any subsisting hiring arrangement the provisions of subsection one of section 74G shall, mutatis mutandis, apply to such arrangement and for this purpose the Commissioner may require the owner to continue to pay duty in respect of such hiring arrangement as an approved person.

Any person who in contravention of this subsection fails or neglects to furnish a statutory declaration or pay the duty calculated in accordance with this subsection shall be liable to a fine for such offence not exceeding two hundred dollars.

Total
amount not
readily ascer-
tainable.

74G. (1) Where the Commissioner is satisfied that it is not reasonably practicable to calculate the total amount payable under any hiring arrangement, he may—

- (a) calculate the total amount payable in such manner or on such basis as he thinks fit and the amount so calculated shall be deemed to be the total amount payable for the purposes of this Act; or

(b)

Stamp Duties (Further Amendment).

- (b) require the owner to pay duty in respect of that hiring arrangement as an approved person and for this purpose the provisions of section 74F shall, mutatis mutandis, apply to such person. No. 92, 1967

(2) Where the Commissioner is satisfied that the total amount received or payable under any hiring arrangement includes an amount attributable to the cost of servicing the goods by the owner in respect of the hire the total amount received or payable under the hiring arrangement shall be reduced by such amount as in his opinion is properly attributable to the cost of providing such service and such reduced amount shall be deemed to be the total amount received or payable for the purposes of this Act.

- (b) by inserting in subsection one of section seventy-six after the word "mortgagor" the words "or a hiring arrangement as defined in section 74D of this Act"; Sec. 76.
(Definition of lease.)

- (c) by inserting next after paragraph two of section eighty-six the following new paragraphs :— Sec. 86.
(Definition of policy of insurance and policy of marine insurance.)

(3) the expression "policy of life insurance" means a policy of insurance or assurance upon any life or lives or upon any event or contingency relating to or depending upon any life or lives except a policy of insurance against accident;

(4) the expression "policy of insurance against accident" means a policy of insurance for any payment agreed to be made upon the death of any person only from accident or violence or otherwise than from a natural cause or as compensation for personal injury.

(d)

Stamp Duties (Further Amendment).

No. 92, 1967

New secs.
88E and 88F.Duty to be
paid on
returns
where life
policy issued
outside New
South Wales.

(d) by inserting next after section 88D the following new sections :—

88E. (1) Any person resident in New South Wales who, on or after the commencement of section two of the Stamp Duties (Further Amendment) Act, 1967, effects a policy of life insurance for which insurance a policy of insurance is or is to be issued outside New South Wales, shall, unless duty has been paid on such policy in accordance with the provisions of this Act—

- (a) lodge with the Commissioner within one month after effecting the insurance a return in the prescribed form and in duplicate setting forth the prescribed particulars; and
- (b) when he lodges that return pay to the Commissioner as stamp duty an amount equal to the amount of stamp duty that would have been payable in respect of each insurance to which the return relates if such insurance had been effected under a policy of insurance issued in New South Wales.

(2) Any such person who effects an insurance of the nature referred to in subsection one of this section and who fails or neglects—

- (a) to lodge a return as required by paragraph (a) of that subsection; or
- (b) to pay in accordance with paragraph (b) of that subsection the duty chargeable on a return lodged by him under that subsection,

shall be liable to a fine for each such offence not exceeding two hundred dollars.

(3) Any person who furnishes a return pursuant to subsection one of this section which is false or misleading shall be liable to a fine not exceeding two hundred dollars.

(4)

Stamp Duties (Further Amendment).

(4) For the purposes of this section ^{No. 92, 1967} "person resident in New South Wales" and "person" shall, in the case of a company, include—

- (a) a company which is registered under any of the provisions of the Companies Act, 1961, as amended by subsequent Acts, whether incorporated in New South Wales or not; and
- (b) a company which carries on business in New South Wales.

This subsection shall not be construed as limiting the construction of any provisions of this Act.

(5) (a) This section shall not apply to a policy which relates solely to the life or lives of a person or persons who was or were, at the time the policy was effected, domiciled outside New South Wales.

(b) Where a policy to which this section applies, relates partly to the life or lives of a person or persons domiciled in New South Wales and partly to the life or lives of a person or persons domiciled outside New South Wales, the duty chargeable on the return may be reduced by such amount as, in the opinion of the Commissioner, is referable to the insurance which relates to the life or lives of the person or persons who was or were, at the time the policy was effected, domiciled outside New South Wales.

88F. (1) Every person—

- (a) with whom there is effected on or after the commencement of section two of the Stamp Duties (Further Amendment) Act, 1967, by any person resident in New South Wales any policy of life insurance and who in connection therewith issues a policy outside New South Wales; or

Returns to be made in respect of certain policies of life insurance.

(b)

Stamp Duties (Further Amendment).

No. 92, 1967

- (b) who for or on behalf of any person resident in New South Wales arranges on or after such commencement any policy of life insurance for which insurance a policy is issued outside New South Wales,

shall lodge with the Commissioner within one month of the insurance being effected a return in the prescribed form setting forth the prescribed particulars.

(2) Any person who neglects or fails to furnish a return in accordance with this section or who furnishes any return which is false or misleading shall be liable to a fine not exceeding two hundred dollars.

(3) Any return furnished under this section shall be admissible in evidence in any proceeding under section 88E or section eighty-nine of this Act and shall be prima facie evidence of the facts stated therein.

(4) For the purposes of this section "person resident in New South Wales" and "person" shall, in the case of a company, include—

- (a) a company which is registered under any of the provisions of the Companies Act, 1961, as amended by subsequent Acts, whether incorporated in New South Wales or not; and
- (b) a company which carries on business in New South Wales.

This subsection shall not be construed as limiting the construction of any provisions of this Act.

(5) This section shall not apply to a policy which relates solely to the life or lives of a person or persons who was or were, at the time the policy was effected, domiciled outside New South Wales.

(e)

Stamp Duties (Further Amendment).

- (e) (i) by inserting at the end of subsection one of section eighty-nine the following proviso :—

No. 92, 1967
Sec. 89.

Provided that this subsection shall not apply to a policy of life insurance which relates to the life or lives of a person or persons who was or were, at the time the policy was issued, domiciled outside New South Wales.

(Stamping
of foreign
policies.)

- (ii) by inserting at the end of the same section the following new subsection :—

(5) Where duty has been paid under section 88E of this Act upon a return furnished under subsection one of that section and the policy of life insurance to which the return relates is thereafter received in New South Wales, the duty so paid shall be allowed as a set-off against any duty payable pursuant to this section.

- (f) by inserting next after section 89A the following new section :—

New sec.
89AB.

89AB. (1) This section applies to policies of insurance other than policies of marine insurance.

Policies of
insurance
in sets.

(2) Where, according to the custom of insurers, more than one instrument is executed as evidence of the existence of a contract of insurance, such instruments shall be deemed to be one such policy of insurance for the purposes of this Act, provided that one of the number is duly stamped and provided further that any instrument in evidence of any extension or any other alteration to a policy of insurance shall not be one of the instruments referred to in this section.

(3) Upon proof of the loss or destruction of a duly stamped instrument evidencing the existence of a contract of insurance another instrument evidencing the existence of that contract of

insurance

Stamp Duties (Further Amendment).

No. 92, 1967

insurance may, although unstamped, be admitted in evidence to prove the contents of the lost or destroyed instrument.

Further amendment of Act No. 47, 1920.

3. The Principal Act is further amended—

Sec. 3.
(Interpretation.)

- (a) by inserting next after the definition of "Money" in subsection one of section three the following new definition :—

"Officer" means person appointed or employed under this Act or whose services are made use of for the purposes of this Act.

New sec. 91A.

- (b) by inserting next after section ninety-one the following new section :—

Receipts to be made out in respect of certain deposits, etc.

91A. (1) Where a person deposits or causes to be deposited to the credit of a bank account in New South Wales of another person any amount, such amount shall, for the purposes of this Act, be deemed to have been received by such other person and such other person shall forthwith, upon having notice of the making of the deposit and in any case where a receipt for such amount if paid directly to such person would be liable to duty, give or tender a duly stamped receipt for such amount.

(2) Where a banker in accordance with the authority of a person debits the account of that person with any amount and—

- (a) transfers that amount to the credit of that banker or to the credit of the bank account of another person with that banker ;
- (b) transmits that amount to the credit of the bank account of another person with another banker ; or

(c)

Stamp Duties (Further Amendment).

- (c) transmits that amount to another banker ^{No. 92, 1967}
(not being a transmission to the credit of
the bank account of another person with
that banker),

such amount shall, for the purposes of this Act be
deemed to have been received by—

- (i) in a case to which paragraph (a) or (b)
of this subsection applies, the banker to
whose credit or the person to the credit of
whose account the amount is transferred or
transmitted, as the case may be; or
- (ii) in a case to which paragraph (c) of this
subsection applies, the banker to whom
such amount is transmitted,

and that banker or other person, as the case may
be, shall forthwith upon having notice of each such
transfer or transmission and in any case where a
receipt for such amount if paid directly to such
banker or other person would be liable to duty, give
or tender a duly stamped receipt for such amount.

(3) A person who fails to comply with the
requirements of subsection one or two of this section
shall be liable to a fine for each offence not exceed-
ing ten dollars.

(4) In this section—

“Banker” includes any person who receives
money on deposit or holds money on cur-
rent account for any other person.

“Bank account” includes a current account of
money held for a person by another person
or deposited by a person with another
person.

(5) The provisions of section 92A of this
Act shall, mutatis mutandis, apply to any person
or banker who is required under this section to
give or tender a duly stamped receipt.

(c)

Stamp Duties (Further Amendment).

- No. 92, 1967**
- Sec. 92.**
(Duty on receipts may be denoted by adhesive stamps.)
- New sec. 96A.**
- Duty on certain transfers of shares.**
- (c) by omitting from paragraph (b) of subsection two of section ninety-two the words "without reasonable excuse";
- (d) by inserting next after section ninety-six the following new section:—
- 96A. (1) The provisions of paragraphs (2), (3), (4) and (5) under the heading "Transfer of Shares" in the Second Schedule to this Act shall be read and construed as including a transfer of shares or of the right to any shares in the stock or funds of any corporation or company incorporated in New South Wales or which being incorporated out of New South Wales has a share register in New South Wales wherein such share or right is registered.
- (2) The provisions of this Act included in—
- (a) the matter appearing in the Second Schedule under the heading "Transfer of Shares";
- (b) paragraph (b) of subsection one of section ninety-seven; and
- (c) subsection two of the same section,
- shall not apply in the case of a transfer of any shares or of the right to any shares in the stock or funds of any corporation or company, incorporated in New South Wales which are registered, recorded or entered on a branch register of members of the corporation or company lawfully kept outside New South Wales where—
- (i) stamp duty is lawfully payable on such transfer in the place outside New South Wales where such branch register of members is lawfully kept; or
- (ii) the transfer is exempted from the payment of stamp duty under the provisions of the law

Stamp Duties (Further Amendment).

law imposing stamp duty in the place outside New South Wales where such branch register is lawfully kept. **No. 92, 1967**

- (e) by omitting from subparagraph (i) of paragraph (b) of subsection one of section ninety-seven the words "and the actual date of sale and the date or dates of execution by the transferor and transferee are therein set out"; **Sec. 97.**
(Transfer of shares liable to duty not to be registered unless duly stamped.)

- (f) by omitting subsection one of section 103A and by inserting in lieu thereof the following subsection :— **Sec. 103A.**
(Refund of duty on property outside New South Wales.)

(1) Where in the case of a person dying after the passing of the Stamp Duties (Further Amendment) Act, 1967, death duty has been paid under this Act on personal property situated in any state, territory or country other than New South Wales, at such death and it is shown to the satisfaction of the Commissioner that death duty (not being duty or tax under any Act of the Parliament of the Commonwealth of Australia) has been lawfully paid on such personal property to the state, territory or country in which such property is situated at such death in consequence of the death of the deceased, the Commissioner shall refund to the person who has paid the death duty under this Act on such personal property an amount equal to the said death duty so paid thereon to the state, territory or country in which it is situated or to the said duty so paid thereon under this Act, whichever amount is the lesser.

- (g) by inserting next after section one hundred and seventeen the following new section :— **New sec. 117A.**

117A. (1) If in respect of any estate—

- (a) any person neglects or fails or makes default as required by or under this Act to furnish, supply, deliver or give any evidence, information, account, valuation or statement;

Default assessment.

(b)

Stamp Duties (Further Amendment).

No. 92, 1967

- (b) the Commissioner is not satisfied with the evidence, information, account, valuation or statement furnished, supplied, delivered or given by any person; or
- (c) the Commissioner has reason to believe that the estate (whether or not the evidence, information, account, valuation or statement required by or under this Act to be furnished, supplied, delivered or given has been so furnished, supplied, delivered or given) is dutiable,

the Commissioner may cause to be made an assessment of the amount on which, in his judgment, death duty ought to be levied and that amount shall, unless and until—

- (i) that amount is shown to be erroneous upon an appeal under section one hundred and twenty-four of this Act; or
- (ii) the Commissioner ascertains the true amount or makes a further assessment under this section or section one hundred and twenty-eight of this Act,

be deemed to be the amount on which duty is to be levied.

(2) This section shall apply to and in respect of the estates of persons who died before as well as of persons who die after the passing of the Stamp Duties (Further Amendment) Act, 1967.

Sec. 122.
(No dealings with shares, etc., of deceased persons to be registered without certificate of Commissioner.)

- (h) by inserting next after paragraph (a) of subsection five of section one hundred and twenty-two the following new paragraph and subsection:—
- (b) in respect of a payment not exceeding twelve hundred dollars by a savings bank authorised to carry on banking business under a law of a State or of the Commonwealth of Australia from an account in the

name

Stamp Duties (Further Amendment).

name of any deceased person either alone or jointly with any other person, which payment has been made to enable the payment of the funeral expenses of the deceased depositor or to reimburse any person who has paid those expenses or to meet the needs of a person who was at the time of the death dependent upon such deceased depositor :

Provided that the deceased depositor was, at the time of his death, domiciled in New South Wales and the person to whom the payment is made is domiciled in New South Wales.

(5A) Where any payment to which paragraph (b) of subsection five of this section applies has been made, the savings bank shall, within thirty days of making such payment, furnish to the Commissioner by notice in writing, details of such payment.

(i) by omitting from subsection one of section one hundred and twenty-four the word "thirty" wherever occurring and by inserting in lieu thereof the word "sixty";

(j) by inserting next after section one hundred and twenty-four the following new section :—

124A. (1) Production of any assessment or of any document under the hand of the Commissioner purporting to be a copy of an assessment shall—

- Assessment to be evidence.
- (a) be conclusive evidence of the due making of the assessment; and
 - (b) be conclusive evidence that the amount and all particulars of the assessment are correct, except in proceedings on appeal against the assessment or by way of action or suit under section one hundred and forty of this Act when it shall be prima facie evidence only.

(2)

Stamp Duties (Further Amendment).

No. 92, 1967

(2) This section shall apply in respect of—

- (a) the estates of persons who died before as well as of persons who die after the passing of the Stamp Duties (Further Amendment) Act, 1967;
- (b) (i) every instrument executed; and
(ii) every assessment made, whether before or after the passing of the Stamp Duties (Further Amendment) Act, 1967.

(k) by inserting next after section one hundred and twenty-nine the following new sections :—

New secs.
129A and
129B.Commis-
sioner may
obtain
information.

129A. (1) The Commissioner may, by notice in writing, require any person—

- (a) to furnish or supply him with or give him or deliver to him such evidence, information, account, valuation or statement in such form as he requires; or
- (b) to attend before him, or before any officer authorised by him in that behalf, and to answer any question put by him or by that officer concerning any matter relevant for the purposes of this Act, and to produce all books, documents or other papers whatever in his custody or under his control relating to any such matter.

(2) The Commissioner may require the evidence, information, account, valuation or statement to be verified by statutory declaration or may require the evidence, information, account, valuation or statement or answers to questions to be given on oath, and either verbally or in writing, and for that purpose he, or the officer authorised by him, may administer an oath.

(3)

Stamp Duties (Further Amendment).

(3) This section shall apply to and in No. 92, 1967
respect of—

- (a) the estates of persons who died before as well as of persons who die after the passing of the Stamp Duties (Further Amendment) Act, 1967; and
- (b) every instrument executed whether before or after the passing of the Stamp Duties (Further Amendment) Act, 1967.

129B. (1) Any person who— Offences.

- (a) obstructs or hinders any officer acting in the discharge of his duty under this Act;
- (b) fails or neglects to furnish, supply, deliver or give, or makes default in furnishing, supplying, delivering or giving, any evidence, information, account, valuation or statement as and when required by this Act, or to comply with any requirement of the Commissioner made in pursuance of this Act;
- (c) unless just cause or excuse is shown by him refuses or neglects—
 - (i) duly to attend before the Commissioner or an officer authorised by him in that behalf when required by the Commissioner;
 - (ii) to answer any question put to him by the Commissioner or any such officer; or
 - (iii) to produce any book, document or paper required of him by the Commissioner or any such officer; or
- (d)

Stamp Duties (Further Amendment).

No. 92, 1967

(d) furnishes, supplies, delivers or gives any evidence, information, account, valuation or statement which is false in any particular or makes any false answers whether verbally or in writing in relation to any matter or thing arising under this Act,

shall be guilty of an offence and be liable to a fine for such offence of not more than five hundred dollars and in the case of a continuing offence to a fine of not more than ten dollars for each day on which the offence continues.

(2) Where any provision of subsection one of this section is inconsistent with any other provision of this Act the provision of subsection one of this section shall prevail.

Further amendment of Act No. 47, 1920.

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

Second Schedule—Discount

(a) by inserting next after the matter appearing under the heading "Deed" the following new matter :—

Arrangement. DISCOUNT ARRANGEMENT other than a Short Term Discount Arrangement—

On the accommodation

An amount equal to $1\frac{1}{4}$ per centum of such accommodation.
(Any remaining fractional part of one cent shall be disregarded.)

The person accommodating.

Second Schedule—Hiring Arrangement.

(b) by inserting next after the matter appearing under the heading "Guarantee" the following new matter :—

HIRING ARRANGEMENT—
On the total amount payable under the hiring arrangement.

0.35
or an amount equal to $1\frac{1}{4}$ per centum of such total amount payable under the hiring arrangement whichever is the greater.
(Any remaining fractional part of one cent shall be disregarded.)

The owner.

(c)

Stamp Duties (Further Amendment).

- (c) (i) by inserting next after the heading "Policies of Insurance" the words "not being a policy of life insurance";
- (ii) by omitting the matter appearing in paragraph (3) under the heading "Policies of Insurance";
- (iii) by omitting paragraphs (a) and (h) of the exemptions appearing under the same heading;
- (d) by inserting next after the matter appearing under the heading "Policies of Insurance" the following new matter :—

No. 92, 1967
Second
Schedule—
Policies of
insurance.

Second
Schedule—
Policies of
Life
Insurance.

POLICIES OF LIFE INSURANCE—

(1) Upon every policy (other than a temporary or term insurance policy) where the sum insured exceeds \$100 and does not exceed \$2,000—

For every \$200 and also for any fractional part of \$200 of the sum insured

0.10

Where the sum insured exceeds \$2,000—

For every \$200 of the first \$2,000 of such amount . . .

0.10

And in addition thereto, for every \$200 and also for any fractional part of \$200 in excess of the first \$2,000 . . .

0.20

(2) Upon a temporary or term insurance policy

five per centum of the first year's premium on the policy.

Exemption—A policy of life insurance where the sum insured does not exceed \$100.

(3) Upon every policy of re-insurance where the original policy of insurance has been duly stamped

0.15

(4) Upon every transfer or assignment of a policy of life insurance otherwise than by way of mortgage or release of mortgage

the same duty as on a conveyance.

The company or person issuing the policy.

The company or person issuing the policy.

The transferee or assignee.

(e)

Stamp Duties (Further Amendment).

No. 92, 1967 (e) by inserting at the end of paragraph six under the heading "General Exemptions from Stamp Duty under Part III" the words "not being an instrument within the meaning of a hiring arrangement as defined in section 74D of this Act or an instalment purchase arrangement as defined in section 75A of this Act".

**Second Schedule—
General Exemptions.**

Further amendment of Act No. 47, 1920. **5.** The Second Schedule to the Principal Act is further amended by omitting paragraph (i) of the exemptions appearing under the heading "Receipt" and by inserting in lieu thereof the following paragraph:—

**Second Schedule—
Receipt.**

- (i) Any acknowledgment given by a bank for money deposited in that bank to be accounted for other than an acknowledgment for any sum carried to the credit of any depositor or shareholder in the bank on any division of the profits made by such bank.