

STAMP DUTIES (FURTHER AMENDMENT) ACT.

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 110, 1974.

An Act to impose stamp duty on certain loans and loan securities; to make provisions with respect to the reduction of death duty upon estates of certain persons; to make further provisions with respect to the imposition, assessment and payment of stamp duty; for these and other purposes to amend the Stamp Duties Act, 1920, and the Bookmakers (Taxation) Act, 1917; and for purposes connected therewith. [Assented to, 18th December, 1974.]

BE

Stamp Duties (Further Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by **No. 110, 1974**
 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:—

1. This Act may be cited as the "Stamp Duties (Further Short title.
 Amendment) Act, 1974".

2. (1) Except as provided in subsections (2) and (3), Commence-
 this Act shall commence on 1st January, 1975. ment.

(2) Section 6 shall commence upon the date of
 assent to this Act.

(3) Sections 7 (e) and 9 shall commence upon such
 day as may be appointed by the Governor in respect thereof
 and as may be notified by proclamation published in the
 Gazette.

3. The Stamp Duties Act, 1920, is amended by inserting Amendment
 before section 83 the following sections :— of Act No.

Loans.

82A. (1) For the purposes of this section and Inter-
 sections 82B, 82C and 82D of this Act and of the pretation.
 matter appearing under the heading "Loan Instru-
 ment" in the Second Schedule to this Act, unless
 inconsistent with the context or subject-matter—

"Fixed loan" means a loan—

(a) the term of which is fixed or ascer-
 tainable at the time the loan is made;

(b)

Stamp Duties (Further Amendment).

No. 110, 1974

- (b) the interest on which is payable at times fixed or ascertainable at the time the loan is made; and
- (c) the interest on which—
- (i) is to be paid by amounts calculated by reference only to one or more rates that is or are fixed or ascertainable at the time the loan is made;
 - (ii) is to be paid only by specified amounts or by amounts that are to be calculated otherwise than by reference to one or more such rates but in a manner that is fixed or ascertainable at the time the loan is made; or
 - (iii) is to be paid partly in the manner specified in subparagraph (i) of this paragraph and partly in the manner specified in subparagraph (ii) of this paragraph,

and, where the interest is to be paid as referred to in subparagraph (ii) or (iii) of this paragraph, which is for an amount of principal that is fixed or ascertainable at the time the loan is made.

“Interest”, in relation to a loan, includes any amount (by whatever name called) in excess of the principal of the loan, which amount has been paid or is to be paid or payable in consideration of or otherwise in respect of the loan and, without

limiting

Stamp Duties (Further Amendment).

limiting the generality of the foregoing provisions of this definition, includes any amount which has been paid or is to be paid or payable by any person in consideration of or otherwise in respect of the loan, the obtaining of the loan or the giving of any security in respect of the loan—

- No. 110, 1974
- (a) where the lender is a corporation, to the lender or a corporation which is, by virtue of section 6 (5) of the Companies Act, 1961, deemed to be related to the corporation which is the lender; or
 - (b) to any person, whether or not a corporation, where there is a contract, agreement or arrangement (whether made before or after 1st January, 1975, and whether or not in writing or legally enforceable) under which that amount or any part of that amount is directly or indirectly payable to the lender or to any person on behalf of the lender or, where the lender is a corporation, to a corporation which is, by virtue of section 6 (5) of the Companies Act, 1961, deemed to be related to the corporation which is the lender,

but does not include any legal costs payable to a legal practitioner, reasonable valuation fees or fees payable pursuant to any Act or regulations in respect of the loan or security.

“Loan” includes—

- (a) an advance of money;
- (b) money paid for or on account of or on behalf of or at the request of any person;

(c)

*Stamp Duties (Further Amendment).*No. 110, 1974

(c) a forbearance to require payment of money owing on any account whatsoever; and

(d) any transaction (whatever its terms or form) which in substance effects a loan of money.

“Loan instrument” means an instrument constituting or evidencing the terms of a loan, other than a short term loan.

“Prescribed rate” means a rate of 14 per centum per annum, or such other rate per centum per annum as the Governor may at any time prescribe.

“Principal”, in relation to a loan, means the amount actually lent.

“Short term loan” means—

(a) a loan which an approved person treats in a return made by him under section 82D of this Act as a short term loan; or

(b) a loan upon an account current other than a loan upon a special account current.

“Special account current” means an account current which an approved person has designated as a special account current in the return made by him under section 82D of this Act in respect of the month in which a loan was first made upon that account.

(2) For the purposes of this section and sections 82B, 82C and 82D of this Act, where, in relation to a loan bona fide secured by a mortgage of any estate or interest in land, the mortgage provides that the mortgagee agrees to accept a specified rate of interest less than another specified rate of interest so long as the mortgagor duly observes and performs

Stamp Duties (Further Amendment).

performs all his covenants and agreements, including those relating to prompt payment of interest, the higher rate of interest shall be disregarded in determining the interest payable in respect of the loan. No. 110, 1974

(3) For the purposes of this section and sections 82B and 82D of this Act, the amount of a loan upon an account current, other than a special account current, with an approved person in relation to any return is the maximum amount of principal due to the approved person on the account at any time during the month to which the return relates and any such loan shall be deemed to have been made and repaid in that month and the amount of a loan upon a special account current in relation to any return is the total amount of the loans made upon that account by the approved person in that month.

(4) The reference in section 82B (3) (b) of this Act to the Moneylending Act, 1941, is, where section 4 (b) (i) of the Commercial Transactions (Miscellaneous Provisions) Act, 1974, has not commenced on 1st January, 1975, a reference to the Money-lenders and Infants Loans Act, 1941.

82B. (1) The provisions of sections 82C and 82D of this Act apply to and in respect of— Application
of sections
82C and 82D.

- (a) every fixed loan in relation to which the applicable rate of interest determined in accordance with subsection (3) of this section exceeds the prescribed rate; and
- (b) every loan, other than a fixed loan, in relation to which the applicable rate of interest determined in accordance with subsection (4) of this section at any time exceeds the prescribed rate.

(2)

Stamp Duties (Further Amendment).

No. 110, 1974

(2) Notwithstanding subsection (1) of this section, the provisions of sections 82c and 82D of this Act do not apply to or in respect of—

- (a) a loan, the principal of which does not exceed \$500;
- (b) a loan made by a person in the course of a business carried on by him as a pawnbroker under the Pawnbrokers Act, 1902; or
- (c) an instalment purchase arrangement, as defined in section 75A of this Act, if it is subject to ad valorem duty as such an arrangement under this Act.

(3) The applicable rate of interest in relation to a fixed loan is—

- (a) where the terms of the loan provide that the whole of the interest on the loan is to be paid at a rate of simple interest that is constant throughout the term of the loan—that rate expressed in terms of a rate per centum per annum; or
- (b) in any other case—a rate equal to the rate per centum per annum represented by the interest charged on the loan as calculated in accordance with the provisions of the First Schedule to the Moneylending Act, 1941, and applying the provisions of section 3 (3) of that Act for the purposes of making that calculation.

(4) The applicable rate of interest in relation to a loan, other than a fixed loan—

- (a) is, where the terms of the loan provide that the whole of the interest on the loan is to be paid at a rate of simple interest that is constant throughout the term of the loan—that rate expressed in terms of a rate per centum per annum;

(b)

Stamp Duties (Further Amendment).

- (b) is, where the terms of the loan provide that ^{No. 110, 1974} the interest in respect of different periods of the term of the loan is to be paid at specified different rates of simple interest and not otherwise—the higher or highest of those rates, expressed in terms of a rate per centum per annum; or
- (c) where the terms of the loan (not being a loan under the terms of which no interest is capable of being charged) do not provide for the payment of interest as referred to in paragraph (a) or (b) of this subsection—shall be deemed to be at a rate of simple interest per centum per annum in excess of the prescribed rate unless—
- (i) the loan is made by a prescribed person and is a loan of a class in respect of which that person is a prescribed person; or
 - (ii) the Commissioner is satisfied that the loan is not made at a rate of interest exceeding the prescribed rate.

(5) The Commissioner may, on the application of any person, declare by order in writing that that person is a prescribed person for the purposes of subsection (4) (c) of this section and may, in that order, specify the class of loans in respect of which that person is a prescribed person.

(6) Notwithstanding any other provision of this section, where—

- (a) two or more fixed loans are made by the same lender to the same borrower during any period of one month and the aggregate of the principal of those loans exceeds \$500;

(b)

Stamp Duties (Further Amendment).

No. 110, 1974

- (b) two or more loans, other than fixed loans, under each of which the lender is the same person and the borrower is the same person, are outstanding in whole or in part during any period of one month and the aggregate of the amounts so outstanding exceeds \$500 at the end of that month; or
- (c) one or more fixed loans is or are made by the same lender to the same borrower during any period of one month and during that period one or more loans, other than fixed loans, under which or each of which the lender is the same person as that lender and the borrower is the same person as that borrower and the aggregate of the principal of the fixed loan or loans and the amounts outstanding at the end of that month in respect of the principal of the other loan or loans exceeds \$500,

the loans (the aggregate of the principal of which or of the amounts outstanding in respect of which is referred to in paragraph (a), (b) or (c) of this subsection, as the case may be) shall, if the applicable rate of interest in relation to either or any of those loans exceeds the prescribed rate, be deemed to be one loan to which sections 82C and 82D of this Act apply made by the lender to the borrower referred to in that paragraph at a rate of interest exceeding the prescribed rate and for an amount equal to—

- (d) where the loans deemed to be that loan were both or all fixed loans—the aggregate of the principal of those loans;
- (e) where at least one of the loans deemed to be that loan was a fixed loan and at least one of the loans deemed to be that loan was not a fixed loan—the aggregate of the

principal

Stamp Duties (Further Amendment).

principal of the fixed loan or loans and the amount outstanding at the end of the month concerned in respect of the principal of the other loan or loans; or

- (f) where the loans deemed to be that loan were not fixed loans—the aggregate of the amounts of principal outstanding at the end of the month concerned in respect of those loans,

and shall be deemed to have been so made at the end of the month concerned, unless the Commissioner is satisfied that both or all of those loans were made in the course of normal commercial practice in New South Wales and that it would not be just and reasonable in the circumstances that this subsection should apply.

(7) The reference in subsection (6) (b) and subsection (6) (c) of this section to loans other than fixed loans does not include a reference to loans made upon an account current, including a special account current, by an approved person referred to in section 82D of this Act.

(8) Notwithstanding any other provision of this section, where—

- (a) two or more lenders make separate loans to the same borrower;
- (b) those loans are made by those lenders pursuant to some contract, agreement or arrangement between them (whether made before or after 1st January, 1975, and whether or not in writing or legally enforceable); and
- (c) the applicable rate of interest in relation to any one or more of those loans exceeds the prescribed rate,

then—

Stamp Duties (Further Amendment).

No. 110, 1974

then—

- (d) each of those loans shall be deemed—
- (i) to have been made at a rate of interest exceeding the prescribed rate;
 - (ii) to have been made at the first time when the aggregate of the principal of such of those loans as were fixed loans and the amount outstanding in respect of the principal of such of those loans as were not fixed loans first exceeded \$500 and the applicable rate of interest in relation to any of those loans exceeded the prescribed rate; and
 - (iii) to have been a loan to which sections 82C and 82D of this Act apply; and
- (e) any subsequent loan for whatever amount and at whatever applicable rate of interest made pursuant to that contract, agreement or arrangement shall be deemed to be a loan to which sections 82C and 82D of this Act apply,

unless the Commissioner is satisfied that the contract, agreement or arrangement was entered into or made in the course of normal commercial practice in New South Wales and that it would not be just and reasonable in the circumstances that this subsection should apply.

(9) Where the terms or conditions of a fixed loan are varied that loan shall be deemed to have been discharged and the lender shall be deemed to have made a new loan to the borrower on the date of the variation for an amount equal to the amount outstanding in respect of the loan as
varied

Stamp Duties (Further Amendment).

varied and the instrument relating to the new loan ^{No. 110, 1974} shall be liable to duty as duty on a loan instrument except, in the case of a fixed loan other than a short term loan, to the extent to which duty, as duty on a loan instrument, has been paid in respect of the loan prior to its variation.

(10) Where a lender makes a loan to a borrower and out of the loan, in accordance with the terms on which it is made, a previous loan made by that lender to that borrower is discharged, the duty, as duty on a loan instrument, in respect of the firstmentioned loan shall, where duty, as duty on a loan instrument, was paid in respect of the previous loan, be reduced by such amount as bears to the duty so paid the same proportion as the amount required to discharge the principal of the previous loan bears to the amount of the principal of the previous loan if the Commissioner is satisfied that the transaction was entered into in the course of normal commercial practice and that it would be just and reasonable in the circumstances for the duty to be reduced.

82c. (1) Subject to subsection (3) of this section, a person who is the lender in respect of any loan shall make out an instrument at or before the time the loan is made. ^{Instrument to be made out in respect of loans.}

(2) For the purposes of subsection (1) of this section, an instrument—

(a) shall clearly and truly set out—

- (i) the full name and address of the lender;
- (ii) the full name and address of the borrower;
- (iii) the amount of the loan;
- (iv) the date on which the loan is or is to be made; and

(v)

Stamp Duties (Further Amendment).

No. 110, 1974

- (v) the term of the loan, and the applicable rate of interest in respect of the loan; and

(b) shall—

- (i) be marked “Original Instrument” on the front or first page thereof;
- (ii) be duly stamped with duty as duty on a loan instrument, and for that purpose, notwithstanding section 26 of this Act, be deemed to be first executed at the time the instrument is made out; and
- (iii) be retained by the lender for a period of twelve months after the principal of the loan is repaid.

(3) This section does not apply in respect of a loan—

- (a) where the lender is an approved person referred to in section 82D of this Act; or
- (b) where the payment of duty, as duty on a loan instrument, is denoted on an instrument constituting or evidencing the terms of the loan.

(4) Where the lender is a person resident outside New South Wales the provisions of subsection (1) of this section apply to that person where—

- (a) the loan is to a person resident or domiciled in New South Wales; or
- (b) any negotiations for the loan were carried on in New South Wales.

(5)

Stamp Duties (Further Amendment).

(5) Where the lender is a person resident outside New South Wales or is not bound by the provisions of this Act, the borrower, if he is resident or domiciled in New South Wales, shall, unless duty has been paid in accordance with the provisions of this Act in respect of the loan, make out and furnish to the Commissioner a return in duplicate setting out the information contained in subsection (2) (a) of this section and shall cause that return to be duly stamped with duty, as duty on a loan instrument, as if it were an instrument made out under subsection (1) of this section required to be duly stamped as referred to in subsection (2) (b) (ii) of this section. No. 110, 1974

(6) A return under subsection (5) of this section shall be made out at or before the time the loan is made and be furnished within two months after that time.

(7) Where a person fails to make out an instrument in accordance with the requirements of subsection (1) of this section or to make out and furnish a return in accordance with the requirements of subsection (5) of this section the Commissioner may cause to be made an assessment of the amount of stamp duty with which, in his judgment, the instrument or return should have been stamped if that person had made out such an instrument or made out and furnished such a return and that person shall be liable to pay that duty and to a fine under section 25 of this Act as if he had so made out that instrument or so made out and furnished that return without causing it to be duly stamped.

(8) Any person who fails to comply with any of the provisions of this section is liable to a fine for each such offence not exceeding \$500.

Stamp Duties (Further Amendment).

No. 110, 1974

Payment
of duty
on loans
by return.

82D. (1) Any person liable to the payment of duty under the provisions of section 82c of this Act may apply to the Commissioner in a form approved by him for approval to pay duty in respect of loans in accordance with the provisions of this section.

(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 (1) of this section has been approved by the Commissioner is, while the approval is in force, an approved person for the purpose of this section.

(5) Except as provided in this section, an approved person is not liable to pay duty, as duty on a loan instrument, in respect of any loan made by him.

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

(7) An approved person shall—

(a) not later than the twenty-first day of each calendar month lodge with the Commissioner a return in the prescribed form and in duplicate setting out the prescribed particulars in respect of—

(i) each loan, other than a short term loan, which was made by him during the last preceding calendar month;

(ii)

Stamp Duties (Further Amendment).

-
- (ii) each short term loan which was made by him during the last preceding calendar month and was repaid during that month; and
- (iii) each short term loan which was made by him during the period of twelve months ending at the end of the last preceding calendar month and which was outstanding in whole or in part at the end of that month; and
- (b) 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 but for subsection (5) of this section would have been payable in respect of each loan, not being a short term loan, to which the return relates; and
- (ii) the amount of stamp duty payable in accordance with subsection (8) of this section, in respect of short term loans to which the return relates,
- less an amount of stamp duty referred to in subsection (10) of this section.

(8) The amount of stamp duty payable in respect of each short term loan to which a return under this section relates shall be an amount equal to one-eighth of one per centum of the sum of—

- (a) the total of all short term loans made within the calendar month to which the return relates and repaid during that month; and

(b)

Stamp Duties (Further Amendment).

No. 110, 1974

(b) the total amount of all short term loans which were made by the approved person during the period of twelve months ending at the end of the calendar month to which the return relates and which were outstanding in whole or in part at the end of the calendar month to which the return relates.

(9) For the purposes of subsection (7) (a) (iii) and subsection (8) (b) of this section, any amount outstanding in respect of a short term loan made by an approved person shall be deemed to continue to be an amount outstanding in respect of a short term loan made by that approved person notwithstanding that that approved person has assigned the loan to a corporation which, by virtue of section 6 (5) of the Companies Act, 1961, is deemed to be related to that approved person except to the extent that the loan has been repaid to the assignee by or on behalf of a person other than such a corporation.

(10) Subject to subsection (11) of this section, the amount of stamp duty to be deducted when lodging a return under subsection (7) of this section is, where a loan security, as defined in section 83 (1) of this Act, has been given in respect of a loan in respect of which an amount is included in the return and the loan—

- (a) is not a short term loan—the amount of stamp duty, as duty on a loan security, paid in respect of that loan security; or
- (b) is a short term loan—one-twelfth of the amount of stamp duty, as duty on a loan security, paid in respect of that loan security.

(11)

Stamp Duties (Further Amendment).

(11) A deduction under subsection (10) No. 110, 1974 of this section shall not be made—

- (a) except where the loan security was executed during the period of twelve months next preceding the last day of the month to which the return relates; or
- (b) so that the deduction and any deduction previously made under subsection (10) of this section in respect of that loan security exceeds the stamp duty, as duty on a loan security, paid in respect of that loan security.

(12) An approved person who makes a loan may, if he makes out a loan instrument, 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.

(13) An instrument endorsed in accordance with subsection (12) of this section shall be deemed to be duly stamped.

(14) A person making any record in accordance with subsection (6) of this section shall retain that record for a period of two years.

(15) A person who contravenes a provision of subsection (7) of this section is liable to a fine not exceeding \$500.

(16) Any person, not being an approved person, who endorses on an instrument any words or numbers suggesting or implying that the instrument is duly stamped under the provisions of this section is liable to a fine not exceeding \$500.

(17)

Stamp Duties (Further Amendment).

No. 110, 1974

(17) 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.

(18) 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.

(19) In this section, "calendar month" has the meaning ascribed to that expression in section 74c (7) of this Act.

Further
amendment
of Act No.
47, 1920.

4. The Stamp Duties Act, 1920, is further amended—

Sec. 3.
(Interpre-
tation.)

(a) by inserting in section 3 (1) after the definition of "Money" the following definition :—

"Mortgage" means a security by way of mortgage or charge—

(a) for the payment of any definite and certain sum of money advanced or lent at the time or previously due or owing, or forborne to be paid, being payable; or

(b) for the repayment of money to be thereafter lent, advanced, or paid, or which may become due upon an account current together with any sum already advanced or due, or without, as the case may be.

(b)

Stamp Duties (Further Amendment).

- (b) by omitting the heading "*Mortgages.*" to section 83 and by inserting instead the heading "*Loan Securities.*";
- No. 110, 1974
Sec. 83.
(Definition of mortgage.)
- (c) by omitting sections 83 and 84 and by inserting instead the following sections :—
- Secs. 83–84F.

83. (1) For the purposes of this section and sections 84, 84A, 84B, 84C, 84D, 84E and 84F of this Act and of the matter appearing under the heading "Loan Security" in the Second Schedule to this Act, unless inconsistent with the context or subject-matter—

"Debenture" includes debenture stock, bonds, notes and any other securities, whether constituting a charge on the assets of a body corporate or not, of a body corporate, whether incorporated in New South Wales or not.

"Loan security" means mortgage, bond, debenture or covenant.

"Mortgage" includes, without limiting the meaning of that expression in section 3 (1) of this Act—

- (a) a security by way of mortgage or charge given in consideration of the conveyance or transfer of any estate or interest in any real or personal property;
- (b) any transfer or conveyance of any estate or interest in any real or personal property whatsoever in trust to be sold or otherwise converted into money, intended only as a security, and redeemable before the sale or other disposal thereof

either

Stamp Duties (Further Amendment).

No. 110, 1974

- either by express stipulation or otherwise, except where such transfer or conveyance is made for the benefit of creditors generally, or for the benefit of creditors specified, who accept the provision made for payment of their debts in full satisfaction thereof;
- (c) any defeasance, declaration, or other instrument for defeating or making redeemable or explaining or qualifying any conveyance, transfer, assignment or disposition of any estate or interest in any real or personal property whatsoever, apparently absolute but intended only as a security;
 - (d) any agreement, contract or covenant (being an agreement, contract or covenant relating to documents of title or accompanied with the deposit of any documents of title or instruments creating a charge on any property) for making a mortgage or any such other security, transfer or conveyance of any estate or interest in real or personal property whatsoever comprised in such documents, or for pledging or charging any such property as a security; and
 - (e) any instrument of mortgage (including an instrument of mortgage referred to in paragraph (a), (b), (c) or (d) of this definition) for the purpose of securing the repayment of debentures or any instrument of trust protecting the interests of the holders of debentures.

(2)

Stamp Duties (Further Amendment).

(2) The reference in the definition of "Loan security" in subsection (1) of this section to a bond or covenant is a reference to a bond or covenant for securing a loan, as defined in section 82A (1) of this Act, made or to be made. No. 110, 1974

(3) For the purposes of this Act, a debenture that is not executed shall be deemed to be executed when it is issued.

(4) The reference in the Second Schedule to this Act in the matter under the heading "Loan Security" to—

- (a) the amount secured by a loan security is, in relation to a mortgage, being an instrument of trust referred to in paragraph (e) of the definition of "Mortgage" in subsection (1) of this section, a reference to the amount repayable in respect of the debentures to which the instrument relates; and
- (b) the borrower, in relation to such a mortgage, is a reference to the person who issued those debentures.

84. (1) Where—

- (a) the total amount secured or to be ultimately recoverable by or under a loan security is expressed in the loan security to be limited to a definite and certain sum of money or is so expressed to be so limited and pursuant to the loan security that total amount may be increased; and

(b)

Loan securities liable to duty otherwise than under Second Schedule.

Stamp Duties (Further Amendment).

110,1974

- (b) that total amount is increased (whether or not pursuant to the loan security),

then—

- (c) if that total amount is increased pursuant to the loan security, that loan security; or
- (d) if that total amount is increased pursuant to any other instrument, that other instrument,

shall be stamped as a loan security with the duty, if any, equal to the difference between—

- (e) the duty, as duty on a loan security, that would be payable if a loan security were executed in respect of the sum of the amount payable or repayable under or secured by the firstmentioned loan security and the amount of that increase and any previous increases; and
- (f) the duty, as duty on a loan security, paid on the firstmentioned loan security or on any such instrument relating to the firstmentioned loan security.

(2) A loan security for the payment or repayment of money to be lent, advanced, or paid, or which may become due upon an account current either with or without money previously due (not being a mortgage otherwise chargeable with duty as a loan security) is to be stamped, where the total amount secured or to be ultimately recoverable is expressed in the loan security to be limited to a definite and certain sum of money, with the same duty as a loan security for the amount so expressed.

(3)

Stamp Duties (Further Amendment).

(3) Where the total amount secured or to No. 110, 1974 be ultimately recoverable by or under a loan security is not expressed in the loan security to be limited to a definite and certain sum of money, the loan security is to be stamped with duty of an amount not less than \$5.

(4) A loan security referred to in subsection (3) of this section is enforceable as a loan security only to the extent of the amount in respect of which duty, as duty on a loan security, has been paid on the loan security as if it were a loan security liable to duty and stamped at the rates specified in the Second Schedule to this Act under the heading "Loan Security", but where any advance is made in excess of that amount the loan security is to be stamped with additional duty as a loan security in respect of that excess at the rate of 40 cents for each \$100, or remaining fractional part of \$100, of that excess.

(5) Subsection (4) of this section does not apply to a loan security executed before 1st January, 1975, or to a loan security that is not subject to duty under this Act.

(6) Any advance referred to in subsection (4) of this section made in excess of the amount in respect of which duty, as duty on a loan security, has been paid on the loan security shall for the purposes only of section 25 of this Act be deemed to be made pursuant to a new and separate loan security first executed on the day on which the advance was made.

(7)

Stamp Duties (Further Amendment).

No. 110, 1974

(7) Where the original loan security is deposited in the office of the Registrar-General or any other public office in which registration is effected, any duplicate or counterpart of the original loan security may be stamped with any additional duty referred to in subsection (4) of this section, and that stamping shall have the same effect as if the stamps had been impressed upon or affixed to the original loan security.

Charging of loan securities for repayment by periodical payments.

84A. A loan security for the payment of any rent charge, annuity or periodical payments, by way of repayment or in satisfaction or discharge of any loan, advance, or payment intended to be so repaid, satisfied, or discharged, is to be charged with the same duty as a similar security for the payment of the sum of money so lent, advanced, or paid.

Collateral security.

84B. (1) Subject to subsection (2) of this section, where there is or are one or more than one loan security which or each of which is a collateral security for the same moneys as are secured by a primary loan security the collateral security or securities shall not be liable to ad valorem duty under this Act.

(2) Any loan security which is a collateral security for the same moneys as are secured by a primary loan security shall, unless the primary loan security is duly stamped, be liable to duty, as duty on a loan security, as if it were the primary loan security and the primary loan security had been executed when the collateral security was executed.

(3) No loan security executed on or after 1st January, 1975, which is a collateral security shall be enforceable unless either the primary loan security or collateral security is duly stamped.

(4)

Stamp Duties (Further Amendment).

(4) For the purposes of this section, No. 110, 1974 "collateral security" includes any additional or substituted security and any legal mortgage executed pursuant to any agreement, contract or covenant referred to in paragraph (d) of the definition of "Mortgage" in section 83 (1) of this Act.

84c. Where a subsequent mortgage contains a ^{Subsequent} covenant which confers upon the mortgagee a right ^{mortgages.} whether absolute or contingent to pay to a prior mortgagee the amount owing under a prior mortgage and providing that any payment so made will be directly secured by the subsequent mortgage, the subsequent mortgage shall in the first instance be charged with duty, as duty on a loan security, without regard to the provisions of such covenant, but in the event of a payment being made under the covenant, the subsequent mortgage shall be deemed to be a new and separate mortgage first executed on the day on which the payment was made and shall be chargeable with \$5 stamp duty where the amount of the payment does not exceed \$15,000 and, where the amount of the payment exceeds \$15,000, stamp duty of \$5 for the first \$15,000 and 40 cents for every \$100 or fractional remaining part of \$100 by which the amount exceeds \$15,000, but so as not to otherwise affect the subsequent mortgage as a security.

84d. (1) Where a corporation is or will be ^{Duty on} under a liability to repay any money received or to ^{subscriptions} be received by it in respect of debentures of the ^{under} corporation and there is an instrument of trust ^{instruments} relating to the debentures to which the corporation ^{which} ^{secure} ^{debentures.}

is

Stamp Duties (Further Amendment).

No. 110, 1974

is a party, the corporation and the trustee for the holders of the debentures may give an undertaking in the prescribed form to the Commissioner and thereupon the instrument of trust and any mortgage executed by the corporation protecting the interests of the holders of the debentures shall not be liable to duty as duty on a loan security, and any such debenture issued in respect of any amount subscribed for in New South Wales shall be deemed to be duly stamped under the provisions of this Act and any such debenture issued in respect of any amount subscribed for outside New South Wales shall not, subject to subsection (4) of this section, be chargeable with duty under this Act.

(2) The undertaking to be given by the corporation and the trustee for the holders under subsection (1) of this section shall be under seal and shall bind the corporation and the trustee to lodge with the Commissioner in the month of July in each year a statutory declaration setting out the total amount subscribed for in New South Wales in respect of the debentures referred to in that subsection during the year ending on the thirtieth day of June then last past and shall bind the corporation to pay to the Commissioner 40 cents for every \$100 and for any remaining fractional part of \$100 so subscribed for in New South Wales during that period of one year.

(3) Where an undertaking is given by a corporation and the trustee for the holders under subsection (1) of this section before 30th June, 1975, the provisions of subsection (2) of this section shall have effect in relation to the statutory declaration to be made by the corporation and the trustee in the month of July, 1975, as if subsection (2) of this section required that statutory

declaration

Stamp Duties (Further Amendment).

declaration to set out the total amount subscribed for in New South Wales in respect of the debentures referred to in subsection (1) of this section during the period commencing on 1st January, 1975, and ending on 30th June, 1975. No. 110, 1974

(4) Where a person resident or domiciled in New South Wales becomes the holder of a debenture referred to in subsection (1) of this section which was subscribed for outside New South Wales, that person is liable, on the day on which he becomes the holder of the debenture, to duty, as duty on a loan security, for an amount equal to the duty payable on a loan security for the amount to be repaid under the debenture except where ad valorem stamp duty has been paid or is payable in another State or a Territory of the Commonwealth in respect of the issue of or the subscription to the debenture.

(5) The provisions of this section apply to and in respect of debentures and subscriptions for debentures issued or made on or after 1st January, 1975, whether or not the mortgage deed or trust deed relating to those debentures was executed before, on or after that date.

84E. Notwithstanding any other provision of this Act, where—

- (a) the repayment of any debentures is secured on a mortgage referred to in paragraph (e) of the definition of "Mortgage" in section 83 (1) of this Act (not being an instrument of trust) and the amount secured is not less than the amount repayable in respect of those debentures; or

Debentures not liable to duty if mortgage duly stamped.

(b)

Stamp Duties (Further Amendment).

No. 110, 1974

- (b) the interests of the holders of any debentures to which a mortgage so referred to (being an instrument of trust) relates are protected by the mortgage to an extent not less than the amount repayable in respect of the debentures,

and the mortgage is duly stamped as a loan security, the debentures are not liable to duty, as duty on a loan security.

Exemption of foreign securities from loan security duty.

84F. (1) For the purposes of this section and of the matter appearing under the heading "Loan Security" in the Second Schedule to this Act, "foreign security" means a loan security issued or made outside New South Wales.

(2) Where ad valorem stamp duty has been paid or is payable in respect of a foreign security issued or made in another State or a Territory of the Commonwealth the foreign security is not chargeable with duty in New South Wales.

Further amendment of Act No. 47, 1920. Second Schedule.

5. The Second Schedule to the Stamp Duties Act, 1920, is amended—

- (a) by inserting in the matter appearing under the heading "Guarantee—" after the word "instrument" where firstly occurring the words "(not being an instrument liable to stamp duty as a Loan Security)";

(b)

Stamp Duties (Further Amendment).

No. 110, 1974

“property” the words “and other than a loan or loan security where the society or branch is not the person described in this Act as the person primarily liable”;

(ii) by inserting in paragraph (10) appearing under the same heading after the word “conveyance” where lastly occurring the words “and not being a loan or loan security where the hospital is not the person described in this Act as the person primarily liable”;

(iii) by omitting paragraphs (12), (13), (14) and (15) appearing under the same heading and by inserting instead the following paragraphs :—

(12) Any Treasury bill issued by the Government of New South Wales.

(13) Any loan security, including any foreign security, made or given by the Government of the Commonwealth or a Government of a State or Territory of the Commonwealth or by any public statutory body constituted under a law of the Commonwealth or under a law of any State or Territory of the Commonwealth other than a public statutory body which, for the purposes of this paragraph, is specified in a proclamation made by the Governor and published in the Gazette as not being a public statutory authority for the purposes of this paragraph in respect of all transactions or such classes of transactions as may be specified in the proclamation.

(14) Any loan or loan security, including any foreign security, made or given by a council, county council or urban committee within the meaning of the Local Government Act, 1919.

(15)

Stamp Duties (Further Amendment).

(15) Any release or reconveyance by way ^{No. 110, 1974} of discharge of mortgage, any discharge of mortgage and any transfer or conveyance by way of mortgage or discharge of mortgage if an instrument evidencing the mortgage has been duly stamped as a loan security or is exempt from or not liable to stamp duty as a loan security.

(15A) Any loan security made or given to the Workers' Compensation Commission of New South Wales.

- (iv) by omitting from paragraph (16) the words "on crops" and by inserting instead the words "or mortgage";
- (v) by omitting paragraph (17) appearing under the same heading.

6. The Stamp Duties Act, 1920, is further amended—

Further
amend-
ment of
Act No.
47, 1920.

- (a) by inserting after section 112H (2A) the following subsection :—

Sec. 112H.
(Reduction
of death
duty—
rural
property.)

(2B) This section shall, in the case of every person who dies after the date of assent to the Stamp Duties (Further Amendment) Act, 1974, be read and construed as if the words "thirty", "twenty-five", "twenty", "fifteen", "ten" and "five" in subsection (2) of this section were omitted therefrom and the words "seventy-five", "sixty-two and one-half", "fifty", "thirty-seven and one-half", "twenty-five" and "twelve and one-half" were respectively inserted instead.

(b)

Stamp Duties (Further Amendment).

No. 110, 1974

(b) by inserting after section 112i (2A) the following subsection :—

Sec. 112i.
(Reduction
of death
duty—
rural
property
(non-aggre-
gated).)

(2B) This section shall, in the case of every person who dies after the date of assent to the Stamp Duties (Further Amendment) Act, 1974, be read and construed as if the words “thirty”, “twenty-five”, “twenty”, “fifteen”, “ten” and “five” in subsection (2) of this section were omitted therefrom and the words “seventy-five”, “sixty-two and one-half”, “fifty”, “thirty-seven and one-half”, “twenty-five” and “twelve and one-half” were respectively inserted instead.

Sec. 122.
(No dealings
with shares,
&c., of
deceased
persons to
be registered
without
certificate
of Com-
missioner.)

(c) (i) by omitting section 122 (5) (b) and by inserting instead the following paragraph :—

(b) in respect of a payment—

(i) not exceeding \$1,200 by a savings bank authorised to carry on banking business under a law of a State or of the Commonwealth from an account in the name of any deceased person either alone or jointly with any other person;
or

(ii) not exceeding \$1,200 by an insurance corporation, company or society authorised to carry on insurance business under a law of a State or of the Commonwealth from the proceeds due on a policy of life insurance payable on the death of the deceased person,

where

Stamp Duties (Further Amendment).

where the payment is made to enable the funeral expenses of the deceased person to be paid 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 of the deceased person dependent upon the deceased person and the deceased person was, at the time of his death, domiciled in New South Wales and the person to whom payment is made is domiciled in New South Wales. No. 110, 1974

- (ii) by inserting in section 122 (5A) after the words "savings bank" the words "or insurance corporation, company or society".

7. The Stamp Duties Act, 1920, is further amended— Further amendment of Act No. 47, 1920.

- (a) by omitting the definition of "Mining company" in section 3 (1) and by inserting instead the following definition :— Sec. 3. (Interpretation.)

"Mining company" means any company, whether incorporated in or out of New South Wales, whose sole business is either or both of the following activities :—

- (a) mining in New South Wales for minerals within the meaning of the Mining Act, 1973 ;
- (b) prospecting or mining in New South Wales for petroleum within the meaning of the Petroleum Act, 1955.

(b)

Stamp Duties (Further Amendment).

No. 110, 1974

Sec. 38.
(Stamp duty
a debt to
the Crown.)

(b) (i) by omitting from section 38 (1) the words "His Majesty" and by inserting instead the words "the Crown";

(ii) by inserting after section 38 (1) the following subsection :—

(1A) Every person required by this Act to lodge a return and to pay stamp duty under the provisions of Division 2 of Part III of this Act is personally liable to the Crown for the payment of the duty immediately upon the duty becoming payable, and every such person may be sued for the amount of the duty as for a debt due to the Crown.

Sec. 44.
(Definition
of bank.)

(c) by omitting section 44 and the heading appearing before section 44;

Sec. 45.
(Composi-
tion in
respect of
bank notes.)

(d) by omitting section 45;

Sec. 45A.
(Book-
makers
to issue
betting
tickets,
&c.)

(e) by omitting from section 45A (1) (b) the words "Commissioner within seven days after the last day of each month a return verified by statutory declaration showing the total number of such bets made by the bookmaker during the said month" and by inserting instead the words "Treasurer within seven days after the determination of the event or contingency in relation to which the bets were made by the bookmaker a return in or to the effect of the form and in the manner prescribed by or referred to in regulations made for the purposes of this subsection (paragraph (a) excepted) under the Bookmakers (Taxation) Act, 1917, showing the total number of those bets";

(f)

Stamp Duties (Further Amendment).

(f) by inserting after section 73 (2A) the following No. 110, 1974 subsection :—

- Sec. 73.
(Certain conveyances not chargeable with ad valorem duty.)
- (2B) An instrument on which duty is payable—
- (a) under paragraph (7) of the matter appearing in the Second Schedule to this Act under the heading “Conveyances of any Property”; or
- (b) under paragraph (5) or (6) of the matter appearing in the Second Schedule to this Act under the heading “Transfer of Shares”,

is not to be charged with ad valorem duty as a conveyance except to the extent, if any, provided in those paragraphs.

(g) (i) by omitting from paragraph (ii) of the definition of “Discount arrangement” in section 74A (1) the words “nine per centum per annum; or” and by inserting instead the words “the prescribed rate per annum or, where no rate is prescribed, twelve per centum per annum;”;

(ii) by omitting from paragraph (iii) of the same definition the word “security.” and by inserting instead the words “security; or”;

(iii) by inserting after paragraph (iii) of the same definition the following paragraph :—

- (iv) any book debt secured by mortgage over real property situate in New South Wales if, had this paragraph not been enacted, the purchase, acquisition, discounting or factoring of the book debt would not be a short term discount arrangement, if it is effected together with a transfer or assignment of the mortgage to the person who purchases, acquires, discounts or factors the book debt and if stamp duty has been paid on the transfer or assignment.

(h)

Stamp Duties (Further Amendment).

No. 110, 1974

Sec. 74c.

(Payment of duty on discount arrangements by return.)

(h) by omitting section 74c (12) and by inserting instead the following subsection :—

(12) A person who contravenes a provision of subsection (7) of this section is liable to a fine not exceeding \$200.

Sec. 74F.

(Payment of duty on hiring arrangements by return.)

(i) by omitting section 74F (12) and by inserting instead the following subsection :—

(12) A person who contravenes a provision of subsection (7) of this section is liable to a fine not exceeding \$200.

Sec. 75E.

(Payment of duty on instalment purchase arrangements by return.)

(j) (i) by omitting from section 75E (7) (a) (i) the words "and verified in the prescribed manner";

(ii) by omitting section 75E (11) and by inserting instead the following subsection :—

(11) A person who contravenes a provision of subsection (7) of this section is liable to a fine not exceeding \$200.

Sec. 88AA.

(Payment of duty on policies by return.)

(k) (i) by omitting from section 88AA (7) (a) the words "and verified in the prescribed manner, setting forth" and by inserting instead the words "setting out";

(ii) by omitting section 88AA (11) and by inserting instead the following subsection :—

(11) A person who contravenes a provision of subsection (7) of this section is liable to a fine not exceeding \$200.

Stamp Duties (Further Amendment).

- (1) by inserting after section 88G the following sections :—

No. 110, 1974
Secs.
88H-88J.

88H. (1) In this section, "cash in transit policy" means—

Cash in
transit
policies of
insurance.

- (a) a policy of insurance that insures against loss arising out of an event that relates to the transporting of cash; and
- (b) any policy of insurance of any class or description that is prescribed for the purposes of this section.

(2) For the purposes of this Act, the amount insured under a cash in transit policy is the maximum amount payable under the policy in respect of all events that may happen on one day, being an amount that is not less than the maximum amount payable under the policy in respect of all events that may happen on any other day.

88I. (1) In this section—

Disability
income
policies of
insurance.

"disability income policy" means—

(a) a policy of insurance under which—

- (i) an amount is payable in the event of disablement of the insured by accident or sickness; and
- (ii) the amount may be paid over a period of more than one year; and

(b) any policy of insurance of any class or description that is prescribed for the purposes of this section;

"term", in relation to a disability income policy, includes any period during or in respect of which any amount is payable by any person under the policy.

(2)

*Stamp Duties (Further Amendment).***No. 110, 1974**

(2) For the purposes of this Act—

- (a) a disability income policy shall be deemed to be renewed upon each anniversary of the date on which the policy was effected that occurs during the term of the policy and not to be renewed at any other time; and
- (b) the amount insured under a disability income policy is the maximum amount payable under the policy in one year, being an amount that is not less than the maximum amount payable under the policy in any other year.

Renewal of
multiple
group
air travel
policy.

88J. For the purposes of paragraph (1) (d1) appearing in the Second Schedule under the heading "Policies of Insurance not being a policy of life insurance" a policy of insurance of the kind known as a multiple group air travel policy shall be deemed to be renewed each time a person makes a flight that gives rise to a contingent liability under that policy.

Sec. 97.
(Transfer of
shares liable
to duty not
to be
registered
unless duly
stamped.)

(m) by omitting section 97 (2) and by inserting instead the following subsections :—

(2) Subject to subsection (2A) of this section, a corporation, company or society which registers, records or enters a transfer of a marketable security or right thereto in its books shall retain the instrument of transfer in an approved place for a period of not less than three years from the date on which it registers, records or enters the transfer.

(2A) For the purposes of subsection (2) of this section, an instrument of transfer is retained in an approved place during any period during which it is—

(a) retained in New South Wales; or

(b)

Stamp Duties (Further Amendment).

(b) retained outside New South Wales in accordance with conditions relating to the retention of the transfer approved by the Commissioner, which approval the Commissioner is hereby authorised to give. No. 110, 1974

(2B) The Commissioner may revoke any approval referred to in subsection (2A) of this section.

(n) by omitting section 97AB (3) and by inserting instead the following subsection :— Sec. 97AB.
(Returns to be lodged and duty paid.)

(3) A person who contravenes a provision of subsection (1) of this section is liable to a fine not exceeding \$500.

(o) by omitting from section 117 (5) the word "twenty" and by inserting instead the words "one hundred"; Sec. 117 (5).
(Power to make assessments in certain cases.)

(p) (i) by omitting from section 124 (1) the words "duty in respect of any instrument" and by inserting instead the words "duty (other than death duty)"; Sec. 124.
(Appeal.)

(ii) by omitting from section 124 (1) the words "an instrument" and by inserting instead the words "duty (other than death duty)";

(q) (i) by omitting from section 125 (1) the words "In every case" and by inserting instead the words "Subject to subsection (1A) of this section, in every case"; Sec. 125.
(Valuation of property.)

(ii)

*Stamp Duties (Further Amendment).*No. 110, 1974

- (ii) by omitting from section 125 (1) the words "four hundred dollars" and by inserting instead the matter "\$2,000";
- (iii) by inserting after section 125 (1) the following subsection:

(1A) Notwithstanding subsection (1) of this section, section 65 of the Valuation of Land Act, 1916, does not apply to or in respect of land or any interest therein where, in relation to the assessment of death duty in respect of the estate of a deceased person, the Commissioner is of the opinion that no death duty is payable in respect of the land or interest, but nothing in this subsection affects the power of the Commissioner to ascertain the value thereof by means of a certificate of valuation referred to in section 65 of that Act.

Secs. 127B,
127C.

- (r) by inserting after section 127A the following sections :—

Default
assessment
of stamp
duty.

127B. (1) Where a person is, as an approved person under any provision of this Act, required by or under this Act to lodge a return with the Commissioner and to pay duty to the Commissioner at the time he lodges the return and—

- (a) he neglects or fails to lodge the return with the Commissioner as and when required by or under this Act; or
- (b) the Commissioner is not satisfied with the return lodged by the person,

the Commissioner may cause to be made an assessment of the amount of duty that, in his judgment, should have been paid by the person if he had lodged the return, or when he lodged the return, as the case may be.

(2)

Stamp Duties (Further Amendment).

(2) Where an amount is assessed under No. 110, 1974 subsection (1) of this section in relation to a return referred to in that subsection—

- (a) that amount shall be deemed to be the duty payable by the person in respect of the return; and
- (b) without affecting the generality of paragraph (a) of this subsection, fines are payable under section 127C of this Act in respect of that amount as if that amount had been payable as duty at the time the person was required by or under this Act to lodge the return,

unless and until—

- (c) the amount of duty is shown to be erroneous upon an appeal under section 124 of this Act; or
- (d) the Commissioner makes a further assessment under this section in relation to the return.

(3) Where an assessment has been made under subsection (1) of this section that includes any duty that has not been paid to the Commissioner, the Commissioner shall cause notice in writing to be given to the person who failed or neglected to lodge the return or with whose return the Commissioner is not satisfied, as the case may require.

(4) Subject to subsection (5) of this section, a notice required to be given under subsection (3) of this section shall specify—

- (a) the name of the person in respect of whom the assessment was made;

(b)

*Stamp Duties (Further Amendment).*No. 110, 1974

- (b) the period in respect of which the assessment was made;
- (c) the amount deemed by subsection (1) of this section to be the duty payable to the Commissioner; and
- (d) the date on or before which the duty is to be paid to the Commissioner.

(5) Where—

- (a) a notice is required to be given under subsection (3) of this section because of an assessment of stamp duty in respect of a hiring arrangement, as defined in section 74D of this Act; and
- (b) in the making of the assessment an amount that, in the Commissioner's opinion, was properly attributable to the cost of servicing goods by the owner in respect of the hire, was deducted,

the amount so deducted shall be specified in the notice in addition to the particulars required to be specified in a notice by subsection (4) of this section.

(6) A notice required to be given by subsection (3) of this section may, without prejudice to any other method of giving notice, be given by post, and shall be deemed to be properly addressed if it is addressed to the person in respect of whom the assessment was made and the last address of that person known to the Commissioner.

(7) The amount of duty specified in a notice given under subsection (3) of this section shall be paid by the person who neglected or failed to lodge a return or with whose return the Commissioner is not satisfied on or before the date specified in the notice pursuant to subsection (4) (d) of this section.

(8)

Stamp Duties (Further Amendment).

(8) A person who contravenes a provision of subsection (7) of this section is liable to a fine not exceeding \$200. pro- No.110,1974

(9) Where the amount of duty specified in a notice given under subsection (3) of this section includes an amount that has been paid before the time the assessment was made, nothing in this section requires the amount so paid to be paid again.

(10) Where in relation to a return referred to in subsection (1) of this section the Supreme Court in an appeal under section 124 of this Act assesses a different amount of duty from that assessed by the Commissioner under this section in relation to that return, the amount assessed by the Court shall be deemed to have been assessed by the Commissioner under this section, and the provisions of this Act (section 124 of this Act and subsection (2) (c) of this section excepted) shall apply accordingly.

127c. (1) Where a person who is, as an approved person under any provision of this Act, required to lodge a return with the Commissioner and to pay duty to the Commissioner at the time he lodges the return and who, in contravention of any provision of this Act, neglects or fails to pay the whole of the amount of that duty to the Commissioner on or before the day on or before which he is required to pay the amount, he is liable to pay, in addition to—

Fines in respect of returns.

(a) the unpaid amount of duty; and

(b)

Stamp Duties (Further Amendment).

No. 110, 1974

- (b) any amount of fine payable in respect of that duty under subsection (2) of this section,

a fine or fines, determined in accordance with subsection (3) of this section, on the unpaid amount of duty.

(2) Where a person who, in contravention of section 127B (7) of this Act, neglects or fails to pay the whole of the amount of duty assessed and payable under section 127B of this Act to the Commissioner on or before the day on or before which he is required to pay the amount, he is liable to pay, in addition to—

- (a) the unpaid amount of duty; and

- (b) any amount of fine payable in respect of that duty under subsection (1) of this section,

a fine or fines, determined in accordance with subsection (3) of this section, on the unpaid amount of duty.

(3) For the purposes of subsections (1) and (2) of this section, where the whole of an amount of duty is not paid on or before the day on or before which it is required to be paid, the following fines are payable :—

- (a) a fine of ten per centum of the unpaid amount;

- (b) a fine (in addition to the fine under paragraph (a) of this subsection) of fifteen per centum of so much of the unpaid amount as is not paid within one month after that day; and

- (c) a fine (in addition to the fines under paragraphs (a) and (b) of this subsection) of seventy-five per centum of so much of the unpaid amount as is not paid within two months after that day.

(4)

Stamp Duties (Further Amendment).

(4) Every such fine shall, immediately upon its becoming payable, become a debt due to the Crown by every person liable to payment of the duty in respect of which the fine is payable, and may be recovered from that person by action or other proceeding in any court of competent jurisdiction. No. 110, 1974

(5) Any amount paid by a person to the Commissioner in respect of a return referred to in section 127B of this Act shall be applied by the Commissioner—

- (a) in reduction of any fine then payable under this section in respect of the return; and
- (b) to the extent (if any) to which the amount paid exceeds the amount of any such fine, or, if there is no such fine, in reduction of the duty payable.

(6) Nothing in this section affects the liability of any person to any fine or penalty imposed by or under any other provision of this Act or the regulations or any other Act, and any such fine or penalty may be imposed in addition to the fines provided by this section.

8. The Second Schedule to the Stamp Duties Act, 1920, is further amended— Further amendment of Act No. 47, 1920. Second Schedule.

- (a) by omitting the heading "BANK NOTES—" and the matter appearing under that heading;

(b)

Stamp Duties (Further Amendment).

No. 110, 1974

(b) by inserting in the first column after paragraph (g) appearing under the heading "Bill of Exchange, Promissory Note and Cheque—" the following paragraphs :—

(h) Cheque drawn or given by or on behalf of the Local Government Superannuation Board.

(i) Cheque drawn on—

(i) the Reserves Improvement Fund of a Pastures Protection Board;

(ii) the Public Watering-places Fund of a Pastures Protection Board; or

(iii) the Broken Hill (Pneumoconiosis-Tuberculosis) Compensation Fund.

(c) (i) by omitting from paragraph (3) appearing under the heading "Conveyances of any Property—" the words "therefor after deducting the value of such consideration in money or money's worth" and by inserting instead the words "after deducting the value of such consideration in money or money's worth therefor";

(ii) by inserting after paragraph (6) appearing under the same heading the following paragraph :—

(7) Upon the conveyance of a lot within the meaning of the Strata Titles Act, 1973, where the Commissioner is satisfied—	6.00	The transferee
(a) that the conveyance is part of an arrangement under which the transferee will take an interest in the lot conveyed similar in effect to and as a substitute for the interest he had in the lot immediately before the registration of the strata plan in which the lot is contained; and		

(b)

Stamp Duties (Further Amendment).

No. 110, 1974

(b) that the transferee was, immediately before registration of the strata plan in which the lot is contained, entitled to exclusive occupation of the lot by reason of—

- (i) his being the registered owner of certain shares in a company that had a memorandum or articles of association conferring that entitlement upon the transferee;
- (ii) his being a lessee having that entitlement conferred upon him under a duly stamped lease having a term exceeding fifty years; or
- (iii) his rights under an agreement where those rights were dependent upon his being a co-owner of a parcel within the meaning of that Act.

(d) (i) by omitting from paragraph (10) appearing under the heading "Lease or Promise of or Agreement for Lease or Hire of any Property not being a Ship or Vessel—" the words ", as amended" wherever occurring;

(ii) by omitting from the same paragraph the words "or the Lord Howe Island Act, 1953" and by inserting instead the words "Lord Howe Island Act, 1953, or Balranald Irrigation Act, 1902";

(iii) by omitting the matter relating to exemptions appearing under the same heading and by inserting instead the following matter :—

Exemptions.—

(a) Where the sole consideration is a fixed rent at a rate of less than \$150 a year—

- (i) a lease for a private dwelling house only for a term of less than one year;

(ii)

*Stamp Duties (Further Amendment).*No. 110, 1974

- (ii) a lease from the Crown under the Crown Lands Consolidation Act, 1913, Returned Soldiers Settlement Act, 1916, Pricklypear Act, 1924, Closer Settlement Acts, Petroleum Act, 1955, State Coal Mines Act, 1912, Hay Irrigation Act, 1902, Wentworth Irrigation Act, Lord Howe Island Act, 1953, Irrigation Act, 1912, Balranald Irrigation Act, 1902, or Western Lands Act, 1901;
- (iii) an occupation permit or forest lease from the Crown under the Forestry Act, 1916; or
- (iv) a lease of a public watering-place from a controlling authority within the meaning of Part V of the Pastures Protection Act, 1934,

is exempt.

- (b) Where the sole consideration for a lease or permit of the kind referred to in paragraph (a), being a lease or permit from the Crown, is a rent at a rate of less than \$150 a year and the rent is subject to alteration, the lease is exempt until the rent is increased to a rate of \$150 or more a year, but no duty shall be payable in respect of any part of the term of the lease occurring before the rent is so increased.

(e)

Stamp Duties (Further Amendment).

(e) (i) by inserting after paragraph (1) (d) appearing under the heading "Policies of Insurance not being a policy of life insurance—" the following matter :—

(d1) Upon every policy and every renewal of a policy of insurance of the kind known as a multiple group air travel policy	0.50	The company or person issuing the policy.
---	------	---

(ii) by omitting from paragraph (1) (e) appearing under the same heading the matter "(a) to (d)" and by inserting instead the matter "(a) to (d1)";

(f) by inserting after paragraph (5) appearing under the heading "Transfer of Shares—" the following paragraph :—

(6) Where as a consequence of a transfer of shares in a company that has been duly stamped, being a transfer not registered in the share register of the company, the transferee in that transfer is, upon a bonus issue or the issue of a right to shares subsequent to the transfer, entitled to other shares registered in the name of the transferor and the transferee pays the amount, if any, necessary to take up the other shares— On any transfer necessary to vest those other shares in the transferee.	6.00 or ad valorem duty at the rate of 6c for every \$10 (or part thereof) of the value of the shares, whichever is the lower.	The transferee.
--	--	-----------------

(g) by inserting after paragraph (20) appearing under the heading "General Exemptions from Stamp Duty Under Part III." the following paragraphs :—

(21) Any instrument executed by or on behalf of—

(a) the Board of Commissioners; or

(b)

Stamp Duties (Further Amendment).

No. 110, 1974

(b) the Commissioners,

referred to in the agreement approved by the Nauru Island Agreement Act 1919 of the Parliament of the Commonwealth in respect of which instrument the Board or the Commissioners are the persons primarily liable.

(22) Any instrument executed by or on behalf of a Specialised Agency within the meaning of the Convention on the Privileges and Immunities of the Specialised Agencies that was approved by the General Assembly of the United Nations on 21st November, 1947, in respect of which instrument the Specialised Agency is the person primarily liable.

Amendment
of Act
No. 15,
1917.
Sec. 16.
(Regula-
tions.)

9. The Bookmakers (Taxation) Act, 1917, is amended by inserting after section 16 (1) the following subsection :—

(1A) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by section 45A (1) of the Stamp Duties Act, 1920, is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to that subsection (paragraph (a) excepted).