

STAMP DUTIES (AMENDMENT) ACT, 1978, No. 139

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 139, 1978.

An Act to amend the Stamp Duties Act, 1920, to reduce the amount of death duty payable in certain cases under that Act, and for certain other purposes. [Assented to, 22nd December, 1978.]

See also Companies (Death Duties) Amendment Act, 1978.

Stamp Duties (Amendment).

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. **1.** This Act may be cited as the "Stamp Duties (Amendment) Act, 1978".

Schedules. **2.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE STAMP DUTIES ACT,
1920, RELATING TO THE REDUCTION OF DEATH DUTY.

SCHEDULE 2.—MISCELLANEOUS AMENDMENTS TO THE
STAMP DUTIES ACT, 1920.

SCHEDULE 3.—SAVINGS AND TRANSITIONAL PROVISIONS.

Amendment
of Act No.
47, 1920. **3.** The Stamp Duties Act, 1920, is amended in the manner set
forth in Schedules 1 and 2.

Savings
and
transitional
provisions.

4. Schedule 3 has effect.

Stamp Duties (Amendment).

SCHEDULE 1.

Sec. 3.

AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING TO
THE REDUCTION OF DEATH DUTY.

(1) Section 1—

From the matter relating to Division 2 of Part IV, omit
“123”, insert instead “123A”.

(2) Section 123A—

After section 123, insert :—

123A. Notwithstanding any other provision of this Part of this Act, the amount of death duty payable under this Act in respect of the final balance of the estate of a person who dies on or after 1st January, 1979, shall be two-thirds of the amount of death duty that would, but for this section, be payable under this Act.

Reduction
of death
duty in
certain
cases.

SCHEDULE 2.

Sec. 3.

MISCELLANEOUS AMENDMENTS TO THE STAMP DUTIES
ACT, 1920.

(1) (a) Section 41 (3)—

After “instruments” where firstly occurring, insert
“, not being instruments to which subsection (3A) of
this section applies.”.

Stamp Duties (Amendment).

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE STAMP DUTIES
ACT, 1920—*continued.*

(b) Section 41 (3A)–(3D)—

After section 41 (3), insert :—

(3A) Where there are executed two or more agreements for the sale or conveyance of separate parts of, or separate estates or interests in, any property in New South Wales—

- (a) pursuant to one transaction relating to the whole of the property; or
- (b) that together evidence or give effect to what is, substantially, one transaction relating to the whole of the property,

one of the agreements shall be charged with the same ad valorem duty to be paid by the purchaser or person to whom the property is agreed to be conveyed as if it were a conveyance of the property agreed to be sold or conveyed for the total consideration for the whole of the property to which the transaction relates and shall be stamped accordingly and the other agreement or agreements shall be charged with the duty of \$6 each.

(3B) For the purposes of subsection (3A) of this section, where there are executed two or more agreements for the sale or conveyance of separate parts of, or separate estates or interests in, any property in New South Wales—

- (a) between the same parties; and
- (b) within, or apparently within, a period of 12 months of each other,

Stamp Duties (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE STAMP DUTIES
ACT, 1920—*continued.*

the agreements shall, unless the Commissioner is satisfied that it would not be just and reasonable in the circumstances, be deemed to have been executed pursuant to one transaction relating to the whole of the property.

(3C) A person—

- (a) who executes or is otherwise engaged or concerned in the preparation of an agreement referred to in subsection (3A) of this section; and
- (b) who does not disclose, in writing to the Commissioner—
 - (i) upon submission by him or any other person of the agreement to the Commissioner for stamping; or
 - (ii) when required by the Commissioner to do so,

the total consideration on which subsection (3A) of this section requires ad valorem duty to be charged in respect of that agreement,

shall be guilty of an offence and liable to a fine not exceeding \$1,000.

(3D) It is a defence to a prosecution under subsection (3C) of this section—

- (a) that the defendant did not know and could not reasonably be expected to have known the total consideration required to be disclosed by that subsection; or

Stamp Duties (Amendment).

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE STAMP DUTIES
ACT, 1920—*continued.*

- (b) that a person to whom that subsection applies, other than the defendant, did, in relation to the agreement referred to in subsection (3A) of this section in respect of which the prosecution is brought, disclose the total consideration required to be disclosed by subsection (3C) of this section.

- (c) Section 41 (4) (a)—

Omit “provision”, insert instead “provisions of this section”.

- (2) Section 66 (6)—

After section 66 (5), insert :—

(6) Subsections (3A), (3B), (3C) and (3D) of section 41 apply to and in respect of a conveyance in the same way as they apply to and in respect of an agreement for sale or conveyance and, in so applying those subsections—

- (a) the reference in subsection (3A) of section 41 to the purchaser or person to whom the property is agreed to be conveyed shall be read and construed as if it were a reference to the person primarily liable in respect of the conveyance; and

- (b) the reference in subsection (3A) of section 41 to \$6 shall be read and construed as if it were a reference to \$1.

Stamp Duties (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE STAMP DUTIES
ACT, 1920—*continued.*

(3) Section 84G (1) (a)—

After “certificate of registration” where secondly occurring,
insert :—

, not being—

- (i) a motor vehicle certificate of registration issued to that person where duty has not previously been paid under this Act or any corresponding Act or law of another State or a Territory of the Commonwealth by that person on or in relation to a motor vehicle certificate of registration issued in respect of the motor vehicle; or
- (ii) a motor vehicle certificate of registration issued to such a person where, because the motor vehicle was, before the issue of the certificate, registered in another State or a Territory of the Commonwealth in which no duty of a kind chargeable under this section was charged, duty has not previously been payable,

and the certificate is not a certificate referred to in paragraph (d) of this subsection

(4) (a) Section 101D (5)—

After “appointed day”, insert “and before 1st
January, 1979”

Stamp Duties (Amendment).

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE STAMP DUTIES
ACT, 1920—*continued.*

(b) Section 101D (5A)—

After section 101D (5), insert :—

(5A) In the case of every person who dies on or after 1st January, 1979, whether in New South Wales or elsewhere, and who was at the date of his death domiciled in New South Wales, this section shall be read and construed as if—

- (a) a reference in subsection (1) of this section to the Seventh Schedule were a reference to Schedule 7A;
- (b) the reference in subsection (1) of this section to one pound were a reference to \$2; and
- (c) a reference in paragraph (b) of subsection (4) of this section to one thousand pounds were a reference to \$10,000.

(5) Section 124 (3)—

Omit "seven", insert instead "28".

Stamp Duties (Amendment).

SCHEDULE 3.

Sec. 4.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. In this Schedule—
- “agreement” means an agreement for sale or conveyance to which section 41 (3A) of the Principal Act applies;
- “Principal Act” means the Stamp Duties Act, 1920, as amended by this Act.
2. Where, in respect of a transaction relating to property in New South Wales, being a transaction referred to in section 41 (3A) of the Principal Act, two or more agreements are executed and at least one of those agreements is executed before the date of assent to this Act—
- (a) subsections (3A)–(3D) of section 41 of the Principal Act shall not apply to or in respect of—
- (i) any such agreement executed before the date of assent to this Act; or
- (ii) where only one of any such agreements is executed on or after the date of assent to this Act, the agreement so executed; and
- (b) where two or more of any such agreements are executed on or after the date of assent to this Act, in relation to those agreements, one shall be charged with the same ad valorem duty to be paid by the purchaser or person to whom the property is agreed to be conveyed as if it were a conveyance of so much of the property agreed to be sold or conveyed pursuant to those agreements for the aggregate of the amounts or values of the considerations in those agreements and the other agreement or agreements shall be charged with the duty of \$6 each.
3. Where, in respect of a transaction relating to property in New South Wales, being a transaction referred to in section 41 (3A) of the Principal Act as applied by section 66 (6) of the Principal Act, two or more conveyances to which section 66 (6) of the Principal Act applies are executed and at least one of those conveyances is executed before the date of assent to this Act—
- (a) subsections (3A)–(3D) of section 41 of the Principal Act as applied by section 66 (6) of the Principal Act shall not apply to or in respect of—
- (i) any such conveyance executed before the date of assent to this Act; or

Interpre-
tation:
Sch. 3.Charging
of duty on
certain
agreements
for sale or
conveyance.Charging
of duty on
certain
conveyances.

Stamp Duties (Amendment).

SCHEDULE 3—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- (ii) where only one of any such conveyances is executed on or after the date of assent to this Act, the conveyance so executed; and
- (b) where two or more of any such conveyances are executed on or after the date of assent to this Act, in relation to those conveyances, one shall be charged with the same ad valorem duty to be paid by the person primarily liable in respect of the conveyance as if it were a conveyance of so much of the property conveyed pursuant to those conveyances for the aggregate of the amounts or values of the considerations in those conveyances and the other conveyance or conveyances shall be charged with the duty of \$1 each.
- Stamping of certain conveyances.** 4. (1) A conveyance made in conformity with agreements referred to in clause 2, being agreements on which duty has been duly paid, shall not be chargeable with ad valorem duty, but shall be chargeable with a duty of \$1.
- (2) The Commissioner, upon application and on production of the conveyance and the agreements leading thereto, on which duty has been duly paid as referred to in subclause (1) of this clause, or on production of the conveyance and on his being satisfied that the agreements are duly stamped, shall mark the conveyance as duly stamped.
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