

**STAMP DUTIES (FURTHER AMENDMENT)  
ACT, 1980, No. 161**

**New South Wales**



ANNO VICESIMO NONO

**ELIZABETHÆ II REGINÆ**

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**Act No. 161, 1980.**

An Act to amend the Stamp Duties Act, 1920, to provide for the abolition of death duty chargeable under that Act, and for certain other purposes. [Assented to, 15th December, 1980.]

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*Stamp Duties (Further Amendment).*

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**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 :—

1. This Act may be cited as the "Stamp Duties (Further Amendment) Act, 1980". Short title.

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act. Commencement.

(2) Section 4, in its application to Schedule 2, and that Schedule shall commence on 31st December, 1981.

3. This Act contains the following Schedules :— Schedules.

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

SCHEDULE 2.—AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING TO THE ABOLITION OF SIXTH SCHEDULE RATES OF DUTY AND TO EXEMPTIONS FROM DUTY.

SCHEDULE 3.—AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING TO CONVEYANCES BY WAY OF MORTGAGE.

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

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*Stamp Duties (Further Amendment).*

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Sec. 4.

## SCHEDULE 1.

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

## (1) (a) Section 1—

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

## (b) Section 1—

After the matter relating to Division 2 of Part IV, insert :—

DIVISION 3.—*Abolition of death duty*—ss. 123A, 123B.

## (2) (a) Section 73 (1) (b)—

After "Act" where lastly occurring, insert "or in respect of which no death duty is, by virtue of such Act, chargeable".

## (b) Section 73 (1) (d)—

After "paid" where secondly occurring, insert "or in respect of which no death duty is, by virtue of such Act, chargeable".

## (3) Part IV, Division 3, heading—

After section 123, insert :—

DIVISION 3.—*Abolition of death duty.*

## (4) (a) Section 123A—

After "1979,", insert "and before 1st January, 1981,".

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*Stamp Duties (Further Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING  
TO THE ABOLITION OF DEATH DUTY—*continued.*

(b) Section 123A (2), (3)—

At the end of section 123A, insert :—

(2) 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, 1981, and before 31st December, 1981, shall be one-third of the amount of death duty that would, but for this section, be payable under this Act.

(3) Notwithstanding any other provision of this Part of this Act, no death duty shall be chargeable under this Act in respect of the dutiable estate of a person who dies on or after 31st December, 1981.

(5) Section 123B—

After section 123A, insert :—

123B. Divisions 1, 1A and 2 of this Part of this Act shall not apply to or in respect of the estate of a person who dies on or after 31st December, 1981, or to or in respect of anything done or suffered or omitted to be done by any other person in respect of any such estate.

**Application  
of Pt. IV  
in respect  
of persons  
dying on  
or after  
31.12.1981.**

(6) (a) Second Schedule—

After “paid” where secondly occurring in paragraph (b) appearing under the heading “APPOINTMENT in execution of a power”, insert “or in respect of which no death duty is, by virtue of such Act, chargeable”.

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*Stamp Duties (Further Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING  
TO THE ABOLITION OF DEATH DUTY—*continued.*

(b) Second Schedule—

After “Act” where lastly occurring in paragraph (4) (b) appearing under the heading “CONVEYANCES OF ANY PROPERTY”, insert “or in respect of which no death duty is, by virtue of such Act, chargeable”.

(c) Second Schedule—

After “Act” where lastly occurring in paragraph (4) appearing under the heading “MORTGAGE”, insert “or in respect of which no death duty is, by virtue of such Act, chargeable”.

(d) Second Schedule—

After “Act” where lastly occurring in paragraph (4) appearing under the heading “TRANSFER OF SHARES”, insert “or in respect of which no death duty is, by virtue of such Act, chargeable”.

Sec. 4.

SCHEDULE 2.

AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING TO  
THE ABOLITION OF SIXTH SCHEDULE RATES OF DUTY AND TO  
EXEMPTIONS FROM DUTY.

(1) Section 66 (3)–(3C)—

Omit the subsections, insert instead :—

(3) A conveyance of property made without consideration in money or money’s worth is to be charged with ad valorem duty on whichever is the greater of—

(a) the unencumbered value of the property ascertained in accordance with section 68; or

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*Stamp Duties (Further Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING TO  
THE ABOLITION OF SIXTH SCHEDULE RATES OF DUTY AND  
TO EXEMPTIONS FROM DUTY—*continued.*

- (b) the amount or value of all encumbrances (whether certain or contingent) subject to which the property is conveyed.

(3A) A conveyance of property made upon a bona fide consideration in money or money's worth of less than the unencumbered value of the property is to be charged with ad valorem duty on whichever is the greater of—

- (a) the unencumbered value of the property ascertained in accordance with section 68; or
- (b) the amount obtained by aggregating together—
  - (i) the amount or value of the consideration ascertained in accordance with this Act; and
  - (ii) the amount or value of all encumbrances (whether certain or contingent) subject to which the property is conveyed,

but the Commissioner, where he is satisfied that the consideration paid was agreed to as representing the true market value of the property, may treat the conveyance as a conveyance on sale and stamp the conveyance accordingly with ad valorem duty on the unencumbered value of the property ascertained in accordance with section 68.

(3B) A conveyance of property made upon a bona fide consideration in money or money's worth of not less than the unencumbered value of the property, not being a conveyance on sale of the property, is to be charged with

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*Stamp Duties (Further Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING TO  
THE ABOLITION OF SIXTH SCHEDULE RATES OF DUTY AND  
TO EXEMPTIONS FROM DUTY—*continued.*

ad valorem stamp duty on the amount obtained by aggregating together—

- (a) the amount or value of the consideration ascertained in accordance with this Act; and
- (b) the amount or value of all encumbrances (whether certain or contingent) subject to which the property is conveyed.

(3C) Nothing in subsection (3), (3A) or (3B) of this section affects the operation of section 73.

(2) (a) Second Schedule—

Omit paragraphs (2) and (3) appearing under the heading "CONVEYANCES OF ANY PROPERTY", insert instead :—

(2) Upon every conveyance of any property (other than shares or rights to shares referred to in paragraph (1) under the heading "Transfer of Shares" or a mortgage referred to in paragraph (1) under the heading "Mortgage" herein) made without consideration in money or money's worth—

On whichever is the greater of—

- (a) the unencumbered value of the property; or
- (b) the amount or value of all encumbrances (whether certain or contingent) subject to which the property is conveyed.

The parties to the conveyance or any one or more of them.

The same duty as on a conveyance under paragraph (1) above as if the greater of the amounts under paragraphs (a) and (b) opposite hereto were the amount of the consideration.

*Stamp Duties (Further Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING TO THE ABOLITION OF SIXTH SCHEDULE RATES OF DUTY AND TO EXEMPTIONS FROM DUTY—*continued.*

(3) Upon every conveyance of any property (other than shares or rights to shares referred to in paragraph (1) under the heading "Transfer of Shares" or a mortgage referred to in paragraph (1) under the heading "Mortgage" herein) made upon a bona fide consideration in money or money's worth of less than the unencumbered value of the property—

On whichever is the greater of—

(a) the unencumbered value of the property; or

(b) the amount obtained by aggregating together—

(i) the amount or value of the consideration ascertained in accordance with this Act; and

(ii) the amount or value of all encumbrances (whether certain or contingent) subject to which the property is conveyed.

The same duty as on a conveyance under paragraph (1) above as if the greater of the amounts under paragraphs (a) and (b) opposite hereto were the amount of the consideration.

The parties to the conveyance or any one or more of them.

(3A) Upon every conveyance of any property (other than shares or rights to shares referred to in paragraph (1) under the heading "Transfer of Shares" or a mortgage referred to in paragraph (1) under the heading "Mortgage" herein) made upon a bona fide consideration in money or money's worth of not less than the unencumbered

The parties to the conveyance or any one or more of them.



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*Stamp Duties (Further Amendment).*


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 SCHEDULE 2—*continued.*

 AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING TO  
 THE ABOLITION OF SIXTH SCHEDULE RATES OF DUTY AND  
 TO EXEMPTIONS FROM DUTY—*continued.*

value of the property, not being  
 a conveyance on sale of the  
 property—

On the amount obtained by  
 aggregating together—

- (a) the amount or  
 value of the  
 consideration  
 ascertained in  
 accordance with  
 this Act; and
- (b) the amount or  
 value of all encum-  
 brances (whether  
 certain or con-  
 tingent) subject to  
 which the property  
 is conveyed.

The same duty as on a  
 conveyance under  
 paragraph (1) above  
 as if the aggregate of  
 the amounts under  
 paragraphs (a) and (b)  
 opposite hereto were  
 the amount of the  
 consideration.

(b) Second Schedule—

From paragraph (4) appearing under the heading  
 “LEASE OR PROMISE OF OR AGREEMENT FOR LEASE  
 OR HIRE of any Property not being a Ship or Vessel”,  
 omit :—

The same duty as would  
 be chargeable under  
 paragraph (2) under  
 the heading “Con-  
 veyances of any  
 Property” herein on a  
 conveyance of property  
 of an unencumbered  
 value equal to the  
 value of the lease in  
 question.

insert instead :—

The same duty as would  
 be chargeable on a  
 conveyance under  
 paragraph (1) under  
 the heading “Con-  
 veyances of any  
 Property” herein as if  
 the unencumbered  
 value of the lease in  
 question were the  
 amount of the con-  
 sideration.

*Stamp Duties (Further Amendment).*

SCHEDULE 2—*continued.*

AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING TO THE ABOLITION OF SIXTH SCHEDULE RATES OF DUTY AND TO EXEMPTIONS FROM DUTY—*continued.*

(c) Second Schedule—

Omit paragraph (b) of the *Exemptions* appearing under the heading “LOAN SECURITY”.

(d) Second Schedule—

Omit paragraphs (2) and (3) appearing under the heading “MORTGAGE”, insert instead :—

(2) Upon every transfer or assignment of any mortgage made without consideration in money or money's worth . On the unencumbered value of the mortgage.	The same duty as would be chargeable under paragraph (1) above as if the unencumbered value of the mortgage were the amount of the consideration.	The parties to the transfer or assignment or any one or more of them.
(3) Upon every transfer or assignment of any mortgage made upon a consideration in money or money's worth of less than the unencumbered value of the mortgage— On the unencumbered value of the mortgage.	The same duty as would be chargeable under paragraph (1) above as if the unencumbered value of the mortgage were the amount of the consideration.	The parties to the transfer or assignment or any one or more of them.

(e) Second Schedule—

Omit subparagraph (b) appearing under the heading “DIRECTION AS TO ISSUE OR ALLOTMENT OF SHARES”, insert instead :—

(b) In any case other than that mentioned in the preceding subparagraph (a) — On the unencumbered value of the shares directed to be issued or allotted.	The same duty as is payable under paragraph (1) under the heading “Transfer of
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*Stamp Duties (Further Amendment).*


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 SCHEDULE 2—*continued.*

 AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING TO  
 THE ABOLITION OF SIXTH SCHEDULE RATES OF DUTY AND  
 TO EXEMPTIONS FROM DUTY—*continued.*

Shares" herein as if the unencumbered value of the shares directed to be issued or allotted were the amount of the con- sideration.
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## (f) Second Schedule—

Omit paragraphs (2) and (3) appearing under the heading "TRANSFER OF SHARES", insert instead :—

<p>(2) Upon the transfer of shares or of rights to shares made without consideration in money or money's worth—          On the unencumbered value of the shares or the rights to the shares comprised in the transfer.</p>	<p>The same duty as would be chargeable under paragraph (1) above as if the unencumbered value of the shares or the rights to the shares comprised in the transfer were the amount of the consideration.</p>	<p>The parties to the transfer or any one or more of them.</p>
<p>(3) Upon the transfer of shares or of rights to shares made upon a consideration in money or money's worth of less than the unencumbered value of the shares or of the rights to shares comprised in the transfer—          On the unencumbered value of the shares or the rights to the shares comprised in the transfer.</p>	<p>The same duty as would be chargeable under paragraph (1) above as if the unencumbered value of the shares or the rights to the shares comprised in the transfer were the amount of the consideration.</p>	<p>The parties to the transfer or any one or more of them.</p>

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*Stamp Duties (Further Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING TO  
THE ABOLITION OF SIXTH SCHEDULE RATES OF DUTY AND  
TO EXEMPTIONS FROM DUTY—*continued.*

(g) Second Schedule—

After paragraph (23) appearing under the heading  
“GENERAL EXEMPTIONS FROM STAMP DUTY UNDER  
PART III”, insert :—

(24) Any instrument by which property is con-  
veyed or agreed to be conveyed to, or any loan  
security given by or on behalf of—

(a) any society or institution for the time being  
approved by the Commissioner for the  
purposes of this paragraph whose resources  
are, in accordance with its rules or objects,  
used wholly or predominantly for—

(i) the relief of poverty in New South  
Wales; or

(ii) the promotion of education in New  
South Wales; or

(b) any society or institution which, in the  
opinion of the Minister, is of a charitable or  
benevolent nature and where the instrument  
or loan security is for such purposes as the  
Treasurer or the Assistant Treasurer may  
approve.

(3) Sixth Schedule—

Omit the Schedule.

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*Stamp Duties (Further Amendment).*


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Sec. 4.

## SCHEDULE 3.

AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING  
TO CONVEYANCES BY WAY OF MORTGAGE.

(1) Section 66D—

After section 66C, insert :—

Transfer  
or  
conveyance  
of certain  
land by  
way of  
mortgage.

66D. (1) A transfer or conveyance by way of mortgage of land, or an estate or interest in land, under the Real Property Act, 1900, is to be charged with ad valorem duty on the unencumbered value of the land, or the estate or interest, as the case may require, ascertained in accordance with section 68.

(2) The rate of ad valorem duty to be charged in respect of a transfer or conveyance referred to in subsection (1) of this section is the rate provided in the Second Schedule to this Act for a conveyance of land on a sale for a consideration in money or money's worth of not less than the unencumbered value of the land as if the unencumbered value of the land, or the estate or interest, as the case may require, ascertained in accordance with section 68 were the amount of the consideration.

(3) The duty payable in accordance with subsections (1) and (2) of this section is payable by the parties to the transfer or conveyance or any one of them.

(4) Where the Commissioner is satisfied—

(a) that there has been a transfer or conveyance by way of mortgage of land, or an estate or interest in land, under the Real Property Act, 1900, from a mortgagor to a mortgagee;

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*Stamp Duties (Further Amendment).*

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SCHEDULE 3—*continued.*

AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING TO  
CONVEYANCES BY WAY OF MORTGAGE—*continued.*

- (b) that duty has been paid in accordance with sub-sections (1) and (2) of this section on the transfer or conveyance; and
  
- (c) that the land, or the estate or interest, as the case may require, has been retransferred or reconveyed to the mortgagor or to a person to whom the land, estate or interest has been transmitted by death or bankruptcy and the mortgagor or person, as the case may require, is the registered proprietor, within the meaning of the Real Property Act, 1900, of the land, estate or interest,

the Commissioner shall refund the ad valorem duty paid on the transfer or conveyance by way of mortgage less the amount of duty that would have been payable on that transfer or conveyance if it were a loan security.

(2) Section 83 (1), definition of "Mortgage"—

Omit "debentures.", insert instead :—

debentures,

but, notwithstanding the meaning of that expression in section 3 (1) of this Act, does not include a transfer or conveyance by way of mortgage of land, or an estate or interest in land, under the Real Property Act, 1900.

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*Stamp Duties (Further Amendment).*

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SCHEDULE 3—*continued.*AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING TO  
CONVEYANCES BY WAY OF MORTGAGE—*continued.*

## (3) Second Schedule—

In paragraph (15) appearing under the heading "GENERAL EXEMPTIONS FROM STAMP DUTY UNDER PART III", after "mortgage" where fourthly occurring, insert ", not being a transfer or conveyance by way of mortgage of land, or an estate or interest in land, under the Real Property Act, 1900,".