

STAMP DUTIES (AMENDMENT) ACT, 1982, No. 43

New South Wales



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ELIZABETHÆ II REGINÆ

Act No. 43, 1982.

An Act to amend the Stamp Duties Act, 1920, so as to exempt certain instruments from stamp duty, and for other purposes. [Assented to, 5th May, 1982.]

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, 1982".

Amendment of Act No. 47, 1920.

2. The Stamp Duties Act, 1920, is amended in the manner set forth in Schedules 1–3.

Schedules.

3. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE STAMP DUTIES ACT, 1920,
RELATING TO FAMILY LAW INSTRUMENTS.

SCHEDULE 2.—AMENDMENTS TO THE STAMP DUTIES ACT, 1920,
RELATING TO COMPANIES AND SECURITIES.

SCHEDULE 3.—AMENDMENTS TO THE STAMP DUTIES ACT, 1920, BY
WAY OF STATUTE LAW REVISION.

Stamp Duties (Amendment).

SCHEDULE 1.

(Sec. 2.)

AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING
TO FAMILY LAW INSTRUMENTS.

(1) Part III, Division 14—

After section 74c, insert:—

DIVISION 14.—*Divorce—family law instruments.***Interpretation.**

74CA. (1) In this Division—

“Commonwealth Act” means the Family Law Act 1975 of the Parliament of the Commonwealth or any Act of that Parliament amending or replacing that Act;

“marriage” includes a void marriage;

“matrimonial property”, in relation to a marriage, means property of the parties to the marriage or of either of them.

(2) A reference in this Division to a party to a marriage includes a reference to a person who was a party to a marriage that has been dissolved or annulled, in Australia or elsewhere.

(3) A reference in this Division to an instrument that makes provision for or with respect to the conveyance of property includes, without prejudice to the generality of the meaning of that expression, a reference to an agreement or order of a court to the extent that it makes provision with respect to the conveyance of the property.

**Instruments executed pursuant to Family Law Act 1975
(Commonwealth).**

74CB. An instrument is exempt from duty to the extent that the instrument makes provision for or with respect to the conveyance to the parties to a marriage or to either of them of matrimonial property, if—

- (a) the marriage is dissolved or annulled (whether before or after the instrument is executed); and

Stamp Duties (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING
TO FAMILY LAW INSTRUMENTS—*continued.*

(b) the instrument is—

- (i) registered or approved under the Commonwealth Act or executed for the purposes of or in accordance with another instrument so registered or approved; or
- (ii) an order of a court under that Act or executed for the purposes of or in accordance with such an order.

Special provisions as to motor vehicles.

74cc. A motor vehicle certificate of registration issued to the parties to a marriage or to either of them (and to no other person) pursuant to an application relating to the transfer of the vehicle concerned is exempt from duty to the extent that the vehicle was, at the time the application was made, matrimonial property, if—

- (a) the marriage is dissolved or annulled (whether before or after the certificate is issued); and
- (b) the application was made for the purposes of or in accordance with—
 - (i) an instrument registered or approved under the Commonwealth Act; or
 - (ii) an order of a court under that Act.

Stamp Duties (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING
TO FAMILY LAW INSTRUMENTS—*continued.***Refunds.**

74CD. The Commissioner shall, on application made to him in writing, within such time (if any) as is prescribed, and on production to him of such relevant instruments and information as he requires, refund the amount of any duty paid in respect of—

- (a) an instrument referred to in section 74CB; or
- (b) a motor vehicle certificate of registration referred to in section 74CC,

if the duty would not, by virtue of this Division, have been payable when the refund is made.

(2) (a) Section 125 (1)—

Omit “subsection (1A)”, insert instead “subsections (1A) and (1B)”.

(b) Section 125 (1B)—

After section 125 (1A), insert:—

(1B) 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 in any case where the Commissioner is of the opinion that it is likely that duty will be refundable by virtue of section 74CD of this Act, 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.

Stamp Duties (Amendment).

SCHEDULE 2.

(Sec. 2.)

AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING TO
COMPANIES AND SECURITIES.

(1) Section 74C (7) (b)—

Omit “subsection (5) of section 6 of the Companies Act, 1961, as amended by subsequent Acts,” insert instead “section 7 (5) of the Companies (New South Wales) Code”.

(2) Section 82A (1), definition of “Interest”—

Omit “section 6 (5) of the Companies Act, 1961” wherever occurring, insert instead “section 7 (5) of the Companies (New South Wales) Code”.

(3) Section 82D (9)—

Omit “section 6 (5) of the Companies Act, 1961”, insert instead “section 7 (5) of the Companies (New South Wales) Code”.

(4) Sections 88B (5) (a), 88C (5) (a)—

Omit “Companies Act, 1936, as amended by subsequent Acts” wherever occurring, insert instead “Companies (New South Wales) Code”.

(5) Sections 88E (4) (a), 88F (4) (a)—

Omit “Companies Act, 1961, as amended by subsequent Acts” wherever occurring, insert instead “Companies (New South Wales) Code”.

(6) Section 112G (1), definition of “Family company”—

From paragraph (a), omit “incorporated under the Companies Act, 1961”, insert instead “within the meaning of the Companies (New South Wales) Code”.

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SCHEDULE 2—*continued.*AMENDMENTS TO THE STAMP DUTIES ACT, 1920, RELATING TO COMPANIES
AND SECURITIES—*continued.*

(7) (a) Section 127 (2)—

After “1936,” insert “or section 24 of the Companies Act, 1961,”.

(b) Section 127 (2)—

After “Wales”, insert “and other than companies in respect of which a licence is for the time being in force under section 66 of the Companies (New South Wales) Code or under any corresponding provision of a law in force in any place out of New South Wales”.

(8) (a) Second Schedule—

From paragraph (iv) of the matter appearing under the heading “COMPANIES”, omit “to comply with section 346 (1) (e) of the Companies Act, 1961, as amended”, insert instead “pursuant to section 512 (2) (e) of the Companies (New South Wales) Code”.

(b) Second Schedule—

From paragraph (20) of the General Exemptions, omit “the Companies Act, 1961, or”, insert instead “the Companies (New South Wales) Code, the Companies Act, 1961, or the”.

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SCHEDULE 3.

(Sec. 2.)

AMENDMENTS TO THE STAMP DUTIES ACT, 1920, BY WAY OF STATUTE LAW REVISION.

(1) (a) Section 1—

Omit the matter relating to Part III, insert instead:—

PART III.—DUTIES ON INSTRUMENTS—*ss. 16–97B.*DIVISION 1.—*General provisions—ss. 16–38C.*DIVISION 2.—*Agreements—ss. 40, 40A.*DIVISION 3.—*Agreements for sale or conveyance—ss. 41, 42.*DIVISION 4.—*Betting tickets—s. 45A.*DIVISION 5.—*Bills of exchange and promissory notes—ss. 46–52.*DIVISION 6.—*Bills of lading—ss. 53–54.*DIVISION 7.—*Charter-parties—ss. 55–57A.*DIVISION 8.—*Companies—memorandum and articles—s. 58.*DIVISION 9.—*Contract notes—ss. 61–64.*DIVISION 10.—*Conveyances—ss. 65–73.*DIVISION 11.—*Possessory applications—Real Property Act, 1900—
ss. 73A, 73B.*DIVISION 12.—*Deeds of assignment—s. 74.*DIVISION 13.—*Discount arrangements—ss. 74A–74C.*DIVISION 14.—*Divorce—family law instruments—ss. 74CA–74CD.*DIVISION 15.—*Hiring arrangements—ss. 74D–74G.*DIVISION 16.—*Duplicates or counterparts—s. 75.*DIVISION 17.—*Instalment purchase arrangements—ss. 75A–75E.*DIVISION 18.—*Leases—ss. 76–79.*DIVISION 19.—*Letters of allotment and letters of renunciation—s. 81.*DIVISION 20.—*Loans—ss. 82A–82D.*DIVISION 21.—*Loan securities—ss. 83–84F.*DIVISION 22.—*Motor vehicle certificates of registration—s. 84G.*DIVISION 23.—*Partitions or divisions—s. 85.*DIVISION 24.—*Policies of insurance—ss. 86–89AB.*DIVISION 25.—*Replicas—s. 89B.*DIVISION 26.—*Shares—issue or allotment by direction—s. 94A.*DIVISION 27.—*Shares or stock—transfer—ss. 95–97B.*

(b) Section 1—

After "DUTY—", insert "ss. 100–123B".

Stamp Duties (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE STAMP DUTIES ACT, 1920, BY WAY OF STATUTE LAW REVISION—
continued.

(2) Heading after section 38C—

Omit "DIVISION 2.—*Special provisions.*".

(3) Section 74A (1)—

Omit "this section and sections 74B and 74C of this Act", insert instead "this Division".

(4) Section 74D—

Omit "this section and sections 74E to 74G of this Act", insert instead "this Division".

(5) Section 75A (1)—

Omit "this section and sections 75B to 75E of this Act", insert instead "this Division".

(6) Heading after section 81—

Omit "*Letters and powers of attorney.*".

(7) Section 82A (1)—

Omit "this section and sections 82B, 82C and 82D of this Act", insert instead "this Division".

(8) Section 82B (9)—

Omit "other that", insert instead "other than".

(9) Section 83 (1)—

Omit "this section and sections 84, 84A, 84B, 84C, 84D, 84E and 84F of this Act", insert instead "this Division".

*Stamp Duties (Amendment).*SCHEDULE 3—*continued.*AMENDMENTS TO THE STAMP DUTIES ACT, 1920, BY WAY OF STATUTE LAW REVISION—
continued.

(10) Headings in Part III—

Omit the headings before the sections specified in Column 1 of the following table, insert instead respectively the headings set out in Column 2 of that table.

TABLE.

Column 1. Section (heading preceding).	Column 2. Heading to be inserted.
40	DIVISION 2.— <i>Agreements.</i>
41	DIVISION 3.— <i>Agreements for sale or conveyance.</i>
45A	DIVISION 4.— <i>Betting tickets.</i>
46	DIVISION 5.— <i>Bills of exchange and promissory notes.</i>
53	DIVISION 6.— <i>Bills of lading.</i>
55	DIVISION 7.— <i>Charter-parties.</i>
58	DIVISION 8.— <i>Companies—memorandum and articles.</i>
61	DIVISION 9.— <i>Contract notes.</i>
65	DIVISION 10.— <i>Conveyances.</i>
73A	DIVISION 11.— <i>Possessory applications—Real Property Act, 1900.</i>
74	DIVISION 12.— <i>Deeds of assignment.</i>
74A	DIVISION 13.— <i>Discount arrangements.</i>
74D	DIVISION 15.— <i>Hiring arrangements.</i>
75	DIVISION 16.— <i>Duplicates or counterparts.</i>
75A	DIVISION 17.— <i>Instalment purchase arrangements.</i>
76	DIVISION 18.— <i>Leases.</i>
81	DIVISION 19.— <i>Letters of allotment and letters of renunciation.</i>
82A	DIVISION 20.— <i>Loans.</i>
83	DIVISION 21.— <i>Loan securities.</i>
84G	DIVISION 22.— <i>Motor vehicle certificates of registration.</i>
85	DIVISION 23.— <i>Partitions or divisions.</i>
86	DIVISION 24.— <i>Policies of insurance.</i>
89B	DIVISION 25.— <i>Replicas.</i>
94A	DIVISION 26.— <i>Shares—issue or allotment by direction.</i>
95	DIVISION 27.— <i>Shares or stock—transfer.</i>