

STAMP DUTIES (AMENDMENT) ACT, 1984, No. 26

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 26, 1984.

An Act to amend the Stamp Duties Act, 1920, in connection with certain transactions on the London Stock Exchange and in certain other respects. [Assented to, 6th June, 1984.]

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, 1984".

Commencement.

2. (1) Except as provided by subsections (2) and (3), this Act shall commence on the date of assent to this Act.

(2) Schedule 4, and section 5 in its application to that Schedule, shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Schedule 5, and section 5 in its application to that Schedule, shall be deemed to have commenced on 1st May, 1984.

Principal Act.

3. The Stamp Duties Act, 1920, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO HIRING ARRANGEMENTS.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLICIES OF INSURANCE.

Stamp Duties (Amendment).

SCHEDULE 3.—AMENDMENT TO THE PRINCIPAL ACT RELATING TO MOTOR VEHICLE CERTIFICATES OF REGISTRATION.

SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRANSACTIONS ON THE LONDON STOCK EXCHANGE.

SCHEDULE 5.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRANSFERS OF SHARES.

Amendment of Act No. 47, 1920.

5. The Principal Act is amended in the manner set forth in Schedules 1–5.

Limited retrospective operation of certain orders.

6. An order made under section 97A (3) of the Principal Act, as amended by this Act, and published in the Gazette not later than 3 months after the date of assent to this Act may be made to have effect on and from a date that is earlier than that date of assent but is not earlier than 1st May, 1984.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO HIRING ARRANGEMENTS.

(1) Section 74E (3) (a)—

- (a) After “or” where firstly occurring, insert “, subject to subsection (3B) of this section,”.
- (b) Omit “in duplicate”.

Stamp Duties (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO HIRING
ARRANGEMENTS—*continued.*

(c) Omit “a hiring arrangement” where lastly occurring, insert instead “an instrument made out under subsection (1) (a) of this section”.

(2) Section 74E (3A), (3B)—

After section 74E (3), insert:—

(3A) The Chief Commissioner may, upon such terms and conditions as the Chief Commissioner thinks fit, enter into an agreement with a person not bound by the provisions of this Act for the collection by that person and payment to the Chief Commissioner (whether by instalments or otherwise) of stamp duty that, but for subsection (3B) of this section, would be required to be paid under subsection (3) of this section.

(3B) The operation of subsection (3) of this section is suspended in relation to a hiring arrangement while payment is made in respect of the hiring arrangement in accordance with an agreement in force under subsection (3A) of this section.

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLICIES OF
INSURANCE.

(1) (a) Section 88B (1)—

Omit “on or after the nineteenth day of June, one thousand nine hundred and fifty-six, has effected or”.

Stamp Duties (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLICIES
OF INSURANCE—*continued.*

(b) Section 88B (1)—

Omit “for which insurance a policy of insurance or renewal of any such policy is or is to be issued outside New South Wales”.

(c) Section 88B (1) (a), (b)—

Omit the paragraphs, insert instead:—

(a) where, for the insurance, a policy of insurance or renewal of such a policy is or is to be issued outside New South Wales; or

(b) subject to subsection (1B) of this section—where the insurance or a renewal thereof is effected with a person not bound by the provisions of this Act,

(d) Section 88B (1)—

After “Commissioner”, insert “within 1 month after effecting the insurance or a renewal thereof”.

(e) Section 88B (1A)–(1C)—

After section 88B (1), insert:—

(1A) The Chief Commissioner may, upon such terms and conditions as the Chief Commissioner thinks fit, enter into an agreement with a person not bound by the provisions of this Act for the collection by that person and payment to the Chief Commissioner (whether by instalments or otherwise) of stamp duty that, but for subsection (1B) of this section, would be required to be paid under subsection (2) of this section on a return furnished under subsection (1) of this section.

(1B) The operation of subsection (1) (b) of this section is suspended in relation to a policy of insurance or renewal thereof while payment is made in respect of the policy or renewal in accordance with an agreement in force under subsection (1A) of this section.

Stamp Duties (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLICIES
OF INSURANCE—*continued.*

(1C) Where the operation of subsection (1) (b) of this section has, pursuant to subsection (1B) of this section, been suspended in relation to a policy of insurance or renewal thereof but ceases to be so suspended, the person who effected the insurance or renewal thereof shall, before the expiration of the period of 1 month that next succeeds the cessation of that suspension, pay to the Chief Commissioner as stamp duty so much as has not been paid of the amount of stamp duty that would, but for subsection (1B) of this section, have been required to be paid on a return under subsection (1) of this section relating to the policy or renewal.

(f) Section 88B (2)—

Omit “Every such return shall be”, insert instead “A return under subsection (1) of this section is”.

(g) Section 88B (2)—

After “New South Wales” where firstly occurring, insert “by a person bound by the provisions of this Act”.

(h) Section 88B (2)—

After “renewal”, insert “is a policy or renewal referred to in subsection (1) (a) of this section and”.

(i) Section 88B (3)—

Omit “on or after the nineteenth day of June, one thousand nine hundred and fifty-six, has effected or”.

(j) Section 88B (3) (a), (b)—

Omit the paragraphs, insert instead:—

- (a) fails to comply with subsection (1), (1C) or (2A) of this section; or

Stamp Duties (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLICIES
OF INSURANCE—*continued.*

(b) accepts payment of, or agrees to have allowed to him on account, any money upon or in respect of any insurance in relation to which subsection (1), (1C) or (2A) of this section has not been complied with,

(k) Section 88B (3)—

Omit “the return been furnished”, insert instead “subsection (1), (1C) or (2A) of this section, as the case may be, been complied with”.

(2) (a) Section 88C (1) (a)—

Omit “was or is effected on or after the nineteenth day of June, one thousand nine hundred and fifty-six,”, insert instead “is effected”.

(b) Section 88C (1) (b)—

Omit “arranged or arranges on or after the nineteenth day of June, one thousand nine hundred and fifty-six,”, insert instead “arranges”.

SCHEDULE 3.

(Sec. 5.)

AMENDMENT TO THE PRINCIPAL ACT RELATING TO MOTOR
VEHICLE CERTIFICATES OF REGISTRATION.

Section 84G (2B)—

After section 84G (2A), insert:—

(2B) Duty is not payable under subsection (2) of this section in the case of a motor vehicle certificate of registration that—

(a) relates to a motor vehicle described in subsection (2A) of this section; and

Stamp Duties (Amendment).

SCHEDULE 3—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO MOTOR
VEHICLE CERTIFICATES OF REGISTRATION—*continued.*

- (b) is issued to a person who is the holder of a licence under any law of another State, or of a Territory of the Commonwealth, that corresponds to a dealer's licence, or a wholesaler's licence, under the Motor Dealers Act, 1974,

if stamp duty would not have been payable under any law of that State or Territory in respect of acquisition of the motor vehicle had it been acquired in that State or Territory by a person referred to in subsection (2A) of this section.

SCHEDULE 4.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRANSACTIONS ON THE
LONDON STOCK EXCHANGE.

- (1) Section 1—

After the matter relating to Division 28 of Part III, insert:—

DIVISION 28A.—*Transfer of Shares—London Stock Exchange—ss.*
97C–97E.

- (2) Section 96A (1)—

After “Act”, insert “, and of paragraph (c) of the exemptions under that heading.”.

Stamp Duties (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRANSACTIONS ON THE
LONDON STOCK EXCHANGE—*continued.*

(3) Section 97 (5)—

After section 97 (4), insert:—

(5) This section does not apply to or in respect of a transfer of a marketable security or right thereto upon which a relevant transaction included in a return lodged under section 97E is consequential.

(4) Part III, Division 28A—

After Division 28, insert:—

DIVISION 28A.—*Transfer of Shares—London Stock Exchange.*

Interpretation.

97C. (1) In this Division—

“jobber” means a person who is a jobber according to the rules and practices of the London Stock Exchange;

“London Stock Exchange” means The Stock Exchange of the United Kingdom;

“month” means a month designated by name in the calendar;

“prescribed corporation” means a corporation declared by the Governor under section 97D to be a prescribed corporation for the purposes of this Division;

“relevant transaction” means any procedure by which—

- (a) as a consequence of the disposition on the London Stock Exchange of the beneficial interest in marketable securities vested in a prescribed corporation as trustee for a person; and

Stamp Duties (Amendment).

SCHEDULE 4—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRANSACTIONS ON THE LONDON STOCK EXCHANGE—continued.**

(b) without any further vesting of the marketable securities,

the prescribed corporation ceases to hold the marketable securities as trustee for that person and commences to hold the marketable securities as trustee for another person.

(2) A reference in this Division to marketable securities is a reference to marketable securities, or rights to marketable securities, of any corporation which is incorporated in New South Wales or which, being incorporated outside New South Wales, has a register in New South Wales in which the marketable securities or rights are registered.

Declaration as prescribed corporation.

97D. The Governor may, by order published in the Gazette, declare a specified corporation that is incorporated in New South Wales, or being incorporated outside New South Wales carries on business in New South Wales, to be a prescribed corporation for the purposes of this Division.

Duty payable in relation to relevant transactions.

97E. (1) A prescribed corporation shall, on or before the 28th day of each month (other than the month in which this Division commences)—

- (a) lodge with the Chief Commissioner a return in the prescribed form setting forth the prescribed particulars and information relating to all relevant transactions to which effect was given by the prescribed corporation during the last preceding month; and

Stamp Duties (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRANSACTIONS ON THE
LONDON STOCK EXCHANGE—*continued.*

- (b) pay to the Chief Commissioner as stamp duty an amount calculated at the rate of 60 cents for every one hundred dollars, and also for any remaining part of one hundred dollars, of the consideration for each disposition of marketable securities upon which a relevant transaction to which the return relates is consequential.

(2) Subsection (1) does not apply to or in respect of a relevant transaction that is consequential upon a disposition of any marketable securities that—

- (a) is specified in paragraphs (a) and (b) of the exemptions under the heading “TRANSFER OF SHARES” in the Second Schedule;
- (b) is made by or to a person who is a New South Wales dealer as defined in section 97A (1);
- (c) is, in accordance with the rules and practices of the London Stock Exchange, a stock loan transaction;
- (d) is made to a member of the London Stock Exchange as principal, where the beneficial interest of the member in the marketable securities is disposed of within the period of 2 clear days (not including any day on which the London Stock Exchange is closed for business) that next succeeds the acquisition of the marketable securities by the member;
- (e) is made by a member of the London Stock Exchange as principal within the period of 2 clear days (not including any day on which the London Stock Exchange is closed for business) that next succeeds the acquisition of the marketable securities by the member as principal; or
- (f) is made by a jobber to another jobber.

Stamp Duties (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRANSACTIONS ON THE
LONDON STOCK EXCHANGE—*continued.*

(3) Where a prescribed corporation also carries on business in a place outside New South Wales and stamp duty is, in that place, paid by the prescribed corporation as a consequence of a relevant transaction arising from a disposition of marketable securities of a corporation incorporated in New South Wales which are registered, recorded or entered on a branch register of members of the latter corporation lawfully kept in that place and the amount of stamp duty so paid—

- (a) is equal to, or greater than, the amount of stamp duty that, but for this paragraph, would be chargeable under subsection (1) in relation to the disposition—no duty is so chargeable; or
- (b) is less than the amount of stamp duty that, but for this paragraph, would be chargeable under subsection (1) in relation to the disposition—the amount of duty chargeable under subsection (1) is an amount equal to the difference between the amount so paid and the amount that, but for this paragraph, would be chargeable under that subsection.

(4) A payment of duty under this section by a prescribed corporation shall be deemed to be a payment on behalf of the transferees to whom the disposition by reference to which the duty was calculated relates, and the proportion of the duty attributable in relation to any such transferee—

- (a) may be deducted by the prescribed corporation from any money payable to the transferee by the corporation; or
- (b) may be recovered as a debt owing by the transferee to the prescribed corporation.

(5) A prescribed corporation that contravenes subsection (1) is guilty of an offence and liable to a penalty not exceeding \$2,000 and, in addition, to a penalty not exceeding double the amount of duty that would have been payable but for the contravention.

Stamp Duties (Amendment).

 SCHEDULE 4—*continued.*

 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRANSACTIONS ON THE
 LONDON STOCK EXCHANGE—*continued.*

(5) Second Schedule—

After paragraph (b) of the exemptions appearing under the heading
 “TRANSFER OF SHARES”, insert:—

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| <p>(c) Any transfer of shares to or by a prescribed corporation within the meaning of Division 28A of Part III that is—</p> <p>(i) a transfer to the prescribed corporation as trustee for the transferor; or</p> <p>(ii) a transfer by the prescribed corporation, as trustee, to the person recorded by it as the person for whose benefit the shares are held by it in trust.</p> | |
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 SCHEDULE 5.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRANSFERS OF SHARES.

(1) (a) Section 97A (1), definition of “Corresponding Act”—

Omit the definition, insert instead:—

“Corresponding Act” means any law in force in a State or Territory of the Commonwealth that is declared by the Governor by an order for the time being in force under subsection (3) of this section to be a corresponding Act for the purposes of this Act.

Stamp Duties (Amendment)

SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO TRANSFERS OF SHARES
—*continued.*

(b) Section 97A (3), (4)—

After section 97A (2), insert:—

(3) The Governor may, by order published in the Gazette, declare a law in force in a State or Territory of the Commonwealth to be a corresponding Act for the purposes of this Act.

(4) A declaration under subsection (3) of this section may be limited in its application according to specified exceptions or factors.

(2) (a) Section 97AC (3)—

Omit “The instrument”, insert instead “Subject to subsection (4), the instrument”.

(b) Section 97AC (4)—

After section 97AC (3), insert:—

(4) Where a law in force in a State or Territory of the Commonwealth is declared to be a corresponding Act subject to an exception in relation to a class of sales or purchases, subsection (3) of this section does not apply to or in respect of an instrument of transfer giving effect to a sale or purchase of that class notwithstanding that the instrument of transfer is endorsed in accordance with the corresponding Act.
