

STAMP DUTIES (AMENDMENT) ACT.

Act No. 27, 1962.

Elizabeth II,
No. 27, 1962

An Act to increase certain rates of duty chargeable and to impose other rates of duty under the Stamp Duties Act, 1920, as amended by subsequent Acts; for this and other purposes to amend the said Act, as so amended; and for purposes connected therewith. [Assented to, 3rd December, 1962.]

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
and
citation.

1. (1) This Act may be cited as the "Stamp Duties (Amendment) Act, 1962".

(2) The Stamp Duties Act, 1920, as amended by subsequent Acts and by this Act, may be cited as the Stamp Duties Act, 1920-1962.

Amendment
of Act No.
47, 1920.

2. The Stamp Duties Act, 1920-1959, is amended—

New secs.
78A-78D.

(a) by inserting next after section seventy-eight the following new sections :—

Leases,
term to be
assessed.
cf. Vic. No.
6375,
s. 77(3).

78A. Where by reason of any provision in a lease tenancy, or the right to use property, (whether expressed as a weekly, monthly, quarterly, half-yearly or yearly tenancy or otherwise) is subject to the provisions of the lease to continue for some specified period of twelve months or more or until some specified time twelve months or more later

than

than the commencement of the lease that lease shall for the purposes of this Act be deemed to be a lease for a term ending at the termination of that period or at that time. No. 27, 1962

78B. Where duty has been paid upon any lease for any term of not less than two years executed after the commencement of the Stamp Duties (Amendment) Act, 1962, and the lease is surrendered forfeited or otherwise determined before the expiration of the full term in respect of which duty was paid, the Commissioner shall, upon application in writing made to him within three months after such surrender forfeiture or other determination and upon the lease upon which duty was paid being given up to him, refund to the lessee or (where the lease has been transferred or assigned by the lessee) to the transferee or assignee an amount in money equivalent to the difference between the duty actually paid and the duty which would have been payable if the lease had been expressed to expire at the date of such surrender forfeiture or other determination. Refund of part of duty on early determination of certain leases.
cf. Vic. No. 6375, s. 80.

78C. An instrument whereby the rent or other consideration reserved by any lease (whether in writing or not) is increased shall subject to this Act be chargeable with duty as a lease but in respect only of the additional rent or consideration thereby made payable as if the instrument were a lease granted to the lessee under the original lease for a term from the date on which the increase takes effect until the expiry of the original lease. Duty to be paid on rental increases.

78D. (1) Where the rent reserved by a lease executed after the commencement of the Stamp Duties (Amendment) Act, 1962, is subject to re-appraisal in any way whatsoever during the term of the lease so that the total rent payable during such term is not ascertainable at the commencement of the lease, duty shall in the first instance Additional duty where rental re-appraised.
cf. *Ibid.* s. 83.

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instance be payable upon the total rent appropriate to the full term of the lease calculated as if the rent payable during the remainder of the term following re-appraisal, or where provision is made for more than one re-appraisal following the first of such re-appraisals, were—

- (a) where the rent payable prior to re-appraisal or the first re-appraisal, as the case may be, was at a fixed rate—at such rate; or
- (b) where the rent payable prior to re-appraisal or the first re-appraisal, as the case may be, was at varying rates—at the higher or highest of such rates.

(2) Whenever any such rent is re-appraised or a re-appraised rent is further re-appraised and by any such re-appraisal the rent is increased to a rate in excess of the rate in respect of which duty was paid pursuant to subsection one of this section, the lessee or (where the lease has been transferred or assigned by the lessee) the transferee or assignee for the time being of the lease shall within one month after such increase becoming effective produce to the Commissioner a duly stamped part of the lease together with a statutory declaration setting out the amount and particulars of the increase and shall pay to the Commissioner additional duty in respect of the additional total rent thereby payable—

- (a) where there is no provision for a further re-appraisal—for the remainder of the term of the lease; or
- (b) where there is provision for a further re-appraisal—for that part of the remainder of the term of the lease expiring upon such further re-appraisal.

Every

Every person who contravenes or fails to comply with the provisions of this subsection shall be liable to a fine not exceeding one hundred pounds. No. 27, 1962

(3) Whenever any such rent is re-appraised or a re-appraised rent is further re-appraised and by any such re-appraisal such rent is reduced to a rate which had such reduced rate been applicable to the calculation of duty under subsection one of this section such duty would have been less than the duty actually paid pursuant to that subsection the Commissioner shall upon application in writing made to him within three months after such re-appraisal and production to him of a duly stamped part of the lease together with a statutory declaration setting out the amount and particulars of such reduction refund to the lessee or (where the lease has been transferred or assigned by the lessee) to the transferee or assignee an amount equivalent to the difference between the duty actually paid and the duty which would have been payable if such reduced rent had been applicable.

(b) (i) by omitting from the Second Schedule all matter appearing in paragraph (1) under the heading "Lease or Promise of or Agreement for Lease or Hire of any property not being a ship or vessel" and by inserting in lieu thereof the following paragraph :— Second
Schedule
(Leases).

(1) Except as provided in paragraph (10), in respect of the total rent payable during the term without any consideration by way of premium, fine, or foregift—

Where such rent—			
does not exceed £50	0	3	6
exceeds £50—for every £50 and also for any remaining fractional part of £50.....	0	3	6
			} The lessee or tenant.

(ii)

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(ii) by inserting in the same Schedule next after paragraph (9) under the same heading the following new paragraph :—

- (10) In respect of any lease from the Crown not exempted from duty and being a lease under the Crown Lands Consolidation Act, 1913, as amended, Returned Soldiers Settlement Act, 1916, as amended, Prickly-pear Act, 1924, as amended, Closer Settlement Acts, War Service Land Settlement Act, 1941, as amended, Forestry Act, 1916, as amended, Pastures Protection Act, 1934, as amended, Irrigation Act, 1912, as amended, Western Lands Act of 1901, as amended, or the Mining Act, 1906, as amended.
- The same duty as on a lease under paragraph (1) hereof but not exceeding 1 10 0 } The lessee or tenant.

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

3. The Stamp Duties Act, 1920-1959, is further amended by omitting from the Second Schedule under the heading "Conveyances of any Property" all matter appearing in paragraph (1) and by inserting in lieu thereof the following paragraph :—

- (1) Upon every conveyance of any property (other than shares or rights to shares referred to in paragraph (1) under the heading "Transfer of Shares" herein) on a sale for a consideration in money or money's worth of not less than the unencumbered value of the property—
- The purchaser, or in the case of an exchange the person deemed to be the purchaser.
- | | |
|---|--------|
| Where the amount of such consideration does not exceed £50 | 0 12 6 |
| Exceeds £50 and does not exceed £100 | 1 5 0 |
| Exceeds £100 but does not exceed £7,000, for every £100 and also for any remaining fractional part of £100 of such amount | 1 5 0 |
| Exceeds £7,000— | |
| For every £100 of the first £7,000 of such amount | 1 5 0 |
| And in addition thereto, for every £100 and also for any remaining fractional part of £100 in excess of the first £7,000 | 1 10 0 |

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

4. (1) (a) The Stamp Duties Act, 1920-1959, is further amended by omitting from the matter appearing in the second column of the Second Schedule under the heading "Bill of Exchange and Promissory Notes" the figure "3" and by inserting in lieu thereof the figure "4".

(b).

(b) The amendment made by paragraph (a) of No. 27, 1962 this subsection shall commence upon a day to be appointed by the Governor (in this section referred to as the "appointed day") and notified by proclamation published in the Gazette.

(2) (a) Bills of exchange forms which have before the appointed day been printed to the order of a bank under license issued under the provisions of the Stamp Duties Act, 1920-1959, and are impressed with threepence stamp duty and are either in the possession of the printer or of the bank upon the appointed day and are unused shall be deemed to be duly stamped with fourpence stamp duty.

(b) Any bank which upon the appointed day is in possession of bills of exchange forms referred to in paragraph (a) of this subsection shall within one month of the appointed day furnish to the Commissioner a statement in a form approved by him giving particulars and numbers of such forms and pay to the Commissioner duty of fourpence per form or additional duty of one penny per form, as the case may require.

(c) Where bills of exchange forms referred to in paragraph (a) of this subsection are upon the appointed day in the possession of a printer and are subsequently delivered to a bank the bank shall when making payment of the stamp duty in accordance with the Stamp Duties Act, 1920-1959, and the regulations thereunder pay to the Commissioner the amount of fourpence duty on each such form.

(3) This subsection shall apply to bills of exchange forms which upon the appointed day are in the possession of any person other than a printer or bank referred to in subsection two of this section and which are impressed with threepence stamp duty.

Where a bill of exchange is after the appointed day drawn or made within New South Wales on a bill of exchange form to which this subsection applies the additional duty of one penny may be denoted by an adhesive stamp, attached and duly cancelled before the issue of such bill of exchange.

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(4) Where a promissory note is drawn or made in New South Wales after the appointed day and is written on material bearing an impressed stamp of insufficient amount a further amount for the amount of the deficiency may be denoted by an adhesive stamp, attached and duly cancelled by the person by whom the promissory note is executed before he issues same out of his hands.

This subsection shall cease to have effect upon the expiration of a period of twelve months from the appointed day.

Further amendment of Act No. 47, 1920.

5. (1) The Stamp Duties Act, 1920-1959, is further amended—

Sec. 22.

(General direction as to the cancellation of adhesive stamps.)

New short heading and sec. 84A.

(a) by omitting from subsection one of section twenty-two the words "Subject to section 75A of this Act" and by inserting in lieu thereof the words "Subject to sections 75A and 84A of this Act";

(b) by inserting next after section eighty-four the following new short heading and section :—

Motor vehicle certificates of registration.

Motor vehicle certificate of registration—
Definition.

84A. (1) For the purposes of this Act and of the matter appearing under the heading "Motor Vehicle Certificate of Registration" in the Second Schedule to this Act, a motor vehicle certificate of registration means a certificate of registration issued in respect of a motor vehicle in accordance with the provisions of the Motor Traffic Act, 1909, as amended by subsequent Acts and the regulations thereunder whether such motor vehicle certificate of registration has been issued pursuant to a new registration or transfer of registration but does not include—

(a) any such motor vehicle certificate of registration issued to the person in whose name such vehicle was last registered (whether
in

in New South Wales or elsewhere) before the issue of such motor vehicle certificate of registration; or

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- (b) a duplicate motor vehicle certificate of registration; or
- (c) a motor vehicle certificate of registration issued pursuant to a transfer of a motor vehicle under Regulation 29 of the Regulations under the Motor Traffic Act, 1909, as so amended; or
- (d) a motor vehicle certificate of registration of a class exempted under the regulations from the provisions of this section.

(2) Subject to the provisions of this Act a motor vehicle certificate of registration is to be charged with ad valorem duty in respect of the value of the motor vehicle for which the certificate is issued at the rate specified in the Second Schedule hereto and such motor vehicle certificate of registration shall not be deemed an agreement or memorandum made under hand for or relating to the sale of any goods, wares, or merchandise within the exemption contained in the Second Schedule to this Act under the heading "Agreement or Memorandum of an Agreement, and not otherwise specifically charged with any duty": Provided that no duty shall be payable in the case of a motor vehicle certificate of registration issued to a person who is engaged principally in the trade or business of buying or selling motor vehicles and who is the holder of a licence under the Second-hand Motor Dealers Act, 1956, where such certificate has been obtained for the purpose of the resale of the motor vehicle in respect of which the certificate is issued.

Duty on motor vehicle certificates of registration.

(3) For the purposes of this section and all the matter appearing under the heading "Motor Vehicle Certificate of Registration" in the Second

Definition of value of a motor vehicle.

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Second Schedule to this Act, the value of a motor vehicle shall, subject to the provisions of paragraph (a) of subsection five of this section, be such amount as is stated in writing by the applicant for such certificate of registration in respect of such motor vehicle or the transfer thereof to represent the market value of such vehicle as at the time of making such application.

Time of payment and use of adhesive stamp.

(4) An amount equivalent to the duty chargeable under this Act on a motor vehicle certificate of registration shall be forwarded with the application for the certificate of registration or transfer thereof. The duty so chargeable may be denoted by an adhesive stamp which is to be affixed and cancelled at the time of issue of such certificate.

Commissioner's authority to review value.

(5) (a) The Commissioner may, if he is not satisfied that the amount stated by the applicant as the market value of the motor vehicle is the true market value, require such applicant to furnish the Commissioner within the time specified by the Commissioner with such evidence as to the market value as at the time of making the application for a motor vehicle certificate of registration or transfer thereof as the Commissioner thinks fit.

(b) On receipt of such evidence it shall be lawful for the Commissioner to make a further assessment of the duty payable having regard to such evidence, to recover any additional duty so payable or to refund to the applicant any duty overpaid.

(c) The amount of the additional duty or the amount of the refund made in accordance with the provisions of this subsection shall be denoted on the certificate of registration.

(c)

Child Welfare (Commonwealth Agreement Ratification) Act.

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- (c) by inserting in the Second Schedule next after the matter appearing under the heading "Letter or Power of Attorney or other instrument in the nature of—" the following new matter : —

MOTOR VEHICLE CERTIFICATE OF REGISTRATION—

On a motor vehicle certificate of registration for every £100 and also for any remaining fractional part of £100 of the value of the motor vehicle

0 10 0 The person in whose name the certificate is issued.

- (2) Subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

