

Stamps (Amendment) Bill

EXPLANATORY MEMORANDUM

Clause 1 outlines the purpose of the Bill.

Clause 2 is the commencement provision.

Clause 3 provides that the **Stamps Act 1958** is the Principal Act for the purposes of the Bill.

Clause 4 amends Section 40A to enable persons authorised to endorse stamp duty upon an instrument to also endorse instruments as being exempt from duty. This clause also substitutes the references to “Minister” in Section 40A with “Comptroller of Stamps”.

Clause 5 amends Section 59 to insert a new sub-section (1AA). This creates a nexus for the obligation imposed by Section 59 to make a statement upon the disposal of marketable securities. By defining the marketable securities to which Section 59 applies by reference to the securities described in Clause 1 in Heading IV (A) of the Third Schedule, the amendment expands the operation of Section 59 to include interests in unit trusts.

Clause 6 amends Section 60ED (3) (g) to substitute the reference to the “second schedule” with “Heading IV (A) of the Third Schedule”.

Clause 7 amends the provisions related to duty upon transactions on Branch and other registers in Subdivision 4c of Division 3 of Part II of the Act.

Sub-section (1) repeals Section 60G.

Sub-section (2) amends Section 60H (1) to ensure that stamp duty is paid in respect of the dealings in marketable securities of a company incorporated in Victoria, where the transaction occurs on an overseas register and duty has not previously been paid.

Sub-section (3) introduces a transitional provision so that the former Sections 60G and 60H continue to apply to any transfer of shares executed either before the commencement of this amendment or executed under a contract existing before the amendment.

Clause 8 amends Section 67A (6) (b) to substitute the reference to “varied” with “increased”. This amendment clarifies the intention of the provision that a person can only be taken to acquire an interest in property if his or her interest in that property is increased.

Clause 9 makes technical amendments to the provisions exempting eligible first home buyers from stamp duty in Sections 71 and 71A.

Paragraph (a) repeals Section 71.

Paragraph (b) repeals sub-sections (1), (2), (3), (3A), (8), (8A), (8B), (9), (14) and (15) of Section 71A.

Paragraph (c) amends the formula in Section 71A (5) for calculating the entitlement to a rebate of stamp duty.

Paragraph (d) amends the formula in Section 71A (7) for calculating the entitlement to a rebate of stamp duty.

Clause 10 makes amendments to the current provisions in Section 71B which exempt eligible first home buyers from stamp duty.

Paragraph (a) inserts a definition of “dependent child” for the purposes of Section 71B.

Paragraph (b) repeals sub-section (2).

Paragraph (c) amends paragraph (d) of Section 71B (3) to delete obsolete references to other authorities determining whether a person satisfies the eligibility criteria. Instead, the Comptroller will be able to satisfy himself with information which he deems sufficient.

Clause 11 Sub-section (1) amends Section 75I (4) to insert a new paragraph (g). This is a new anti-avoidance provision to deal with schemes designed to avoid the provisions in Section 75I.

The amendment enables the Comptroller to declare property, at any time up to 12 months after the time of the acquisition of that property, to not be included under Section 75I (2) in the calculation to determine the applicability of Section 75I. Notice in writing of this declaration must be given to the relevant corporation. This provision will not apply if the Comptroller is satisfied that the property was acquired by the corporation principally for the purpose of defeating Section 75I.

Sub-section (2) amends Section 75N (5) and (6) to substitute the reference to the “75 (5)” with “75 (6)”.

Clause 12 amends Section 117 to remove the requirement that betting-books can only be obtained from the Comptroller of Stamps.

Paragraph (a) amends sub-section (5) to remove the reference to betting-books being obtainable only from the Comptroller.

Paragraph (b) amends sub-section 8 (a) to omit a reference to betting-books being obtained from the Comptroller.

Paragraph (c) amends sub-section 9 to omit a reference to betting-books being issued to the bookmaker by the Comptroller.

Clause 13 amends sub-sections 121 (3) and (4) to substitute references to “Minister” with “Comptroller of Stamps”.

Clause 14 repeals section 137MA (1).

Clause 15 makes several amendments to Heading IV (A) of the Third Schedule. The paragraphs under Clause 1 are renumbered so that the last two paragraphs appear sequentially following the former. An obsolete definition is also removed from Exemption 19.