

**82. Duty chargeable on certain transfers or conveyances by way of security**

- (1) Subject to this section, an instrument of mortgage which by itself or in conjunction with another instrument effects a conveyance or transfer of any estate or interest in —
- (a) freehold land registered under the *Transfer of Land Act 1893*;
  - (b) a Crown lease registered under that Act;
  - (c) a mining tenement registered under the *Mining Act 1978*; or
  - (d) a marketable security or right in respect of shares,
- is chargeable with duty under item 4 or 4A(1), as the case requires, of the Second Schedule as a conveyance or transfer of that estate or interest.
- (2) References in items 4 and 4A(1) of the Second Schedule to consideration shall, for the purposes of this section, be construed as references to the amount or value of the estate or interest conveyed or transferred.
- (3) The mortgagor or obligor under an instrument of mortgage referred to in subsection (1) is liable to pay duty with which it is chargeable.
- (4) Subsection (1) does not apply to or in relation to an instrument of mortgage which is, in the opinion of the Commissioner, a *bona fide* instrument of mortgage.

*[Section 82 inserted by No. 81 of 1984 s. 28; amended by No. 39 of 1994 s. 14; No. 48 of 1996 s. 34.]*