

## Notes

<sup>1</sup> This is a compilation of the *Stamp Act 1921* and includes the amendments made by the other written laws referred to in the following table <sup>50, 51</sup>. The table also contains information about any reprint. For amendments that had not come into operation on the date on which this compilation was prepared see endnote <sup>1a</sup>.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Stamp Act 1921</i>	10 of 1922	31 Jan 1922	1 Apr 1922 (see s. 1 and <i>Gazette</i> 17 Mar 1922 p. 479)
<i>Stamp Act Amendment Act 1923</i>	53 of 1923	22 Dec 1923	22 Dec 1923
<i>Stamp Act Amendment Act 1924</i>	23 of 1924	31 Dec 1924	31 Dec 1924
<i>Ministers' Titles Act 1925</i> s. 2	8 of 1925	24 Sep 1925	24 Sep 1925
<i>Stamp Act Amendment Act 1925</i>	47 of 1925	31 Dec 1925	31 Dec 1925
<i>Stamp Act Amendment Act 1926</i>	17 of 1926	6 Nov 1926	6 Nov 1926
<i>Stamp Act Amendment Act 1927</i>	10 of 1927	6 Dec 1927	6 Dec 1927
<i>Stamp Act Amendment Act 1928</i>	22 of 1928	21 Dec 1928	21 Dec 1928
<i>Stamp Act Amendment Act 1929</i> <sup>34</sup>	5 of 1929	7 Oct 1929	7 Oct 1929
<i>Stamp Act Amendment Act (No. 3) 1930</i>	11 of 1930	19 Nov 1930	19 Nov 1930
<i>Stamp Act Amendment Act (No. 1) 1930</i>	12 of 1930	19 Nov 1930	19 Nov 1930
<i>Stamp Act Amendment Act 1931</i>	39 of 1931	26 Nov 1931	1 Dec 1931 (see s. 2 and <i>Gazette</i> 27 Nov 1931 p. 2499)
<b>Reprint of the <i>Stamp Act 1921</i> in Appendix to session Volume 1933-34</b> <sup>35</sup> (includes amendments listed above)			
<i>Stamp Act Amendment Act 1941</i>	35 of 1941	19 Dec 1941	19 Dec 1941
<i>Stamp Act Amendment Act 1942</i>	40 of 1942	23 Dec 1942	23 Dec 1942
<i>Stamp Act Amendment Act 1944</i>	20 of 1944	23 Dec 1944	23 Dec 1944
<b>Reprint of the <i>Stamp Act 1921</i> approved 3 Apr 1950 in Volume 5 of Reprinted Acts</b> (includes amendments listed above)			

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Stamp Act Amendment Act 1950</i>	11 of 1950	17 Nov 1950	17 Nov 1950
<i>Stamp Act Amendment Act 1954</i>	5 of 1954	25 Aug 1954	25 Aug 1954
<i>Betting Control Act 1954</i> s. 3(2) <sup>36</sup>	63 of 1954	30 Dec 1954	1 Aug 1955 (see s. 2 and <i>Gazette</i> 29 Jul 1955 p. 1767)
<i>Stamp Act Amendment Act 1957</i>	70 of 1957	6 Dec 1957	1 Feb 1958 (see s. 2 and <i>Gazette</i> 24 Jan 1958 p. 129)
<b>Reprint of the Stamp Act 1921 approved 1 May 1958 in Volume 12 of Reprinted Acts</b> (includes amendments listed above)			
<i>Stamp Act Amendment Act (No. 2) 1959</i>	64 of 1959	10 Dec 1959	21 Dec 1959 (see s. 2 and <i>Gazette</i> 18 Dec 1959 p. 3337)
<i>Stamp Act Amendment Act 1959</i>	72 of 1959	14 Dec 1959	1 Jan 1960 (see s. 2 and <i>Gazette</i> 24 Dec 1959 p. 3457)
<i>Stamp Act Amendment Act 1960</i>	22 of 1960	11 Oct 1960	13 Mar 1961 (see s. 2 and <i>Gazette</i> 10 Mar 1961 p. 653)
<i>Stamp Act Amendment Act (No. 2) 1960</i>	41 of 1960	3 Nov 1960	1 Jul 1961 (see s. 2 and <i>Gazette</i> 5 May 1961 p. 1069)
<i>Stamp Act Amendment Act 1961</i>	21 of 1961	30 Oct 1961	30 Oct 1961
<i>Stamp Act Amendment Act 1962</i>	20 of 1962	1 Oct 1962	1 Oct 1962
<i>Stamp Act Amendment Act (No. 2) 1962</i>	60 of 1962	30 Nov 1962	1 Jan 1963 (see s. 2)
<i>Stamp Act Amendment Act (No. 3) 1962</i>	69 of 1962	30 Nov 1962	30 Nov 1962
<b>Reprint of the Stamp Act 1921 approved 22 Apr 1963 (not in a Volume)</b> (includes amendments listed above)			
<i>Stamp Act Amendment Act 1963</i>	7 of 1963	15 Oct 1963	15 Oct 1963
<i>Stamp Act Amendment Act (No. 2) 1963</i>	37 of 1963	19 Nov 1963	31 Dec 1963 (see s. 2 and <i>Gazette</i> 31 Dec 1963 p. 4055)
<i>Stamp Act Amendment Act (No. 3) 1963</i>	57 of 1963	17 Dec 1963	17 Dec 1963
<i>Stamp Act Amendment Act (No. 4) 1963</i>	58 of 1963	17 Dec 1963	1 Jul 1964 (see s. 2 and <i>Gazette</i> 5 Jun 1964 p. 2335)
<i>Stamp Act Amendment Act 1965</i>	72 of 1965	25 Nov 1965	s. 7, 8, 16(d), (h)(i), (j)(i), (ii), (iii) and (v) and (o): 1 Dec 1965; s. 3, 14 and 16(c): 14 Feb 1966; balance: 1 Jan 1966 (see s. 2)
<b>Reprint of the Stamp Act 1921 approved 14 Feb 1966 in Volume 19 of Reprinted Acts</b> (includes amendments listed above)			

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	s. 4-9: 14 Feb 1966 (see s. 2(2)); balance: 21 Dec 1965
<i>Stamp Act Amendment Act 1966</i>	67 of 1966	12 Dec 1966	s. 1, 2, 4 and 15(a), (b) and (f): 1 Jan 1967; balance: 1 Feb 1967 (see s. 2)
<i>Stamp Act Amendment Act (No. 2) 1966</i>	90 of 1966	12 Dec 1966	1 Jan 1967 (see s. 2)
<i>Stamp Act Amendment Act (No. 3) 1966</i>	93 of 1966	12 Dec 1966	1 Jul 1967 (see s. 2 and <i>Gazette</i> 23 Jun 1967 p. 1691)
<i>Stamp Act Amendment Act 1967</i>	50 of 1967	24 Nov 1967	1 Dec 1967 (see s. 2)
<b>Reprint of the Stamp Act 1921 approved 27 Aug 1968 (not in a Volume)</b> (includes amendments listed above)			
<i>Stamp Act Amendment Act 1968</i>	54 of 1968	13 Nov 1968	1 Jan 1969 (see s. 2 and <i>Gazette</i> 13 Dec 1968 p. 3809)
<i>Stamp Act Amendment Act 1969</i>	113 of 1969	28 Nov 1969	1 Jan 1970 (see s. 2 and <i>Gazette</i> 16 Dec 1969 p. 4077)
<i>Acts Amendment (Commissioner of State Taxation) Act 1970 Pt. VI</i>	21 of 1970	8 May 1970	1 Jul 1970 (see s. 2 and <i>Gazette</i> 26 Jun 1970 p. 1831)
<i>Stamp Act Amendment Act 1970</i>	102 of 1970	8 Dec 1970	s. 1 and 2: 8 Dec 1970; s. 3, 4, 12(b), 13, 14 and 15(a): 1 Jan 1971 (see s. 2(1)(c)); s. 5-11 and 15(b): 1 Oct 1970 (see s. 2(2)); s. 12(a), (c), (d) and (e): 1 Jul 1970 (see s. 2(3))
<i>Stamp Act Amendment Act 1971</i>	3 of 1971	13 Sep 1971	13 Sep 1971
<i>Stamp Act Amendment Act (No. 2) 1971</i>	29 of 1971	1 Dec 1971	1 Jan 1972 (see s. 2 and <i>Gazette</i> 10 Dec 1971 p. 5169)
<i>Stamp Act Amendment Act 1972</i>	32 of 1972	16 Jun 1972	1 Jul 1972 (see s. 2 and <i>Gazette</i> 30 Jun 1972 p. 2100)
<i>Metric Conversion Act 1972</i>	94 of 1972 (as amended by No. 19 of 1973 s. 4)	4 Dec 1972	Relevant amendments (see Second Sch. <sup>37</sup> ) took effect on 1 Jul 1973 (see s. 4(2) and <i>Gazette</i> 22 Jun 1973 p. 2379)
<i>Stamp Act Amendment Act 1974</i>	9 of 1974	27 Sep 1974	s. 1, 2 and 7: 27 Sep 1974 (see s. 2(1)); s. 5, 6 and 9: 1 Dec 1974; s. 3, 4, 8 and 10: 1 Jan 1975 (see s. 2 and <i>Gazette</i> 22 Nov 1974 p. 5089)
<i>Stamp Act Amendment Act (No. 2) 1974</i>	46 of 1974	18 Nov 1974	1 Dec 1974 (see s. 2 and <i>Gazette</i> 29 Nov 1974 p. 5167)

Short title	Number and year	Assent	Commencement
<b>Reprint of the Stamp Act 1921 approved 20 Feb 1976</b> (includes amendments listed above)			
<i>Stamp Act Amendment Act 1976</i>	96 of 1976	12 Nov 1976	1 Jan 1977 (see s. 2)
<i>Stamp Act Amendment Act 1977</i>	63 of 1977	23 Nov 1977	23 Nov 1977
<i>Stamp Act Amendment Act 1979</i>	37 of 1979	18 Oct 1979	s. 1, 2, 42 and 61: 18 Oct 1979 (see s. 2(2)); balance: 1 Jan 1980 (see s. 2(1) and <i>Gazette</i> 7 Dec 1979 p. 3769)
<b>Reprint of the Stamp Act 1921 approved 25 Mar 1980</b> (includes amendments listed above)			
<i>Credit Unions (Consequential Provisions) Act 1979 Pt. 1</i>	47 of 1979	7 Nov 1979	1 Jul 1980 (see s. 2)
<i>Stamp Amendment Act 1980</i>	63 of 1980	26 Nov 1980	Deemed operative 4 Nov 1980 (see s. 1(4))
<i>Stamp Amendment Act 1981<sup>28</sup></i>	81 of 1981	9 Nov 1981	s. 3 and 8: 1 Jan 1982; balance 1 Dec 1981 (see s. 2)
<i>Acts Amendment (Traffic Board) Act 1981 Pt. VIII</i>	106 of 1981	4 Dec 1981	2 Feb 1982 (see s. 2)
<i>Stamp Amendment Act 1982</i>	1 of 1982	8 Apr 1982	8 Apr 1982
<i>Companies (Consequential Amendments) Act 1982 s. 28</i>	10 of 1982	14 May 1982	1 Jul 1982 (see s. 2(1) and <i>Gazette</i> 25 Jun 1982 p. 2079)
<i>Stamp Amendment Act (No. 2) 1982</i>	15 of 1982	14 May 1982	s. 4: 14 May 1982; balance deemed operative: 8 Apr 1982 (see s. 2)
<i>Stamp Amendment Act (No. 3) 1982</i>	45 of 1982	26 Aug 1982	24 Dec 1981 (see s. 2)
<i>Stamp Amendment Act (No. 4) 1982</i>	93 of 1982	22 Nov 1982	s. 3-6, 7(1) and 8: 1 Jan 1983; balance: 22 Nov 1982 (see s. 2)
<i>Stamp Amendment Act (No. 5) 1982</i>	99 of 1982	24 Nov 1982	Deemed operative 1 Jan 1983 (see s. 2)
<i>Stamp Amendment Act (No. 6) 1982</i>	112 of 1982	8 Dec 1982	Deemed operative 26 Oct 1982 (see s. 2)
<i>Stamp Amendment Act 1983</i>	14 of 1983	31 Oct 1983	s. 6(d): 1 Dec 1983 (see s. 2(1) and <i>Gazette</i> 25 Nov 1983 p. 4649); balance: 1 Nov 1983 (see s. 2(2))

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Stamp Amendment Act (No. 2) 1983</i>	61 of 1983	13 Dec 1983	s. 1, 2, 3, and 4: 13 Dec 1983; balance: 1 Jan 1984 (see s. 2)
<i>Stamp Amendment Act 1984</i>	81 of 1984	7 Dec 1984	1 Jan 1985 (see s. 2 and <i>Gazette</i> 28 Dec 1984 p. 4197)
<i>Stamp Amendment Act (No. 2) 1984</i>	109 of 1984	19 Dec 1984	1 Jan 1985 (see s. 2)
<i>Acts Amendment (Lotteries) Act 1985 Pt. V</i>	19 of 1985	19 Apr 1985	19 Apr 1985 (see s. 2(1))
<b>Reprint of the Stamp Act 1921 as at 9 Jun 1985</b> (includes amendments listed above)			
<i>Stamp Amendment Act 1985</i> <sup>7</sup>	84 of 1985	4 Dec 1985	1 Jan 1986 (see s. 2)
<i>Stamp Amendment Act (No. 2) 1985</i>	85 of 1985	4 Dec 1985	1 Jan 1986 (see s. 2)
<i>Stamp Amendment Act 1986</i> <sup>38</sup>	98 of 1986	11 Dec 1986	s. 4-10: deemed operative 11 Nov 1986 (see s. 2(2)); s. 11 and 19: 8 Jan 1987 (see s. 2(3)); s. 21(1)(b) and (2): 1 Jan 1987, and s. 12 and 21(1)(a)(ii): 1 Feb 1987 (see s. 2(4) and <i>Gazette</i> 19 Dec 1986 p. 4859); balance: 11 Dec 1986 (see s. 2(1))
<i>Stamp Amendment Act 1987</i> <sup>19</sup>	33 of 1987	30 Jun 1987	s. 5, 15 and 19: 24 Jul 1987 (see s. 2(2) and <i>Gazette</i> 24 Jul 1987 p. 2813); balance: 30 Jun 1987 (see s. 2(1))
<i>Stamp Amendment Act (No. 2) 1987</i> <sup>29</sup>	100 of 1987	18 Dec 1987	1 Jan 1988 (see s. 2)
<b>Reprint of the Stamp Act 1921 as at 21 Mar 1989</b> (includes amendments listed above)			
<i>Stamp Amendment Act (No. 2) 1989</i>	3 of 1989	20 Apr 1989	20 Apr 1989 (see s. 2)
<i>Stamp Amendment Act (No. 4) 1989</i>	16 of 1989 (as amended by No. 41 of 1989 s. 28)	16 Nov 1989	s. 4(1): 16 Nov 1989 (see s. 2(1)); s. 4(2): 1 Nov 1989 (see s. 2(2) and <i>Gazette</i> 29 Dec 1989 p. 4665); s. 4(3): 1 Jul 1990 (see s. 2(3) and <i>Gazette</i> 8 Jun 1990 p. 2615); s. 4(4): 1 Nov 1989 (see s. 2(4))
<i>Taxation (Reciprocal Powers) Act 1989 s. 16</i>	18 of 1989	1 Dec 1989	5 Oct 1990 (see s. 2 and <i>Gazette</i> 5 Oct 1990 p. 5122)

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Stamp Amendment Act (No. 3) 1989</i> <sup>11</sup>	41 of 1989	21 Dec 1989	s. 11, 13, 20(a) and (b), 24 and 26: deemed operative 1 Nov 1989 (see s. 2(2)); s. 4, 10(a), (b) and (c), 12, 20(c) and 27(1): deemed operative 1 Dec 1989 (see s. 2(3)(b)); s. 27(3): deemed operative 30 Jun 1989 (see s. 2(4)); s. 17, 18(a), (f) and (g), 19 and 27(2): 1 Jul 1990 (see s. 2(1) and <i>Gazette</i> 8 Jun 1990 p. 2615); balance: 21 Dec 1989 (see s. 2)
<i>Stamp Amendment Act 1990</i> <sup>4</sup>	20 of 1990	24 Jul 1990	24 Jul 1990 (see s. 2)
<i>Acts Amendment (Betting Tax and Stamp Duty) Act (No. 2) 1990 Pt. 2</i>	58 of 1990	17 Dec 1990	Deemed operative 1 Aug 1989 (see s. 2)
<i>R &amp; I Bank Act 1990</i> s. 45	73 of 1990	20 Dec 1990	1 Jan 1991 (see s. 2(2) and <i>Gazette</i> 28 Dec 1990 p. 6369)
<i>Stamp Amendment Act 1991</i> <sup>39</sup>	52 of 1991	17 Dec 1991	s. 4 and 6 deemed operative 29 Aug 1991 (see s. 2(2)); balance: 17 Dec 1991 (see s. 2(1))
<i>Stamp Amendment Act (No. 2) 1991</i>	53 of 1991	17 Dec 1991	17 Dec 1991 (see s. 2)
<i>SGIO Privatisation Act 1992</i> s. 29	49 of 1992	9 Dec 1992	7 Jan 1993 (see s. 2(3) and <i>Gazette</i> 7 Jan 1993 p. 15)
<i>Stamp Amendment Act 1993</i>	42 of 1993	20 Dec 1993	Pt. 2: 1 Jan 1994 (see s. 2(2)); s. 6: 11 Jan 1994 (see s. 2(3) and <i>Gazette</i> 11 Jan 1994 p. 43); balance: 20 Dec 1993 (see s. 2(1))
<i>R &amp; I Bank Amendment Act 1994</i> s. 13	6 of 1994	11 Apr 1994	26 Apr 1994 (see s. 2 and <i>Gazette</i> 26 Apr 1994 p. 1743)
<i>Stamp Amendment Act 1994</i>	39 of 1994	26 Aug 1994	1 Sep 1994 (see s. 2)
<i>Stamp Amendment Act (No. 2) 1994</i> <sup>13,30</sup>	79 of 1994	22 Dec 1994	22 Dec 1994 (see s. 2)
<i>Bank of Western Australia Act 1995</i> s. 44	14 of 1995	4 Jul 1995	1 Dec 1995 (see s. 2(3) and <i>Gazette</i> 29 Nov 1995 p. 5529)
<i>Road Traffic Amendment Act 1995</i> s. 14	21 of 1995	13 Jul 1995	25 Nov 1995 (see s. 2 and <i>Gazette</i> 24 Nov 1995 p. 5390)

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Stamp Amendment (Marketable Securities Duty) Act 1995</i> <sup>40</sup>	22 of 1995	13 Jul 1995	Deemed operative 1 Jul 1995 (see s. 2)
<i>Stamp Amendment Act 1995</i> <sup>5, 9, 22</sup>	41 of 1995	24 Oct 1995	24 Oct 1995 (see s. 2)
<i>Acts Amendment (Vehicle Licences) Act 1995 Pt 3</i>	57 of 1995	20 Dec 1995	20 Dec 1995 (see s. 2)
<b>Reprint of the Stamp Act 1921 as at 23 Jan 1996</b> (includes amendments listed above)			
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Revenue Laws Amendment (Assessment) Act 1996</i> Pt 5 <sup>14</sup>	20 of 1996	28 Jun 1996	28 Jun 1996 (see s. 2(1))
<i>Acts Amendment (ICWA) Act 1996</i> s. 38	45 of 1996	25 Oct 1996	1 Oct 1997 (see s. 2 and <i>Gazette</i> 23 Sep 1997 p. 5357)
<i>Revenue Laws Amendment (Assessment) Act (No. 2) 1996</i> Pt. 5	48 of 1996	25 October 1996	Div. 1 and 2 of Pt. 5 deemed operative 30 Nov 1995 (see s 2(2)); Div. 3 deemed operative 15 Jul 1996 (see s. 2(3)); Div. 4 deemed operative 1 Oct 1996 (see s 2(4)); Div. 5 operative 25 Oct 1996 (see s. 2(1))
<i>Stamp Amendment Act 1996</i> <sup>18</sup>	57 of 1996	11 Nov 1996	Deemed operative 20 Nov 1995 (see s. 2)
<i>Strata Titles Amendment Act 1996</i> s. 40	61 of 1996	11 Nov 1996	20 Jan 1997 (see s. 2 and <i>Gazette</i> 17 Jan 1997 p. 405)
<i>Road Traffic Amendment Act 1996</i> Pt. 3 Div. 8	76 of 1996	14 Nov 1996	1 Feb 1997 (see s. 2 and <i>Gazette</i> 31 Jan 1997 p. 613)
<i>Transfer of Land Amendment Act 1996</i> s. 153(1) and (2)	81 of 1996	14 Nov 1996	14 Nov 1996 (see s. 2(1))
<i>Revenue Laws Amendment (Assessment) Act 1997</i> Pt. 4 <sup>41,42</sup>	13 of 1997	25 Jun 1997	Div. 2 of Pt. 4 deemed operative 27 Dec 1996 (see s. 2(3)); Div. 3 deemed operative 14 Jan 1997 (see s. 2(4)); Div. 4 deemed operative 12 May 1997 (see s. 2(5)); Div. 5 and 6: 25 Jun 1997 (see s. 2)

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Acts Amendment (Land Administration) Act 1997</i> Pt. 55 and s. 141	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2(1) and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>Acts Amendment and Repeal (Family Court) Act 1997</i> s. 37	41 of 1997	9 Dec 1997	26 Sep 1998 (see s. 2)
<i>Revenue Laws Amendment (Assessment) Act (No. 2) 1997</i> Pt. 3	51 of 1997	12 Dec 1997	12 Dec 1997 (see s. 2)
<i>Statutes (Repeals and Minor Amendments) Act 1997</i> s. 113	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2)
<i>Revenue Laws Amendment (Taxation) Act 1998</i> Pt. 3 <sup>43,44</sup>	18 of 1998	30 Jun 1998	1 Jul 1998 (see s. 2(2) and also take note of s. 2(4) and (5))
<i>Revenue Laws Amendment (Assessment) Act 1998</i> Pt. 5, Div. 4 of Pt. 6, and Pt. 7	22 of 1998	30 Jun 1998	Pt. 5 Div. 1 and 3: 30 Jun 1998; Div. 2 deemed operative 1 Oct 1997; Div. 4: 1 Jul 1998; Pt. 6 Div. 4: 2 Jul 1998 (see s. 2(1)); Pt. 7: 30 Jun 1998 (see s. 2)
<i>Revenue Laws Amendment (Assessment) Act (No. 2) 1998</i> Pt. 3 <sup>26</sup>	58 of 1998	18 Dec 1998	s. 8 deemed operative 30 Mar 1998 (see s. 2(2)); Balance: 18 Dec 1998 (see s. 2)
<i>Friendly Societies (Western Australia) Act 1999</i> s. 23	2 of 1999	25 Mar 1999	24 May 1999 (see s. 2 and <i>Gazette</i> 21 May 1999 p. 1999)
<i>Revenue Laws Amendment (Assessment) Act 1999</i> Pt. 2	24 of 1999	29 Jun 1999	s. 4 deemed operative 1 Jul 1998; s. 5 and 6: 29 Jun 1999 (see s. 2(1)); s. 7: 1 Jul 1999 (see s. 2(3))
<i>Revenue Laws Amendment (Taxation) Act 1999</i> Pt. 3 <sup>21</sup>	25 of 1999	29 Jun 1999	1 Jul 1999 (see s. 2(4))
<i>Acts Amendment and Repeal (Financial Sector Reform) Act 1999</i> s. 103	26 of 1999	29 Jun 1999	1 Jul 1999 (see s. 2(1) and <i>Gazette</i> 30 Jun 1999 p. 2905)

**Reprint of the Stamp Act 1921 as at 22 Oct 1999** (includes amendments listed above)

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Financial Relations Agreement (Consequential Provisions) Act 1999</i> Pt. 5 <sup>45</sup>	53 of 1999	13 Dec 1999	Div. 1 and 3 of Pt. 5: 13 Dec 1999 (see s. 2(1)); Div 2: 1 Jul 2001 (see s. 2(2))
<i>Acts Amendment (Continuing Lotteries) Act 2000</i> Pt. 2 <sup>25</sup>	6 of 2000	11 Apr 2000	1 Jul 2000 (see s. 2 and <i>Gazette</i> 23 Jun 2000 p. 3191)
<i>Stamp Amendment Act 2000</i>	28 of 2000	6 Jul 2000	6 Jul 2000 (see s. 2)
<i>Revenue Laws Amendment (Assessment) Act 2000</i> Pt. 2 <sup>15,16</sup>	29 of 2000	6 Jul 2000	6 Jul 2000 (see s. 2(1))
<i>Stamp Amendment Act (No. 3) 2000</i> <sup>20</sup>	60 of 2000	4 Dec 2000	Deemed operative 10 Aug 2000 (see s. 2)
<i>Revenue Laws Amendment (Assessment) Act 2001</i> Pt. 4	3 of 2001	26 Jun 2001	Div. 1 and 2: 26 Jun 2001 (see s. 2(1)); Div. 3: 30 Jun 2001 (see s. 2(4)); Div. 4: 1 Jul 2001 (see s. 2(6))
<i>Revenue Laws Amendment (Taxation) Act 2001</i> Pt. 3	4 of 2001	26 Jun 2001	30 Jun 2001 (see s. 2(4))
<i>Corporations (Consequential Amendments) Act 2001</i> Pt. 48	10 of 2001	28 Jun 2001	15 Jul 2001 (see s. 2 and <i>Gazette</i> 29 Jun 2001 p. 3257 and <i>Cwlth Gazette</i> 13 Jul 2001 No. S285)
<i>Building Societies Amendment Act 2001</i> s. 51	12 of 2001	13 Jul 2001	13 Jul 2001 (see s. 2)
<b>Reprint of the Stamp Act 1921 as at 3 Aug 2001</b> (includes amendments listed above) (Correction to reprint in <i>Gazette</i> 23 November 2001 p.6030)			
<i>Revenue Laws Amendment (Assessment) Act (No. 2) 2001</i> Pt. 5 & 6	36 of 2001	7 Jan 2002	7 Jan 2002 (see s. 2(1))
<i>Revenue Laws Amendment (Taxation) Act (No. 2) 2001</i> Pt. 4 (s. 13-15)	37 of 2001	7 Jan 2002	s. 13: 7 Jan 2002 (see s. 2(1)); s. 14: 7 Jan 2002 (see s. 2(4)); s. 15: 7 Jan 2002 (see s. 2(5))
<i>Machinery of Government (Planning and Infrastructure) Amendment Act 2002</i> s. 65	7 of 2002	19 Jun 2002	1 Jul 2002 (see s. 2 and <i>Gazette</i> 28 Jun 2002 p. 3037)
<i>Stamp Amendment (Budget) Act 2002</i> <sup>47-49</sup>	11 of 2002	28 Jun 2002	1 Jul 2002 (see s. 2)
<i>Family Court Amendment Act 2002</i> s. 52	25 of 2002	25 Sep 2002	1 Dec 2002 (see s. 2 and <i>Gazette</i> 29 Nov 2002 p. 5651)

Short title	Number and year	Assent	Commencement
<i>Corporations (Consequential Amendments) Act (No. 3) 2003</i> Pt. 14 <sup>53</sup>	21 of 2003	23 Apr 2003	11 Mar 2002 (see s. 2 and Cwlth <i>Gazette</i> 24 Oct 2001 (No. GN42))

- 1a On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnote referred to after the short title.

**Provisions that have not come into operation**

Short title	Number and year	Assent	Commencement
<i>Road Traffic Amendment Act 2000</i> Pt. 3 Div. 3 <sup>46</sup>	39 of 2000 (as amended by No. 45 of 2002 s. 28(3))	10 Oct 2000	To be proclaimed (see s. 2)
<i>Road Traffic Amendment (Vehicle Licensing) Act 2001</i> Pt. 3 Div. 4 <sup>52</sup>	28 of 2001 (as amended by No. 45 of 2002 s. 29(3) & 31(3))	21 Dec 2001	To be proclaimed (see s. 2)
<i>Taxation Administration (Consequential Provisions) Act 2002</i> s. 6 <sup>54</sup>	45 of 2002	20 Mar 2003	Operative on commencement of the <i>Taxation Administration Act 2003</i> (see s. 2)
<i>Taxation Administration (Consequential Provisions) (Taxing) Act 2002</i> Pt. 3 <sup>55</sup>	46 of 2002	20 Mar 2003	Operative on commencement of the <i>Taxation Administration Act 2003</i> (see s. 2)
<i>Stamp Amendment Act 2003</i> s. 4-142 <sup>56</sup>	2 of 2003	20 Mar 2003	Operative on commencement of the <i>Taxation Administration Act 2003</i> (see s. 2)

- 2 Under the *Alteration of Statutory Designations Order (No. 2) 1996*, references to the Commissioner of State Taxation are to be construed as references to the Commissioner of State Revenue.
- 3 Under the *Public Sector Management Act 1994* s. 112(1), a reference to the *Public Service Act 1978* is to be read as if it had been amended to be a reference to the *Public Sector Management Act 1994*. The reference was substituted under the *Reprints Act 1984* s. 7(4)(g).
- 4 The *Stamp Amendment Act 1990* s. 3(2) reads as follows:
- “
- (2) Section 15A of the principal Act inserted by subsection (1) applies to a rescission, annulment, discharge or cancellation of an instrument or failure of a matter or matters contained in an

instrument or to which an instrument relates that occurred on or after 1 July 1988.

”.

5 The *Stamp Amendment Act 1995* s. 4(2) reads as follows:

“

- (2) Subsection 3 as inserted in section 27 of the principal Act by this Act applies to an instrument or document executed before or after the commencement of this Act.

”.

6 The *Revenue Laws Amendment (Assessment) Act 1997* s. 36(2) reads as follows:

“

- (2) Section 27(3) as inserted in the principal Act by subsection (1) applies to an instrument or document executed before or after the day on which this section commences.

”.

7 The *Stamp Amendment Act 1985* s. 7(2) reads as follows:

“

- (2) Section 33A inserted in the principal Act by subsection (1) shall have effect only in respect of objections made and appeals brought after the commencement of this section.

”.

8 Under the *Public Sector Management Act 1994* the names of departments can be changed. At the time this compilation was prepared the former State Taxation Department was called the Department of State Revenue.

9 The *Stamp Amendment Act 1995* s. 6(2) reads as follows:

“

- (2) Section 73F is enacted to avoid doubt and does not limit the application of the principal Act as enacted before the commencement of this section to transactions entered into in relation to business licences (within the meaning of that section) before that commencement.

”.

10 The *Stamp Amendment Act (No. 3) 1989* s. 11(2) reads as follows:

“

- (2) Notwithstanding subsection (1), section 75AE(2)(b) of the principal Act as in force before the coming into operation of this section has effect for determining whether a purchaser is an entitled person for the purposes of section 75AE if the conveyance or transfer of property in question was executed before 1 November 1989.

”.

11 The *Stamp Amendment Act (No. 3) 1989* s. 13(2) and (3) read as follows:

- “
- (2) Notwithstanding subsection (1), section 75AG(5)(c)(i) of the principal Act as in force before the coming into operation of this section has effect for determining whether a person is a first home owner for the purposes of section 75AG if the instrument of acquisition of the property in question was executed before 1 November 1989.
  - (3) In subsection (2) “**instrument of acquisition**” has the same meaning as it has in section 75AG of the principal Act.
- ”

12 The *Revenue Laws Amendment (Assessment) Act 1997* s. 38(3) reads as follows:

- “
- (3) Section 75AG(10) of the principal Act as amended by subsection (1) and section 75AG(10a) as inserted in the principal Act by subsection (2) apply to instruments of acquisition, within the meaning of section 75AG(1) of the principal Act, that are executed on or after the day on which this section commences.
- ”

13 The *Stamp Amendment Act (No. 2) 1994* s. 4(2) reads as follows:

- “
- (2) An exemption or refund may be allowed under Part IIIBAA of the principal Act as inserted by this section in respect of an instrument executed on or after the day on which this Act comes into operation.
- ”

14 The *Revenue Laws Amendment (Assessment) Act 1996* s. 32(5) reads as follows:

- “
- (5) Section 75E of the principal Act as amended by this Act applies to an instrument executed on or after the commencement of the *Revenue Laws Amendment (Assessment) Act 1996*.
- ”

15 The *Revenue Laws Amendment (Assessment) Act 2000* s. 6(2) reads as follows:

- “
- (2) In the event of a cessation of ownership or control referred to in section 75JB(5f)(a) or (b) of the *Stamp Act 1921* as inserted by subsection (1) taking place on or after 25 May 2000 and before this Act receives the Royal Assent, the notification required by section 75JB(5f)(c) of that Act is to be given within one month after this Act receives the Royal Assent.
- ”

16 The *Revenue Laws Amendment (Assessment) Act 2000* s. 8(2), (3) and (4) read as follows:

- “
- (2) In subsections (3) and (4) —  
“**transitional period**” means the period beginning on 25 October 1999 and ending when subsection (1) comes into operation.

- (3) If an exemption under section 75JB of the *Stamp Act 1921* has been granted during the transitional period and the Commissioner is of the opinion that it would not have been granted if subsection (1) had come into operation on 25 October 1999, the claw-back under Part IIIBAAA of that Act applies.
- (4) Section 75JDA(4) of the *Stamp Act 1921* does not apply to a requirement under section 75JC(5) of that Act if the determination under section 75JC was made during the transitional period.

”

17 Repealed by the *Mining Act 1978*.

18 The *Stamp Amendment Act 1996* s. 9 reads as follows:

“

**9. Transitional**

- (1) If because of the amendments made by this Act to the *Stamp Act 1921*, a person is required under Division 2 of Part IIIBA of that Act to lodge a statement in respect of a relevant acquisition that occurred on or after 20 November 1995 and before this Act receives the Royal Assent, then despite section 76AG(3) of that Act the statement shall be lodged within 3 months after the date on which this Act receives the Royal Assent.
- (2) If under section 112HA of the *Stamp Act 1921* as inserted by section 8 of this Act, a statement in respect of a capital reduction or a share cancellation is required to be lodged by that section before this Act receives the Royal Assent, then despite section 112HA of that Act the statement shall be lodged within 3 months after the date on which this Act receives the Royal Assent.

”

19 The *Stamp Amendment Act 1987* s. 4 reads as follows:

“

**4. Retrospective application and transitional provisions**

- (1) Section 76AG inserted in the principal Act by section 22 of this Act extends to any relevant acquisition of a majority interest or a further interest in a company to which Division 2 of Part IIIBA of the principal Act applies that occurred on or after 19 January 1987, and the provisions of Divisions 1 and 2 of that Part and any regulations having effect for the purposes of those Divisions shall have effect accordingly.
- (2) Section 76AN inserted in the principal Act by section 22 of this Act extends to any relevant acquisition of a majority interest or a further interest in a corporation to which Division 3 of Part IIIBA of the principal Act applies that occurred on or after 19 January 1987, and the provisions of Divisions 1 and 3 of that Part and any regulations having effect for the purposes of those Divisions shall have effect accordingly.
- (3) Subsections (1) and (2) have effect notwithstanding that duty on an instrument effecting or evidencing an acquisition has already been paid under item 4 (3) of the Second Schedule.

- (4) A statement required by subsection (1) or (2) shall be prepared and lodged not later than 3 months after the commencement of this section.
- (5) Notwithstanding subsection (1) or (2), a previous acquisition referred to in subparagraph (ii) of section 76AJ(1)(a) or subparagraph (ii) of section 76AQ(1)(a) of the principal Act shall not be taken into account for the purposes of that subparagraph if it occurred before 19 January 1987.
- (6) Regulations having retrospective effect to 19 January 1987 may be made under section 120(1) of the principal Act so far as it is necessary or expedient to do so to give effect to this section.
- (7) An expression used in this section in relation to a Division of Part IIIA of the principal Act has the same meaning as it has for the purposes of that Division.

20

The *Stamp Amendment Act (No. 3) 2000* s. 21 reads as follows:

“

**21. Transitional**

- (1) In this section —
  - “**amended provisions**” means the provisions of Part IIIA and sections 32, 73DA, 75HA, 75I and 75J of the *Stamp Act 1921* as enacted after the coming into operation of this Act;
  - “**existing provisions**” means the provisions of Part IIIA and sections 32, 73DA, 75HA, 75I and 75J of the *Stamp Act 1921* as enacted before the coming into operation of this Act.
- (2) Subject to subsection (3), the existing provisions continue to apply to and in relation to an acquisition of an interest in a corporation that occurred before 10 August 2000 and the amended provisions do not apply to it.
- (3) Subsection (2) does not affect the operation of the amended provisions in relation to an acquisition of an interest that occurred before 10 August 2000 in so far as those provisions have effect for the purpose of determining whether an acquisition that occurred on or after 10 August 2000 is a relevant acquisition for the purposes of those provisions.
- (4) If —
  - (a) a legally enforceable agreement in writing was executed before 10 August 2000;
  - (b) that agreement created before 10 August 2000 an entitlement to an interest in a corporation; and
  - (c) that entitlement resulted or results in that interest being acquired on or after 10 August 2000 but before 1 January 2001,
 the acquisition of that interest is to be regarded for the purposes of subsections (2) and (3) as having occurred before 10 August 2000.
- (5) Despite section 76AG(3) or 76AN(2), as the case may be, of the amended provisions, if —

- (a) an acquisition of an interest in a corporation occurred on or after 10 August 2000 but before this Act receives the Royal Assent;
- (b) a statement has to be lodged under section 76AG or 76AN in respect of that acquisition because of the operation of the amended provisions; and
- (c) the existing provisions would not have required such a statement to be lodged,

the statement may be lodged at any time before the end of the period of 3 months after the day on which this Act receives the Royal Assent.

”.

21 The *Revenue Laws Amendment (Taxation) Act 1999* s. 7(2), (3) and (4) read as follows:

“

- (2) Subject to subsection (3), if an application for the issue or transfer of a motor vehicle licence is made to a licensing authority before this section commences, then the *Stamp Act 1921* as it was in force immediately before this section commences continues to operate in respect of the issue or transfer of the licence.
- (3) If —
  - (a) an application for the issue or transfer of a motor vehicle licence is made to a licensing authority on or after 1 July 1999; and
  - (b) stamp duty in respect of the issue or transfer is not paid before the day on which this section commences,then the *Stamp Act 1921* as amended by subsection (1) operates in respect of the issue or transfer of the licence.
- (4) If under section 76C(9), (10) or (10C) of the *Stamp Act 1921* duty is assessed before this section commences, then the *Stamp Act 1921* as it was in force immediately before this section commences continues to operate in respect of any issue or transfer of a licence as a result of the assessment.

”.

22 The *Stamp Amendment Act 1995* s. 8(2) and (3) read as follows:

“

- (2) Section 76CA as inserted in the principal Act by this Act applies to an application for a transfer of a licence for a motor vehicle made after the commencement of this Act.
- (3) Section 76CB as inserted in the principal Act by this Act applies to an application for a licence or transfer of a motor vehicle made after the commencement of this Act.

”.

23 The *Revenue Laws Amendment (Assessment) Act 1997* s. 39(2) and (3) read as follows:

“

- (2) Section 76D of the principal Act as it was in force immediately before the commencement day continues to have effect after the commencement day in relation to deeds made before the commencement day despite the repeal of Part IIIICA by this Act.
- (3) In subsection (2) —  
“**commencement day**” means the day on which this Act comes into operation.

”

24

Now see *Stamp Act Regulations 1979*.

25

The *Acts Amendment (Continuing Lotteries) Act 2000* Pt. 4 reads as follows:

“

## **Part 4 — Savings and transitional provisions**

### **17. Interpretation**

In this Part —

“**commencement day**” means the day on which this Act comes into operation;

“**Commission**” means the Gaming Commission of Western Australia, established under the *Gaming Commission Act 1987*;

“**Commissioner of State Revenue**” means the chief executive officer of the State Revenue Department;

“**Gaming Commission Act**” means the *Gaming Commission Act 1987* as amended by this Act;

“**Stamp Act**” means the *Stamp Act 1921* as in force immediately prior to the commencement day.

### **18. Licences**

A licence issued under Part IVAA of the Stamp Act and in force immediately before the commencement day —

- (a) is taken to be a licence issued under Part V Division 7 of the Gaming Commission Act; and
- (b) subject to that Division, continues in force until —
  - (i) the day on which the licence would have expired under Part IVAA of the Stamp Act; or
  - (ii) 5 years after the commencement day,whichever is the earlier.

### **19. Cancellation of licence**

For the purposes of section 104B(3)(c) of the Gaming Commission Act, the cancellation of a licence under Part IVAA of the Stamp Act is to be treated as if it were a cancellation under the Gaming Commission Act, Part V Division 7.

### **20. Pending appeals**

- (1) Subject to subsection (2), an appeal commenced under section 111 of the Stamp Act before the commencement day, may be continued and dealt with as if the amendments in Parts 2 and 3 of this Act had not been passed.

- (2) For the purposes of continuing and dealing with pending appeals, if a Local Court wishes to exercise its power, under section 111(3)(b) of the Stamp Act, to remit a matter under appeal, it is to remit that matter to the Commission, instead of the Commissioner of State Revenue.

**21. Continuing effect of approvals**

Any approval granted under section 111B of the Stamp Act continues in force until that approval is varied or revoked by the Commission under section 104F(2) of the Gaming Commission Act.

**22. Returns**

If duty payable to the Commissioner of State Revenue under section 111B of the Stamp Act on a return lodged, or to be lodged, with the Commissioner of State Revenue under section 111B of the Stamp Act has not been paid prior to the commencement day then, despite this Act, the duty payable continues as a debt due to the Commissioner of State Revenue.

**23. Refund of duty**

Where a licensed supplier is entitled to a refund of duty from the Commissioner of State Revenue under section 111D of the Stamp Act, and that duty has not been refunded before or on the commencement day, then despite this Act, the licensed supplier is entitled to a refund of that amount of duty from the Commissioner of State Revenue.

**24. Memoranda**

- (1) Where the Commissioner of State Revenue was entitled to create a memorandum under section 111E of the Stamp Act, and that entitlement had not been exercised by the Commissioner of State Revenue before or on the commencement day, then on and from the commencement day the Commission is instead entitled to create that memorandum.
- (2) In addition to the entitlement under subsection (1), the Commission is entitled to assess the amount to be paid (including any fine), and to collect the outstanding amount, in relation to a memorandum created under subsection (1).

”

26 The *Revenue Laws Amendment (Assessment) Act (No. 2) 1998* s. 7(2) reads as follows:

“

- (2) Section 112AB of the *Stamp Act 1921* as inserted by subsection (1) applies to a share buy-back, within the meaning of that section, carried out before, on or after the day on which this section commences.

”

27 The *Revenue Laws Amendment Act (Assessment) 1997* s. 29 reads as follows:

“

**29. Transitional**

A WA company may, within 15 days of the end of the month in which this Act receives the Royal Assent, lodge a return and pay

duty under section 112FU as inserted in the principal Act by section 27 in respect of a transfer registered by the WA company after 14 January 1997 and before this Act received the Royal Assent and in that case the return is taken to have been made, and the duty is taken to have been paid, in accordance with section 112FU.

”.

28 The *Stamp Amendment Act 1981* s. 5(2) reads as follows:

“

- (2) Where duty has been or is being paid under section 112K of this Act in respect of a loan, other than a loan upon an account current, at the rate provided for by that section as it was prior to the coming into operation of this section of this Act, section 112K(1)(b) shall continue to apply in respect of every such loan as if this section had not been enacted.

”.

29 The *Stamp Amendment Act (No. 2) 1987* s. 9(2) reads as follows:

“

- (2) A notice of election given under section 112K(2) of the principal Act as in force before the commencement of this Act and not cancelled shall continue to have effect as if given under that subsection after the commencement of this Act.

”.

30 The *Stamp Amendment Act (No. 2) 1994* s. 5(2) and (3) read as follows:

“

- (2) If before the commencement of this Act, duty has been paid under item 8(1) of the Second Schedule to the principal Act in respect of an instrument that is exempt from duty because of the amendment to the Third Schedule made by subsection (1), the person by or on whose behalf the duty was paid may make written application to the Commissioner for the refund of the duty.
- (3) On receipt of an application under subsection (1) and on being satisfied that the applicant is the person by or on whose behalf the duty was paid, the Commissioner is to refund the duty to the applicant.

”.

31 Now the *Public Works Act 1902*.

32 The *Acts Amendment (Land Administration) Act 1997* came into operation 30 Mar 1998.

33 Now Minister for Resources Development.

34 The *Stamp Act Amendment Act 1929* was repealed by the *Stamp Act Amendment Act (No. 3) 1930* s. 4.

35 The renumbering of Parts, Divisions, sections, etc., effected in the 1934 reprint (in the appendix to the annual sessional volume of 1933-1934) and subsequent reprints has been retained. References to the original numbering are contained in those reprints.

36 The *Stamp Act Amendment Act (No. 2) 1952* was repealed by the *Betting Control Act 1954* s. 3(1) before it commenced operation.

37 The Second Schedule to the *Metric Conversion Act 1972* was inserted by the *Metric Conversion Act Amendment Act 1973*.

38 The *Stamp Amendment Act 1986* s. 21(2) reads as follows:

“

- (2) The exemptions provided for by subitems (2) and (3) inserted by paragraph (b) of subsection (1) apply to a policy of insurance, or a renewal, entered into after the commencement of that paragraph.

”.

39 The *Stamp Amendment Act 1991* s. 8(2) of reads as follows:

“

- (2) Nothing in this section affects the approval of an odd lot specialist given under the principal Act before the coming into operation of this section and any odd lot specialist so approved shall be taken to have been approved as an odd lot specialist under the principal Act as amended by this Act.

”.

40 The *Stamp Amendment (Marketable Securities Duty) Act 1995* s. 5 reads as follows:

“

#### **5. Saving provision**

The principal Act as in force immediately before the commencement of this Act continues to operate in respect of conveyances and transfers of marketable securities and rights in respect of shares made or executed before 1 July 1995.

”.

41 The *Revenue Laws Amendment (Assessment) Act 1997* s. 24 reads as follows:

“

#### **24. Reassessment**

- (1) This Division has effect notwithstanding that duty on an instrument has been assessed on or after 27 December 1996 and before the day on which this Act receives the Royal Assent (the “**original assessment**”).
- (2) If it appears to the Commissioner that the original assessment is for a lesser amount than would be assessed under the principal Act as amended by this Division, the Commissioner may make a reassessment of the duty chargeable.
- (3) The reassessment supersedes the original assessment.
- (4) The reassessment is taken to have been made under the principal Act and the provisions of the principal Act apply to and in relation to the reassessment as if it were an assessment under that Act.

”.

42 The *Revenue Laws Amendment (Assessment) Act 1997* s. 48 reads as follows:

“

**48. Transitional**

The Commissioner is to refund the amount of any duty paid on a vehicle licence if —

- (a) the licence was issued on or after 16 January 1997;
- (b) the Commissioner is satisfied that, because of the amendments made to the principal Act by this Division duty is not payable on that licence; and
- (c) an application is made in writing to the Commissioner for the refund within 12 months after the duty was paid.

”.

43 The *Revenue Laws Amendment (Taxation) Act 1998* s. 13 reads as follows:

“

**13. Saving**

Subject to section 2(4) and(5), and without limiting the operation of the *Interpretation Act 1984*, the provisions of the *Stamp Act 1921* as in force immediately before 1 July 1998 continue to have effect in relation to instruments executed before 1 July 1998.

”.

44 The *Revenue Laws Amendment (Taxation) Act 1998* s. 2(4) and (5) read as follows:

“

- (4) Section 12(11) is deemed to have come into operation on 30 April 1998 in relation to a policy of insurance that is effected on or after 30 April 1998 and before 1 July 1998 if —
  - (a) the period for which the policy is valid commences on or after 1 July 1998; or
  - (b) the period for which the policy is valid commences on or after 30 April 1998 and before 1 July 1998 and the policy replaces another policy with the same insurer that would otherwise have expired on or after 1 July 1998.
- (5) Section 12(11) is deemed to have come into operation on 30 April 1998 in relation to a policy of insurance that is renewed on or after 30 April 1998 and before 1 July 1998 if —
  - (a) the period for which the policy is renewed commences on or after 1 July 1998; or
  - (b) the policy being renewed would otherwise have expired on or after 1 July 1998.

”.

45 The *Financial Relations Agreement (Consequential Provisions) Act 1999* s. 3 and 32 read as follows:

### 3. Objectives

The main objectives of this Act are —

- (a) to record the intention of this State to comply with, and give effect to, the *Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations*, a copy of which is set out in Schedule 1; and
- (b) to implement, in part, measures described in that agreement.

### 32. Savings

- (1) Subject to subsection (2), the former provisions continue to apply as if this Division were not enacted, to and in relation to —
  - (a) information referred to in section 9(1c) of those provisions that was acquired on or before 30 June 2001 or during the continued application under this section of Part IVA Division 4 of those provisions;
  - (b) instruments referred to in section 112D of those provisions that were executed on or before 30 June 2001 and the subsequent SCH-regulated transfers;
  - (c) transfers referred to in section 112E or 112F of those provisions that were made on or before 30 June 2001;
  - (d) sales and purchases referred to in Part IVA Division 3 of those provisions that were made or deemed to have been made on or before 30 June 2001;
  - (e) SCH-regulated transfers to which Part IVA Division 4 of those provisions applies that were made on or before 30 June 2001;
  - (f) matters referred to in Part IVA Division 5 of those provisions, until all instruments required to be endorsed under section 112D of those provisions have been so endorsed;
  - (g) relevant transactions referred to in Part IVAB of those provisions that were made or effected, or deemed to have been made or effected, on or before 30 June 2001;
  - (h) the matters referred to in the Second Schedule item 4A of those provisions where the conveyances or transfers were made on or before 30 June 2001; and
  - (i) exemptions in the Third Schedule of those provisions where the conveyances, transfers, sales or purchases were made on or before 30 June 2001.
- (2) Regulations may be made under section 120 of the *Stamp Act 1921* that, subject to any condition that the regulations may impose, terminate an obligation that, because of subsection (1), would otherwise continue under —
  - (a) section 112E(6) and (7) of the former provisions, in relation to a record referred to in section 112E(5) of the former provisions;
  - (b) section 112F(11) and (12) of the former provisions, in relation to a record referred to in section 112F(10) of the former provisions;

- (c) section 112FI(5) and (6) of the former provisions, in relation to a record referred to in section 112FI(3) of the former provisions;
- (d) section 112FJ(3) and (4) of the former provisions, in relation to a copy of an instrument endorsed under section 112FJ(2) of the former provisions;
- (e) section 112FQ of the former provisions, in relation to the particulars and records referred to in that section; or
- (f) section 112GF of the former provisions, in relation to books and records referred to in that section.

(3) In this section —

“**former provisions**” means the *Stamp Act 1921* as in force immediately before the coming into operation of this Division.

”.

46 On the date on which this compilation was prepared, the *Road Traffic Amendment Act 2000* Pt. 3 Div. 3 had not come into operation. That Division is to be repealed by the *Taxation Administration (Consequential Provisions) Act 2002* s. 28(3). Pt. 3 Div. 3 of the *Road Traffic Amendment Act 2000* reads as follows:

“

### **Division 3 — *Stamp Act 1921* amended**

**63. The Act amended**

The amendments in this Division are to the *Stamp Act 1921*.

**64. Section 76B amended**

Section 76B(1) is amended in the definition of “transfer” by deleting “section 24” and inserting instead —

“ section 17 ”.

**65. Section 76C amended**

- (1) Section 76C(10B) is amended by deleting “section 24(2c)” in the 3 places where it occurs and inserting instead —

“ section 24(2d) ”.

- (2) Section 76C(13C) is amended by deleting “section 24(2c)” and inserting instead —

“ section 24(2d) ”.

”.

47 Between 16 May 2002 and 30 June 2002, the amendments in Part 4 of the *Stamp Amendment (Budget) Act 2002* operated in relation to policies of insurance issued under the *Motor Vehicle (Third Party Insurance) Act 1943* that —

- (a) were effected or renewed on or after 16 May 2002 but before 1 July 2002; and
- (b) are valid for a period commencing on or after 1 July 2002.

See section 2(4) of the *Stamp Amendment (Budget) Act 2002*.

48 The *Stamp Amendment (Budget) Act 2002* s. 5 reads as follows:

“

**5. Transitional**

Despite the amendments effected by this Part, the *Stamp Act 1921* as in force immediately before 1 July 2002 continues to apply to and in relation to instruments of a kind referred to in the Second Schedule item 4(1) to that Act that were executed before 1 July 2002.

”

49

The *Stamp Amendment (Budget) Act 2002* s. 9 reads as follows:

“

**9. Transitional**

- (1) Despite the amendments effected by this Part, the *Stamp Act 1921* as in force immediately before the commencement day continues to apply to and in relation to the issue or transfer of a motor vehicle licence the application for which was made before the commencement day.
- (2) Despite subsection (1), if —
  - (a) the commencement day is after 1 July 2002;
  - (b) an application for the issue or transfer of a motor vehicle licence is made to a licensing authority on or after 1 July 2002; and
  - (c) stamp duty in respect of the issue or transfer of the licence is not paid before the commencement day,then the *Stamp Act 1921* as amended by this Part applies to and in relation to the issue or transfer of the licence.
- (3) If, under section 76C(9), (10) or (10C) of the *Stamp Act 1921*, the amount of duty payable in respect of the issue or transfer of a licence is assessed before the commencement day, then the *Stamp Act 1921* as in force immediately before that day continues to apply to and in relation to the issue or transfer of the licence and the assessment.
- (4) In this Part —  
“**commencement day**” means day on which this Part comes into operation.

”

50

Under the *Commonwealth Places (Mirror Taxes Administration) Act 1999* s. 7 this Act is to be read and construed with any modifications referred to in subsection (1) of that section and, in particular, with the modifications set out in the *Commonwealth Places (Mirror Taxes Administration) Regulations 2002*. Pt. 1 and Pt. 7 Div. 1 of those regulations read as follows:

“

**Part 1 — Preliminary**

**1. Citation**

These regulations may be cited as the *Commonwealth Places (Mirror Taxes Administration) Regulations 2002*.

**2. Commencement**

- (1) These regulations do not have effect unless an arrangement is in operation under section 5 of the Act.
- (2) When such an arrangement is in operation, these regulations and the modifications they prescribe are deemed to have taken effect on 6 October 1997.
- (3) If a State taxing law was repealed before these regulations take effect then, despite the repeal, when these regulations are deemed under subsection (2) to have taken effect, the repealed law is deemed to have been modified, in accordance with these regulations, on 6 October 1997.

**3. Modification of State taxing laws**

- (1) In its operation as an applied WA law, the Act is modified by omitting section 7.
- (2) For the purposes of section 7(2) of the Act, each State taxing law is taken to be modified to the extent necessary to give effect to subregulation (3).
- (3) If —
  - (a) a State taxing law applies, or could apply, to any extent, to or in relation to an event, state of affairs or transaction, and the corresponding applied law also applies, or could apply, to any extent, to or in relation to the same event, state of affairs or transaction;
  - (b) a person is required or permitted, or could be required or permitted, to take an action under both the State taxing law and the corresponding applied law in relation to the event, state of affairs or transaction;
  - (c) the person has taken the action in accordance with the corresponding applied law; and
  - (d) the Commissioner has enough information about the event, state of affairs or transaction to carry out his or her functions in relation to it under the State taxing law or the corresponding applied law or both, as the case requires,then —
  - (e) the person is not required to take the action under the State taxing law; and
  - (f) the Commissioner may carry out his or her functions in relation to the event, state of affairs or transaction as if the person had taken whatever action is required or permitted under the State taxing law in relation to the event, state of affairs or transaction.
- (4) The particular modifications set out in these regulations of certain State taxing laws have effect for the purposes of section 7(2) of the Act.

**Part 7 — Stamp duty**

**Division 1 — The *Stamp Act 1921***

**57. Modification of the *Stamp Act 1921***

This Division sets out modifications of the *Stamp Act 1921*.\*.

[\* Reprinted as at 3 August 2001.  
For subsequent amendments see 2001 Index to Legislation of  
Western Australia, Table 1, p. 354, and Acts Nos. 7 and 11  
of 2002.]

**58. Section 2 inserted**

After section 1 the following section is inserted —

“

**2. Application of Act in non-Commonwealth places**

- (1) In this Act, unless the contrary intention appears —
- (a) a reference to this Act is to be read as a reference to this Act in its application as a law of Western Australia;
  - (b) a reference to the regulations is to be read as a reference to those regulations in their application as a law of Western Australia;
  - (c) a reference to the *Revenue Laws Amendment (Assessment) Act 2000* is to be read as a reference to that Act in its application as a law of Western Australia;
  - (d) a reference to the *Stamp Act Amendment Act 1979* is to be read as a reference to that Act in its application as a law of Western Australia;
  - (e) a reference to the *Taxation (Reciprocal Powers) Act 1989* is to be read as a reference to that Act in its application as a law of Western Australia;
  - (f) a reference (however expressed) to an Act administered by the Commissioner is to be read as including a reference to an Act administered by the Commissioner under an arrangement under section 5 of the *Commonwealth Places (Mirror Taxes Administration) Act 1999*.
- (2) This Act is to be read with the applied Stamp Act as a single body of law.
- (3) If this Act requires any duty paid or payable in another State or a Territory to be taken into account for the purpose of calculating the amount of duty payable under this Act, then any duty paid or payable under the applied Stamp Act must also be taken into account if it would have been taken into account under this Act if it were paid or payable solely under this Act.

”.

**59. Section 4 modified**

Section 4(1) is modified by inserting the following definitions in their appropriate alphabetical positions —

“

**“applied interstate law”** means a law of another State in its application as a law of the Commonwealth in or in relation to Commonwealth places in that State in accordance with the Commonwealth Mirror Taxes Act;

“**applied Stamp Act**” means the *Stamp Act 1921* of Western Australia in its application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act;

“**Commonwealth Mirror Taxes Act**” means the *Commonwealth Places (Mirror Taxes) Act 1998* of the Commonwealth;

“**Commonwealth place**” means a Commonwealth place in or in relation to which the applied Stamp Act applies, or is taken to have applied, under the Commonwealth Mirror Taxes Act;

”.

**60. Section 4AA inserted**

After section 4 the following section is inserted —

“

**4AA. Instruments subject to dual liability**

- (1) If an instrument or 2 or more instruments is, are or may be liable for duty under both this Act and the applied Stamp Act, the amount of duty payable is calculated by reference to the amount equal to the sum of —
  - (a) the amount or amounts on which duty is payable under this Act; and
  - (b) the amount or amounts on which duty is payable under the applied Stamp Act.
- (2) The amount of duty payable on the instrument or instruments under this Act is the amount calculated under subsection (1) minus any amount paid or payable under the applied Stamp Act.

”.

**61. Section 8 modified**

- (1) Section 8 is modified by inserting before “The” the subsection designation “(1)”.
- (2) At the end of section 8 the following subsection is inserted —

“

- (2) The Commissioner may use for the purposes of any other Act administered by the Commissioner any information concerning the affairs of any other person acquired by the Commissioner, by reason of his or her office, under or for the purposes of this Act.

”.

**62. Section 9 modified**

Section 9(2) is modified as follows:

- (a) in paragraph (a) by inserting after “this Act” —  
“ or the applied Stamp Act ”;
- (b) in paragraph (b) by inserting after “this Act” —  
“ or the applied Stamp Act ”.

**63. Section 31B modified**

Section 31B(5) is modified by deleting “the law of another State or of a Territory” and inserting instead —

“

the applied Stamp Act or a law in force in another State or a Territory, including an applied interstate law

”.

**64. Section 73D modified**

Section 73D(6a)(b) is modified by deleting “in another jurisdiction” and inserting instead —

“

under the applied Stamp Act or a law in force in another State or a Territory, including an applied interstate law

”.

**65. Section 75AE modified**

After subsection 75AE(2) the following subsection is inserted —

“

(2a) For the purposes of subsection (2)(b), if duty is or may be payable on the instrument of conveyance or transfer of property both under this Act and the applied Stamp Act, the purchaser is entitled to a rebate only if the total value of the property conveyed or transferred by the instrument does not exceed \$135 000.

”.

**66. Section 76AH modified**

Section 76AH(4)(b) is modified by deleting “in another jurisdiction” and inserting instead —

“

under the applied Stamp Act or a law in force in another State or a Territory, including an applied interstate law

”.

**67. Section 76AO modified**

Section 76AO(4)(b) is modified by deleting “in another jurisdiction” and inserting instead —

“

under the applied Stamp Act or a law in force in another State or a Territory, including an applied interstate law

”.

**68. Section 84 modified**

After section 84(4) the following subsection is inserted —

“

(5) In this section —

(a) a reference to duty paid or payable in another State is to be read as including a reference to duty paid or payable

under the applied Stamp Act or under an applied interstate law;

- (b) a reference to an instrument that is exempt in another State is to be read as including a reference to an instrument that is exempt under the applied Stamp Act or under an applied interstate law.

”.

**69. Section 87 modified**

- (1) Section 87(1) is modified by inserting after “Second Schedule” —

“

or item 13 of the Second Schedule to the applied Stamp Act

”.

- (2) Section 87(1b) is modified by inserting after “or (2)” —

“

of the Second Schedule or item 13(1)(a), (1a) or (2) of the Second Schedule to the applied Stamp Act (as the case requires)

”.

**70. Section 112A modified**

Section 112A(1) is modified by deleting the definition of “corresponding law” and inserting the following definition instead —

“

“**corresponding law**” means —

- (a) the applied Stamp Act;
- (b) a law in force in another State or in a Territory that is declared by proclamation to be a corresponding law for the purposes of Division 3; or
- (c) an applied interstate law that corresponds to a law referred to in paragraph (b).

”.

”.

51

Under the *Commonwealth Places (Mirror Taxes Administration) Act 1999* s. 8(2) of the Commonwealth, this Act is to be read and construed with any modifications referred to in subsection (1) of that section and, in particular, with the modifications set out in the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2002*. Pt. 1 and Pt. 7 Div. 1 of that notice read as follows:

“

**Part 1 — Preliminary**

**1. Citation**

This notice may be cited as the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2002*.

**2. Commencement**

- (1) This notice does not have effect unless an arrangement is in operation under section 9 of the Commonwealth Places Mirror Taxes Act in relation to Western Australia.
- (2) When such an arrangement is in operation, this notice and the modifications it prescribes are deemed to have taken effect on 6 October 1997.
- (3) If an applied WA law was repealed before this notice takes effect then, despite the repeal, when this notice is deemed under subsection (2) to have taken effect, the repealed law is deemed to have been modified on 6 October 1997 as set out in this notice.

**3. Definitions**

In this notice —

“**applied WA law**” means the provisions of a State taxing law of Western Australia that apply or are taken to have applied in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act;

“**Commonwealth Mirror Taxes Act**” means the *Commonwealth Places (Mirror Taxes) Act 1998* of the Commonwealth;

“**WA taxing law**” means a State taxing law of Western Australia.

**4. Modification of applied WA laws**

- (1) For the purposes of section 8 of the Commonwealth Mirror Taxes Act, each applied WA law is taken to be modified to the extent necessary to give effect to subregulation (2).
- (2) If —
  - (a) an applied WA law applies, or could apply, to any extent, to or in relation to an event, state of affairs or transaction, and the corresponding State taxing law also applies, or could apply, to any extent, to or in relation to the same event, state of affairs or transaction;
  - (b) a person is required or permitted, or could be required or permitted, to take an action under both the applied WA law and the corresponding State taxing law in relation to the event, state of affairs or transaction;
  - (c) the person has taken the action in accordance with the corresponding State taxing law; and
  - (d) the Commissioner has enough information about the event, state of affairs or transaction to carry out his or her functions in relation to it under the applied WA law or the corresponding State taxing law or both, as the case requires,

then —

- (e) the person is not required to take the action under the applied WA law; and
- (f) the Commissioner may carry out his or her functions in relation to the event, state of affairs or transaction as if the person had taken whatever action is required or permitted under the applied WA law in relation to the event, state of affairs or transaction.

- (3) The particular modifications set out in this notice of certain applied WA laws have effect for the purposes of section 8 of the Commonwealth Mirror Taxes Act.

## **Part 7 — Stamp duty**

### **Division 1 — The applied *Stamp Act 1921***

#### **83. Modification of the applied Act**

This Division sets out modifications of the *Stamp Act 1921*\* of Western Australia.

[\* Reprinted as at 3 August 2001.

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 354, and Acts Nos. 7, 11 and 25 of 2002.]

#### **84. Section 2 inserted**

After section 1 the following section is inserted —

“

#### **2. Application of Act in Commonwealth places**

(1) In this Act, unless the contrary intention appears —

- (a) a reference to this Act is to be read as a reference to this Act in its application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act;
- (b) a reference to the regulations is to be read as a reference to the regulations in their application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act;
- (c) a reference (however expressed) to an Act administered by the Commissioner is to be read as a reference to —
  - (i) an Act of which the Commissioner has the general administration under an arrangement under section 9 of the Commonwealth Mirror Taxes Act; or
  - (ii) an Act administered by the Commissioner as a law of Western Australia;
- (d) a reference to the *Taxation (Reciprocal Powers) Act 1989* is to be read as a reference to the applied Taxation (Reciprocal Powers) Act;
- (e) a reference to the *Gazette* is to be read as a reference to the *Government Gazette* of Western Australia;
- (f) a reference to the Supreme Court is to be read as a reference to the Supreme Court of Western Australia;
- (g) a reference to the Minister is to be read as a reference to the Minister of the Crown in right of

Western Australia to whom the administration of the corresponding Stamp Act is for the time being committed by the Governor of Western Australia;

- (h) a reference to the Treasurer is to be read as a reference to the Treasurer of Western Australia;
- (i) a reference to any of the following Acts is to be read as a reference to the Act of that name of the Parliament of Western Australia —
  - (i) the *Acts Amendment (Continuing Lotteries) Act 2000*;
  - (ii) the *Building Societies Act 1976*;
  - (iii) the *Financial Sector (Transfer of Business) Act 1999*;
  - (iv) the *Gaming Commission Act 1987*;
  - (v) the *Housing Societies Act 1976*;
  - (vi) the *Local Government Act 1995*;
  - (vii) the *Mining Act 1978*;
  - (viii) the *Public Sector Management Act 1994*;
  - (ix) the *Transfer of Land Act 1893*;
  - (x) the *Workers' Compensation and Rehabilitation Act 1981*;

and

- (j) a reference to any of the following enactments is to be read as a reference to the enactment of that name of Western Australia in its application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act —
  - (i) the *Pay-roll Tax Assessment Act 1971*;
  - (ii) the *Revenue Laws Amendment (Assessment) Act 2000*;
  - (iii) the *Stamp Act Amendment Act 1979*;
  - (iv) the *Stamp Act Regulations 1966*.

(2) This Act is to be read with the corresponding Stamp Act as a single body of law.

(3) In addition to being modified as prescribed by the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2002*, this Act is deemed to be further modified to any extent that is necessary or convenient —

- (a) to enable this Act to operate effectively as a law of the Commonwealth; and
- (b) to ensure that the combined liability of a taxpayer under this Act and the corresponding Stamp Act is as nearly as possible the same as the taxpayer's liability would be under the corresponding Stamp Act alone

if the Commonwealth places in Western Australia were not Commonwealth places.

- (4) If this Act requires any duty paid or payable in another State or a Territory, or any duty previously paid, to be taken into account for the purpose of calculating the amount of duty payable under this Act, then any duty paid, payable or previously paid under the corresponding Stamp Act must also be taken into account if it would have been taken into account under this Act if it were paid or payable solely under this Act.

”.

**85. Section 2A modified**

Section 2A(1) is repealed.

**86. Section 4 modified**

- (1) Section 4(1) is modified by inserting the following definitions in their appropriate alphabetical positions —

“

“**Applied Taxation (Reciprocal Powers) Act**” means the *Taxation (Reciprocal Powers) Act 1989* of Western Australia in its application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act;

“**applied interstate law**” means a law of another State in its application as a law of the Commonwealth in or in relation to Commonwealth places in that State in accordance with the Commonwealth Mirror Taxes Act;

“**Commonwealth Mirror Taxes Act**” means the *Commonwealth Places (Mirror Taxes) Act 1998* of the Commonwealth;

“**Commonwealth place**” means a Commonwealth place in or in relation to which this Act applies or is taken to have applied under section 6 of the Commonwealth Mirror Taxes Act;

“**corresponding Stamp Act**” means the *Stamp Act 1921* of Western Australia in its application as a law of Western Australia;

”.

- (2) Section 4(1) is further modified as follows:

- (a) in the definition of “Commissioner” by deleting all the words after “office” and inserting instead —

“

of Commissioner of State Revenue of Western Australia

”;

- (b) by deleting the definition of “the Crown”.

**87. Section 4AA inserted**

After section 4 the following section is inserted —

“

**4AA. Instruments subject to dual liability**

- (1) If an instrument or 2 or more instruments is, are or may be liable for duty under both this Act and the corresponding Stamp Act, the total amount of duty payable is calculated by reference to the amount equal to the sum of —
  - (a) the amount or amounts on which duty is payable under this Act; and
  - (b) the amount or amounts on which duty is payable under the corresponding Stamp Act.
- (2) The amount of duty paid or payable on the instrument or instruments under this Act is the amount equal to the amount calculated under subsection (1) minus any amount paid or payable under the corresponding Stamp Act.

”.

**88. Section 6 modified**

After section 6(2) the following subsections are inserted —

“

- (3) If, under section 6 of the corresponding Stamp Act, the Commissioner has delegated a function under that Act to a person, the corresponding function under this Act is taken to have been delegated to the person under this section.
- (4) A person who is authorised to perform a function under the corresponding Stamp Act is taken to be authorised to perform the corresponding function under this Act.

”.

**89. Section 8 modified**

- (1) Section 8 is modified as follows:
  - (a) by inserting before “The” the subsection designation “(1)”;
  - (b) by inserting after “this Act” —  
“ or the corresponding Stamp Act ”;
  - (c) by inserting before “any other Act” —  
“ this Act or ”.
- (2) At the end of section 8 the following subsection is inserted —

“

- (2) The Commissioner may use for the purposes of any other Act administered by him or her any information concerning the affairs of any other person acquired by the Commissioner by reason of his or her office under or for the purposes of this Act.

”.

**90. Section 9 modified**

Section 9(2) is modified as follows:

- (a) in paragraph (a) by inserting after “this Act” —

- “ or the corresponding Stamp Act ”;
- (b) in paragraph (b) by inserting after “this Act” —  
“ or the corresponding Stamp Act ”.

**91. Section 11 modified**

Section 11 is modified by deleting “on behalf of the Crown”.

**92. Section 15B modified**

Section 15B(1)(b) is modified by deleting “*Financial Administration and Audit Act 1985*” and inserting instead —

“

*Financial Management and Accountability Act 1997* of the Commonwealth

”.

**93. Section 16 modified**

Section 16(1) is modified by deleting “for the use of the Crown”.

**94. Section 26 modified**

- (1) Section 26(1) is modified by deleting “Crown” and inserting instead —

“ Commonwealth ”.

- (2) Section 26(1a) is modified by deleting “Crown” and inserting instead —

“ Commonwealth ”.

**95. Section 31B modified**

Section 31B(5) is modified by deleting “the law of another State or of a Territory” and inserting instead —

“

the corresponding Stamp Act or a law in force in another State or Territory, including an applied law within the meaning of the Commonwealth Mirror Taxes Act,

”.

**96. Section 39A modified**

Section 39A(1) is modified by deleting “Crown” and inserting instead —

“ Commonwealth ”.

**97. Section 73D modified**

Section 73D(6a)(b) is modified by deleting “in another jurisdiction” and inserting instead —

“

under a law in force in another State or Territory

”.

**98. Section 75AE modified**

After section 75AE(2) the following subsection is inserted —

“

(2a) For the purposes of subsection (2)(b), if duty is or may be payable on the instrument of conveyance or transfer of property both under this Act and the corresponding Stamp Act, the purchaser is entitled to a rebate only if the total value of the property conveyed or transferred by the instrument does not exceed \$135 000.

”

**99. Section 76AH modified**

Section 76AH(4)(b) is modified by deleting “in another jurisdiction” and inserting instead —

“

under a law in force in another State or Territory

”

**100. Section 76AO modified**

Section 76AO(4)(b) is modified by deleting “in another jurisdiction” and inserting instead —

“ under a law in force in another State or Territory ”.

**101. Section 84 modified**

After section 84(4) the following subsection is inserted —

“

(5) In this section —

- (a) a reference to duty payable in another State is to be read as including a reference to duty payable under the corresponding Stamp Act or duty payable under a law of another State that applies as a law of the Commonwealth in or in relation to Commonwealth places in the State in accordance with the Commonwealth Mirror Taxes Act; and
- (b) a reference to an instrument that is exempt in another State is to be read as including a reference to an instrument that is exempt under the corresponding Stamp Act or under a law of another State that applies as a law of the Commonwealth in or in relation to Commonwealth places in the State in accordance with the Commonwealth Mirror Taxes Act.

”

**102. Section 87 modified**

Section 87(1) is modified by inserting after “chargeable under item 13” —

“

of the second Schedule of this Act or the corresponding Stamp Act

”

**103. Section 112A modified**

Section 112A(1) is modified by deleting the definition of “corresponding law” and inserting the following definition instead —

“

“**corresponding law**” means —

- (a) the corresponding Stamp Act;
- (b) a law in force in another State or Territory that is declared by proclamation to be a corresponding law for the purposes of Division 3; or
- (c) an applied interstate law that corresponds to a law referred to in paragraph (b).

”.

**104. Section 112K modified**

After section 112K(1a) the following subsection is inserted —

“

- (1b) A reference in subsection (1) to an amount to be shown in a statement does not include a reference to any amount in respect of which stamp duty has been paid under the corresponding Stamp Act.

”.

**105. Section 120 modified**

Section 120(1)(f) is modified by deleting “Crown” and inserting instead —

“ Commonwealth ”.

”.

52

On the date as at which this compilation was prepared, the *Road Traffic Amendment (Vehicle Licensing) Act 2001* Pt. 3 Div. 4 had not come into operation. That Division is to be repealed by the *Taxation Administration (Consequential Provisions) Act 2002* s. 29(3) and 31(3)). Pt. 3 Div. 4 of the *Road Traffic Amendment (Vehicle Licensing) Act 2001* reads as follows:

“

**Division 4 — Stamp Act 1921 amended**

**34. Section 76CB amended**

Section 76CB(1) of the *Stamp Act 1921* is amended by inserting after the definition of “eligible vehicle” —

“

“**First Schedule to the Road Traffic Act 1974**” means the First Schedule to the *Road Traffic Act 1974* as in force immediately before the commencement of the *Road Traffic Amendment (Vehicle Licensing) Act 2001*;

”.

53

The *Corporations (Consequential Amendments) Act (No. 3) 2003* s. 2-4 read as follows:

“

## 2. Commencement

- (1) If this Act receives the Royal Assent before the day on which Schedule 1 to the Financial Services Reform Act comes into operation, this Act comes into operation at the same time as that Schedule comes into operation.
- (2) If this Act receives the Royal Assent on or after the day on which Schedule 1 to the Financial Services Reform Act comes into operation, this Act is deemed to have come into operation at the same time as that Schedule comes into operation.

## 3. Interpretation

In this Part —

“**Financial Services Reform Act**” means the *Financial Services Reform Act 2001* of the Commonwealth;

“**FSR commencement time**” means the time when Schedule 1 to the Financial Services Reform Act comes into operation;

“**statutory rule**” means a regulation, rule or by-law.

## 4. Validation

- (1) This section applies if this Act comes into operation under section 2(2).
- (2) Anything done or omitted to have been done after the FSR commencement time and before this Act receives the Royal Assent that could have been done if this Act had received the Royal Assent before the FSR commencement time is taken to be as valid and lawful, and to always have been as valid and lawful, as it would have been if this Act had received the Royal Assent before the FSR commencement time.
- (3) Anything done or omitted to have been done by a person after the FSR commencement time and before this Act received the Royal Assent that would have been valid and lawful if the Financial Services Reform Act had not commenced, is taken to be valid and lawful.
- (4) Anything done or omitted to have been done after the FSR commencement time and before this Act receives the Royal Assent —
  - (a) that could only have been validly and lawfully done or omitted because this Act received the Royal Assent after the FSR commencement time; and
  - (b) that could not have been validly and lawfully done or omitted if this Act had received the Royal Assent before the FSR commencement time,

is taken not to be valid, and to never have been valid.

”

54

On the date as at which this compilation was prepared, the *Taxation Administration (Consequential Provisions) Act 2002* s. 6 had not come into operation. It reads as follows:

“

6. **Acts Amendment (Continuing Lotteries) Act 2000**

Section 17 of the *Acts Amendment (Continuing Lotteries) Act 2000* is amended by deleting the definition of “Commissioner of State Revenue”.

55

On the date as at which this compilation was prepared, the *Taxation Administration (Consequential Provisions) (Taxing) Act 2002 Pt. 3* had not come into operation. It reads as follows:

**Part 3 — Stamp Act 1921 amended**

8. **The Act amended**

The amendments in this Part are to the *Stamp Act 1921*\*.

9. **Section 112P amended**

After section 112P(2) the following subsection is inserted —

(3) A dutiable statement prepared under subsection (1) is taken to be an instrument evidencing the transaction or offer and is chargeable with duty —

- (a) at the rate of 1.8% of the amount that is or will be payable for the use of the goods; or
- (b) where that amount is not capable of being determined, of an amount of —
  - (i) \$20; and
  - (ii) on 31 August in each year further duty of an amount equal to 1.8% of the amount paid in respect of the use of the goods during the year ending on the preceding 30 June.

10. **Second Schedule amended**

(1) Item 4A in the Second Schedule is deleted and the following item is inserted instead —

4A. CONVEYANCE OR  
TRANSFER OF  
UNLISTED WA  
SECURITY

Conveyance or transfer of  
an unlisted WA security

0.60 for every  
\$100 and every  
fractional part of  
\$100 of the  
amount or value  
of the  
consideration

The transferee,  
or in the case of  
an overseas  
transfer, the  
issuer (s. 104)

- (2) Item 6 in the Second Schedule is amended by deleting “\$20.00 or the same duty as for item 4 or 4A, as the case requires, if less than \$20.00” and inserting instead —

“

The lesser of —  
 (a) \$20; and  
 (b) the duty that would be payable under item 4 or 4A (as the case may be) if the conveyance or transfer was chargeable with duty under that item

”

”

56

On the date as at which this compilation was prepared, the *Stamp Amendment Act 2003* s. 4-142 had not come into operation. They read as follows:

“

**4. Sections 2A and 3 repealed**

Sections 2A and 3 are repealed.

**5. Section 4 amended**

- (1) Section 4 is amended by inserting before subsection (1) the following subsections —

“

- (1aa) The *Taxation Administration Act 2003* is to be read with this Act as if they formed a single Act.
- (1ab) The Glossary at the end of the *Taxation Administration Act 2003* defines or affects the meaning of some of the words and expressions used in this Act and also affects the operation of other provisions.

”

- (2) Section 4(1) is amended by deleting the definitions listed in the Table to this subsection.

**Table of deleted definitions**

“adhesive coupon”	“instrument”	“several”
“adhesive stamp”	“overseas transfer”	“stamp”
“Commissioner”	“paper”	“stamped”
“die”	“person”	“the Crown”
“duty”	“record”	“unencumbered value”
“executed” and “execution”		

- (3) Section 4(1) is amended by inserting the following definitions in their respective alphabetical positions —

“

“**dutiable statement**” means a statement prepared under section 31B, 31C, 63AE, 75HA, 76AG, 76AN, 92A, 104, 112HA or 112P;

“**duty**” means duty payable under this Act;

“**government body**” means an agent or instrumentality of the State, or an SES organisation as defined in the *Public Sector Management Act 1994*;

“**instrument**” does not include a return;

“**interstate duty**” means duty of a similar nature to the duty payable under this Act that is payable in another State or Territory;

“**Part IIIBA statement**” means —

- (a) a section 76AG statement; or
- (b) a section 76AN statement;

“**section 76AG statement**” means a dutiable statement prepared under section 76AG in relation to which the Commissioner has not made a determination under section 76AG(5a);

“**section 76AN statement**” means a dutiable statement prepared under section 76AN in relation to which the Commissioner has not made a determination under section 76AN(4a);

“**stamp**”, when used as a verb in relation to an instrument, means to endorse the instrument in accordance with section 17C;

“**stamp Act**” means this Act or the Taxation Administration Act 2003;

”.

**6. Section 4A amended**

Section 4A(1) is amended by deleting “, for the purposes of this Act,”.

**7. Part II repealed (sections 5 to 15B)**

Part II is repealed.

**8. Section 16 amended**

- (1) Section 16(1) is amended by deleting “, subject to this Act,”.
- (2) Section 16(3) is amended by deleting “this Act” and inserting instead —

“ a stamp Act ”.

**9. Section 17 replaced**

Section 17 is repealed and the following sections are inserted instead —

“

**17. Liability to pay duty**

- (1) The person liable to pay duty on an instrument on which duty is payable is —
  - (a) if a person is specified in the Second Schedule as the person liable to pay the duty on the instrument — that person;

- (b) if another person is expressly liable under any other provision of a stamp Act to pay the duty — that other person;
  - (c) if the instrument is a dutiable statement and neither paragraphs (a) nor (b) apply — the person required to prepare the dutiable statement; or
  - (d) in any other case — the party to the instrument by whom or on whose behalf it is held.
- (2) Nothing in this section is to be taken —
  - (a) to exonerate any other person from any liability imposed on the person under a stamp Act; or
  - (b) to exempt any instrument or matter from any duty to which it is liable under a stamp Act.
- (3) A person who is liable to pay duty is also liable to pay any penalty tax, interest or other amount payable under a stamp Act in connection with the duty.

**17A. Time for payment of duty**

- (1) The liability to pay duty on an instrument arises —
    - (a) when the instrument is first executed; or
    - (b) if the instrument is a dutiable statement, on the occurrence of the transaction or event to which the statement relates.
  - (2) The duty is payable within one month after the date of the assessment notice.
  - (3) Subsection (2) does not apply in a particular case if a provision of a stamp Act specifies that in that particular case duty is payable at, or within, a different time or period.
  - (4) A taxpayer must pay the duty within the time required by subsection (2) or that other provision.
- Penalty: \$5 000.

**17B. Requirement to lodge instrument**

- (1) A person who is, or may be, liable to pay duty on an instrument must lodge the instrument with the Commissioner —
    - (a) within 2 months after the date on which the instrument was first executed; or
    - (b) if the instrument is a dutiable statement —within 2 months after the occurrence of the transaction or event to which the dutiable statement relates.
- Penalty: \$5 000.

- (2) Subsection (1) does not apply in a particular case if a provision of a stamp Act specifies that in that particular case the instrument must be lodged at or within a different time or period.

**17C. Instrument to be endorsed when duty paid etc.**

- (1) When —
  - (a) duty is paid on an instrument;
  - (b) penalty tax or any other amount payable under a stamp Act in respect of an instrument is paid;

- (c) the payment of duty payable on, or penalty tax or any other amount payable under a stamp Act in respect of, an instrument is waived;
- (d) the Commissioner assesses an instrument as being not chargeable with duty;
- (e) the Commissioner exempts an instrument from duty; or
- (f) the Commissioner allows a reduction of the duty payable on an instrument,

the Commissioner is to endorse the instrument accordingly.

- (2) An endorsement under subsection (1) must be made in a prescribed manner.
- (3) An instrument is taken to be endorsed in accordance with subsection (1) if the Commissioner endorses, in a prescribed manner, a copy or memorandum of the instrument under section 20 of the Taxation Administration Act 2003.
- (4) The grant or transfer of a licence (as defined in section 76B) is taken to be endorsed in accordance with subsection (1) when it is granted or transferred.
- (5) An endorsement on an instrument, or on a copy or memorandum of an instrument, in a prescribed manner is prima facie evidence of the matters noted in the endorsement.
- (6) The Commissioner may, at the request of a party to an instrument specified in the Third Schedule, endorse the instrument as exempt from duty.

”.

**10. Section 18 amended**

- (1) Section 18(1) is amended by deleting the subsection designation “(1)”.
- (2) Section 18(2) is repealed.

**11. Section 19 amended**

Section 19 is amended by deleting “several” and inserting instead —

“ 2 or more ”.

**12. Sections 20, 21 and 23 replaced**

Sections 20, 21 and 23 are repealed and the following section is inserted instead —

“

**20. Reduction of duty if matter not carried into effect**

- (1) The amount of duty payable on an instrument is reduced by the amount of the full duty payable in respect of a matter included in the instrument if the Commissioner is satisfied that —
  - (a) the matter has not been, and will not be, carried into effect;
  - (b) the taxpayer has not received, and will not receive, a benefit in respect of the matter; and

- (c) the reason the matter was not, and will not be, carried into effect is not merely to enable a replacement transaction to be entered into.
- (2) The amount of duty payable on an instrument is reduced in accordance with subsection (3) if the Commissioner is satisfied that —
  - (a) a matter included in an instrument has not been, and will not be, carried into effect;
  - (b) the taxpayer has received, or will receive, a benefit in respect of the matter;
  - (c) the value of the benefit is less than the full duty payable in respect of the matter; and
  - (d) the reason the matter was not, and will not be, carried into effect is not merely to enable a replacement transaction to be entered into.
- (3) The amount of duty payable on the instrument is reduced by the amount of the difference between the value of the benefit referred to in subsection (2)(b) and the amount of the full duty payable in respect of the matter.
- (4) A taxpayer receives a benefit in respect of a matter included in an instrument if, as a result of the matter not being carried into effect, an amount of money, or a right, property or service, is received —
  - (a) by the taxpayer; or
  - (b) with the consent, or at the direction of, the taxpayer, by an independent person.
- (5) A taxpayer receives a benefit in respect of a matter contained in an instrument chargeable as a conveyance or transfer of property if —
  - (a) the instrument provides for or contemplates the conveyance or transfer of the property to an independent person;
  - (b) under an agreement, arrangement or understanding between the taxpayer and another party, the property has been or is to be conveyed or transferred to that other party or to another person; or
  - (c) the taxpayer obtains exclusive use or control of the property under a term contract (however described), whether or not the contract is for any reason not fully carried into effect.
- (6) Where a taxpayer receives a benefit of the kind described in subsection (5) the value of the benefit is the amount of the full duty payable in respect of the matter.
- (7) For the purpose of calculating the value of a benefit received by a taxpayer in respect of a matter (other than a benefit of the kind described in subsection (5)), an amount equal to the amount (if any) required to restore the taxpayer to the position the taxpayer would have been in if the matter had not been included in the instrument, is not to be taken into account.
- (8) Subject to section 17 of the *Taxation Administration Act 2003*, the Commissioner must make any reassessment necessary to give effect to this section.

- (9) In this section —
- “**full duty**”, in relation to a matter, means the amount of duty that would, but for this section, be payable in respect of the matter;
- “**independent person**”, in relation to a matter, means a person who is not a party to the instrument that includes the matter;
- “**party**”, in relation to a matter, means a person who is a party to the instrument that includes the matter;
- “**replacement transaction**”, in relation to a matter, means a transaction between the taxpayer and an independent person that is substantially similar in effect to the transaction that was to have been effected by the instrument that includes the matter.

”.

### 13. Section 26 amended

- (1) Section 26(1) is amended as follows:
- (a) by deleting “every person who” and inserting instead —  
“ a person must not ”;
  - (b) in paragraph (a) by deleting “executes” and inserting instead —  
“ execute ”;
  - (c) in paragraph (b) by deleting “ neglects or omits” and inserting instead —  
“ neglect or omit ”;
  - (d) at the end of paragraph (b) by deleting the comma and inserting a full stop instead;
  - (e) by deleting “commits an offence against this Act.” and inserting instead —  
“ Penalty: \$20 000. ”.
- (2) Section 26(2) is amended by deleting “duly”.
- (3) Section 26(3) is amended as follows:
- (a) by deleting “duly”;
  - (b) by deleting all the words from and including “express his opinion” to the end of the subsection and inserting instead —

“

reassess the amount of duty payable on the instrument.  
Penalty: \$20 000.

”.

### 14. Section 27 amended

- (1) Section 27(1) is amended as follows:
- (a) by deleting “this Act” and inserting instead —  
“ a stamp Act ”;
  - (b) by deleting “duly”.
- (2) Section 27(2) is amended as follows:
- (a) in paragraph (b)(i) by deleting “statement is required to be prepared and lodged” and inserting instead —  
“ dutiable statement is required to be prepared ”;

- (b) by deleting “statement has been prepared and lodged” and inserting instead —  
“ dutiable statement has been prepared ”;
  - (c) by deleting “statement” in the last place where it occurs and inserting instead —  
“ dutiable statement ”.
- (3) Section 27(3) is amended as follows:
- (a) by deleting “statement is required to be prepared and lodged” and inserting instead —  
“ dutiable statement is required to be prepared ”;
  - (b) by deleting “statement” in the 3 other places where it occurs and inserting instead —  
“ dutiable statement ”.

**15. Section 28 amended**

- (1) Section 28(1) is amended as follows:
- (a) in paragraph (a) by deleting “duly” in both places where it occurs;
  - (b) in paragraph (b) —
    - (i) by deleting “statement has been prepared and lodged” and inserting instead —  
“ dutiable statement has been prepared ”;
    - (ii) by inserting after “with which the” —  
“ dutiable ”;
  - (c) by inserting after the subsection —  
“ Penalty: \$20 000. ”.
- (2) Section 28(3) is amended by deleting “duly”.
- (3) Section 28(4) and (5) are repealed and the following subsections are inserted instead —

“

- (4) If a caveat relates to an instrument which is liable to duty or a document referred to in section 27(2) the registrar must reject the caveat unless —
- (a) the instrument or the dutiable statement relating to the document has been stamped; or
  - (b) the registrar is satisfied, on evidence provided by the person lodging the caveat, that the instrument or the dutiable statement relating to the document, has been lodged with the Commissioner for assessment.
- Penalty: \$20 000.
- (5) If a caveat relates to an instrument that is not liable to duty the registrar may reject it unless when it is lodged it is accompanied by a statutory declaration —
- (a) stating that the instrument is not liable to duty; and
  - (b) setting out why the instrument is not liable to duty (including reference to any relevant provisions of a stamp Act).
- (6) In subsections (4) and (5) —  
“**caveat**” means a caveat lodged under —

- (a) Part V of the Transfer of Land Act 1893; or
- (b) the Mining Act 1978;

“**registrar**” means the Registrar of Titles or a mining registrar within the meaning of the Mining Act 1978 (as the case requires).

”.

**16. Section 29 amended**

(1) Section 29(1) is amended as follows:

- (a) by deleting “any omission or insufficiency of the stamp thereon” and inserting instead —

“

whether, and to what amount, the instrument has been stamped

”;

- (b) by deleting “statement prepared and lodged” and inserting instead —

“ dutiable statement required to be prepared ”.

(2) Section 29(2) is amended by deleting “fine payable on the stamping of that instrument” and inserting instead —

“ penalty tax payable in respect of the instrument ”.

(3) Section 29(2a) is amended as follows:

- (a) by deleting “statement is required to be, but has not been, lodged under section 31B(1) or 31C(1),” and inserting instead —

“

dutiable statement is required to be prepared under section 31B(1) or 31C(1) and either the dutiable statement has not been prepared or the duty with which the dutiable statement is chargeable has not been paid,

”;

- (b) by deleting “statement” in the second place where it occurs and inserting instead —

“ dutiable statement ”;

- (c) by deleting “fine with which the statement is chargeable” and inserting instead —

“ penalty tax payable in respect of the dutiable statement ”.

(4) Section 29(3) is amended as follows:

- (a) by deleting “statement” and inserting instead —

“ dutiable statement ”;

- (b) by deleting “fine paid thereon” and inserting instead —

“

penalty tax paid in respect of the instrument or dutiable statement

”.

(5) Section 29(4) is repealed and the following subsections are inserted instead —

“

- (4) On receiving the instrument or dutiable statement the Commissioner is to make an assessment of the duty payable on it, issue an assessment notice, stamp the instrument or dutiable statement and return it to the officer of the court, arbitrator or referee with the assessment notice.
- (5) Section 23(3) of the *Taxation Administration Act 2003* does not apply to an assessment notice referred to in subsection (4).

”

**17. Section 30 amended**

- (1) Section 30 is amended as follows:
  - (a) by inserting before “In proceedings” the subsection designation “(1)”;
  - (b) in paragraph (a) —
    - (i) by deleting “duly”;
    - (ii) by deleting “fine with which the instrument is chargeable” and inserting instead —

“ penalty tax payable in respect of the instrument ”;

- (c) in paragraph (b) —
  - (i) by deleting “statement under” and inserting instead —  
“ dutiable statement prepared under ”;
  - (ii) by deleting “fine with which the dutiable statement is chargeable.” and inserting instead —

“

penalty tax payable in respect of the dutiable statement.

”

“

- (2) At the end of section 30 the following subsections are inserted —
  - (2) On receiving payment under subsection (1) the officer of the court, arbitrator or referee is to deliver the instrument or dutiable statement to the Commissioner together with the duty and any penalty tax paid in respect of the instrument or dutiable statement.
  - (3) On receiving the instrument or dutiable statement the Commissioner is to make an assessment of the duty payable on it, issue an assessment notice, stamp the instrument or dutiable statement and return it to the officer of the court, arbitrator or referee with the assessment notice.
  - (4) Section 23(3) of the *Taxation Administration Act 2003* does not apply to an assessment notice referred to in subsection (3).

”

**18. Sections 31, 31AA, 31AB, 31AC and 31A repealed**

Sections 31, 31AA, 31AB, 31AC and 31A are repealed.

**19. Section 31B amended**

- (1) Section 31B(1) is amended as follows:

- (a) in paragraphs (a), (b), (c)(i), (ii) and (iii) by deleting “the State” and inserting instead —  
“ Western Australia ”;
- (b) by deleting all the words from and including “within a period” to the end of the subsection and inserting instead —

“

prepare a dutiable statement in respect of the transaction.  
Penalty: \$20 000.

”.

- (2) Section 31B(2) is repealed and the following subsections are inserted instead —

“

- (1b) A dutiable statement must be in an approved form.
- (1c) A dutiable statement prepared under subsection (1) is taken to be an instrument evidencing the transaction and is chargeable with duty accordingly.
- (2) Each party to a transaction described in subsection (1), except the person required to prepare the dutiable statement, shall, within 2 months after entering into the transaction, notify the Commissioner in an approved form that the transaction has been entered into.  
Penalty: \$20 000.

”.

- (3) Section 31B(2a) is amended as follows:
  - (a) by deleting “lodge a statement” and inserting instead —  
“ prepare a dutiable statement ”;
  - (b) by deleting “subsection (7)” and inserting instead —  
“ subsection (1) or (2) ”.
- (4) Section 31B(2b) is amended as follows:
  - (a) by deleting “section 20(1)” and inserting instead —  
“ section 17A ”;
  - (b) by deleting “was entered into” and inserting instead —  
“ occurred ”.
- (5) Section 31B(3) is amended by deleting “The Governor may make regulations under section 120(1) exempting” and inserting instead —  
“ Regulations may exempt ”.
- (6) Section 31B(4) and (5) are repealed and the following subsection is inserted instead —

“

- (4) If interstate duty has been, or in the opinion of the Commissioner will be, paid in respect of a transaction to which subsection (1)(c) applies, the amount of duty payable in respect of the dutiable statement prepared in respect of the transaction is reduced by the amount of interstate duty that has been or will be paid.

(7) Section 31B(7) is repealed.

**20. Section 31C amended**

(1) Section 31C(1) is amended by deleting “and lodge a statement with the Commissioner about the transfer.” and inserting instead —

“

a dutiable statement in respect of the transfer, but only if the assets are property of a kind that, if there was an instrument effecting or evidencing the transfer, duty would be chargeable on the instrument.

Penalty: \$20 000.

”.

(2) Section 31C(2) is repealed and the following subsections are inserted instead —

“

(2) A dutiable statement must be in an approved form.

(2a) A dutiable statement prepared under subsection (1) is taken to be an instrument of transfer of the assets and is chargeable with duty accordingly.

(2b) Duty is payable by the receiving body.

”.

(3) Section 31C(4) is repealed.

**21. Section 31D repealed**

Section 31D is repealed.

**22. Sections 32 to 35 replaced**

Sections 32, 33, 33A, 34, 34A, 34B, 34C and 35 are repealed and the following sections are inserted instead —

“

**33. Valuation of land or other property**

(1) When determining the value of any land or other property for the purpose of a stamp Act —

(a) the existence of any overriding power of revocation or reconveyance is to be disregarded;

(b) the value of an undivided share in the land or other property, whether held jointly or in common, is to be ascertained by multiplying the total value of the land or other property by the share expressed as a fraction; and

(c) when applying the ordinary principles of valuation —

(i) it is to be assumed that a hypothetical purchaser would, when negotiating the price of the land or other property, have knowledge of all existing information relating to the land or other property; and

- (ii) no account is to be taken of any amount that a hypothetical purchaser would have to expend to reproduce, or otherwise acquire a permanent right of access to and use of, existing information relating to the land or other property.
- (2) When determining the unencumbered value of any land or other property for the purposes of a stamp Act —
  - (a) an encumbrance on the land or other property is to be disregarded; and
  - (b) an interest, agreement or arrangement (not being an encumbrance) that —
    - (i) has the effect of reducing the value of the land or other property; and
    - (ii) was granted or made on or after 27 December 1996,
 is, subject to subsection (3), to be disregarded.
- (3) An interest, agreement or arrangement is not to be disregarded if, in the Commissioner’s opinion —
  - (a) it was not granted or made for the purpose of reducing the value of the land or other property; and
  - (b) it was not granted to or made in favour of —
    - (i) the taxpayer;
    - (ii) in the case of an instrument chargeable under item 19 of the Second Schedule — the person on whom the land or other property is settled or agreed to be settled, or to whom the land or other property is given or agreed to be given, or for whom it is declared to be held in trust;
    - (iii) in the case of a relevant acquisition to which Division 3 of Part III BA applies — the person who acquired the majority interest or further interest; or
    - (iv) a person who is associated with, or related to (within the meaning of section 76), a person referred to in subparagraph (i), (ii) or (iii).
- (4) In this section —
 

**“land”** includes an estate or interest in —

  - (a) freehold land, whether or not registered under the *Transfer of Land Act 1893*;
  - (b) a Crown lease registered under the *Transfer of Land Act 1893*; or
  - (c) a mining tenement registered under the *Mining Act 1978*,

or any buildings on, or fixtures annexed to, or to buildings on, any such land, Crown lease or mining tenement.

**34. Duplicates and counterparts**

A duplicate or counterpart of a stamped instrument is chargeable with duty under item 9 of the Second Schedule.

**35. Unlodged transfers — independent person’s obligations**

- (1) This section applies in relation to a transfer of property if the instrument of transfer has not been lodged before the end of the period within which it is required under a Stamp Act to be lodged.
- (2) Where a person who is not a party to the transfer —
  - (a) has custody or control of the instrument of transfer; or
  - (b) in dealing with the property, acts on the authority of, in reliance on or in pursuance of the instrument of transfer,the person must lodge the instrument, or notify the Commissioner about the instrument, as soon as practicable after the person becomes aware, or ought reasonably to have become aware, that the instrument has not been lodged before the end of the period within which it is required to be lodged under a Stamp Act.  
Penalty: \$20 000.
- (3) A notification under subsection (2) must set out, to the extent that the information can be ascertained from the transfer or is otherwise known to the person —
  - (a) the nature of the transfer;
  - (b) the names of the parties to the transfer;
  - (c) the date on which the transfer was first executed;
  - (d) a summary of the principal terms of the transfer (such as the property to which it relates and the consideration paid or payable); and
  - (e) any prescribed information.
- (4) In this section —  
“**instrument of transfer**” means an instrument of transfer, or a dutiable statement, on which duty is payable under item 4 of the Second Schedule;  
“**transfer**” includes conveyance.

”.

**23. Section 36 amended**

Section 36 is amended by deleting “this State” and inserting instead —

“ Western Australia ”.

**24. Sections 37 to 39A replaced**

Sections 37, 38, 39 and 39A are repealed and the following section is inserted instead —

“

**38. Instruments held in escrow**

For the purposes of a stamp Act an escrow is taken to be an instrument duly executed and delivered and is liable to duty accordingly.

”.

**25. Section 49A amended**

Section 49A is amended as follows:

- (a) by deleting the subsection designation (1);

- (b) in paragraph (a) by deleting “in writing”;
- (c) by repealing subsection (2).

**26. Section 50 amended**

- (1) Section 50(1) is repealed and the following subsection is inserted instead —

“

- (1) A person must not draw, make, issue, accept, endorse, transfer, negotiate, present for payment or pay any bill of exchange or promissory note which is liable to duty and is not stamped.  
Penalty: \$20 000.

”.

- (2) Section 50(2) is amended by deleting “duly”.
- (3) Section 50(3) and (4) are repealed.

**27. Section 50A repealed**

Section 50A is repealed.

**28. Section 50B amended**

Section 50B(1) and (2) are amended by deleting “duly”.

**29. Section 50D amended**

Section 50D is amended as follows:

- (a) by deleting the subsection designation (1);
- (b) by deleting “duly” in both places where it occurs;
- (c) by repealing subsections (2), (3) and (4).

**30. Section 52 repealed**

Section 52 is repealed.

**31. Heading deleted**

The heading “*Conveyances on Sale*” immediately before section 63 is deleted.

**32. Section 63 amended**

Section 63(4)(a)(i) is amended by deleting “body corporate (as defined in section 9 of the Corporations Act)” and inserting instead —

“ corporation ”.

**33. Section 63AA amended**

- (1) Section 63AA(1) is amended by deleting “a form approved by the Commissioner” and inserting instead —  
“ an approved form ”.
- (2) Section 63AA(4) is amended by deleting “in writing”.
- (3) Section 63AA(5) is amended by deleting “written”.
- (4) After section 63AA(5) the following subsection is inserted —

“

- (6) If the Commissioner decides not to register a unit trust scheme as a pooled investment trust or an equity trust, the unit trustee may challenge the validity or correctness of that decision in accordance

with Part 4 of the *Taxation Administration Act 2003* as if the unit trustee were a taxpayer and the decision were a decision affecting the trustee's liability to pay duty.

”.

**34. Section 63AB amended**

- (1) Section 63AB(8) is amended by deleting “a form approved by the Commissioner” and inserting instead —  
“ an approved form ”.
- (2) Section 63AB(9) is repealed.

**35. Section 63AC amended**

- (1) Section 63AC(1) is amended by deleting “a form approved by the Commissioner” and inserting instead —  
“ an approved form ”.
- (2) Section 63AC(3) is amended by deleting “in writing”.
- (3) Section 63AC(4) is amended by deleting “written”.
- (4) After section 63AC(4) the following subsection is inserted —

“

- (5) If the Commissioner decides not to grant the unit trust scheme interim registration as a pooled investment trust or an equity trust, the unit trustee may challenge the validity or correctness of that decision in accordance with Part 4 of the *Taxation Administration Act 2003* as if the unit trustee were a taxpayer and the decision were a decision affecting the trustee's liability to pay duty.

”.

**36. Section 63AD amended**

Section 63AD(4)(c) and (6)(b) are amended by deleting “in writing”.

**37. Section 63AE amended**

- (1) Section 63AE(1) is amended by deleting all of the words from and including “and lodge” to the end of the subsection and inserting instead —

“

a dutiable statement.  
Penalty: \$20 000.

”.

- (2) Section 63AE(2) is amended as follows —
  - (a) by deleting “statement shall” and inserting instead —  
“ dutiable statement must ”;
  - (b) by deleting paragraph (a) and inserting the following paragraph instead —  
“ (a) be in an approved form; ”.
- (3) Section 63AE(3) is repealed.

**38. Section 63AF amended**

Section 63AF(1) is repealed and the following subsection is inserted instead —

“

- (1) A dutiable statement prepared under section 63AE is taken to be an instrument effecting or evidencing the transfers and dispositions details of which are included in the dutiable statement under section 63AE(2)(c) or (d) and is chargeable with duty accordingly.

”.

**39. Section 63A amended**

- (1) Section 63A(1) is amended by inserting after “states that value,” —

“

then despite section 33 and sections 21 and 22 of the *Taxation Administration Act 2003*,

”.

- (2) Section 63A(2) is amended by deleting all the words from and including “and the Commissioner” to the end of the subsection.

**40. Section 65 amended**

Section 65(1) is amended by deleting “in accordance with the provisions of this Act”.

**41. Section 66 amended**

Section 66 is amended by deleting “in accordance with this Act” and inserting instead —

“ accordingly ”.

**42. Section 67 amended**

Section 67 is amended by deleting the subsection designation “(1)”.

**43. Section 69 amended**

Section 69(1) is amended as follows:

- (a) in paragraphs (a) and (b) by deleting “in this section called” in each place where it occurs;
- (b) by deleting “several” and inserting instead —  
“ 2 or more ”.

**44. Section 70 amended**

- (1) Section 70(1) is amended as follows:

- (a) in the definition of “chargeable with duty” in paragraph (b) by inserting after “12(1) or (3)” —  
“ of the Second Schedule ”;
- (b) in the definition of “exempt chattels” —
  - (i) after paragraph (a) by inserting —  
“ or ”;
  - (ii) in paragraph (b) by deleting “motor”.

- (2) Section 70(3)(a)(ii) is amended by deleting “several” and inserting instead —

“ 2 or more ”.

**45. Section 71 amended**

Section 71 is amended by deleting “several” and inserting instead —

“ 2 or more ”.

**46. Heading deleted**

The heading “*Transfer of mortgages*” immediately before section 72 is deleted.

**47. Section 72 amended**

(1) Section 72(2) is amended by deleting “several” and inserting instead —

“ 2 or more ”.

(2) Section 72(4) is amended by deleting all the words from and including “and the Commissioner” to the end of the subsection.

**48. Heading deleted**

The heading “*Documents Treated as Conveyances*” immediately before section 73 is deleted.

**49. Section 73 amended**

Section 73 is amended as follows:

(a) by deleting the subsection designation “(1)”;

(b) by deleting “in this Act otherwise provided” and inserting instead —

“ otherwise provided by a stamp Act ”.

**50. Section 73A amended**

(1) Section 73A(1) is amended as follows:

(a) by deleting “in this section referred to as”;

(b) by deleting “in accordance with the provisions of this Act”;

(c) by deleting all the words from and including “sum of the amount paid” to the end of the subsection and inserting instead —

“

sum of —

(a) the amount paid by way of consideration for the granting of the option; and

(b) the amount payable in the event of the option being exercised.

”.

(2) Section 73A(5) is amended by deleting all the words from and including “the Commissioner shall refund” to the end of the subsection and inserting instead —

“

then —

(c) the duty chargeable on the agreement or the conveyance or transfer (as the case may be) is reduced to the amount of duty that would have been payable if the consideration

had been the amount referred to in subsection (1)(a) only;  
and

- (d) any reconveyance or retransfer referred to in paragraph (b) is chargeable with duty under item 6 of the Second Schedule.

”.

(3) After section 73A(5) the following subsections are inserted —

“

(5a) Subject to section 17 of the *Taxation Administration Act 2003*, the Commissioner must make any reassessment necessary to give effect to this section.

(5b) For the purposes of subsection (5a), section 17 of the *Taxation Administration Act 2003* applies as if the original assessment had been made —

- (a) when the reconveyance or retransfer referred to in subsection (5)(b)(i) occurred; or  
(b) on the expiry, referred to in subsection (5)(a), of the time within which the option could have been exercised,

whichever is later.

”.

#### **51. Section 73AA amended**

(1) Section 73AA(1)(c) is amended by inserting before “exercise” —

“ the ”.

(2) Section 73AA(1)(d) is amended as follows:

- (a) by inserting before “exercise” —  
“ the ”;  
(b) by deleting “a natural person” and inserting instead —  
“ an individual ”.

(3) Section 73AA(1)(f) is amended by deleting “, if the Commissioner is satisfied that the conveyance or transfer” and inserting instead —

“ but which the Commissioner is satisfied ”.

#### **52. Section 73B amended**

(1) Section 73B(1) is amended as follows:

- (a) by deleting “in this section referred to as”;  
(b) by deleting “in accordance with the provisions of this Act”.

(2) Section 73B(3) is amended as follows:

- (a) by deleting “in this subsection referred to as”;  
(b) by deleting all the words from and including “the Commissioner shall” to the end of the subsection and inserting instead —

“

the amount of duty payable on the agreement is reduced to the amount of duty that would have been payable if the consideration had been equal to the amount of the payment or payments paid or

due and payable by the determiner when the determination was made.

”.

(3) After section 73B(3) the following subsections are inserted —

“

(4) Subject to section 17 of the *Taxation Administration Act 2003*, the Commissioner must make any reassessment necessary to give effect to this section.

(5) For the purposes of subsection (4), section 17 of the *Taxation Administration Act 2003* applies as if the original assessment had been made when the determination was made.

”.

### **53. Section 73C amended**

(1) Section 73C(3) is amended by deleting all the words from and including “the Commissioner shall” to the end of the subsection and inserting instead —

“

the amount of duty payable on the instrument is reduced to the amount of duty that would have been payable if the consideration had been equal to the amount paid or payable in respect of any occasion or occasions referred to in the instrument that have occurred before the person exercised the option or failed to renew the right of option.

”.

(2) After section 73C(3) the following subsections are inserted —

“

(4) Subject to section 17 of the *Taxation Administration Act 2003*, the Commissioner must make any reassessment necessary to give effect to this section.

(5) For the purposes of subsection (4), section 17 of the *Taxation Administration Act 2003* applies as if the original assessment had been made when the person exercised the option or failed to renew the right of option.

”.

### **54. Section 73D amended**

(1) Section 73D(1) is amended as follows:

(a) in the definition of “disposition” in paragraph (d) by inserting after “with respect to” —

“ the ”;

(b) after the definition of “transfer” by deleting “and”.

(2) Section 73D(2) is amended as follows:

(a) in paragraph (b) by deleting “duly stamped under this Act” and inserting instead —

“ stamped ”;

(b) by inserting after the subsection —

“ Penalty: \$20 000. ”.

- (3) Section 73D(3) is repealed.
- (4) Section 73D(4)(a) is amended by deleting “the State” and inserting instead —  
“ Western Australia ”.
- (5) Section 73D(6a) is amended as follows:
  - (a) in paragraph (b) by deleting “*ad valorem* duty has been paid by such a person in another jurisdiction” and inserting instead —  
“ interstate duty has been paid by such a person ”;
  - (b) in paragraph (c) by deleting “the State” and inserting instead —  
“ Western Australia ”.
- (6) Section 73D(8) is amended by deleting “for not less than 2 years after the day on which it is delivered to him” and inserting instead —

“

in accordance with section 87 of the *Taxation Administration Act 2003*

”.

- (7) Section 73D(9) is repealed.

**55. Section 73DA amended**

- (1) Section 73DA(1) is repealed and the following subsection is inserted instead —

“

- (1) For the purposes of section 73D(4), a unit trustee who has a majority interest is a company that is beneficially entitled to land and chattels (as defined in section 76) situated in Western Australia is taken to hold an undivided share in the land and chattels to the extent provided in subsection (2).

”.

- (2) Section 73DA(2) is amended by deleting “the State” and inserting instead —

“ Western Australia ”.

- (3) Section 73DA(3)(a) is amended by deleting “applies and” and inserting instead —

“ applies or ”.

**56. Section 73E amended**

- (1) Section 73E(2) is amended as follows:

- (a) by inserting after “Australia as” —

“ a ”;

- (b) in paragraph (b) by deleting “duly stamped under this Act” and inserting instead —

“ stamped ”;

- (c) after the subsection by inserting —

“ Penalty: \$20 000. ”.

- (2) Section 73E(3) is repealed.

- (3) Section 73E(9) is amended by deleting “for not less than 2 years after the day on which the transfer or instrument is delivered to it” and inserting instead —

“

in accordance with section 87 of the *Taxation Administration Act 2003*

”.

- (4) Section 73E(10) is repealed.

**57. Section 73F amended**

- (1) Section 73F(1) is amended in the definition of “business licence”, in paragraph (b) by deleting “the State” and inserting instead —  
“ Western Australia ”.
- (2) Section 73F(3) is amended as follows:
- (a) by deleting “For the purposes of this Act, where” and inserting instead —  
“ Where ”;
  - (b) by deleting “the State” and inserting instead —  
“ Western Australia ”.
- (3) Section 73F(4)(a) and (b) are amended by deleting “the State” and inserting instead —  
“ Western Australia ”.

**58. Section 74 amended**

- (1) Section 74(3)(c) is amended by deleting “duly”.
- (2) Section 74(4) is amended by deleting all the words from and including “and the Commissioner” to the end of the subsection.

**59. Section 74A amended**

- (1) Section 74A(3) is amended as follows:
- (a) after paragraph (d)(i) by inserting —  
“ or ”;
  - (b) after paragraph (e) by inserting —  
“ and ”.
- (2) Section 74A(4) is amended by inserting after the definition of “B” —  
“ and ”.

**60. Section 75 amended**

- (1) Section 75(3)(c) is amended by inserting before “exercise” —  
“ the ”.
- (2) Section 75(3)(d) is amended as follows:
- (a) by inserting before “exercise” —  
“ the ”;
  - (b) by deleting “a natural person” and inserting instead —  
“ an individual ”.
- (3) Section 75(3)(f) is amended by deleting “if the Commissioner is satisfied that the conveyance or transfer” and inserting instead —

“ but which the Commissioner is satisfied ”.

(4) Section 75(4) is repealed.

**61. Sections 75A and 75AA replaced**

Sections 75A and 75AA are repealed and the following section is inserted instead —

“

**75A. Power to exempt instruments made for charitable or similar purposes**

The Commissioner may exempt from *ad valorem* duty any deed of gift, conveyance, transfer, settlement or other instrument operating as a voluntary disposition of property, or any conveyance on the purchase of property, if the Commissioner is satisfied that it has been made for the purposes of a university or for charitable or similar public purposes.

”.

**62. Section 75AB amended**

Section 75AB is amended as follows:

- (a) by deleting “When the Commissioner is satisfied that any instrument” and inserting instead —

“

The Commissioner may exempt from *ad valorem* duty any instrument that the Commissioner is satisfied

”;

- (b) by deleting “, he may exempt from *ad valorem* duty, or refund any *ad valorem* duty paid on, that instrument”.

**63. Section 75ABA amended**

Section 75ABA(1) is amended by deleting “and the instrument is to be endorsed accordingly”.

**64. Section 75AE replaced**

Section 75AE is repealed and the following section is inserted instead —

“

**75AE. Concessional rates for certain residential or business property**

(1) A conveyance or transfer of residential property or business property is chargeable with duty under item 4(5) of the Second Schedule if —

- (a) duty on the conveyance or transfer would, but for this section, be chargeable under item 4(1) of the Second Schedule;
- (b) the value of the property does not exceed \$135 000; and
- (c) the property is conveyed or transferred to —
- (i) one person who is an eligible purchaser;
  - (ii) in the case of business property — 2 or more purchasers all of whom are eligible purchasers;
- or

- (iii) in the case of residential property — 2 or more purchasers —
  - (I) at least one of whom is an eligible purchaser; and
  - (II) all of whom are either eligible purchasers or government bodies.
- (2) Subject to section 17 of the *Taxation Administration Act 2003*, the Commissioner must make any reassessment necessary to give effect to this section.
- (3) In this section —
  - “**business property**” means property that is or includes a business undertaking;
  - “**eligible purchaser**” means —
    - (a) in relation to a residential property, an individual who —
      - (i) occupies, or after purchasing the property will occupy, the dwellinghouse on the property as his or her principal place of residence;
      - (ii) intends to so occupy the dwellinghouse for an indefinite period; and
      - (iii) is not acquiring, and does not intend to hold, the property as agent, trustee or otherwise on behalf of another person;
    - and
    - (b) in relation to a business property, a person who —
      - (i) is not a government body;
      - (ii) after purchasing the property will carry on the business undertaking that is or is part of the property; and
      - (iii) intends to carry on that business for an indefinite period;
  - “**residential property**” means property that includes a dwellinghouse.

”.

**65. Section 75AF amended**

Section 75AF(1) is amended by deleting “several” and inserting instead —

“ 2 or more ”.

**66. Section 75AG replaced**

Section 75AG is repealed and the following section is inserted instead —

“

**75AG. Reduction of duty or refund for first home owner**

- (1) The duty payable under item 4(1), 4(5) or 19 of the Second Schedule on the conveyance or transfer of residential property is reduced in accordance with subsection (2) if —
  - (a) each of the persons (other than government bodies) to whom the property is conveyed or transferred —

- (i) intends to occupy the dwellinghouse as his or her principal place of residence; or
  - (ii) is a trustee holding the property on trust for a person who it is intended will occupy the dwellinghouse as his or her principal place of residence;
- (b) at least one of the persons to whom the property is conveyed or transferred is —
- (i) a first home owner; or
  - (ii) a trustee holding the property on trust for a first home owner;
- and
- (c) the value of the property does not exceed —
- (i) if the property is situated north of the 26th parallel of south latitude — \$202 500; or
  - (ii) otherwise — \$135 000.
- (2) The duty payable on the conveyance or transfer is reduced by an amount equal to R in the formula —

$$R = \frac{A}{B} \times C$$

where —

- A is the combined interest in the property, expressed as a percentage, of all the people to whom the property is conveyed or transferred who are —
- (i) first home owners; or
  - (ii) trustees holding the property on trust for first home owners;
- B is the combined interest in the property, expressed as a percentage, of all the people (including first home owners and trustees) to whom the property is conveyed or transferred who are not government bodies; and
- C is the lesser of —
- (i) \$500; and
  - (ii) the amount of duty that would, but for this section, be payable on the conveyance or transfer.
- (3) A refund, calculated in accordance with subsection (4), of duty paid under item 4(1), 4(5) or 19 of the Second Schedule on the conveyance or transfer of land to a first home owner or to a trustee who holds the land on trust for a first home owner is payable if —
- (a) either —
    - (i) the land is vacant land; or
    - (ii) the land is residential property but since the date of the conveyance or transfer the first home owner has not occupied the dwellinghouse;
  - (b) within 48 months after the date of the conveyance or transfer construction commences on the land of —
    - (i) where the land is vacant land, a dwellinghouse; or

- (ii) where the land is residential property, a new dwellinghouse;
    - (c) each of the persons (other than government bodies) who own the land —
      - (i) intends to occupy the dwellinghouse referred to in paragraph (b) as his or her principal place of residence; or
      - (ii) is a trustee holding the land on trust for a person who it is intended will occupy the dwellinghouse referred to in paragraph (b) as his or her principal place of residence;
- and
- (d) the value of the vacant land or residential property at the time of the conveyance or transfer did not exceed \$52 000.
- (4) The refund is an amount equal to R in the formula —

$$R = \frac{D}{E} \times C$$

where —

- D is the interest in the land, expressed as a percentage, of the first home owner or trustee (as the case requires) as at the building date;
  - E is the combined interest in the land, expressed as a percentage, of all the people (including the first home owner or trustee) who are owners of the land as at the building date other than government bodies; and
  - C is lesser of —
    - (i) \$500; and
    - (ii) the amount of duty paid on the conveyance or transfer of the vacant land to the first home owner or trustee (as the case requires).
- (5) If the conveyance or transfer is or was chargeable with duty under item 19 of the Second Schedule, this section does not apply unless the Commissioner is satisfied that the duty was or will be (as the case requires) paid by a person to whom the property is conveyed or transferred who is a first home owner.
- (6) Subject to section 17 of the *Taxation Administration Act 2003*, the Commissioner must make any reassessment necessary to give effect to this section.
- (7) In this section —
- “first home owner”**, in relation to the conveyance or transfer of property, means an individual who, immediately before the conveyance or transfer —
- (a) does not own, and has not previously owned, any residential property, except as a trustee; and
  - (b) is not, and has not been, the beneficiary of a trust of any residential property where —
    - (i) the individual is or was entitled to occupy the dwellinghouse on the property as his or her principal residence; and

- (ii) if the property is in Australia, the conveyance or transfer of the property to the trustee was chargeable with duty under item 4(1), 4(5) or 19 of the Second Schedule or a corresponding law of another State or Territory;

and

- (c) where the property is conveyed or transferred to the individual, he or she is not acquiring the property as a trustee;

“**residential property**” means property (whether in Western Australia or elsewhere) that includes a dwellinghouse;

“**trustee**” —

- (a) includes an executor, an administrator, a guardian, a receiver, a liquidator, a person acting in any other fiduciary capacity and a person who in any other capacity has possession, control, or management of the property of a person who is under a legal disability; and
- (b) does not include a discretionary trustee or a unit trustee;

“**vacant land**” means land on which there is not a dwellinghouse.

”.

**67. Section 75C amended**

- (1) Section 75C(3) is amended by deleting “writing in a form approved by the Commissioner” and inserting instead —  
“ an approved form ”.
- (2) Section 75C(3a) is amended by deleting “and it shall be endorsed or stamped, as applicable, accordingly”.
- (3) Section 75C(3b) is repealed.
- (4) Section 75C(4) is amended in the definition of “lot”, in paragraph (a) by deleting “*Land Tax Assessment Act 1976*” and inserting instead —  
“ *Land Tax Assessment Act 2002* ”.

**68. Section 75D amended**

- (1) Section 75D(1) is amended in the definition of “family member” as follows:
  - (a) after paragraph (d) by deleting “or”;
  - (b) by deleting paragraph (e) and inserting instead —  
“  
(e) the spouse or former spouse of the person; or  
(f) the spouse of a person referred to in paragraph (a), (b), (c) or (d),

”.

- (2) Section 75D(1) is amended in the definition of “instrument of conveyance” by deleting “statement required to be lodged under Part IIIA” and inserting instead —  
“ Part IIIA statement ”.

**69. Section 75E amended**

- (1) Section 75E(1) is amended as follows:
  - (a) by deleting “in this section and in section 75HA referred to as”;
  - (b) by deleting “in this section and in section 75HA the person is referred to as”;
  - (c) after paragraph (d) by deleting “and” and inserting instead —  
“ or ”.
- (2) Section 75E(5) is amended as follows:
  - (a) by deleting “or refund has been allowed” and inserting instead —  
“ has been granted ”;
  - (b) by deleting “or refund” in the second place where it occurs.
- (3) Section 75E(6) is amended as follows:
  - (a) in paragraph (a) by deleting “or refund has been allowed” and inserting instead —  
“ has been granted ”;
  - (b) by deleting “or refund” in the second place where it occurs.

**70. Section 75F replaced**

Section 75F is repealed and the following section is inserted instead —

“

**75F. Exemption of duty for farming property**

If the Commissioner is satisfied that this Part applies to an instrument of conveyance, the Commissioner may, on receiving an application under section 75H —

- (a) exempt the instrument from duty; or
- (b) in the circumstances referred to in section 75G, partially exempt the instrument from duty.

”.

**71. Section 75G amended**

- (1) Section 75G(1) is amended as follows:
  - (a) by deleting “this Act” and inserting instead —  
“ a stamp Act ”;
  - (b) in paragraph (d) by deleting “section 75A” and inserting instead —

“

section 33 and sections 21 and 22 of the Taxation Administration Act 2003

”.

- (2) Section 75G(3) is amended in the definition of “A” by deleting “section 75A” and inserting instead —

“  
section 33 and sections 21 and 22 of the Taxation  
Administration Act 2003

”.

**72. Section 75H replaced**

Section 75H is repealed and the following section is inserted  
instead —

“

**75H. Application for exemption**

- (1) An application for an exemption under section 75F is to be made in an approved form by the person acquiring the farming property, interest or share or, if there is more than one such person, by all of them.
- (2) Despite section 17(1) of the *Taxation Administration Act 2003*, an application for a reassessment of the duty payable on an instrument to which this Part applies on the basis that an exemption under section 75F should have been, but was not, granted in relation to the instrument cannot be made more than 12 months after the day on which the instrument was stamped.

”.

**73. Section 75HA amended**

- (1) Section 75HA(1) is amended as follows:
  - (a) by deleting the definition of “farming exemption” and inserting the following definition instead —

“

**“farming exemption”** means an exemption or partial exemption granted by the Commissioner under this Part;

”;

- (b) at the end of the definition of “relevant proportion” by deleting the full stop and inserting a semicolon instead;
- (c) after the definition of “relevant proportion” by inserting the following definition —

“

**“the transferor”** has the meaning given in section 75E(1).

”.

- (2) Section 75HA(3) is amended as follows:
  - (a) by deleting “allowed” and inserting instead —  
“ granted ”;
  - (b) by deleting “and lodge with the Commissioner a statement in a form approved by the Commissioner.” and inserting instead —

“

a dutiable statement in respect of the taxable event.  
Penalty: \$20 000.

”.

- (3) After subsection (3) the following subsection is inserted —

“

(3a) A dutiable statement is to be in an approved form.

”

(4) Section 75HA(4) is amended as follows:

- (a) by deleting “lodge a statement under subsection (3)” and inserting instead —  
“ prepare a dutiable statement ”;
- (b) by deleting paragraph (a) and inserting the following paragraph instead —

“

- (a) a dutiable statement in respect of the farming exemption has previously been prepared under this section and lodged with the Commissioner;

”

(5) Section 75HA(5) to (10) are repealed and the following subsections are inserted instead —

“

(5) If a dutiable statement is prepared in respect of a farming exemption for an instrument of conveyance referred to in section 75E(1)(e)(i) or (ii), the dutiable statement is taken to be an instrument operating as a voluntary disposition under section 75(1) of the current exempted property and is chargeable with duty accordingly.

(6) If —

- (a) a dutiable statement is required to be prepared under this section in respect of a farming exemption for an instrument of conveyance referred to in section 75E(1)(e)(iii);
- (b) a section 76AG statement is required to be prepared in respect of the acquisition that is the subject of the instrument of conveyance; and
- (c) at the date of the taxable event the relevant farming company is beneficially entitled to all or part of the farming land to which the section 76AG statement relates,

then the dutiable statement prepared under this section is taken to be an instrument operating as a voluntary disposition under section 75(1) of the relevant proportion of the farming land or of that part of the farming land and is chargeable with duty accordingly.

(7) If —

- (a) a dutiable statement is required to be prepared under this section in respect of a farming exemption for an instrument of conveyance referred to in section 75E(1)(e)(iii); and
- (b) either —
  - (i) a section 76AG statement was not required to be prepared in respect of the acquisition that is the subject of the instrument of conveyance; or

- (ii) a section 76AG statement was required to be prepared, but at the date of the taxable event the relevant farming company is not beneficially entitled to any part of the farming land to which the section 76AN statement relates,

then the dutiable statement prepared under this section is taken to be an instrument operating as a voluntary disposition under section 75(1) of the current exempted property and is chargeable with duty accordingly.

- (8) The amount of duty payable in respect of a dutiable statement prepared in respect of a farming exemption for an instrument of conveyance referred to in section 75E(1)(e)(ii) or (iii) is reduced (up to the amount of duty payable in respect of the dutiable statement) by the amount of any duty previously paid on the instrument of conveyance.

”

#### 74. Section 75I replaced

Section 75I is repealed and the following section is inserted instead —

“

#### 75I. Part IIIBA companies

- (1) Where —
  - (a) the Commissioner is satisfied that an instrument of conveyance of a share in a farming company referred to in section 75E(1)(c), (d)(iii) or (e)(iii) is an instrument to which this Part applies; and
  - (b) the transaction to which that instrument relates gives rise to a liability to prepare a section 76AG statement,the Commissioner may —
  - (c) if the land to which the section 76AG statement relates comprises only farming land in Western Australia — exempt the section 76AG statement from duty; or
  - (d) if the land to which the section 76AG statement relates does not only comprise farming land in Western Australia — partially exempt the section 76AG statement from duty.
- (2) The amount of a partial exemption is the amount equal to R in the formula —

$$R = \frac{A}{B} \times C$$

where —

- A is the value of the farming property in Western Australia;
- B is the value of all the land and chattels the subject of the section 76AG statement; and
- C is the amount of the duty —
  - (a) that would be chargeable on the section 76AG statement; or

- (b) where section 76AH(3) applies, that would ultimately be chargeable on the section 76AG statement,

if this Part did not apply to it.

- (3) Despite section 17(1) of the *Taxation Administration Act 2003*, an application for a reassessment of the duty payable on a section 76AG statement on the basis that an exemption under section 75I should have been, but was not, granted in relation to the section 76AG statement cannot be made more than 12 months after the day on which the section 76AG statement was stamped.

”.

**75. Section 75J amended**

- (1) Section 75J(1) is amended as follows:
  - (a) in the definition of “foreign person” by inserting after paragraph (a) —  
“ or ”;
  - (b) by deleting the definitions of “Part IIIA statement” and “section 31B or 31C statement” and inserting the following definition instead —

“

“**section 31B or 31C statement**” means a dutiable statement prepared under section 31B or 31C;

”.

- (2) Section 75J(4) is repealed.

**76. Section 75JA amended**

- (1) Section 75JA(1a)(c) is amended by deleting “and is”.
- (2) Section 75JA(2)(b) is amended by deleting “lodged” and inserting instead —  
“ prepared ”.
- (3) Section 75JA(3) is amended as follows:
  - (a) by deleting “statement relates —” and inserting instead —  
“ Part IIIA statement relates — ”;
  - (b) in paragraph (c) by deleting “writing in a form approved by the Commissioner” and inserting instead —  
“ an approved form ”.
- (4) After section 75JA(4) the following subsections are inserted —

“

- (5) A decision by the Commissioner under subsection (3) is a non-reviewable decision.
- (6) In this section —  
“**instrument**” does not include a section 31B or 31C statement.

”.

**77. Section 75JB amended**

- (1) Section 75JB(1) is amended as follows:

- (a) in paragraph (b) by deleting “under this Act” and inserting instead —  
“ from duty ”;
- (b) in paragraph (d)(iii) —
  - (i) by deleting “lodged” and inserting instead —  
“ prepared ”;
  - (ii) by deleting “paid in respect of that” and inserting instead —  
“ paid on that Part III BA ”.
- (2) Section 75JB(2)(b) is amended by deleting “has been paid in this State or elsewhere” and inserting instead —  
“ or interstate duty has been paid ”.
- (3) Section 75JB(3)(b) is amended by deleting “lodged” and inserting instead —  
“ prepared ”.
- (4) Section 75JB(4) is amended as follows:
  - (a) after paragraph (b) by deleting “or”;
  - (b) by deleting “writing in a form approved by the Commissioner” and inserting instead —  
“ an approved form ”.
- (5) Section 75JB(5f)(c) and (5h) are amended by deleting “writing in a form approved by the Commissioner” and inserting instead —  
“ an approved form ”.
- (6) Section 75JB(5i) is repealed.
- (7) Section 75JB(8) is amended by deleting “fine” and inserting instead —  
“ penalty tax ”.
- (8) After section 75JB(8) the following subsection is inserted —  
“
- (9) A decision by the Commissioner under subsection (7) is a non-reviewable decision.

”.

**78. Section 75JBA amended**

- (1) Section 75JBA(3) is amended by deleting “writing in a form approved by the Commissioner” and inserting instead —  
“ an approved form ”.
- (2) Section 75JBA(4) is repealed.

**79. Section 75JC amended**

- (1) Section 75JC(1) is repealed and the following subsection is inserted instead —  
“

- (1) A person acting on behalf of a body corporate that proposes to be party to a transaction or transfer that would give rise to —
  - (a) an instrument which, if executed; or

(b) an obligation to prepare a section 31B or 31C statement or a Part IIIBA statement which, if finalised, might be exempt from duty under section 75JA or 75JB, may request the Commissioner to determine whether a draft of that instrument or statement, if executed or finalised, would be so exempt.

”.

- (2) Section 75JC(2) is amended by deleting “writing in a form approved by the Commissioner” and inserting instead —  
“ an approved form ”.
- (3) Section 75JC(5)(a) is amended by deleting “lodged” and inserting instead —  
“ finalised ”.

**80. Section 75JD amended**

- (1) Section 75JD(1), (2) and (3) are repealed and the following subsections are inserted instead —

“

- (1) An application for an exemption under section 75JA or 75JB must be made in an approved form.
- (2) Despite section 17(1) of the *Taxation Administration Act 2003*, an application for a reassessment of the duty payable on —
- (a) an instrument referred to in section 75JA(2)(a) or (2a) or 75JB(3)(a); or
  - (b) a Part IIIBA statement referred to in section 75JA(2)(b) or 75JB(3)(b),

on the basis that an exemption under section 75JA or 75JB (as the case requires) should have been, but was not, granted in relation to the instrument or statement cannot be made more than 12 months after the date of execution of the instrument or the occurrence of the relevant acquisition.

- (3) Subject to section 17(2), (3) and (4) of the *Taxation Administration Act 2003*, the Commissioner must make any reassessment necessary to give effect to sections 75JA and 75JB.

”.

- (2) Section 75JD(4) is amended as follows:
- (a) by deleting “fine” in the first place where it occurs and inserting instead —  
“ penalty tax under section 75JE(b) or 75JF(b) ”;
  - (b) by deleting “for the duty and fine” and inserting instead —  
“ notice ”.

**81. Section 75JDA amended**

- (1) Section 75JDA(2) is amended as follows:
- (a) by deleting “or statement” and inserting instead —  
“ or Part IIIBA statement ”;
  - (b) by deleting “lodged” and inserting instead —  
“ finalised ”.

- (2) Section 75JDA(3) and (4) are amended by deleting “or statement” and inserting instead —

“ or Part IIIBA statement ”.

**82. Section 75JE amended**

- (1) Section 75JE(1) is amended as follows:

- (a) by deleting the subsection designation “(1)”;
- (b) in paragraph (b) —
  - (i) by deleting “a fine” and inserting instead —  
“ penalty tax ”;
  - (ii) by deleting “for that duty and fine” and inserting instead —  
“ notice ”;
- (c) in paragraph (c) —
  - (i) by deleting “fine” in the first place where it occurs and inserting instead —  
“ penalty tax ”;
  - (ii) by deleting “for the duty and fine” and inserting instead —  
“ notice ”;
- (d) in paragraphs (d), (da) and (e) by deleting “fine” in each place where it occurs and inserting instead —  
“ penalty tax ”;
- (e) in paragraph (f) —
  - (i) by deleting “fine” and inserting instead —  
“ penalty tax ”;
  - (ii) by deleting “to have been duly” and inserting instead —  
“ to be, and always to have been, ”.

- (2) Section 75JE(2) is repealed.

**83. Section 75JF amended**

- (1) Section 75JF(1) is amended as follows:

- (a) by deleting the subsection designation “(1)”;
- (b) in paragraph (a) by deleting “statement” and inserting instead —  
“ Part IIIBA statement ”;
- (c) in paragraph (b) —
  - (i) by deleting “statement” in both places where it occurs and inserting instead —  
“ Part IIIBA statement ”;
  - (ii) by deleting “a fine” and inserting instead —  
“ penalty tax ”;
  - (iii) by deleting “for that duty and fine” and inserting instead —  
“ notice ”;
- (d) in paragraph (c) —
  - (i) by deleting “fine” in the first place where it occurs and inserting instead —

- “ penalty tax ”;
    - (ii) by deleting “for the duty and fine” and inserting instead —  
“ notice ”;
  - (e) in paragraph (d) by deleting “fine:” and inserting instead —  
“ penalty tax — ”;
  - (f) in paragraph (d)(i) by deleting “statement lodged under section 76AG” and inserting instead —  
“ section 76AG statement ”;
  - (g) in paragraph (d)(ii) —
    - (i) by deleting “statement lodged under section 76AN” and inserting instead —  
“ section 76AN statement ”;
    - (ii) by deleting “lodge the” and inserting instead —  
“ prepare the section 76AN ”;
  - (h) in paragraph (e) by deleting “fine” in both places where it occurs and inserting instead —  
“ penalty tax ”;
  - (i) in paragraph (f) —
    - (i) by deleting “fine the” and inserting instead —  
“ penalty tax the Part III BA ”;
    - (ii) by deleting “to have been duly” and inserting instead —  
“ to be, and always to have been, ”.

(2) Section 75JF(2) is repealed.

**84. Section 75JG amended**

(1) Section 75JG(1) is repealed and the following subsection is inserted instead —

“

- (1) If a person contravenes section 75JA(3)(c) or 75JB(4) or (5f)(c) —
  - (a) the person commits an offence; and
  - (b) if the offence is committed by a body corporate, an officer (as defined in section 9 of the Corporations Act) of the body corporate who is knowingly a party to the contravention commits an offence.

Penalty:

- (a) \$20 000; and
- (b) an amount equal to the duty chargeable on the instrument or Part III BA statement had it not been exempted under section 75JA or 75JB.

”.

(2) Section 75JG(2) is amended by deleting “fine” in both places where it occurs and inserting instead —

“ penalty tax ”.

(3) Section 75JG(3) is amended as follows:

- (a) by deleting all of the words from and including “against this Act” to the end of the subsection;
- (b) by inserting after the subsection —

“

**Penalty:**

- (a) \$20 000; and
- (b) an amount equal to the duty that would have been chargeable on —
  - (i) if a draft instrument or statement has been provided to the Commissioner under section 75JC — the instrument or statement had it been executed or finalised; or
  - (ii) if a request has been made under section 75JBA or an application has been made under section 75JB(5g) or 75JD — the instrument or statement concerned.

”.

**85. Section 76 amended**

- (1) Section 76(1) is amended as follows:
  - (a) in the definition of “acquire” —
    - (i) after paragraph (b)(ii) by deleting “or”;
    - (ii) after paragraph (b)(iii) by inserting —  
“ or ”;
    - (iii) in paragraph (c) by deleting “declared by this Act to be”;
  - (b) in the definition of “chattels” —
    - (i) in paragraph (b) by deleting “motor”;
    - (ii) after paragraph (b) by inserting —  
“ or ”;
  - (c) in the definition of “minerals” by deleting “Earth” and inserting instead —  
“ earth ”.
- (2) Section 76(2)(a)(v) is amended by deleting “natural person” and inserting instead —  
“ individual ”.
- (3) Section 76(2)(b) is amended as follows:
  - (a) by deleting “a person” and inserting instead —  
“ an individual ”;
  - (b) in subparagraphs (i), (ii) and (iii) by deleting “person” and inserting instead —  
“ individual ”.
- (4) Section 76(3)(a) is amended by deleting “natural persons” and inserting instead —  
“ individuals ”.
- (5) Section 76(3)(d) and (e) are amended as follows:
  - (a) by deleting “a natural person” and inserting instead —  
“ an individual ”;

- (b) by deleting “the natural person” and inserting instead —  
“ the individual ”.

**86. Sections 76A to 76AF replaced**

Sections 76A, 76AA, 76AB, 76AC, 76AD, 76AE and 76AF are repealed and the following sections are inserted instead —

“

**76A. Relevant acquisitions by trustees**

- (1) Subject to subsection (2) if by a relevant acquisition a person, in the person’s capacity as a trustee, acquires a majority interest or a further interest in a WA company or a corporation, this Part applies as if the person had acquired the interest beneficially.
- (2) If the combined interest in the WA company or corporation of a beneficiary and any person related to the beneficiary is greater than the combined interest of the trustee and any person related to the trustee —
- (a) the relevant acquisition is taken to have been made by the beneficiary;
  - (b) the section 76AG statement or section 76AN statement prepared by the trustee in relation to the relevant acquisition is taken to have been prepared by the beneficiary; and
  - (c) the section 76AG statement or section 76AN statement is chargeable with duty accordingly.

- (3) In this section —

“**beneficiary**” means a person beneficially entitled to the interest in the WA company or corporation acquired by the trustee, whether the person’s interest is vested, contingent or discretionary;

“**interest**”, “**majority interest**” and “**further interest**” —

- (a) in relation to a section 76AG statement, have the meanings given by section 76AK; and
- (b) in relation to a section 76AN statement, have the meanings given by section 76AR;

“**relevant acquisition**” has the meaning given by section 76AJ or 76AQ (as the case requires).

**76AA. Assessment in the absence of a dutiable statement**

If the Commissioner suspects that a corporation is required by section 76AN to prepare a dutiable statement in respect of a relevant acquisition but no such statement has been lodged, the Commissioner may exercise the Commissioner’s powers under sections 19 and 20 of the *Taxation Administration Act 2003* as if —

- (a) the corporation were a corporation to which Division 3 applies;
- (b) an acquisition had occurred; and
- (c) the acquisition resulted in a person having an entitlement referred to in section 76AR(1) to such an extent as the Commissioner may determine.

”.

**87. Division heading amended**

The heading to Part IIIBA Division 2 is amended by deleting “the State” and inserting instead —

“ Western Australia ”.

**88. Section 76AG amended**

- (1) Section 76AG(1) is amended as follows:
  - (a) by deleting “and lodge with the Commissioner a statement” and inserting instead —  
“ a dutiable statement ”;
  - (b) by inserting after the subsection —  
“ Penalty: \$20 000. ”.
- (2) Section 76AG(2) is amended by deleting “and lodge a statement” and inserting instead —  
“ a dutiable statement ”.
- (3) Section 76AG(3) is repealed and the following subsection is inserted instead —

“

- (3) A dutiable statement must be in an approved form. ”.
- (4) Section 76AG(4) is amended by deleting “statement shall be in a form approved by the Commissioner and” and inserting instead —  
“ dutiable statement ”.
- (5) Section 76AG(4)(d) and (da) are amended as follows:
  - (a) by deleting “the State” and inserting instead —  
“ Western Australia ”;
  - (b) by deleting “that date” and inserting instead —  
“ the date of the acquisition ”.
- (6) Section 76AG(4)(e) is amended by deleting “that date” and inserting instead —  
“ the date of the acquisition ”.
- (7) Section 76AG(4)(f) is amended by deleting “statement is lodged” and inserting instead —  
“ dutiable statement is prepared ”.
- (8) Section 76AG(5) is repealed and the following subsection is inserted instead —

“

- (5) A dutiable statement prepared under subsection (1) is taken to be an instrument evidencing the relevant acquisition and is chargeable with duty accordingly. ”.
- (9) Section 76AG(5a) is amended as follows:
  - (a) by deleting “statement lodged” and inserting instead —  
“ dutiable statement prepared ”;
  - (b) by deleting “statement.” and inserting instead —  
“ dutiable statement. ”.

- (10) Section 76AG(5b)(b) and (c) are amended by inserting after “WA company or” —  
“ any ”.
- (11) Section 76AG(5c) is amended as follows:  
(a) by deleting “written”;  
(b) by deleting “lodged the statement” and inserting instead —  
“ prepared the dutiable statement ”.
- (12) Section 76AG(5d) is amended as follows:  
(a) by deleting “lodged the statement” and inserting instead —  
“ prepared the dutiable statement ”;  
(b) by deleting “, in writing,” and “written”.
- (13) Section 76AG(5e) and (6) are repealed.

**89. Section 76AH amended**

- (1) Section 76AH(1) is amended as follows:  
(a) by deleting “statement to which section 76AG(5) applies” and inserting instead —  
“ section 76AG statement ”;  
(b) in paragraphs (a) and (b) by deleting “statement” and inserting instead —  
“ section 76AG statement ”.
- (2) Section 76AH(2) is amended in the definition of “A” by deleting “the State” and inserting instead —  
“ Western Australia ”.
- (3) Section 76AH(3) is amended as follows:  
(a) by deleting “on a statement” and inserting instead —  
“ on a section 76AG statement ”;  
(b) by deleting “lodge” and inserting instead —  
“ prepare ”;  
(c) by deleting “statement previously lodged under that section” and inserting instead —

“

section 76AG statement previously prepared in relation to the acquisition

”.

- (4) Section 76AH(4) is amended as follows:  
(a) by deleting “statement to which section 76AG(5) applies” and inserting instead —  
“ section 76AG statement ”;  
(b) by deleting “the statement” in both places where it occurs and inserting instead —  
“ the section 76AG statement ”;  
(c) in paragraph (a) by deleting “31D” and inserting instead —  
“ 31C ”;

- (d) after paragraph (b) by inserting —  
“ or ”;
  - (e) in paragraph (c) by deleting “the State” and inserting instead —  
“ Western Australia ”.
- (5) Section 76AH(5) is amended by deleting “statement” and inserting instead —  
“ section 76AG statement ”.

**90. Section 76AI amended**

- (1) Section 76AI(2)(a) and (b) are amended by deleting “the State” in each place where it occurs and inserting instead —  
“ Western Australia ”.
- (2) Section 76AI(2a), (2b) and (2c) are repealed and the following subsection is inserted instead —

“

- (2a) If the Commissioner makes a determination under subsection (2) —
  - (a) the Commissioner is to give notice of it to the person who made the relevant acquisition;
  - (b) the notice is to contain reasons for the determination; and
  - (c) for the purposes of section 76AG(5)(b) the relevant acquisition is taken to have occurred when the notice is given.

”.

**91. Section 76AL amended**

- (1) Section 76AL(1) is amended as follows:
  - (a) by deleting “in this section called”;
  - (b) by deleting “the State” and inserting instead —  
“ Western Australia ”.
- (2) Section 76AL(2) and (3)(a) and (b) are amended by deleting “the State” and inserting instead —  
“ Western Australia ”.

**92. Section 76AM amended**

- (1) Section 76AM(1) is repealed.
- (2) Section 76AM(2) is amended as follows:
  - (a) by deleting the subsection designation (2);
  - (b) by deleting “Where” and inserting instead —  
“ Without limiting section 17(1)(c), where ”;
  - (c) by inserting after “Division” —

“

on the section 76AG statement prepared in relation to the acquisition

”.

**93. Division heading amended**

The heading to Part III BA Division 3 is amended by deleting “the State” and inserting instead —

“ Western Australia ”.

**94. Section 76AN amended**

- (1) Section 76AN(1) is amended as follows:
  - (a) by deleting “and lodge with the Commissioner a statement” and inserting instead —  
“ a dutiable statement ”;
  - (b) by inserting after the subsection —  
“ Penalty: \$20 000. ”.
- (2) Section 76AN(2) is repealed and the following subsection is inserted instead —

“

- (2) A dutiable statement must be in an approved form.

”.

- (3) Section 76AN(3) is amended by deleting “statement shall be in a form approved by the Commissioner and” and inserting instead —  
“ dutiable statement ”.

- (4) Section 76AN(3)(d) and (da) are amended as follows:
  - (a) by deleting “the State” and inserting instead —  
“ Western Australia ”;
  - (b) by deleting “that date” and inserting instead —  
“ the date of the acquisition ”.

- (5) Section 76AN(3)(e) is amended by deleting “that date” and inserting instead —  
“ the date of the acquisition ”.

- (6) Section 76AN(3)(f) is amended by deleting “statement is lodged” and inserting instead —  
“ dutiable statement is prepared ”.

- (7) Section 76AN(4) is repealed and the following subsection is inserted instead —

“

- (4) A dutiable statement prepared under subsection (1) is taken to be an instrument evidencing the relevant acquisition and is chargeable with duty accordingly.

”.

- (8) Section 76AN(4a) is amended as follows:
  - (a) by deleting “statement lodged” and inserting instead —  
“ dutiable statement prepared ”;
  - (b) by deleting “statement.” and inserting instead —  
“ dutiable statement. ”.

- (9) Section 76AN(4c) is amended by deleting “written”.

- (10) Section 76AN(4d) is amended by deleting “, in writing,” and “written”.

(11) Section 76AN(4e) and (5) are repealed.

**95. Section 76AO amended**

- (1) Section 76AO(1) is amended as follows:
- (a) by deleting “statement to which section 76AN(4) applies” and inserting instead —  
“ section 76AN statement ”;
  - (b) in paragraphs (a) and (b) by deleting “statement” and inserting instead —  
“ section 76AN statement ”.
- (2) Section 76AO(2) is amended in the definition of “A” by deleting “the State” and inserting instead —  
“ Western Australia ”.
- (3) Section 76AO(3) is amended as follows:
- (a) by deleting “on a statement” and inserting instead —  
“ on a section 76AN statement ”;
  - (b) by deleting “lodge” and inserting instead —  
“ prepare ”;
  - (c) by deleting “statement previously lodged under that section” and inserting instead —

“

section 76AN statement previously prepared in relation to the acquisition

”.

- (4) Section 76AO(4) is amended as follows:
- (a) by deleting “statement to which section 76AN(4) applies” and inserting instead —  
“ section 76AN statement ”;
  - (b) by deleting “the statement” in both places where it occurs and inserting instead —  
“ the section 76AN statement ”;
  - (c) in paragraph (a) by deleting “31D” and inserting instead —  
“ 31C ”;
  - (d) after paragraph (b) by inserting —  
“ or ”;
  - (e) in paragraph (c) by deleting “the State” and inserting instead —  
“ Western Australia ”.
- (5) Section 76AO(5) is amended by deleting “statement” and inserting instead —  
“ section 76AN statement ”.

**96. Section 76AP amended**

- (1) Section 76AP(1)(a)(i) and (2)(a) and (b) are amended by deleting “the State” in each place where it occurs and inserting instead —  
“ Western Australia ”.

- (2) Section 76AP(2a), (2b) and (2c) are repealed and the following subsection is inserted instead —

“

- (2a) If the Commissioner makes a determination under subsection (2) —
- (a) the Commissioner is to give notice of it to the corporation;
  - (b) the notice is to contain reasons for the determination; and
  - (c) for the purposes of section 76AN(4)(b) the relevant acquisition is taken to have occurred when the notice is given.

”.

**97. Section 76AS amended**

- (1) Section 76AS(1) is amended as follows:
- (a) by deleting “in this section called”;
  - (b) by deleting “the State” and inserting instead —  
“ Western Australia ”.
- (2) Section 76AS(2) and (3)(a) and (b) are amended by deleting “the State” and inserting instead —  
“ Western Australia ”.

**98. Section 76AT repealed**

Section 76AT is repealed.

**99. Sections 76AU to 76AY replaced**

Sections 76AU to 76AY are repealed and the following section is inserted instead —

“

**76AU. Reassessment where deeming provision applied**

- (1) If, on the application of a person who has paid, or is liable to pay, duty on a Part IIIA statement, the Commissioner is satisfied that —
- (a) but for the operation of a deeming provision in relation to a contract or agreement —
    - (i) the duty would not have been chargeable; or
    - (ii) the amount of the duty would have been less;and
  - (b) the contract or agreement has been —
    - (i) if a deeming-in provision applied — rescinded, annulled or otherwise terminated without being completed; or
    - (ii) if a deeming-out provision applied — completed,the duty chargeable on the Part IIIA statement is the duty that would have been payable had the deeming provision not applied to the contract or agreement.
- (2) In a case where a deeming-in provision applied, subsection (1) does not apply if the Commissioner is not satisfied that the rescission, annulment or other termination of the contract or

agreement was not part of a scheme or arrangement under which the object of the contract or agreement has been or may be achieved in another way.

- (3) This section is in addition to the provisions of the *Taxation Administration Act 2003* relating to the reassessment of duty and does not affect the operation of those provisions.
- (4) In this section —
- “**deeming-in provision**” means section 76AI(5)(a), 76AI(6)(a), 76AP(5)(a) or 76AP(6)(a);
  - “**deeming-out provision**” means section 76AI(5)(b), 76AI(6)(b), 76AP(5)(b) or 76AP(6)(b);
  - “**deeming provision**” means a deeming-in provision or a deeming-out provision.

”.

**100. Part III C replaced (sections 76B to 76CB)**

Part III C is repealed and the following Part is inserted instead —

“

**Part III C — Vehicle licences**

**76B. Interpretation in Part III C**

- (1) In this Part —
- “**Commonwealth Act**” means the Interstate Road Transport Act 1985 of the Commonwealth;
  - “**corresponding State law**” means a law of any other State or a Territory corresponding to the *Road Traffic Act 1974*;
  - “**dealer**” means a person who —
    - (a) carries on the business of selling new vehicles;
    - (b) is the holder of a dealer’s licence under the *Motor Vehicle Dealers Act 1973*;
    - (c) carries on the business of acquiring new or used vehicles for resale or disposal under hire purchase or leasing agreements; or
    - (d) in the course of the person’s business, takes possession of vehicles that are the subject of hire purchase or leasing agreements and resells them;
  - “**Director General**” means the chief executive officer of the department of the Public Service principally assisting in the administration of the provisions of the *Road Traffic Act 1974* that section 5 of that Act defines as the “licensing provisions of this Act”;
  - “**discretionary trustee**” means a trustee of any property over which any person has a power of appointment that was not created by will;
  - “**eligible vehicle**” means a motor vehicle (as defined in the *Road Traffic Act 1974* but not including a trailer, semi-trailer or caravan) —
    - (a) that is constructed or designed, or has been modified, to include or have permanently affixed to it, specialised equipment; and

(b) that is designed to be driven or controlled by a person carried in or on the vehicle;

**“grant”**, in relation to a licence, includes renew;

**“heavy vehicle”** means a vehicle with a gross vehicle mass of more than 4.5 tonnes;

**“licence”** means a vehicle licence granted under Part III of the *Road Traffic Act 1974*, but does not include a duplicate licence or a certified copy of a licence granted under that Act;

**“net value”**, in relation to the grant or transfer of the licence for an eligible vehicle, means the market value of the vehicle as if the specialised equipment attached to it at the time the application for the grant or transfer was made was not attached to it;

**“non-beneficial”**, in relation to a change of ownership of a vehicle, has the meaning given in section 76C(1);

**“purchase price”**, in relation to a vehicle, includes any amount —

- (a) allowed by the seller on a trade-in or an exchange of any article;
- (b) paid to the seller for anything included with or incorporated into the vehicle; or
- (c) paid to the seller for the preparation of the vehicle for delivery to the purchaser;

**“specialised equipment”** means —

- (a) a crane;
- (b) an excavator, road roller, road grader, bulldozer, mechanical shovel, plough, rotary hoe or similar plant;
- (c) hoisting equipment for lifting, partial lifting or towing other vehicles;
- (d) bitumen spraying equipment;
- (e) a cement agitator;
- (f) garbage collection equipment;
- (g) road sweeping equipment;
- (h) a refrigeration unit;
- (i) a stock crate;
- (j) a tank for transporting liquids;
- (k) equipment to make the vehicle habitable by a person in the course of a journey; or
- (l) any similar plant or equipment;

**“trustee”** does not include a discretionary trustee or a unit trustee;

**“unit trustee”** means a trustee of a unit trust scheme;

**“unit trust scheme”** means a private unit trust scheme within the meaning in section 63(2);

**“vehicle”** means a vehicle that is required to be licensed under the *Road Traffic Act 1974*.

- (2) For the purposes of this Part, a vehicle is taken to be used solely for the purpose mentioned in section 76D(4) or (5) if it is used only for that purpose and for minor incidental purposes.

**76C. Non-beneficial change of ownership**

- (1) On application by a person to whom the licence for a vehicle has been or is to be transferred the Commissioner may authorise duty to be charged on the transfer in accordance with section 76D(2) if the Commissioner is satisfied that —
  - (a) the change in the legal ownership of the vehicle to which the licence relates that necessitated, or will necessitate, the transfer of the licence did not, or will not, change the beneficial ownership of the vehicle; and
  - (b) the transferor of the licence —
    - (i) acquired the legal ownership of the vehicle in his or her capacity as trustee, discretionary trustee or unit trustee (as the case requires); and
    - (ii) paid duty on the grant or transfer to him or her of the licence.
- (2) An application for an authorisation is to be made to the Commissioner in an approved form.
- (3) For the purposes of subsection (1)(a), a change in the legal ownership of a vehicle does not change the beneficial ownership of the vehicle if —
  - (a) the change in the legal ownership of the vehicle is made to effect the appointment of a new trustee, or the retirement of a trustee, whether the trust is expressed or implied;
  - (b) the legal ownership of a vehicle passes to a beneficiary from a trustee or a person in any other fiduciary capacity (except a discretionary trustee or a unit trustee), under a trust, whether express or implied;
  - (c) the legal ownership of the vehicle passes to a beneficiary under a discretionary trust (whether express or implied) from the discretionary trustee otherwise than as a result of the exercise by the trustee of a power of appointment;
  - (d) the legal ownership of the vehicle passes to a beneficiary under a discretionary trust from the discretionary trustee as a result of the exercise by the trustee of a power of appointment if —
    - (i) the beneficiary is an individual;
    - (ii) the beneficiary acquires the vehicle for his or her own use and benefit; and
    - (iii) at the time the trustee acquired the vehicle the beneficiary was named or described in the instrument which created the power of appointment as a beneficiary or as a member of a class of beneficiaries in whose favour the discretionary trustee was empowered by that instrument to appoint the vehicle;
  - (e) the legal ownership of the vehicle passes to the holder of a unit in a unit trust scheme from the unit trustee if the change in the legal ownership of the vehicle —
    - (i) has the effect of reducing the rights of the transferee in respect of the trust property to the

extent of the vehicle or the value of the vehicle;  
and

- (ii) does not have the effect of varying, abrogating or altering the rights of the holder or holders of other units under the unit trust scheme in respect of the remaining trust property;

or

- (f) the change in the legal ownership of the vehicle —
  - (i) does not pass a beneficial interest in the vehicle;
  - (ii) is not made in contemplation of the passing of a beneficial interest in the vehicle; and
  - (iii) is not part of, or made pursuant to, a scheme whereby any beneficial interest in the vehicle, whether vested or contingent, has passed or will or may pass.

**76D. Duty on the grant or transfer of a vehicle licence**

- (1) Subject to this section, duty is payable on the grant or transfer of a licence in accordance with item 14 of the Second Schedule.
  - (2) Subject to this section, duty is payable on the transfer of a licence in accordance with item 6 of the Second Schedule if —
    - (a) the vehicle to which the licence relates is transferred under a testamentary instrument or on an intestacy to a person entitled to it under the instrument or on the intestacy; or
    - (b) the Commissioner has granted an authorisation in respect of the transfer of the licence under section 76C(1) or 112UE(2).
  - (3) Duty is not payable on —
    - (a) the grant of a licence if no fee is payable under the *Road Traffic Act 1974* for the grant of the licence; or
    - (b) the transfer of a licence if no fee would be payable under the *Road Traffic Act 1974* for the grant of the licence if it was granted to the transferee on the date of the transfer.
  - (4) Duty is not payable on the transfer of a licence to a dealer, if —
    - (a) the dealer has acquired the vehicle to which the licence relates solely for the purpose of reselling it to another person;
    - (b) the resale is in the ordinary course of the dealer's business; and
    - (c) the application for the transfer of the licence is accompanied by a certificate certifying that while the applicant holds the licence the vehicle will be used solely for the purpose referred to in paragraph (a).
  - (5) Duty is not payable on the grant of a licence to a dealer if —
    - (a) the dealer acquired the vehicle to which the licence relates solely for the purpose of —
      - (i) selling it to another person in the ordinary course of that business; or
      - (ii) demonstrating it to prospective purchasers;
- and

- (b) the application for the grant of the licence is accompanied by a certificate certifying that while the applicant holds the licence the vehicle will be used solely for the purposes referred to in paragraph (a).
- (6) The duty payable on the grant or transfer of a licence for an eligible vehicle (“**vehicle B**”) is to be calculated on the net value of the vehicle if —
  - (a) the applicant holds, or previously held, the licence for another eligible vehicle (“**vehicle A**”);
  - (b) the applicant is the last person to hold a licence for vehicle A;
  - (c) the duty paid by the applicant on the grant or transfer of the licence for vehicle A was assessed on the market value of vehicle A including the specialised equipment that was then attached to it (“**original equipment**”);
  - (d) the original equipment has been removed from vehicle A and attached to vehicle B; and
  - (e) the application for the grant or transfer of the licence for vehicle B is accompanied by a certificate certifying that while the applicant holds the licence for vehicle B —
    - (i) vehicle B will not be used if the original equipment has been removed from it; or
    - (ii) if the original equipment is removed from vehicle B and vehicle B is used with different equipment, the original equipment will not be attached to any other vehicle for which the applicant intends to become the licence holder.
- (7) A certificate for the purposes of subsection (4)(c), (5)(b) or (6)(e) must be in an approved form and be signed by the applicant for the grant or transfer of the licence.
- (8) Subject to section 17 of the *Taxation Administration Act 2003*, the Commissioner must make any reassessment necessary to give effect to this section.

**76E. Determination of value and assessment of duty**

- (1) When an application is made for the grant or transfer of a licence the Director General must assess the amount of duty payable on it.
- (2) For the purpose of making the assessment, if duty is payable on the grant or transfer in accordance with item 14 of the Second Schedule the Director General must determine —
  - (a) the market value; or
  - (b) if section 76D(6) applies, the net value,
 of the vehicle to which the licence relates.
- (3) For the purpose of determining the market value or net value of the vehicle the Director General may, by notice given to the applicant, require the applicant to provide, within a period stated in the notice, evidence of the market value of the vehicle and the applicant must comply with that requirement.  
Penalty: \$20 000
- (4) An assessment made under subsection (1) is an official assessment for the purposes of the *Taxation Administration Act 2003*.

**76F. Payment of duty**

Duty payable on the grant or transfer of a licence and any penalty tax is payable —

- (a) to the Director General in accordance with the *Road Traffic Act 1974*; or
- (b) if the assessment or a reassessment is made by the Commissioner, in accordance with the *Taxation Administration Act 2003*.

**76G. Applicant's statement of value in application**

A person who applies under the *Road Traffic Act 1974* for the grant or transfer of a licence (other than a transfer chargeable with duty under section 76D(2)) must include in the application a statement signed by the applicant setting out —

- (a) the applicant's estimate of the market value of the vehicle to which the licence relates at the time of the application; and
- (b) if the applicant is a purchaser of the vehicle, the purchase price paid for the vehicle.

Penalty: \$20 000.

**76H. Seller's obligation to notify purchase price**

- (1) A person who ceases to be the owner of a vehicle and is required under the *Road Traffic Act 1974* to notify the Director General of the new owner must (unless the transfer of the licence for the vehicle is, or will be, chargeable with duty under section 76D(2)) include in that notice a statement signed by the person setting out —

- (a) the purchase price (if any) received for the vehicle to which the licence relates; and
- (b) the person's estimate of the market value of the vehicle at the time the person ceased to be the owner of it.

Penalty: \$20 000.

- (2) A dealer who sells a new vehicle must, within 7 days after the sale, give to the Director General a statement signed by the dealer setting out —

- (a) the purchase price received for the vehicle; and
- (b) the dealer's estimate of the market value of the vehicle at the time the vehicle was sold.

Penalty: \$20 000.

- (3) If —

- (a) a person understates, in a statement under this section, the purchase price or estimated market value of a vehicle; and
- (b) the duty payable on the grant or transfer of the licence for that vehicle is initially assessed on a value for the vehicle that is less than the proper market value,

the person is jointly and severally liable with the purchaser to pay the difference between the amount of duty as initially assessed and the amount of duty assessed on the vehicle's proper market value.

**76I. Use of dealer registered vehicle for other purposes**

- (1) If under section 76D(4) or (5) no duty was payable on the grant or transfer of a licence to a dealer, then while the dealer remains the licensee of the vehicle to which the licence relates the dealer must not use, or allow any other person to use, the vehicle for a purpose other than the purpose mentioned in section 76D(4) or (5) (as the case may be).

Penalty: \$20 000.

- (2) If a dealer contravenes subsection (1) —
- (a) the grant or transfer of the licence is taken not to be, and never to have been, exempt from duty under section 76D(4) or (5) (as the case may be);
  - (b) the grant or transfer of the licence is chargeable with penalty tax of an amount equal to the amount of duty chargeable on the grant or transfer of the licence; and
  - (c) the duty and penalty tax is due for payment within one month after an assessment notice is issued in respect of the grant or transfer of the licence.

**76J. Use of specialised equipment on another vehicle**

- (1) If —
- (a) under section 76D(6) duty on the grant or transfer of a licence for an eligible vehicle to a person is calculated on the net value of the vehicle; and
  - (b) while that person holds the licence for that vehicle it is used with specialised equipment other than the equipment that was attached to it at the time the application for the grant or transfer of the licence was made (“**original equipment**”),

the person must not attach the original equipment to any other vehicle for which the licensee intends to become the licence holder.

Penalty: \$20 000.

- (2) If a licensee contravenes subsection (1) —
- (a) the grant or transfer of the licence is taken to be, and always to have been, chargeable with duty on the market value of the eligible vehicle including the specialised equipment attached to it;
  - (b) the grant or transfer of the licence is chargeable with penalty tax of an amount equal to the amount of duty chargeable on the grant or transfer of the licence; and
  - (c) the duty and penalty tax is due for payment within one month after an assessment notice is issued in respect of the grant on transfer of the licence.

**76K. Failure to apply for transfer of licence**

- (1) For the purposes of section 26 of the *Taxation Administration Act 2003*, a failure by a person to apply for the transfer of a licence when required by the *Road Traffic Act 1974* to do so is taken to be a contravention of a taxation Act.
- (2) If it appears to the Commissioner that a person has failed to apply for the transfer of a licence when required by the *Road Traffic*

Act 1974 to do so, section 20 of the *Taxation Administration Act 2003* applies as if —

- (a) the transfer were an instrument required to be lodged under a taxation Act; and
- (b) an application for the transfer had been made as required by the *Road Traffic Act 1974*.

**76L. Powers of Director General and Commissioner**

- (1) For the purposes of this Part the Director General has the functions of the Commissioner under sections 26 and 29 of the *Taxation Administration Act 2003*.
- (2) The Commissioner has all of the functions of the Director General under this Part.
- (3) For the purposes of the *Taxation Administration Act 2003* anything done by the Director General in the exercise of a function conferred by subsection (1) is taken to have been done by the Commissioner.

**76M. Duty to be remitted to Commissioner**

The Director General must, in accordance with any agreement between the Director General and the Commissioner —

- (a) provide to the Commissioner details of licences granted or transferred and the duty and any penalty tax paid in relation to them; and
- (b) remit that duty and penalty tax to the Commissioner.

”.

**101. Section 77 amended**

Section 77(2) is amended by deleting all the words from and including “and the Commissioner” to the end of the subsection.

**102. Section 78 amended**

Section 78(2) is amended by deleting “duly” in both places where it occurs.

**103. Section 79 amended**

- (1) Section 79(3) is amended by deleting “duly”.
- (2) Section 79(4) and (5) are repealed and the following subsection is inserted instead —

“

- (4) If the amount of rent payable under a lease, or to be payable under a lease the subject of an agreement for a lease, is —
  - (a) nil;
  - (b) a nominal amount;
  - (c) less than the amount considered by the Commissioner to be the fair market rent; or
  - (d) unascertainable at the time of granting or entering into the lease or agreement for a lease,

the Commissioner may —

- (e) determine the amount that the Commissioner considers to be the fair market rent for the property that is, or is to be, the subject of the lease; and

- (f) assess the duty payable on the lease or agreement for a lease as if the amount so determined was the rent payable, or to be paid, under the lease.

”.

- (3) Section 79(6) is amended by deleting “In this Act, for” and inserting instead —  
“ For ”.

**104. Section 80A amended**

Section 80A is amended by deleting “, or refund any duty paid on,”.

**105. Section 83 amended**

- (1) Section 83(1a)(b) is amended by deleting “a natural person” and inserting instead —  
“ an individual ”.
- (2) Section 83(1b) is amended by deleting “a natural person” and inserting instead —  
“ an individual ”.
- (3) Section 83(3) is amended as follows:
  - (a) by inserting before “executed” —  
“ first ”;
  - (b) by deleting all the words from and including “, without prejudice” to the end of the subsection and inserting instead —  
“ is chargeable with duty accordingly. ”.
- (4) Section 83(6) is repealed and the following subsection is inserted instead —

“

- (6) Additional duty referred to in subsection (3) may be paid as further advances or loans are made or as the indebtedness is increased.

”.

- (5) Section 83(7) is amended by deleting “stamps concerned had been impressed on or affixed to the original instrument.” and inserting instead —

“

original instrument had been stamped with the additional duty.

”.

**106. Section 84 amended**

- (1) Section 84(1) is amended by deleting “out of the State” and inserting instead —  
“ outside Western Australia ”.
- (2) Section 84(2) is amended as follows:
  - (a) by deleting all the words from and including “any duty of” to and including “Commonwealth” and inserting instead —

“

interstate duty has been paid on the instrument, or any other instrument that secures the same money,

”;

- (b) in paragraph (b) by deleting “duty that is paid or payable in that other State or Territory” and inserting instead —  
“ interstate duty ”.
- (3) Section 84(2a)(b) is amended by inserting before “duty” —  
“ interstate ”.
- (4) Section 84(2b)(b) is amended by deleting “duty of a like nature to duty payable under subsection (1)” and inserting instead —  
“ interstate duty ”.
- (5) Section 84(2c) is amended by deleting all the words from and including “duty that” to the end of the subsection and inserting instead —

“

interstate duty that would otherwise be payable under a law of that State or Territory.

”.

- (6) Section 84(4) is amended as follows:
  - (a) by deleting “in writing”;
  - (b) by deleting “duty on the instrument, or any other instrument securing the same moneys, in another State or Territory of the Commonwealth” and inserting instead —

“

interstate duty on the instrument, or any other instrument securing the same money

”.

- (7) Section 84(4)(a) is amended by deleting “duty had been paid in another State or Territory” and inserting instead —  
“ interstate duty had been paid ”.
- (8) Section 84(4)(b), (c) and (d) are deleted and the following paragraphs are inserted instead —

“

- (b) the Commissioner is to make an assessment of the difference between the amount of duty payable under subsection (1) and the duty paid under paragraph (a), and issue an assessment notice for that amount;
- (c) if the instrument is produced to the Commissioner within 3 months after the assessment notice was issued, together with proof of payment of the interstate duty, the Commissioner is to cancel the assessment notice and endorse the instrument accordingly;
- (d) if paragraph (c) is not complied with —
  - (i) the duty and any penalty tax is payable within 3 months after the assessment notice was issued;

- (ii) no reduction shall be allowed for any interstate duty paid; and
- (iii) the instrument is available only for the amount in respect of which duty has been paid under paragraph (a) as if the instrument related to property only in Western Australia until the duty and penalty tax is paid in full.

”.

**107. Section 87 amended**

- (1) Section 87(1) is amended by deleting “duly”.
- (2) Section 87(1a) is amended by deleting “a form approved by the Commissioner” and inserting instead —  
“ an approved form ”.
- (3) Section 87(2) is amended by deleting “duly”.
- (4) Section 87(3) is repealed.

**108. Section 88 amended**

Section 88(2)(b) is deleted and the following paragraph is inserted instead —

“

- (b) if the option or right is granted after the execution of the instrument, the instrument is taken to have been first executed on the day on which the option or right was granted.

”.

**109. Section 88A amended**

- (1) Section 88A(1) is amended by deleting “kind.” and inserting instead —

“

kind as if it had been first executed on the day on which it became an instrument of security.

”.

- (2) Section 88A(2) is repealed.

**110. Section 90A amended**

Section 90A is amended by deleting “, or refund any duty paid on,”.

**111. Section 92 amended**

Section 92 is amended by deleting “the State” in both places where it occurs and inserting instead —

“ Western Australia ”.

**112. Section 92A replaced**

Section 92A is repealed and the following section is inserted instead —

**92A. Dutiable statement required if policy issued outside Western Australia**

- (1) Every person resident in Western Australia who effects —
- (a) a policy of life insurance; or
  - (b) any insurance in respect of —
    - (i) property in Western Australia; or
    - (ii) any liability, loss or damage occurring or brought about by the happening of any event within Western Australia,
- for which insurance a policy of insurance is or is to be issued or renewed outside Western Australia shall within one month after effecting the insurance prepare and lodge with the Commissioner a dutiable statement in respect of the insurance.
- Penalty: \$20 000.
- (2) A dutiable statement is to be in an approved form.
- (3) A dutiable statement prepared under subsection (1) is taken to be a policy of insurance in respect of the insurance to which it relates and is chargeable with duty accordingly.
- (4) The duty payable on a dutiable statement prepared under subsection (1) is payable —
- (a) by the person who effected the insurance; and
  - (b) within one month after the insurance was effected.
- (5) Subsections (1) to (4) do not apply if, before a dutiable statement prepared under subsection (1) is stamped, a policy of insurance for the insurance referred to in subsection (1) is stamped.
- (6) A person resident in Western Australia must not accept payment of, or agree to have allowed on account, any money on or in respect of any insurance the policy for which is or is to be issued or renewed outside Western Australia unless the policy, or a dutiable statement in respect of the insurance, has been stamped.
- Penalty: \$20 000.

”.

**113. Section 92AA repealed**

Section 92AA is repealed.

**114. Section 92B amended**

- (1) Section 92B(1) is amended as follows:
- (a) by deleting “the State” in each place where it occurs and inserting instead —  
“ Western Australia ”;
  - (b) by deleting “a return” and inserting instead —  
“ a statement ”;
  - (c) by deleting “in writing”;
  - (d) by inserting after the subsection —  
“ Penalty: \$20 000. ”.
- (2) Section 92B(2) is amended by deleting “return” in each place where it occurs and inserting instead —

“ statement ”.

- (3) Section 92B(3) and (4) are repealed.
- (4) Section 92B(5) is amended as follows:
  - (a) by deleting “return and any written particulars” and inserting instead —  
“ statement ”;
  - (b) by deleting “are” in both places where it occurs and inserting instead —  
“ is ”.

**115. Section 94 amended**

- (1) Section 94(1) is repealed and the following subsections are inserted instead —

“

- (1) A person who receives or takes credit for any premium or consideration for any contract of insurance must, within 3 months after receiving or taking credit for such premium or consideration, make out, execute and have stamped, a policy of such insurance.  
Penalty: \$20 000.
- (1a) A person must not make, execute, or deliver out, or pay or allow in account, or agree to pay or allow in account, any money on or in respect of any policy of insurance which is not stamped.  
Penalty: \$20 000.

”.

- (2) Section 94(2) is amended by deleting all of the words from and including “the State shall” to the end of the subsection and inserting instead —

“

Western Australia must notify the Commissioner, in an approved form, that the contract of insurance has been made, entered into or renewed.  
Penalty: \$20 000.

”.

- (3) Section 94(3) is repealed.
- (4) Section 94(3a) is amended as follows:
  - (a) by deleting “the State” and inserting instead —  
“ Western Australia ”;
  - (b) by deleting “this State” and inserting instead —  
“ Western Australia ”.
- (5) Section 94(4) is amended as follows:
  - (a) by deleting “upon a return furnished under subsection (1) of that section” and inserting instead —  
“ on a dutiable statement ”;
  - (b) by deleting “the return” and inserting instead —  
“ the dutiable statement ”;
  - (c) by deleting “the State” and inserting instead —  
“ Western Australia ”.

**116. Section 95 amended**

Section 95 is amended as follows:

- (a) by deleting “a transfer or assignment of a policy of fire insurance nor upon”;
- (b) by deleting “upon which the duty imposed by this Act has been paid before such time.” and inserting instead —  
“ that has been stamped. ”.

**117. Section 95A repealed**

Section 95A is repealed.

**118. Section 96 amended**

- (1) Section 96(1) is amended by deleting “that is issued or renewed on or after 1 November 1989”.
- (2) Section 96(3) is amended by deleting “under this Act”.

**119. Section 97 repealed**

Section 97 is repealed.

**120. Part IVA replaced (sections 112AB to 112FU)**

Part IVA is repealed and the following Part is inserted instead —

“

**Part IV — Unlisted WA securities**

**100. Interpretation**

In this Part —

“**issuer**”, in relation to an unlisted WA security, means the body that issued the security;

“**overseas transfer**” means a transfer of an unlisted WA security that —

- (a) is quoted on a financial market that is situated outside Australia and is not a recognized financial market;  
and
- (b) is registered outside Australia on a branch register of the WA company;

“**register**”, when used as a verb in relation to an overseas transfer, means register in a register kept under Chapter 2C of the Corporations Act;

“**security**” means a marketable security or right in respect of shares;

“**unlisted WA security**” means a security that —

- (a) is situated in Western Australia; and
- (b) is not quoted on a recognized financial market.

**101. Share buy-back**

For the purposes of this Part a buy-back by a company of its own shares or stocks in accordance with —

- (a) Division 4B of Part 2.4 of the Corporations Law as in force immediately before the commencement of Schedule 1 to the *Company Law Review Act 1998* of the Commonwealth; or

(b) Division 2 of Part 2J.1 of the Corporations Act, is taken to be a transfer of shares or stocks.

**102. Securities situated in Western Australia**

- (1) For the purposes of a stamp Act, a security of a WA company is situated in Western Australia, irrespective of where the register on which it is registered by the company is situated and despite section 1070A(4) of the Corporations Act or any other law.
- (2) A security of a foreign company is situated in Western Australia if the security is registered on a register kept by the company in Western Australia.
- (3) A unit in a unit trust scheme is situated in Western Australia if —
  - (a) the scheme's principal register is kept in Western Australia; or
  - (b) where the scheme's principal register is not kept in Australia, the scheme's manager, or if the scheme does not have a manager, the trustee, is —
    - (i) an individual resident in Western Australia;
    - (ii) a WA company; or
    - (iii) a foreign company with a registered office under the Corporations Act in Western Australia.
- (4) A security of a company that is taken under the Corporations Act to be registered in another State or Territory, is not situated in Western Australia even if it is registered on a register in Western Australia.
- (5) Subsection (1) is declared to be a Corporations legislation displacement provision for the purposes of section 5G of the Corporations Act in relation to section 1070A(4) of that Act.

**103. Prohibition on registration of unstamped transfer**

- (1) The issuer of an unlisted WA security must not register a transfer of the security, other than an overseas transfer, unless the issuer is given an instrument of transfer —
  - (a) that sets out —
    - (i) the consideration given for the transfer;
    - (ii) if the transfer is to give effect to a sale of the security, the date of the sale; and
    - (iii) the date on which the instrument was executed by each party to it;
  - and
  - (b) that has been stamped or is not chargeable with duty.Penalty: \$20 000.
- (2) The right or title of a transferee or subsequent holder of an unlisted WA security is not invalidated only because a transfer of the security was registered in contravention of this section.

**104. Registration of an overseas transfer**

- (1) Nothing in this Part prevents a WA Company from registering an overseas transfer —
  - (a) whether or not there is an instrument of transfer; and
  - (b) whether or not duty has been paid on the transfer.

- (2) Before a WA Company registers an overseas transfer for which there is not an instrument of transfer, the WA company must prepare a dutiable statement in respect of the transfer.
- (3) A dutiable statement is to be in an approved form.
- (4) A dutiable statement prepared under subsection (2) is taken to be an instrument of transfer of the unlisted WA securities the subject of the overseas transfer.
- (5) If a WA company registers an overseas transfer in respect of which duty has not been paid, the WA company is liable to pay the duty chargeable on the instrument of transfer or the dutiable statement prepared under subsection (2) (as the case may be).
- (6) Duty payable by a WA company under subsection (4) is to be paid in accordance with section 105.

**105. Return of overseas transfers and payment of duty**

- (1) Within 15 days after the end of a month in which a WA company registers an overseas transfer, the WA company must —
  - (a) lodge with the Commissioner a return in an approved form of all overseas transfers registered by the WA company in that month other than those that are exempt from duty; and
  - (b) when lodging the return, pay to the Commissioner the amount of duty payable on the instrument of transfer for, or the dutiable statement prepared under section 104 in respect of, each transfer to which the return relates.

Penalty: \$20 000.

- (2) On payment of duty under subsection (1) in respect of an overseas transfer, the instrument of transfer or the dutiable statement (as the case may be) is taken to have been stamped.
- (3) The right or title of a transferee or subsequent holder of a security is not invalidated by reason only that the issuer contravened subsection (1).

**106. Valuing an unlisted WA security**

- (1) The value of an unlisted WA security is to be determined —
  - (a) as if the constitution or governing rules of the issuer satisfied any requirements of the Australian Stock Exchange Limited that must be satisfied before the security could be quoted on the Australian Stock Exchange Limited; and
  - (b) disregarding a provision in the constitution or governing rules of the issuer providing for the valuation of the security.
- (2) Despite subsection (1), the Commissioner may determine the value of an unlisted WA security to be the amount the Commissioner considers would be received by the holder of the security if the issuer were to be voluntarily wound up on the day of the transfer.

**107. Retention of instruments of transfer**

An issuer must retain an instrument of transfer for, or a dutiable statement prepared under section 104 in respect of, the transfer of

an unlisted WA security for at least 5 years after the transfer is registered by the issuer.

Penalty: \$20 000.

”

**121. Section 112HA amended**

- (1) Section 112HA(4), (5), (6) and (7) are repealed and the following subsections are inserted instead —

“

- (4) If this section applies the WA company must prepare a dutiable statement in relation to the capital reduction or the rights alteration and share cancellation, unless the capital reduction, or the rights alteration and the share cancellation, also result in a relevant acquisition occurring under Part IIIBA.

Penalty: \$20 000.

- (5) A dutiable statement must be in an approved form.
- (6) A dutiable statement prepared under this section is taken to be an instrument evidencing the capital reduction or the rights alteration and share cancellation and is chargeable with duty at the rate provided for in item 4A of the Second Schedule on the dutiable value.

”

- (2) Section 112HA(10) is repealed.
- (3) Section 112HA(11) is amended by deleting “statement” and inserting instead —

“ dutiable statement ”.

- (4) Section 112HA(12) and (13) are repealed.

**122. Section 112I amended**

- (1) Section 112I(1) is amended in the definition of “service costs” by deleting “in writing”.
- (2) Section 112I(1a)(a) is amended by deleting “under this Act”.

**123. Section 112J amended**

- (1) Section 112J(1) is amended as follows:
- (a) by deleting “the State” in both places where it occurs and inserting instead —  
“ Western Australia ”;
- (b) by inserting after the subsection —  
“ Penalty: \$20 000. ”.

- (2) Section 112J(1a) is repealed.
- (3) Section 112J(2) is amended by deleting “the State” in each place where it occurs and inserting instead —  
“ Western Australia ”.

- (4) Section 112J(3) is amended by deleting “such form as the Commissioner approves in writing” and inserting instead —  
“ an approved form ”.

- (5) Section 112J(3a)(b) is amended by deleting “the State” and inserting instead —

“ Western Australia ”.

**124. Section 112K amended**

- (1) Section 112K(1) is amended as follows:

- (a) by deleting “statement in such form as the Commissioner requires in writing” and inserting instead —

“ return in an approved form ”;

- (b) in paragraph (a) and (a)(ii) by deleting “statement” and inserting instead —

“ return ”;

- (c) by deleting paragraphs (a)(iii) and (iv) and inserting the following subparagraphs instead —

“

- (iii) the total amount received by him or her during the last preceding month in respect of his or her rental business on which interstate duty has been paid if the rate of interstate duty is less than the rate specified in subparagraph (ii); and

- (iv) an amount determined by deducting the amount of the interstate duty from the sum equal to 1.8% of the sum arrived at by deducting service costs from the total amount referred to in subparagraph (iii) as set out in the return;

”;

- (d) in paragraph (b) —

- (i) by deleting “on that statement”;

- (ii) by deleting “statement” in the other 2 places where it occurs and inserting instead —

“ return ”;

- (iii) by deleting “in cash”;

- (e) by inserting after the subsection —

“ Penalty: \$5 000. ”.

- (2) Section 112K(1a) is amended as follows:

- (a) by deleting “statement” and inserting instead —

“ return ”;

- (b) by inserting after the subsection —

“ Penalty: \$5 000. ”.

- (3) Section 112K(1c) is amended by deleting “statement” and inserting instead —

“ return ”.

- (4) Section 112K(2) is amended as follows:

- (a) in paragraph (a) —

- (i) by deleting “year a statement” and inserting instead —

“ year an annual return ”;

- (ii) by deleting “in a statement” and inserting instead —

- “ in a monthly return ”;
- (b) in paragraph (b) —
    - (i) by deleting “on that statement”;
    - (ii) by deleting “statement” in the second place where it occurs and inserting instead —  
“ return ”;
  - (c) by inserting after the subsection —  
“ Penalty: \$5 000. ”.
- (5) Section 112K(2a) is amended by deleting “writing in such form as the Commissioner approves in writing” and inserting instead —  
“ an approved form ”.
- (6) Section 112K(3) is amended as follows:
  - (a) by deleting “statement” in both places where it occurs and inserting instead —  
“ return ”;
  - (b) by inserting after the subsection —  
“ Penalty: \$20 000. ”.
- (7) Section 112K(4) is amended by deleting “in writing” in both places where it occurs.
- (8) Section 112K(5) is repealed.

**125. Section 112KA amended**

- (1) Section 112KA(1) is amended as follows:
  - (a) by deleting all the words from the beginning of the subsection (including the subsection designation “(1)”) to and including “where —” and inserting instead —

“

A registered person is exempt from duty under this Part in respect of a financial year if —

”;

- (b) in paragraphs (a) and (b) by deleting “to which the statement relates,”.
- (2) Section 112KA(2) is repealed.

**126. Section 112L amended**

Section 112L(d)(i), (ii) and (iii) are amended by deleting “the State” and inserting instead —

“ Western Australia ”.

**127. Section 112N amended**

- (1) Section 112N(1) is amended as follows:
  - (a) by deleting paragraph (f) and inserting the following paragraph instead —

“

- (f) rental business in respect of which interstate duty has been paid at a rate that is not less than the rate specified in section 112K(1)(a)(ii);

”;

- (b) in paragraph (g), (g)(i) and (g)(ii) by deleting “the State” and inserting instead —  
“ Western Australia ”.

- (2) Section 112N(2) is repealed.

**128. Section 112O amended**

- (1) Section 112O(1) is amended as follows:
  - (a) by deleting “keep or cause to be kept in the State” and inserting instead —

“

make, or cause to be made, and retain in Western Australia

”;

- (b) by deleting “statement” and inserting instead —  
“ return ”.

- (2) Section 112O(1a), (2) and (2a) are repealed and the following subsection is inserted instead —

“

- (2) A registered person shall make available for inspection the books and records referred to in subsection (1).

”.

- (3) Section 112O(3) is amended as follows:
  - (a) in paragraph (a) by deleting “statement” and inserting instead —  
“ return ”;
  - (b) by deleting “statements” in each place where it occurs and inserting instead —  
“ returns ”.
- (4) Section 112O(4) is amended as follows:
  - (a) by deleting “statement” in the first 2 places where it occurs and inserting instead —  
“ return ”;
  - (b) by deleting “on that statement if it” and inserting instead —  
“ if the return ”.
- (5) Section 112O(5) is amended by deleting “in writing”.

**129. Section 112P amended**

- (1) Section 112P(1) is amended as follows:
  - (a) by deleting “the State” in both places where it occurs and inserting instead —  
“ Western Australia ”;
  - (b) by deleting all the words from and including “he shall” to the end of the subsection and inserting instead —

“

the person is to prepare a dutiable statement in relation to the transaction or offer.

Penalty: \$20 000.

”  
“  
(2) Section 112P(2), (4) and (5) are repealed and the following subsection is inserted instead —

(2) A dutiable statement must be in an approved form.

(3) Section 112P(6) is amended as follows:

(a) by deleting “the State is not required to make a note or memorandum” and inserting instead —

“ Western Australia is not required to prepare a dutiable statement

(b) in paragraph (d), (d)(i) and (d)(ii) by deleting “the State” and inserting instead —

“ Western Australia ”.

**130. Section 112Q amended**

Section 112Q(1) is amended by deleting “this Act” and inserting instead —

“ a stamp Act ”.

**131. Section 112R amended**

Section 112R(1) is amended by deleting “this Act” and inserting instead —

“ a stamp Act ”.

**132. Section 112UA amended**

Section 112UA is amended as follows:

(a) in the definition of “Family Court Act” by deleting “the Parliament of the State” and inserting instead —

“ Western Australia ”;

(b) in the definition of “Family Law Act” by deleting “Parliament of the” in both places where it occurs.

**133. Section 112UB amended**

Section 112UB(2) is amended as follows:

(a) in paragraph (b) by deleting “otherwise be dutiable under the provisions of this Act other than this Part” and inserting instead —

“ , but for this Part, be chargeable with duty ”;

(b) by deleting all the words from and including “the Commissioner shall” to the end of the subsection and inserting instead —

“  
the maintenance agreement, order, or instrument of conveyance or transfer is chargeable with duty in respect of those other matters in accordance with this Act other than this Part.  
”.

**134. Section 112UC amended**

Section 112UC is amended by deleting “this Act” and inserting instead —

“ a stamp Act ”.

**135. Section 112UD amended**

Section 112UD is amended as follows:

- (a) by deleting “this Act” in the first place where it occurs and inserting instead —  
“ a stamp Act ”;
- (b) by deleting “duly stamped in accordance with this Act” and inserting instead —  
“ stamped ”.

**136. Section 112UE amended**

- (1) Section 112UE(2)(c) is amended by deleting “motor”.
- (2) Section 112UE(5), (6) and (7) are repealed and the following subsection is inserted instead —

“

- (5) An application is to be made to the Commissioner in an approved form.

”.

**137. Sections 112V to 118 replaced**

Sections 112V, 113, 114, 115, 116, 117 and 118 are repealed and the following sections are inserted instead —

“

**113. Commissioner may impound unstamped documents**

If it appears to the Commissioner that an instrument in the Commissioner’s possession or control (regardless of how it came to be in the Commissioner’s possession or control) is chargeable with duty but has not been stamped, the Commissioner may impound the instrument until the duty and any penalty tax payable in respect of the instrument have been paid.

**114. Commissioner may destroy instruments**

- (1) The Commissioner may destroy any instrument in the Commissioner’s possession or control if —
  - (a) 6 years have elapsed since the original assessment of the amount of duty payable in respect of the instrument was made; and
  - (b) any amount that remains unpaid under a stamp Act in respect of the instrument has been written off under the *Taxation Administration Act 2003*.
- (2) Neither the Commissioner, nor any person acting under the Commissioner’s authority, is liable in tort for any act done under subsection (1).

”.

**138. Section 119 amended**

Section 119(7) is repealed.

**139. Section 120 replaced**

Section 120 is repealed and the following section is inserted instead —

**120. Regulations**

- (1) The Governor may make regulations prescribing all matters that are required or permitted by a stamp Act to be prescribed or are necessary or convenient to be prescribed to give effect to a stamp Act.
- (2) Regulations may be made in relation to any or all of the following matters —
  - (a) the fees payable under a stamp Act;
  - (b) the records required to be kept for the purposes of a stamp Act.
- (3) Regulations may create offences and provide, in respect of an offence so created, for the imposition of a fine not exceeding \$5 000.

**140. First Schedule repealed**

The First Schedule is repealed.

**141. Second Schedule amended**

- (1) The amendments in this section are to the Second Schedule.
- (2) Item 4(5) is amended by deleting “the purchaser is an entitled person under section 75AE” and inserting instead —

“ the conveyance or transfer is chargeable under section 75AE with duty under this subitem

- (3) Item 9 is amended by deleting “an instrument chargeable with duty” and inserting instead —

“ a stamped instrument ”.

- (4) Item 13(1) is amended by deleting “duly”.

- (5) Item 14 is amended as follows:

- (a) by deleting the heading to the item and inserting instead —

“ VEHICLE LICENCES, GRANT OR TRANSFER

- (b) by deleting “issue” in each place where it occurs and inserting instead —

“ grant ”;

- (c) in the third column —

- (i) by deleting “issued” and inserting instead —  
“ granted ”;

- (ii) by deleting “section 76C(13)” and inserting instead —
  - “ section 76H(2) ”;
- (d) in the first column, in subitem (1) by deleting “motor”.
- (6) Item 16(1)(a)(i)(A) is amended by deleting “*Pay-roll Tax Assessment Act 1971*” and inserting instead —
  - “ *Pay-roll Tax Assessment Act 2002* ”.
- (7) Item 16(1)(a)(i)(B) is amended by deleting “section 10” and inserting instead —
  - “ section 39 or 40 ”.
- (8) Item 16(1)(c) is amended as follows:
  - (a) by deleting “ — on the amount calculated under section 96(2)”;
  - (b) by inserting after “8%” —
    - “ of the amount calculated under section 96(2) ”.
- (9) Item 16 is amended in the third column by deleting “and see section 94” and inserting instead —
  - “ and see sections 92A(4)(a) and 94 ”.

**142. Third Schedule amended**

- (1) The amendments in this section are to the Third Schedule.
- (2) Item 1(4) is amended by inserting after paragraph (c) —
  - “ or ”.
- (3) Item 3(1)(a) and (b) are amended by deleting “duly”.
- (4) Item 6(1) is deleted and the following subitem is inserted instead —

“

- (1) All leases or agreements for leases from —
  - (a) the Crown;
  - (b) the Minister to whom the administration of the *Land Administration Act 1997* is for the time being committed, under that Act; or
  - (c) the Minister to whom the *Mining Act 1978* is for the time being committed, under that Act.

”.

- (5) Item 7(4) is amended by deleting “the State” and inserting instead —
  - “ Western Australia ”.
- (6) Item 8(2) is amended by deleting “the State” and inserting instead —
  - “ Western Australia ”.
- (7) Item 9 is amended in the heading by deleting “MOTOR”.
- (8) Item 9 is amended as follows:
  - (a) by deleting “motor” in each place where it occurs;
  - (b) by deleting “issue” in each place where it occurs and inserting instead —

“ grant ”;

(c) by deleting “issued” in each place where it occurs and inserting instead —

“ granted ”.

(9) Item 9(3) is amended by deleting “tractor or tractor plant, other than a prime mover, (as those terms are defined in the *Road Traffic Act 1974*)” and inserting instead —

“ vehicle that is in a prescribed class of vehicles ”.

”.