

STAMP.

22° GEO. V., No. XXXIX.

No. 39 of 1931.

AN ACT to amend the Stamp Act, 1921-1930.

[Assented to 26th November, 1931.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Stamp Act Amendment Act*, 1931, and shall be read as one with the Stamp Act, 1921-1930 (No. 10 of 1922 as amended), hereinafter referred to as the principal Act.

Short title.
See No. 11 of 1930,
s. 3.

2. This Act shall come into operation on a day to be fixed by proclamation.*

Operation of this
Act.

3. Subsection one of section twenty-one of the principal Act is hereby repealed, and the following subsection is substituted in lieu thereof:—

Amendment of
ss. (1) of s. 21.

(1.) It shall be the duty of every person who is required or authorised by law to cancel such adhesive stamp—

(a) before proceeding to cancel the stamp as hereinafter mentioned to see that the stamp is properly affixed to the instrument;

*1st December, 1931: See *Gazette*, 27th November, 1931.

- (b) to write, stamp, or mark legibly his name or initials, or the name or initials of his firm, and the true date of cancellation, on or across the stamp, so that the same may be effectually cancelled and rendered incapable of being used for any other instrument;
- (c) to perforate with a perforating machine the stamp and the underlying portion of the document to which it is affixed in such manner as may be prescribed:

Provided that paragraph (c) of this subsection shall not apply where the instrument to which adhesive stamps are affixed is a receipt, a bill of lading, or any other instrument chargeable with a duty of not more than one shilling.

Amendment of
s. 49.

4. Section forty-nine of the principal Act is amended by inserting, after the word "and" in line six, the words "subject to section forty-nine A of this Act."

New section.

5. A section is inserted in the principal Act, after section forty-nine, as follows:—

Certain bills of
exchange and
promissory notes
not to be deemed
to be payable
on demand.

49A. (1.) When a bill of exchange (other than and excepting a draft, order, cheque, and letter of credit) or a promissory note purporting to be payable on demand is given and received under the agreement express or implied that payment thereof is not to be required or made within twenty-one days from the execution thereof, or is given or renewed for the purpose of evading or avoiding payment of stamp duty, such bill of exchange or promissory note and every renewal thereof shall be deemed not to be a bill of exchange or promissory note payable on demand within the meaning of section forty-nine of this Act, and shall be chargeable with the same stamp duty as a bill of exchange or promissory note payable otherwise than on demand for the sum of money therein expressed.

(2.) If any person accepts, issues, indorses, transfers, negotiates, presents for payment, or pays any bill of exchange (other than and excepting a draft, order, cheque, and letter of credit) or a promissory note or renewal as aforesaid not duly stamped in accordance with the provisions of subsection one hereof, he shall be liable to a penalty of treble the amount of duty which is payable on such bill of exchange or promis-

sory note or renewal under this Act; and the person who takes or receives from any other person any such bill of exchange or promissory note or renewal, either in payment or as a security or by purchase or otherwise, shall not be entitled to recover thereon in any court or to make the same available or cognizable for any purpose whatever.

(3.) The penalties and disabilities contained in the last preceding subsection shall not affect any *bonâ fide* holder for value of any such bill of exchange or promissory note or renewal, if such holder gives to the court, judge, or justice before whom any proceedings are taken against any person in respect of such bill of exchange or promissory note or renewal, or before whom the same is questioned, satisfactory proof that he took or received the same in *bonâ fide* ignorance of the fact that the same was not stamped, and also that he was not guilty of any wilful neglect or want of care in taking or receiving the same. Thereupon the court, judge, or justice may direct such holder to stamp the said bill of exchange or promissory note or renewal with adhesive stamps of the amount of the *ad valorem* duty chargeable thereon in the first instance and to cancel such stamps, and such bill of exchange or promissory note or renewal shall then, so far as relates to such holder, be deemed to be duly stamped.

6. Section fifty-three of the principal Act is amended by deleting the words "one penny" in line one, and inserting in lieu thereof the words "two pence." Amendment of s. 53.

7. Section fifty-seven of the principal Act is amended, as follows:— Amendment of s. 57.

(a) By deleting the words "one penny," in lines four and five of subsection three, and inserting in lieu thereof the words "two pence."

(b) By adding a subsection, as follows:—

(6.) The provisions of this section shall be construed as supplementary to the provisions of section forty-nine A of this Act.

8. Section sixty-seven A of the principal Act is amended by inserting at the beginning thereof the words "subject to section seventy-two of this Act." Amendment of s. 67A.

Amendment of
s. 72.

Certain contracts
to be chargeable
as conveyances
on sale.

9. Section seventy-two of the principal Act is repealed and a section is inserted in lieu thereof, as follows:—

72. (1.) Every contract or agreement, howsoever executed, for the sale of any estate or interest in any property (except real or personal property locally situated out of Western Australia, and goods, wares, or merchandise or stock or marketable securities, or any ship or vessel, or part interest or share or property of or in any ship or vessel) shall be charged with the same *ad valorem* duty to be paid by the purchaser as if it were an actual conveyance on sale of the estate, interest, or property contracted or agreed to be sold.

(2.) Where a purchaser under a contract or agreement for sale, before having obtained a conveyance or transfer of the property, enters into a contract or agreement with a sub-purchaser for the sale of the same property, such last-mentioned contract or agreement shall be charged with *ad valorem* duty in respect of the consideration moving from the purchaser to the original vendor, and also in respect of the consideration moving from the sub-purchaser to the purchaser, but so that in assessing such *ad valorem* duty credit shall be given for the amount of any *ad valorem* duty already paid on the first-mentioned contract or agreement between the purchaser and the original vendor. This subsection shall apply also to contracts or agreements entered into between sub-purchasers and other sub-purchasers in succession.

(3.) Notwithstanding any stipulation to the contrary, where any sub-purchaser under a contract or agreement for sale referred to in subsection (2) hereof is required to pay on such contract or agreement any *ad valorem* duty in respect of the consideration moving from the purchaser to the vendor under any preceding contract or agreement relating to the same property, such sub-purchaser shall be entitled to deduct from the consideration moving from him to his immediate vendor the amount of any such *ad valorem* duty which he is required to pay as aforesaid.

(4.) Where duty has been duly paid in conformity with the foregoing provisions, the conveyance or transfer made to the purchaser or any sub-purchaser, or any other person on his behalf, or by his direction, shall be chargeable with a duty of two shillings and sixpence only, and the Commissioner, upon application, shall denote the pay-

ment of the *ad valorem* duty upon the conveyance or transfer upon production of the contract or agreement, or contracts or agreements, duly stamped:

Provided that—

(i) (a) Where any estate or interest in any lands, tenements, or hereditaments and any other property (not being goods, wares, or merchandise) situated within Western Australia are sold together with any goods, wares, or merchandise under one contract or agreement for the sale thereof as one transaction, whether for one consideration covering the whole or for separate considerations, then, notwithstanding that separate considerations are stated in respect of the property other than the goods, wares, or merchandise, and in respect of the goods, wares, or merchandise, or that the one consideration is apportioned between the property other than the goods, wares, or merchandise and the goods, wares, or merchandise, such contract or agreement shall be presented by the person liable for the duty thereon to the Commissioner for assessment of such duty, together with a statutory declaration by him (which shall be exempt from stamp duty) setting forth the value of the goods, wares, or merchandise referred to in such contract or agreement.

(b) If the Commissioner is not satisfied with such value, he may obtain a valuation from a valuator appointed by him. If such last mentioned valuation is less than that submitted with the contract or agreement and is not accepted by the person presenting the contract or agreement as aforesaid, such person and the Commissioner's valuator shall appoint an umpire to make the valuation, and the umpire's valuation shall be final and conclusive.

(c) If the valuation made by an umpire under paragraph (b) hereof shall be less than the value submitted with the contract or agreement, the costs and charges of the umpire and of the Commissioner's valuator shall be paid by the person liable for the duty as a debt owing by him to the Commissioner, who may recover the same by

action in any court of competent jurisdiction, and who shall be entitled to retain the contract or agreement until such debt has been paid.

(d) If the valuation made by the umpire under paragraph (b) hereof exceeds the value submitted with the contract or agreement, the costs and charges of the umpire shall be paid by the Commissioner.

(e) Where the value of the goods, wares, and merchandise has been ascertained in conformity with the foregoing provisions, the contract or agreement shall be charged with *ad valorem* duty in respect of the total consideration stated therein less the value of the goods, wares, or merchandise ascertained as aforesaid.

(ii) The *ad valorem* duty paid upon any contract or agreement shall, after deducting therefrom a fee to be fixed by regulations, be returned by the Commissioner in case the contract or agreement be afterwards rescinded or annulled, or for any other reason, be not substantially performed or carried into effect so as to operate as or be followed by a conveyance or transfer.

(5.) This section shall apply only to contracts or agreements made after the commencement of this section, but as regards any contracts or agreements made before the commencement of this section, and still subsisting thereafter the provisions of this Act and of section seventy-two of this Act as the same was contained therein prior to the commencement of this section shall apply.

Amendment of
s. 74.

10. Section seventy-four of the principal Act is amended by inserting after the word "requires," appearing in sixth line of said section, the following words:—"and if it shall appear that stamp duty computed at the rate provided in respect of a mortgage on the total amount of the payments to be made in respect of hire under any such agreement shall be greater than the amount of duty payable thereon, if stamped as an agreement or as a deed as aforesaid, then such agreement shall be liable to and be charged with stamp duty as though the same were a mortgage for the amount of such total payments in lieu of stamp duty as an agreement or deed."

11. Section ninety-four of the principal Act is hereby repealed. Repeal of s. 94.

12. (1.) The item commencing with the words "Bill of exchange or promissory note payable on demand," in the second schedule to the principal Act, is amended by substituting the figures "0 0 2" for the figures "0 0 1" in the column opposite the said item. Amendment of second schedule.

(2.) The item "Cheque or order payable on demand," in the second schedule to the principal Act, is amended by substituting the figures "0 0 2" for the figures "0 0 1" in the column opposite the said item. Further amendment of second schedule.

(3.) The item "Policy of insurance," in the said second schedule, is amended by inserting after paragraph (e) therein the following as a new paragraph:—

(f) *Against damage to plate glass.*

Wherein the sum insured is stated— £ s. d.

For every £100, and for every fractional part
of £100 so insured 0 0 3

Wherein the sum insured is not stated—

Where the annual premium does not exceed
30s. 0 0 3

Where the annual premium exceeds 30s. for
every 10s., and for every fractional part of
10s. of the annual premium 0 0 1

13. The principal Act, as amended by the Stamp Act Amendment Act (No. 1), 1930, and by this Act, may be cited as the Stamp Act, 1921-1931. Citation of principal Act as amended.