



Western Australia.

ANNO SECUNDO

EDWARDI VII. REGIS.

No. XXI.

AN ACT to further amend the Stamp Act,
1882.

[Assented to, 14th December, 1902.]

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, 1902, and shall be read as one with the Stamp Act, 1882, hereinafter called the principal Act, and shall come into operation on a day to be fixed by proclamation.

Short title and commencement.

2. THE Acts mentioned in the First Schedule are repealed and amended to the extent and in the manner as therein indicated.

Repeal.

3. EXCEPT where otherwise specifically provided in the principal Act or in this Act, adhesive stamps affixed to any instrument not being a bill of exchange or promissory note—

Cancellation of adhesive stamps.

(1.) Shall be cancelled—

(a.) Within twenty-eight days from the first execution of the instrument if executed within Western Australia; or

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(b.) If executed out of Western Australia, within twenty-eight days after the instrument is first received in Western Australia; and

(2.) Shall be cancelled by—

(a.) The Colonial Treasurer, the Under Treasurer, or the Registrar of Titles; or

(b.) Any person appointed by the Governor to cancel stamps.

Provided that the stamps upon an instrument, not being a bill of exchange or promissory note, may be cancelled, after such period of twenty-eight days, on payment of the fines stated in the Second Schedule to this Act, to be collected by adhesive stamps affixed to the instrument and cancelled.

Colonial Treasurer or authorised person to determine amount of duty and fine.

4. IT is the duty of the Colonial Treasurer, the Under Treasurer, or Registrar of Titles, or the person appointed by the Governor to cancel stamps, to determine whether any instrument produced under the last preceding section may be stamped, and the amount of the stamp duty payable, and of the fine (if any), and, in case of doubt, to refer the question to the Attorney General.

Attorney General may extend time for stamping when question of amount referred.

5. WHERE an instrument is produced within the prescribed time, and a question as to stamp duty is referred to the Attorney General, the instrument may be stamped, without fine, within such extended time as the Attorney General may direct.

Proof of date when instrument executed abroad is received.

6. WHERE the instrument is executed out of Western Australia, the date on which it is first received in Western Australia shall be presumed to be the date on which it would arrive in Western Australia if posted immediately after the execution thereof, unless the contrary is proved to the satisfaction of the Colonial Treasurer, the Under Treasurer, or Registrar of Titles by statutory declaration.

Officer to whom instrument tendered for registration to be satisfied that proper stamp duty is paid.

7. EVERY person whose duty it is to register or record any instrument liable to stamp duty shall first satisfy himself that the instrument is duly stamped, and in case of doubt shall refer the question to the Attorney General.

Omission or insufficiency of stamp.

8. (1.) UPON production of an instrument chargeable with any duty as evidence in any Court of civil judicature, or before any arbitrator or referee, notice shall be taken by the Judge, arbitrator, or referee of any omission or insufficiency of the stamp thereon.

(2.) If the instrument is one which may be legally stamped after the execution thereof, it may, on payment to an officer of the

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Court, or to the arbitrator or referee, of the amount of the unpaid duty, and the penalty payable on stamping the same, be received in evidence, saving all just exceptions on other grounds.

(3.) The officer, or arbitrator, or referee receiving the duty and penalty shall give a receipt for the same, and shall affix stamps for the amount of duty and penalty, and cancel the same.

9. THE Governor may, by notice gazetted, direct that after the time specified in such notice all or any of the duties, fees, fines, or penalties for the time being payable in money in any public department or office connected with the public service, or to the officers thereof, shall be collected by means of stamps.

Governor may appoint fees, fines, etc., to be collected by means of stamps.

After the time specified in such notice the duties, fees, fines, or penalties therein mentioned shall be received by stamps denoting the sums payable, and not in money.

All or any of such stamps shall be impressed or adhesive, and of such design, and shall be cancelled in such manner, as may be directed in any such notice.

10. WHEN any sum comprised in any such notice—

- (1.) Is payable in respect of a document, the stamps denoting such sum shall be affixed to or impressed on such document, or such other document, book, or record as may be prescribed by regulations;
- (2.) Is payable otherwise than in respect of a document, the stamps denoting such sum shall be affixed to or impressed on such document, book, or record as may be prescribed by regulations.

Document in respect of which the fee is payable to be stamped.

11. ANY document which ought, under section ten, to bear a stamp shall not be of any validity unless and until it is properly stamped, nor shall any Judge, Justice, or officer of any Court allow such document to be used, although no exception be raised thereunto, until such document has been first duly stamped.

Document invalid until properly stamped.

But if any such document is, through mistake or inadvertence, received, filed, or used without being properly stamped, the Court in which the same is so received, filed, or used may, if it thinks fit, order that the same be stamped, and thereupon such document shall be as valid as if it had been properly stamped in the first instance.

Court may order document to be stamped.

12. EVERY officer whose duty it may be to receive any fee or sum of money for any matter or thing to be done or performed, and for which payment is to be made by stamps, shall, before doing or performing such matter or thing, see that there is attached to the

Duties of officer who receives payment in stamps.

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document, instrument, matter, or thing in respect whereof the fee or sum of money is payable, or to such other document to which it is required by regulations that the stamp in respect of the said fee shall be affixed, a stamp of value not less than the fee or sum of money payable for the performance of such matter or thing.

Cancellation of stamps.

13. WHEN an adhesive stamp is used, every such officer shall see that such stamp is duly cancelled, or, if such stamp be not duly cancelled, shall immediately cancel the same by writing or stamping in ink on the same his name or initials, and the date thereof, or by putting thereon the impress of any seal authorised for that purpose by regulations, and the date when such seal is impressed, so as effectually to obliterate and cancel the stamp, and so as not to admit of its being used again.

Penalty for issuing unstamped documents, writs, or processes.

14. IF any person shall, without lawful excuse (the proof whereof shall be upon such person)—

- (1.) File, issue, procure, or deliver any document, or serve or execute any writ, rule, order, matter, or proceeding in respect of which a stamp has not been affixed in the manner prescribed by regulations; or
- (2.) Do or perform, or permit to be done or performed, any act, matter, or thing in respect whereof a stamp should be used, without using such stamp, or shall fail or omit to cancel or obliterate any adhesive stamp at the time and in the manner prescribed by regulations,

he shall be liable to a penalty not exceeding Twenty pounds.

Provisions of principal Act to apply.

15. ALL the provisions of the principal Act shall, so far as applicable, extend and apply to the stamps to be used under section ten of this Act.

Cancellation of stamps on policies of insurance.

16. THE duty upon any policy of insurance may be denoted by an adhesive stamp, which may be cancelled by the person by whom the instrument is first executed at the time of execution.

In the name and on behalf of the King I hereby assent to this Act.

E. A. STONE, Administrator.

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The First Schedule.

Section 2.

Date of Act.	Title.	Extent of Repeal or Amendment.
46 Vict., No. 6 ...	The Stamp Act, 1882	<p>Sections 11, 14, 15, 16, 17, 18, 29, and Subsection (3) of Section 40 are repealed.</p> <p>In Section 20 <i>omit</i> "Colonial Treasurer" wherever appearing, and insert "Attorney General."</p> <p>In Section 25 <i>omit</i> "Sub-Collector of Revenue" and "Sub-Collector," and in each case insert "person appointed by the Governor to cancel stamps."</p> <p>In Section 40, Subsection (4), <i>omit</i> "neither of the foregoing provisos is to," and insert "the foregoing proviso shall not."</p> <p>To Section 43 add the following paragraph:—"(3.) The stamp shall be cancelled by the person who first makes or executes the bill of lading."</p> <p>In Section 72 <i>omit</i> "Sub-Collector of Revenue," and insert "A person authorised by the Governor to cancel stamps."</p>
57 Vict., No. 31	Stamp Act, 1893 ...	Sections 7, 9, and 10 are repealed.

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Section 3.

The Second Schedule.

When the Stamps are cancelled.	Amount of Fine.
After twenty-eight days from the first execution of the instrument, or from the date on which it is first received in Western Australia.	One pound, or double the amount of proper stamp duty if that amount does not exceed One pound.
After six weeks but within eight weeks ...	Two pounds, or three times the amount of proper stamp duty if that amount does not exceed Two pounds.
After eight weeks but within four months	Four pounds, or four times the amount of proper stamp duty if that amount does not exceed Four pounds.
After four months	Eight pounds, or ten times the amount of stamp duty if that amount does not exceed Eight pounds.