

Western Australia

Duties Legislation Amendment Act 2008

As at 14 Apr 2008

No. 12 of 2008

Extract from www.slp.wa.gov.au, see that website for further information

Duties Legislation Amendment Act 2008

(No. 12 of 2008)

CONTENTS

Part 1 — Preliminary

1.	Short title	2
2.	Commencement	2

Part 2 — Amendments

Division 1 — *Stamp Act 1921* amended

3.	The Act amended in this Division	3
4.	Section 2 inserted	3
	2. Expiry of Act	3
5.	Section 16 amended	3
6.	Section 31B amended	4
7.	Section 31C amended	5
8.	Section 73CA inserted	5
	73CA. Effect of <i>Duties Act 2008</i> on sections 73D, 73DAA, 73DE and 73E	5
9.	Section 73D amended	6
10.	Section 73DAA amended	6
11.	Section 73DE amended	6
12.	Section 73E amended	6
13.	Section 75AH amended	6
14.	Section 75HA amended	7
15.	Section 75JA amended	7
16.	Section 75JB amended	7
17.	Section 75JC amended	9
18.	Section 75JH inserted in Part IIIBAAA	9
	75JH. Revoking an exemption	9
19.	Section 75K inserted	10
	75K. Effect of <i>Duties Act 2008</i> on this Part	10
20.	Section 76AY inserted	10

Contents

	76AY. Effect of <i>Duties Act 2008</i> on this Part	10	
21.	Section 77A amended		11
22.	Section 91G inserted		11
	91G. Effect of <i>Duties Act 2008</i> on this Part	11	
	Division 2 — <i>Duties Act 2008</i> amended		
	Subdivision 1 — Preliminary		
23.	The Act amended in this Division		11
	Subdivision 2 — Amendments commencing on 1 January 2009		
24.	Section 236 amended		12
	Subdivision 3 — Amendments commencing on 1 July 2010		
25.	Section 9 amended		12
26.	Section 15 amended		13
27.	Section 17 amended		13
28.	Chapter 2 Part 5 Division 5 repealed		13
29.	Section 136 repealed		13
30.	Chapter 2 Part 6 Division 4 repealed		13
31.	Section 277 repealed		13
32.	Schedule 2 Division 2 amended		13
	Division 3 — <i>Taxation Administration Act 2003</i> amended		
33.	The Act amended in this Division		14
34.	Section 3 amended		14
35.	Section 18 amended		14
36.	Section 20 amended		14
37.	Section 23 amended		15
38.	Section 24 amended		16
39.	Section 34 amended		16
40.	Section 36 amended		17
41.	Section 43 amended		17
42.	Section 50 amended		17
43.	Section 51 replaced		18
	51. Improper endorsement or certification of an instrument	18	
44.	Section 55 amended		18
45.	Section 77A inserted		18
	77A. Charge on land to secure transfer duty or landholder duty	18	
46.	Section 78 amended		20

47.	Section 80 amended	20
48.	Section 96 amended	20
49.	Part 10 Division 5 heading amended	20
50.	Section 128 inserted	21
	128. Forms	21
51.	Glossary amended	21
	Division 4 — Miscellaneous amendments	
52.	Various Acts amended	22

Schedule 1 — Amendments to various Acts

1.	<i>Anglican Church of Australia (Diocesan Trustees) Act 1888</i>	23
2.	<i>Armadale Redevelopment Act 2001</i>	23
3.	<i>Companies (Co-operative) Act 1943</i>	23
4.	<i>Country Areas Water Supply Act 1947</i>	23
5.	<i>Country Towns Sewerage Act 1948</i>	23
6.	<i>Credit Act 1984</i>	23
7.	<i>Economic Regulation Authority Act 2003</i>	24
8.	<i>Evidence Act 1906</i>	24
9.	<i>Gaming and Wagering Commission Act 1987</i>	25
10.	<i>Gas Pipelines Access (Western Australia) Act 1998</i>	25
11.	<i>Gold Corporation Act 1987</i>	25
12.	<i>Government Employees' Housing Act 1964</i>	25
13.	<i>Health Act 1911</i>	26
14.	<i>Heritage of Western Australia Act 1990</i>	26
15.	<i>Hire-Purchase Act 1959</i>	26
16.	<i>Hospitals and Health Services Act 1927</i>	26
17.	<i>Housing Act 1980</i>	26
18.	<i>Insurance Commission of Western Australia Act 1986</i>	26
19.	<i>Legal Aid Commission Act 1976</i>	27
20.	<i>Limited Partnerships Act 1909</i>	27
21.	<i>Local Government Act 1995</i>	27
22.	<i>Midland Redevelopment Act 1999</i>	27
23.	<i>Motor Vehicle (Third Party Insurance) Act 1943</i>	27
24.	<i>National Trust of Australia (W.A.) Act 1964</i>	27
25.	<i>Offshore Minerals Act 2003</i>	27
26.	<i>Parks and Reserves Act 1895</i>	28
27.	<i>Perry Lakes Redevelopment Act 2005</i>	28

Contents

28.	<i>Perth Theatre Trust Act 1979</i>	28
29.	<i>Petroleum Act 1936</i>	28
30.	<i>Petroleum (Submerged Lands) Act 1982</i>	28
31.	<i>Presbyterian Church Act 1908</i>	28
32.	<i>Real Estate and Business Agents Act 1978</i>	29
33.	<i>Road Traffic Act 1974</i>	29
34.	<i>Settlement Agents Act 1981</i>	30
35.	<i>Soil and Land Conservation Act 1945</i>	30
36.	<i>Strata Titles Act 1985</i>	30
37.	<i>Subiaco Redevelopment Act 1994</i>	30
38.	<i>Transfer of Land Act 1893</i>	30
39.	<i>Uniting Church in Australia Act 1976</i>	31
40.	<i>Water Services Licensing Act 1995</i>	31
41.	<i>Western Australian Sports Centre Trust Act 1986</i>	31
42.	<i>Workers' Compensation and Injury Management Act 1981</i>	31



Western Australia

Duties Legislation Amendment Act 2008

No. 12 of 2008

An Act to amend —

- the *Stamp Act 1921*; and
 - the *Duties Act 2008*; and
 - the *Taxation Administration Act 2003*; and
 - various other Acts,
- as a consequence of, and in connection with, the enactment of the *Duties Act 2008*.

[Assented to 14 April 2008]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Duties Legislation Amendment Act 2008*.

2. Commencement

This Act comes into operation as follows:

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) Part 2 Division 2 Subdivision 2 — on 1 January 2009;
- (c) Part 2 Division 2 Subdivision 3 — on 1 July 2010;
- (d) the rest of the Act — on 1 July 2008.

Part 2 — Amendments

Division 1 — *Stamp Act 1921* amended

3. The Act amended in this Division

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

4. Section 2 inserted

After section 1 the following section is inserted —

“

2. Expiry of Act

- (1) This Act expires on a day fixed by proclamation.
- (2) A proclamation is not to be made under subsection (1) unless, after 1 July 2008, the Commissioner has given the Minister a certificate signed by the Commissioner stating that the operation of this Act is no longer necessary.

”.

5. Section 16 amended

- (1) Section 16(1) is amended by deleting “subsection (2)” and inserting instead —

“ this section ”.

- (2) After section 16(4) the following subsections are inserted —

“

- (5) Despite anything to the contrary in this Act, duty is not chargeable on an instrument —
 - (a) specified in any of items 4 to 12, 14A, 15, 17 or 19 of the Second Schedule; and
 - (b) first executed on or after 1 July 2008,unless it is a continuing instrument.

- (6) The reference in subsection (5) to an instrument specified in an item of the Second Schedule includes a reference to an instrument that would, but for this section, be chargeable with duty as if it were such an instrument.
- (7) In subsection (5) —
- “continuing instrument”** means —
- (a) an instrument of conveyance or transfer that replaces another instrument for the conveyance or transfer of the same property where the replaced instrument was first executed before 1 July 2008; or
 - (b) an instrument of conveyance or transfer where —
 - (i) the conveyance or transfer of property is made in accordance with an arrangement made on or after 28 November 2007; and
 - (ii) the sole or principal purpose of the arrangement was to defer the conveyance or transfer of the property until 1 July 2008 or later so that the rates of duty applicable under the *Duties Act 2008* would apply to the conveyance or transfer.

”.

6. Section 31B amended

- (1) Section 31B(8) is amended as follows:
- (a) in paragraph (g) by deleting “Commonwealth.” and inserting instead —
“ Commonwealth; or ”;

(b) after paragraph (g) by inserting —

“

(h) an acquisition that occurs on or after
1 July 2008.

”.

(2) Section 31B(13) is amended by deleting “section” and inserting
instead —

“ sections 16(5) and ”.

7. Section 31C amended

After section 31C(1) the following subsection is inserted —

“

(1a) Subsection (1) does not apply to a transfer that occurs
on or after 1 July 2008.

”.

8. Section 73CA inserted

Before section 73D the following section is inserted —

“

**73CA. Effect of *Duties Act 2008* on sections 73D, 73DAA,
73DE and 73E**

(1) Sections 73D(2), 73DAA(1), 73DE(1) and 73E(2) do
not apply to a disposition made on or after 1 July 2008.

(2) Without limiting section 16(5) and (6), section 73D(4)
and (6a) and 73E(4) and (6) do not apply to —

(a) a transfer; or

(b) an instrument effecting a disposition,

first executed on or after 1 July 2008.

(3) Section 73D(4) and (6a) and 73E(4) and (6) do not
apply to an instrument evidencing a disposition made
on or after 1 July 2008.

- (4) When used in this section in relation to section 73E, “**disposition**” has the meaning given in section 73E(1).

9. Section 73D amended

Section 73D(4) and (6a) are each amended by inserting after “Subject to” —

“ section 73CA and ”.

10. Section 73DAA amended

- (1) Section 73DAA(1) is amended by inserting after “Subject to” —

“ section 73CA and ”.

- (2) Section 73DAA(7) is amended by deleting “section” and inserting instead —

“ sections 16(5) and ”.

11. Section 73DE amended

Section 73DE(1) is amended by inserting after “Subject to” —

“ section 73CA and ”.

12. Section 73E amended

- (1) Section 73E(4) is amended by inserting after “Subject to” —

“ section 73CA and ”.

- (2) Section 73E(6) is amended by deleting “Where” and inserting instead —

“ Subject to section 73CA, where ”.

13. Section 75AH amended

Section 75AH(2)(b) is amended by deleting “within 10 years of the execution of the first instrument” and inserting instead —

“ before 1 July 2008 ”.

14. Section 75HA amended

Section 75HA(4) is amended by inserting after paragraph (a) —

“

or

(ab) the taxable event occurs on or after 1 July 2008;

or

”.

15. Section 75JA amended

(1) Section 75JA(3)(d) is amended by inserting before “the claw-back” —

“ if the relevant event occurred before 1 July 2008, ”.

(2) After section 75JA(3) the following subsection is inserted —

“

(4) If the relevant event occurs on or after 1 July 2008, subsection (3)(c) does not apply if the event is the subject of —

(a) an application made under the *Duties Act 2008* section 262 for an exemption; or

(b) an application made under the *Duties Act 2008* section 180; or

(c) a statement lodged under the *Duties Act 2008* section 200.

”.

16. Section 75JB amended

(1) After section 75JB(4) the following subsection is inserted —

“

(4a) If the event referred to in subsection (4)(a), (b), (ba), (c), (ca) or (d) occurs on or after 1 July 2008, subsection (4) does not apply if the event is the subject of —

(a) an application made under the *Duties Act 2008* section 262 for an exemption; or

Duties Legislation Amendment Act 2008

Part 2 Amendments

Division 1 Stamp Act 1921 amended

s. 16

- (b) an application made under the *Duties Act 2008* section 180; or
 - (c) a statement lodged under the *Duties Act 2008* section 200.
- ”.
- (2) Section 75JB(5) is amended by inserting before “and within” —
“ and before 1 July 2008 ”.
 - (3) Section 75JB(5f)(d) is amended by inserting before “the claw-back” —
“ if the relevant event occurred before 1 July 2008, ”.
 - (4) After section 75JB(5f) the following subsection is inserted —
“
 - (5fa) If the relevant event occurs on or after 1 July 2008, subsection (5f)(c) does not apply if the event is the subject of —
 - (a) an application made under the *Duties Act 2008* section 262 for an exemption; or
 - (b) an application made under the *Duties Act 2008* section 180; or
 - (c) a statement lodged under the *Duties Act 2008* section 200.”.
 - (5) Section 75JB(6) is amended by inserting before “and within” —
“ and before 1 July 2008 ”.
 - (6) Section 75JB(7) is amended by inserting before “and within” —
“ and before 1 July 2008 ”.
 - (7) Section 75JB(9) is amended by inserting before “within” —
“ before 1 July 2008 and ”.

- (8) Section 75JB(11) is amended by inserting before “and within” —

“ but before 1 July 2008 ”.

17. Section 75JC amended

After section 75JC(5) the following subsection is inserted —

“

- (6) If the Commissioner determined that an exemption would be granted but the instrument was not executed before 1 July 2008 or the acquisition or transfer that gave rise to an obligation to lodge a 31B or 31C statement or Part IIIBA statement did not occur before 1 July 2008, the determination has no effect.

”.

18. Section 75JH inserted in Part IIIBAAA

After section 75JG the following section is inserted in Part IIIBAAA —

“

75JH. Revoking an exemption

- (1) If the Commissioner determines that an instrument, or a Part IIIBA statement, that has been exempted from duty under this Part is part of a scheme or arrangement entered into or carried out by a person —
- (a) a purpose of which is to avoid or reduce duty on an instrument or a Part IIIBA statement or duty under Part IIIC; or
 - (b) the sole or dominant purpose of which is to avoid or reduce tax other than duty,

the Commissioner may revoke the exemption or, if an exemption certificate has been issued in relation to the instrument, the certificate.

- (2) If an exemption or certificate is revoked under subsection (1), section 75JE or 75JF, as the case requires, applies to the instrument or Part IIIBA statement concerned.

”.

19. Section 75K inserted

Before section 76 the following section is inserted in Part IIIBA Division 1 —

“

75K. Effect of *Duties Act 2008* on this Part

This Part does not apply to a relevant acquisition under Division 2, 3, 3a or 3b that occurs on or after 1 July 2008.

”.

20. Section 76AY inserted

Before section 76B the following section is inserted in Part IIIC —

“

76AY. Effect of *Duties Act 2008* on this Part

- (1) This Part does not apply to or in relation to the grant or transfer of a licence the application for which was made on or after 1 July 2008.
- (2) If —
- (a) the application for the grant or transfer of a licence was made before 1 July 2008; or
 - (b) under section 76K, the amount of duty payable in respect of the grant or transfer of a licence was assessed before 1 July 2008,

this Act, as in force immediately before 1 July 2008, applies to and in relation to the grant or transfer of the licence.

”.

21. Section 77A amended

(1) After section 77A(2) the following subsection is inserted —

“

(2a) Subsection (1) does not apply to a lessee if the transaction occurs on or after 1 July 2008.

”.

(2) Section 77A(9) is amended by deleting “section” and inserting instead —

“ sections 16(5) and ”.

22. Section 91G inserted

Before section 92 the following section is inserted in Part IIIF Division 1 —

“

91G. Effect of *Duties Act 2008* on this Part

This Part does not apply to or in relation to —

- (a) premiums, or instalments of premiums, paid on or after 1 July 2008; and
- (b) return periods commencing on or after 1 July 2008.

”.

Division 2 — *Duties Act 2008* amended

Subdivision 1 — Preliminary

23. The Act amended in this Division

The amendments in this Division are to the *Duties Act 2008*.

Subdivision 2 — Amendments commencing on 1 January 2009

24. Section 236 amended

Section 236(2) is amended as follows:

- (a) in paragraph (a) by deleting “\$20 000” and inserting instead —
“ \$25 000 ”;
- (b) in paragraph (b) by deleting “\$20 000” and inserting instead —
“ \$25 000 ”;
- (c) in paragraph (b) by deleting “\$45 000” and inserting instead —
“ \$50 000 ”;
- (d) in paragraph (b) by deleting “20000” in the formula and inserting instead —
“ 25000 ”;
- (e) in paragraph (c) by deleting “\$45 000” and inserting instead —
“ \$50 000 ”.

Subdivision 3 — Amendments commencing on 1 July 2010

25. Section 9 amended

Section 9 is amended as follows:

- (a) in the definition of “unencumbered value” by deleting “36;” and inserting instead —
“ 36. ”;
- (b) by deleting the definitions of “Western Australian business” and “Western Australian business asset”.

26. Section 15 amended

Section 15 is amended as follows:

- (a) in paragraph (c) by deleting “Australia;” and inserting instead —
“ Australia. ”;
- (b) by deleting paragraph (d).

27. Section 17 amended

Section 17(1) is amended as follows:

- (a) in paragraph (b)(iii) by deleting “subsection;” and inserting instead —
“ subsection. ”;
- (b) by deleting paragraph (c).

28. Chapter 2 Part 5 Division 5 repealed

Chapter 2 Part 5 Division 5 is repealed.

29. Section 136 repealed

Section 136 is repealed.

30. Chapter 2 Part 6 Division 4 repealed

Chapter 2 Part 6 Division 4 is repealed.

31. Section 277 repealed

Section 277 is repealed.

32. Schedule 2 Division 2 amended

Schedule 2 Division 2 is amended by deleting the item relating to section 147.

Division 3 — Taxation Administration Act 2003 amended

33. The Act amended in this Division

The amendments in this Division are to the *Taxation Administration Act 2003*.

34. Section 3 amended

After section 3(1)(c) the following paragraph is inserted —

“ (ca) the *Duties Act 2008*; ”.

35. Section 18 amended

Section 18(3) is repealed and the following subsection is inserted instead —

“

(3) If tax payable on —

(a) an instrument; or

(b) a transaction or event that an instrument effects or records,

is reassessed, and the instrument or a duplicate or copy of it is produced to the Commissioner, the Commissioner may endorse it to indicate the amount of tax (if any) payable under the reassessment and the amount of tax paid (if any), (but the reassessment takes effect irrespective of it being so endorsed).

”.

36. Section 20 amended

(1) Section 20(2) is amended as follows:

(a) by deleting “on an instrument required to be lodged under a taxation Act, but the instrument has not been lodged as required” and inserting instead —

“

but an instrument has not been lodged as required under a taxation Act

”;

(b) in paragraph (b) by deleting “if a copy of the instrument is not available —”.

(2) Section 20(3) is repealed and the following subsection is inserted instead —

“

(3) A memorandum created under subsection (1)(a) or (2)(b) is taken to be the instrument and to have been lodged by the person required to lodge it under the taxation Act.

”.

(3) Section 20(4) is amended by deleting “, (2)(b) or (3)” and inserting instead —

“ or (2)(b) ”.

(4) Section 20(5) and (6) are repealed and the following subsections are inserted instead —

“

(5) The copy or memorandum may be endorsed to indicate the payment of tax.

(6) The validity of an assessment and the liability to pay tax do not depend on the availability of an instrument or a copy of an instrument, or on the creation of a memorandum of an instrument.

”.

37. Section 23 amended

Section 23(2) is amended by deleting paragraph (b) and “or” after it and inserting instead —

“

(b) if the Commissioner assesses the amount of tax payable and then immediately endorses an instrument to indicate the assessment; or

”.

38. Section 24 amended

After section 24(1) the following subsection is inserted —

“

- (1a) An assessment notice must set out the date on which it is issued.

”.

39. Section 34 amended

- (1) Section 34(1) is amended after paragraph (b) by deleting the full stop and inserting —

“

; or

- (c) a decision made on a pre-transaction decision request made under the *Duties Act 2008* section 261, unless any exemption granted under that Act for the transaction to which the request relates has been revoked; or
- (d) a decision made on a pre-section 270 decision request made under the *Duties Act 2008* section 269, unless the Commissioner has already decided under the *Duties Act 2008* section 270(1) to disregard the scheme that was the subject of the request.

”.

- (2) Section 34(2)(b) is deleted and the following paragraph is inserted instead —

“

- (b) an assessment of an amount of duty and penalty tax that is assessed under a taxation Act and specified in a traffic infringement notice issued under the *Road Traffic Act 1974* section 102, unless the amount has been paid;

”.

40. Section 36 amended

Section 36(1)(b) is amended as follows:

- (a) by deleting “denoted by stamping” and inserting instead —
“ indicated by endorsement ”;
- (b) by deleting “stamped” and inserting instead —
“ endorsed ”.

41. Section 43 amended

Section 43(2) is amended by inserting before “the *Pay-roll*” —
“ the *Duties Act 2008*, ”.

42. Section 50 amended

Section 50(1) is amended as follows:

- (a) by deleting paragraph (d) and inserting instead —
“
(d) may provide for the endorsement or certification of instruments to indicate the amount of tax paid or payable under the special tax return arrangement, or to indicate that tax is not payable; and
”;
- (b) in paragraph (g) by deleting “cancel a stamp duty certificate issued by the party under the arrangement and issue a replacement certificate to give” and inserting instead —
“ do things for the purpose of giving ”;
- (c) after each of paragraphs (a), (b), (c) and (e) by inserting —
“ and ”.

43. Section 51 replaced

Section 51 is repealed and the following section is inserted instead —

“

51. Improper endorsement or certification of an instrument

A person who endorses or certifies an instrument so as to suggest or imply that the instrument has been properly endorsed or certified under a special tax return arrangement commits an offence unless the instrument is properly endorsed or certified in accordance with the conditions of the arrangement.

Penalty: \$20 000.

”

44. Section 55 amended

After section 55(1)(b) the following paragraph is inserted —

“

- (ba) duty payable under the *Duties Act 2008* Chapter 4;

”

45. Section 77A inserted

After section 77 the following section is inserted —

“

77A. Charge on land to secure transfer duty or landholder duty

- (1) In this section —

“**landholder**” and “**linked entity**” have the meanings given in the *Duties Act 2008* section 148;

“**landholder duty**” means duty under the *Duties Act 2008* Chapter 3;

“lodge” means to lodge with the Registrar of Titles;
“transfer duty” means duty under the *Duties Act 2008*
Chapter 2.

- (2) If transfer duty payable on a transaction in relation to land as defined in the *Duties Act 2008* section 3 is not paid by the due date because it is taken not to be paid under subsection (6), the Commissioner may lodge a memorial to create a charge on the land for the unpaid transfer duty.
- (3) If transfer duty payable as a result of a reassessment to give effect to the *Duties Act 2008* section 145 is not paid by the due date, the Commissioner may lodge a memorial to create a charge on the land for the unpaid transfer duty.
- (4) If landholder duty is not paid by the due date in respect of a relevant acquisition of an interest in a landholder, the Commissioner may lodge a memorial to create a charge for the unpaid duty on any land the landholder’s or a linked entity’s entitlement to which was taken into account in relation to the acquisition for the purposes of the *Duties Act 2008* section 186.
- (5) The charge arises on the land when the memorial is registered under section 83.
- (6) If a cheque given in purported payment of transfer duty or landholder duty is dishonoured on first presentation (even though the due date may not have arrived when the cheque is dishonoured), the duty is taken not to be paid by the due date for the purposes of this section.
- (7) A memorial creating a charge on land for transfer duty payable in relation to a transaction cannot be lodged under subsection (2) until the title to the land has been transferred in accordance with the transaction.

”.

46. Section 78 amended

Section 78(1) is amended by deleting “section 76 or 77” and inserting instead —

“ this Division ”.

47. Section 80 amended

Section 80(1) is amended as follows:

(a) in paragraph (a) by deleting “section 76 or 77” and inserting instead —

“ this Division ”;

(b) in paragraph (b)(i) by deleting “land tax or unpaid stamp duty” and inserting instead —

“ tax ”.

48. Section 96 amended

(1) Section 96(1)(c) is amended by inserting after “which” —

“ , or which effects or evidences a transaction on which, ”.

(2) Section 96(2) is amended by deleting paragraph (a) and “or” after it and inserting instead —

“

(a) in the case of an instrument effecting or evidencing a transaction — a party to the transaction; or

”.

49. Part 10 Division 5 heading amended

The heading to Part 10 Division 5 is amended by inserting after “Regulations” —

“ , **practices and forms** ”.

50. Section 128 inserted

After section 127 the following section is inserted in Part 10
Division 5 —

“

128. Forms

A form approved for use under a taxation Act may
require information provided in the form to be verified
by statutory declaration.

”.

51. Glossary amended

The Glossary is amended as follows:

(a) in the definition of “instrument” —

(i) by deleting paragraph (a);

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

“ an instrument, ”;

(iii) by deleting paragraph (c) and inserting
instead —

“

(c) a copy or memorandum that is treated under
section 20 as if it were an instrument;

”;

(iv) by deleting paragraph (f);

(b) in the definition of “official document” paragraph (b) by
deleting “stamped” and inserting instead —

“ endorsed ”;

(c) in the definition of “penalty tax” —

(i) after paragraph (c) by inserting —

“

or

Duties Legislation Amendment Act 2008

Part 2 Amendments

Division 4 Miscellaneous amendments

s. 52

(d) penalty tax payable under the *Duties Act 2008* section 239(3)(b), 249(4)(b) or 266(2)(b);

”;

(ii) after paragraph (a) by inserting —

“ or ”;

(d) by inserting in the appropriate alphabetical positions —

“

“**date**” of an assessment notice means the date on which it is issued;

“**endorse**” includes stamp;

”.

Division 4 — Miscellaneous amendments

52. Various Acts amended

Schedule 1 sets out how various Acts listed in that Schedule are to be amended.

Schedule 1 — Amendments to various Acts

[s. 52]

1. ***Anglican Church of Australia (Diocesan Trustees) Act 1888***
Section 5A(5)(a) is amended by deleting “*Stamp Act 1921*” and inserting instead —
“ *Duties Act 2008* ”.
2. ***Armadale Redevelopment Act 2001***
Section 14(1) is amended by deleting “, stamp duty”.
3. ***Companies (Co-operative) Act 1943***
 - (1) Section 127(3)(c) is amended by deleting “stamp duty” and inserting instead —
“ duty under the *Duties Act 2008* ”.
 - (2) Section 433 is amended by deleting “instrument” and inserting instead —
“ transaction ”.
 - (3) The Tenth Schedule item 19 is amended by deleting “Stamp Duties Office” and inserting instead —
“ Office of State Revenue ”.
4. ***Country Areas Water Supply Act 1947***
Section 102(4) is amended by deleting “stamp”.
5. ***Country Towns Sewerage Act 1948***
Section 96(4) is amended by deleting “stamp”.
6. ***Credit Act 1984***
 - (1) Section 59(1)(g) is deleted.
 - (2) Section 70(1)(d)(v) is amended by deleting “stamp duty and”.

cl. 7

- (3) Section 71(3) is amended by deleting paragraph (a) and “and” after it.
- (4) Section 102(3)(b) is amended by deleting subparagraph (i) and “and” after it.
- (5) Section 166 is repealed.

7. *Economic Regulation Authority Act 2003*

Section 3 is amended in paragraph (b) of the definition of “price” by deleting “stamp duty,”.

8. *Evidence Act 1906*

- (1) Section 12(1) is amended by deleting “stamp duties” and inserting instead —

“ duty under the *Duties Act 2008* ”.

- (2) Section 73U(1) is amended by deleting “but subject to section 27(3) of the *Stamp Act 1921*, where a document is chargeable with stamp duty under that Act” and inserting instead —

“

where a document is chargeable with duty under a duties Act then, subject to that Act,

”.

- (3) Section 73U(2) is amended by deleting “the *Stamp Act 1921*” and inserting instead —

“ a duties Act ”.

- (4) After section 73U(2) the following subsection is inserted —

“

- (3) In this section —

“**duties Act**” means the *Stamp Act 1921* or the *Duties Act 2008*;

“**stamped**” means stamped or endorsed to indicate duty under a duties Act.

”.

9. *Gaming and Wagering Commission Act 1987*

Section 104B(4)(c) is amended by deleting “, as defined in section 63 of the *Stamp Act 1921*,”.

10. *Gas Pipelines Access (Western Australia) Act 1998*

Section 23(1) is amended by deleting “stamp duty or other” and inserting instead —

“ duty or ”.

11. *Gold Corporation Act 1987*

- (1) Section 4(5) is amended by deleting “stamp duties” and inserting instead —

“ duty under the *Duties Act 2008* ”.

- (2) Section 16(9) is amended as follows:

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

“ transaction ”;

- (b) by deleting “stamp duty chargeable under the *Stamp Act 1921*.” and inserting instead —

“ duty chargeable under the *Duties Act 2008*. ”.

- (3) Section 35(6) is amended by deleting “stamp duties” and inserting instead —

“ duty under the *Duties Act 2008* ”.

- (4) Section 48(5) is amended by deleting “stamp duties” and inserting instead —

“ duty under the *Duties Act 2008* ”.

12. *Government Employees’ Housing Act 1964*

Section 20(3) is amended by deleting “stamp duty” and inserting instead —

“ duty under the *Duties Act 2008* ”.

cl. 13

13. *Health Act 1911*

Section 275(2) is repealed.

14. *Heritage of Western Australia Act 1990*

Section 18(1) is amended by deleting “*Stamp Act 1921*” and inserting instead —

“ *Duties Act 2008* ”.

15. *Hire-Purchase Act 1959*

Section 36A(2a)(b) is amended by deleting “, agreement registration fees, and stamp duty that is” and inserting instead —

“ and agreement registration fees ”.

16. *Hospitals and Health Services Act 1927*

Section 35 is amended by deleting “stamp duty.” and inserting instead —

“ duty under the *Duties Act 2008*. ”.

17. *Housing Act 1980*

- (1) Section 20(3) is amended by deleting “stamp duty” and inserting instead —

“ duty under the *Duties Act 2008* ”.

- (2) Section 72 is amended by deleting “stamp duties” and inserting instead —

“ duty under the *Duties Act 2008* ”.

18. *Insurance Commission of Western Australia Act 1986*

Section 34 is amended by deleting “stamp duties, and all other” and inserting instead —

“ and all other duties, ”.

19. *Legal Aid Commission Act 1976*

Section 44A(9) is amended by deleting “stamp duty” and inserting instead —

“ duty under the *Duties Act 2008* ”.

20. *Limited Partnerships Act 1909*

Section 11 is repealed.

21. *Local Government Act 1995*

Schedule 6.3 clause 8(5) is repealed and the following subclause is inserted instead —

“

(5) Duty under the *Duties Act 2008* is not chargeable on the transfer or conveyance.

”.

22. *Midland Redevelopment Act 1999*

Section 18(1) is amended by deleting “, stamp duty”.

23. *Motor Vehicle (Third Party Insurance) Act 1943*

(1) Section 3R(4)(b) is amended by deleting “stamp duty payable” and inserting instead —

“ duty payable under the *Duties Act 2008* ”.

(2) Section 21(2) is amended by deleting “stamp”.

24. *National Trust of Australia (W.A.) Act 1964*

Section 17(3) is amended by deleting “stamp duty chargeable under the *Stamp Act 1921*.” and inserting instead —

“ duty chargeable under the *Duties Act 2008*. ”.

25. *Offshore Minerals Act 2003*

Section 352A is amended by deleting “*Stamp Act 1921*” and inserting instead —

“ *Duties Act 2008* ”.

cl. 26

26. *Parks and Reserves Act 1895*

Section 17(1) is amended by deleting “stamp duty chargeable under the *Stamp Act 1921*” and inserting instead —

“ duty chargeable under the *Duties Act 2008* ”.

27. *Perry Lakes Redevelopment Act 2005*

Section 9(3) is amended by deleting “stamp duty.” and inserting instead —

“ duty under the *Duties Act 2008*. ”.

28. *Perth Theatre Trust Act 1979*

Section 20(2) is amended by deleting “stamp duty chargeable under the *Stamp Act 1921*.” and inserting instead —

“ duty chargeable under the *Duties Act 2008*. ”.

29. *Petroleum Act 1936*

Section 86 is amended by deleting “*Stamp Act 1921*” and inserting instead —

“ *Duties Act 2008* ”.

30. *Petroleum (Submerged Lands) Act 1982*

Section 93 is amended by deleting “*Stamp Act 1921*” and inserting instead —

“ *Duties Act 2008* ”.

31. *Presbyterian Church Act 1908*

Section 21(5)(a) is amended by deleting “*Stamp Act 1921*” and inserting instead —

“ *Duties Act 2008* ”.

32. *Real Estate and Business Agents Act 1978*

Section 131A(1) is amended in the definition of “incidental expenses” by deleting paragraph (a) and inserting instead —

“

(a) duty chargeable under the *Duties Act 2008*;

”.

33. *Road Traffic Act 1974*

- (1) Section 17(1)(b)(ii) is amended by deleting “stamp duty, and any penalty tax, payable under the *Stamp Act 1921*” and inserting instead —

“

duty, and any penalty tax, payable under the *Duties Act 2008*

”.

- (2) Section 17(2)(c) is amended by deleting “*Stamp Act 1921* relating to the issue or transfer of motor vehicles;” and inserting instead —

“

Duties Act 2008 relating to the grant or transfer of licences for vehicles;

”.

- (3) Section 24(3)(b) is amended by deleting “the *Stamp Act 1921*” and inserting instead —

“

a taxation Act, as defined in the *Taxation Administration Act 2003* Glossary,

”.

- (4) Section 102(2a)(b) is amended by deleting “the *Stamp Act 1921*” and inserting instead —

“

a taxation Act, as defined in the *Taxation Administration Act 2003* Glossary,

”.

cl. 34

34. *Settlement Agents Act 1981*

Schedule 2 clauses 1(1)(d) and 2(e) are amended by deleting “*Stamp Act 1921*” and inserting instead —

“ *Duties Act 2008* ”.

35. *Soil and Land Conservation Act 1945*

Section 36(4) is amended by deleting “stamp duty” and inserting instead —

“ duty under the *Duties Act 2008* ”.

36. *Strata Titles Act 1985*

- (1) Section 21V(3)(b) is deleted and the following paragraph is inserted instead —

“

- (b) a transaction referred to in the *Duties Act 2008* section 112(6).

”.

- (2) Section 31H(3)(b) is deleted and the following paragraph is inserted instead —

“

- (b) a transaction referred to in the *Duties Act 2008* section 112(6).

”.

37. *Subiaco Redevelopment Act 1994*

Section 19(1) is amended by deleting “, stamp duty”.

38. *Transfer of Land Act 1893*

- (1) Section 81U(3) is amended by deleting “in accordance with the *Stamp Act 1921*.” and inserting instead —

“

or endorsed to indicate duty under the *Stamp Act 1921* or the *Duties Act 2008*.

”.

- (2) The Twenty-sixth Schedule is amended in condition 8 by deleting “stamp duties” and inserting instead —
“ duty under the *Duties Act 2008* ”.

39. *Uniting Church in Australia Act 1976*

Section 48 is amended by deleting “stamp duty imposed by the *Stamp Act 1921*” and inserting instead —

“ duty under the *Duties Act 2008* ”.

40. *Water Services Licensing Act 1995*

- (1) Section 46E(1) is repealed.
- (2) Section 46E(2) is amended by deleting “Stamp duty is not payable” and inserting instead —
“ Duty is not chargeable under the *Duties Act 2008* ”.

41. *Western Australian Sports Centre Trust Act 1986*

Section 16(2) is amended by deleting “*Stamp Act 1921*” and inserting instead —

“ *Duties Act 2008* ”.

42. *Workers’ Compensation and Injury Management Act 1981*

Section 297 is amended by deleting “stamp duties chargeable under the *Stamp Act 1921*.” and inserting instead —

“ duty chargeable under the *Duties Act 2008*. ”.

