

STAMP.

No. 84 of 1985.

AN ACT to amend the Stamp Act 1921.

[Assented to 4 December 1985.]

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

1. (1) This Act may be cited as the *Stamp Amendment Act 1985*.

Short title
and principal
Act.
Reprinted as
approved
9 June 1985.

(2) In this Act, the Stamp Act 1921 is referred to as the principal Act.

2. This Act shall come into operation on 1 January 1986.

Commence-
ment.

Section 4
amended.

3. Section 4 of the principal Act is amended in subsection (1) in the definition of "local authority" by inserting after "1960" the following—

" and an association comprised solely of municipalities constituted under that Act or councils of such municipalities ”.

Section 20
amended.

4. Section 20 of the principal Act is amended—

(a) by repealing subsection (1) and substituting the following subsection—

" (1) Except when other express provision is made by this Act, any unstamped or insufficiently stamped instrument may be stamped without fine after the execution thereof if it is presented for stamping within a period of 3 calendar months after the date of first execution thereof. ”; and

(b) in subsection (2), by deleting "paragraph (a) or (b), as the case may be, of ”.

Section 31A
amended.

5. Section 31A of the principal Act is amended—

(a) by inserting after subsection (1) the following subsections—

" (1a) Where the Commissioner creates a memorandum under subsection (1) of any statement, return or other document and makes an assessment of an amount to be paid by any person, he shall include in the assessment a fine equal to the amount of the duty assessed.

(1b) The Commissioner may remit wholly or in part any fine levied under subsection (1a). ”;

and

(b) by inserting after subsection (4) the following subsection—

“ (5) In subsections (2) and (3) “amount” includes the amount of a fine levied under subsection (1a) except so far as it is remitted under subsection (1b). ”.

6. Section 33 of the principal Act is amended by repealing subsections (5) and (6). Section 33 amended.

7. (1) After section 33 of the principal Act, the following section is inserted— Section 33A inserted and transitional provision.

“ 33A. Where the Commissioner is required to refund any amount under section 32 (5) or pursuant to an order under section 33 (4), the Commissioner shall pay interest on the amount refunded at the prescribed rate from the date of payment of the duty or fine to which the refund relates. ”. Interest on amounts refunded by the Commissioner.

(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. Section 39 of the principal Act is amended in subsection (1a) by deleting “paragraph (a) or (b), as the case may be, of ”.

9. Section 76C of the principal Act is amended by repealing subsections (8) to (13) inclusive and substituting the following subsections— Section 76C amended.

“ (8) The licensing authority shall not accept an application for a licence or transfer in respect of a motor vehicle unless it is in writing and—

(a) contains a statement of the market value of the motor vehicle, or is accompanied by a valuation in such

form as the Commissioner requires showing the market value of that vehicle; and

- (b) the amount of duty payable on the licence or transfer, based on that market value, is paid with the application.

(9) If the licensing authority considers that the market value of a motor vehicle given in a statement or valuation referred to in subsection (8) is less than the market value at the time when the statement or valuation was made, the licensing authority—

- (a) may call on the applicant to furnish to it such evidence or further evidence of the market value as he may wish to supply;
- (b) shall determine the market value of the motor vehicle on such evidence, including the evidence (if any) furnished by the applicant, as it thinks fit; and
- (c) shall, on the basis of that determination, assess the amount of duty payable on the licence or transfer.

(10) The licensing authority shall cause an assessment of duty under subsection (9) (c) to be notified to the applicant in such form as the Commissioner requires, and the licensing authority shall not grant an application for a licence or transfer until that amount of duty has been paid.

(11) Sections 32 and 33 shall apply to an assessment under subsection (9) (c) as if it were an assessment made by the Commissioner. ”.

10. After Part IVA of the principal Act the following Part is inserted—

Part IVAB
inserted.

“ PART IVAB.—PAYMENT OF DUTY ON
MARKETABLE SECURITIES TRADED BY MEMBERS
OF THE STOCK EXCHANGE OF THE
UNITED KINGDOM.

112GA. In this Part, unless the contrary intention appears—

Interpreta-
tion.

“broker” means a person, firm or corporation that is a member of The Stock Exchange;

“jobber” means a person, firm or corporation that is recognized as a jobber according to the rules and practices of The Stock Exchange;

“person to whom this Part applies” means a person in respect of whom a declaration under section 112GB is in force;

“relevant transaction” means a disposition of marketable securities or rights in respect of shares of any local authority or other corporation, company or society incorporated in Western Australia or a foreign company registered in Western Australia, made or effected by a person to whom this Part applies as trustee for any person to himself as trustee for another person; and

“The Stock Exchange” means The Stock Exchange of the United Kingdom.

112GB. (1) The Minister may by notice published in the *Government Gazette* declare a person who is a trustee and carries on business in Western Australia to be a person to whom this Part applies.

Declaration
of person
for purposes
of this Part.

(2) The Minister may by notice published in the *Government Gazette* revoke a declaration made under subsection (1).

Deemed
dispositions.

112GC. Where a person to whom this Part applies—

- (a) is notified of a disposition to another person of a right or interest in a marketable security or right in respect of shares which he holds as trustee on behalf of a person; or
- (b) is directed to hold a marketable security or right in respect of shares on behalf of a person other than a person on behalf of whom he holds that security or right,

there shall be deemed to have been made or effected by the first-mentioned person a disposition of that marketable security or right to the first-mentioned person as trustee for that other person.

Returns and
payment
of duty.

112GD. (1) A person to whom this Part applies shall on or before the 28th day of each month—

- (a) lodge with the Commissioner a return in such form as the Commissioner requires setting out the particulars of relevant transactions made or effected, or deemed to have been made or effected, by that person during the preceding month; and
- (b) pay to the Commissioner as duty on the return an amount calculated in accordance with Item 4 (3a) of the Second Schedule.

(2) A person to whom this Part applies who—

- (a) contravenes or fails to comply with any of the provisions of subsection (1); or

- (b) lodges or causes to be lodged with the Commissioner a return which is false in any material particular,

commits an offence against this Act and is liable not only to the penalty referred to in section 116 but also to pay a penalty equal to double the amount of duty that would have been payable in respect of the return concerned had that return been lodged in accordance with this section or that is payable in accordance with the particulars given in the return concerned after correction of any false particular therein, as the case may be.

112GE. Section 112GD does not apply to or in respect of a relevant transaction where the disposition to which the relevant transaction relates— Exemptions.

- (a) would, if that disposition had been made or effected by an instrument of transfer of marketable securities, be exempt from duty under Item 2 (1) or (9) of the Third Schedule;
- (b) is made by way of security otherwise than to secure the rights of a purchaser or intended purchaser under a contemplated sale, or in consequence of such a security being no longer required;
- (c) is, in accordance with the rules and practices of The Stock Exchange, a stock loan transaction;
- (d) is made or effected to a broker who acquired the marketable securities or rights in respect of shares as principal where within 2 clear days (not including any day on which The Stock Exchange is closed for business) after acquisition, he disposed of his beneficial interest in those securities or rights;

- (e) is made or effected by a broker as principal within 2 clear days (not including any day on which The Stock Exchange is closed for business), after he acquired those marketable securities or rights in respect of shares as principal;
- (f) is made or effected by a jobber to another jobber; or
- (g) is made or effected by a person who is a dealer as defined in section 112A.

Books to be kept and retained.

112GF. (1) A person to whom this Part applies shall keep or cause to be kept sufficient books and records to give a true and complete indication of all relevant transactions made or effected by him and shall retain those books and records for a period of 2 years after the completion of the transactions to which they relate.

(2) A person to whom this Part applies who contravenes or fails to comply with the requirements of subsection (1) commits an offence against this Act.

Endorsement.

112GG. (1) A person to whom this Part applies shall, on the making of a disposition of a marketable security or right in respect of shares to which this Part applies, endorse the transfer of that security or that right with a statement in the form—"No Western Australian stamp duty is payable—Item 2 (10) Third Schedule" and affix his stamp and the date he so endorsed the transfer.

(2) A person to whom this Part applies who contravenes or fails to comply with the requirements of subsection (1) commits an offence against this Act. "

11. The Third Schedule to the principal Act is amended—

Third
Schedule
amended.

(a) in item 2, by inserting after paragraph (8) the following paragraphs—

“ (9) A transfer of the whole or any part of, or any interest in, a corporate debt security that is a marketable security.

(10) A transfer of any marketable security or right in respect of shares to or by a person to whom Part IVAB applies. ”;

and

(b) in item 6—

(i) by designating the paragraph of the existing item as paragraph (1); and

(ii) by inserting after paragraph (1) the following paragraph—

“ (2) Any lease or agreement for lease of land and tenements for use as a dwelling house, flat, apartment or other residential unit where the total ascertainable rent payable for the term of the lease or agreement is equivalent to an amount not exceeding \$80 for each week of that term. ”.
