

STAMP (No. 3).

No. 45 of 1982.

AN ACT to amend the Stamp Act 1921-1982.

[Assented to 26 August 1982.]

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 (No. 3) 1982*. Short title and citation.

(2) In this Act the Stamp Act 1921-1982 is referred to as the principal Act. Reprinted as approved 25 March 1980 and amended by Acts Nos. 37 of 1979, 63 of 1980, 81 and 106 of 1981 and 1, 10 and 15 of 1982.

(3) The principal Act as amended by this Act may be cited as the Stamp Act 1921-1982.

Commence-
ment.

2. This Act shall be deemed to have come into operation on 24 December 1981.

Part IVD
inserted.

3. The principal Act is amended by inserting after Part IVC the following Part—

“ PART IVD—MAINTENANCE AGREEMENTS AND ORDERS.

Interpreta-
tion.

112UA. (1) In this Part, unless the contrary intention appears—

“Family Court Act” means the Family Court Act 1975 of the Parliament of the State;

“Family Law Act” means the Family Law Act 1975 of the Parliament of the Commonwealth and any Act of the Parliament of the Commonwealth amending or in substitution for that Act;

“maintenance agreement” means an agreement in writing with respect to any one or more of the following, namely—

- (a) the maintenance of one of the parties to the agreement;
- (b) the conveyance or transfer of property (whether real or personal) of the parties to the agreement or either of them to one of the parties or to a dependent child of the parties or of either of them or to both a dependent child of one of the parties and one of them;
- (c) the maintenance of a dependent child of the parties or either of them;

“order” means a sealed copy of an order made by a court exercising federal or non-federal jurisdiction in any proceeding under the Family Court Act or the Family Law Act with respect to one or both of the following, namely—

- (a) the conveyance or transfer of real or personal property;
- (b) the vesting of property;

“property” includes an interest in property.

(2) A reference in this Part to persons who are married to each other or have been married to each other includes persons who are married to each other or who have been married to each other by a marriage that is void under the Family Law Act.

112UB. (1) Sections 112UC and 112UD do not apply to or in relation to a maintenance agreement between parties who are married to each other or have been married to each other or in relation to an instrument of conveyance or transfer of property pursuant to such an agreement unless the parties to the agreement are separated or divorced from each other.

Application
of this Part.

(2) Where—

- (a) one of the parties referred to in a maintenance agreement, an order, or an instrument of conveyance or transfer effected pursuant to a maintenance agreement or order is a person who is not entitled to or liable to provide maintenance under the Family Court Act or the Family Law Act; and

- (b) the maintenance agreement, order, or instrument of conveyance or transfer in addition to being a maintenance agreement, order, or instrument of conveyance or transfer for the purposes of the Family Court Act or the Family Law Act relates to one or more distinct matters between any party or parties other than a person who is entitled to or liable to provide maintenance under the Family Court Act or the Family Law Act which would otherwise be dutiable under the provisions of this Act other than this Part,

the Commissioner shall assess the maintenance agreement, order, or instrument of conveyance or transfer under such of the provisions of this Act other than this Part as apply in relation to such other matters.

Duty on maintenance agreements and orders.

112UC. Notwithstanding anything in this Act but subject to section 112UB—

- (a) a maintenance agreement that is entered into for the purposes of the Family Court Act or the Family Law Act; or
- (b) an order,

except a sale, shall be charged with duty in accordance with item 8 of the Second Schedule to this Act.

Duty on conveyance or transfer under maintenance agreement or order.

112UD. Notwithstanding anything in this Act but subject to section 112UB an instrument of conveyance or transfer that is effected pursuant to a maintenance agreement or an order that has been duly stamped in accordance with this Act is not to be charged with any duty higher than the duty set out in item 6 of the Second Schedule to this Act. " .

4. The Second Schedule to the principal Act is amended by inserting after item 14 the following item and entries opposite thereto in columns headed "*Nature of instrument*", "*Duty payable*" and "*Person liable to pay duty*", respectively—

Second
Schedule
amended.

14A	Order to which section 112UB (2) of this Act applies.	See item 4 of this Schedule. Property transferred or vested under an order. On the value of the property referred to the same duty as that set out in item 4 of this Schedule, references to consideration in that item being construed as references to the amount or value of the property concerned.	Transferee or the person in whom the property is ordered to be vested.
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