

STAMP (No. 4).

No. 93 of 1982.

AN ACT to amend the Stamp Act 1921-1982.

[Assented to 22 November 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. 4) 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.
47 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. (1) Subject to subsection (2) of this section the provisions of this Act shall come into operation on the day on which this Act is assented to by the Governor.

(2) Sections 3, 4, 5, 6, 7 (1) and 8 of this Act shall come into operation on 1 January 1983.

Section 20
amended.

3. Section 20 of the principal Act is amended by inserting after subsection (5) the following subsections—

“ (5a) In subsection (5b)—

“return” means a note, memorandum, statement or return as the case may be that is required to be made pursuant to this Act.

(5b) If—

(a) a return that is required to be made pursuant to this Act is not made within the time specified in relation to the return in question; or

(b) the duty payable in respect of a return is not paid within the time specified in relation to the return in respect of which the duty is payable,

there shall be payable by the person liable to make the return in addition to any other penalty provided by this Act a fine equal to 10% of the amount of the duty payable on the return. ” .

Section 28
amended.

4. Section 28 of the principal Act is amended by inserting after subsection (4) the following subsection—

“ (5) A person who contravenes or fails to comply with any of the provisions of this section commits an offence against this Act. ” .

5. The principal Act is amended by inserting after section 73B the following section—

Section 73C
inserted.

“ 73C. (1) Where an instrument confers on any person the right of an option to purchase any property or an estate or interest in property and provides for the renewal of that right on such occasion or occasions as is or are specified therein the instrument is chargeable with *ad valorem* duty on the sum of the amounts paid by way of consideration for the right of the option and the amount or amounts, as the case may be, payable for the renewal or renewals of the option.

Option to
purchase
with right
to renew.

(2) The duty referred to in subsection (1) is payable by the person on whom the right of the option is conferred.

(3) When, after *ad valorem* duty has been duly paid in conformity with subsection (1) of this section, the Commissioner is satisfied that the person on whom the right of the option was conferred by the instrument—

- (a) exercised the option; or
- (b) failed to renew the right of option,

before the occurrence of the final occasion referred to in the instrument the Commissioner shall refund the *ad valorem* duty paid in respect of the instrument less an amount equal to the duty payable in respect of any occasion or occasions referred to in the instrument that has or have occurred. ” .

6. Section 87 of the principal Act is amended in subsection (1)—

Section 87
amended.

- (a) by deleting the words “which are secured by a primary security” and substituting the following—

“ one of which is ” ; and

(b) by deleting “primary security” and substituting the following—

“ instrument ” .

Section 112I
amended.

7. (1) Section 112I of the principal Act is amended in paragraph (c) of the definition of the term “interest” by deleting “by The Real Estate Institute of Western Australia” and substituting the following—

“ under the Land Valuers’ Licensing Act 1978 ” .

(2) Section 112I of the principal Act is amended in subsection (3)—

(a) by inserting after “(3)” the following—

“ (a) ” ;

and

(b) by inserting the following paragraph—

“ (b) A declaration of the declared rate under paragraph (a) of this subsection may be made—

(i) with respect to transactions to which this Part applies generally; or

(ii) with respect to such class or classes or type or types of transactions to which this Part applies as is or are, respectively, specified in the instrument and so as to discriminate between classes or types of transactions. ” .

8. The Second Schedule to the principal Act is amended by deleting item 19 and substituting the following item—

Second
Schedule
amended.

“ 19. SETTLEMENT, DEED OF, OR DEED OF GIFT:

See item 4 of this Schedule. References to consideration in item 4 of this Schedule being construed as references to the amount or value of the property concerned.

The settlor or donor.

- (1) Any instrument, whether voluntary or upon any good or valuable consideration other than a bona fide pecuniary consideration whereby any property is settled or agreed to be settled in any manner whatsoever, or is given or agreed to be given in any manner whatsoever.
- (2) Any instrument declaring that the property vested in the person executing the same shall be held in trust for the person or persons mentioned therein. ” .

9. The instrument published in the *Government Gazette* on 20 August 1982 in which the Treasurer declared the declared rate for the purposes of the definition “the declared rate” in section 112I is hereby declared to have been made as though section 7 (2) of this Act had come into operation on 26 July 1982.

Validation.
