

# STAMP.

No. 63 of 1977.

AN ACT to amend the Stamp Act, 1921-1976.

[Assented to 23rd November, 1977.]

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 Act Amendment Act, 1977*.

Short title  
and  
citation.

(2) In this Act the Stamp Act, 1921-1976 is referred to as the principal Act.

Approved  
for reprint  
20th February,  
1976.  
Amended by  
Act No. 96  
of 1976.

(3) The principal Act as amended by this Act may be cited as the Stamp Act, 1921-1977.

Section 73  
amended.

2. Section 73 of the principal Act is amended—

- (a) by adding after the section designation "73." the subsection designation "(1)";
- (b) by repealing the proviso to the section and substituting a proviso as follows—

Provided that—

- (a) a conveyance or transfer made for effectuating the appointment of a new trustee, or the retirement of a trustee, whether the trust is expressed or implied;
- (b) a conveyance or transfer made to a beneficiary by a trustee or other person in a fiduciary capacity under any trust whether expressed or implied; or
- (c) a conveyance or transfer under which no beneficial interest passes in the property conveyed or transferred not being a conveyance or transfer which, in the opinion of the Commissioner, is made in contemplation of the passing of a beneficial interest in that property,

is not to be charged with any higher duty than one dollar. ; and

(c) by adding subsections as follows—

(2) An assessment of duty shall not be subject to any objection or appeal under section thirty-two of this Act on any grounds relating to the exercise by the Commissioner of the discretion conferred on him by paragraph (c) of the proviso to subsection (1) of this section but a person who is dissatisfied with a decision

made by the Commissioner in the exercise of that discretion may, within forty-two days after the date of the assessment or within such longer period as the Treasurer may allow, post to or lodge with the Treasurer an appeal in writing stating fully and in detail the grounds on which he relies.

(3) The Treasurer shall, with all reasonable despatch, consider the appeal and may either disallow it or, for reasonable cause shown by the person making the appeal, allow it.

(4) The Treasurer shall give to the person making the appeal written notice of his decision on the appeal and that decision shall be final.

3. The principal Act is amended by adding after section 73 a section as follows—

Section 73A  
added.

73A. (1) Where any property or estate or interest therein (in this section referred to as "the property") is agreed to be conveyed or transferred, or is conveyed or transferred, to any person subject to the exercise of an option to purchase the property, whether the option is exercisable in writing or otherwise, the agreement or the conveyance or transfer, as the case may be, is chargeable with duty in accordance with the provisions of this Act as a conveyance or transfer of the property and the consideration for such conveyance or transfer shall be deemed to be an amount equal to the sum of the amount paid by way of consideration for the granting of the option and the amount payable in the event of the option being exercised.

Conveyance  
subject to  
an option.

(2) The duty referred to in subsection (1) of this section is payable by the parties to the agreement or the conveyance or transfer, as the case may be, or any one of them.

(3) The proviso to subsection (1) of section seventy-three of this Act does not apply to a conveyance or transfer referred to in subsection (1) of this section.

(4) Where *ad valorem* duty has been duly paid in conformity with subsection (1) of this section on an agreement the conveyance or transfer made in conformity with the agreement shall be chargeable with a duty of twenty-five cents only.

(5) Where, after *ad valorem* duty has been paid in conformity with subsection (1) of this section, the Commissioner is satisfied—

(a) that the option referred to in that subsection has not been exercised and that the time within which that option may be exercised has expired; and

(b) where the property was conveyed or transferred to the person to whom the option was granted—

(i) that the property has been reconveyed or retransferred to the person from whom it was conveyed or transferred or to a person to whom his rights have been transmitted on death or bankruptcy; and

(ii) that the person to whom the option was granted did not, prior to the reconveyance or retransfer of the property, exercise or receive any right or benefit in respect of the property being a right or benefit of a kind normally exercisable or receivable only by the beneficial owner of property,

the Commissioner shall refund the *ad valorem* duty less an amount equal to the duty which would have been payable but for this section,

and any reconveyance or retransfer referred to in paragraph (b) of this subsection shall be chargeable with a duty of one dollar only.

(6) Where *ad valorem* duty has been duly paid in conformity with subsection (1) of this section any agreement made in pursuance of and by the exercise of the option referred to in that subsection shall be chargeable with a duty of twenty-five cents only. .

4. Section 75 of the principal Act is amended by repealing subsection (3) and substituting subsections as follows—

Section 75  
amended.

(3) The following conveyances or transfers, that is to say—

- (a) a conveyance or transfer for a nominal consideration for the purpose of securing the repayment of an advance or loan;
- (b) a conveyance or transfer for effectuating the appointment of a new trustee, or the retirement of a trustee, whether the trust is expressed or implied;
- (c) a conveyance or transfer made to a beneficiary by a trustee or other person in a fiduciary capacity under any trust whether expressed or implied; or
- (d) a conveyance or transfer under which no beneficial interest passes in the property conveyed or transferred not being a conveyance or transfer which, in the opinion of the Commissioner, is made in contemplation of the passing of a beneficial interest in that property,

shall not be charged with duty under this section.

(3a) An assessment of duty shall not be subject to any objection or appeal under section thirty-two of this Act on any grounds relating to the exercise by the Commissioner of the discretion conferred on him by paragraph (d) of subsection (3) of this section but a person who is dissatisfied with a decision made by the Commissioner in the exercise of that discretion may, within forty-two days of the date of the assessment or within such longer period as the Treasurer may allow, post to or lodge with the Treasurer an appeal in writing stating fully and in detail the grounds on which he relies.

(3b) The Treasurer shall, with all reasonable despatch, consider the appeal and may either disallow it or, for reasonable cause shown by the person making the appeal, allow it.

(3c) The Treasurer shall give to the person making the appeal written notice of his decision on the appeal and that decision shall be final.

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