

**STAMP (No. 3).**

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**No. 93 of 1966.**

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**AN ACT to amend the Stamp Act, 1921-1965.***[Assented to 12th December, 1966.]*

**B**E 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:—

Short title  
and citation.

1. (1) This Act may be cited as the *Stamp Act Amendment Act (No. 3), 1966.*

Reprinted.  
Approved for  
reprint 14th  
February,  
1966.

(2) In this Act the Stamp Act, 1921-1965, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Stamp Act, 1921-1966.

2. This Act shall come into operation on a date to be fixed by proclamation. Commencement.

3. Section two of the principal Act is amended by adding after the passage, "PART IV—SPECIAL PROVISIONS, ss. 45-112.", the passage, "PART IVA—SALES AND PURCHASES OF MARKETABLE SECURITIES BY BROKERS AND DUTY THEREON, ss. 112A-112H." . S.2 amended.

4. Section four of the principal Act is amended— S.4 amended.

(a) by repealing the interpretation, "Marketable security", and re-enacting it as follows—

"Marketable security" means—

- (a) any stock or share of any municipal or other corporation or company or society;
- (b) any debenture, debenture stock, bond, note or other security of a Government or of any municipal or other corporation, company or society, whether constituting a charge on the assets of the Government, municipal or other corporation, company or society or not;
- (c) any right or interest, whether described as a unit or sub-unit or otherwise, of a beneficiary under a unit trust scheme. ;

(b) by repealing the interpretation, "Money" and re-acting it as follows—

"Money" includes all sums expressed in the currency of Australia or in any other currency. ; Cf. Commonwealth Currency Act 1965, s. 8.

(c) by adding after the interpretation, "Payment" an interpretation as follows—

"Right in respect of shares" means right of the holder of shares in a corporation or company to have issued to him shares in any corporation or company, whether or not on the payment of any money or other consideration for the last mentioned shares. .

S. 36  
amended.

5. Subsection (1) of section thirty-six of the principal Act is repealed and re-enacted as follows—

(1) Where an instrument is chargeable with *ad valorem* duty in respect of—

- (a) any money in any currency other than the currency of Australia; or
- (b) any marketable security or right in respect of shares,

the duty shall be calculated on the value of the money in the currency of Australia according to the current rate of exchange in this State on the date of the instrument, or of the marketable security or right in respect of shares according to the average price thereof on that date. .

S. 64  
amended.

6. Subsection (1) of section sixty-four of the principal Act is amended by deleting the words, "stock or" in lines three and five.

S. 66  
amended.

7. Section sixty-six of the principal Act is amended by substituting for the word, "stock" in lines five and seven the words, "marketable security".

S. 74  
amended.

8. Subsection (1) of section seventy-four of the principal Act is amended by deleting the words, "or stock" in line five.

9. Section eighty-two of the principal Act is amended by substituting for the word, "stock" in lines two, four and nine, the words, "marketable security". S. 82 amended.

10. Section eighty-five of the principal Act is amended by substituting for the word, "stock" occurring twice in line three, and again in line six, the words, "a marketable security". S. 85 amended.

11. The heading "Contract Notes." and section one hundred and nine of the principal Act are repealed. Heading and S. 109 repealed.

12. Section one hundred and ten of the principal Act is repealed. S. 110 repealed.

13. Section one hundred and eleven of the principal Act is repealed. S. 111 repealed.

14. Section one hundred and twelve of the principal Act is repealed. S. 112 repealed.

15. The principal Act is amended by adding immediately before the heading, "PART V.—MISCELLANEOUS.", the following heading and section— Part IVA added and S. 112A added.

PART IVA.—SALES AND PURCHASES OF MARKET-  
ABLE SECURITIES BY BROKERS AND  
DUTY THEREON.

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

"broker" means a person who is a member of The Stock Exchange of Perth and includes a broker's agent;

“broker’s agent” means an agent or employee of a broker within the meaning of any corresponding law carrying on business for or on behalf of that broker in this State;

“corresponding law” means a law in force in a State other than this State or in a Territory of the Commonwealth that is declared by proclamation, to be a corresponding law for the purposes of this Part;

“dealer” means a broker or a broker’s agent within the meaning of this Act or any corresponding law;

“odd lot” means a parcel of marketable securities or rights in respect of shares that is, under the rules of the stock exchange on which the sale or purchase is effected, required to be bought or sold through an odd lot specialist;

“odd lot specialist” means a broker who is approved by the Commissioner on the recommendation of The Stock Exchange of Perth as an odd lot specialist for the purposes of this Part. .

S. 112B  
added.

16. The principal Act is amended by adding a section as follows—

Application  
of this Part.  
Vide Com-  
monwealth  
Currency  
Act 1965  
No. 95 of  
1965.

112B. This Part and the duty payable as calculated on the return referred to in section one hundred and twelve C of this Act, in accordance with paragraph (3a) of the item “CONVEYANCE OR TRANSFER on sale of property” in The Second Schedule to this Act, applies to the sale and purchase of a marketable security or a right in respect of shares only if—

- (a) the consideration for the sale and purchase is in money or money’s worth of not less than the unencumbered value of the security or the right; and

- (b) the security or the right is listed on a stock exchange that is a prescribed stock exchange for the purposes of paragraph (h) of subsection (6) of section three hundred and seventy-four of the Companies Act, 1961.

17. The principal Act is amended by adding a section as follows—

S. 112C  
added.

112C. (1) Subject to subsection (5) of this section, a broker shall forthwith on a sale or purchase of a marketable security or right in respect of shares being made by him, or being deemed to have been so made, whether in or outside the State—

Record and  
return of  
sales and  
purchases.

(a) pursuant to an order lodged with him in the State; or

(b) on his own account or behalf,

being a sale or purchase to which this Part applies, enter such details of the sale or purchase in a record to be kept by him in such form as is prescribed.

(2) A broker shall, from the details entered in the record referred to in subsection (1) of this section, make a return in the form prescribed and verified by statutory declaration or as otherwise prescribed and the return shall be lodged by or on behalf of the broker with the Commissioner at such times as the Commissioner directs.

(3) No duty is chargeable under this Act on a statutory declaration verifying a return made pursuant to this section.

(4) For the purposes of subsection (1) of this section—

(a) a broker who makes a purchase of a marketable security or a right in respect of shares, whether on his own account or on behalf of another person from a person who is not a dealer shall,

notwithstanding that no order to sell it was in fact lodged with him, be deemed to have also made a sale of it pursuant to an order to sell lodged with him in this State by the person from whom he made the purchase;

- (b) a broker who makes a sale of a marketable security or a right in respect of shares, whether on his own account or on behalf of another person to a person who is not a dealer shall, notwithstanding that no order to purchase it was in fact lodged with him, be deemed to have also made a purchase of it pursuant to an order to purchase lodged with him in the State by the person to whom he made the sale.

(5) Subsection (1) of this section does not require a broker to enter any prescribed details in respect of—

- (a) a sale, such as is referred to in subsection (1) of this section, where the sale is made pursuant to an order to sell lodged with him by or on behalf of another dealer;
- (b) a purchase, such as is so referred to, where the purchase is made pursuant to an order to purchase lodged with him by or on behalf of another dealer; or
- (c) a sale or purchase of marketable securities by The State Electricity Commission of Western Australia established under the State Electricity Commission Act, 1945, or any other prescribed Crown instrumentality, agent of the Crown or Government authority,

in a return required to be lodged with the Commissioner under this section, but those details shall be entered in the record kept by the broker pursuant to subsection (1) of this section.

(6) Subsection (1) of this section also applies to a sale or purchase of—

- (a) a marketable security or right in respect of shares notwithstanding that the instrument of transfer thereof is exempt from duty under this Act; or
- (b) any odd lot of marketable securities or rights in respect of shares by an odd lot specialist.

(7) A broker who fails to lodge a return as directed by the Commissioner under subsection (2) of this section, or who lodges a return with the Commissioner that is false in any material particular commits an offence against this Act.

Penalty: Five hundred dollars and in addition the Court convicting the offender may order the offender to pay to the Commissioner an amount equivalent to twice the amount of the duty that would have been payable as calculated on the return had the return been lodged in accordance with the requirements of this Part. .

18. The principal Act is amended by adding a section as follows—

S. 112D added.

112D. (1) A broker shall, in accordance with the directions of the Commissioner pursuant to subsection (2) of section one hundred and twelve C of this Act, lodge with the Commissioner the return required to be made by him under and in accordance with that section, together with a remittance for the amount of duty payable in respect of the sales and purchases of the marketable securities and rights in respect of shares to which the return relates, calculated on the sale price or the purchase price, as the case may be, in accordance with this Act.

Returns to be lodged and duty paid.

(2) Where a broker has not made any sale or purchase of marketable securities or rights in respect of shares during any period for which

Nil return to be lodged.



a return is required to be made, he shall lodge with the Commissioner a "nil" return with respect to that period.

Offence of failure to pay duty.

(3) A broker who fails to pay the duty payable as calculated on a return lodged by him as required by this section commits an offence against this Act.

Penalty: Five hundred dollars and in addition the Court convicting the offender may order that the offender pay to the Commissioner an amount equivalent to twice the amount of the duty that is payable as calculated on the return under this Part. .

S. 112E added.

19. The principal Act is amended by adding a section as follows—

Endorsement of transfer as to payment of duty.

112E. (1) A broker shall forthwith after entering the prescribed details of a sale or purchase of a marketable security or right in respect of shares in a record required to be kept under section one hundred and twelve C of this Act, or on the making of a sale or purchase of a marketable security or right in respect of shares to which subsection (1) of that section applies by virtue of subsection (6) of that section, endorse the transfer of that security or that right with a statement that the duty has been or will be paid by him or that no duty is payable, as the case may be, and affix his stamp and the date he so endorsed the transfer.

Penalty: One thousand dollars.

(2) A broker who—

- (a) endorses an instrument of transfer as required by subsection (1) of this section in respect of a sale or purchase to which subsection (1) of section one hundred and twelve C of this Act applies, before entering the details of the sale or purchase in the record required to be kept by him under that subsection; or

- (b) fails to so endorse an instrument of transfer in respect of a sale or purchase to which subsection (1) of section one hundred and twelve C of this Act applies by virtue of subsection (6) of that section, forthwith after the making of the sale or purchase,

commits an offence against this Act.

Penalty: One thousand dollars.

(3) An instrument of transfer in respect of a sale or purchase that is endorsed in accordance with the provisions of subsection (1) of this section or with a corresponding Act shall be deemed to be duly stamped under this Act. .

20. The principal Act is amended by adding a section as follows—

S. 112F  
added.

112F. Where a broker has paid to the Commissioner under this Part any amount of money for duty in respect of any sale or purchase of a marketable security or right in respect of shares, the broker may—

Power to  
dealer to  
recover duty  
paid by him  
on account  
of vendor or  
purchaser.

- (a) recover that amount from the vendor or the purchaser for whom he has made or is deemed to have made the sale or purchase, as a civil debt due to him in a court of competent jurisdiction; or
- (b) reimburse himself that amount out of any money in his possession that belongs to that vendor or that purchaser. .

21. The principal Act is amended by adding a section as follows—

S. 112G  
added.

112G. Nothing in this Part affects the liability of a person who sells or purchases a marketable security or a right in respect of shares otherwise than through the agency of a broker, to pay the amount of duty that is chargeable under the other Parts of this Act in relation to the sale and purchase of that security or that right. .

Saving.

S. 112H  
added.

22. The principal Act is amended by adding a section as follows—

Prohibition  
of registra-  
tion of  
transfers  
unless in  
proper form  
and duly  
stamped.

112H. (1) A transfer of a marketable security or a right in respect of shares shall not be registered, recorded or entered in the books of the corporation, company or society to whose security or right the transfer relates—

(a) in the case of a transfer to give effect to a sale and purchase of that security or that right otherwise than through the agency of a broker unless—

(i) a proper instrument of transfer has been delivered to that corporation, company or society and wherein, in the case of a transfer by way of sale, the consideration therefore is expressed in terms of money and the actual date of the sale and the date of the execution by the transferor or the transferor and transferee where both are required to execute the instrument, are set out therein; and

(ii) the instrument is duly stamped; and

(b) in the case of a transfer to give effect to the sale and purchase of that security or that right through the agency of a broker unless—

(i) a proper instrument of transfer has been delivered to the corporation, company or society; and

(ii) the transfer is by virtue of subsection (3) of section one hundred and twelve E deemed to have been duly stamped.

Instrument  
of transfer  
to be retained  
for period  
by company.

(2) Where a transfer of a marketable security or of any right in respect of shares has been registered, recorded or entered in the books

of a corporation, company or society in the State, the instrument of transfer shall be retained in the State by the corporation, company or society for a period of not less than three years after the date it is so registered, recorded or entered.

(3) A corporation, company or society that contravenes or fails to comply with any provision of this section commits an offence against this Act.

Penalty: One hundred dollars.

(4) The right or title of a transferee or subsequent holder of a marketable security or right in respect of shares is not invalidated by reason only that the transfer of that security or that right was registered, recorded or entered in the books of a corporation, company or society in contravention of a provision of this section. . Saving.

23. The Second Schedule to the principal Act is amended— The Second  
Schedule  
amended.

(a) by adding after paragraph (5) under the heading, "Exemptions." to the item, "AGREEMENT", paragraphs as follows—

- (6) Agreement under which an option is given or taken to purchase or sell any marketable security at a future time at a certain price.
- (7) Agreement contained in the form of Form 3 in the Schedule to the Marketable Securities Transfer Act, 1966, headed, "FOR COMPLETION BY TRANSFEREES OF SECURITIES WITH AN UNCALLED LIABILITY."
- (8) Agreement contained in the form of Form 6 in the Schedule to the Marketable Securities Transfer Act, 1966 headed, "FOR COMPLETION BY TRANSFEREE(S) OF RIGHTS WHERE WHOLE OF MONEYS TO BE SUBSCRIBED FOR MARKETABLE SECURITIES TO WHICH RIGHTS RELATE ARE NOT PAYABLE IN FULL ON APPLICATION." ;

- (b) by repealing the whole of the item, headed "CONTRACT NOTE";
- (c) by adding after the word, "society" in line four of paragraph (2) of the item, "CONVEYANCE or TRANSFER on sale of property" the words, "or any other marketable security or right in respect of shares";
- (d) by repealing paragraph (3) of the item, "CONVEYANCE or TRANSFER on sale of property" and substituting the following paragraphs—

The purchaser.

- §
- (3) Transfer of scrip or shares of an incorporated company or of any building society or any other marketable security or right in respect of shares not being a transfer of a marketable security or right in respect of shares that is made or executed to perfect a sale or purchase thereof to which the provisions of Part IVA of this Act apply and which is deemed to be duly stamped in accordance with those provisions or a transfer in respect of any marketable security or right in respect of shares on a register situate outside the State—
    - where the amount or value of the consideration is less than \$100 for every \$25 and also for every fractional part of \$25 .... 0.10
    - where the amount or value of the consideration is \$100 or more for every \$100 and also for any fractional part of \$100 .... 0.40

*Exemption.*

Transfer of scrip or shares of an incorporated mining company carrying on business of mining within the State.

Agreement under which an option is given or taken for a consideration to purchase or sell any marketable security at a future time at a certain price.

The broker.

- (3a) Sales and purchases to which a return lodged with the Commissioner pursuant to Section 112C of this Act relates—
  - an amount calculated on the consideration for each of those sales and purchases—
    - (i) where the consideration is less than \$100 for every \$25 and also for any fractional part of \$25 .... 0.05

	\$
(ii) where the consideration is \$100 or more for every \$100 and also for any fractional part of \$100	0.20
of the sale price or the purchase price as the case may be.	

*Exemption.*

A sale or purchase made by a broker on his own account or behalf where, in the case of a sale the marketable securities or rights in respect of shares concerned were purchased by the broker on or within two clear days (not including any day upon which the stock exchange of which he is a member is closed) of the day of the sale, and in the case of a purchase where the marketable securities or rights in respect of shares concerned were sold by him on or within two clear days (not including any day upon which the stock exchange of which he is a member is closed) of the day of the purchase.

Sale and purchase of a scrip or a share of an incorporated mining company carrying on business of mining within the State.

Sale or purchase of any odd lot of marketable securities or rights in respect of shares by an odd lot specialist. ;

- (e) by adding after the word, "State" in the third line under the heading, "Exemption." to the item, "CONVEYANCE or TRANSFER on sale of property", the words, "or right in respect of those shares"; and
- (f) by adding after the word, "security" in line three of paragraph (3) of the item, MORTGAGE (legal or equitable), BOND, DEBENTURE, COVENANT, WARRANT OF ATTORNEY to confess and enter up judgment and FOREIGN SECURITY of any kind", the words, "not being a marketable security".