

STAMP ACT, 1921-1965.

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STAMP DUTIES

12° Geo. V., No. XLIV.

No. 10 of 1922.⁴

(Affected by Act No. 26 of 1932.)

[As amended by Acts—

No. 53 of 1923, assented to 22nd December, 1923; No. 23 of 1924, assented to 31st December, 1924; No. 8 of 1925, assented to 24th September, 1925; No. 47 of 1925, assented to 31st December, 1925; No. 17 of 1926, assented to 6th November, 1926; No. 10 of 1927, assented to 6th December, 1927; No. 22 of 1928, assented to 21st December, 1928; No. 11 of 1930, assented to 19th November, 1930; No. 12 of 1930, assented to 19th November, 1930; No. 39 of 1931, assented to 26th November, 1931;¹ No. 35 of 1941, assented to 19th December, 1941; No. 40 of 1942, assented to 23rd December, 1942; No. 20 of 1944, assented to 23rd December, 1944; No. 11 of 1950, assented to 17th November, 1950; No. 5 of 1954, assented to 25th August, 1954; No. 63 of 1954, assented to 30th December, 1954;² No. 70 of 1957, assented to 6th December, 1957;³ No. 64 of 1959, assented to 10th December, 1959;⁵ No. 72 of 1959, assented to 14th December, 1959;⁶ No. 22 of 1960, assented to 11th October, 1960;⁷ No. 41 of 1960, assented to 3rd November, 1960;⁸ No. 21 of 1961, assented to 30th October, 1961; No. 20 of 1962, assented to 1st October, 1962; No. 60 of 1962, assented to 30th November, 1962;⁹ No. 69 of 1962, assented to 30th November, 1962; No. 7 of 1963, assented to 15th October, 1963; No. 37 of 1963, assented to 19th November, 1963;¹⁰ No. 57 of 1963, assented to 17th December, 1963; No. 58 of 1963, assented to 17th December, 1963;¹¹ No. 72 of 1965,¹² assented to 25th November, 1965; and No. 113 of 1965,¹³ assented to 21st December, 1965;

and reprinted pursuant to the Amendments Incorporation Act, 1933.]^{*}

AN ACT to amend and consolidate the law relating to Stamp Duties upon Instruments and to impose certain Stamp Duties, and for other relative purposes.

[Assented to 31st January, 1922.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative

¹ Proclaimed to commence on 1st December, 1931, see *Gazette*, 27th November, 1931, p. 2499.

² Proclaimed to commence on 1st August, 1955, see *Gazette*, 27th July, 1955, p. 1767.

³ Proclaimed to commence on 1st February, 1958, see *Gazette*, 24th January, 1958.

⁴ Proclaimed to commence on 1st April, 1922, see *Gazette*, 17th March, 1922, p. 479.

⁵ Proclaimed to commence on 21st December, 1959, see *Gazette*, 18th December, 1959, p. 3337.

⁶ Proclaimed to commence on 1st January, 1960, see *Gazette*, 24th December, 1959, p. 3457.

⁷ Proclaimed to commence on 13th March, 1961, see *Gazette*, 10th March, 1961, p. 653.

⁸ Proclaimed to commence on 1st July, 1961, see *Gazette*, 5th May, 1961, p. 1069.

⁹ Came into operation, 1st January, 1963.

¹⁰ Came into operation on 31st December, 1963, see *Government Gazette*, 31st December, 1963, p. 4055.

¹¹ Came into operation on 1st July, 1964, see *Government Gazette*, 5th June, 1964, p. 2335.

¹² Came into operation—as to ss. 7, 8, and paragraph (d), subparagraph (i) of paragraph (h), subparagraphs (i), (ii), (iii) and (v) of paragraph (j), and paragraph (o), of s. 16, on 1st December, 1965; as to ss. 3, 14, and paragraph (c) of s. 16, on 14th February, 1966; as to the remaining provisions of the Act on 1st January, 1966.

¹³ Decimal Currency Act, 1965. Came into operation on the date of assent, except ss. 4 to 9 (both inclusive) which sections came into operation on 14th February, 1966.

^{*} In this reprint

(a) references in the marginal and footnotes to:

(i) the 1934 reprint are references to the Reprint of the Stamp Act, 1921-1931, contained in the Appendix to the 1933-34 Sessional Volume of Acts;

(ii) the 1950 reprint are references to the Reprint of the Stamp Act, 1921-1950, contained in Vol. 5 of the Reprinted Acts (approved for reprint, 3rd April, 1950).

(b) the numbering or lettering of parts, sections, subsections, paragraphs, etc., as adopted in the 1950 reprint is retained.

(c) Act No. 48 of 1952 wholly repealed by No. 63 of 1954.

Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY.

Short title and commencement.
No. 10 of 1922, s. 1, as amended by No. 72 of 1965, s. 1.

1. This Act may be cited as the *Stamp Act, 1921-1965*, and shall come into operation on a day to be fixed by proclamation.¹

Division of Act.
No. 10 of 1922, s. 2.

2. This Act is divided into parts, as follows:—

PART I.—PRELIMINARY, ss. 1-4.

PART II.—ADMINISTRATION, ss. 5-15.

PART III.—GENERAL PROVISIONS, ss. 16-44.

PART IV.—SPECIAL PROVISIONS, ss. 45-112.

PART V.—MISCELLANEOUS, ss. 113-120.

FIRST SCHEDULE.

SECOND SCHEDULE.

THIRD SCHEDULE.

Repeal.
First Schedule.
No. 10 of 1922, s. 3.

3. The Acts mentioned in the First Schedule to this Act are hereby repealed.

Definitions.
No. 10 of 1922, s. 4.

4. In this Act, except so far as the context otherwise requires—

“Backer” means any person with whom a bookmaker bets.

“Banker” means and includes any corporation, society, partnership, or branch thereof, and any person carrying on the business of banking in Western Australia.

“Bank note” means a bill of exchange or promissory note for the payment of money issued or made by a banker payable to bearer on demand.

“Bet” includes wager and “betting” includes wagering.

¹ See note 4 on previous page.

“Betting ticket” means and includes any document or thing purporting to be or serving the purpose of or usually or commonly known as a betting ticket or giving or purporting to give or intended to give or usually or commonly understood to give any right, title, chance, share, interest, authority or permission to or in connection with a bet.

“Bookmaker” includes any person who carries on the business or vocation of or acts as a bookmaker or turf commission agent or any person who seeks to gain his livelihood wholly or partially by betting or making bets. The term also includes the servant or agent of a bookmaker.

“Colonial” means appertaining or belonging to a part of the King’s Dominions outside the United Kingdom.

“Commissioner” means the Commissioner of Stamps appointed under this Act.

“Die” means any plate, type, tool, or implement whatever used for expressing or denoting any duty or the fact that any duty or penalty or fine has been paid or that an instrument is duly stamped or is not chargeable with any duty, and includes any part of any such plate, type, tool, or instrument.

“Duty” means the stamp duty for the time being chargeable by law.

“Executed” and “execution” with reference to instruments not under seal, mean “signed” and “signature.”

“Goldfields racecourse” means a racecourse situated within or within one mile of the municipal district of Kalgoorlie, Boulder, or Coolgardie.

“Instrument” means and includes every written document and every matter or thing enumerated or set forth in the Second Schedule to this Act.

“Marketable security” means a security of such a description as to be capable of being sold in any stock market in the Commonwealth.

“Metropolitan racecourse” means a racecourse situated within a radius of thirty miles from the Town Hall, Perth.

“Money” includes all sums expressed in British or in any foreign or colonial currency.

“Paper” means and includes any sort of material upon which words or figures can be expressed.

“Payment” includes payment in money or bank notes or by bill of exchange or promissory note.

“Stamp” means as well a stamp impressed by means of a die as an adhesive stamp for denoting any duty, fine or fee.

“Stamped” with reference to instruments and paper applies as well to instruments and paper impressed with stamps by means of a die as to instruments and paper having adhesive stamps affixed thereto.

“Stock” means and includes any share in the stocks or funds of Western Australia or of any British, foreign or colonial State or Government, or in the capital stock or funded debt of any company, corporation, or society in Western Australia, or of any British, foreign, or colonial company, corporation, or society.

PART II.—ADMINISTRATION.

Minister.
No. 10 of
1922, s. 5 as
amended by
No. 8 of
1925, s. 2.

5. Except in so far as the Governor may from time to time otherwise direct, the general administration of this Act shall be and is hereby committed to the Treasurer.

Appoint-
ment of
Commis-
sioner of
Stamps.
No. 10 of
1922, s. 6.

6. (1) The Governor may appoint some fit and proper person to be Commissioner of Stamps, and such person shall by virtue of such appointment be charged with the performance and exercise of

such duties and powers as by this Act or any other Act for the time being in force are imposed on or vested in the Commissioner of Stamps, and the Governor may, subject as aforesaid, appoint such other officers, including inspectors of stamps, as may be necessary for the due execution of this Act.

(2) The appointment of a Commissioner of Stamps notified in the *Gazette* of the twentieth day of May, one thousand nine hundred and twenty-one, and the fourteenth day of October, one thousand nine hundred and twenty-one, respectively, are hereby ratified, and the persons so appointed shall (subject to the revocation of the former appointment published in the *Gazette* of the fourteenth day of October, one thousand nine hundred and twenty-one) be deemed to have had, as from the date of their respective appointments, the powers of the Commissioner of Taxation for the purpose of any Act hereby repealed, and the latter appointment shall after the commencement of this Act have effect as if made under this section.

7. (1) The Commissioner or an Inspector of Stamps may require any person to produce for inspection within a reasonable time after demand has been made all instruments liable to stamp duty in the possession, custody, or power of such person.

Powers of
Inspectors.
No. 10 of
1922, s. 7.
amended by
No. 113 of
1965, s. 4 (1).

(2) Any holder of an instrument who, when so required by the Commissioner or an Inspector of Stamps, refuses or neglects to produce such instrument to the Commissioner or Inspector of Stamps for inspection, shall be liable to a penalty not exceeding one hundred dollars.

(3) When any instrument which is produced to the Commissioner or an Inspector of Stamps for inspection, or which in any manner comes into his hands, appears to him to be chargeable with stamp duty and to be unstamped or insufficiently stamped, he may take a copy of the instrument, and an inspector taking a copy of any such instrument may forward such copy to the Commissioner.

Stamp Duties.

(4) Every person having in his custody any rolls, books, records, papers, documents, or proceedings the inspection whereof may tend to secure any duty or to prove or lead to the discovery of any fraud or omission in relation to any duty shall, at all reasonable times, permit the Commissioner or any Inspector, on demand, to inspect all or any such rolls, books, records, papers, documents or proceedings, and to take such copies thereof or of any part thereof as the Commissioner or inspector may think necessary, without fee or reward.

Taxation
Officers may
communicate
information
to Commis-
sioner of
Stamps.
No. 10 of
1922, s. 8.

8. Notwithstanding anything contained in the Land and Income Tax Assessment Act, 1907-1945,¹ the Commissioner of Taxation may communicate to the Commissioner of Stamps any matter that may come to his knowledge in his official capacity, and the Commissioner may use for the purposes of this Act the information so communicated.

Obligation
of secrecy.
No. 10 of
1922, s. 9,
amended by
No. 113 of
1965, s. 4 (1).

9. (1) The Commissioner or an inspector or other officer acting under the Commissioner may divulge any matter coming to his knowledge in his official capacity to the Commissioner of Taxation for the purposes of the Land and Income Tax Assessment Act, 1907-1945,¹ or the Dividend Duties Act, 1902,² and may depose to or give evidence of such matter for the purpose of or in the course of proceedings in a court of justice, but save as aforesaid and save in so far as it may be necessary to divulge any such matter for the purposes or in the administration of this Act, the Commissioner and every such inspector and officer shall preserve and aid in preserving secrecy with regard to all matters that may come to his knowledge in his official capacity, and shall not communicate any such matter to any other person.

Penalty: Two hundred dollars.

(2) For the purposes of this and the last preceding section "Commissioner of Taxation" shall be deemed to include any officer employed under such

¹ See Now Land Tax Assessment Act, 1907-1965.

² Dividend Duties Acts were repealed as from the commencement of the Income Tax Assessment Act, 1937.

Commissioner or acting in relation to land or income tax or dividend duties under the Tax Collection Act, 1920.

10. The Governor may from time to time by regulation prescribe the form, size, and material of the stamps and dies to be used and the mode and place of impressing, affixing or denoting thereupon the value of the same under the provisions of this Act.

Governor to prescribe stamps, dies, etc. No. 10 of 1922, s. 10.

11. The Commissioner shall be the only person authorised in the first instance to issue stamps on behalf of His Majesty to any person on payment of the stamp duty denoted by the same.

Commissioner to issue stamps. No. 10 of 1922, s. 11.

12. (1) The Commissioner may, in his discretion, by writing under his hand license vendors of stamps, and may direct how and under what conditions stamps may be issued to such vendors for sale, and what accounts of such stamps shall be kept by such vendors.

Commissioner may license vendors of stamps. No. 10 of 1922, s. 12.

(2) Such licenses may be granted as aforesaid for any period of time, and may at any time be revoked by the Commissioner.

(3) The issue or revocation of any such licenses shall be notified in the *Gazette*.

(4) A licensed vendor of stamps may be remunerated by commission at a prescribed rate.

13. Every person holding a license to sell stamps shall cause a notification of such fact to be put up and kept affixed outside the place in which such stamps are sold, in such manner as the Commissioner may, by notice in the *Gazette*, from time to time direct.

Licensed vendors of stamps to notify fact. No. 10 of 1922, s. 13. amended by No. 113 of 1965, s. 4 (1).

Daily penalty: One dollar.

14. Every person who shall deal in stamps without having duly obtained a license in that behalf under this Act shall, upon conviction, be liable to a fine not exceeding forty dollars.

Unlicensed persons selling stamps. No. 10 of 1922, s. 14. Amended by No. 113 of 1965, s. 4 (1).

Spolied stamps.
No. 10 of
1922, s. 15.
Amended by
No. 72 of
1965, s. 3.

15. (1) If any stamp, after having been issued in the manner allowed by this Act, shall have become damaged, spoiled, or unfit for use or unnecessary from any of the following causes:—

By error in instrument.

(i) If the same shall have been affixed to any instrument in which any accident or error has occurred rendering the same of no avail;

By death or refusal to execute.

(ii) Or when by reason of the death or refusal of the party whose signature may be necessary to effect the transaction intended by such instrument, such instrument remains incomplete or of no avail;

By failure of consideration.

(iii) Or when by reason of failure of consideration the transaction intended by such instrument cannot be effected or such transaction has been effected by some other instrument duly stamped;

By not being brought into use.

(iv) Or in the case of a bill of exchange, if the same is never brought into use;

By non-presentation of a Bill of Exchange.

(v) Or in the case of a bill of exchange, other than a bill drawn in a set as provided in this Act, if it shall not have been presented for acceptance;

By adoption of decimal currency.

(vi) the adoption in Australia of decimal currency:

Shall be delivered to Commissioner, who shall exchange the same.

Subject to this section, in any such case the Commissioner shall, upon application being made to him, and upon delivery to him of the stamped paper, damaged, spoiled, or rendered unfit for use, or unnecessary, and on payment by the applicant of the prescribed fee, cause a similar stamp or stamps of equal value to be delivered to the owner of such stamped paper so damaged or spoiled or rendered unfit for use or unnecessary, or to his representatives: Provided always that the Commissioner shall not be obliged to exchange any such stamps unless application for the same be made within six months of the date when the stamps shall have become damaged, spoiled, or rendered unfit for use or unnecessary: Provided also that the provisions of

this section shall not extend to any bill of exchange or other instrument drawn in a set if any one of such set shall have been delivered to the payee or drawee.

(2) Where an application is made under this section in respect of any instrument proved to the satisfaction of the Commissioner to have been delivered as an escrow and allowance for stamps is approved a refund in cash (less the prescribed percentage) shall be made if so desired by the applicant, in lieu of stamps of equal value.

(3) Where any stamps have become unfit for use or unnecessary because of the adoption in Australia of decimal currency, if an application in relation thereto is made under subsection (1) of this section to the Commissioner, he may—

- (a) grant the application without requiring payment by the applicant of the prescribed fee; and
- (b) instead of supplying the applicant with stamps of equal value, refund to the applicant the value of the stamps calculated in decimal currency to the nearest cent,

and in any other case whether of the kind referred to in subsection (1) of this section or not, where an application is made under subsection (1) of this section, if the Commissioner is of opinion that in the circumstances of the case it is proper that the prescribed fee should be waived or that such a refund in money should be so made, the Commissioner may so waive the fee or make the refund, or both as he thinks fit.

PART III.—GENERAL PROVISIONS.

16. (1) Subject to subsection (2) of this section, from and after the commencement of this Act the stamp duties to be charged for the use of His Majesty upon the several instruments specified in the Second Schedule to this Act shall be the several duties in the said schedule specified, which duties shall be in substitution for the duties chargeable under the enactments repealed by this Act, and shall be subject to the exemptions contained in this Act and in any other Act for the time being in force.

Charge of
duties on
instruments.
No. 10 of
1922, s. 16.
Amended by
No. 21 of
1961, s. 2.
Second
Schedule.

Certain
instruments
exempt from
Stamp Duty.

(2) Without prejudice to the operation of section nineteen of this Act, no stamp duties shall be charged as provided in subsection (1) of this section upon any instrument that contains or relates to a transaction in the official short term money market.

Duties to be
paid in
accordance
with Act and
regulations.
No. 10 of
1922, s. 17.
Amended by
No. 72 of
1965, s. 4.

17. (1) All stamp duties for the time being chargeable by law upon any instruments are to be paid and denoted according to the provisions in this Act contained, and subject to any express provision of this Act or any regulation may be denoted by either impressed or adhesive stamps.

(2) Subject to this Act the Governor may by regulation prescribe the use of impressed or adhesive stamps only on any class of instruments or under any specified circumstances either generally throughout the State or in any part thereof.

(3) (a) Where the Commissioner thinks it expedient so to do he may, instead of denoting the duty chargeable upon any instrument by either impressed or adhesive stamps, require the amount of that duty to be paid to him in money and on receipt of the money the Commissioner shall issue a receipt therefor, showing that such duty has been paid in respect of those instruments.

(b) Production of the receipt is *prima facie* evidence that any instrument to which the receipt relates, has been duly stamped as required by this Act.

How
instruments
are to be
written and
stamped.
No. 10 of
1922, s. 18.
Amended by
No. 72 of
1965, s. 5.

18. (1) Every instrument written upon stamped paper is to be written in such manner, and every instrument partly or wholly written before being stamped is to be so stamped, that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument written upon the same piece of paper.

(2) If more than one instrument be written upon the same piece of paper, every one of the instruments is to be separately and distinctly stamped with the duty with which it is chargeable.

(3) Every instrument executed after the coming into operation of the Stamp Duty Act Amendment Act, 1965, and upon which duty is chargeable under this Act shall be written in such manner as to leave at the top of the first page or face of the instrument, a blank space of at least one and a half inches in depth, as a place for imprinting thereon or adhering thereto, that stamp duty.

19. Except where express provision to the contrary is made by this or any other Act—

Instruments to be separately charged with duty in certain cases. No. 10 of 1922, s. 19.

- (a) an instrument containing or relating to several distinct matters is to be separately and distinctly charged, as if it were a separate instrument with duty in respect of each of the matters;
- (b) an instrument made for any consideration in respect whereof it is chargeable with *ad valorem* duty, and also for any further or other valuable consideration, is to be separately and distinctly charged, as if it were a separate instrument, with duty in respect of each of the considerations.

20. Save where other express provision is in this Act made, any unstamped or insufficiently stamped instrument may be stamped after the execution thereof—

Stamping instruments after execution. No. 10 of 1922, s. 20.

- (a) within twenty-eight days after the first execution of the instrument if executed within Western Australia; or
- (b) if executed out of Western Australia, within twenty-eight days after the instrument was first received in the State,

without fine, and may be stamped after such period of twenty-eight days on payment of the fines stated in the Third Schedule to this Act, such fines to be collected, subject to the regulations, by stamps impressed on the instrument or affixed thereto and duly cancelled.

Third Schedule.

General direction as to the cancellation of adhesive stamps.

No. 10 of 1922, s. 21, amended by No. 39 of 1931, s. 3. No. 113 of 1965, s. 4 (1).

21. (1) It shall be the duty of every person who is required or authorised by law to cancel such adhesive stamp—

- (a) before proceeding to cancel the stamp as hereinafter mentioned to see that the stamp is properly affixed to the instrument;
- (b) to write, stamp, or mark legibly his name or initials, or the name or initials of his firm, and the true date of cancellation, on or across the stamp, so that the same may be effectually cancelled and rendered incapable of being used for any other instrument;
- (c) to perforate with a perforating machine the stamp and the underlying portion of the document to which it is affixed in such manner as may be prescribed;

Provided that paragraph (c) of this subsection shall not apply where the instrument to which adhesive stamps are affixed is a receipt, a bill of lading, or any other instrument chargeable with a duty of not more than ten cents.

Penalty for neglect or refusal.

(2) Every person who, being required by law to cancel an adhesive stamp, wilfully neglects or refuses duly and effectually to do so in manner aforesaid, shall, unless otherwise herein specially provided, forfeit a sum not exceeding twenty dollars.

Cancellation of adhesive stamps. No. 10 of 1922, s. 22.

22. Except where otherwise specifically provided in this Act, adhesive stamps affixed to any instrument—

- (1) shall be cancelled before the expiry of the time within which the instrument may be stamped without fine or thereafter subject to the payment of a fine in accordance with the Third Schedule; and
- (2) shall be cancelled by—
 - (a) the Commissioner, or the Registrar of Titles; or
 - (b) any person appointed by the Governor to cancel stamps.

Third Schedule.

23. It is the duty of the Commissioner, or Registrar of Titles, or any person appointed by the Governor to impress or cancel stamps, to determine whether any instrument produced for stamping or to have the stamp cancelled may be stamped, and the amount of the stamp duty payable, and of the fine (if any), and, in case of doubt on the part of any person other than the Commissioner, the question shall be referred by such person to the Commissioner.

Commissioner or authorised person to determine amount of duty and fine.
No. 10 of 1922, s. 23.

24. Where the instrument is executed out of Western Australia, the date on which it is first received in Western Australia shall be presumed to be the date on which it would arrive in Western Australia if posted immediately after the execution thereof, unless the contrary is proved by statutory declaration to the satisfaction of the Commissioner, or Registrar of Titles, or person appointed as aforesaid before whom the instrument is produced.

Proof of date when instrument executed abroad is received.
No. 10 of 1922, s. 24.

25. (1) No instrument executed without being sufficiently stamped shall be stamped at any time after the execution thereof, except as herein provided, or with the sanction of the Commissioner.

How unstamped or insufficiently stamped instrument to be stamped after execution.
No. 10 of 1922, s. 25.

(2) The Commissioner may remit, wholly or in part, any fine payable on stamping a document after the expiry of the due time for the stamping thereof.

26. All the facts and circumstances affecting the liability of any instrument to duty, or the amount of the duty with which any instrument is chargeable, are to be fully and truly set forth in the instrument; and every person who, with intent to defraud His Majesty—

Facts and circumstances affecting duty to be set forth in instrument.
No. 10 of 1922, s. 26.
Amended by No. 113 of 1965, s. 4 (1).

(1) executes any instrument in which all the said facts and circumstances are not fully and truly set forth; or

(2) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all the said facts and circumstances,

shall forfeit a sum not exceeding twenty dollars.

Instruments not duly stamped inadmissible except in criminal proceedings. No. 10 of 1922, s. 27.

27. Except as otherwise provided by this Act no instrument executed in Western Australia, or relating, wheresoever executed, to any property situate or to any matter or thing done or to be done in Western Australia, shall, except in criminal proceedings, be pleaded or given in evidence or admitted to be good, useful, or available in law or equity, unless it is duly stamped in accordance with the law in force at the time when it was first executed.

Officer to whom instrument tendered for registration to be satisfied that proper stamp duty is paid. No. 10 of 1922, s. 28.

28. (1) Every person whose duty it is to receive, register, enrol, enter, or record any instrument liable to stamp duty shall first satisfy himself that the instrument is duly stamped, and in case of doubt shall refer the question to the Commissioner, and no instrument liable to any stamp duty, and no copy of any such instrument, shall be registered, enrolled, entered or recorded by any public officer or other person unless such instrument is duly stamped.

(2) The Registrar of Titles may refuse to receive a *caveat* under Part V of the Transfer of Land Act, 1893, unless the instrument (if any) in respect of which the *caveat* is intended to be lodged (if liable to stamp duty) has been duly stamped and is produced for his inspection.

Omission or insufficiency of stamp. No. 10 of 1922, s. 29.

29. (1) Upon production of an instrument chargeable with any duty as evidence in any court of civil judicature, or before any arbitrator or referee, notice shall be taken by the judge, arbitrator, or referee of any omission of insufficiency of the stamp thereon.

(2) If the instrument is one which may legally be stamped at the time of production, it may, on payment to an officer of the court, or to the arbitrator or referee, of the amount of the unpaid duty, and the fine payable on stamping same, be received in evidence saving all just exceptions on other grounds.

(3) The officer, or arbitrator, or referee receiving the duty and fine shall give a receipt for the same, and shall affix stamps for the amount of duty and fine, and cancel the same, or he may cause stamps to the amount aforesaid to be impressed.

30. In proceedings in any court of civil judicature or before any arbitrator or referee secondary evidence of a document may, if the document is one which might then legally be stamped, be admitted saving all just exceptions on other grounds, notwithstanding that such document is subject to stamp duty, and has not been duly stamped, if the amount of the stamp duty or the amount of the deficiency of the stamp duty, and any fine imposed by this Act are paid to an officer of the court or to some person authorised by the Commissioner to receive the same.

Secondary evidence.
No. 10 of
1922, s. 30.

31. (1) The Commissioner may be required by any person to express his opinion with reference to any executed instrument upon the following questions:—

The Commissioner to assess duty.
No. 10 of
1922, s. 31.
Amended by
No. 113 of
1965, s. 4 (1).

(a) Whether it is chargeable with any duty.

(b) With what amount of duty it is chargeable.

(2) If the Commissioner is of opinion that such instrument is not chargeable with any duty, he shall mark thereon his opinion (for which ten cents shall be paid) denoting that it is not chargeable with any duty.

(3) If the Commissioner is of opinion that such instrument is chargeable with duty he shall assess the duty with which it is, in his opinion, chargeable, and when the instrument is duly stamped, in accordance with the assessment of the Commissioner, it shall also be impressed with a particular stamp (for which ten cents shall be paid) denoting that it has been stamped in accordance with the Commissioner's assessment.

(4) Every instrument on which the opinion of the Commissioner that it is not chargeable with any duty is denoted, or which has been stamped in accordance with the assessment of the Commissioner, shall be admissible in evidence and available for all purposes, notwithstanding any objection relating to duty, but saving all just objections on other grounds.

(5) An instrument upon which the duty has been assessed by the Commissioner shall not, if it is unstamped or insufficiently stamped, be stamped otherwise than in accordance with the assessment of the Commissioner.

(6) The Commissioner may require the person submitting the instrument to furnish him with an abstract thereof, and also with such evidence as the Commissioner may deem necessary to satisfy him that all the facts and circumstances affecting the liability of the instrument to duty or to any particular amount of duty are fully and truly set forth therein.

Appeal from
assessment
of duty.

No. 10 of
1922, s. 32,
amended by
No. 8 of
1925, s. 2.
No. 57 of
1963, s. 2.

32. (1) Any person dissatisfied with any determination or decision of the Commissioner under the last preceding section or section twenty-three or twenty-eight may, within twenty-one days after the date of the assessment of duty, and on payment of the amount of the duty in conformity with the assessment, appeal to the Supreme Court, and may for that purpose by notice in writing served on the Commissioner require him to state a case for the opinion of the Supreme Court.

(2) The Commissioner shall thereupon state and sign a case, setting forth the question on which his opinion was required, and the assessment made by him, and deliver the case to the appellant, who shall, within ten days of the receipt by him of the case, cause the case to be set down for hearing in the Supreme Court.

(3) Upon the hearing of such case, of which at least ten days notice in writing shall be given by the appellant to the Commissioner, the Court shall determine the question submitted, and assess the duty, if any, chargeable under this Act.

(4) If it is decided by the Court that the assessment of the Commissioner is erroneous, any excess of duty which may have been paid in conformity with such erroneous assessment shall be ordered by the Court to be repaid by the Treasurer to the appellant.

(5) If the assessment of the Commissioner is confirmed by the Court, the costs incurred by the Commissioner in relation to the appeal may be ordered by the Court to be paid by the appellant to the Commissioner, but if the appeal is allowed, the Commissioner may be ordered to pay the costs of the appeal.

(6) For the purpose of this section, the jurisdiction of the Court may be exercised by a Judge in chambers and Rules of Court may be made for regulating the procedure and practice to be followed on an appeal made pursuant to this section.

33. When any document has been referred to the Commissioner for his opinion or determination, and it is desired to stamp the document in accordance with such opinion or determination or with the opinion of the Supreme Court on appeal from the Commissioner then, for the purpose of determining whether the document may be so stamped or whether any, and if any, what fine is payable in respect thereof, the document shall be deemed to have been produced for stamping on the day when it was so referred as aforesaid.

Extension of time when duty assessed by the Commissioner or the Court. No. 10 of 1922, s. 33.

34. Any instrument presented to the Commissioner or forwarded to him by any inspector for assessment or otherwise may, if it be liable to duty and then legally capable of being stamped, be impounded and detained by the Commissioner until any duty or fine or both payable in respect thereof has or have been duly paid.

Instruments may be impounded until duty paid. No. 10 of 1922, s. 34.

35. (1) The duplicate or counterpart of an instrument chargeable with duty (including the counterpart of a lease whether executed by the lessor or not) may be impressed or affixed with a stamp indicating to what amount the instrument of which it is the duplicate or counterpart has been stamped, and it may then be stamped as a duplicate or counterpart, but otherwise it shall be chargeable with duty as an original.

Duplicates and counterparts. No. 10 of 1922, s. 35.

(2) No duplicate or counterpart shall be deemed to be duly stamped unless the original is sufficiently stamped.

Mode of calculating *ad valorem* duty in certain cases.
No. 10 of 1922, s. 36.

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

- (a) any money in any foreign or colonial currency; or
- (b) any stock or marketable security,

the duty shall be calculated on the value on the day of the date of the instrument of the money in British currency, according to the current rate of exchange in Western Australia, or of the stock or marketable security according to the average price thereof.

(2) Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with that statement, it is, so far as regards the subject matter of the statement, to be deemed duly stamped, unless or until it is shown that the statement is untrue, and that the instrument is, in fact, insufficiently stamped.

Contingent stamp duties.
No. 10 of 1922, s. 37.

37. Where the duty with which an instrument may be chargeable under this Act shall depend in any manner upon the duty paid upon another instrument, the payment of such lastmentioned duty may, on production of both the instruments, be denoted in such manner as the Commissioner shall think fit upon the firstmentioned instrument.

Instruments held in escrow.
No. 10 of 1922, s. 38.

38. An escrow shall for the purposes of this Act be deemed an instrument duly executed and delivered.

Liability for omission to duly stamp instruments.
No. 10 of 1922, s. 39.
Amended by No. 113 of 1965, s. 4 (1).
Second Schedule.

39. (1) If any instrument, which is liable to stamp duty and to which section twenty is applicable, is not duly stamped at or within the time allowed for stamping the same without fine, the person in that behalf specified in the Second Schedule to this Act or subsection four of this

section shall be liable to the payment of the amount of the stamp duty, and the fine for the omission to stamp the instrument at or within the prescribed time, and in addition thereto shall be liable to a penalty not exceeding twenty dollars.

(2) The penalty, together with the stamp duty and fine (to be determined, as at the date of the commencement of the proceedings, in accordance with the Third Schedule), shall be recoverable, on the complaint of the Commissioner or any person acting with his authority, in any court of summary jurisdiction or by action by the Commissioner in any court of competent jurisdiction.

Third
Schedule.

(3) The averment in a complaint under this section that the complainant is acting with the authority of the Commissioner shall be deemed to be proved in the absence of the proof to the contrary.

(4) Except where otherwise provided, the person liable hereunder shall be the party to the instrument by whom or on whose behalf it is held.

(5) In cases in which more than one person is liable hereunder in respect of any instrument any order or judgment made or recovered against one of such persons shall, to the extent to which it remains unsatisfied, be without prejudice to the liability of the other or others of them.

(6) Proceedings under this section must be commenced within two years after the expiry of the time allowed for stamping the instrument without fine.

(7) Nothing herein shall be deemed to exonerate any other person from any liability imposed upon him by or under this Act, or to exempt any instrument or matter from any duty or disability to which it is liable under this Act.

40. The Governor may, by notice gazetted, direct that after the time specified in such notice all or any of the duties, fees, fines, or penalties for the time being payable in money in any public department or office connected with the public service, or to the officers thereof, shall be collected by means of stamps.

Governor
may appoint
fees, fines,
etc., to be
collected by
means of
stamps.
No. 10 of
1922, s. 40.

After the time specified in such notice the duties, fees, fines, or penalties therein mentioned shall be received by stamps denoting the sums payable, and not in money.

All or any of such stamps shall be impressed or adhesive, and of such design, and shall be cancelled in such manner, as may be directed in any such notice.

Document in respect of which the fee is payable to be stamped. No. 10 of 1922, s. 41.

41. When any sum comprised in any such notice—

- (1) is payable in respect of a document, the stamps denoting such sum shall be affixed to or impressed on such document, or such other document, book, or record as may be prescribed by regulations;
- (2) is payable otherwise than in respect of a document, the stamps denoting such sum shall be affixed to or impressed on such document, book, or record as may be prescribed by regulations.

The provisions of this Act relating to duty stamps shall, so far as applicable, extend and apply to stamps to be used under this section.

Document invalid until properly stamped. No. 10 of 1922, s. 42.

42. Any document which ought, under section forty-one, to bear a stamp shall not be of any validity unless and until it is properly stamped, nor shall any judge, justice, or officer of any court allow such document to be used, although no exception be raised thereunto, until such document has been first duly stamped.

Court may order document to be stamped.

But if any such document is, through mistake or inadvertence, received, filed, or used without being properly stamped, the court in which the same is so received, filed, or used may, if it thinks fit, order that the same be stamped, and thereupon such document shall be as valid as if it had been properly stamped in the first instance.

43. (1) Every officer whose duty it may be to receive any fee or sum of money for any matter or thing to be done or performed, and for which payment is to be made by stamps, shall, before doing or performing such matter or thing, see that there is attached to the prescribed document, book, or record a stamp of value not less than the fee or sum of money payable for the performance of such matter or thing.

Duties of officer who receives payment in stamps. No. 10 of 1922, s. 43.

(2) When an adhesive stamp is used, every such officer shall see that such stamp is duly cancelled, or, if such stamp be not duly cancelled, shall immediately cancel the same by writing or stamping in ink on the same his name or initials, and the date thereof, or by putting thereon the impress of any seal authorised for that purpose by regulations, and the date when such seal is impressed, so as effectually to obliterate and cancel the stamp, and so as not to admit of its being used again.

Cancellation of stamps.

44. If any person shall, without lawful excuse (the proof whereof shall be upon such person)—

Penalty for issuing unstamped documents, writs, or processes. No. 10 of 1922, s. 44. Amended by No. 113 of 1965, s. 4 (1).

- (1) file, issue, procure, or deliver any document, or serve or execute any writ, rule, order, matter, or proceeding in respect of which a stamp required to be affixed or impressed by section forty-one has not been so affixed or impressed in the manner prescribed; or
- (2) do or perform, or permit to be done or performed, any act, matter, or thing in respect whereof such a stamp should be used, without using such stamp, or shall fail or omit to cancel or obliterate any such stamp (being an adhesive stamp) at the time and in the manner prescribed,

he shall be liable to a penalty not exceeding forty dollars.

PART IV.—SPECIAL PROVISIONS.

Instruments of Apprenticeship.

Instruments
of
apprentice-
ship.
No. 10 of
1922, s. 45.

45. Every writing relating to the service or tuition of any apprentice, clerk, or servant placed with any master to learn any profession, trade, or employment, except articles of clerkship which are hereby specifically charged with duty, is to be deemed an instrument of apprenticeship.

46. [*Repealed by No. 72 of 1965, s. 6 (b).*]

47. [*Repealed by No. 72 of 1965, s. 6 (c).*]

48. [*Repealed by No. 72 of 1965, s. 6 (d).*]

Bills of Exchange and Promissory Notes.

Meaning of
"Bill of
Exchange."
No. 10 of
1922, s. 49,
as amended
by No. 39
of 1931, s. 4.

49. For the purposes of this Act, the expression "Bill of Exchange" includes draft, order, cheque, and letter of credit, and any document or writing (except a bank note) entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person, for, any sum of money; and, subject to section fifty of this Act, the expression "Bill of Exchange payable on demand" includes—

- (a) an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen; and
- (b) an order for the payment of any sum of money weekly, monthly, or at any other stated periods, and also an order for the payment by any person at any time after the date thereof of any sum of money, and sent or delivered by the person making the

same to the person by whom the payment is to be made, and not to the person to whom the payment is to be made, or to any person on his behalf.

49A. (1) Where, on written application being made to the Commissioner under this section, the Commissioner is satisfied that for the purposes of this section the applicant is—

Commissioner may exempt cheques drawn by charitable bodies, etc. Added by No. 22 of 1960, s. 3.

- (a) a charitable body;
- (b) a body established for community welfare purposes;
- (c) a Friendly Society registered under the Friendly Societies Act, 1894; or
- (d) a body established for patriotic purposes,

the Commissioner may grant the applicant a written certificate to that effect.

(2) Duty shall not be charged on cheques or orders for the withdrawal of moneys deposited in any bank by any of the bodies referred to in subsection (1) of this section to which a certificate under that subsection has been granted.

(3) Any body of the kind referred to in paragraph (a), (b), (c) or (d) of subsection (1) of this section may make the application referred to in that subsection.

50. (1) When a bill of exchange (other than and excepting a draft, order, cheque, and letter of credit) or a promissory note purporting to be payable on demand is given and received under the agreement express or implied that payment thereof is not to be required or made within twenty-one days from the execution thereof, or is given or renewed for the purpose of evading or avoiding payment of stamp duty, such bill of exchange or promissory note and every renewal thereof shall be deemed not to be

Certain bills of exchange and promissory notes not to be deemed to be payable on demand. Inserted as s. 49A by No. 39 of 1931, s. 5. Renumbered s. 50 in 1934 reprint.

a bill of exchange or promissory note payable on demand within the meaning of section forty-nine of this Act, and shall be chargeable with the same stamp duty as a bill of exchange or promissory note payable otherwise than on demand for the sum of money therein expressed.

(2) If any person accepts, issues, indorses, transfers, negotiates, presents for payment, or pays any bill of exchange (other than and excepting a draft, order, cheque, and letter of credit) or a promissory note or renewal as aforesaid not duly stamped in accordance with the provisions of subsection one hereof, he shall be liable to a penalty of treble the amount of duty which is payable on such bill of exchange or promissory note or renewal under this Act; and the person who takes or receives from any other person any such bill of exchange or promissory note or renewal, either in payment or as a security or by purchase or otherwise, shall not be entitled to recover thereon in any court or to make the same available or cognizable for any purpose whatever.

(3) The penalties and disabilities contained in the last preceding subsection shall not affect any *bona fide* holder for value of any such bill of exchange or promissory note or renewal, if such holder gives to the court, judge, or justice before whom any proceedings are taken against any person in respect of such bill of exchange or promissory note or renewal, or before whom the same is questioned, satisfactory proof that he took or received the same in *bona fide* ignorance of the fact that the same was not stamped, and also that he was not guilty of any wilful neglect or want of care in taking or receiving the same. Thereupon the court, judge, or justice may direct such holder to stamp the said bill of exchange or promissory note or renewal with adhesive stamps of the amount of the *ad valorem* duty chargeable thereon in the first instance and to cancel such stamps, and such bill of exchange or promissory note or renewal shall then, so far as relates to such holder, be deemed to be duly stamped.

51. (1) For the purposes of this Act the expression "Promissory Note" includes any negotiable document or writing (except a bank note) containing a promise to pay any sum of money.

Meaning of "promissory note."
No. 10 of 1922, s. 50.
Renumbered s. 51 in 1934 reprint.

(2) A note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen, is to be deemed a promissory note for that sum of money.

52. (1) The *ad valorem* duty upon bills of exchange and promissory notes drawn or made in Western Australia shall, except as hereinafter provided, be denoted by impressed stamps.

Duty on bills and notes to be denoted by impressed stamps
No. 10 of 1922, s. 51.
Renumbered s. 52 in 1934 reprint.
Amended by No. 11 of 1950, s. 3.

But the Governor may, by proclamation, direct that in respect of any bill of exchange or promissory note drawn or made for any sum exceeding a prescribed amount, or drawn or made in any prescribed part or parts of Western Australia, and for such time as to the Governor may seem fit, it shall be lawful to denote such duty either by adhesive stamps or impressed stamps, or partly by adhesive and partly by impressed stamps.

(2) The *ad valorem* duties upon bills of exchange and promissory notes drawn or made out of Western Australia may be denoted by adhesive stamps.

(3) Provision may be made by regulations for permitting any bank, subject in each case to the approval of the Commissioner, which approval may at any time be revoked, and to such conditions as to security and the inspection of stocks of cheque forms as the Commissioner may from time to time require, to pay the duty payable in respect of cheques by separate periodical payments, and for denoting the duty payable on each cheque by the printing or stamping thereon of the amount of the duty.

No. 11 of 1950, s. 3.

(4) Where by amendment of this Act the *ad valorem* duty on cheques is increased, if at the day when the amendment comes into operation, unused

Subsec. (4) added by No. 70 of 1957, s. 3.

cheque forms on which is denoted by printing or by impressed stamps the *ad valorem* duty on bills of exchange at the rate prescribed prior to that day

- (a) are in the possession of a banker, the increase in the duty shall be deemed on and after that day to be denoted by printing or by impressed stamps on those forms and the banker shall as and when required by the Commissioner account for and pay to the Commissioner the amount of the increase; or
- (b) are in the possession of a person not being a banker, the forms shall not be used unless the increase is denoted on them by impressed stamps, or by adhesive stamps attached to them and duly cancelled.

Cancellation of adhesive stamps.
No. 10 of 1922, s. 52.
Renumbered s. 53 in 1934 reprint.

53. Whenever an adhesive stamp is lawfully used for denoting the payment of duty under the provisions of the last preceding section, such stamp shall be cancelled by the drawer or maker of the bill of exchange or promissory note, in the manner prescribed by section twenty-one of this Act, at the time when such bill of exchange or promissory note is signed by the drawer or maker thereof, and before he delivers it out of his hands, custody, or power.

Adhesive stamps on bills and notes payable on demand.
No. 10 of 1922, s. 53, as amended by No. 39 of 1931, s. 6.
No. 70 of 1957, s. 4.
Renumbered s. 54 in 1934 reprint.
Amended by No. 72 of 1965, s. 7.
No. 113 of 1965, s. 4 (1).

54. The fixed duty of five cents on a bill of exchange or promissory note payable on demand or at sight, or on presentation, may be denoted by an adhesive stamp, which, where the bill or note is drawn or made in Western Australia, is to be cancelled by the person by whom the bill or note is drawn or made before he delivers it out of his hands, custody, or power.

Duties on foreign bills of exchange, etc.
No. 10 of 1922, s. 54.
Renumbered s. 55 in 1934 reprint.

55. The duties in respect of bills of exchange or promissory notes drawn out of Western Australia shall be payable upon all such bills or notes if and when accepted, paid, indorsed, transferred, or otherwise negotiated within Western Australia wheresoever payable.

56. (1) Every person into whose hands any bill of exchange or promissory note, drawn or made out of Western Australia, comes in Western Australia before it is duly stamped shall, before he presents for payment or acceptance, or indorses, transfers, or in any manner negotiates or pays the bill or note, cause the same to be stamped with an impressed stamp, or affix thereto a proper adhesive stamp of sufficient amount, and cancel every stamp so affixed thereto.

Provisions
as to
stamping
foreign bills
and notes.

No. 10 of
1922, s. 55.
Renumbered
s. 56 in 1934
reprint.

(2) Provided as follows:—

(a) If at the time when any such bill or note comes into the hands of any *bona fide* holder there is affixed thereto an adhesive stamp effectually cancelled, the stamp shall, so far as relates to the holder, be deemed to be duly cancelled, although it may not appear to have been affixed or cancelled by the proper person.

(b) If at the time when any such bill or note comes into the hands of any *bona fide* holder there is affixed thereto an adhesive stamp not duly cancelled, it shall be competent for the holder to cancel the stamp as if he were the person by whom it was affixed, and upon his so doing the bill or note shall be deemed duly stamped and as valid and available as if the stamp had been cancelled by the person by whom it was affixed.

(3) But neither of the foregoing provisos is to relieve any person from any penalty incurred by him for not cancelling an adhesive stamp.

(4) Where a banker issues within Western Australia a bill of exchange in the form of a draft payable at a place or places outside Western Australia, it shall be lawful for such banker to affix to such bill of exchange and cancel proper adhesive stamps for denoting the duty chargeable thereon.

As to bills and notes purporting to have been made abroad.
No. 10 of 1922, s. 56.
Renumbered s. 57 in 1934 reprint.

57. A bill of exchange or promissory note which purports to be drawn or made out of Western Australia is, for the purpose of determining the mode in which the stamp duty thereon is to be denoted, to be deemed to have been so drawn or made, although it may in fact have been drawn or made within Western Australia.

Penalty for issuing, etc., any unstamped bill or note.
No. 10 of 1922, s. 57, as amended by No. 39 of 1931, s. 7.
Renumbered s. 58 in 1934 reprint.
Amended by No. 72 of 1965, s. 8.
No. 113 of 1965, s. 4 (1).

58. (1) Every person who draws, makes, accepts, issues, indorses, transfers, negotiates, presents for payment, or pays any bill of exchange or promissory note liable to duty, and not being duly stamped, shall incur a penalty not exceeding one hundred dollars, and the person who takes or receives from any other person any such bill or note, not being duly stamped, either in payment or as a security, or by purchase or otherwise, shall not be entitled to recover thereon, or to make the same available for any purposes whatever, until it is duly stamped.

(2) Provided that any unstamped or insufficiently stamped bill of exchange or promissory note may be stamped within twenty-eight days, or within such further time as the Commissioner shall permit from the time when it was first received by the payee, if the Commissioner is satisfied that the bill or note has, by accident or any reasonable cause, and without any intent to evade payment of duty, been written upon paper not duly stamped; but the payee or some person on his behalf shall, if required so to do by the Commissioner, verify, by statutory declaration, the date when such bill of exchange or promissory note was first received by the payee and the grounds upon which the application is made; and if the duty is denoted by an adhesive stamp it shall be cancelled by a person authorised or appointed to cancel stamps by or under the provisions of this Act. A stamp purporting to be so cancelled shall be *prima facie* evidence that the bill or note was duly stamped under the provisions of this subsection, and that the person by whom the stamp was cancelled was authorised or appointed to cancel stamps as aforesaid.

(3) Provided also, that if any bill of exchange or promissory note payable on demand or at sight, or on presentation, is presented for payment unstamped, the person to whom it is presented may affix thereto an adhesive stamp of five cents, and cancel the same, as if he had been the drawer of the bill, and may thereupon pay the sum in the bill mentioned, and charge the duty in account against the person by whom the bill was drawn, or deduct the duty from the said sum, and the bill is, so far as respects the duty, to be deemed valid and available.

Amended by
No. 70 of
1957, s. 5.
No. 113 of
1965, s. 4 (1).

(4) But neither of the foregoing provisos shall relieve any person from any penalty incurred by him in relation to such bill.

(5) Except as in this Act specially provided, no bill of exchange or promissory note shall be stamped after the execution thereof.

(6) The provisions of this section shall be construed as supplementary to the provisions of section fifty of this Act.

59. Any person who takes or receives from any other person any bill of exchange or promissory note not duly stamped, either in payment or as a security, or by purchase or otherwise, without causing the same to be duly stamped within twenty-eight days, or such further time as the Commissioner shall permit, after receiving it, shall be liable to a penalty not exceeding forty dollars.

Penalty on
taking
unstamped
bill or
promissory
note.
No. 10 of
1922, s. 58.
Renumbered
s. 59 in 1934
reprint.
Amended by
No. 113 of
1965, s. 4 (1).

60. When a bill of exchange is drawn in a set, according to the custom of merchants, and one of the set is duly stamped, the other or others of the set shall, unless issued or in some manner negotiated apart from the stamped bill, be exempt from duty; and upon proof of the loss or destruction of a duly stamped bill forming one of a set, any other bill of the set which has not been issued or in any manner negotiated apart from the lost or destroyed bill may, although unstamped, be admitted in evidence to prove the contents of the lost or destroyed bill.

One bill only
of a set need
be stamped.
No. 10 of
1922, s. 59.
Renumbered
s. 60 in 1934
reprint.

*Stamp Duties.**Bills of Lading.*

Bills of lading, No. 10 of 1922, s. 60.

Renumbered s. 61 in 1934 reprint.
Amended by No. 113 of 1965, s. 4 (1).

61. (1) A bill of lading is not to be stamped after the execution thereof.

(2) Every person who makes or executes any bill of lading not duly stamped shall forfeit a sum not exceeding fifty dollars.

(3) An adhesive stamp may be used which shall be cancelled by the person who makes or executes the bill of lading first.

Charter-parties.

Charter-party defined. No. 10 of 1922, s. 61.
Renumbered s. 62 in 1934 reprint.
Amended by No. 113 of 1965, s. 4 (1).

62. (1) For the purposes of this Act the expression "Charter-party" includes any agreement or contract for the charter of any vessel, or any memorandum, letter, or other writing between the captain, master, owner, or agent of any vessel and any other person for or relating to the freight or conveyance of any money, goods, or effects on board of such vessel.

Adhesive stamp may be used.

(2) The duty on a charter-party may be denoted by an adhesive stamp, which is to be affixed and cancelled at the time of execution by the person by whom the instrument is first executed.

As to charter-parties executed abroad.

(3) Where a charter-party not being duly stamped is first executed out of Western Australia, any party thereto may, within seven days after it has been first received, and before it has been executed by any person in Western Australia, affix thereto an adhesive stamp denoting the duty chargeable thereon, and at the same time cancel such adhesive stamp, and the instrument shall thereupon be deemed duly stamped.

(4) Except as aforesaid, no charter-party shall be stamped after the execution thereof save upon the following conditions only, that is to say—

(a) within seven days after the first execution thereof on payment of the duty and a fine of fifty cents;

(b) after seven days, but within one month after the first execution thereof, on payment of the duty and a fine not exceeding twenty dollars.

Conveyances on Sale.

63. The term "conveyance on sale" includes every instrument and every decree or order of any court or of the Commissioner of Titles, whereby any property, or any estate or interest in any property, upon the sale thereof is transferred to or vested in the purchaser or any other person on his behalf or by his direction; and also a transfer or assignment of a lease of any lands.

As to conveyances on sale. Interpretation of term. No. 10 of 1922, s. 62. Renumbered s. 63 in 1934 reprint. Amended by No. 113 of 1965, s. 4 (1).

The term further includes a decree or order of any court or of the Commissioner of Titles for, or having the effect of an order for, foreclosure; provided that—

- (a) the *ad valorem* stamp duty upon any such decree or order shall not exceed the duty on a sum equal to the value of the property to which the decree or order relates, and where the decree or order states that value the statement shall be conclusive for the purpose of determining the amount of duty; and
- (b) where *ad valorem* duty is paid upon such decree or order, any conveyance or transfer following thereon shall be exempt from the *ad valorem* duty, and be liable to one dollar duty only.

64. (1) Where the consideration or any part of the consideration for a conveyance on sale consists of any stock or marketable security, such conveyance is to be charged with *ad valorem* duty in respect of the value of such stock or security.

How *ad valorem* duty to be calculated in respect of stock and securities. No. 10 of 1922, s. 63. Renumbered s. 64 in 1934 reprint.

(2) Where the consideration or any part of the consideration for a conveyance on sale consists of any security not being a marketable security, such conveyance is to be charged with *ad valorem* duty in respect of the amount due on the day of the date thereof for principal and interest upon such security.

How con-
siderations
consisting of
periodical
payments,
to be
charged.
No. 10 of
1922, s. 64.
Renumbered
s. 65 in 1934
reprint.
Amended by
No. 113 of
1965, s. 4 (1).

65. (1) Where the consideration or any part of the consideration for a conveyance on sale consists of money payable periodically for a definite period so that the total amount to be paid can be previously ascertained, such conveyance is to be charged in respect of such consideration with *ad valorem* duty on such total amount.

(2) Where the consideration or any part of the consideration for a conveyance on sale consists of money payable periodically in perpetuity or for any indefinite period not terminable with life, such conveyance is to be charged in respect of such consideration with *ad valorem* duty on the total amount which will or may, according to the terms of sale, be payable during the period of twenty years next after the day of the date of such instrument.

(3) Where the consideration or any part of the consideration for a conveyance on sale consists of money payable periodically during any life or lives, such conveyance is to be charged in respect of such consideration with *ad valorem* duty on the amount which will or may, according to the terms of sale, be payable during the period of twelve years next after the date of such instrument.

(4) Provided that no conveyance on sale chargeable with *ad valorem* duty in respect of any periodical payments, and containing also provision for securing such periodical payments, is to be charged with any duty whatsoever in respect of such provision, and no separate instrument made in any such case for securing such periodical payments is to be charged with any higher duty than one dollar.

How
conveyances
in
considera-
tion of a
debt or
subject to
future
payment,
etc., to be
charged.
No. 10 of
1922, s. 65
Renumbered
s. 66 in 1934
reprint.

66. Where any property is conveyed to any person in consideration, wholly or in part, of any debt due to him or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money, or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the conveyance is chargeable with *ad valorem* duty.

67. A conveyance on sale made for any consideration in respect whereof it is chargeable with *ad valorem* duty and in further consideration of a covenant by the purchaser to make, or of his having previously made, any substantial improvement of or addition to the property conveyed or transferred to him or of any covenant relating to the subject matter of the conveyance, is not chargeable, and shall be deemed not to have been chargeable, with any duty in respect of such further consideration.

Duty where conveyance is partly in consideration of improvements made or to be made on property. No. 10 of 1922, s. 66. Renumbered s. 67 in 1934 reprint.

68. (1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts or parcels by different instruments, the consideration is to be apportioned in such manner as the parties think fit, so that a distinct consideration for each separate part or parcel is set forth in the conveyance relating thereto, and such conveyance is to be charged with *ad valorem* duty in respect of such distinct consideration.

Directions as to duty in certain cases. No. 10 of 1922, s. 67, as amended by No. 47 of 1925, s. 2. Renumbered s. 68 in 1934 reprint.

(2) Where property contracted to be purchased for one consideration for the whole by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts or parcels by separate instruments to the persons by or for whom the same was purchased for distinct parts of the consideration, the conveyance of each separate part or parcel is to be charged with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

69. Subject to section seventy-four of this Act, when property is conveyed or transferred by one person to another—

- (a) by the direction, or at the request, or with the consent of an intermediary who, under an agreement of sale, or a trust, or otherwise howsoever, has the right to call for a conveyance or transfer of the property to himself or to any other person; or

Conveyance duty in cases where conveyance made at request or by direction of intermediary. Inserted as s. No. 67A by No. 47 of 1925, s. 2, amended by No. 39 of 1931, s. 8. Renumbered s. 69 in 1934 reprint.

- (b) in pursuance of any derivative title obtained by the transferee, from or through the intermediary by way of an agreement of sale, or otherwise howsoever,

the instrument of conveyance or transfer shall be subject to conveyance duty, as if it were both a conveyance of the property by the transferor to the intermediary, and also a conveyance of the property by the intermediary to the transferee; and if there are several intermediaries, as if it were a conveyance of the property from the transferor to the first intermediary, and a conveyance from each intermediary to the other in succession, and from the last intermediary to the transferee.

This section is subject to the provisions of section seventy-three.

As to the sale of an annuity, or right not before in existence. No. 10 of 1922, s. 68. Renumbered s. 70 in 1934 reprint.

70. Where upon the sale of any annuity or other right not before in existence, such annuity or other right is not created by actual grant or conveyance, but is only secured by bond, warrant of attorney, covenant, contract, or otherwise, the bond or other instrument, or some one of such instruments, if there be more than one, is to be charged with the same duty as an actual grant or conveyance, and is for all purposes of this Act to be deemed an instrument of conveyance on sale.

Where several instruments, the principal instrument only is to be charged with *ad valorem* duty. No. 10 of 1922, s. 69. Renumbered s. 71 in 1934 reprint.

71. Where there are several instruments of conveyance for completing the purchaser's title to the property sold, the principal instrument of conveyance only is to be charged with *ad valorem* duty, and the other instruments are to be respectively charged with such other duty as they may be liable to, but such lastmentioned duty shall not exceed the *ad valorem* duty payable in respect of the principal instrument. And in all cases the parties may determine for themselves which of several instruments is to be deemed the principal instrument, and may pay *ad valorem* duty thereon accordingly.

72. [Repealed by No. 72 of 1965, s.9.]

Documents Treated as Conveyances.

73. Except as in this Act otherwise provided, every instrument, and every decree or order of any court or of the Commissioner of Titles, whereby any property on any occasion, except a sale or mortgage, is transferred to or vested in any person and every instrument which is or is intended to be a record or acknowledgment of any verbal promise or agreement previously made (whether voluntary or upon any good or valuable consideration other than a *bona fide* pecuniary consideration) to give or settle any property in any manner whatsoever is chargeable with duty as a conveyance or transfer of property: Provided that a conveyance or transfer made for effectuating the appointment of a new trustee or any conveyance or transfer under which no beneficial interest passes in the property conveyed or transferred or made to a beneficiary by a trustee or other person in a fiduciary capacity under any trust whether expressed or implied, or the retirement of a trustee is not to be charged with any higher duty than one dollar.

As to conveyances on any occasion except sale or mortgage. No. 10 of 1922, s. 71, amended by No. 35 of 1941, s. 2. Renumbered s. 73 in 1934 reprint. Amended by No. 113 of 1965, s. 4 (1).

Documents Chargeable as Conveyances on Sale.

74. (1) Every contract or agreement, howsoever executed, for the sale of any estate or interest in any property (except real or personal property locally situated out of Western Australia, and goods, wares, or merchandise or stock or marketable securities, or any ship or vessel, or part interest or share or property of or in any ship or vessel) shall be charged with the same *ad valorem* duty to be paid by the purchaser as if it were an actual conveyance on sale of the estate, interest, or property contracted or agreed to be sold.

Certain contracts to be chargeable as conveyances on sale. s. 72 substituted by No. 39 of 1931,¹ s. 9. Renumbered s. 74 in 1934 reprint. Amended by No. 113 of 1965, s. 4 (1).

(2) Where a purchaser under a contract or agreement for sale, before having obtained a conveyance or transfer of the property, enters into a contract or agreement with a sub-purchaser for the sale of the same property, such last-mentioned contract or agreement shall be charged with *ad valorem* duty in

¹ Proclaimed to commence 1st December, 1931, *Gazette*, 27th November, 1931.

respect of the consideration moving from the purchaser to the original vendor, and also in respect of the consideration moving from the sub-purchaser to the purchaser, but so that in assessing such *ad valorem* duty credit shall be given for the amount of any *ad valorem* duty already paid on the first-mentioned contract or agreement between the purchaser and the original vendor. This subsection shall apply also to contracts or agreements entered into between sub-purchasers and other sub-purchasers in succession.

(3) Notwithstanding any stipulation to the contrary, where any sub-purchaser under a contract or agreement for sale referred to in subsection (2) hereof is required to pay on such contract or agreement any *ad valorem* duty in respect of the consideration moving from the purchaser to the vendor under any preceding contract or agreement relating to the same property, such sub-purchaser shall be entitled to deduct from the consideration moving from him to his immediate vendor the amount of any such *ad valorem* duty which he is required to pay as aforesaid.

(4) Where duty has been duly paid in conformity with the foregoing provisions, the conveyance or transfer made to the purchaser or any sub-purchaser, or any other person on his behalf, or by his direction, shall be chargeable with a duty of twenty-five cents only, and the Commissioner, upon application, shall denote the payment of the *ad valorem* duty upon the conveyance or transfer upon production of the contract or agreement, or contracts or agreements, duly stamped:

Provided that—

- (i) (a) Where any estate or interest in any lands, tenements, or hereditaments and any other property (not being goods, wares, or merchandise) situated within Western Australia are sold together with any goods, wares, or merchandise under one contract or agreement for the sale thereof as one transaction,

whether for one consideration covering the whole or for separate considerations, then, notwithstanding that separate considerations are stated in respect of the property other than the goods, wares, or merchandise, and in respect of the goods, wares, or merchandise, or that the one consideration is apportioned between the property other than the goods, wares, or merchandise and the goods, wares, or merchandise, such contract or agreement shall be presented by the person liable for the duty thereon to the Commissioner for assessment of such duty, together with a statutory declaration by him (which shall be exempt from stamp duty) setting forth the value of the goods, wares, or merchandise referred to in such contract or agreement.

- (b) If the Commissioner is not satisfied with such value, he may obtain a valuation from a valuator appointed by him. If such lastmentioned valuation is less than that submitted with the contract or agreement and is not accepted by the person presenting the contract or agreement as aforesaid, such person and the Commissioner's valuator shall appoint an umpire to make the valuation, and the umpire's valuation shall be final and conclusive.
- (c) If the valuation made by an umpire under paragraph (b) hereof shall be less than the value submitted with the contract or agreement, the costs and charges of the umpire and of the Commissioner's valuator shall be paid by the person liable for the duty as a debt owing by him to the Commissioner, who may recover the same by action in any court of competent jurisdiction, and who shall be entitled to retain the contract or agreement until such debt has been paid.

- (d) If the valuation made by the umpire under paragraph (b) hereof exceeds the value submitted with the contract or agreement, the costs and charges of the umpire shall be paid by the Commissioner.
- (e) Where the value of the goods, wares, and merchandise has been ascertained in conformity with the foregoing provisions, the contract or agreement shall be charged with *ad valorem* duty in respect of the total consideration stated therein less the value of the goods, wares, or merchandise ascertained as aforesaid.
- (ii) The *ad valorem* duty paid upon any contract or agreement shall, after deducting therefrom a fee to be fixed by regulations, be returned by the Commissioner in case the contract or agreement be afterwards rescinded or annulled, or for any other reason, be not substantially performed or carried into effect so as to operate as or be followed by a conveyance or transfer.

(5) This section shall apply only to contracts or agreements made after the commencement of this section, but as regards any contracts or agreements made before the commencement of this section, and still subsisting thereafter the provisions of this Act and of section seventy-four of this Act as the same was contained therein prior to the commencement of this section shall apply.

Stamp duty chargeable on gifts, *inter vivos* as on conveyances on sale.
No. 10 of 1922, s. 73, amended by No. 53 of 1923, s. 2.
Renumbered s. 75 in 1934 reprint.

75. (1) Any conveyance or transfer operating as a voluntary disposition *inter vivos* shall be chargeable with the like stamp duty as if it were a conveyance or transfer on sale, with the substitution in each case of the value of the property conveyed or transferred for the amount or value of the consideration for the sale.

(2) Any conveyance or transfer (not being a disposition made in favour of a purchaser or encumbrancer or other person in good faith and for valuable consideration) shall, for the purposes of this section, be deemed a conveyance or transfer operating as a voluntary disposition *inter vivos*, and the consideration for any conveyance or transfer shall not for this purpose be deemed to be valuable consideration when the Commissioner is of opinion that by reason of the inadequacy of the sum paid as consideration or other circumstances, the conveyance or transfer confers a substantial benefit on the person to whom the property is conveyed or transferred.

(3) A conveyance or transfer for a nominal consideration for the purpose of securing the repayment of an advance or loan or made for effectuating the appointment of a new trustee, or the retirement of a trustee, whether the trust is expressed or implied, or under which no beneficial interest passes in the property conveyed or transferred, or made to a beneficiary by a trustee or other person in a fiduciary capacity under any trust whether expressed or implied, shall not be charged with duty under this section.

(4) The Treasurer may, in his discretion, exempt from *ad valorem* duty or refund any such duty paid after the commencement of the principal Act on any deed of gift, conveyance, transfer, settlement, or other instrument operating as a voluntary disposition of property, or any conveyance on the purchase of property, for the purposes of a public park, university, or other institution, or for charitable, patriotic, or other similar public purposes.

Power to exempt gifts for charitable purposes. No. 53 of 1923, s. 2.

(5) No conveyance or transfer operating as a voluntary disposition *inter vivos* shall be deemed to be duly stamped unless the Commissioner has expressed his opinion thereon.

Exemption of
certain bank
securities in
war-time.
Added by
No. 40 of
1942, s. 2.

75A. (1) If the Commissioner is satisfied—

- (a) that by reason of any circumstances arising out of the necessity to conserve manpower during the continuance of the war in which His Majesty is engaged at the passing of this Act, any branch in Western Australia of any bank has been closed (whether the closing thereof was brought about by compulsion of any law of the Commonwealth or otherwise); and
- (b) that any of the business of such branch has been transferred to any other bank in Western Australia,

and if the Commissioner is also satisfied—

- (c) that as a direct result of such transfer any person has executed an instrument as security for or evidence of any debt to the bank to which the business is transferred as aforesaid, and that the instrument is executed in substitution for another duly stamped instrument which was given as security for or evidence of a debt to the branch which has been closed as aforesaid; or
- (d) that as a direct result of such transfer any person has executed an instrument for the conveyance to the bank to which the business is transferred of any duly stamped security given to the branch which has been closed,

the Commissioner may recommend and the Treasurer may direct that the instrument shall be exempt from duty, and that the instrument may be stamped with a particular stamp denoting that it is not chargeable with any duty.

(2) If prior to the passing of this Act any duty was paid for the stamping of any instrument, and if the Commissioner certifies to the Treasurer that he is satisfied that, if the instrument had been

presented for stamping after the said passing, he would have directed that it be exempt from duty, the Treasurer may, without any further appropriation than this section, refund the amount of such duty to the person by whom it was paid.

75B. (1) When a company is incorporated by way of reconstruction upon the basis of a sale of the assets of a company by the liquidator thereof, to the first mentioned company, the Treasurer may, in his discretion, exempt from *ad valorem* duty, wholly or partially, any instrument whereby those assets are transferred to the firstmentioned company in accordance with the sale.

Power to exempt from duty on reconstruction of company. Added by No. 69 of 1962, s. 2.

(2) In this section "company" means a company incorporated pursuant to the Companies Act, 1961, or pursuant to any previous corresponding enactment.

HIRE-PURCHASE AGREEMENTS.

76. (1) For the purposes of this section and the following sections contained under the heading, "Hire-Purchase Agreements," and of the matter appearing under the heading "HIRE-PURCHASE AGREEMENT" in the Second Schedule to this Act—

Duty on hire-purchase agreements. Substituted by No. 72 of 1959, s. 3.

"goods" includes all chattels personal other than money or things in action and also includes any fixture which is comprised in a hire-purchase agreement where any party to the hire-purchase agreement has authority to sever the fixture from the realty;

"hire-purchase agreement" includes—

- (a) an agreement for the bailment of goods under which the bailee may buy the goods or under which the property in the goods will or may pass to the bailee, or under which any provision for credit of payments is to be made in the event of a subsequent purchase of the goods, and where by

virtue of two or more agreements none of which by itself constitutes a hire-purchase agreement there is a bailment of goods and either the bailee may buy the goods, or the property in the goods will or may pass to the bailee, the agreements shall be treated as a single agreement made at the time when the last agreement was made;

- (b) an agreement for purchase of goods by instalments (whether the agreement describes the instalments as rent or hire or otherwise);
- (c) an agreement for the bailment of goods under which the bailee may after a specified number of instalments of rent (not being less than two instalments) have been paid in respect thereof continue the bailment or from time to time renew the bailment at a nominal rent or without any further payment or on the payment of a nominal periodical or other amount;

but does not include—

- (i) any agreement under which the property in the goods comprised therein passes absolutely at the time of the agreement to the person who agrees to purchase them;
- (ii) except in subsections (2) and (3) of this section and in paragraph (2) of the matter appearing under the heading "Hire-Purchase Agreement" in the Second Schedule to this Act, any agreement under which the purchaser is a person who is engaged in the trade or business of selling goods of the same nature or description as the goods to which the agreement relates and who is purchasing the goods for the purpose of retailing them;

- (iii) any agreement for the purchase of goods together with real property or any estate or interest in real property or any business or interest in a business;

“purchaser” means the person to whom goods are bailed or sold or agreed to be bailed or sold under a hire-purchase agreement;

“vendor” means the person by whom goods are bailed or sold or agreed to be bailed or sold under a hire-purchase agreement.

(2) Subject to the exemption contained in the matter appearing under the heading, “HIRE-PURCHASE AGREEMENT” in the Second Schedule to this Act, an instrument executed after the coming into operation of the Stamp Act Amendment Act, 1959 constituting, or evidencing the terms and conditions of, a hire-purchase agreement shall be charged with duty as a hire-purchase agreement, and the instrument shall not be deemed an agreement, letter or memorandum made for or relating to the sale of any goods, wares or merchandise within the exemption contained in the Second Schedule to this Act under the heading, “AGREEMENT”.

(3) Where a hire-purchase agreement is constituted, or the terms and conditions of a hire-purchase agreement are evidenced by two or more instruments—

- (a) it shall be sufficient if one of the instruments is stamped with duty in accordance with the provisions of subsection (2) of this section;
- (b) the fact that the instruments collectively are liable to duty under the provisions of subsection (2) of this section shall not operate to exempt any of them individually from any other duty to which it is liable under the provisions of this Act.

(4) Where the vendor is a person who is not bound by the provisions of this Act, the liability to pay duty on the instrument constituting, or evidencing the terms and conditions of, the hire-purchase agreement falls upon the other party to the agreement.

(5) (a) No vendor or other person shall add the amount of any duty or any part thereof payable under the provisions of this section or section seventy-six A of this Act to any amount payable by the purchaser (whether under the hire-purchase agreement or otherwise), or otherwise demand or recover or seek to recover the amount of the duty or part thereof from the purchaser.

(b) In the case of a contravention of the provisions of this subsection—

- (i) the Court by which the offender is convicted shall, in addition to imposing a penalty, order the defendant to refund to the purchaser any such amount which has been paid by the purchaser; or
- (ii) the purchaser may recover any amount so paid from the person to whom he paid it in a court of competent jurisdiction as a civil debt due by that person to the purchaser.

(6) The duty on any instrument referred to in subsection (2) of this section may be denoted by an impressed stamp or an adhesive stamp which is to be affixed and cancelled in accordance with the provisions of this Act.

(7) For the purposes of this Act a hire-purchase agreement shall be deemed

- (a) to be first executed at the time when the hire-purchase agreement is made, or when the hire-purchase agreement is made by the communication to the vendor of the acceptance of an offer or the acceptance coming to his knowledge; and
- (b) to be first executed by the vendor.

76A. (1) The Governor may by Order in Council declare any person carrying on business as a vendor of goods under hire-purchase agreements to be an "approved vendor" for the purposes of the sections of this Act under the heading "Hire-Purchase Agreements." and may in like manner at any time revoke a declaration so made.

Declaration of "approved vendors".
Payment of duty by monthly returns.
Added by No. 72 of 1959, s. 3.

(2) An approved vendor is not liable for the payment of duty denoted by impressed or adhesive stamps in respect of hire-purchase agreements entered into after he becomes an approved vendor as provided in section seventysix of this Act, but is liable for the payment of duty in respect of all such agreements in accordance with the provisions of this section.

(3) Every approved vendor who enters into a hire-purchase agreement within the relevant period shall—

- (a) furnish to the Commissioner before the fifteenth day of each month a statement in duplicate in the prescribed form verified by a statutory declaration setting out the prescribed particulars of all hire-purchase agreements entered into by him during the last preceding month; and
- (b) pay in cash to the Commissioner as duty on that statement a sum equal to the aggregate amount of duty which would have been payable in respect of all such agreements if an instrument of hire purchase relating to each such hire-purchase agreement had been charged with duty under subsection (2) of section seventy-six of this Act.

(4) The Commissioner is not required to give a receipt for the payment but the amount of the payment shall be denoted on the original statement by an impressed stamp.

(5) The Statement so stamped—

- (a) shall be returned to the approved vendor;
- (b) shall be retained by him for a period of at least three years; and
- (c) shall at any reasonable time during that period be produced by him for inspection on demand by the Commissioner or by an officer authorised in writing by the Commissioner for the purpose, whether generally or in a particular case.

Penalty.
Added by
No. 72 of
1959, s. 3.
Amended by
No. 113 of
1965, s. 4 (1).

76B. A person who contravenes or fails to comply with any of the provisions of the sections of this Act contained under the heading, "Hire-Purchase Agreements." commits an offence against this Act and is liable to a penalty of two hundred dollars.

Motor Vehicle License and Transfer of Motor Vehicle License.

Duty on
motor
vehicle
license and
transfer
thereof.

Added by
No. 37 of
1963, s. 3.

Amended by
No. 72 of
1965, s. 10.

No. 113 of
1965, s. 4 (1).

Vide ss. 5,
6 (5) and 11
of Act No. 60
of 1919.

76C. (1) For the purposes of this section and of the matters appearing under the heading, "Motor Vehicle License and Transfer of Motor Vehicle License" in the Second Schedule to this Act—

"dealer" has the same meaning as that expression has in section twenty-two AA of the Traffic Act, 1919;

"license" means a vehicle license granted under the provisions of Part II of the Traffic Act, 1919, and in respect of which a fee under that Act has been paid or is payable but does not include—

- (a) any such license that is granted to a person in whose name the vehicle, to which the license relates, was last licensed under the Traffic Act, 1919, or any corresponding law of any other Country or State or Territory of the Commonwealth prior to the issue of the license; or
- (b) a duplicate license or certified copy thereof issued pursuant to section sixty-seven of the Traffic Act, 1919;

“transfer” means a transfer of a license granted under the provisions of Part II of the Traffic Act, 1919, but does not include a transfer of a license to a person who, if he were the person named in the license, would not be required under that Act to pay the prescribed fee for the license.

(2) Subject to the provisions of this Act generally and in particular to the provisions of subsections (3), (4) and (8) of this section, a license and a transfer shall be charged with *ad valorem* duty in respect of the value of the motor vehicle to which the license or transfer relates, at the rate specified in the Second Schedule to this Act.

(3) For the purposes of this Act a license and transfer shall not be regarded as an agreement, letter or memorandum made for or relating to the sale of any goods, wares or merchandise within the exemption specified in paragraph (3) under the heading, “AGREEMENT” in the Second Schedule to this Act.

(4) (a) No duty is chargeable under this Act—

(i) in the case of a transfer to a dealer, if the transfer has been obtained by the dealer for the purpose of the resale by the dealer of the motor vehicle to which the transfer relates, to another person and the resale is in the ordinary course of the business of the dealer; or

(ii) in the case of a license granted to a person who carries on the business of selling motor vehicles, if the license has been obtained by that person for the purpose of—

(I) selling the motor vehicle to which the license relates to another person in the ordinary course of that business; or

(II) demonstrating such motor vehicle to prospective purchasers thereof,

and the license is the initial license granted for or in respect of the motor vehicle.

(b) The person applying for any license referred to in subparagraph (ii) of paragraph (a) of this subsection shall, before the license is granted, make a statutory declaration in the prescribed form declaring that if the license is granted to him, the motor vehicle in respect of which he is applying for the license will, while he is the holder of the license, be used for the purpose specified in the statutory declaration, being one of the purposes referred to in that subparagraph.

(c) A statutory declaration made pursuant to this subsection is exempt from duty.

(5) For the purposes of this section and of the matter appearing under the heading, "Motor Vehicle License and Transfer of Motor Vehicle License", in the Second Schedule to this Act, the value of a motor vehicle is, subject to the provisions of paragraph (a) of subsection (7) of this section, such amount as is stated in writing by the person making an application for the license in respect of the motor vehicle or an application for the transfer in respect thereof, to represent the market value of the motor vehicle as at the time the application is made by that person.

(6) (a) An amount equivalent to the duty chargeable under this Act on a license or transfer shall be forwarded, with the application for the license or transfer, by the applicant.

(b) The duty on a license or transfer may be denoted by an impressed or adhesive stamp and the adhesive stamp may be cancelled by the person issuing the license or transfer or the license or transfer may be endorsed as prescribed by the regulations.

(c) The person issuing the license or transfer shall furnish to the Commissioner in such form statements, in connection with the license or transfer, as are prescribed by the regulations and pay to the Commissioner in the manner so prescribed the amount equivalent to the duty chargeable on the license or transfer.

(7) (a) When the Commissioner is not satisfied that the amount stated by an applicant under subsection (5) of this section represents the market value of the motor vehicle as at the time therein referred to, the Commissioner may require, in writing, the applicant to furnish the Commissioner within the period specified in his requisition, with such evidence as to that market value as the Commissioner thinks fit.

(b) Where the Commissioner receives the evidence referred to in paragraph (a) of this section he may, having regard to that evidence, make a further assessment of the duty to be charged on the licence or transfer and recover the amount of any additional duty so charged or the Commissioner may refund to the applicant any amount of duty overpaid by the applicant.

(c) The amount of any additional duty so charged and paid or the amount of the refund of any duty made in accordance with the provisions of this section, shall be denoted in accordance with this section on the licence or transfer.

(8) Where the value of the motor vehicle to which a licence or transfer relates exceeds the sum of twenty thousand dollars, if duty is chargeable under this Act in respect of the licence or transfer, the licence or transfer shall be charged with *ad valorem* duty as though the value of the motor vehicle were twenty thousand dollars.

76D. (1) Where any licence or transfer that is chargeable with duty under section seventy-six C of this Act, is not duly stamped in accordance with that section, in the case of—

- (a) a licence, the person in whose name the licence is granted; and
- (b) a transfer, the person to whom the licence is transferred,

is liable for the payment of the amount of the duty so chargeable on the licence or transfer, as the case may be, and in addition is guilty of an offence.

Penalty: Fifty dollars.

Offence of falling to stamp licence and transfer. Recovery of duty.

Added by No. 72 of 1965, s. 11.

Amended by No. 113 of 1965, s. 4 (1).

(2) The penalty, together with the amount of the duty is recoverable on the complaint of the Commissioner or any person acting with his authority, in any court of summary jurisdiction or by action by the Commissioner in any court of competent jurisdiction as a debt due to the Commissioner.

(3) The provisions of subsections (3) to (7) inclusive of section thirty-nine of this Act apply, so far as applicable, to any complaint made or proceedings taken under this section and to any order or judgment made or given therein.

Leases.

Leases.
Agreement
for any lease
to be
charged
as a lease.
No. 10 of
1922, s. 75.
Renumbered
s. 77 in 1934
reprint.
Amended by
No. 113 of
1965, s. 4 (1).

77. (1) An agreement for a lease, or with respect to the letting of any lands or tenements for any term, is to be charged with the same duty as if it were an actual lease made for the term and consideration mentioned in the agreement.

(2) A lease made subsequently to and in conformity with such agreement is to be charged with the duty of twenty-five cents only.

Leases—how
to be
charged
in respect
of produce,
etc.
No. 10 of
1922, s. 76.
Renumbered
s. 78 in 1934
reprint.

78. (1) Where the consideration or any part of the consideration for which any lease is granted or agreed to be granted does not consist of money, but consists of any produce or other goods, the value of such produce or goods is to be deemed a consideration in respect of which the lease or agreement is chargeable with *ad valorem* duty. And where it is stipulated that the value of such produce or goods is to amount at least to, or is not to exceed a given sum, or where the lessee is specially charged with, or has the option of paying after, any permanent rate of conversion, the value of such produce or goods is, for the purpose of assessing the *ad valorem* duty, to be estimated at such given sum or according to such permanent rate.

Effect of
statement of
value.

(2) A lease or agreement for a lease made either entirely or partially for any such consideration, if it contains a statement of the value of such

consideration, and is stamped in accordance with such statement, is, so far as regards the subject matter of such statement, to be deemed duly stamped, unless or until it is otherwise shown that such statement is incorrect, and that it is in fact not duly stamped.

79. (1) A lease or agreement for a lease, or with respect to any letting, is not to be charged with any duty in respect of any penal rent or increased rent in the nature of a penal rent thereby reserved or agreed to be reserved or made payable, or by reason of being made in consideration of the surrender or abandonment of any existing lease or agreement of or relating to the same subject matter.

Directions
as to duty in
certain
cases.
No. 10 of
1922, s. 77.
Renumbered
s. 79 in 1934
reprint.

(2) No lease made for any consideration or considerations in respect whereof it is chargeable with *ad valorem* duty, and in further consideration either of a covenant by the lessee to make, or of his having previously made, any substantial improvement of or addition to the property demised to him, or of any covenant relating to the matter of the lease, is to be charged with any duty in respect of such further consideration.

Provided that this subsection shall not apply as respects any further consideration in the lease consisting of a covenant which if it were contained in a separate deed would be chargeable with *ad valorem* stamp duty, and accordingly the lease shall in any such case be charged with duty in respect of any such further consideration under section nineteen.

(3) An instrument, whereby the rent reserved by any other instrument chargeable with duty and duly stamped is increased, is not to be charged with duty otherwise than as a lease in consideration of the additional rent thereby made payable.

Mortgages and Other Securities.

As to mortgages, etc. Interpretation of term. No. 10 of 1922, s. 79. Renumbered s. 81 in 1934 reprint.

81. The term "mortgage" means a security by way of mortgage for the payment of any definite and certain sum of money advanced and lent at the time or previously due and owing, or foreborne to be paid, being payable, or for the repayment of money to be thereafter lent, advanced, or paid, or which may become due upon an account current together with any sum already advanced or due, or without (as the case may be) and includes—

Any conveyance of any lands, estate, or property whatsoever in trust to be sold or otherwise converted into money, intended only as a security, and redeemable before the sale or other disposal thereof either by express stipulation or otherwise, except where such conveyance is made for the benefit of creditors generally, or for the benefit of creditors specified, who accept the provision made for payment of their debts in full satisfaction thereof or who exceed five in number.

Also any defeasance, declaration, or other instrument for defeating or making redeemable or explaining or qualifying any conveyance, transfer, assignment or disposition of any lands, estate, or property whatsoever, apparently absolute but intended only as a security.

Also any agreement, contract, or bond accompanied with a deposit of title deeds for making a mortgage, or any such other security or conveyance as aforesaid of any lands, estate, or property comprised in such title deeds, or for pledging or charging the same as a security.

Security for stock, how to be charged. No. 10 of 1922, s. 80. Renumbered s. 82 in 1934 reprint.

82. A security for the transfer or retransfer of any stock is to be charged with the same duty as similar security for a sum of money equal in amount to the value of such stock; and a transfer or assignment of any such security and a reconveyance, release, discharge, or surrender of any such security

shall be charged with the same duty as an instrument of the same description relating to a sum of money equal in amount to the value of such stock.

83. (1) A security for the payment or repayment of money to be lent, advanced, or paid, or which may become due upon an account current either with or without money previously due is to be charged, where the total amount secured or to be ultimately recoverable is in any way limited, with the same duty as a security for the amount so limited.

Security for future advances, how to be charged. No. 10 of 1922, s. 81. Renumbered s. 83 in 1934 reprint.

(2) Where such total amount is unlimited the security is to be available for such an amount only as the *ad valorem* duty denoted thereon extends to cover; but where any advance is made in excess of the amount covered by that duty, the security shall, for the purpose of stamp duty, be deemed a new and separate instrument bearing date on the day on which the additional advance was made or the additional stamp duty paid, whichever is the earlier date, but so as not to otherwise affect the instrument as a security; and if such security is registered under any Act relating to the registration of securities, such registration shall be effective for the additional advances, but subject in the case of a bill of sale to paragraph (4) of section six of the Bills of Sale Act, 1899.

Such additional duty may be paid and denoted from time to time as further advances are made, by stamps impressed on or affixed to the security and duly cancelled; and where the original security is deposited in the office of Land Titles or any other public office in which registration is required, any duplicate or counterpart of the original instrument may be stamped with such additional duty, and such stamping shall have the same effect as if the stamps had been impressed or affixed upon the original instrument.

(3) Provided that no money to be advanced for the insurance of any property comprised in any such security against damage by fire, or for keeping up any policy of life insurance comprised in the

security, or for effecting in lieu thereof any new policy, or for the renewal of any grant or lease of any property comprised in the security upon the dropping of any life whereon the property is held, shall be reckoned as forming part of the amount in respect whereof the security is chargeable with *ad valorem* duty.

Security for repayment by periodical payments, how to be charged.
No. 10 of 1922, s. 82.
Renumbered s. 84 in 1934 reprint.

84. A security for the payment of any rent charge, annuity, or periodical payments by way of repayment or in satisfaction or discharge of any loan, advance, or payment intended to be so repaid, satisfied, or discharged, is to be charged with the same duty as a similar security for the payment of the sum of money so lent, advanced, or paid.

As to transfers and further charges.
No. 10 of 1922, s. 83.
Renumbered s. 85 in 1934 reprint.

85. No transfer of a duly stamped security, and no security by way of further charge for money or stock added to money or stock previously secured by a duly stamped instrument, is to be charged with any duty, by reason of containing any further or additional security for the money or stock transferred or previously secured, or the interest, or dividend thereof, or any new covenant, proviso, power, stipulation, or agreement in relation thereto, or any further assurance of the property comprised in the transferred or previous security.

As to mortgage with conveyance of equity of redemption.
No. 10 of 1922, s. 84.
Renumbered s. 86 in 1934 reprint.

86. An instrument chargeable with *ad valorem* duty as a mortgage is not to be charged with any other duty, by reason of the equity of redemption in the mortgaged property being thereby conveyed or limited in any other manner than to or in trust for or according to the direction of the purchaser.

Collateral securities.
No. 10 of 1922, s. 85.
Renumbered s. 87 in 1934 reprint.

87. (1) Where there are several instruments of collateral security for the same moneys as are secured by a primary security duly stamped, only one of such instruments shall be liable to stamp duty as a collateral security.

(2) No instrument of collateral security shall be deemed to be duly stamped unless the principal or primary security is duly stamped.

88. The term "foreign security" means and includes every security for money by or on behalf of any foreign or colonial state, government, municipal body, corporation, or company (except an instrument chargeable with duty as a bill of exchange or promissory note)—

Interpretation of term "foreign security."
No. 10 of 1922, s. 86.
Renumbered s. 88 in 1934 reprint.

- (1) which is made or issued in Western Australia; or
- (2) upon which any interest is payable in the State; or
- (3) which is assigned, transferred, or in any manner negotiated in the State.

89. Every person who in Western Australia makes, issues, assigns, transfers, or negotiates, or pays any interest upon any foreign security, not being duly stamped, shall forfeit a sum not exceeding forty dollars.

Penalty for issuing, etc., any foreign security, not duly stamped.
No. 10 of 1922, s. 87.
Renumbered s. 89 in 1934 reprint.
Amended by No. 113 of 1965, s. 4 (1).

90. The Commissioner may at any time, without reference to the date thereof, allow any foreign security to be stamped without the payment of any penalty, upon being satisfied in any manner that he may think proper that it was not made or issued and has not been transferred, assigned, or negotiated within Western Australia, and that no interest has been paid thereon in Western Australia.

Foreign securities may be stamped without penalty.
No. 10 of 1922, s. 88.
Renumbered s. 90 in 1934 reprint.

Notarial Acts.

91. Any adhesive stamp upon a notarial act, or upon the protest by a notary public of a bill of exchange or promissory note, may be cancelled by the notary.

Notarial Acts.
No. 10 of 1922, s. 89.
Renumbered s. 91 in 1934 reprint.

Policies of Insurance.

92. The word "insurance" includes "assurance," and the word "policy" includes any instrument whereby any contract of insurance is made or agreed to be made, or is evidenced.

Policies of insurance.
No. 10 of 1922, s. 90.
Renumbered s. 92 in 1934 reprint.

No policy of marine insurance to be for more than twelve months.
No. 10 of 1922, s. 91.
Renumbered s. 93 in 1934 reprint.

93. Subject to any statute for the time being in force in this State, no policy of insurance, liable to duty, on any vessel, or any goods or property on board, or upon the freight of any vessel, or upon any other interest relating thereto, or upon any voyage, shall be made for any time exceeding twelve months; and every such policy which shall be made for any time exceeding twelve months shall be null and void to all intents and purposes.

Penalty for not making out policy.
No. 10 of 1922, s. 92.
Renumbered s. 94 in 1934 reprint.
Amended by No. 113 of 1965, s. 4 (1).

94. (1) Every person who—

- (a) receives or takes credit for any premium or consideration for any contract of insurance, and does not, within three months after receiving or taking credit for such premium or consideration, make out and execute a duly stamped policy of such insurance;
- (b) makes, executes, or delivers out, or pays or allows in account, or agrees to pay or allow in account, any money upon or in respect of any policy which is not duly stamped,

shall forfeit the sum of forty dollars.

(2) Any person who in consideration of any premium, sum of money, or other valuable consideration, paid, furnished or provided by any person in Western Australia, makes, enters into or renews any contract of insurance for or on behalf of any insurer outside the State shall forthwith issue to any person for whose benefit the insurance is to operate in the State a note or memorandum of the transaction in the prescribed form, stamped with the duty which would be chargeable thereon if it were a policy of insurance or a renewal of a policy as the case may be, and any policy or renewal subsequently issued for such consideration shall be deemed to be exempt from stamp duty if a duly stamped note or memorandum of the transaction has been issued as aforesaid.

Penalty: Forty dollars.

(3) When a policy of insurance or any document stampable as such or any renewal of any such policy is issued outside the State, then it shall be stamped with the prescribed duty within ten days after it is received in the State, and any person who has or keeps in his possession, or avails himself of any such policy or renewal which is not so stamped shall be guilty of an offence.

Penalty: Forty dollars.

95. No duty shall be chargeable on a transfer or assignment of a policy of fire insurance nor upon any policy upon the face whereof it is expressed that such policy is a policy of reinsurance, and whereby any insurance company, or underwriter, or association of underwriters effects an insurance the subject matter of which, at the time of such reinsurance, is insured under a policy upon which the duty imposed by this Act has been paid before such time.

Policies of reinsurance to be exempt from Stamp Duty.
No. 10 of 1922, s. 93.
Renumbered s. 95 in 1934 reprint.

Receipts.

96. The word "receipt" means and includes any note, memorandum, or writing whatsoever, whereby any money amounting to ten dollars or upwards, or any bill of exchange or promissory note for money amounting to ten dollars or upwards, is acknowledged or expressed to have been received or deposited or paid, or whereby any debt or demand, or any part of a debt or demand, of the amount of ten dollars or upwards, is acknowledged to have been settled, satisfied, or discharged, or which signifies or imports any such acknowledgment, and whether the same is or is not signed with the name of any person.

[S. 94 of No. 10 of 1922 was repealed by No. 39 of 1931, s. 11.]
Receipt.
Interpretation.
No. 10 of 1922, s. 95.
Renumbered s. 96 in 1934 reprint.
Amended by No. 60 of 1962, s. 3.
No. 113 of 1965, s. 4 (1).

97. The stamp upon a receipt shall be cancelled by the person by whom the receipt is given before he delivers it out of his hands:

Stamp on receipt shall be cancelled by the person giving the same.

Provided that, whenever any person in receipt of salary or wages is called upon to sign a pay roll or salary or wages book in respect of such salary or wages, it shall be sufficient compliance with this

No. 10 of 1922, s. 96 renumbered s. 97 in 1934 reprint.

section if the person paying such salary or wages affixes and cancels one or more stamps of equivalent value to the duty chargeable if such stamps had been separately and individually affixed or cancelled:

Provided, further, that notwithstanding anything in section fourteen of this Act contained, it shall not be deemed an offence on the part of the payor of any salary or wages to supply and charge for any stamp or stamps or to accept any contribution towards any stamp or stamps used for purposes mentioned in the first proviso to this section.

Terms on which receipt may be stamped after execution.
No. 10 of 1922, s. 97 renumbered s. 98 in 1934 reprint.
Amended by No. 113 of 1965, s. 4 (1).

98. A receipt given without being stamped may be subsequently stamped by the Commissioner or a person authorised by the Governor to cancel stamps upon the terms following:—

- (1) Within fourteen days after it has been given, on payment of the duty and a fine not exceeding the sum of ten dollars.
- (2) After fourteen days after it has been given, on payment of the duty and a fine not exceeding the sum of twenty dollars.

Penalty for offences.
No. 10 of 1922, s. 98.
Renumbered s. 99 in 1934 reprint.
Amended by No. 60 of 1962, s. 4.
No. 113 of 1965, s. 4 (1).

99. (1) If any person—

- (a) gives any receipt liable to duty and not duly stamped; or
- (b) in any case where a receipt would be liable to duty refuses to give a receipt duly stamped; or
- (c) upon a payment to the amount of ten dollars or upwards gives a receipt for a sum not amounting to ten dollars, or separates or divides the amount paid with intent to evade the duty,

he shall be liable to a penalty not exceeding forty dollars.

(2) If upon payment of an amount of ten dollars or upwards in any case where a receipt would be liable to duty, the person who receives the payment does not give or tender to the person who makes

the payment a receipt in writing duly stamped, the person who receives such payment shall be guilty of an offence, and on conviction shall be liable to a penalty not exceeding twenty dollars.

(3) This section does not apply to a banker or an employee of a banker in respect of moneys or bills of exchange, promissory notes, or cheques for money paid to or deposited with such banker to be accounted for whether received or expressed to be received from the person to whom the same is to be accounted for or any other person.

100. (1) Where money has been received by a solicitor or agent on behalf of his client or principal, and a duly stamped receipt has been given by such solicitor or agent to the person by whom the payment was made, the receipt to be given by the client or principal when such money is paid to him or accounted for by such solicitor or agent shall not be subject to duty.

Receipt
duty as
between
principal
and agent.
No. 10 of
1922, s. 99,
amended by
No. 47 of
1925, s. 3.
Renumbered
s. 100 in 1934
reprint.
Amended by
No. 72 of
1965, s. 13.

(2) Where money has been received by a solicitor or agent from his client or principal for payment to another person, the receipt to be given by the solicitor or agent to his client or principal shall not be subject to duty; but the receipt to be given to such solicitor or agent by such other person receiving the payment shall be stamped with *ad valorem* duty as prescribed in the Second Schedule.

101. (1) If a payment is made by the deposit of money in a bank by any person to the credit of the account of some other person, and the exemption (3) under the heading of "Receipt" in the Second Schedule does not apply, the person by whom the money is deposited shall, when making the deposit, affix to a form of acknowledgement by the bank of the receipt of the money a stamp or stamps for the proper receipt duty, and tender such form to an officer of the bank for signature and cancellation of the stamp or stamps.

Receipts
for bank
deposits.
No. 10 of
1922, s. 100.
Renumbered
s. 101 in 1934
reprint.
Amended by
No. 113 of
1965, s. 4 (1).

Penalty: Forty dollars.

(2) No acknowledgement by a bank of the receipt of money deposited in a bank as aforesaid shall be admissible in evidence, unless such acknowledgment is duly stamped.

(3) The stamp duty paid on receipts for money deposited in a bank as aforesaid shall be deemed to have been paid at the request and on behalf of the person to whose credit such money is deposited, and the depositor may deduct the amount of duty from the payment to be made by such deposit as aforesaid, and the acknowledgement shall be an acquittance for the sum expressed to have been received by the bank with the amount of the stamp duty added.

(4) In this and the last preceding section the term "money" includes any bill of exchange, promissory note, or cheque for money.

(5) Section one hundred shall apply to money received by a solicitor or agent on behalf of his client or principal and deposited in a bank under this section.

102. [*Repealed by No. 5 of 1954, s. 2.*]

103. [*Repealed by No. 5 of 1954, s. 2.*]

Betting Tickets.

104. Stamp duties upon betting tickets—

- (a) shall be chargeable at the rate prescribed in the Second Schedule to this Act upon all betting tickets issued by a bookmaker in respect of bets whether the amount wagered by the backer is or is not paid to the bookmaker on the making of the bet; and
- (b) shall be denoted on the betting tickets by an endorsement or imprint thereon as follows, "W.A. Stamp Duty Paid", made by or at the direction of the Commissioner and

Duties in respect of bets.
No. 10 of 1922, s. 103, renumbered s. 104 in 1934 reprint.
Amended by No. 72 of 1965, s. 14.

which shall be endorsed or imprinted on each betting ticket before it is made use of and not afterwards.

105. (1) Any bookmaker who makes a bet with any person shall forthwith—

(a) write out or cause to be written out a duly stamped betting ticket in respect of such bet;

(b) cancel such ticket in the manner prescribed.

Penalty: Two hundred dollars and not less than ten dollars.

(2) Every such betting ticket shall be in such form and of such size and colour and be numbered as prescribed.

106. (1) Any officer authorised by the Commissioner in writing for the purpose (whether generally or in any particular case) may, on showing such authority, require any bookmaker, at any reasonable time or at any place, to produce for inspection any betting tickets, whether written out or not, or any betting books or other documents relating to betting transactions in his possession or control, and may inspect the same and take any copy of or extract therefrom.

(2) Any bookmaker who fails, neglects, or refuses to produce for inspection any such ticket, book, or document, when duly required under this section so to do, or who delays or obstructs any such officer in carrying out his duties under this Act, shall be liable to a penalty of two hundred dollars and not less than twenty dollars.

(3) Any officer so authorised as aforesaid may require any bookmaker to answer any questions touching his betting transactions which the officer may think fit to put to him.

Tickets to be written out and cancelled for each bet.
No. 10 of 1922, s. 104, renumbered s. 105 in 1934 reprint.
Amended by No. 63 of 1954, s. 3.
No. 113 of 1965, s. 4 (1).

Production and inspection of betting tickets, etc.
No. 10 of 1922, s. 105 renumbered s. 106 in 1934 reprint.
Amended by No. 113 of 1965, s. 4 (1).

Returns by racing clubs, etc. No. 10 of 1922, s. 106 renumbered s. 107 in 1934 reprint. Amended by No. 113 of 1965, s. 4 (1).

107. The committee or other managing body of any racing club conducting meetings on any racecourse and any person who has the management or control of any racecourse shall, at the times and in the manner prescribed, forward to the Commissioner returns made by the prescribed persons setting out the names of the bookmakers licensed or permitted to carry on the business or vocation of a bookmaker on such racecourse or any part thereof and such other particulars as are prescribed.

Penalty: Twenty dollars.

Enforcement of penalties in case of racing club. No. 10 of 1922, s. 107 renumbered s. 108 in 1934 reprint.

108. Any penalty to which the committee or managing body of a racing club is liable under this Act may, without prejudice to any other method of enforcing the same, be enforced against the secretary or the chairman of the racing club or any member of such committee or managing body.

Contract Notes.

Contract notes. No. 10 of 1922, s. 108 renumbered s. 109 in 1934 reprint.

109. (1) For the purpose of this Act the expression "contract note" means the note sent by a broker or agent to his principal advising him of the sale or purchase of any stock or marketable security, but does not include a note sent by a broker or agent to a person who is acting as broker or agent for a principal and is himself a member of a stock exchange in the Commonwealth.

(2) Where a contract note advises the sale or purchase of more than one description of stock or marketable security, the note shall be deemed to be as many contract notes as there are descriptions of stock or marketable securities sold or purchased.

(3) Where a contract note is a continuation or carrying over note made for the purpose of continuing or carrying over any transaction for the sale or purchase of stock or marketable securities, the contract note, although it is made in respect of both sale and purchase, shall be charged with duty under the Second Schedule to this Act as if it related to one of those transactions only, and, if different

amounts are chargeable as duty in respect of those transactions, to that one of those transactions which would render the contract note chargeable with the greatest amount of duty.

110. (1) The stamp duty on a contract note may be denoted by an adhesive stamp, which shall be cancelled by the person by whom the note is executed, before he delivers it out of his hands by writing on or across the stamp his name or the name of his firm together with the true date of his so writing.

Cancellation of stamp on contract note.
No. 10 of 1922, s. 109 renumbered s. 110 in 1934 reprint.

(2) No contract note shall be stamped after the execution thereof except upon the same conditions as are applicable to receipts.

111. (1) Any person who effects a sale or purchase of any stock or marketable security as a broker or agent shall forthwith make and execute a contract note, and transmit the same to his principal, and in default of so doing shall be liable to a penalty not exceeding forty dollars, provided that this provision shall not apply in the case of transactions carried out in the course of their ordinary business relations between brokers or agents who are members of stock exchanges in the Commonwealth.

Penalty for not making a stamped note.
No. 10 of 1922, s. 110, renumbered s. 111 in 1934 reprint.
Amended by No. 113 of 1965, s. 4 (1).

(2) If any person makes or executes and delivers out of his hands any contract note chargeable with duty and not being duly stamped, he shall be liable to a fine not exceeding forty dollars.

(3) No broker or agent shall have any legal claim to any charge for brokerage, commission or agency with reference to the sale or purchase of any stock or marketable security mentioned or referred to in any contract note, unless the note is duly stamped.

(4) The duty upon a contract note may be added to the charge for brokerage or agency, and shall be recoverable as part of such charge.

Contracts for option. No. 10 of 1922, s. 111, renumbered s. 112 in 1934 reprint. Amended by No. 72 of 1965, s. 15. No. 113 of 1965, s. 4 (1).

112. (1) The provisions of this Act as to contract notes shall apply to any contract under which an option is given or taken to purchase or sell any stock or marketable security at a future time at a certain price of two hundred dollars or more, as it applies to the sale or purchase of any stock or marketable security, but the stamp duty on such a contract shall be one-half only of that chargeable on a contract note: Provided that, if under the contract a double option is given or taken, the contract shall be deemed to be a separate contract in respect of each option.

(2) Any contract note made or executed in pursuance and in consequence of the exercise of an option given or taken under a contract duly stamped in accordance with the provisions of this section shall be charged with one-half only of the duty which would otherwise have been chargeable thereon under the Second Schedule to this Act, provided that it bears on its face a certificate by the broker or agent to the effect that it is made or executed in the exercise of an option for which a duly stamped contract has been rendered on the date mentioned in the certificate but any contract note made or executed in pursuance of the exercise of an option, given or taken under a contract of less than two hundred dollars, shall be charged with the duty that would be chargeable thereon under that Schedule.

PART V.—MISCELLANEOUS.

Defacing adhesive stamps. No. 10 of 1922, s. 112, renumbered s. 113 in 1934 reprint. Amended by No. 113 of 1965, s. 4 (1).

113. Every person who by writing or by any other means whatsoever defaces an adhesive stamp before it is used shall be guilty of an offence and liable to a penalty not exceeding ten dollars; provided, that any person may, with the express permission of the Commissioner and in conformity with the conditions which he may prescribe, write upon or otherwise mark an adhesive stamp before it is used, for the purpose of identifying it.

114. No person—

- (a) shall resist or obstruct any officer or other person in the performance of any duties or the exercise of any powers under this Act;
- (b) shall wilfully mislead any officer in any particular likely to affect the discharge of his duty;
- (c) being lawfully asked any question by any officer pursuant to this Act shall fail to answer the same truthfully and completely to the best of his knowledge, information and belief.

Penalties for obstructing officers, and similar offences.

No. 10 of 1922, s. 113, renumbered s. 114 in 1934 reprint.

Amended by No. 113 of 1965, s. 4 (1).

Penalty: Not exceeding forty dollars.

115. Any attempt to commit an offence against this Act shall be punishable as if the offence had been committed.

Attempted offences.

No. 10 of 1922, s. 114, renumbered s. 115 in 1934 reprint.

116. Any person by act or omission guilty of any contravention of this Act for which no other penalty is provided shall be liable to a penalty of not more than twenty dollars.

Penalty in cases not provided for.

No. 10 of 1922, s. 115, renumbered s. 116 in 1934 reprint.

Amended by No. 113 of 1965, s. 4 (1).

117. A prosecution for any offence against this Act, and also any proceeding under section thirty-nine, may be commenced at any time within two years after the offence was committed, and not afterwards.

Limitation of proceedings for offences.

No. 10 of 1922, s. 116, renumbered s. 117 in 1934 reprint.

118. In any proceedings under this Act to which he is a party, the Commissioner may appear and be represented by any officer in the public service of the State.

Representation of Commissioner.

No. 10 of 1922, s. 117, renumbered s. 118 in 1934 reprint.

119. If the Crown or a person representing the Crown, as party to any such instrument as is according to the express provisions of this Act liable to stamp duty, occupies the position of the party or one of the parties who, in accordance with such provisions, might be compelled to pay the duty or would be liable to a penalty on failure to stamp the

Instruments to which Crown is party to be exempt from duty in some cases.

No. 10 of 1922, s. 118, renumbered s. 119 in 1934 reprint.

instrument as in this Act provided or on issuing or executing the instrument unstamped, then the instrument and every duplicate thereof shall, by virtue of this section, be exempt from stamp duty.

Regulations.
No. 10 of
1922, s. 119,
renumbered
s. 120 in 1934
reprint.
Amended by
No. 113 of
1965, s. 4 (1).

120. (1) The Governor may make regulations in respect of—

- (a) the stamping of documents for the purposes of this Act;
- (b) the exercise of any powers of the Commissioner by subordinate officers or other persons;
- (c) the collection otherwise than by means of stamped receipts of duty equal to the receipt duty payable on wages or any other payments whatsoever;
- (d) returns to be furnished under this Act;
- (e) the form, size, colour, numbering, and cancellation of betting tickets, and the particulars to be entered in betting books;
- (f) all matters which are required or permitted to be prescribed by regulations or which are necessary or convenient to be prescribed for giving effect to this Act.

(2) Any such regulation may prescribe a penalty not exceeding forty dollars for the breach thereof.

Section 3.

FIRST SCHEDULE.

ACTS REPEALED.

- 46 Vict., No. 6—The Stamp Act, 1882.
- 57 Vict., No. 31—The Stamp Act, 1882, Amendment Act, 1893.
- 2 Edw. VII., No. 21—The Stamp Act Amendment Act, 1902.
- No. 20 of 1905—The Stamp Act Amendment Act, 1905.
- No. 7 of 1906—The Stamp Act Amendment Act, 1906.
- No. 29 of 1913—The Stamp Act Amendment Act, 1913.
- No. 6 of 1915—The Stamp Act Amendment Act, 1914.
- No. 12 of 1916—The Stamp Act Amendment Act, 1916.
- No. 21 of 1918—The Stamp Act Amendment Act, 1918.
- No. 41 of 1920—The Stamp Act Amendment Act, 1920.

THE SECOND SCHEDULE.*

NATURE OF INSTRUMENT.	Stamp Duty Payable. \$	Section 16. Second Schedule amended.* Person liable under Section 39. The person making the affidavit or declaration. Amended by No. 7 of 1953, s. 2. No. 37 of 1963, s. 4. No. 58 of 1963, s. 3. No. 72 of 1965, s. 16.
AFFIDAVIT OR STATUTORY DECLARATION or declaration having by statute the effect thereof	0.10	
<i>Exemptions.</i>		
Every Affidavit or declaration—		
(1) Made for the immediate purpose of being filed, read, or used in any court, or before any Judge, Master, Registrar, Clerk, or officer of any Court.		
(2) For the assessment of duty under this Schedule, or under the Land and Income Tax Assessment Act, 1907, or the Dividend Duties Act, 1902. ¹		
(3) Required under the Government Savings Bank Act, 1906. ²		
(4) Required under the Marriage Act, 1894, or the Registration of Births, Deaths, and Marriages Act, 1894. ³		
(5) Required under the Statistics Act, 1907.		
(6) Required under the Unclaimed Moneys Act, 1912.		
(6a) Required by or under the following Acts— Alsatian Dog Act, 1962. Beekeepers Act, 1963. Cattle Industry Compensation Act, 1965. Noxious Weeds Act, 1950. Stock Diseases Act, 1895 and Veterinary Medicines Act, 1953.		
(7) Required to be made by any officer of the Government in respect of any matters relating to the duties of his office.		
(8) Of any other kind which the Governor may exempt by proclamation published in the <i>Gazette</i> .		
AGREEMENT or any memorandum of an agreement under hand only, and not otherwise specifically charged with any duty, whether the same is only evidence of a contract, or obligatory upon the parties from its being a written instrument	0.25	The parties thereto.

Exemptions.

- (1) Agreement or memorandum the matter whereof is not of the value of \$10.
- (2) Agreement for the employment of any person at wages or salary not exceeding \$10 a week.

*Second Schedule amended by: No. 53 of 1923, s. 3; No. 23 of 1924, s. 2; No. 47 of 1925, s. 4; No. 17 of 1926, s. 2; No. 10 of 1927, s. 2; No. 22 of 1928, s. 2; No. 5 of 1929, s. 2; No. 11 of 1930, s. 2 and 3; No. 12 of 1930, s. 2; No. 39 of 1931, s. 12; No. 35 of 1941, s. 3; No. 20 of 1944, s. 2; No. 5 of 1954, s. 3; No. 63 of 1954, s. 3; No. 64 of 1959, s. 3; No. 72 of 1959, s. 4; No. 22 of 1960, s. 4; No. 41 of 1960, s. 3; No. 20 of 1962, s. 2; No. 60 of 1962, s. 5; No. 7 of 1963, s. 2; No. 37 of 1963, s. 4; No. 58 of 1963, s. 3; No. 72 of 1965, s. 16; No. 113 of 1965, s. 4 (1).

¹ Repealed by Income Tax Assessment Act, 1937.

² Title changed. See State Savings Bank Act, 1906-1926.

³ Repealed by Registration of Births, Deaths and Marriages Act, 1961.

Stamp Duties.

Person liable under Section 39.

Stamp Duty Payable. \$

NATURE OF INSTRUMENT.

- (3) Agreement, letter, or memorandum made for or relating to the sale of any goods, wares or merchandise, including electric current or for the hire of gas meters or stoves or electric meters or stoves.
- (4) Agreement or memorandum made between the master and mariners of any ship or vessel for wages on any voyage coast-wise from port to port in Western Australia.
- (5) Agreements entered into by or on behalf of a local authority or any body corporate with His Majesty or any Government department and declared by the Governor to be exempt from duty.

ANNUITY—

Conveyance in consideration of. *See* Section 65.
 Purchase of. *See* Conveyance on Sale, and Section 70.
 Creation of by way of security. *See* Mortgage.
 Security for. *See* Bond.

The person making or executing the appointment.

APPOINTMENT of a new trustee, and APPOINTMENT in execution of a power of any property or of any use, share, or interest in any property, by any instrument not being a will

1.00

The person making the appraisal.

APPRAISEMENTS.—Instrument setting forth any appraisal or valuation of any property, or of any interest therein, of the annual value thereof, or of any dilapidation, or of any repairs wanted, or of the materials and labour used or to be used in any building, or of any artificers' work whatsoever—

Where the amount of the appraisal or valuation—

Does not exceed \$200	0.50
Exceeds \$200 and does not exceed \$400	1.00
Exceeds \$400 and does not exceed \$1,000	1.50
Exceeds \$1,000	2.00

Exemptions.

Instrument setting forth any appraisal or valuation made—

- (1) For the information of one party only, and not being in any manner obligatory as between parties, either by agreement or by operation of law;
- (2) For or on behalf of His Majesty or the Government of Western Australia, or of any Municipal Council, Road Board, or other similar body having power by law to make or levy rates.

APPRENTICESHIP—Instrument of Exempt from duty.

ARTICLES OF ASSOCIATION. *See* Company.

ARTICLES OF CLERKSHIP—Instrument of Exempt from duty.

ASSIGNMENT. *See* Conveyance and Deed of Assignment.

NATURE OF INSTRUMENT.	Stamp Duty Payable. \$	Person liable under Section 39.
ATTESTED COPY. <i>See</i> Copy.		
ATTORNEY. Letter or Power of. <i>See</i> Power of Attorney.		
ATTORNEY. Warrant of. <i>See</i> Warrant of Attorney.		
AWARD, whether under hand only or under hand and seal—		The person making or executing the award.
Where the amount or value of the matter in dispute—		
Does not exceed \$200	1.00	
Exceeds \$200 and does not exceed \$400	2.00	
Exceeds \$400 and does not exceed \$1,000	3.00	
Exceeds \$1,000 and does not exceed \$2,000	4.00	
Exceeds \$2,000 and in any case not above provided for	5.00	
<i>Exemption.</i>		
Award made in any matter in which His Majesty is a party, either directly or by some public officer acting in such matter, or representing His Majesty, or the Government of Western Australia therein.		
BETTING TICKET—On every betting ticket issued by a bookmaker—		Amended by No. 47 of 1925, s. 4; No. 12 of 1930, s. 2.
(a) Within the Grand Stand enclosure of any Metropolitan racecourse	0.02½	Added by No. 63 of 1954, s. 3 (2).
(b) Elsewhere within the grounds of a racecourse	0.00⅔	Amended by No. 64 of 1959, s. 3.
(c) Elsewhere than within the Grand Stand enclosure of any Metropolitan racecourse or than within the grounds of a racecourse		No. 72 of 1965, s. 16 (c).
(i) where the consideration for the bet recorded on the betting ticket does not exceed \$2	0.01¼	No. 113 of 1965, s. 4 (1).
(ii) where that consideration exceeds \$2	0.02½	
In order to facilitate the conversion of the amount of stamp duty chargeable on a betting ticket under this Act into decimal currency on and from the fourteenth day of February, 1966, the stamp duty on betting tickets shall be denoted in accordance with this Act in lots of one hundred and the aggregate amount of the stamp duty chargeable on each lot of betting tickets in respect of which—		
(a) two and one-half cents duty is chargeable on a betting ticket—shall be two dollars fifty cents;		
(b) one and one-quarter cents duty is chargeable on a betting ticket—shall be one dollar twenty-five cents; and		
(c) five-sixths of a cent duty is chargeable on a betting ticket—shall be deemed to be eighty-five cents.		
BILL OF EXCHANGE OR PROMISSORY NOTE payable on demand or at sight or on presentation; or any cheque drawn on any banker payable either to order or to bearer on demand; or any order for the delivery of goods, such delivery being in lieu of payment of money, drawn on any person other than a banker and such goods being deliverable on demand	0.05	Amended by No. 39 of 1931, s. 12 (1); No. 70 of 1957, s. 6. No. 72 of 1965, s. 16 (d).

Stamp Duties.

Person liable
under
Section 39.

NATURE OF INSTRUMENT.

Stamp Duty
Payable.
\$

Exemptions.

Any order for the delivery of goods for the use and on behalf of the maker of the order.

Any cheque drawn by any public officer on any Public, Government or Departmental account.

Cheques for the withdrawal of moneys desposited in any bank by a charitable body, a body established for community welfare purposes, a Friendly Society registered under the Friendly Societies Act, 1894, or a body established for patriotic purposes to which the Commissioner has granted a certificate under section forty-nine A of this Act.

Added by
No. 22 of
1960, s. 4.

BILL OF EXCHANGE of any other kind whatsoever, and PROMISSORY NOTE of any other kind whatsoever drawn or expressed to be payable, or actually paid or indorsed, or in any manner negotiated within Western Australia—

Where the amount or value of the money for which the same is made or drawn does not exceed \$100	0.10
Exceeds \$100 and does not exceed \$200	0.20
Exceeds \$200, then for every \$100 of the amount or value and also for any fractional part of \$100 of such amount or value	0.10

and see Notarial Act.

Exemptions.

- (1) Draft or order drawn by any banker in Western Australia upon any other banker in Western Australia not payable to bearer or order, and used solely for the purpose of settling or clearing any account between such bankers.
- (2) Letter written by a banker in Western Australia to any other banker in Western Australia directing the payment of any sum of money, the same not being payable to bearer or to order, and such letter not being sent or delivered to the person to whom payment is to be made or to any person on his behalf.
- (3) Letter of credit granted in Western Australia authorising drafts to be drawn out of Western Australia payable in Western Australia.
- (4) Cheque drawn by any public officer on any Public, Government, or Departmental Account.

BILL OF LADING or shipping receipt of any kind whatsoever of or for any goods, merchandise, or effects

.....	0.10
If for goods to be carried coastwise—	
For goods not exceeding a ton weight or measurement	0.05
Exceeding one ton	0.10

Amended by
No. 72 of
1965, s. 16
(e).

Stamp Duties.

NATURE OF INSTRUMENT.	Stamp Duty Payable. \$	Person liable under Section 39.
BILL OF SALE—		
Absolute. <i>See</i> Conveyance on Sale.		
By way of security. <i>See</i> Mortgage.		
BOND, COVENANT, OR INSTRUMENT of any kind whatsoever—		The obligor.
(1) Being the only or principal or primary security for any annuity (except upon the original creation thereof by way of sale or security and except a superannuation annuity), or for any sum or sums of money at stated periods not being interest for any principal sum secured by a duly stamped instrument, nor wages or salary, nor rent reserved by a lease—		
For a definite and certain period so that the total amount to be ultimately payable can be ascertained.		<i>Ad valorem</i> mortgage duty.
For the term of life or any other indefinite period—		
For every \$10 and also for any fractional part of \$10 of the annuity or amount payable annually	0.25	
(2) Being a collateral or auxiliary or additional or substituted security for any of the above-mentioned purposes where the principal or primary instrument is duly stamped—		
Where the total amount to be ultimately payable can be ascertained		<i>Ad valorem</i> collateral mortgage duty.
In any other case—		
For every \$10 and also for any fractional part of \$10 of the annuity or amount annually payable	0.05	
(3) Being a grant or contract for payment of a superannuation annuity, that is to say, a deferred life annuity granted or secured to any person in consideration of annual premiums payable until he attains a specified age, and so to commence on his attaining that age—		
For every \$10 and also for any fractional part of \$10 of the annuity	0.05	
And <i>see</i> Sections 70 and 84.		
<i>Exemption.</i>		
No duty is payable in respect of any bond, covenant or instrument where the amount of the annuity or amount payable annually is less than \$20.		Added by No. 73 of 1965, s. 16 (f).
BOND FOR ADMINISTRATION of estate of a deceased person		The obligor. 1.00
<i>Exemption.</i>		
Bond given by any person where the estate to be administered does not exceed \$200 in value.		
CATTLE SALES STATEMENTS— Any statement written out or caused to be written out by the owner or his agent, pursuant to the Cattle Industry Compensation		The Vendor added by No. 72 of 1965, s. 16 (g).

Stamp Duties.

Person
liable under
Section 39.

Stamp Duty
Payable.
\$

NATURE OF INSTRUMENT.

Act, 1965, in respect of the sale of any cattle or carcasses of cattle, whether payment of the purchase money therefor is or is not made in full at the time of the sale or is to be made by instalments or is otherwise deferred—

For every \$1 and also for any fractional part of \$1—

(a) of the amount of the purchase money in respect of one animal or one carcass sold singly $\frac{5}{12}$ cent
or

(b) of the total amount of the purchase money in respect of any number of cattle or carcasses, as the case may be, sold in one lot $\frac{5}{12}$ cent

or such amount, not being more than five-twelfths of a cent. as the Governor may, from time to time, by proclamation declare.

Notwithstanding the provisions of this item, the stamp duty in respect of the amount of the purchase money of any one animal, or any one carcass, whether sold singly or as part of a lot shall not exceed the sum of fifty cents or such lesser sum as the Governor may, from time to time, by proclamation declare.

CHARTER-PARTY	0.25
CHEQUE or ORDER payable on demand	0.05

Amended by
No. 70 of
1957, s. 6.
No. 72 of
1965, s. 16
(h) (i).

Exemption.

Cheque drawn by any public officer on any Public, Government, or Departmental account.

Cheques or orders for the withdrawal of moneys deposited in any bank, by a charitable body, a body established for community welfare purposes, a Friendly Society registered under the Friendly Societies Act, 1894 any society registered under the Building Societies Act, 1920, or a body established for patriotic purposes, to which the Commissioner has granted a certificate under section forty-nine A of this Act.

See Bill of Exchange.

Added by
No. 47 of
1925, s. 4.
Amended by
No. 22 of
1960, s. 4.
No. 72 of
1965, s. 16
(h) (ii).

The
company.

COMPANY—

Memorandum of Association of, under Companies Act, 1893¹ 2.00

Articles of Association of, under Companies Act, 1893¹ 2.00

On contract filed with Registrar under Section 26 of Companies Act, 1893,¹ or on Memorandum or Articles of Association containing any provision in lieu thereof (Ad valorem duty on the amount or value of paid-up shares or other consideration, as on a Conveyance on Sale.)

The
purchaser.

CONTRACT. See Agreement.

Contract chargeable as a conveyance. See Section 74.

¹ See now Companies Act, 1961.

NATURE OF INSTRUMENT.	Stamp Duty Payable. \$	Person liable under Section 39.
CONTRACT NOTE for or relating to the sale or purchase of any stock or marketable security—		The person making or executing the instrument.
Under the value of \$200	0.05	Amended by No. 72 of 1965, s. 16 (1).
Of the value of \$200 and under the value of \$1,000	0.10	
Of the value of \$1,000 and upwards	0.20	
CONVEYANCE or TRANSFER on sale of property—		The purchaser. Amended by No. 11 of 1930, s. 2.
(1) Land transfer under the Transfer of Land Act, 1893—		
(a) in the case of a consent to an application whereby the consenting party relinquishes any estate or interest for valuable consideration; and		
(b) in the case of an application to bring land under the Act by any person who has purchased such land without having paid the duty in respect of a conveyance or transfer thereof to him; and		
(c) in the case of a transfer of land on a sale thereof—		Amended by No. 60 of 1962, s. 5. No. 72 of 1965, s. 16 (j) (1) and (ii).
for every \$100 of the amount or value of the consideration, and also for every fractional part of \$100 up to and including \$10,000 thereof	1.25	
and in addition for every \$100 of the amount or value of the consideration and also for every fractional part of \$100 in excess of \$10,000	1.50	
(2) Conveyance or transfer of any other property (except scrip or shares of any incorporated company, or co-operative and provident society, or building society) for every \$100 of the amount or value of the consideration, and also for every fractional part of \$100 up to and including \$10,000 thereof	1.25	The purchaser. Amended by No. 60 of 1962, s. 5. No. 72 of 1965, s. 16 (j) (1) and (ii).
and in addition for every \$100 of the amount or value of the consideration and also for every fractional part of \$100 in excess of \$10,000	1.50	
(3) Transfer of scrip or shares of an incorporated company or of any building society (except an incorporated mining company carrying on the business of mining within the State), for every \$25 and also for every fractional part of \$25 of the amount or value of the consideration	0.10	The parties thereto. Amended by No. 35 of 1941, s. 3; No. 20 of 1962, s. 2. Repealed and re-enacted by No. 72 of 1965, s. 16 (j) (iii).
(4) [<i>Repealed by No. 72 of 1965, s. 16 (j) (iv).</i>]		
(5) Transfer of shares of any co-operative and provident society for every \$25 and also for every fractional part of \$25 of the amount or value of the consideration	0.10	The purchaser. Amended by No. 35 of 1941, s. 3. Repealed and re-enacted by No. 72 of 1965, s. 16 (j) (v).

Stamp Duties.

Person liable under Section 39.

NATURE OF INSTRUMENT.

Stamp Duty Payable. \$

Added by No. 72 of 1965, s. 16 (j) (vi).

Exemption.
 Transfer of scrip or shares of an incorporated mining company carrying on the business of mining within the State.
 (6) [*Deleted by No. 20 of 1962, s. 2.*]

The transferee or person in whom the property is vested.

CONVEYANCE or TRANSFER of any kind not hereinbefore described and not being a settlement, deed of gift or an exchange. And see Section 73 1.00

The transferee or person in whom the property is vested. Added by No. 20 of 1962, s. 2.

CONVEYANCE or TRANSFER of a lot by the responsible authority for a town planning scheme, including the metropolitan region scheme, to a person who on the date of the coming into operation of the scheme was the owner of—
 (a) the land comprised in the lot; or
 (b) land comprised in the scheme and to whom the lot is conveyed or transferred in substitution or exchange for that land or part thereof,
 where the lot is comprised in the scheme and is primarily used for residential purposes or is likely to be so used and the conveyance or transfer is made in order to carry out or facilitate the carrying out of the scheme 1.00

Expressions used in this item have the same meaning as they respectively have in the Town Planning and Development Act, 1928.

Exemption.

Transfer of any property to the Australian Soldiers' Repatriation Fund.

COPY or EXTRACT (attested or in any manner authenticated) of or from—

- (1) An instrument chargeable with any duty.
- (2) An original will or codicil.
- (3) The probate of a will or codicil.
- (4) Any letters of administration.
- (5) Any public register (except any register of births, marriages, and deaths).
- (6) The books or records of any court.

In the case of an instrument chargeable with duty not amounting to ten cents [The same duty as such instrument.]
 In any other case 0.10

COUNTERPART—

where duty does not exceed 50 cents, the same duty as the original instrument.
 In other cases 0.50

DEBENTURE for securing the payment or repayment of money or the transfer or retransfer of stock. See Mortgage.

The person declaring the trust.

DECLARATION of any use or trust of or concerning any property by any writing, and not being a will, or an instrument chargeable with *ad valorem* duty as a settlement or gift 1.00

DECLARATION (Statutory). See Affidavit.

NATURE OF INSTRUMENT.	Stamp Duty Payable. \$	Person liable under Section 39.
DEED OF ASSIGNMENT under the Bunkruptcy Act Amendment Act, 1898	2.00	The trustee.
DEED of any kind whatever, not otherwise charged with duty	1.00	The person executing the deed.
<i>Exemptions.</i>		
(1) Grants for the fee simple or other less estate in lands from His Majesty.		
(2) Conveyances, transfers, surrenders, or lease of the fee simple or other less estate in land to His Majesty or for his use.		
(3) Agreements for the employment of persons at wages or salaries not exceeding \$10 a week.		
DRAFT. See Bill of Exchange.		
DUPLICATE or COUNTERPART of any instrument chargeable with any duty—		
Where duty does not amount to 50 cents, the same as the original instrument.		
In other cases	0.50	
<i>Exemption.</i>		
Duplicate receipt given to the Crown or any Government Department.		
EXCHANGE—		
For any instrument affecting an exchange of any property		<div style="border-left: 1px solid black; padding-left: 5px; margin-left: 5px;"> [The same duty on the value of such property and any amount paid or other consideration given for equality as on the amount or value of the consideration for a conveyance on sale. </div> The person to whom any property is conveyed by way of exchange.
GUARANTEE of any kind not otherwise described		The guarantor.
See Section 83 (2).	<div style="border-left: 1px solid black; padding-left: 5px; margin-left: 5px;"> {Ad Valorem mortgage duty. </div>	
<i>Exemption.</i>		
Guarantees given by bankers to shipowners or others on behalf of consignees of cargo.		
HIRE-PURCHASE AGREEMENT—		The vendor.
(1) (i) Any instrument constituting or evidencing the terms and conditions of a hire-purchase agreement where the difference between the deposit or initial payment under the agreement and the cash price of the goods comprised in the agreement—		
Amounts to \$20 or more	1½ per centum of the amount.	Amended by No. 72 of 1959, s. 4. Amended by No. 60 of 1962, s. 5.
(ii) Where the instrument constituting or evidencing the terms and conditions of a hire-purchase agreement is an agreement of the kind referred to in paragraph (c) of subsection (1) of section seventy-six of this Act, if the price at which the goods the subject matter of the agreement might have been purchased for cash at the time of entering into the agreement—		
Amounts to \$20 or more	1½ per centum of the amount.	The Vendor. Amended by No. 60 of 1962, s. 5.
(2) Any instrument constituting, or evidencing the terms and conditions of, a hire-purchase agreement under which the purchaser is a person engaged in the trade or business of selling goods		
		The vendor. No. 72 of 1965, s. 16 (K).

Stamp Duties.

Person
liable under
Section 39.

NATURE OF INSTRUMENT.

Stamp Duty
Payable.
\$

of the same nature or description as the goods referred to in the agreement and who is purchasing the goods for the purpose of retailing them, where the difference between the deposit or initial payment under the agreement and the cash price of the goods comprised in the agreement—

Is \$20 but does not exceed \$40	0.05
Exceeds \$40 but does not exceed \$80	0.10
Exceeds \$80 but does not exceed \$120	0.15
Exceeds \$120 but does not exceed \$160	0.20
Exceeds \$160 but does not exceed \$200	0.25
Exceeds \$200 for every \$200 and also for any fractional part of \$200 of such amount	0.25

Exemption.

Any instrument constituting, or evidencing the terms and conditions of a hire-purchase agreement where the difference between the deposit or initial payment under the agreement and the cash price of the goods comprised in the agreement is less than \$20.

The lessee. LEASE—

Any lease made in perpetuity, or for a term of years, or for a period terminable with one or more lives, or otherwise contingent, in consideration of a sum of money paid in the way of premium, fine, or the like, if without rent

{Duty equal in amount to the transfer duty payable on the sale of land for a sum equal to the amount of the consideration.

A lease of any lands or tenements at a rent without any payment of any sum of money by way of premium—

When the lease is for a period not exceeding one year.

When the lease is for a period exceeding one year and not exceeding three years.

When the lease is for a period exceeding three years.

Where the rent calculated for a whole year, or, if the term exceeds one year, the average yearly rent over the period of the lease

\$	\$	\$
0.25	0.50	0.75

Exceeds \$100—for every \$100 and also for any fractional part of \$100

0.25	0.50	0.75
------	------	------

Lease of any lands or tenements at a rent for an indefinite term, and without any payment of any sum of money by way of fine or premium

{The same duty as on a lease at a like rent for a period exceeding one year.

Lease of any lands or tenements at a rent and in consideration of a fine or premium

{Duty equal to the joint value of the duty payable on a conveyance in consideration of the premium and the duty payable on a lease for the rent.

Lease of any other kind whatsoever not hereinbefore described

1.00

NATURE OF INSTRUMENT.

Stamp Duty Payable. \$ Person liable under Section 39.

Exemptions.

All leases or agreements for leases to or for the use of His Majesty, or from His Majesty or the Minister for Lands or the Minister for Mines under the Land Act, 1898, and its amendments, the Mining Act, 1904, and the regulations thereunder respectively.

And see Sections 77-79.

Transfer or assignment of a lease—

See Conveyance or Transfer.

See Section 63.

LIEN ON WOOL. See Bill of Sale by Way of Mortgage.

MEMORANDUM OF ASSOCIATION. See Company.

MORTGAGE (legal or equitable), BOND, DEBENTURE, COVENANT, WARRANT OF ATTORNEY to confess and enter up judgment and FOREIGN SECURITY of any kind—

The mortgagor or person giving the security. Amended by No. 72 of 1965, s. 16 (n).

(1) Being the only or principal or primary security for the payment or repayment of money—

Not less than \$20 nor exceeding \$40 ...	0.05
Exceeding \$40 but not exceeding \$80 ...	0.10
Exceeding \$80 but not exceeding \$120 ...	0.15
Exceeding \$120 but not exceeding \$160 ...	0.20
Exceeding \$160 but not exceeding \$200 ...	0.25
Exceeding \$200 for every \$200 and also for any fractional part of \$200 ...	0.25

(2) Being a collateral, or auxiliary, or additional or substituted security or by way of further assurance for the abovementioned purpose, where the principal or primary security is duly stamped—

The mortgagor or person giving the security.

for every \$200 and also for any fractional part of \$200 of the amount secured	0.05
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And see Bond.

(3) TRANSFER OR ASSIGNMENT of any mortgage, bond, debenture, covenant, or foreign security, or of any money or stock secured by such instrument, or by any warrant of attorney to enter up judgment, or by any judgment—

The transferor or assignor.

For every \$200 and also for any fractional part of \$200 of the amount transferred as aforesaid	0.10
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And also where any further money is added to the money already secured

[The same duty as a principal security for such further money.]

If, by way of collateral, or auxiliary, or additional or substituted security, or by way of further assurance, where the principal or primary security is duly stamped—

For every \$200 and also for every fractional part of \$200 of the amount transferred or assigned	0.05
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Stamp Duties.

Person Hable under Section 39.

The mortgagor or obligor.

NATURE OF INSTRUMENT.

Stamp Duty Payable.
\$

(4) RECONVEYANCE, release, or discharge of any security as aforesaid, or of the benefit thereof, or of the money thereby secured—
For every \$200 and also for every fractional part of \$200, of the total amount or value of the money at any time secured 0.10

Provided that where there is more than one instrument for securing any sum of money the reconveyance, release, certificate of satisfaction or discharge of the principal or primary security shall only be charged with *ad valorem* duty, and the release of the collateral or additional security shall be charged with a duty of 10 cents only.

Provided also, that where, by any reconveyance, release, certificate of satisfaction, or discharge, a part only of the money secured is released, the duty shall be payable only in respect of the amount so released.

The mortgagor or obligor

(5) Any instrument whereby any part of the property comprised in any security as aforesaid is released, the whole of the money still remaining secured 0.10

And see Sections 81-90.

Exemptions.

- (1) Mortgage given on or after the 1st March, 1918, for the sole purpose of securing the payment of money advanced for investment in War or Peace Loan Bonds or Stock.
- (2) Any discharge of a mortgage of land under the Transfer of Land Act, 1893, executed for the purpose of enabling a substituted mortgage to be registered after the registration in priority thereto of a mortgage to the Agricultural Bank of Western Australia.
- (3) Any substituted mortgage intended to be so registered as aforesaid.

Added by No. 11 of 1930, s. 3.

MOTOR VEHICLE LICENSE AND TRANSFER OF MOTOR VEHICLE LICENSE—

On a license or transfer for every \$200 and also for any remaining fractional part of \$200 of the value of the motor vehicle to which the license or transfer relates 1.50

The person in whose name the license is granted or the person to whom the license is transferred.

Added by No. 37 of 1963, s. 4.

Amended by No. 72 of 1965, s. 16 (o).

The notary.

NOTARIAL ACT of any kind whatsoever (except a protest of or noting a Bill of Exchange) 0.25
 Noting Bill of Exchange 0.10
 Protesting a Bill of Exchange 0.10
 See Section 91.

ORDER. See Bill of Exchange payable on demand.

NATURE OF INSTRUMENT.	Stamp Duty Payable. §	Person liable under Section 39.
PARTITION—		
(1) For any instrument effecting partition of any lands	1.00	
And upon any consideration paid by way of equality	{The same duty as on a conveyance on sale.	

POLICY OF INSURANCE—

Any policy of insurance or instrument of guarantee or indemnity by whatever name called that operates in Western Australia, in whole or in part as an insurance, whether issued in or out of Western Australia, shall be charged with a duty amounting to five per centum of the premiums payable in respect of such policy of insurance, instrument of guarantee or indemnity, except in the case of—

Amended by No. 39 of 1931, s. 12 (3); No. 20 of 1944, s. 2. Substituted by No. 60 of 1962, s. 5.

- (a) a policy of insurance against an employer's liability to pay compensation under the Workers' Compensation Act, 1912, where the policy shall be charged with a duty of three per centum on such premiums; and
- (b) a policy of insurance issued under the Motor Vehicle (Third Party Insurance) Act, 1943, where the duty charged on the policy shall be twenty-five cents.

The expression, "premium" means the gross premium reckoned so as to include any commission or discount paid in respect of the premium.

Exemption.

Policy of Life Insurance.

POWER OF ATTORNEY, or other instrument in the nature thereof—

The person by whom the instrument is executed or made.

- (1) For the receipt of the dividend on any stock or shares:
 - Where made for the receipt of one payment only
 - In any other case
- (2) For the receipt of any sum of money, or any bill of exchange or promissory note for any sum of money not exceeding \$100, or any periodical payments not exceeding the annual sum of \$20 (not being dividends on stock or shares)
- (3) Of any kind whatsoever, not hereinbefore described

Exemptions.

Any instrument for the sole purpose of appointing or authorising any one person to vote as a proxy at any meeting at which votes may be given by proxy.

A power of attorney executed by a person on active service in the Naval or Military forces of the Commonwealth or other naval or military forces of His Majesty, or in training for such service.

PROMISSORY NOTE. See Bill of Exchange.

PROTEST. See Public Notaries Act, 1902.

And see Section 91.

Stamp Duties.

Person liable under Section 39.

NATURE OF INSTRUMENT.

Stamp Duty Payable.
\$

Amended by No. 60 of 1962, s. 5. No. 72 of 1965, s. 16 (p).

RECEIPT.

If for—

\$10 or upwards but not exceeding \$200	0.03
Exceeding \$200, for every \$200 and for every fraction of \$200	0.03

Exemptions.

- (1) Receipt given for any payment to or for the use of His Majesty.
- (2) Receipt given by or on behalf of any municipal council, road board, local board of health, or any water, drainage, or irrigation board, or other local authority for rates, fees, or licenses or for a subsidy or special grant from the Crown.
- (3) Receipt given for any deposit in any bank or with any banker to be accounted for in current account, received and expressed to be received from the person to whom the same is to be accounted for.
- (4) Receipt or acknowledgment for any money, bill of exchange, promissory note, or cheque on the payment or delivery thereof by one banker to another in the ordinary course of banking business, or on the payment or delivery thereof to any person by a banker in the ordinary course of banking business.
- (5) Acknowledgment by any banker of the receipt of any bill of exchange or promissory note for the purpose of being presented for acceptance or for payment.
- (6) Receipt endorsed on or contained in a mortgage or other security duly stamped acknowledging the receipt by the mortgagor or borrower of the principal money secured, or endorsed on or contained in an instrument duly stamped discharging the mortgage or other security.
- (7) Receipt given by any registered friendly society, lodge, or branch for any payment made to such society, lodge, or branch by any of its members, or by any other society, or any lodge or branch.
- (8) Receipt given to any registered friendly society for any payment made by such society to any of its members, or to any person claiming under any of its members.
- (9) Receipt given for any payment made to or from a benefit fund formed for the relief of members of any registered trade union or industrial union.
- (10) Receipt for a withdrawal by a depositor from any Savings Bank.
- (11) Receipt given for any payment made to or from a fund formed for the relief or benefit of soldiers or sailors or of the dependants of soldiers or sailors.
- (12) Receipt given for wages or salary or pension at a rate not exceeding ten dollars per week or on payment by an employer to his employee for piece work of a sum not exceeding ten dollars per week.

Amended by No. 22 of 1960, s. 4.

NATURE OF INSTRUMENT.	Stamp Duty Payable. \$	Person liable under Section 39.
(13) Receipt given by a bookmaker in a transaction relating to his calling as a bookmaker.		
(14) An interim receipt provided that a stamped receipt can be produced and a receipt given by a person for any payment, in respect of which payment that person has given a receipt on which duty has been duly paid and that receipt can be produced.		Amended by No. 60 of 1962, s. 5.
(15) Receipt given for any payment made by or on behalf of His Majesty, by way of gift or compassionate allowance or charitable relief.		
(16) Receipt given to the Treasurer upon payment of principal of, or any interest arising from, any Government Inscribed Stock, Debenture, Bond, or Treasury Bill of this State.		
(17) Receipt upon the refund of a deposit lodged by a tenderer or of overpaid rates or taxes.		
(18) Receipt, given by any public hospital, or charitable, benevolent, or patriotic institution, or given to any such hospital or institution for any payment made by way of relief.		
(19) Receipt given for travelling expenses paid to or refunded by an employee.		
(20) Receipt given upon payment to an immigrant of landing money.		
(20a) Receipt given by or to a Building Society or being any acknowledgment of the receipt of any money deposited with a Building Society.		
(21) Receipt of any other kind which the Governor may by proclamation exempt from stamp duty. And see Sections 96-101.		
 RECONVEYANCE. See Mortgage.		
 RECORD or ACKNOWLEDGMENT of PROMISE or AGREEMENT—		
Any instrument which is or is intended to be a record or acknowledgment of any verbal promise previously made (whether voluntary or upon any good or valuable consideration other than a <i>bona fide</i> pecuniary consideration) to give or settle any property in any manner whatsoever.		The person executing the instrument. (Inserted by No. 35 of 1941, s. 3.)
Upon the amount or value of such property		The same duty as upon a conveyance or transfer on sale. Minimum duty one dollar.
 RELEASE or RENUNCIATION of any property, or of any right or interest in any property—		
Upon a sale. See Conveyance on Sale.		
By way of security. See Mortgage, etc.		
In any other case	1.00	
 REVOCAION of any use or trust of any property by any writing not being a will		
	1.00	

Person liable under Section 39.

NATURE OF INSTRUMENT.

Stamp Duty Payable. \$

The settler or donor.

SETTLEMENT, DEED OF, or DEED OF GIFT—

- (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; and
- (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;

Upon the amount or value of such property

.... } The same duty as upon a conveyance or transfer on sale. Minimum duty one dollar.

TRANSFER. See Conveyance.

VALUATION. See Appraisement.

The person executing the instrument.

WARRANT OF ATTORNEY to confess and enter up judgment given as a security for the payment or repayment of money, or for the transfer or re-transfer of stock. See Mortgage.

The person executing the instrument.

WARRANT OF ATTORNEY of any other kind 1.00

GENERAL EXEMPTION FROM ALL STAMP DUTIES: WILLS and TESTAMENTARY WRITINGS.

Section 20.

THE THIRD SCHEDULE.

When the Stamps are Impressed or Cancelled.	Amount of Fine.
After twenty-eight days from the first execution of the instrument, or from the date on which it is first received in Western Australia	Two dollars or a sum equal to double the amount of proper stamp duty if that sum does not exceed Two dollars.
After six weeks but within eight weeks	Four dollars, or a sum equal to three times the amount of proper stamp duty if that sum does not exceed Four dollars.
After eight weeks but within four months	Eight dollars, or a sum equal to four times the amount of proper stamp duty if that sum does not exceed Eight dollars.
After four months	Sixteen dollars, or a sum equal to ten times the amount of stamp duty if that sum does not exceed Sixteen dollars.