

Approved for reprint 20th February, 1976.

## STAMP ACT, 1921-1974.

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Approved for reprint 20th February, 1976.

WESTERN AUSTRALIA.

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## STAMP.

12° Geo. V., No. XLIV.

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### No. 10 of 1922.<sup>1</sup>

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(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;<sup>2</sup>  
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;<sup>3</sup>  
No. 70 of 1957, assented to 6th December, 1957;<sup>4</sup>  
No. 64 of 1959, assented to 10th December, 1959;<sup>5</sup>  
No. 72 of 1959, assented to 14th December, 1959;<sup>6</sup>  
No. 22 of 1960, assented to 11th October, 1960;<sup>7</sup>  
No. 41 of 1960, assented to 3rd November, 1960;<sup>8</sup>  
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;<sup>9</sup>  
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;<sup>10</sup>  
No. 57 of 1963, assented to 17th December, 1963;  
No. 58 of 1963, assented to 17th December, 1963;<sup>11</sup>  
No. 72 of 1965, assented to 25th November, 1965;<sup>12</sup>  
No. 113 of 1965, assented to 21st December, 1965;<sup>13</sup>  
No. 67 of 1966, assented to 12th December, 1966;<sup>14</sup>  
No. 90 of 1966, assented to 12th December, 1966;<sup>15</sup>  
No. 93 of 1966, assented to 12th December, 1966;<sup>16</sup>  
No. 50 of 1967, assented to 24th November, 1967;<sup>17</sup>  
No. 54 of 1968, assented to 13th November, 1968;<sup>18</sup>  
No. 113 of 1969, assented to 28th November, 1969;<sup>19</sup>  
No. 21 of 1970, assented to 8th May, 1970;<sup>20</sup>  
No. 102 of 1970, assented to 8th December, 1970;<sup>21</sup>  
No. 3 of 1971, assented to 13th September, 1971;  
No. 29 of 1971, assented to 1st December, 1971;<sup>22</sup>  
No. 32 of 1972, assented to 16th June, 1972;<sup>23</sup>  
No. 94 of 1972 (as amended by No. 19 of 1973);<sup>24</sup>  
No. 9 of 1974, assented to 27th September, 1974;<sup>25</sup>  
No. 46 of 1974, assented to 18th November, 1974;<sup>26</sup>  
and reprinted pursuant to the Amendments Incorporation Act,  
1938]\*

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See page 2 for footnotes indicated above.

## REFERENCES TO AMENDING ACTS.

- <sup>1</sup> Proclaimed to commence on 1st April, 1922, see *Gazette*, 17th March, 1922, p. 479.
  - <sup>2</sup> Proclaimed to commence on 1st December, 1931, see *Gazette*, 27th November, 1931, p. 2499.
  - <sup>3</sup> Proclaimed to commence on 1st August, 1955, see *Gazette*, 27th July, 1955, p. 1767.
  - <sup>4</sup> Proclaimed to commence on 1st February, 1958, see *Gazette*, 24th January, 1958.
  - <sup>5</sup> Proclaimed to commence on 21st December, 1959, see *Gazette*, 18th December, 1959, p. 3337.
  - <sup>6</sup> Proclaimed to commence on 1st January, 1960, see *Gazette*, 24th December, 1959, p. 3457.
  - <sup>7</sup> Proclaimed to commence on 13th March, 1961, see *Gazette*, 10th March, 1961, p. 653.
  - <sup>8</sup> Proclaimed to commence on 1st July, 1961, see *Gazette*, 5th May, 1961, p. 1069.
  - <sup>9</sup> Came into operation, 1st January, 1963.
  - <sup>10</sup> Came into operation on 31st December, 1963, see *Government Gazette*, 31st December, 1963, p. 4055.
  - <sup>11</sup> Came into operation on 1st July, 1964, see *Government Gazette*, 5th June, 1964, p. 2335.
  - <sup>12</sup> 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.
  - <sup>13</sup> 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.
  - <sup>14</sup> Sections 1, 2, 4, 15 (a), 15 (b) and 15 (f) operated from 1st January, 1967; and the remaining sections operated from 1st February, 1967.
  - <sup>15</sup> Operated from commencement of Act No. 87 of 1966; i.e., 1st January, 1967.
  - <sup>16</sup> Proclaimed to commence on 1st July, 1967, *Gazette* 23rd June, 1967, p. 1961.
  - <sup>17</sup> Came into operation 1st December, 1967.
  - <sup>18</sup> Came into operation on 1st January, 1969, see *Gazette* 13th December, 1968, p. 3309.
  - <sup>19</sup> Came into operation 1st January, 1969, see *Gazette* 16th December, 1969, p. 4077.
  - <sup>20</sup> Came into operation on 1st July, 1970, see *Gazette* 26th June, 1970, p. 1831.
  - <sup>21</sup> Sections 1 and 2 operated from assent. Sections 3, 4, 12 (b), 13, 14, and 15 (a) operated from 1st January, 1971; sections 5, 6, 7, 8, 9, 10, 11 and 15 (b) operated from 1st October, 1970; section 12 (a), (c), (d) and (e) operated from 1st July, 1970.
  - <sup>22</sup> Came into operation on 1st January, 1972. See *Gazette* 10th December, 1971, p. 5169.
  - <sup>23</sup> Came into operation on 1st July, 1972. See *Gazette* 30th June, 1972, p. 2100.
  - <sup>24</sup> Metric Conversion Act, 1972-1973. The relevant amendments included in this reprint effective from 1st July, 1973. See *Gazette* 22nd June, 1973, p. 2379.
  - <sup>25</sup> Sections 3, 4, 8, 10 Proclaimed 1st January, 1975; sections 5, 6, 9 Proclaimed 1st December, 1974; balance to operate from assent.
  - <sup>26</sup> Proclaimed 1st December, 1974; see *Gazette* 29th November, 1974, p. 5167.
- <sup>a</sup> 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, is omitted.

**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—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Stamp Act, 1921-1974*, and shall come into operation on a day to be fixed by proclamation.<sup>1</sup>

Short title and commencement. No. 10 of 1922, s. 1, as amended by No. 46 of 1974, s. 1.

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

Division of Act. Amended by No. 93 of 1968, s. 3; No. 113 of 1969, s. 3.

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 IVA.—SALES AND PURCHASES OF MARKETABLE SECURITIES BY BROKERS AND DUTY THEREON, ss. 112A-112H.

PART IVB.—CREDIT AND RENTAL BUSINESS, ss. 112I-112P.

PART IVC.—INSTALMENT PURCHASE AGREEMENTS, ss. 112Q-112W.

PART V.—MISCELLANEOUS, ss. 113-120.

FIRST SCHEDULE.

SECOND SCHEDULE.

THIRD SCHEDULE.

2A. (1) This Act shall be read and construed subject to the limits of the legislative powers of the State and so as not to exceed those powers, to the intent that, where any provision thereof, but for this section, would be construed as being in excess of those powers, it shall nevertheless be a valid enactment to the extent to which it is not in excess of those powers.

Act to be construed subject to legislative powers of the State. Added by No. 54 of 1968, s. 3.

(2) This section shall be deemed to have come into operation on the date this Act came into operation.

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

Repeal First Schedule.

<sup>1</sup> See note <sup>1</sup> on previous page.



Definitions.  
Amended by  
No. 93 of  
1966, s. 4;  
No. 113 of  
1969, s. 4;  
No. 21 of  
1970, s. 29;  
No. 94 of  
1972 (as  
amended by  
No. 19 of  
1973); s. 4  
and Second  
Schedule;  
No. 9 of  
1974, s. 3.

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

“Adhesive coupon” means an adhesive coupon in the prescribed form made out and affixed by the Commissioner or any prescribed person to denote the payment of any duty, fine or fee.

“Adhesive stamp” does not include an adhesive coupon.

“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.

“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.

*Stamp.*

5

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

“Commissioner” means the person holding the office of Commissioner of State Taxation, under the Public Service Act, 1904.

“Die” means any plate, type, machine, 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, machine or implement.

“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 1.75 kilometres 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) any stock or share of any municipal or other corporation or company or society;
- (b) any debenture, debenture stock, bond, note or other security of a Government or of any municipal or other corporation, company or society, whether constituting a

*Stamp.*

charge on the assets of the Government, municipal or other corporation, company or society or not;

- (c) any right or interest, whether described as a unit or sub-unit or otherwise, of a beneficiary under a unit trust scheme.

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

“Money” includes a bill of exchange, a promissory note and all sums expressed in the currency of Australia or in any other 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.

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

“Stamp” means—

- (a) an adhesive stamp;
- (b) a stamp impressed by means of a die; or
- (c) an adhesive coupon,

for denoting any duty, fine or fee.

*Stamp.*

7

“Stamped” in relation to an instrument or paper applies to an instrument or paper—

- (a) to which an adhesive stamp is affixed;
- (b) on which a stamp is impressed by means of a die; or
- (c) to which an adhesive coupon is affixed.

“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.

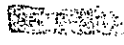
5. Except in so far as the Governor may from time to time otherwise direct, the general administration of this Act shall be and is hereby committed to the Treasurer.

Minister.  
Amended by  
No. 8 of  
1925, s. 2.

6. (1) The Commissioner may, by instrument in writing under his hand, delegate to the person holding the office of Assistant Commissioner (Stamp Duties) or other officer of the staff assisting the Commissioner in the administration of this Act such powers, duties and functions as are conferred or imposed upon the Commissioner by or under this Act and which are specified in the instrument.

Power of  
Commis-  
sioner to  
delegate.  
Substituted  
by No. 21 of  
1970, s. 30.

(2) A delegation under this section does not prevent the exercise of a power or the performance of a duty or function by the Commissioner.



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

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.

(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.

(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.

Power  
of Com-  
missioner  
to use  
information.  
Repealed  
and  
re-enacted  
by No. 21 of  
1970, s. 31.

8. The Commissioner may use for the purposes of this Act any information concerning the affairs of any other person acquired by him by reason of his office under or for the purposes of the Land Tax Assessment Act, 1907.

9. (1) The Commissioner or any person authorised in writing by him, may communicate—

Exchange of information and obligation of secrecy. Repealed and re-enacted by No. 113 of 1969, s. 5.

- (a) to the Commissioner, Second Commissioner or a Deputy Commissioner under any law of the Commonwealth relating to taxation or to any person authorised in writing by any such Commissioner, Second Commissioner or Deputy Commissioner; or
- (b) to the Commissioner or any other officer of any State or Territory of the Commonwealth administering any law of that State or Territory relating to taxation or to any person authorised in writing by any such Commissioner or other officer—

any information respecting the affairs of any person disclosed or obtained under the provisions of this Act.

(2) The Commissioner or any other person who is or has been employed in the administration of this Act, shall not while he is, or after he ceases to be, so employed—

- (a) either directly or indirectly, except in the performance of a function or duty in relation to this Act and in particular in accordance with subsection (1) of this section, make a record of, or divulge or communicate to any person, any information acquired by him in the course of his being so employed, respecting the affairs of any other person;
- (b) be required to produce in a court a document that is, in the course of his being so employed, in his custody or to divulge or communicate to a court any matter or thing that comes under his notice in the course of his being so employed, except where it is necessary to do so for the purpose of carrying into effect the provisions of this Act.

Penalty: Two hundred dollars.

Governor to  
prescribe  
stamps,  
dies, etc.

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.

Commis-  
sioner to  
issue  
stamps.

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

Commis-  
sioner may  
license  
vendors of  
stamps.  
Amended by  
No. 9 of  
1974, s. 10.

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

(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 of revocation of any such licenses shall be notified in the *Gazette*.

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

Licensed  
vendors of  
stamps to  
notify fact.  
Amended by  
No. 113 of  
1965, s. 4 (1);  
No. 9 of  
1974, s. 10.

13. Every person holding a license to sell adhesive 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.

Daily penalty: One dollar.

14. Every person who shall deal in adhesive 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. Amended by No. 113 of 1965, s. 4 (1); No. 9 of 1974, s. 10.

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:—

Spoiled stamps. Amended by No. 72 of 1965, s. 3; No. 9 of 1974, s. 10.

- (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 error in instrument.
- (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 death or refusal to execute.
- (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 failure of consideration.
- (iv) Or in the case of a bill of exchange, if the same is never brought into use; By not being brought into use.
- (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 non-presentation of a Bill of Exchange.
- (vi) the adoption in Australia of decimal currency; By adoption of decimal currency.

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 adhesive stamps of equal value to be delivered to the owner of such stamped

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



*Stamp.*

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. From and after the commencement of this Act the stamp duties to be charged for the use of Her 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.  
Amended by No. 21 of 1961, s. 2; No. 3 of 1971, s. 2.  
Second Schedule.

[Subsection (2) repealed by No. 3 of 1971, s. 2.]

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 impressed stamps, adhesive coupons or adhesive stamps.

Duties to be paid in accordance with Act and regulations.  
Amended by No. 72 of 1965, s. 4; No. 9 of 1974, s. 10.

(2) Subject to this Act the Governor may by regulation prescribe the use of impressed stamps, or adhesive coupons or adhesive stamps only, or any two of those modes of denoting duty 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 impressed stamps, adhesive coupons 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. Amended by No. 72 of 1965, s. 5; No. 94 of 1972 (as amended by No. 19 of 1973), s. 4 and Second Schedule.

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 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 forty millimetres in depth, as a place for imprinting thereon or adhering thereto, that stamp duty.

Instruments to be separately charged with duty in certain cases.

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

- (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 to each of the considerations.

Stamping instruments after execution. Amended by No. 9 of 1974, s. 10.

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

- (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 adhesive coupons affixed thereto, or adhesive stamps affixed thereto and duly cancelled.

Third  
Schedule

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

General  
direction  
as to the  
cancellation  
of adhesive  
stamps.

- (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;

Amended by  
No. 39 of  
1931, s. 3;  
No. 113 of  
1965, s. 4(1);  
No. 102 of  
1970, s. 3.

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

(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.

Penalty for  
neglect or  
refusal.

Cancellation  
of adhesive  
stamps.

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

Third  
Schedule.

(2) shall be cancelled by—

(a) the Commissioner, or the Registrar of Titles; or

(b) any person appointed by the Governor to cancel stamps.

Commis-  
sioner or  
authorised  
person to  
determine  
amount of  
duty and  
fine.  
Amended by  
No. 9 of  
1974, s. 10.

23. It is the duty of the Commissioner, or Registrar of Titles or any person authorised under this Act to impress stamps, make out and affix adhesive coupons or cancel adhesive 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.

Proof of  
date when  
instrument  
executed  
abroad is  
received.

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 afore-said before whom the instrument is produced.

How  
unstamped  
or insuffi-  
ciently  
stamped  
instrument  
to be  
stamped  
after  
execution.

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.

(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 Her Majesty—

Facts and circumstances affecting duty to be set forth in instrument. 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.

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.

Instruments not duly stamped inadmissible except in criminal proceedings. Amended by No. 67 of 1966, s. 3; No. 102 of 1970, s. 4.

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.

Officer to whom instrument tendered for registration to be satisfied that proper stamp duty is paid.

(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 insuffi-  
ciency of  
stamp.  
Amended by  
No. 9 of  
1974, s. 10.

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 adhesive stamps for the amount of duty and fine, and cancel the same, or he may cause stamps to the amount aforesaid to be impressed or adhesive coupons to the amount aforesaid to be affixed.

Secondary  
evidence.

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.

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. Amended by No. 113 of 1965, s. 4 (1); No. 9 of 1974, s. 4.

(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 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 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.  
Repealed  
and  
re-enacted  
by No. 113 of  
1969, s. 6.  
Amended by  
No. 3 of  
1971, s. 3.

32. (1) Where a person is dissatisfied with the assessment of duty made by the Commissioner following a reference to him under section twenty-three, twenty-eight or thirty-one of this Act that person may, on payment of duty in accordance with the assessment—

- (a) within forty-two days after the date of the assessment or within such longer period after that date as the Commissioner may by instrument in writing allow, forward to the Commissioner a statement of the grounds of his objection to the assessment; or
- (b) within forty-two days after the date of the assessment or within such longer period after that date as the Supreme Court may allow, appeal to the Supreme Court.

(2) (a) Where a statement is forwarded to the Commissioner under and in accordance with paragraph (a) of subsection (1) of this section, the Commissioner may confirm or modify the assessment to which the statement relates.

(b) Where the assessment is not so confirmed, the amount of duty payable shall be such amount as is fixed by the Commissioner; and the difference between that amount and the amount of duty paid under subsection (1) of this section shall be refunded to the person who forwarded the statement referred to in that subsection.

(3) If upon the confirmation or modification by the Commissioner of the assessment of duty, the person who forwarded the statement of objection against the assessment remains dissatisfied therewith, he may, within forty-two days after the confirmation or modification is communicated to him or within such longer period thereafter as the Supreme Court may allow, appeal to the Supreme Court.

(4) For the purpose of an appeal to the Supreme Court under this section the appellant may, by notice in writing served on the Commissioner, require him to state and sign a case setting forth the question upon which his opinion was required and the assessment of duty made by him.

(5) The Commissioner shall thereupon state and sign a case accordingly and deliver the case to the appellant, who shall within ten days of the receipt by him of the case, cause it to be set down for hearing in the Supreme Court.

(6) Upon the hearing of the case, of which at least ten days' notice in writing shall be given to the Commissioner, the Supreme Court shall determine the question submitted to it and assess the duty, if any, chargeable under the Act.

(7) Where the Supreme Court decides that the assessment of the Commissioner to which the appeal relates is erroneous, the Court shall order the Treasurer to refund to the appellant the amount of any excess of duty that may have been paid by him in conformity with the erroneous assessment.

(8) Where the Supreme Court confirms the assessment of the Commissioner to which the appeal relates, the Court may order the appellant to pay to the Commissioner the costs incurred by the Commissioner in relation to the appeal, but if the appeal is allowed, the Court may order the Commissioner to pay the costs of the appeal.

(9) For the purposes of this section, the jurisdiction of the Supreme Court may be exercised by a Judge sitting 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 and on an application for an extension of time to lodge such an appeal.

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

Extension of  
time when  
duty assessed  
by the  
Commis-  
sioner or  
the Court.

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.

Instruments may be impounded until duty paid.

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.

Duplicates and counterparts.

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.

(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. Amended by No. 93 of 1966, s. 5.

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

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

the duty shall be calculated on the value of the money in the currency of Australia according to the current rate of exchange in this State on the date

of the instrument, or of the marketable security or right in respect of shares according to the average price thereof on that date.

(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.

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.

Contingent stamp duties.

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

Instruments held in escrow.

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.

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

(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

Third Schedule.

*Stamp.*

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.

(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.

Governor may appoint fees, fines, etc., to be collected by means of stamps.  
Amended by No. 9 of 1974, s. 10.

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.

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

41. When any sum comprised in any such notice—

Document  
in respect of  
which the  
fee is  
payable to  
be stamped.

- (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.

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.

Document  
invalid until  
properly  
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.

Court may  
order  
document to  
be stamped.

Duties of officer who receives payment in stamps.

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.

Cancellation of stamps.

(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.

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

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

- (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.*

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.

Instruments 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.*

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—

Meaning of "Bill of Exchange." Amended by No. 39 of 1931, s. 4.

- (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.

Commissioner may exempt cheques drawn by charitable bodies, etc. Added by No. 22 of 1960, s. 3. Amended by No. 113 of 1969, s. 7.

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—

- (a) a charitable body;
- (b) a body established for community welfare purposes;
- (c) a Friendly Society registered under the Friendly Societies Act, 1894;
- (d) a body established for patriotic purposes; or
- (e) a body established for all or any of the following purposes namely, for providing sporting or other recreational or social activities, only for persons who are under the age of twenty-one years,

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), (d) or (e) 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 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.

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. Amended by No. 9 of 1974, s. 10.

(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

*Stamp.*

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 or to cause an adhesive coupon denoting that amount to be affixed thereto, 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.

Bills  
accepted  
or capable  
of being  
accepted,  
otherwise  
than as  
drawn.  
Added by  
No. 9 of  
1974, s. 5.

50A. (1) Where a bill of exchange has been accepted as payable otherwise than as drawn, the bill shall be deemed for the purposes of this Act to be a bill of exchange drawn as accepted.

(2) Where a bill of exchange has been indorsed and the indorsement has the effect of limiting the indorsee as a holder of the bill to require payment otherwise than as drawn, the bill shall be deemed for the purposes of this Act to be a bill of exchange drawn as indorsed.

(3) Where the drawer of a bill of exchange or any other person has expressly or by implication signified that the bill may be accepted otherwise than as drawn, the bill shall be deemed for the purposes of this Act to have been drawn as so signified.

(4) Where under any agreement expressed or implied a bill of exchange is to be paid otherwise than as drawn or accepted, the bill shall be deemed for the purposes of this Act to have been drawn or accepted, as the case may be, in accordance with the agreement.

(5) Where a bill of exchange becomes liable to duty by the operation of any of the provisions of this section, the amount of *ad valorem* duty that is so payable shall be reduced by an amount equal to the *ad valorem* duty with which the bill has been 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, adhesive coupons or stamps.

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 adhesive coupons or by impressed stamps, or partly by adhesive stamps or adhesive coupons and partly by impressed stamps.

No. 10 of 1922, s. 51. Renumbered s. 52 in 1934 reprint.

Amended by No. 11 of 1950, s. 3; No. 70 of 1957, s. 3; No. 9 of 1974, s. 6 and s. 10; No. 46 of 1974, s. 3.

(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 or adhesive coupons.

(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 the payment of duty on cheques to which such an approval applies to be denoted by the printing or stamping of the words 'Stamp duty paid' on each cheque.

(4) Where by amendment of this Act the duty on cheques is increased, if at the day when the amendment comes into operation, unused cheque forms on which is denoted by printing or by impressed stamps the 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, by adhesive coupons attached to them, 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.  
Renumbered s. 54 in 1934 reprint.  
Amended by No. 70 of 1957, s. 4; No. 72 of 1965, s. 7; No. 113 of 1965, s. 4 (1); No. 29 of 1971, s. 3; No. 46 of 1974, s. 4.

54. The fixed duty of eight 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.

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.

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

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 adhesive coupons, or affix thereto a proper adhesive stamp of sufficient amount, and cancel every adhesive stamp so affixed thereto.

Provisions as to stamping foreign bills and notes.  
No. 10 of 1922, s. 55.  
Renumbered s. 56 in 1934 reprint.  
Amended by No. 9 of 1974, s. 10.

(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. 70 of 1957, s. 5; No. 72 of 1965, s. 8; No. 113 of 1965, s. 4 (1); No. 29 of 1971, s. 4; No. 46 of 1974, s. 5.

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 eight 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.

(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).



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

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.

*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.

(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.

As to charter-parties executed abroad.

(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.

Interpretation of "conveyance on sale".  
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.

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.  
Amended by  
No. 93 of  
1966, s. 6.

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

(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.

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 marketable security, whether being or constituting a charge or incumbrance upon the property or not, such debt, money, or marketable security 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.

How conveyances in consideration of a debt or subject to future payment, etc., to be charged.  
No. 10 of 1922, s. 65.  
Renumbered s. 66 in 1934 reprint.  
Amended by No. 93 of 1966, s. 7.

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.

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.

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.

(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.

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

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
- (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.

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.

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.

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.

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.

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

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

*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.

*Documents Chargeable as Conveyances on Sale.*

Certain contracts to be chargeable as conveyances on sale.  
No. 10 of 1922, s. 72.  
Substituted by No. 39 of 1931, s. 9.  
Renumbered s. 74 in 1934 reprint.  
Amended by No. 113 of 1963, s. 4 (1);  
No. 93 of 1966, s. 8.

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 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.

(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 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



*Stamp.*

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.

75. (1) Any conveyance or transfer operating as a voluntary disposition *inter vivos* shall be chargeable with stamp duty at the rate provided in the Second Schedule to this Act under the heading "Settlement, Deed of, or Deed of Gift".

Stamp duty chargeable on gifts *inter vivos* No. 10 of 1922, s. 73. Amended by No. 53 of 1923, s. 2. Renumbered s. 75 in 1934 reprint. Amended by No. 67 of 1966, s. 4.

(2) (a) 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.

(b) When under the provisions of paragraph (a) of this subsection, the Commissioner is of opinion that the sum paid in consideration for a conveyance or transfer to which that paragraph applies is inadequate the duty under this Act on the conveyance or transfer shall be—

- (i) as to the amount of the consideration so paid, duty at the rate chargeable upon a conveyance or transfer on sale for that amount; and
- (ii) as to the amount by which the Commissioner is of opinion the consideration is inadequate, at the rate chargeable upon a deed of gift for that amount.

(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.

Power to exempt gifts for charitable purposes.

(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 purpose of a public park, university, or other institution, or for charitable, patriotic, or other similar public purposes.

(4a) The Treasurer may, in his discretion, exempt from *ad valorem* duty, or refund any such duty paid after the coming into operation of this subsection on any instrument by which money or property is given or agreed to be given to or which establishes or regulates or relates to the establishment or regulation of any fund or scheme established for the

principal purpose of making provision by way of superannuation payments, annuities, pensions, gratuities, allowances, lump sum payments, benefits, assistance or the like for the directors, officers, servants or employees of any employer or employers on the termination of their office or service whether by death or otherwise or on their withdrawal from membership of that fund or scheme or during their incapacity for work attributable to illness or accident or for the widows or children or dependants or legal personal representatives of any of those directors, officers, servants or employees or for any persons duly selected or nominated for that purpose pursuant to the provisions of that fund or scheme.

(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.

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 Her 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

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

*Stamp.*

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.

Power to exempt from duty on reconstruction of company. Added by No. 69 of 1962, s. 2. Amended by No. 113 of 1969, s. 8.

**75B.** (1) When a company is incorporated by way of reconstruction upon the basis of a sale of the assets of a company or of a foreign company by the liquidator thereof, to the firstmentioned 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 or any contract lodged with the Registrar of Companies, pursuant to subsection (3) of section fifty-four of the Companies Act, 1961, that relates to any shares in the firstmentioned company that are to be allotted or transferred to the shareholders of the second mentioned company or foreign company for the purposes of the reconstruction, and that are specified in any such instrument.

(2) In this section “company” means a company incorporated pursuant to the Companies Act, 1961, or pursuant to any previous corresponding enactment and “foreign company” means a foreign company to which Division 3 of Part XI of that Act applies.

[*Heading and section 76 repealed by No. 113 of 1969, s. 9.*]

[*Section 76A added by No. 72 of 1959, s. 3. Repealed by No. 113 of 1969, s. 9.*]

[*Section 76B added by No. 72 of 1959, s. 3. Repealed by No. 113 of 1969, s. 9.*]

*Motor Vehicle License and Transfer of Motor Vehicle License.*

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” means a person who—

- (a) carries on the business of selling new motor vehicles;
- (b) is the holder of a licence under the Used Car Dealers Act, 1964<sup>1</sup>;
- (c) carries on the business of acquiring new or used motor vehicles for resale or disposal under hire purchase or leasing agreements;
- (d) in the course of his business, takes possession of any motor vehicles comprised in hire purchase or leasing agreements and resells them;

“license” means a vehicle license granted under the provisions of Part II of the Traffic Act, 1919<sup>2</sup>, and in respect of which a fee under that Act has been paid or is payable but does not include—

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); No. 90 of 1966, s. 3; No. 54 of 1968, s. 4; No. 9 of 1974, s. 10.

<sup>1</sup> Repealed by Motor Vehicle Dealers Act, 1973 (s. 4).

<sup>2</sup> Repealed by Road Traffic Act, 1974 (s. 4). Came into operation 1st June, 1975; see *Gazette* 29/5/75, p. 1442. Part III of new Act refers.

*Stamp.*

- (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<sup>1</sup>, or any corresponding law of any other Country or State or Territory of the Commonwealth prior to the issue of the license;
- (aa) any such license that is granted under subsection (6) of section eleven of the Traffic Act, 1919<sup>1</sup>; or
- (b) a duplicate license or certified copy thereof issued pursuant to section sixty-seven of the Traffic Act, 1919<sup>1</sup>;

“transfer” means a transfer of a license granted under the provisions of Part II of the Traffic Act, 1919<sup>1</sup>, but does not include a transfer of a licence 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

<sup>1</sup> Repealed by Road Traffic Act, 1974 (s. 4). Came into operation 1st June, 1975; see *Gazette* 29/5/75, p. 1442.

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.



*Stamp.*

(5a) Where a person to whom subsection (5) of this section applies, does not state in writing an amount as representing the market value of a motor vehicle as provided in that subsection, the Commissioner may assess that value after ascertaining it by such means as he thinks fit.

(5b) Where the Commissioner assesses the value of a motor vehicle under subsection (5a) of this section, duty shall be paid under and in accordance with this section on the value as so assessed by the Commissioner.

(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 stamp, adhesive coupon 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 license 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 license or transfer.

(8) Where the value of the motor vehicle to which a license or transfer relates exceeds the sum of twenty thousand dollars, if duty is chargeable under this Act in respect of the license or transfer, the license 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 license 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 license, the person in whose name the license is granted; and
- (b) a transfer, the person to whom the license is transferred,

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

Penalty: Fifty dollars.

(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.

Offence of falling to stamp license and transfer. Recovery of duty. Added by No. 72 of 1965, s. 11. Amended by No. 113 of 1965, s. 4 (1).

(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.

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.

80. [*Repealed by No. 72 of 1965, s. 12.*]

*Mortgages and Other Securities.*

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

Interpretation of "mortgage". No. 10 of 1922, s. 79. Renumbered s. 81 in 1934 reprint.

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.  
Amended by No. 93 of 1966, s. 9.

82. A security for the transfer or retransfer of any marketable security is to be charged with the same duty as similar security for a sum of money equal in amount to the value of such marketable security; 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 marketable security.

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. Amended by No. 9 of 1974, s. 10.

(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, in the case of adhesive stamps, 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.  
Amended by No. 93 of 1966, s. 10.

85. No transfer of a duly stamped security, and no security by way of further charge for money or a marketable security added to money or a marketable security 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 a marketable security 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.

87A. Notwithstanding any other provision of this Act—

Special provisions re collateral securities, etc.  
Added by No. 32 of 1972, s. 3.

- (a) any security other than a security given by a purchaser to a vendor to secure the whole or any part of the purchase moneys due under a contract of sale and purchase on which stamp duty is paid at the rate applicable to a conveyance which would, but for this paragraph, be regarded as a collateral security shall, unless the principal or primary security is duly stamped with *ad valorem* duty at the rate chargeable under item (1) under the heading "MORTGAGE (legal or equitable), BOND, DEBENTURE, COVENANT, WARRANT OF ATTORNEY to confess and enter up judgment and FOREIGN SECURITY of any kind" in the Second Schedule to this Act, be chargeable with duty under this Act as if it were a principal or primary security; and
- (b) where a principal or primary security is such that it ceases to have effect as such without any reconveyance, release or discharge, the duty chargeable on the reconveyance, release or discharge of any collateral security or the benefit thereof shall be the duty prescribed in item (4) under the heading in the Second Schedule specified in paragraph (a) of this section as if the security being reconveyed, released or discharged were a principal or primary security.

88. The term "foreign security" means and includes every security for money by or on behalf of any foreign or colonial state, government, municipal

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



body, corporation, or company (except an instrument chargeable with duty as a bill of exchange or promissory note)—

- (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.

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).

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.

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

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.

Power of Commissioner to exempt certain instruments from duty.  
Added by No. 50 of 1967, s. 3.  
Amended by No. 32 of 1972, s. 4.

90A. (1) Where the Treasurer is satisfied that any mortgage, bond, debenture, instrument or covenant given or made after the commencement of this section has been given or made for the purpose of securing the payment or repayment of any money that is to be used for, or has been used for, any charitable or similar public purpose, the Treasurer may exempt the mortgage, bond, debenture, instrument or covenant from any stamp duty which but for this section would be chargeable in respect thereof.

(2) Where pursuant to subsection (1) of this section, the Treasurer has exempted a mortgage, bond, debenture, instrument or covenant from

stamp duty, any instrument of discharge, release or satisfaction of or from the mortgage, bond, debenture, instrument or covenant shall be exempt from any stamp duty which but for this section would be chargeable in respect thereof.

*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.

92A. (1) Every person resident in the State who effects any insurance in respect of property in the State, or in respect of any liability, loss or damage occurring, or brought about by the happening of any event, within the State, for which insurance a policy of insurance or renewal of any such policy is or is to be issued outside the State shall within one month after effecting the insurance furnish to the Commissioner a return containing such particulars and information as to the insurance as may be prescribed.

Duty payable on returns where policy issued out of the State. Added by No. 54 of 1968, s. 5. Amended by No. 32 of 1972, s. 5.

(2) Every return under subsection (1) of this section is liable to the same duty as would have been chargeable if the insurance to which it relates had been effected under a policy of insurance issued in the State.

(3) The person liable for payment of the duty under subsection (2) of this section is the person who effected the insurance, and the duty is, subject to subsection (4) of this section, payable upon the lodgment of the return with the Commissioner or at such later time as the Commissioner allows.

*Stamp.*

(4) Where the policy of insurance or renewal has, before the expiration of the period specified in subsection (1) of this section for the furnishing of the return to the Commissioner, or where the Commissioner has allowed further time, before the expiration of that time, been received in the State and duly stamped under subsection (3) of section ninety-four of this Act, no duty is payable under this section in respect of that policy of insurance or renewal.

Offence of  
failure to  
lodge return.

(5) Any person resident in the State who effects any insurance of the nature referred to in subsection (1) of this section and who—

- (a) neglects or fails to furnish a return as required by that subsection; or
- (b) accepts payment of, or agrees to have allowed to him on account, any money upon or in respect of any insurance for which a return as required by that subsection has not been furnished,

is guilty of an offence and is liable to a fine of one hundred dollars and in addition to any fine imposed for the offence is liable to pay an amount equivalent to the duty that would have been payable had the return been so furnished.

(6) A person who furnishes a return pursuant to subsection (1) of this section that is false or misleading is guilty of an offence and is liable to a fine of three hundred dollars and, in addition to any fine imposed for the offence is liable to pay an amount equivalent to the duty evaded.

(7) In this section—

“person resident in the State” and “person”, in the case of a company, includes—

- (a) any company that is registered under any provision of the Companies Act, 1961, or any previous corresponding enactment, whether it is incorporated in the State or not; and

- (b) any company that carries on business in the State.

This subsection shall not be construed as limiting the construction of any provision of this Act.

*Vide*  
"person"  
s. 4 Act  
No. 30 of  
1918.

**92B.** (1) Every person—

- (a) with whom there is effected by any person resident in the State, any insurance in respect of property in the State, or in respect of any liability, loss or damage occurring, or brought about by the happening of any event, within the State, and who in connection therewith issued or issues a policy of insurance or a renewal of any such policy outside the State; or
- (b) who for or on behalf of any person resident in the State arranges, any insurance in respect of property in the State, or in respect of any liability, loss or damage occurring, or brought about by the happening of any event, within the State, for which insurance a policy of insurance or a renewal of any such policy was or is issued outside the State,

Returns to  
be made in  
respect of  
certain  
insurance.  
Added by  
No. 54 of  
1968, s. 6.  
Amended by  
No. 32 of  
1972, s. 6.

shall furnish a return to the Commissioner giving such particulars of the policy or the renewal as may be prescribed.

(2) A return required to be furnished to the Commissioner under subsection (1) of this section—

- (a) shall be furnished in the manner and at the time or times prescribed; and
- (b) may contain particulars of more than one policy of insurance or renewal of a policy of insurance.

(3) Subject to subsection (3a) of this section, 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.

(3a) Where a person satisfies the Commissioner that he cannot, with reasonable diligence, ascertain the premium paid in respect of a policy of insurance or renewal thereof issued outside the State, the Commissioner may approve of the policy, or document stampable as such or the renewal, as the case may be, being stamped with the duty prescribed under the heading "POLICY OF INSURANCE (UNDISCLOSED PREMIUM)" in the Second Schedule to this Act, and the stamping of the policy, document or renewal in accordance with this subsection within ten days after it is received in this State constitutes sufficient compliance with the provisions of this section relating to the stamping of, and payment of duty upon, the policy, stampable document or renewal.

(4) Where duty has been paid under section ninety-two A of this Act upon a return lodged under subsection (1) of that section and the policy of insurance or renewal thereof, in respect of the insurance to which the return relates is thereafter received in the State, the duty so paid shall be allowed as a set off against any duty payable under this section in respect of the policy or the renewal.

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

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.

*Stamp.*

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*Receipts.*

[S. 94 of  
No. 10 of 1922  
was repealed  
by No. 39 of  
1931, s. 11.]

96. [*Repealed*<sup>1</sup> by No. 102 of 1970, s. 2.]
97. [*Repealed*<sup>1</sup> by No. 102 of 1970, s. 2.]
98. [*Repealed*<sup>1</sup> by No. 102 of 1970, s. 2.]
99. [*Repealed*<sup>1</sup> by No. 102 of 1970, s. 2.]
- 99A. [*Added* by No. 67 of 1966, s. 8. *Repealed*  
by No. 102 of 1970, s. 7.]
- 99B. [*Added* by No. 67 of 1966, s. 9. *Repealed*  
by No. 102 of 1970, s. 8.]
- 99C. [*Added* by No. 67 of 1966, s. 10. *Repealed*  
by No. 102 of 1970, s. 9.]
- 99D. [*Added* by No. 50 of 1967, s. 7. *Repealed*<sup>1</sup>  
by No. 102 of 1970, s. 2.]
100. [*Repealed* by No. 102 of 1970, s. 10.]
101. [*Repealed* by No. 67 of 1966, s. 12.]
- 101A. [*Added* by No. 67 of 1966, s. 13. *Repealed*  
by No. 102 of 1970, s. 11.]
102. [*Repealed* by No. 5 of 1954, s. 2.]
103. [*Repealed* by No. 5 of 1954, s. 2.]

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<sup>1</sup> On and from 1st January, 1971.

*Betting Tickets.*

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.

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

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).

**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.

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).

**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.

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.

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).

Penalty: Twenty dollars.

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.

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

109. [*Repealed by No. 93 of 1966, s. 11.*]

110. [*Repealed by No. 93 of 1966, s. 12.*]

111. [*Repealed by No. 93 of 1966, s. 13.*]

112. [*Repealed by No. 93 of 1966, s. 14.*]



PART IVA.—SALES AND PURCHASES OF MARKETABLE  
SECURITIES BY BROKERS AND DUTY THEREON.

Interpre-  
tation.  
Added by  
No. 93 of  
1966, s. 15.

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

“broker” means a person who is a member of The Stock Exchange of Perth and includes a broker’s agent;

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

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

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

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

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

Application  
of this Part.  
*Vide* Com-  
monwealth  
Currency  
Act 1965,  
No. 95 of  
1965.  
Added by  
No. 93 of  
1966, s. 16.

**112B.** This part and the duty payable as calculated on the return referred to in section one hundred and twelve C of this Act, in accordance with paragraph (3a) of the item “CONVEYANCE OR TRANSFER on sale of property” in The Second

Schedule to this Act, applies to the sale and purchase of a marketable security or a right in respect of shares only if—

- (a) the consideration for the sale and purchase is in money or money's worth of not less than the unencumbered value of the security or the right; and
- (b) the security or the right is listed on a stock exchange that is a prescribed stock exchange for the purposes of paragraph (h) of subsection (6) of section three hundred and seventy-four of the Companies Act, 1961.

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

Record and return of sales and purchases. Added by No. 93 of 1966, s. 17. Amended by No. 50 of 1967, s. 8.

- (a) pursuant to an order lodged with him in the State; or
- (b) on his own account or behalf,

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

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

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

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

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

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

- (a) a sale, such as is referred to in subsection (1) of this section, where the sale is made pursuant to an order to sell lodged with him by or on behalf of another dealer;
- (b) a purchase, such as is so referred to, where the purchase is made pursuant to an order to purchase lodged with him by or on behalf of another dealer; or
- (c) a sale or purchase of marketable securities of The State Energy Commission of Western Australia established under the State Electricity Commission Act, 1945<sup>1</sup>; or

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<sup>1</sup> Now State Energy Commission Act, 1945-1975.

any other prescribed Crown instrumentality, agent of the Crown or Government authority,

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

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

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

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

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

**112D.** (1) A broker shall, in accordance with the directions of the Commissioner pursuant to subsection (2) of section one hundred and twelve C of this Act, lodge with the Commissioner the return required to be made by him under and in accordance with that section, together with a remittance for the amount of duty payable in respect of the sales and purchases of the marketable

Returns to be lodged and duty paid. Added by No. 93 of 1966, s. 18.

securities and rights in respect of shares to which the return relates, calculated on the sale price or the purchase price, as the case may be in accordance with this Act.

Nil return to be lodged.

(2) Where a broker has not made any sale or purchase of marketable securities or rights in respect of shares during any period for which a return is required to be made, he shall lodge with the Commissioner a "nil" return with respect to that period.

Offence of failure to pay duty.

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

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

Endorsement of transfer as to payment of duty. Added by No. 93 of 1966, s. 19.

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

Penalty: One thousand dollars.

(2) A broker who—

- (a) endorses an instrument of transfer as required by subsection (1) of this section in respect of a sale or purchase to which subsection (1) of section one hundred and

Twelve C of this Act applies, before entering the details of the sale or purchase in the record required to be kept by him under that subsection; or

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

commits an offence against this Act.

Penalty: One thousand dollars.

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

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

Power to dealer to recover duty paid by him on account of vendor or purchaser.  
Added by No. 93 of 1966, s. 20.

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

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

Saving.  
Added by No. 93 of 1966, s. 21.

Prohibition of registration of transfers unless in proper form and duly stamped. Added by No. 93 of 1966, s. 22.

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

- (a) in the case of a transfer to give effect to a sale and purchase of that security or that right otherwise than through the agency of a broker unless—
  - (i) a proper instrument of transfer has been delivered to that corporation, company or society and wherein, in the case of a transfer by way of sale, the consideration therefor is expressed in terms of money and the actual date of the sale and the date of the execution by the transferor or the transferor and transferee where both are required to execute the instrument, are set out therein; and
  - (ii) the instrument is duly stamped; and
- (b) in the case of a transfer to give effect to the sale and purchase of that security or that right through the agency of a broker unless—
  - (i) a proper instrument of transfer has been delivered to the corporation, company or society; and
  - (ii) the transfer is by virtue of subsection (3) of section one hundred and twelve E deemed to have been duly stamped.

Instrument of transfer to be retained for period by company.

(2) Where a transfer of a marketable security or of any right in respect of shares has been registered, recorded or entered in the books of a corporation, company or society in the State, the instrument of transfer shall be retained in the State by the corporation, company or society for a period of not less than three years after the date it is so registered, recorded or entered.

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

Penalty: One hundred dollars.

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

PART IVB.—CREDIT AND RENTAL BUSINESS.

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

“acceptable rate of interest” in relation to a loan *bona fide* secured on any interest in land, means the rate of interest that the lender agrees to accept as long as the borrower duly observes and performs all his covenants and agreements including those relating to the prompt payment of interest;

“credit arrangement” means an arrangement for the provision of credit in relation to the sale of goods or the provision of services where any amount in excess of the cash price is or may be charged for or in relation to the goods or services pursuant to the arrangement, but does not include any such arrangement where the only amount in excess of the cash price that is or may be chargeable is an amount that does not exceed the amount that would have been chargeable if the arrangement required the payment of interest on the amount of credit provided under the arrangement and from time to time outstanding at a rate per

Heading added by No. 113 of 1969, s. 10.

Interpretation. Added by No. 113 of 1969, s. 10.

Amended by No. 102 of 1970, s. 12; No. 9 of 1974, s. 7.



*Stamp.*

centum per annum declared from time to time by the Treasurer of the State by instrument in writing published in the *Government Gazette* which rate shall not be less than nine per centum per annum;

“credit business” means the business of making loans or entering into credit arrangements or discount transactions but does not include—

- (a) the business of a pawnbroker carried on in accordance with the Pawnbrokers Act, 1860; or
- (b) any business that is effected or evidenced by an instrument to which Part IVC of this Act applies; or
- (c) the business of making loans to its members of a body known as a credit union that is registered under the Co-operative and Provident Societies Act, 1903;

“discount transaction” means the purchase, acquisition, discounting or factoring of book debts or other things in action, not being marketable securities, for a consideration that is less than the amount of the book debt or the nominal or face value of the thing in action, but does not include the purchase, acquisition, discounting or factoring of—

- (a) any book debt or other thing in action from a corporation by another corporation that is by virtue of subsection (5) of section six of the Companies Act, 1961, deemed to be related to that first mentioned corporation, where the consideration is not less than ninety-six per centum

of the amount of the book debts or the nominal or face value of the things in action;

- (b) any book debt or other thing in action that relates solely to an amount due to any person in the Commonwealth for goods or other chattels personal that have been exported by that person from the Commonwealth; or
- (c) any bill of exchange or promissory note at a discount rate not exceeding the rate per centum per annum declared from time to time by the Treasurer of the State by instrument in writing published in the *Government Gazette* which rate shall not be less than nine per centum per annum;

“goods” includes all chattels personal and any fixture severable from the realty but does not include money, livestock and things in action;

“interest” does not include—

- (a) any sum lawfully agreed to be paid on account of duties or fees payable under any Act;
- (b) any sum payable to a legal practitioner for costs necessarily incurred by the lender in relation to a loan *bona fide* secured on any interest in land not exceeding the amount fixed by any general order for the time being in force, made pursuant to section sixty-four of the Legal Practitioners Act, 1893; or

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- (c) any sum lawfully agreed to be paid in respect of the valuation of any real property given as security for the loan if the sum payable does not exceed the amount payable for the valuation under the scale of fees, if any, for the time being fixed by The Real Estate Institute of Western Australia;

but except as provided in the foregoing provisions of this interpretation includes any amount, by whatever name called, in excess of the principal amount of the loan, which amount has been or is to be paid or payable in consideration of or otherwise in respect of the loan;

“loan” includes—

- (a) an advance of money;
- (b) money paid for or on account of, or on behalf of, or at the request of, any person;
- (c) a forbearance to require payment of money owing on any account whatsoever; and
- (d) any transaction (whatever its terms or form) that in substance effects a loan of money—

but does not include any loan, advance, payment, forbearance or transaction where the interest payable in consideration or in respect thereof is at an annual rate not exceeding the rate per centum per annum declared from time to time by the Treasurer of the State by instrument in writing published in the *Government Gazette* which rate shall not be less than nine per centum per annum;

“principal” in relation to a loan means the amount actually lent;

“rate of interest” in relation to a loan *bona fide* secured on any interest in land, means the acceptable rate of interest;

“registered person” means a person who is registered under this Part;

“rental business” means the business of granting to any person rights to use any goods, whether pursuant to a lease, bailment or licence or otherwise, but does not include the business of granting to any person the right to use goods in conjunction with a lease of, or licence to occupy or use, any real property.

(2) For the purposes of this Part, where the interest charged on a loan is not expressed in terms of a rate, any amount paid or payable to the lender with respect to the loan shall be appropriated to principal and interest in the proportion that the total amount of principal bears to the total amount of the interest, and the rate per centum per annum represented by the interest charged shall be calculated in accordance with the Schedule to the Money Lenders Act, 1912, and that rate shall, for the purposes of this Part, be the rate of interest of the loan.

Calculation  
of interest.

(3) In this Part, a reference to interest at a rate per centum per annum is a reference to a simple annual rate on the balance of the loan or obligation from time to time outstanding.

(4) This Part does not apply to the transaction of any credit business with The Rural and Industries Bank constituted under the Rural and Industries Bank Act, 1944, or with any bank as defined in section five of the Banking Act 1959 of the Parliament of the Commonwealth as amended from time to time, other than—

(a) a loan that is not an overdraft on current account; or

*Stamp.*

- (b) a purchase, acquisition, discounting or factoring of bills of exchange or promissory notes at a discount rate in excess of the rate per centum per annum declared from time to time by the Treasurer of the State by instrument in writing published in the *Government Gazette* which rate shall not be less than nine per centum per annum.

(4a) The Treasurer of the State may by instrument in writing published in the *Government Gazette* declare that this Part does not apply to or in relation to—

- (a) any discount transaction to which the parties are bodies corporate and which comprises the purchase, acquisition, discounting or factoring of any bill of exchange or promissory note that is—
  - (i) drawn, made, accepted or indorsed by a bank, an authorized dealer in the short term money market, or a dealer in the unofficial short term money market;
  - (ii) drawn or made for a term not exceeding one hundred and eighty days; and
  - (iii) drawn or made for an amount or value of not less than fifty thousand dollars;
- (b) any loan for a term not exceeding one hundred and eighty days to which the parties are bodies corporate and which has a principal of not less than fifty thousand dollars and which is—
  - (i) a loan to a bank;
  - (ii) a loan to or by an authorized dealer in the short term money market;
  - (iii) a loan to or by a dealer in the unofficial short term money market; or

- (iv) a loan by one body corporate to another body corporate by way of temporary investment of surplus funds.

(4b) For the purposes of subsection (4a) of this section—

“authorized dealer in the short term money market” means a body corporate declared by the Treasurer of the State by instrument in writing published in the *Government Gazette* to be, for the purposes of this Part, an authorized dealer in the short term money market;

“bank” means The Rural and Industries Bank of Western Australia constituted under the Rural and Industries Bank Act, 1944, any bank constituted under a law of any other State of the Commonwealth, or any bank as defined in section five of the Banking Act 1959 of the Parliament of the Commonwealth as amended from time to time;

“dealer in the unofficial short term money market” means a body corporate declared by the Treasurer of the State by instrument in writing published in the *Government Gazette* to be, for the purposes of this Part, a dealer in the unofficial short term money market.

(4c) An instrument in writing made by the Treasurer of the State under subsection (4a) or (4b) of this section—

- (a) shall be treated as having effect, or as having had effect, as the case requires, on and from the date specified in the instrument, which date may be the date on which the instrument is made or any date earlier or later than that date;
- (b) may be amended, varied or revoked by the Treasurer of the State by instrument in writing published in the *Government Gazette*.

*Stamp.*

(5) A person is not required to register under this Part by reason only of the fact that he is acting as agent for or is the employee of a person who carries on any credit business or rental business.

(6) In the interpretation of "discount transaction" in subsection (1) of this section, the reference to the amount of the book debt or the nominal or face value of the thing in action does not include any amount payable as interest or appropriated to interest with respect to that book debt or thing in action.

Persons carrying on credit or rental business required to be registered. Added by No. 113 of 1969, s. 11; amended by No. 9 of 1974, s. 7.

**112J.** (1) A person shall not in the State carry on any credit business or any rental business (whether or not he carries on any other business) or advertise or hold himself out in any way as carrying on any such business, whether the head office or principal place of business of that person is in the State or elsewhere, unless he is a registered person.

Penalty: Five thousand dollars and in addition is liable to pay a penalty equal to double the amount of stamp duty that would have been payable if he had been a registered person.

- (2) A person who in the course of any business—
- (a) undertakes negotiations in the State with the object of transacting any credit business or rental business; or
  - (b) enters into discount transactions that relate to book debts or other things in action that are situated or enforceable in the State,

shall be deemed to carry on credit business or rental business, as the case may be, in the State, whether he has an established place of business in the State or not.

(3) The Commissioner shall register any person who applies, in the prescribed form, for registration under this Part.

(4) A registered person who ceases to carry on credit business or rental business in the State may cancel his registration under this Part by giving notice in the prescribed form to the Commissioner.

112K. (1) A registered person—

(a) shall lodge with the Commissioner at such intervals as the Commissioner in writing directs, a statement in the prescribed form and verified in the manner prescribed, showing—

Statements to be lodged with the Commissioner by registered persons. Added by No. 113 of 1969, s. 12. Amended by No. 102 of 1970, s. 13.

- (i) the total amount of all loans, other than short term loans and housing loans, made by him during the last preceding month;
- (ii) an amount equal to one and a half per centum of the total amount referred to in subparagraph (i) of this paragraph, as set out in the statement;
- (iii) the sum of the total amount of all short term loans other than housing loans, made by him during the last preceding twelve months that were outstanding in whole or in part at the end of the month to which the statement relates and the total amount of all such short term loans, other than housing loans, made within such month and repaid within that month;
- (iv) an amount equal to one eighth of one per centum of the total amounts referred to in subparagraph (iii) of this paragraph;
- (v) the total amount expended by him during the last preceding month on discount transactions other than short term discount transactions;



*Stamp.*

- (vi) an amount equal to one and a half per centum of the total amount referred to in subparagraph (v) of this paragraph, as set out in the statement;
- (vii) the sum of—
  - (I) the total amounts expended by him in respect of short term discount transactions by which book debts or other things in action were purchased, acquired, discounted or factored by him during the last preceding twelve months, but to the extent only that they, at the end of the last preceding month were not realized by collection, sale, disposal or any other form of realization; and
  - (II) the total amount expended by him in respect of short term discount transactions by which book debts or other things in action were purchased, acquired, discounted or factored by him during the last preceding month, but to the extent only that they, at the end of that month, were fully realized by collection, sale, disposal or any other form of realization;
- (viii) an amount equal to one eighth of one per centum of the total amounts referred to in subparagraph (vii) of this paragraph, as set out in the statement;
- (ix) the sum of the total of all amounts debited by him for the sale of goods or the provision of services during

the last preceding month pursuant to a credit arrangement made by him under which credit in excess of two hundred dollars is or may be obtained less any amounts credited against amounts so debited in respect of goods returned or services not provided;

- (x) the sum of the total amount received by him during the last preceding month in respect of his rental business for or in relation to the use of goods other than books;
- (xi) an amount equal to one and a half per centum of the sum of the total amounts referred to in subparagraphs (ix) and (x) of this paragraph, as set out in the statement;
- (xii) the total amount paid as duty pursuant to section sixteen of this Act under the heading "MORTGAGE (legal or equitable), BOND, DEBENTURE, COVENANT, WARRANT OF ATTORNEY to confess and enter up judgment and FOREIGN SECURITY of any kind" or the heading "BOND, COVENANT, OR INSTRUMENT of any kind whatsoever" in the second Schedule to this Act—
  - (I) in respect of any instrument executed during the last preceding three months; or
  - (II) by reason of the provisions of subsection (2) of section eighty-three of this Act, in respect of any security deemed, by that subsection for the purpose of stamp duty, to be a new and separate instrument and to bear a date on a day

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within the last preceding three months—

that secures any of the loans the amounts of which were included in the total amounts of loans referred to in subparagraph (i) or (iii) of this paragraph and in respect of which an amount has not been included under this subparagraph in any statement previously lodged by him with the Commissioner under this section, but to the extent only to which the amounts so paid as stamp duty are attributable to the loans the amounts of which are so included in the total amount of loans referred to in those subparagraphs; and

- (b) at the time of lodging the statement with the Commissioner, shall pay in cash to the Commissioner as stamp duty on that statement a sum equal to the difference between the sum of the amounts referred to in subparagraphs (ii), (iv), (vi), (viii) and (xi) and the amount referred to in subparagraph (xii) of paragraph (a) of this subsection, as set out in the statement, but where any loan has been included in a statement lodged with the Commissioner pursuant to subparagraph (i) of paragraph (a) of this subsection and that loan is repaid within ten months of the making of the loan, the registered person concerned may deduct from the amount to be paid pursuant to this paragraph an amount equal to one eighth of one per centum of the amount of the loan so repaid for each complete month between the repayment of the loan and the expiration of twelve months from the making of the loan.

(2) Where—

- (a) a registered person has been carrying on rental business but not any credit business; and

- (b) the total amount received by him during the last preceding twelve months in respect of his rental business for or in relation to the use of goods other than books did not exceed five thousand dollars—

the registered person may, instead of lodging a statement with the Commissioner under subsection (1) of this section by notice in writing given to the Commissioner, elect to lodge with the Commissioner not later than each 31st day of March, a statement showing the total amount received by him in the period commencing on the 1st day of February in the last preceding year and ending on the 31st day of January in the year in which the statement is lodged in respect of his rental business for or in relation to the use of goods other than books (not including any amount previously included in a statement lodged with the Commissioner pursuant to paragraph (a) of subsection (1) of this section) and to pay in cash to the Commissioner as stamp duty on that statement an amount equal to one and a half per centum of such total amount.

(3) A registered person who has given to the Commissioner a notice of election under subsection (2) of this section, is liable to pay and shall pay to the Commissioner at the time the statement is lodged with the Commissioner, the amount of stamp duty on the statement in accordance with the notice of election, but where the total amount so received by the registered person in the period to which the statement relates does not exceed five thousand dollars, the registered person is not liable to pay to the Commissioner, any stamp duty on that statement.

(4) An election made by a registered person pursuant to subsection (2) of this section may be cancelled, with effect from and in relation to the period of twelve months commencing on the 1st day of February next following, by notice in writing under the hand of the registered person given to the Commissioner or by notice in writing under the hand of the Commissioner given to the registered person

if the Commissioner is satisfied that the total amount received by the registered person who has made the election was in excess of seven thousand five hundred dollars in any period of twelve months.

(5) For the purposes of this section—

(a) “housing loan” means a loan—

(i) that the borrower has declared, by statutory declaration in the prescribed form, to have been obtained for the purpose of defraying the whole or part of the cost of the construction or acquisition of a house or flat that is occupied or intended to be occupied by the borrower for residential purposes or of defraying the whole or part of the cost of land on which the borrower intends to have constructed a house or flat to be occupied by him for residential purposes; and

(ii) the repayment of which is secured by a mortgage of that house or flat or of the land on which it is or is being constructed or on which the house or flat is intended to be constructed or which is to re-finance any such loan and which loan when re-financed is secured by a mortgage of that house or flat or land;

“short term discount transaction” means a discount transaction that the registered person has elected in the prescribed manner to treat as a short term discount transaction;

“short term loan” means—

(i) a loan that the registered person has elected in the prescribed manner to treat as a short term loan; or

(ii) a loan that is a loan upon an account current other than a loan upon an account current that the registered

person has declared in the prescribed manner and within the prescribed period, to be a special account current;

- (b) the amount of a loan upon an account current other than a special account current, with a registered person in relation to any statement is the maximum amount of the principal appearing in the account as due to the registered person at any particular time during the last preceding month;
- (c) a loan referred to in paragraph (b) of this subsection shall be deemed to have been made and repaid in that last preceding month; and
- (d) the amount of a loan upon a special account current in relation to any statement is the total amount of the loans made upon that account by the registered person in that last preceding month.

(6) A registered person who contravenes or fails to comply with any of the requirements of this section is guilty of an offence against this Act and is liable to a penalty of five hundred dollars and in addition is liable to pay a penalty equal to double the amount of any stamp duty that would have been payable if that requirement had not been contravened or had been complied with, as the case may be.

**112L.** The amounts to be shown in any statement required to be lodged under section one hundred and twelve K of this Act include, in relation to—

Amounts to be included in statement.  
Added by No. 113 of 1969, s. 13.

- (a) loans, the amount of loans made by or on behalf of the registered person to persons resident or domiciled in the State or in respect of which any of the negotiations have taken place in the State;

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- (b) discount transactions, the amount of the consideration given by the registered person for book debts or other things in action situated or enforceable in the State;
- (c) credit arrangements, the amount of credit provided by or on behalf of the registered person with respect to goods sold or services supplied in the State; and
- (d) rental business, amounts received by or on behalf of the registered person in respect of the use of goods where—
  - (i) the right to use the goods was granted in the State; or
  - (ii) any of the negotiations by or on behalf of the registered person with respect to the grant of the right to use the goods were undertaken in the State; or
  - (iii) the goods were delivered in the State to the person to whom the right to use the goods was granted.

Method of denoting stamp duty on statement. Added by No. 113 of 1969, s. 14.

**112M.** The duty paid by a registered person on a statement lodged with the Commissioner under section one hundred and twelve K of this Act shall be denoted by cash register imprint on the statement or such other manner approved by the Treasurer as is notified by the Commissioner in the *Government Gazette*.

Matters not required to be included in statement. Added by No. 113 of 1969, s. 15.

**112N.** (1) Nothing contained in section one hundred and twelve K of this Act requires a registered person to include in a statement, required by that section to be lodged with the Commissioner, any amount in respect of—

- (a) a transaction entered into by him in the course of any business carried on by him in accordance with the provisions of the Pawnbrokers Act, 1860;

- (b) a transaction effected or evidenced by an instrument to which Part IVC of this Act applies;
- (c) a loan or discount transaction or the grant of the right to use any goods made or entered into before the commencement of this Part;
- (d) that part of the amount of any loan the repayment of which is secured upon—
  - (i) an interest in a loan or upon book debts or other things in action acquired in a discount transaction, the amount of which loan or discount transaction was included by the borrower in a statement lodged with the Commissioner pursuant to section one hundred and twelve K of this Act;
  - (ii) an interest in an instalment purchase agreement, as defined in part IVC of this Act, in respect of which duty has been paid under Part IVC of this Act; or
  - (iii) an interest in a lease, bailment, licence or other agreement that confers on any person the right to use any goods in respect of which amounts have been or are being included in statements lodged with the Commissioner pursuant to section one hundred and twelve K of this Act,which is equal to the value of the interest upon which the repayment is secured;
- (e) a discount transaction, to the extent that the discount transaction relates—
  - (i) to a book debt or other thing in action the amount of which was included in a statement lodged with the Commissioner pursuant to section one hundred and twelve K of this Act; or



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- (ii) to an instalment purchase agreement, as defined in Part IVC of this Act, in respect of which stamp duty under that Part has been paid;
- (f) such proportion of an amount received for or in relation to the use of goods under a lease, bailment, licence or other agreement that provides for the registered person to be responsible for servicing the goods under the lease, bailment, licence or other agreement, as in the opinion of the Commissioner or of some person nominated by the Commissioner in that behalf is properly attributable to the cost of servicing those goods;
- (g) any business transacted by him outside the State where—
  - (i) none of the negotiations leading to the transaction of the business took place in the State; and
  - (ii) the amounts obtained or the goods obtained by the other party to the transaction were obtained for the purpose of being wholly expended or wholly used outside the State.

(2) A registered person shall supply to the Commissioner such particulars of the matters referred to in subsection (1) of this section as are prescribed or are, in any particular case, required by the Commissioner.

Registered person to keep records. Added by No. 113 of 1969, s. 16.

**1120.** (1) A registered person shall keep or cause to be kept in the State sufficient books and records to enable all amounts required to be set out in a statement to be lodged by him with the Commissioner under section one hundred and twelve K of this Act to be accurately calculated.

Penalty: Five hundred dollars.

(2) A registered person shall keep available for inspection the books and records referred to in subsection (1) of this section, together with all working papers used in making the calculations referred to in that subsection, for a period of three years from the month or year, as the case may be, to which each statement in which the amounts so referred to and set out relates, or for such lesser period as the Commissioner may, in any particular case, allow.

Penalty: Five hundred dollars.

(3) Where the Commissioner is satisfied that—

- (a) it is not reasonably practicable to calculate precisely any total amount that is to be set out in the statement of a registered person required to be lodged under section one hundred and twelve K of this Act, the Commissioner may agree to accept from that person statements in which that amount is calculated in such a manner or on such a basis as the Commissioner thinks fit; or
- (b) in the circumstances of a particular case it is not reasonable to require statements to be lodged by the registered person in each month, he may agree to accept statements at such times and relating to such periods as the Commissioner thinks fit.

(4) Where, pursuant to subsection (3) of this section, the Commissioner agrees to accept from a registered person a statement—

- (a) in which an amount is calculated in a manner or on a basis different from that required under section one hundred and twelve K of this Act; or

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- (b) at a time or relating to a period otherwise than in accordance with that section,

the registered person shall, at the time of lodging that statement with the Commissioner, pay to him the amount of stamp duty that would be payable on that statement if it were lodged by him with the Commissioner in accordance with that section.

(5) The Commissioner may, by notice in writing served on a registered person, cancel any agreement made pursuant to subsection (3) of this section, and upon the day specified in the notice as the day on which the agreement is cancelled, the agreement has no further force or effect in relation to that registered person.

As to trans-  
actions with  
unregistered  
persons.  
Added by  
No. 113 of  
1969, s. 17.  
Amended by  
No. 3 of  
1971, s. 4.

**112P.** (1) Where any person domiciled or resident in the State transacts or offers to transact any business with a person carrying on any credit business or rental business (whether within or outside the State) who is not a registered person, he shall forthwith make a note or memorandum in writing of the transaction or offer containing such particulars as are prescribed.

(2) A note or memorandum made under subsection (1) of this section is chargeable with stamp duty at the rate of one and a half per centum of, in the case of a note or memorandum relating to—

- (a) a credit arrangement, the amount of credit provided or to be provided;
- (b) a discount transaction, the amount of the consideration for the purchase, acquisition, discounting or factoring of the book debts or other things in action;
- (c) a loan, the amount of the loan; and
- (d) any rental business, the amount that is or will be payable for the use of the goods, but where the amount is not capable of being determined, the person making the

note or memorandum is liable, instead of paying stamp duty as hereinbefore provided in this subsection, to pay—

- (i) a stamp duty of ten cents by an impressed stamp on the note or memorandum; and
- (ii) not later than each 31st day of March, further stamp duty on the note or memorandum of an amount equal to one and a half per centum of the amount paid by him in respect of the use of the goods during the year ending on the last preceding 31st day of January.

(3) The stamp duty shall be denoted on the note or memorandum by an impressed stamp and shall be paid by the person liable to make the note or memorandum within seven days of the making thereof.

(4) A note or memorandum that is not stamped as required by this section may be stamped on payment of a penalty of double the amount of the duty that should have been paid.

(5) A person who fails to comply with subsection (1) of this section is liable to pay a penalty equal to double the amount of the stamp duty that would have been payable if he had made a note or memorandum in writing of the transaction or offer in compliance with the requirements of that subsection.

(6) Notwithstanding anything contained in this section, a person domiciled or resident in the State is not required to make a note or memorandum of any business transacted or offered to be transacted—

- (a) if the business relates to a loan for an amount of less than twenty thousand dollars and is not secured by a mortgage or charge over property in the State;

- (b) if the business is an arrangement for the provision of credit in relation to the sale of goods or the provision of services other than a loan or a discount transaction;
- (c) if the business relates to the grant of the right to use any goods and the total amount that is or will be payable for the use thereof does not exceed one hundred dollars or the grant of the right to the use of the goods is for a period of fourteen days or less;
- (d) with a person carrying on business outside the State if —
  - (i) none of the negotiations leading to the transaction of or to the offer to transact the business were carried out in the State; and
  - (ii) the amount obtained or the goods obtained by him were obtained for the purpose of being wholly expended or wholly used outside the State;
- (e) with the Crown or any person acting on behalf of the Crown, whether in right of the Commonwealth or any State thereof; or
- (f) which is not a credit arrangement, a discount transaction, a loan or the grant of the right to use goods.

PART IVC.—INSTALMENT PURCHASE AGREEMENTS.

**112Q.** In this Part, unless the contrary intention appears—

“credit purchase agreement” means an agreement for the purchase of goods under which—

- (a) irrespective of the time at which the property in the goods passes or is to pass to the purchaser, the purchase price or any part thereof is paid or

payable by not less than six instalments which are to be paid over a period of not less than six months; and

- (b) any of the instalments are to be paid after the goods have been delivered to the purchaser,

whether those instalments are paid or payable by cash or by cheque, bill of exchange or promissory note payable on demand or otherwise;

“goods” include all chattels personal and any fixtures severable from the realty, but does not include money, livestock or things in action;

“hire-purchase agreement” means an agreement for the bailment of goods under which—

- (a) the bailee may buy the goods;
- (b) the property in the goods may pass to the bailee; or
- (c) 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 itself constitutes a hire-purchase agreement) there is such a bailment of goods, the agreements shall be deemed to be and treated as a single agreement;

“instalment purchase agreement” means a credit purchase agreement, a hire-purchase agreement or a rental agreement;

“purchase price”—

- (a) in relation to a credit purchase agreement or a hire-purchase agreement, means the total amount payable under the agreement by the purchaser on any account whatsoever in respect of the goods the

subject matter of the agreement less the amount of the deposit or other money or consideration paid or given to the vendor at or before the making of the agreement and less the total amount payable under the agreement for or by way of interest or insurance or other charge; or

- (b) in relation to a rental agreement, means 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 rental agreement;

“purchaser” means the person to whom goods are bailed or sold or agreed to be bailed or sold under an instalment purchase agreement;

“rental agreement” means 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—

- (a) continue the bailment; or  
 (b) 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;

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

Stamp duty on instalment purchase agreements. Added by No. 113 of 1969, s. 19; amended by No. 9 of 1974, s. 10.

**112R.** (1) Subject to this Act, there shall be chargeable upon every instrument constituting or evidencing an instalment purchase agreement entered into after the coming into operation of this Part the stamp duty specified in the Second Schedule to this Act under the heading “INSTALMENT PURCHASE AGREEMENT.” .

(2) Except as provided in subsection (3) of this section, the stamp duty shall be denoted by impressed stamp, adhesive coupon or adhesive stamps and shall be paid by the vendor and the adhesive stamps shall be affixed and cancelled in accordance with this Act.

(3) Where the vendor is a person not bound by the provisions of this Act, the liability to pay the stamp duty on the agreement shall fall on the purchaser and the stamp duty shall be denoted by impressed stamp, adhesive coupon or adhesive stamps and the adhesive stamps shall be affixed and cancelled in accordance with this Act.

112S. (1) The Commissioner may, by instrument in writing, declare any person carrying on business as a vendor to be an "approved vendor" for the purposes of this Act, and may, in like manner, at any time revoke a declaration so made.

Declaration of approved vendors and payment of duty on monthly returns. Added by No. 113 of 1969, s. 20; amended by No. 9 of 1974, s. 10.

(2) Until a declaration made under subsection (1) of this section is revoked as provided therein, the person specified in the declaration is, for the purposes of this Act, an approved vendor.

(3) A person who is or has been an approved vendor is not liable for the payment of stamp duty denoted by impressed stamp, adhesive coupon or adhesive stamps as provided by section one hundred and twelve R of this Act in respect of instalment purchase agreements entered into while he is or was an approved vendor, but he is liable for the payment of stamp duty in respect of all such agreements in accordance with, and shall comply with, the provisions of this section.

(4) A person who enters into an instalment purchase agreement while he is an approved vendor shall—

(a) lodge with the Commissioner before the fifteenth day of each month a statement in the prescribed form verified by a



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statutory declaration setting out the sum of the purchase prices of all instalment purchase agreements, if any, entered into by him during the last preceding month and the sum of the purchase prices of all instalment purchase agreements entered into by him during the last preceding month that are exempt from stamp duty under the heading "INSTALMENT PURCHASE AGREEMENT" in the Second Schedule to this Act;

- (b) at the time of lodging the statement with the Commissioner pay in cash to the Commissioner as stamp duty on that statement a sum equal to one and a half per centum of the difference between the sums set out in the statement; and
- (c) keep or cause to be kept in the State sufficient books and records to enable all amounts required to be set out in the statement so lodged with the Commissioner under this section to be accurately calculated.

Penalty: Five hundred dollars.

(5) The person referred to in subsection (4) of this section shall keep the books and records so referred to, together with all working papers used in making such calculations, available for inspection for a period of at least three years from the month to which each statement in which such amounts are set out relates, or for such lesser period as the Commissioner may, in any particular case, allow.

Penalty: Five hundred dollars.

(6) The stamp duty paid by an approved vendor under paragraph (b) of subsection (4) of this section shall be denoted by cash register imprint on the statement or in such other manner approved by the Treasurer as is notified by the Commissioner in the *Government Gazette*.

112T. (1) A vendor or other person shall not add the amount of any stamp duty or any part thereof payable under this Part by the vendor on or with respect to an instalment purchase agreement that is a hire-purchase agreement to any amount payable by the purchaser, whether under the hire-purchase agreement or otherwise, or otherwise demand or recover or seek to recover any such amount from the purchaser.

Vendor not to add duty on hire-purchase agreement to purchase price. Added by No. 113 of 1969, s. 21.

(2) Where a person contravenes subsection (1) of this section—

- (a) the court by which the defendant is convicted shall, in addition to imposing a penalty for the offence, order the defendant to refund to the purchaser any such amount which has been paid by the purchaser; or
- (b) the purchaser may recover any such amount from the person to whom he paid it by action in a court of competent jurisdiction as if it were a debt due to him from that vendor or the person.

112U. (1) The vendor of any goods under an instalment purchase agreement, whether he is an approved vendor or not, shall, where the purchase price of the goods exceeds twenty dollars, at or before the time of the making of the agreement, prepare an original instrument in relation to the agreement in accordance with this section.

Preparation of instrument. Added by No. 113 of 1969, s. 22.

(2) The original instrument—

- (a) if the instalment purchase agreement is in writing, shall be the agreement as in writing; and
- (b) in any other case shall be a memorandum in writing of the agreement prepared for the purposes of this section.

(3) An instrument to which this section relates shall not be prepared in accordance with this section unless it clearly and truly sets out—

- (a) the names of the parties thereto;

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- (b) the full name and address of the vendor, identified as the vendor or owner of the goods the subject matter of the agreement;
  - (c) a description of the goods sufficient to indicate their nature;
  - (d) the total amount payable under the agreement by the purchaser on any account whatsoever in respect of the goods;
  - (e) the amount of the deposit or other money or consideration paid or given to the vendor at or before the making of the agreement;
  - (f) the total amount payable under the agreement for or by way of interest or insurance or any other charge;
  - (g) the purchase price of the goods,
- and the instrument is boldly marked "Original Instrument" on the front or first page thereof.

(4) An instrument to which this section relates—

- (a) shall, not later than twenty-eight days after the agreement to which it relates is entered into, be stamped by the vendor as required by this Act; or
- (b) where the vendor is an approved vendor, shall be boldly marked on the front or first page thereof "Approved Vendor, duty payable on monthly return".

(5) The vendor or, if the rights of the vendor under the agreement are assigned to any other person, that other person, shall keep every such original instrument available for inspection throughout the period during which goods are bailed or any rent or instalments of purchase price or other moneys are payable under the agreement and shall at any reasonable time during that period on demand produce it for inspection by the Commissioner or by an officer authorised in writing by the Commissioner for the purpose, whether generally or in a particular case.

(6) A person who contravenes or fails to comply with any provisions of this section is guilty of an offence and is liable to a penalty of five hundred dollars.

112V. Notwithstanding anything contained in this Act, a duplicate or counterpart of an original instrument constituting or evidencing an instalment purchase agreement, which original instrument is chargeable with stamp duty under this Act, is not chargeable with stamp duty as an original instrument or as a duplicate or counterpart thereof.

Duplicates.  
Added by  
No. 113 of  
1969, s. 23.

112W. Notwithstanding the repeal by the Stamp Act Amendment Act, 1969 of sections seventy-six, seventy-six A and seventy-six B of this Act, and the heading in the Second Schedule to this Act entitled "HIRE-PURCHASE AGREEMENT", as in force prior to the commencement of this Part, the provisions of those sections and that heading shall continue to apply to and in relation to every hire-purchase agreement, as defined therein, entered into before the commencement of this Part, and the stamp duty expressed therein to be chargeable thereon is payable and is recoverable by the Commissioner as if those provisions were in force and had not been so repealed.

As to hire-purchase agreements entered into before this Part.  
Added by  
No. 113 of  
1969, s. 24.

#### PART V.—MISCELLANEOUS.

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.

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

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;

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).

- (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.

Penalty: Not exceeding forty dollars.

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

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

Penalty in cases not provided for.  
No. 10 of 1922, s. 115, renumbered s. 116 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.

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

Limitation of proceedings for offences.  
No. 10 of 1922, s. 116, renumbered s. 117 in 1934 reprint.

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.

Representation of Commissioner.  
No. 10 of 1922, s. 117, renumbered s. 118 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.

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.  
Amended by No. 113 of 1969, s. 25.

119. (1) If the Crown or a person representing the Crown or a local authority or a person representing a local authority, 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 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.

(2) In this section "local authority" means a municipality constituted under the Local Government Act, 1960.

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) [*Repealed by No. 102 of 1970, s. 14.*]
- (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;
- (ea) the appointment of persons as persons authorized to make out and affix adhesive coupons;
- (eb) measures to be taken to prevent the re-use of adhesive coupons;
- (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, or for the better securing of the revenue of the Crown as it may be affected by this Act.

Regulations.  
No. 10 of  
1922, s. 119,  
renumbered  
s. 120 in 1934  
reprint.  
Amended by  
No. 113 of  
1965, s. 4 (1);  
No. 67 of  
1966, s. 14;  
No. 102 of  
1970, s. 14;  
No. 9 of  
1974, s. 8.

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

(3) The regulations may require that, in such cases as may be prescribed, documents required by or under this Act to be lodged with the Commissioner shall be verified by statutory declaration or by affidavit made by such persons as may be prescribed and exempting any such statutory declaration from being chargeable with duty under this Act.

## 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.

Section 16.  
Amended\*

## THE SECOND SCHEDULE.\*

Person  
liable under  
Section 39.

## NATURE OF INSTRUMENT.

Stamp Duty  
Payable.

AFFIDAVIT OR STATUTORY DECLARATION or declaration having by statute the effect thereof ....	\$ 0.10
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*Exemptions.*

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<sup>1</sup>, or the Dividend Duties Act, 1902<sup>2</sup>.
- (3) Required under the Government Savings Bank Act, 1906<sup>3</sup>.
- (4) Required under the Marriage Act, 1894, or the Registration of Births, Deaths, and Marriages Act, 1894<sup>4</sup>.
- (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 *Gazette*.

The person making the affidavit or declaration.  
 Amended by  
 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 1969, s. 26;  
 No. 102 of 1970, s. 15;  
 No. 29 of 1971, s. 5;  
 No. 32 of 1972, s. 8;  
 No. 19 of 1973, s. 4;  
 No. 9 of 1974, s. 9;  
 No. 46 of 1974, ss. 6 and 7.

\* 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); No. 67 of 1966, s. 15; No. 93 of 1966, s. 23; No. 50 of 1967, s. 9; No. 54 of 1968, s. 10.

<sup>1</sup> Now Land Tax Assessment Act, 1907-1973.

<sup>2</sup> Repealed by Income Tax Assessment Act, 1937.

<sup>3</sup> Title changed. See State Savings Bank Act, 1906-1926.

<sup>4</sup> Repealed by Registration of Births, Deaths and Marriages Act, 1961.

NATURE OF INSTRUMENT.	Stamp Duty Payable. \$	Person liable under Section 39. The parties thereto. Amended by No. 67 of 1966, s. 15; No. 93 of 1966, s. 23.
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	

*Exemptions.*

- (1) Agreement or memorandum the matter whereof is not of the value of \$40.
- (2) Agreement for the employment of any person at wages or salary not exceeding \$10 a week.
- (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 Her Majesty or any Government department and declared by the Governor to be exempt from duty.
- (6) Agreement under which an option is given or taken to purchase or sell any marketable security at a future time at a certain price.
- (7) Agreement contained in the form of Form 3 in the Schedule to the Marketable Securities Transfer Act, 1966, headed "FOR COMPLETION BY TRANSFEREES OF SECURITIES WITH AN UNCALLED LIABILITY."
- (8) Agreement contained in the form of Form 6 in the Schedule to the Marketable Securities Transfer Act, 1966 headed, "FOR COMPLETION BY TRANSFEREE(S) OF RIGHTS WHERE WHOLE OF MONEYS TO BE SUBSCRIBED FOR MARKETABLE SECURITIES TO WHICH RIGHTS RELATE ARE NOT PAYABLE IN FULL ON APPLICATION."

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.

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 or executing the appointment.

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—

The person making the appraisal.



Stamp.

Person liable under Section 39.	NATURE OF INSTRUMENT.	Stamp Duty Payable. \$
	Where the amount of the appraisalment or valuation—	
	Does not exceed \$200 .....	0.50
	Exceeds \$200 but does not exceed \$400 .....	1.00
	Exceeds \$400 but does not exceed \$1,000 .....	1.50
	Exceeds \$1,000 .....	2.00

*Exemptions.*

Instrument setting forth any appraisalment 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 Her 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.

Exempt from duty. APPRENTICESHIP—Instrument of .....

ARTICLES OF ASSOCIATION. *See* Company.

Exempt from duty. ARTICLES OF CLERKSHIP—Instrument of .....

ASSIGNMENT. *See* Conveyance and Deed of Assignment.

ATTESTED COPY. *See* Copy.

ATTORNEY, Letter or Power of. *See* Power of Attorney.

ATTORNEY. Warrant of. *See* Warrant of Attorney.

The person making or executing the award. AWARD, whether under hand only or under hand and seal—

Where the amount of 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

*Exemption.*

Award made in any matter in which Her Majesty is a party, either directly or by some public officer acting in such matter, or representing Her Majesty, or the Government of Western Australia therein.

Amended by No. 47 of 1925, s. 4; No. 12 of 1930, s. 2; No. 63 of 1954, s. 3 (2); No. 64 of 1959, s. 3; No. 72 of 1965, s. 16 (e); No. 113 of 1965, s. 4 (1).	BETTING TICKET—On every betting ticket issued by a bookmaker—	
	(a) Within the Grand Stand enclosure of any Metropolitan racecourse .....	0.02½
	(b) Elsewhere within the grounds of a racecourse .....	0.00½

NATURE OF INSTRUMENT.	Stamp Duty Payable. \$	Person liable under Section 39.
(c) Elsewhere than within the Grand Stand enclosure of any Metropolitan racecourse or than within the grounds of a racecourse		
(i) where the consideration for the bet recorded on the betting ticket does not exceed \$2 .....	0.01½	
(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 .....

Amended by  
No. 39 of  
1931, s. 12  
(1); No. 70  
of 1957, s. 6;  
No. 22 of  
1960, s. 4;  
No. 72 of  
1965, s. 16  
(d); No. 29 of  
1971, s. 5;  
No. 46 of  
1970, s. 6.

0.08

*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 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, or a body established for patriotic purposes to which the Commissioner has granted a certificate under section forty-nine A of this Act.

**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—

Amended by  
No. 9 of  
1974, s. 9;  
No. 46 of  
1974, s. 7.

- (1) Bill or note drawn or made out of Western Australia and duly stamped with *ad valorem* duty under the law of another State of the Commonwealth .....

0.08

*Stamp.*

Person  
liable under  
Section 39.

NATURE OF INSTRUMENT.

Stamp Duty  
Payable.  
\$

- (2) Bill or note (not being a bill or note drawn or made and stamped as referred to in paragraph (1)) that is expressed to be payable at a fixed period of not more than 120 days after date or sight—  
 In respect of each ten days and also of any fractional part of ten days of that period (a period expressed by reference to a month or months being reckoned on the basis of 30 days for a month), for every \$100 and also for any fractional part of \$100 of the amount or value of the money for which the bill or note is drawn or made ..... 0.01
  - (3) Bill or note of any other kind whatsoever—  
 For every \$100 and also for any fractional part of \$100 of the amount or value of the money for which the bill or note is drawn or made ..... 0.12
- 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.

Amended by  
No. 72 of  
1965, s. 16  
(e);  
No. 94 of  
1972 (as  
amended by  
No. 19 of  
1973);  
1973, s. 4  
and Second  
Schedule.

- 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 one tonne weight or measurement ..... 0.05  
 Exceeding one tonne ..... 0.10

BILL OF SALE—  
 Absolute. *See* Conveyance on Sale.  
 By way of security. *See* Mortgage.

The obligor

- BOND, COVENANT, OR INSTRUMENT of any kind whatsoever—  
 (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

NATURE OF INSTRUMENT.	Stamp Duty Payable. \$	Person liable under Section 39.
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 .... .. 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	{ <i>Ad valorem</i> mortgage duty.
(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 .... .. In any other case— For every \$10 and also for any fractional part of \$10 of the annuity or amount annually payable ....	0.05	{ <i>Ad valorem</i> collateral mortgage duty.
(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 see Sections 70 and 84.

*Exemption.*

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. 72 of 1965, s. 16 (f)
Bond with one or more sureties given by a contractor submitting a tender on construction work to be done in the State, to provide that the tender shall not be withdrawn by the obligor before it is accepted or rejected and if the tender is accepted the obligor shall execute the contract for the construction of the work to which the tender relates, within a stipulated time.		Added by No. 54 of 1968, s. 10.
BOND FOR ADMINISTRATION of estate of a deceased person .... ..	1.00	The obligor

*Exemption.*

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 Act, 1965, in respect of the sale of		The Vendor. Added by No. 72 of 1965, s. 16 (g).

Stamp.

Person  
liable under  
Section 39.

NATURE OF INSTRUMENT.

Stamp Duty  
Payable.  
\$

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.<sup>1</sup>

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

Amended by  
No. 70 of  
1957, s. 6;  
No. 72 of  
1965, s. 16  
(h) (1);  
No. 29 of  
1971, s. 5;  
No. 46 of  
1974, s. 6.

CHEQUE or ORDER payable on demand ..... 0.08

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.

The  
company.

COMPANY—

Memorandum of Association of, under Companies Act, 1893<sup>2</sup> ..... 2.00

Articles of Association of, under Companies Act, 1893<sup>2</sup> ..... 2.00

On contract filed with Registrar under Section 26 of Companies Act, 1893,<sup>2</sup> 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. (Item Contract Note, deleted by Act No. 93 of 1966, s. 23.)

<sup>1</sup> Amount declared as three-tenths of a cent for every \$1 of purchase money with a maximum stamp duty of 50 cents. See G.G. 17/11/72, pp. 4379-80.  
<sup>2</sup> See now Companies Act, 1961.

*Stamp.*

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NATURE OF INSTRUMENT.	Stamp Duty Payable. \$	Person liable under Section 39.
CONVEYANCE or TRANSFER on sale of property—		
(1) Land transfer under the Transfer of Land Act, 1893—		The purchaser. Amended by No. 11 of 1930, s. 2.
(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;
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	No. 72 of 1965, s. 16 (j) (i) 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	
(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 or any other marketable security or right in respect of shares) 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) (i) and (ii); No. 93 of 1966, s. 23.
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 or any other marketable security or right in respect of shares not being a transfer of a marketable security or right in respect of shares that is made or executed to perfect a sale or purchase thereof to which the provisions of Part IVA of this Act apply and which is deemed to be duly stamped in accordance with those provisions or a transfer in respect of any marketable security or right in respect of shares on a register situate outside the State—		The purchaser. Repealed and re-enacted by No. 72 of 1965, s. 16 (j) (iii); No. 93 of 1966, s. 23. Amended by No. 50 of 1967, s. 9; No. 29 of 1971, s. 5.
where the amount or value of the consideration is less than \$100 for every \$25 and also for every fractional part of \$25 ....	0.15	
where the amount or value of the consideration is \$100 or more for every \$100 and also for any fractional part of \$100 ....	0.60	

Stamp.

Person  
liable under  
Section 39.

NATURE OF INSTRUMENT.

Stamp Duty  
Payable.  
\$

*Exemption.*

Transfer of Marketable Securities of the State Energy Commission of Western Australia established under the State Electricity Commission Act, 1945,<sup>1</sup> or any other prescribed Crown instrumentality, agent of the Crown or Government Authority.

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

The broker.  
Added by  
No. 93 of  
1966, s. 23.  
Amended by  
No. 50 of  
1967, s. 9;  
No. 29 of  
1971, s. 5.

- (3a) Sales and purchases to which a return lodged with the Commissioner pursuant to Section 112C of this Act relates—
    - an amount calculated on the consideration for each of those sales and purchases—
      - (i) where the consideration—
        - does not exceed \$25 ..... 0.08
        - exceeds \$25 but does not exceed \$50 ..... 0.15
        - exceeds \$50 but does not exceed \$75 ..... 0.23
        - exceeds \$75 but is less than \$100 ..... 0.30
      - (ii) where the consideration is \$100 or more—
        - for every \$100 and also for any fractional part of \$100 ..... 0.30
- of the sale price or the purchase price as the case may be.

*Exemption.*

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

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

- (4) [*Repealed by No. 72 of 1965, s. 16 (j) (iv).*]
- (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 ..... 0.15
- (6) [*Deleted by No. 20 of 1962, s. 2.*]

The purchaser.  
Repealed and re-enacted by No. 72 of 1965, s. 16 (j) (v);  
Amended by No. 50 of 1967, s. 9;  
No. 29 of 1971, s. 5.

<sup>1</sup> Amended by Act No. 25 of 1975, s. 3. Now State Energy Commission Act, 1945-75.

NATURE OF INSTRUMENT.	Stamp Duty Payable. \$	Person liable under Section 39.
CONVEYANCE or TRANSFER of any kind not herein- before 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.
CONVEYANCE or TRANSFER of a lot by the responsi- ble authority for a town planning scheme, in- cluding 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 sub- stitution or exchange for that land or part thereof, where the lot is comprised in the scheme and the conveyance or transfer is made in order to carry out or facilitate the carrying out of the scheme Expressions used in this item have the same meaning as they respectively have in the Town Planning and Development Act, 1928.	1.00	The transferee or person in whom the property is vested. Added by No. 20 of 1962, s. 2. Amended by No. 67 of 1966, s. 15.
<i>Exemption.</i>		
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 .... In any other case ....	0.10	{The same duty as such instru- ment.
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.		
DECLARATION of any use or trust of or concerning any property by any writing, and not being a will, or an instrument chargeable with <i>ad valorem</i> duty as a settlement or gift ....	1.00	The person declaring the trust.
DECLARATION (Statutory). See Affidavit.		
DEED OF ASSIGNMENT under the Bankruptcy 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.



Stamp.

Person liable under Section 39.

NATURE OF INSTRUMENT.

Stamp Duty Payable.  
§

*Exemptions.*

- (1) Grants for the fee simple or other less estate in lands from Her Majesty.
- (2) Conveyances, transfers, surrenders, or lease of the fee simple or other less estate in land to Her Majesty or for her use.
- (3) Agreements for the employment of persons at wages or salaries not exceeding \$10 a week.

DRAFT. See Bill of Exchange.

Amended by No. 67 of 1966, s. 15; No. 102 of 1970, s. 15 (a).

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

*Exemptions.*

Duplicate hire-purchase agreement.  
Duplicate policy of insurance.

{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.

The person to whom any property is conveyed by way of exchange.

**EXCHANGE—**

For any instrument effecting an exchange of any property ....

The guarantor.

GUARANTEE of any kind not otherwise described ....  
See Section 83 (2).

{Ad Valorem mortgage duty.

*Exemption.*

Guarantees given by bankers to shipowners or others on behalf of consignees of cargo.

HIRE-PURCHASE AGREEMENT [*deleted by No. 113 of 1969, s. 26*].

Added by No. 113 of 1969, s.26.

**INSTALMENT PURCHASE AGREEMENT—**

Any instrument constituting or evidencing an instalment purchase agreement ....

1½ per centum of the purchase price as set out in the original instrument within the meaning of section 112U of this Act.

*Exemptions.*

- (1) Any instalment purchase agreement where the purchase price does not exceed \$20.
- (2) Any instalment purchase 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.
- (3) Any credit purchase agreement for the purchase of goods together with—
  - (a) real property;

NATURE OF INSTRUMENT	Stamp Duty Payable. \$	Person liable under Section 39.
(b) any estate or interest in real property; or (c) any business or interest in a business.		
<b>LEASE—</b>		
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. . . . .] The lessee.
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.
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
Exceeds \$100—for every \$100 and also for any fractional part of \$100 ....	0.25	0.50
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

*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<sup>1</sup>, 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.

<sup>1</sup> Repealed by Land Act, 1933 (s. 4).

Stamp.

Person liable under Section 39.	NATURE OF INSTRUMENT.	Stamp Duty Payable. \$
<p>The mortgagor or person giving the security. Amended by No. 72 of 1965, s. 16 (n); No. 93 of 1966, s. 23.</p>	<p>MORTGAGE (legal or equitable), BOND, DEBENTURE, COVENANT, WARRANT OF ATTORNEY to confess and enter up judgment and FOREIGN SECURITY of any kind—</p> <p>(1) Being the only or principal or primary security for the payment or repayment of money—</p> <p style="padding-left: 2em;">Not less than \$20 nor exceeding \$40 ....</p> <p style="padding-left: 2em;">Exceeding \$40 but not exceeding \$80 ....</p> <p style="padding-left: 2em;">Exceeding \$80 but not exceeding \$120 ..</p> <p style="padding-left: 2em;">Exceeding \$120 but not exceeding \$160 ..</p> <p style="padding-left: 2em;">Exceeding \$160 but not exceeding \$200 ..</p> <p style="padding-left: 2em;">Exceeding \$200 for every \$200 and also for any fractional part of \$200 ....</p> <p>(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—</p> <p style="padding-left: 2em;">for every \$200 and also for any fractional part of \$200 of the amount secured ..</p> <p>And see Bond.</p> <p>(3) TRANSFER OR ASSIGNMENT of any mortgage, bond, debenture, covenant, or foreign security, not being a marketable 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—</p> <p style="padding-left: 2em;">For every \$200 and also for any fractional part of \$200 of the amount transferred as aforesaid ....</p> <p style="padding-left: 2em;">And also where any further money is added to the money already secured ..</p> <p>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—</p> <p style="padding-left: 2em;">For every \$200 and also for every fractional part of \$200 of the amount transferred or assigned ....</p>	<p>0.05</p> <p>0.10</p> <p>0.15</p> <p>0.20</p> <p>0.25</p> <p>0.25</p> <p>0.05</p> <p>0.10</p> <p>(The same duty as a principal security for such further money.)</p> <p>0.05</p>
<p>The mortgagor or person giving the security.</p>	<p>(4) RECONVEYANCE, release, or discharge of any security as aforesaid, or of the benefit thereof, or of the money thereby secured—</p> <p style="padding-left: 2em;">For every \$200 and also for every fractional part of \$200, of the total amount or value of the money at any time secured ....</p> <p>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 <i>ad valorem</i> duty, and the release of the collateral or additional security shall be charged with a duty of 10 cents only.</p>	<p>0.10</p>
<p>The transferor or assignor.</p>		
<p>The mortgagor or obligor.</p>		

NATURE OF INSTRUMENT.	Stamp Duty Payable. §	Person Mable under Section 39.
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.		
(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	The mortgagor or obligor.

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).

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 Bill of Exchange .. .. . 0.10  
 See Section 91.

The notary.

ORDER. See Bill of Exchange payable on demand.

**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.

*Stamp.*

Person liable under Section 39.

NATURE OF INSTRUMENT.

Stamp Duty Payable  
\$

- (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.

POLICY OF INSURANCE (UNDISCLOSED PREMIUM)—

Added by No. 32 of 1972, s. 8.

For every \$100 and also for every fractional part of \$100 of the sum insured .. .... 0.05

The person by whom the instrument is executed or made.

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

- (1) For the receipt of the dividend on any stock or shares:
  - Where made for the receipt of one payment only .... 0.10
  - In any other case .... 0.50
- (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) .... 0.50
- (3) Of any kind whatsoever, not hereinbefore described .. .... 2.00

*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.

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NATURE OF INSTRUMENT.	Stamp Duty Payable. \$	Person liable under Section 39.
RECEIPT. [ <i>Repealed<sup>1</sup> by No. 102 of 1970, s. 2.</i> ]		
RECONVEYANCE. <i>See</i> 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. Added 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. <i>See</i> Conveyance on Sale. By way of security. <i>See</i> Mortgage, etc. In any other case ....	1.00	
REVOCATION of any use or trust of any property by any writing not being a will ....	1.00	
SETTLEMENT, DEED OF, or DEED OF GIFT— (1) Any instrument, whether voluntary or upon any good or valuable consideration other than a <i>bona fide</i> 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 as follows—		The settler, or donor. Amended by No. 67 of 1966, s. 15.
Where the amount or value of the property—does not exceed \$2,000 ....	2½	Per Centum.
Exceeds \$2,000 but does not exceed \$10,000	3½	
Exceeds \$10,000 but does not exceed \$20,000	4½	
Exceeds \$20,000 but does not exceed \$30,000	5½	
Exceeds \$30,000 but does not exceed \$40,000	6½	
Exceeds \$40,000 but does not exceed \$50,000	7½	
Exceeds \$50,000 but does not exceed \$60,000	8½	
Exceeds \$60,000 but does not exceed \$70,000	9½	
Exceeds \$70,000 but does not exceed \$80,000	10½	
Exceeds \$80,000 but does not exceed \$100,000	11½	
Exceeds \$100,000 but does not exceed \$150,000	14½	
Exceeds \$150,000 but does not exceed \$200,000	19½	
Exceeds \$200,000 ....	22	

<sup>1</sup> On and from 1st January, 1971.

Person liable under Section 39.

NATURE OF INSTRUMENT.

Stamp Duty Payable.  
\$

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. Amended by No. 113 of 1965, s. 4; No. 9 of 1974, s. 10.

THE THIRD SCHEDULE.

When Stamps are Impressed Adhesive Coupons are Affixed, or Adhesive Stamps are 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.