

# STAMP AMENDMENT ACT (No. 2)

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No. 100 of 1987

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**AN ACT to amend the *Stamp Act 1921*.**

[Assented to 18 December 1987]

The Parliament of Western Australia enacts as follows:

## Short title

1. This Act may be cited as the *Stamp Amendment Act (No. 2) 1987*.

## Commencement

2. This Act shall come into operation on 1 January 1988.

## Principal Act

3. In this Act, the *Stamp Act 1921*\* is referred to as the principal Act.

[\*Reprinted as approved 9 June 1985 and amended by Acts Nos. 84 and 85 of 1985, 98 of 1986 and 33 of 1987.]

**Section 75 amended**

4. Section 75 of the principal Act is amended in subsection (4) by inserting after "*inter vivos*" the following—

“ (other than one that is wholly exempt from duty under section 75C) ”.

**Section 75C inserted**

5. After section 75B of the principal Act, the following section is inserted—

Power of exemption for certain conveyances  
between spouses

“ 75C. (1) Upon application made in the manner provided in subsection (3), the Commissioner may exempt from duty any instrument chargeable with duty under item 4 (1) or 19 of the Second Schedule where—

- (a) the person from whom, and the person to whom, the property is conveyed or transferred, or agreed to be conveyed or transferred, are married to each other;
- (b) the property conveyed or transferred, or agreed to be conveyed or transferred, by the instrument includes a dwellinghouse which, at the time of the execution of the instrument was used solely or principally as the ordinary place of residence of the married persons referred to in paragraph (a);
- (c) the lot on which the dwellinghouse referred to in paragraph (b) is erected is used principally or solely for residential purposes associated with that dwellinghouse;
- (d) the person from whom the property is conveyed or transferred, or agreed to be conveyed or transferred, is the sole owner of the property; and
- (e) the result of the conveyance or transfer is or will be that the property is owned solely by the married persons as joint tenants.

(2) Where an instrument referred to in subsection (1) does not relate only to a dwellinghouse and lot described in that subsection the exemption provided by that subsection extends only to the amount of the aggregate value of all property to which the instrument relates that the Commissioner is satisfied is the amount of the value of the dwellinghouse and lot.

(3) An application under subsection (1) shall be in writing and shall be accompanied by a statutory declaration made by each of the married persons declaring that the instrument in respect of which they claim an exemption is an instrument of the kind described in that subsection and if the Commissioner is satisfied that it is such an instrument he shall exempt it from duty in accordance with this section and it shall be endorsed or stamped, as applicable, accordingly.

(4) In this section—

“dwellinghouse” includes flat, apartment or other residential unit;

“lot” means—

(a) a lot as defined in the *Land Tax Assessment Act 1976*; and

(b) 2 or more such lots in the same ownership—

(i) on which is constructed a dwellinghouse parts of which stand on each of the lots; and

(ii) which have common boundaries and which in the opinion of the Commissioner should be treated as a single lot for the purpose of this section. ”.

## Section 84 amended

6. Section 84 of the principal Act is amended in subsection (4)—

(a) in paragraph (c) by inserting after “assessment” where it first occurs the following—

“ , or where reasonable cause has been shown to the Commissioner such further period as he allows in the circumstances, ”; and

(b) in paragraph (d)—

(i) in subparagraph (i) by inserting after “issued” the following—

“ , or any further period allowed by the Commissioner under paragraph (c), ”;

and

(ii) in subparagraph (iii) by inserting after “(a)” the following—

“ as if the instrument related to property only in Western Australia until the assessment and penalty (if any) are paid in full ”.

### **Section 112I amended**

7. Section 112I of the principal Act is amended in the definition of “registered person” by inserting before “under” the following—

“ , or required to be registered, ”.

### **Section 112J amended**

8. Section 112J of the principal Act is amended—

(a) by repealing subsection (1) and substituting the following subsection—

“ (1) Subject to subsection (5), a person who receives the total amount of \$2 000 or more during any month in respect of any rental business carried on by him in the State is required to be registered under this Part within 15 days after the end of the month that he receives that amount, whether or not he carries on any other business and whether the head office or principal place of business of that person is in the State or elsewhere. ”;

(b) in subsection (1a) by deleting “duty that would have been payable if he had been a registered person” and substituting the following—

“ any duty payable under this Part which he has not paid ”;

- (c) by repealing subsection (3) and substituting the following subsection—

“ (3) Application for registration shall be made to the Commissioner in such form as the Commissioner approves in writing. ”;

- (d) by repealing subsection (4) and substituting the following subsection—

“ (4) Where the Commissioner is satisfied that a person is not, and in the future is not likely to be, required to be registered under this Part he shall cancel the registration of that person and inform the person concerned of that cancellation and the date from which it takes effect. ”; and

- (e) by repealing subsection (6).

### Section 112K amended

9. (1) Section 112K of the principal Act is amended—

- (a) in subsection (1a) by deleting “registered person” and substituting the following—

“ person who is registered under this Part ”; and

- (b) by repealing subsections (2) and (3) and substituting the following subsections—

“ (2) Where the total amount received by a registered person during the last preceding 12 months in respect of his rental business did not exceed \$50 000 after deduction of service costs, that person may instead of complying with subsection (1), elect—

- (a) to lodge with the Commissioner not later than 31 August in each year a statement showing the amounts referred to in subsection (1) (a) but instead of being in relation to the total amount received by him during the last preceding month in respect of his rental business, the amounts shall be in relation to the total amount received by him during the last financial year in respect of his rental business (not including any amount previously included in a statement lodged with the Commissioner pursuant to that subsection); and

- (b) to pay to the Commissioner as duty on that statement the amount of duty that would be payable on that statement if it were lodged by him with the Commissioner under subsection (1) (b).

(2a) A notice of election under subsection (2) shall be in writing in such form as the Commissioner approves in writing.

(3) Subject to section 112KA, a registered person who has given to the Commissioner a notice of election under subsection (2), is liable to pay and shall pay to the Commissioner at the time the statement is lodged with the Commissioner, the amount of duty on the statement in accordance with the notice of election. ”;

(c) in subsection (4)—

(i) by deleting “period of 12 months commencing on 1 February” and substituting the following—

“ financial year ”; and

(ii) by deleting “\$30 000” and substituting the following—

“ \$60 000 ”; and

(d) in subsection (5) (b) by inserting after “(1)” the following—

“ or (2) ”.

(2) A notice of election given under section 112K (2) of the principal Act as in force before the commencement of this Act and not cancelled shall continue to have effect as if given under that subsection after the commencement of this Act.

### **Section 112KA inserted**

**10.** After section 112K of the principal Act the following section is inserted—

#### **Exemption from duty**

“ 112KA. (1) Notwithstanding section 112K (3), a person is not liable to pay the Commissioner duty on any statement lodged by him under section 112K (2) beginning with any statement relating to the financial year ending on 30 June 1989 where—

(a) he was a registered person for the whole of the financial year to which the statement relates, and the total amount received by him during the financial year in respect of his rental business does not exceed \$25 000, after deducting service costs; or

- (b) he was a registered person for only a part of the financial year to which the statement relates, and the proportion that the total amount received by him in respect of his rental business during that part of the financial year, after deducting service costs, bears to the amount referred to in paragraph (a) does not exceed the proportion that the part of the financial year bears to a whole financial year.

(2) Where a person has paid duty under section 112K (1) in relation to any month of a financial year beginning with the financial year ending 30 June 1989 and the circumstances described in subsection (1) (a) or (b) applies to that person in respect of the financial year the Commissioner shall refund the duty paid. ”.

### **Section 112L amended**

11. Section 112L of the principal Act is amended by deleting “The amounts to be shown in any statement required to be lodged under section 112K include” and substituting the following—

“ In calculating any total amount received for the purposes of sections 112J, 112K and 112KA, the total amount shall include ”.

### **Section 112N amended**

12. Section 112N of the principal Act is amended in subsection (1) by deleting “Nothing contained in section 112K requires a registered person to include in a statement, required by that section to be lodged with the Commissioner, any amount” and substituting the following—

“ In calculating any total amount received for the purposes of sections 112J, 112K and 112KA, no amount shall be included ”.

### **Section 112P amended**

13. Section 112P of the principal Act is amended—

- (a) in subsection (1) by deleting “carrying on any rental business (whether within or outside the State) who is not a registered person,” and substituting the following—

“ who is not registered under this Part and who—

(a) is required to be so registered; or

(b) is carrying on any rental business outside the State, ”; and

(b) in subsection (2) (d) (ii)—

(i) by deleting “each 31st day of March” and substituting the following—

“ 31 August in each year ”; and

(ii) by deleting “31st day of January” and substituting the following—

“ 30 June ”.

### **Third Schedule amended**

**14.** The Third Schedule to the principal Act is amended in item 6 (2) by deleting “\$80” and substituting the following—

“ \$125 ”.

### **Savings**

**15.** Sections 112K (2) and 112P (2) (d) (ii) of the principal Act as in force before the commencement of this Act shall continue to have effect in respect of any statement otherwise due and any duty or further duty otherwise payable, by not later than 31 March 1988 as if they had not been repealed or amended except that—

(a) the statement, and any duty payable on it, shall only be in respect of the period commencing on 1 February 1987 and ending on 30 June 1987; and

(b) the amount of further duty on the note or memorandum shall only be in respect of the use of the goods during the period commencing on 1 February 1987 and ending on 30 June 1987.



**Transitional**

**16.** Section 112KA of the principal Act after the commencement of this Act applies to a person who lodges—

- (a) any statement under section 112K (1) of the principal Act in respect of the period 1 January 1988 to 30 June 1988 as if that period was a financial year to which section 112KA (1) of that Act applies and the amount referred to in section 112KA (1) (a) was \$12 500;
  - (b) any statement under section 112K (2) of the principal Act in respect of the period—
    - (i) 1 February 1987 to 30 June 1987 as if that period was a financial year to which section 112KA (1) of that Act applies and the amount referred to in section 112KA (1) (a) was \$2 083;
    - (ii) 1 July 1987 to 30 June 1988 as if that period was a financial year to which section 112KA (1) of that Act applies and the amount referred to in section 112KA (1) (a) was \$15 000.
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