

## STAMP (No. 2).

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No. 109 of 1984.

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

[Assented to 19 December 1984.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Stamp Amendment Act (No. 2) 1984*.

Short title  
and principal  
Act.

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

Reprinted as  
approved  
25 March  
1980 and  
amended by  
Acts Nos. 47  
of 1979, 63 of  
1980, 81 and  
106 of 1981,  
1, 10, 15, 45,  
93, 99 and  
112 of 1982  
and 14 and 61  
of 1983.

Commence-  
ment.

2. This Act shall come into operation on 1 January 1985.

References  
to Treasurer  
replaced.

3. The principal Act is amended by deleting “Treasurer” wherever it occurs in—

- (a) section 112B (3);
- (b) section 112C (5) and (5a);
- (c) section 112HA (3b);
- (d) section 112N (1) (fa);
- (e) section 112N (1a) and (1b);
- (f) section 119 (1), (2) and (3); and
- (g) Third Schedule, Item 2 (1),

and substituting in each case the following—

“ Minister ”.

Section 70  
amended.

4. Section 70 of the principal Act is amended by deleting “annuity or other right not before in existence, such annuity or other right” and substituting the following—

“ right not before in existence, other than an annuity, such right ”.

Section 73D  
amended.

5. Section 73D of the principal Act is amended by repealing subsection (4) and substituting the following subsections—

“ (4) Subject to subsections (4a), (4b), (5), (5a) and (6), a transfer of a unit and an instrument effecting or evidencing a disposition in relation to a unit shall each be chargeable with duty as if it were separately—

- (a) a conveyance or transfer free of encumbrances of an undivided share, equivalent to the proportion of the

total issued units under the unit trust scheme represented by the unit, in land or any interest, including any beneficial interest, in land held by the unit trustee as trustee of the unit trust scheme; and

(b) a conveyance of the unit.

(4a) The value of the unit, for the purpose of assessing duty under paragraph (b) of subsection (4), shall be the value of the unit reduced by the value of the land or interest in land (if any) determined for the purpose of assessing duty under paragraph (a) of that subsection.

(4b) Subject to subsections (5) and (5a), the duty chargeable on a transfer of a unit or an instrument effecting or evidencing a disposition in relation to a unit shall not in any event be less than the amount of duty determined under Item 4 (1) of the Second Schedule on the amount or value of the consideration for the transfer or the disposition. ”.

6. Section 83 of the principal Act is amended in subsection (6) by inserting after “cancelled” the following—

Section 83  
amended.

“ or by endorsement under section 112V ”.

7. After section 83 of the principal Act, the following section is inserted—

Section 84  
inserted.

“ 84. (1) Where money to be paid or repaid under an instrument of security is secured both on property in Western Australia and on property out of Western Australia, duty shall be payable under this Part in respect of the

Charges  
secured on  
property  
in and out  
of Western  
Australia.

part of the amount of that money which bears the same proportion to the total amount of that money as the value of the property in Western Australia bears to the aggregate of the values of both the property in and the property out of Western Australia.

(2) Where money to be paid or repaid under an instrument of security is secured wholly on property out of Western Australia, duty shall be payable on the instrument under item 8 of the Second Schedule as if that instrument were a deed. ”.

Section 87  
amended.

8. Section 87 of the principal Act is amended in subsection (1) by inserting after “Commissioner” the following—

“ or a person approved under section 112V ”.

Section 112K  
amended.

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

(a) in paragraph (a)—

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

“ other than rental business to which subparagraph (iii) applies ”; and

(ii) by inserting after subparagraph (ii) the following subparagraphs—

“ (iii) the total amount received by him during the last preceding month in respect of his rental business in respect of which stamp duty or duty of a similar nature has been paid on the hiring

arrangement concerned in accordance with the provisions of any law of the Commonwealth or of any other State or Territory such duty being paid at a rate that is less than the rate specified in subparagraph (ii); and

- (iv) an amount determined by deducting the stamp duty or duty of a similar nature paid elsewhere in Australia on the rental business referred to in subparagraph (iii) from the sum equal to 1.8 per centum of the sum arrived at by deducting service costs from the total amount referred to in subparagraph (iii) as set out in the statement; and ”; and

- (b) in paragraph (b) by deleting “amount referred to in subparagraph (ii)” and substituting the following—

“ amounts referred to in subparagraphs (ii) and (iv) ”.

10. Section 112N of the principal Act is amended in subsection (1) by deleting “of the Commonwealth” in the second place where it occurs in paragraph (f) and substituting the following—

Section 112N  
amended.

“ at a rate that is not less than the rate specified in section 112K (1) (a) (ii) ”.

Section 112V  
amended.

11. Section 112V of the principal Act is amended—

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

“ (4) A person whose application for permission has been granted by the Commissioner under subsection (2) is, while that permission is in force, an approved person for the purposes of this section. ”;

- (b) in subsection (8) by inserting after “112V” the following—

“ and in the case of an instrument which is to be charged with duty pursuant to section 83 (2) and (3), he shall endorse on every such instrument details of the total amount secured or to be ultimately recoverable, or of any advance or loan made or indebtedness increased in excess of that amount, as the case may be, ”; and

- (c) in subsection (9), by inserting after “instrument” the following—

“ bearing an endorsement made under subsection (8) details of which are to be ”.

Third  
Schedule  
amended

12. The Third Schedule to the principal Act is amended—

- (a) in item 3—

- (i) by inserting the paragraph designation “(1)” before “Any”; and

- (ii) by inserting after paragraph (1) the following paragraph—

“ (2) Any instrument or undertaking given by a building society registered under the Building Societies Act 1976 to the Treasurer where the instrument is associated with a guarantee given by the Treasurer securing advances to the building society. ”;

and

- (b) in item 7 by inserting after paragraph (8) the following paragraphs—

“ (9) Any hire purchase agreement or credit purchase agreement.

(10) Any instrument of annuity.

(11) Any instrument charging the assets of a building society registered under the Building Societies Act 1976 in favour of the Treasurer where the instrument is associated with a guarantee given by the Treasurer securing advances to the building society. ”.

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