

## STAMP.

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No. 113 of 1969.

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### AN ACT to amend the Stamp Act, 1921-1968.

[Assented to 28th November, 1969.]

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:—

Short title  
and citation.

1. (1) This Act may be cited as the *Stamp Act Amendment Act, 1969*.

Reprinted as  
approved for  
reprint 27th  
August, 1968,  
as amended  
by Act No.  
54 of 1968.

(2) In this Act the Stamp Act, 1921-1968, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Stamp Act, 1921-1969.

2. This Act or any provision thereof shall come into operation on such date or such dates as are respectively fixed by proclamation.

Commence-  
ment.

3. Section 2 of the principal Act is amended by adding immediately before the heading "PART V.—MISCELLANEOUS, ss. 113-120." Parts as follows—

Amendment  
to s. 2.  
(Division of  
Act.)

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

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

4. Section 4 of the principal Act is amended by adding after the word "includes" in line one of the definition of "Money" the passage "a bill of exchange, a promissory note and".

Amendment  
to s. 4.  
(Defini-  
tions.)

5. Section 9 of the principal Act is repealed and re-enacted as follows—

S. 9 repealed  
and re-  
enacted.

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

Exchange of  
information  
and  
obligation  
of secrecy.

(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.

S. 32 repealed  
and re-  
enacted. -

6. Section 32 of the principal Act is repealed and re-enacted as follows—

Appeal from  
assessment  
of duty.

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 twenty-one days after the date of the assessment, forward to the Commissioner a statement of the grounds of his objection to the assessment; or

- (b) within twenty-one days after the date of the assessment, 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 with the assessment, he may, within twenty-one days after the confirmation or modification is communicated to him, 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.

Amendment  
to s. 49A.  
(Commissioner may  
exempt  
cheques  
drawn by  
charitable  
bodies, etc.)

7. Subsection (1) of section 49A of the principal Act is amended—

- (a) by deleting the word “or” in line nine;
- (b) by adding after the word “purposes” being the last word in paragraph (d) the following passage—

“; 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”; and

- (c) by substituting for the passage “or (d)” in line two of subsection (3) the passage “, (d) or (e)”.

## 8. Section 75B of the principal Act is amended—

Amendment  
to s. 75B.  
(Power to  
exempt from  
duty on re-  
construction  
of company.)

(a) by adding after the word, “company” in line three of subsection (1), the words “or of a foreign company”;

(b) by adding after the word “sale” being the last word in subsection (1), the passage “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 first mentioned 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”; and

(c) by adding after the word “enactment” being the last word in subsection (2) a passage as follows “and ‘foreign company’ means a foreign company to which Division 3 of Part XI of that Act applies”.

## 9. The principal Act is amended by repealing the heading “HIRE-PURCHASE AGREEMENTS.” and sections 76, 76A and 76B.

Heading and  
ss. 76, 76A  
and 76B  
repealed.

## 10. The principal Act is amended by adding immediately before the heading “PART V.—MISCELLANEOUS.” the following heading and section—

Part IVB  
and s. 112I  
added.

## PART IVB.—CREDIT AND RENTAL BUSINESS.

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

Interpreta-  
tion.

“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 at a simple annual rate of nine per centum per annum on the amount of the credit provided under the arrangement and from time to time outstanding;

“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;

“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 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

- (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 nine per centum;

“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

- (b) a purchase, acquisition, discounting or factoring of bills of exchange or promissory notes at a discount rate in excess of nine per centum per annum.

(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. .

S. 112 J  
added.

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

Persons  
carrying on  
credit or  
rental  
business  
required to  
be registered.

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.

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

S. 112K added.

112K. (1) A registered person—

Statements to be lodged with the Commissioner by registered persons.

(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—

- (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;
- (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 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 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 and which is secured by a mortgage of that house or flat 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;

“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. .

S. 112L added.      13. The principal Act is amended by adding a section as follows—

Amounts to  
be included  
in statement.

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—

- (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;
- (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. .

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

S. 112M added.

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*. .

Method of denoting stamp duty on statement.

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

S. 112N added.

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—

Matters not required to be included in statement.

- (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
  - (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. .

S. 112 O  
added.

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

Registered  
person to  
keep records.

112 O. (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
- (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. .

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

S. 112P  
added.

112P. (1) Where any person domiciled or resident in the State transacts or offers to

As to trans-  
actions with  
unregistered  
persons.



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;
  - (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 and  
s. 112Q  
added.

18. The principal Act is amended by adding the following heading and section—

PART IVC.—INSTALMENT PURCHASE AGREEMENTS.

Interpreta-  
tion.

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.

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

S. 112R  
added.

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."

Stamp duty  
on  
instal-  
ment  
purchase  
agreements.

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

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

S. 112S  
added.

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.

(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 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 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*.

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

S. 112T  
added.

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.

(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. .

S. 112U  
added.

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

Preparation  
of  
instrument.

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.

(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;
- (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.

S. 112V  
added.

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

Duplicates.

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. .

S. 112W  
added.

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

As to hire-  
purchase  
agreements  
entered into  
before this  
Part.

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. .

Amendment  
to s. 119.  
(Instru-  
ments to  
which Crown  
is party to be  
exempt from  
duty in  
some cases.)

25. Section 119 of the principal Act is amended—

- (a) by adding after the section number “119.” the subsection designation “(1)”;
- (b) by adding after the word “Crown” in line two the words “or a local authority or a person representing a local authority”; and
- (c) by adding a subsection as follows—

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

26. The Second Schedule to the principal Act is amended by repealing the heading "HIRE-PURCHASE AGREEMENT—" and the provisions under that heading and substituting therefor the following heading and provisions—

Second  
Schedule  
amended.

#### INSTALMENT PURCHASE AGREEMENT—

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

....  $1\frac{1}{2}$  per centum  
of the purchase  
price as set out  
in the original  
instrument with-  
in 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;
    - (b) any estate or interest in real property; or
    - (c) any business or interest in a business.
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