

STAMP DUTIES (AMENDMENT) ACT.

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. 94, 1970.

An Act to abolish stamp duties on receipts; to make further provisions with respect to exemptions from, and concessional rates applicable to, death duty; to provide relief from death duty in certain cases of quick successions; for these and other purposes to amend the Stamp Duties Act, 1920; and for purposes connected therewith. [Assented to, 9th December, 1970.]

BE

Stamp Duties (Amendment).

No. 94, 1970 **BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title and commencement. 1. (1) This Act may be cited as the "Stamp Duties (Amendment) Act, 1970".

(2) Section two of this Act shall be deemed to have commenced on the first day of October, one thousand nine hundred and seventy.

(3) This section and sections three and four of this Act shall commence upon the day upon which this Act receives the Royal Assent.

Amendment of Act No. 47, 1920. 2. (1) The Stamp Duties Act, 1920, is amended—

Sec. 13. (Recovery of fines.) (a) (i) by omitting from subsection one of section thirteen the words "for any offence referred to in the provisions of subsection three of section ninety-one of this Act may be recovered by any person whomsoever in a summary way before any two justices of the peace and any other fine incurred";

(ii) by omitting from subsection two of the same section the words "or, in the case of an offence referred to in the provisions of subsection three of section ninety-one, or of subsection eleven of section 93G, of this Act, two years,";

Sec. 90. (Definitions.) (b) by omitting section ninety and the heading thereto;

Sec. 91. (Receipt to be made out and given or tendered.) (c) by omitting section ninety-one;

(d)

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- (d) by omitting section ninety-two; **No. 94, 1970**
Sec. 92.
(Moneys deemed to have been received— where creditor receives consideration other than money.)
- (e) by omitting section ninety-three; **Sec. 93.**
(Moneys deemed to have been received— where moneys deposited in bank account or transferred from banker to banker.)
- (f) by omitting section 93A; **Sec. 93A.**
(Moneys deemed to have been received— where an amount is credited to creditor's account with debtor.)
- (g) by omitting section 93B; **Sec. 93B.**
(Extension of sections 91, 92, 93 and 93A of this Act.)
- (h) by omitting section 93C; **Sec. 93C.**
(Receipts to Her Majesty subject to duty.)
- (i) by omitting section 93D; **Sec. 93D.**
(Exchanging money for money.)
- (j)**

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- No. 94, 1970** (j) by omitting section 93E;
- Sec. 93E.
(Receipts by solicitors or agents.)
- Sec. 93F. (k) by omitting section 93F;
(Stamping of receipts.)
- Sec. 93G. (l) by omitting section 93G;
(Payment of duty on receipts by return.)
- Sec. 93H. (m) by omitting section 93H;
(Total amount not precisely ascertainable.)
- Sec. 93I. (n) by omitting section 93I;
(Receipts in other instruments.)
- Sec. 93J. (o) by omitting section 93J;
(Rebate of duty in certain cases.)
- Second Schedule—
(Receipt.) (p) by omitting from the Second Schedule the heading “RECEIPT” and all matter appearing under that heading;
- Second Schedule—
(General Exemptions.) (q) (i) by omitting from subparagraph (a) of paragraph eight under the heading “GENERAL EXEMPTIONS FROM STAMP DUTY UNDER PART III” in the Second Schedule the words “, or receipt”;
- (ii) by omitting subparagraph (b) of the same paragraph;
- (iii)

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- (iii) by omitting from paragraph seventeen under No. 94, 1970 the same heading the words “or any receipt endorsed on either or any of such documents for the consideration therefor”;
 - (iv) by omitting from subparagraph (a) of paragraph nineteen under the same heading the words “, order or receipt” and by inserting in lieu thereof the words “or order”.

(2) Notwithstanding the amendments and repeals effected by subsection one of this section, the provisions of the Stamp Duties Act, 1920, referred to in that subsection as in force immediately before the commencement of this section shall continue to apply to and in respect of the powers, authorities, duties, functions, rights, obligations and liabilities of the Commissioner or any other person in relation to moneys received or deemed to have been received before that commencement, as if this section had not been enacted.

(3) Nothing in subsection two of this section affects any of the savings contained in the Interpretation Act, 1897.

(4) Where duty payable under the States Receipts Duties (Administration) Act 1970 of the Parliament of the Commonwealth has been paid in respect of moneys received or deemed to have been received no stamp duty shall be payable under any of the provisions of the Stamp Duties Act, 1920, repealed by subsection one of this section, in respect of those moneys.

3. The Stamp Duties Act, 1920, is further amended— Further amendment of Act No. 47, 1920.

- (a) (i) by inserting in the definition of “Child” in section one hundred after the word “includes” the words “a step-child and”; (Interpretation.)

(ii)

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- (ii) by inserting next after the definition of "Wholly dependent widowed mother" in the same section the following new definition :—

"Wholly dependent widower father" means the father, being a widower, of a deceased person who, in the opinion of the Commissioner, was being substantially maintained and supported by the deceased, and

- (a) in respect of whom a pension is at the time of the death of the deceased being paid under the provisions of the Social Services Consolidation Act 1947 of the Parliament of the Commonwealth or any Act amending or replacing the same; or
- (b) in respect of whom a pension is not being so paid but who, if an application for such a pension had been made, would, in the opinion of the Commissioner, have been entitled to receive such pension; or
- (c) in respect of whom a pension is not being so paid but who, were he not in the care of the State or in receipt of a pension under the Australian Soldiers' Repatriation Act 1920, the Repatriation (Far East Strategic Reserve) Act 1956 or the Repatriation (Special Overseas Service) Act 1962 of

the

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the Parliament of the Commonwealth or any Act amending or replacing the same, would, if an application for a pension under the Social Services Consolidation Act 1947 of the Parliament of the Commonwealth or any Act amending or replacing the same had been made, in the opinion of the Commissioner, have been entitled to receive such pension.

- (b) by inserting at the end of paragraph (c) of section four of section 101D the following new subparagraph :—

(vii) This paragraph shall, in the case of every person who dies after the commencement of section three of the Stamp Duties (Amendment) Act, 1970, whether in New South Wales or elsewhere and who was at the date of his death domiciled in New South Wales, be read and construed as if—

(a) the words “one thousand pounds” and “two thousand five hundred pounds” wherever occurring in subparagraphs (i) and (ii) of this paragraph were omitted therefrom and the words “two thousand dollars” and “thirty thousand dollars” were respectively inserted in lieu thereof;

(b) (i) in subparagraph (i) of this paragraph there were inserted after the words “twenty-one years”

Sec. 101D.
(Death duty—local domicile—estates of certain persons.)

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years” the words “or were wholly dependent adult children, or to the wholly dependent widower father or the wholly dependent widowed mother”;

(ii) in the same subparagraph there were inserted after the words “such child” the words “or wholly dependent widower father or wholly dependent widowed mother”;

(iii) in subparagraph (ii) of this paragraph there were inserted after the words “twenty-one years” the words “or wholly dependent adult children or to the wholly dependent widower father or the wholly dependent widowed mother”.

Sec. 112c.
(Abatement
in favour of
widow, &c.,
in certain
cases.)

(c) by inserting next after subsection (3D) of section 112c the following new subsection :—

(3E) This section shall, in the case of every person who dies after the commencement of section three of the Stamp Duties (Amendment) Act, 1970, be read and construed as if—

(a) the words “seven thousand five hundred pounds” wherever occurring in subsections one and two of this section were omitted therefrom and the words “forty thousand dollars” were inserted in lieu thereof;

(b) in the same subsections there were inserted after the words “twenty-one years” wherever occurring the words “or wholly dependent

adult

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adult children, or to the wholly dependent widower father or the wholly dependent widowed mother”;

- (c) the symbols and figures “£3,000”, “£4,000”, “£5,000”, “£6,000” and “£7,500” wherever occurring in subsection three of this section were omitted therefrom and the symbols and figures “\$32,000”, “\$34,000”, “\$36,000”, “\$38,000” and “\$40,000” were respectively inserted in lieu thereof.

- (d) by inserting at the end of section 112D the following new paragraph :—

This section shall, in the case of every person who dies after the commencement of section three of the Stamp Duties (Amendment) Act, 1970, be read and construed as if—

- (a) the words “seven thousand five hundred pounds” were omitted therefrom and the words “forty thousand dollars” were inserted in lieu thereof;
- (b) the words “or grandchildren” were omitted therefrom and the words “grandchildren, wholly dependent widower father or wholly dependent widowed mother” were inserted in lieu thereof.

4. The Stamp Duties Act, 1920, is further amended by inserting next after section 112E the following new section :—

112F. (1) Where any property is included or is deemed to be included in the dutiable estate of a person (in this section referred to as a successor) dying after

the

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Sec. 112D.
(Non-aggregated property—exemption from duty in certain cases.)

Further amendment of Act No. 47, 1920.
New sec. 112F.

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the commencement of section four of the Stamp Duties (Amendment) Act, 1970, and the Commissioner is satisfied—

- (a) that the property is identifiable with, or has been substituted for, property which was included or was deemed to be included in the dutiable estate of any person (in this section referred to as a predecessor) who died within three years before the death of that successor and death duty was paid in respect of that property;
- (b) that as at the death of the predecessor that property was vested in, or on the death of the predecessor that property passed to or devolved upon, the widow, widower, child, parent, brother or sister of the predecessor;
- (c) that the person entitled to that property immediately before the death of the successor did not acquire that property by or under a purchase for a consideration in money or money's worth made after the death of the predecessor (whether by him or another); and
- (d) that as at the death of the successor that property was vested in, or on the death of the successor, that property passed to or devolved upon, the widow, widower, child, parent, brother or sister of the successor,

then subject to the provisions of subsections two and three of this section the amount of death duty payable on the death of the successor in respect of the property shall be reduced as follows :—

Where the death of the successor occurs within six months after the death of the predecessor—by one hundred per centum.

Where

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Where the death of the successor occurs after the expiration of six months but before the expiration of one year after the death of the predecessor—by fifty per centum. No. 94, 1970

Where the death of the successor occurs after the expiration of one year but before the expiration of two years after the death of the predecessor—by twenty-five per centum.

Where the death of the successor occurs after the expiration of two years but before the expiration of three years after the death of the predecessor—by ten per centum.

(2) Where there is more than one predecessor's death by reference to which a reduction of death duty in respect of property could be made in accordance with this section, the reduction shall be made by reference to such one of those deaths as will result in the greater or greatest reduction.

(3) Where the amount of death duty that but for the operation of subsection one of this section would have been payable on the death of a successor in respect of any property exceeds the amount of death duty paid, in respect of that property or the property for which that property was substituted, on the predecessor's death by reference to which a reduction of death duty is to be made in accordance with this section, the reduction shall be the appropriate percentage referred to in that subsection of the lastmentioned amount.