

NORTHERN TERRITORY OF AUSTRALIA

TAXATION (ADMINISTRATION) ACT

As in force at 15 July 2001

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 15 July 2001

TAXATION (ADMINISTRATION) ACT

An Act relating to the assessment, payment and collection of stamp duty and tax

Part I Preliminary

1 Short title

This Act may be cited as the *Taxation (Administration) Act*.

2 Commencement

This Act shall come into operation on 1 July 1978.

3 Repeal and saving

- (1) The Ordinances set out in the Schedule are repealed.
- (2) An instrument that was in existence before the date of commencement of this Act and on which duty was payable under the repealed Ordinances shall be liable to duty under this Act in the same manner as it would have been under those Ordinances had they not been repealed.
- (3) Where an instrument executed before the commencement of this Act and not being liable to duty under the repealed Ordinances provides for the execution of another instrument that was liable to duty under those Ordinances, and the last-mentioned instrument is executed on or after the commencement of this Act, that last-mentioned instrument is liable to duty under this Act at a rate:
 - (a) equal to the duty that would have been payable on that instrument under those Ordinances had they not been repealed; or
 - (b) equal to the duty payable on that instrument under any other law of the Territory to which this Act is by that law declared to apply,

whichever is the higher.

4 Interpretation

(1) In this Act, unless the contrary intention appears:

adhesive stamp means an adhesive stamp made in pursuance of section 8(1).

agreement, in relation to a conveyance, includes:

- (a) a memorandum of agreement;
- (b) an arrangement or understanding, whether wholly or partly in writing or otherwise and whether or not between all the parties to the agreement, constituting or forming part of the agreement; and
- (c) an application to transfer a licence under the *Fisheries Act* or to transfer a share, unit or other right or interest attaching to such a licence.

approved means approved for the purposes of this Act by the Commissioner.

assessment means an assessment under this Act by the Commissioner, or under Division 9 of Part III by the Registrar, of the amount of duty or tax payable, and includes an amended assessment of duty or tax and an assessment of duty or tax in respect of a return.

business undertaking includes all business undertakings whether or not carried on with a view to profit including a business carried on under or in pursuance of a franchise agreement or arrangement.

cancel, in relation to an adhesive stamp, means cancel the stamp as provided by section 14(1).

Commissioner means the Commissioner of Taxes and includes, subject to this Act, the Deputy Commissioner of Taxes and an acting Commissioner and, in respect of matters as to which the Commissioner has delegated his powers and functions under this Act, that delegate.

company includes a body, society, association, authority or institution, whether corporate or unincorporate, but does not include a partnership.

consideration, in relation to a conveyance, means the consideration for the conveyance without any deduction or discount for the amount of GST (if any) payable in relation to the supply of the property conveyed.

convertible Crown lease means a Crown lease granted by the Territory under the terms of which the lessee has the right to surrender the lease in exchange for the grant of an estate in fee simple in the land or part of the land held under the lease.

conveyance includes a transfer or assignment (or an agreement to transfer or assign), grant, exchange, appointment, settlement, foreclosure, declaration of trust, a statement under section 83B and a decree, judgment or order of a court, whereby dutiable property or a marketable security is transferred or assigned to (or agreed to be transferred or assigned to) vested in or accrues to a person, but does not include the grant of a lease, other than a convertible Crown lease, or a patent.

conveyee means a person to whom dutiable property is conveyed.

court includes a tribunal or other similar body.

Crown lease means a lease granted by or in the name of the Commonwealth or of the Territory.

dutiable property means:

- (a) land;
- (b) the goodwill of a business undertaking carried on or to be carried on in the Territory, or in the Territory and elsewhere, including any restraint of trade arrangement which, in the opinion of the Commissioner, enhances or is likely to enhance the value of the business;
- (c) a right to use in the Territory a business name, trading name or trade mark that is used in connection with such a business undertaking;
- (d) a right to use in the Territory a thing, system or process that is used in connection with such a business undertaking and is the subject of a patent, a registered design or copyright, or a right to use an adaption or modification of such a thing, system or process;
- (e) a right to use in the Territory information or technical knowledge connected with such a business undertaking;

- (f) a patent, a registered design or a copyright;
- (g) a statutory licence or permission given, granted or issued under a law of the Commonwealth and used in connection with such a business undertaking, including a licence or permission surrendered or relinquished or for which an application for renewal is not made and the licence or permission, or a similar licence or permission, is given, granted or issued to another person where, in the opinion of the Commissioner, the giving, grant or issue amounts to or has the same effect as a transfer of the licence or permission;
- (ga) a statutory licence or permission given, granted or issued under a law of the Territory and used in connection with a business undertaking wherever the undertaking is carried on or to be carried on, including a licence or permission surrendered or relinquished or for which an application for renewal is not made and the licence or permission, or a similar licence or permission, is given, granted or issued to another person where, in the opinion of the Commissioner, the giving, grant or issue amounts to or has the same effect as a transfer of the licence or permission;
- (h) an option to purchase dutiable property or an interest in dutiable property; and
- (j) chattels, if part of a transaction in which other dutiable property is conveyed, acquired or created or the beneficial ownership is changed, other than:
 - (i) goods, wares or merchandise that are stock-in-trade;
 - (ii) materials held for use in manufacture;
 - (iii) goods under manufacture;
 - (iv) livestock;
 - (v) any motor vehicle in respect of which a motor vehicle certificate of registration is or will, in the opinion of the Commissioner, be issued;
 - (vi) cash or money in an account at call; or
 - (vii) negotiable instruments, and money on deposit with any person,

and includes an estate or interest in dutiable property.

duty means stamp duty or other impost imposed by a law of the Territory to which this Act is declared by that law to apply.

execute, in relation to an instrument, means sign the instrument and, if the instrument is under seal, sign and seal the instrument, and, for the purposes of this Act, an instrument is first executed the first time that it is signed or, as the case may require, signed and sealed, by any party to it, but an agreement made by acceptance of an offer contained in an instrument is first executed when the offer is accepted in writing.

goods includes all chattels personal other than money or things in action.

Government Business Division has the same meaning as in the *Financial Management Act*.

GST has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

hire-purchase agreement means:

- (a) a letting of goods with an option to purchase; or
- (b) an agreement for the purchase of goods by instalments (whether the agreement describes the instalments as rent, hire or otherwise),

but does not include an agreement by which the property in the goods the subject of the agreement passes at the time of the agreement or on or at any time before the delivery of the goods.

hiring arrangement includes a hire purchase agreement or other arrangement under which goods are or may be used at or during any time by a person other than the owner of those goods where:

- (a) the arrangement is entered into in the Territory;
- (b) the goods are supplied or delivered or agreed to be supplied or delivered in the Territory; or
- (c) the goods are used solely or principally in the Territory,

but does not include:

- (d) an arrangement between a lender and a motor vehicle dealer relating to the supply of a motor vehicle for display or demonstration by the dealer before sale or lease to another person;

- (e) an arrangement relating to the use of an electricity, gas or water meter, a motion picture film, a video cassette, a book or a caravan on a site in a caravan park (within the meaning of the *Caravan Parks Act*);
- (f) an arrangement made under a lease of real property where the rental or other consideration in respect of which duty is chargeable also includes rental or other consideration for goods; or
- (g) an arrangement between related persons unless the lender under the arrangement also enters into a hiring arrangement as the lender with a person in respect of whom the lender is not a related person.

impressed stamp means a stamp impressed by the Commissioner by means of a die or other device made in pursuance of section 8(1).

instrument includes any document.

insurance means an undertaking of liability to make good, or indemnify against, loss or damage (including liability to pay damages or compensation), or insuring the payment of money, contingent upon the happening of a specified event, and includes:

- (a) the accepting of a premium in consideration of the granting, issuing or renewal of a policy of insurance;
- (b) the granting of a cover note or the receiving of a letter or declaration of interest attaching to a policy of insurance; and
- (c) the carrying out, by means of insurance effected outside the Territory, of a contract or undertaking in the Territory to effect that insurance,

but does not include:

- (a) re-insurance effected with another insurer;
- (b) the insurance of the hull of a floating vessel that is being used primarily for commercial purposes; or
- (c) the insurance of goods or merchandise or the freight of goods or merchandise, carried by sea, land or air.

insurer means a person who grants, issues or renews, or intends to grant, issue or renew, a policy of insurance in respect of which tax is imposed.

judge includes a magistrate or any other person acting judicially.

land means land in the Territory and includes:

- (a) a lease of land;
- (b) a mining tenement under the *Mining Act*, including information relating to the tenement; and
- (c) a fixture to land, including a fixture to land comprised in a lease or mining tenement.

lease includes a lease granted under an Act, a sub-lease and an agreement for a lease or sub-lease, but does not include:

- (a) an attornment under a mortgage or contract of sale;
- (b) a right granted by a company to a shareholder of the company, by virtue of his being such a shareholder, to occupy or use land owned or held under lease by the company; or
- (c) an option to renew a lease.

lender:

- (a) in relation to a hiring arrangement, means the person from whom goods are hired under the hiring arrangement; and
- (b) in relation to a hire-purchase agreement, includes the person agreeing to sell goods under the hire-purchase agreement.

lessee means a person to whom a lease is granted or agreed to be granted.

life insurance means insurance insuring the payment of money on death (not being death by accident only or specified sickness only) or on the happening of a contingency dependent upon the termination or continuance of human life (either with or without provision for a benefit under a continuous disability contract referred to in paragraph (c) of this definition), and includes:

- (a) insurance under an instrument evidencing a contract that is subject to payment of premiums for a term dependent upon the termination or continuance of human life;
- (b) insurance under an instrument securing the grant of an annuity for a term dependent upon the termination or continuance of human life;

- (c) insurance under a continuous disability insurance contract (that is by its terms expressed to be of more than one year's duration and is incorporated in a life policy) under which a person is to become entitled to a benefit in the event of the occurrence, within the duration of the contract, of death by accident or by another cause specified in the contract, or injury or disability caused by accident or sickness; and
- (d) insurance under a sinking fund policy insuring the payment of a sum, or series of sums, of money on a future date or dates in consideration of one or more premiums.

life insurer means a company carrying on the business of, or in relation to, the issuing of, or the undertaking of liability under, life policies and includes a person who receives or takes credit for a premium or consideration for any life insurance.

life policy means a policy effecting life insurance.

marketable security means a marketable security not quoted on a recognised stock exchange and includes:

- (a) a share in the capital of a company that is not quoted on a recognised stock exchange;
- (b) a right (whether existing or future and whether contingent or not) of a person to have issued or transferred to the person a share of a kind referred to in paragraph (a), whether on payment of money or other consideration or not; and
- (c) any right or interest (whether described as a unit, sub-unit or otherwise) of a beneficiary under a unit trust scheme that is not quoted on a recognised stock exchange.

motor vehicle certificate of registration means a certificate of registration issued on the registration or the transfer of the registration of a motor vehicle under the *Motor Vehicles Act*.

non-resident means a person who is not a resident of the Territory.

premium, in relation to insurance, means the gross amount charged or payable in respect of the insurance (which amount does not include any stamp duty paid or payable under this Act):

- (a) without deduction for an amount paid or payable or allowed or allowable by way of discount or commission to an agent or other person for securing or arranging that insurance for or on behalf of the insurer; and

-
- (b) without any deduction or discount for the amount of GST (if any) payable in relation to the supply of the insurance,

and includes an instalment of a premium.

recipient means, in relation to a mining agreement, a person authority of other body who, under a law in force in the Territory, is authorized or empowered to enter into a mining agreement but does not included the Crown.

recognised stock exchange means a stock exchange prescribed as a recognised stock exchange for the purposes of this Act.

registered lender means a person who is registered under Division 13 of Part III.

Registrar means the Registrar within the meaning of the *Motor Vehicles Act*.

rent does not include an amount in the nature of a penal rent but does include the amount of GST (if any) payable in relation to the supply of the property in respect of which the rent is paid or payable.

repealed Ordinances means the Ordinances repealed by section 3(1).

return means a return under section 17A(5), 29N, 42, 48, or 75 or the *Financial Institutions Duty Act*.

stamp duty means stamp duty imposed by the *Stamp Duty Act*.

supply has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

tax means a tax or duty imposed by an Act which is declared to be incorporated and read as one with this Act or to which this Act is, by that Act, otherwise declared to apply, and includes duty payable on an instrument or transaction in relation to which a return is by this Act required to be lodged.

tax avoidance scheme has the meaning in section 4B.

this Act includes the *Stamp Duty Act* and the *Financial Institutions Duty Act*.

trustee includes:

- (a) a person constituted a trustee under an implied or constructive trust;

- (b) an executor of the will, or an administrator of the estate, of a deceased person;
- (c) a receiver, guardian, committee or manager of the property of a person under a legal or other disability;
- (d) a receiver or manager of the property of a company or a liquidator of a company for the purpose of its winding-up; and
- (f) a person who may be required to exercise his voting power in relation to a marketable security at the direction of, or holds the marketable security for the benefit of, another person.

unencumbered value, in relation to property (including an estate or interest in property), means full value:

- (a) without regard to:
 - (i) any encumbrance; or
 - (ii) where the property is subject to a trust, not being a public unit trust, any debts or liability of the trustee,

whether certain or contingent; and
- (b) including the amount of GST (if any) payable in relation to the supply of the property.

unit trust scheme means any arrangements made for the purpose, or having the effect, of providing, for persons having funds available for investment, facilities for the participation by them, as beneficiaries under a trust, in any profits or income arising from the acquisition, holding, management or disposal of any property whatsoever pursuant to that trust.

user:

- (a) in relation to a hiring arrangement, means the person to whom goods are hired under the hiring arrangement; and
 - (b) in relation to a hire-purchase agreement, includes the person agreeing to buy goods under the hire-purchase agreement.
- (2) For the purposes of paragraph (c) of the definition of **hiring arrangement**, goods are used principally in the Territory if they are used more in the Territory than elsewhere.

(2A) For the purposes of paragraph (g) of the definition of ***hiring arrangement***, the following are related persons:

- (a) related corporations within the meaning of the Corporations Law or related bodies corporate within the meaning of the *Corporations Act 2001* of the Commonwealth;
- (b) corporations in which the same person has, or the same persons have together, a controlling interest;
- (c) a natural person and a corporation where the person has a controlling interest in the corporation;
- (d) partnerships in which the same person has, or the same persons have together, a controlling interest;
- (e) a natural person and a partnership where the person has a controlling interest in the partnership;
- (f) a corporation and a partnership where the same person has, or the same persons have together, a controlling interest in both the corporation and the partnership.

(2B) For the purposes of subsection (2A):

- (a) a person has, or persons have together, a controlling interest in a corporation if that person or those persons may exercise, control the exercise of, or substantially influence the exercise of, whether directly or indirectly, more than 50% of:
 - (i) the voting power at meetings of the corporation's directors; or
 - (ii) the voting power attached to voting shares issued by the corporation; and
- (b) a person has, or persons have together, a controlling interest in a partnership if that person or those persons:
 - (i) own or own together (whether beneficially or not) more than 50% of the capital of the partnership; or
 - (ii) is or are together entitled (whether beneficially or not) to more than 50% of the profits of the partnership.

(3) For the purposes of this Act, a reference to the duly stamping of an instrument is a reference:

- (a) in relation to an instrument the duty on which is required or permitted by this Act to be denoted by an adhesive stamp – to

the affixing of an adhesive stamp to the instrument having a value not less than the amount of the duty and the cancellation of the stamp in accordance with this Act; and

- (b) in relation to an instrument the duty on which is required or permitted by this Act to be denoted by impressed stamp – to the impressing on the instrument by the Commissioner of a stamp of the amount of the duty.

4A Unencumbered value: arrangements to reduce stamp duty

- (1) For the purposes of the definition of *unencumbered value* in subsection 4(1), in determining the full value of property:
- (a) an agreement or arrangement between related parties that has the effect of reducing the stamp duty payable on a conveyance of the property is to be disregarded; and
- (b) an agreement or arrangement between unrelated parties that has the effect of reducing the stamp duty payable on a conveyance of the property is to be disregarded unless the Commissioner is satisfied that the agreement or arrangement was not made with a purpose (collateral or otherwise) of reducing the stamp duty payable on the conveyance.
- (2) For the purpose of subsection (1)(a), parties to an agreement or arrangement are related if:
- (a) the parties are a corporation and a person who, in relation to the corporation, is an associated person of a kind specified in section 56C(2)(a)(i) to (vi) (inclusive);
- (b) a party is, in relation to the other party, a relative of a kind specified in section 56C(2)(c)(i) to (iv) (inclusive); or
- (c) the parties have a relationship of a kind specified in section 56C(3)(a) to (g) (inclusive).
- (3) For the purpose of subsection (1)(b), in considering whether or not an agreement or arrangement is to be disregarded, the Commissioner may have regard to the following:
- (a) the duration of the agreement or arrangement before the conveyance of the property;
- (b) the nature of the relationship between the transferor and transferee of the property and a party to or affected by the agreement or arrangement;

- (c) the reasons (commercial and otherwise) for making the agreement or arrangement other than to reduce stamp duty;
- (d) other matters the Commissioner considers relevant.

4B Tax avoidance schemes

- (1) In this section:

scheme includes:

- (a) an agreement, arrangement or undertaking:
 - (i) in whatever form;
 - (ii) wherever entered into, made or given;
 - (iii) whether unilateral, bilateral or multilateral; and
 - (iv) whether enforceable or not; and
 - (b) an act done or omitted to be done, or a course of conduct carried out or not or engaged in or not, by any person whomever in any place wherever.
- (2) For the purposes of this Act, a tax avoidance scheme is a scheme that, in the opinion of the Commissioner, has or is intended to have a collateral purpose of:
- (a) reducing the tax or duty otherwise payable under this Act in respect of a conveyance of dutiable property or marketable securities; or
 - (b) obtaining the benefit of an exemption or concession under this Act in respect of a conveyance of dutiable property or marketable securities.
- (3) In considering whether a scheme is a tax avoidance scheme, the Commissioner may have regard to any matter whatever that the Commissioner thinks is relevant.

Part II Administration

5 Commissioner of Taxes

- (1) There shall be a Commissioner of Taxes who shall be appointed by the Administrator.
- (2) The Commissioner has the general administration of this Act.

(3) For the purposes of:

- (a) this Act;
- (b) the *Stamp Duty Act*;
- (c) the *Pay-roll Tax Act*;
- (d) the *Business Franchise Act*; and
- (e) the *Energy Resource Consumption Levy Act*,

the Commissioner is authorized to perform the functions of a State taxation officer under Part IIIA of the *Taxation Administration Act 1953* of the Commonwealth.

5A Deputy Commissioner of Taxes and Assistant Commissioners

(1) There may, pursuant to the *Public Sector Employment and Management Act*, be appointed:

- (a) a Deputy Commissioner of Taxes; and
- (b) such Assistant Commissioners of Taxes as are required to assist the Commissioner in the exercise of the Commissioner's powers and the performance of the Commissioner's functions.

(2) Subject to section 5B, the Deputy Commissioner of Taxes:

- (a) shall perform such functions and exercise such powers as are delegated to the Deputy Commissioner pursuant to section 6; and
- (b) shall, during a vacancy in the office of Commissioner or during an illness, absence from duty or from the Territory or other temporary incapacity of the Commissioner, have and may perform all the functions and exercise all the powers of the Commissioner.

5B Acting appointments

(1) Notwithstanding that there may be a Deputy Commissioner of Taxes, the Minister may, by instrument in writing, appoint an employee as defined in the *Public Sector Employment and Management Act* to act as Commissioner:

- (a) during a vacancy in the office of Commissioner; or

(b) during any period, or during all periods, when the Commissioner is ill, or is absent from duty or from the Territory or is, for any other reason, unable to perform the functions of office,

but a person so appointed to act during a vacancy shall not continue to act for more than 12 months.

- (2) An appointment under subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.
- (3) Where a person is acting as Commissioner in accordance with this section and the office of Commissioner becomes vacant, then, subject to subsection (2), that person may continue to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.
- (4) The Minister may at any time terminate the appointment of a person appointed under this section.
- (5) The appointment of a person under this section ceases to have effect if the person delivers a written resignation from the appointment to the Minister.
- (6) The validity of anything done by a person purporting to act in accordance with this section shall not be called in question on the ground that the occasion for the appointment had not arisen, that there is a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion to act had not arisen or had ceased.

6 Delegation

- (1) The Commissioner may, in writing, delegate to a person all or any of the Commissioner's powers and functions under this Act, other than this power of delegation.
- (2) A delegation under this section may be to a named person or to a person from time to time holding, acting in or performing the duties of an office, designation or position.
- (3) A power or function delegated under this section is, when exercised or performed by the delegate, to be taken to have been exercised or performed by the Commissioner.
- (4) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Commissioner.

7 Secrecy

- (1) Subject to this section, a person who is employed by the Territory shall not, either directly or indirectly, except for the purposes of this Act:
- (a) make a record of, or communicate to a person, information concerning the affairs of another person acquired by him under this Act by reason of that employment; or
 - (b) produce to a person or permit a person to have access to a document furnished to him for the purposes of this Act.

Penalty: Imprisonment for 2 years.

- (2) Subsection (1) does not apply to the communication of information or the production of a document by the Commissioner, or by a person authorized by him, to:
- (aa) the Auditor-General for the purposes of performing functions or exercising powers in relation to an audit of the office of the Commissioner imposed or conferred on the Auditor-General by or under the *Audit Act* or any other Act, and nothing in this section prevents the Auditor-General from disclosing that information or publishing that document if the disclosure or publication does not directly or indirectly divulge information identifying the affairs of a particular person;
 - (a) a person performing, in pursuance of employment by the Territory, a function under an Act administered by the Commissioner for the purpose of enabling that person to carry out that function;
 - (ab) a person performing, in pursuance of employment by the Territory, a function under:
 - (i) the *Mineral Royalty Act*; or
 - (ii) the *Petroleum Act* in relation to a royalty payable under that Act; or
 - (b) a person performing a function under a law of the Commonwealth, a State or another Territory of the Commonwealth relating to stamp duty or other taxation in accordance with Part VIIA.
- (3) Nothing in this section prevents a person to whom it applies from disclosing information obtained under this Act where the person from whom it was obtained consents to that disclosure.

- (4) A person to whom this section applies shall not be required to produce in court any document connected with the administration or execution of this Act in the person's custody in the course of his or her employment or to divulge or communicate to a court any matter or thing coming under the person's notice in the course of employment, unless the production, divulgence, communication or publication is made:
- (a) with the consent of the person from whom the information or document was obtained;
 - (b) in connection with the administration or execution of this Act; or
 - (c) for the purposes of a legal proceeding arising out of this Act or of a report of such proceedings.
- (5) In this section **this Act** includes the *Business Franchise Act*.

8 Duty stamps

- (1) For the purposes of this Act, the Commissioner shall cause adhesive stamps for denoting the payment of amounts of duty or of additional amounts payable by way of penalty under section 96 to be made and sold as he directs, and shall cause dies or other devices for the making of impressed stamps for denoting the payment of amounts of duty or tax, for denoting the payment of additional amounts of duty or for the purposes of section 17 to be made and used as he directs.
- (2) A person shall not, without lawful authority:
- (a) make, sell, use, utter or have in his possession a counterfeit adhesive stamp knowing it to be counterfeit;
 - (b) make, sell, use or have in his possession a die, plate or other device for printing or making adhesive stamps; or
 - (c) make, sell, use or have in his possession, a die or other device for making impressed stamps.

Penalty: Imprisonment for 2 years.

- (3) A stamp, die, plate or device made, sold, used, uttered or had in possession in contravention of this section is forfeited to the Territory.

Part III Liability to duty or tax

Division 1 General

9 When instruments lodged and duty payable

(1) Subject to this Act:

- (a) tax in respect of a return is due and payable by the person required by this Part to furnish the return upon the last day for the due furnishing of that return;
- (b) duty on an instrument that is required by this Act to be lodged with the Commissioner for assessment is due and payable by the person liable to pay it:
 - (i) at the end of the period within which the instrument is required by this Act to be lodged with the Commissioner for assessment; or
 - (ii) if the notice of assessment specifies a date after the end of the period referred to in subparagraph (i) on which the duty is due and payable – on that date; and
- (c) duty on any other instrument is due and payable at the time when the instrument is required by this Act to be duly stamped.

(1A) Except where other express provision is made by this Act or any other Act, a person who is liable with respect to an instrument chargeable with duty shall:

- (a) where duty on the instrument is to be denoted by an adhesive stamp – cause it to be duly stamped upon execution of the instrument; or
- (b) in any other case, lodge the instrument with the Commissioner for assessment within 60 days after it is first executed, regardless of whether it was first executed in the Territory or at a place outside the Territory and regardless of when it is first received in the Territory.

(1C) A person who fails to comply with subsection (1) or (1A) commits an offence.

Penalty: \$5,000.

- (2) Where the Commissioner extends the time for payment of duty or tax for a period, the duty or tax is not due and payable until the expiration of that period.
- (3) The Commissioner may, in such circumstances as he thinks fit, permit the payment of duty or tax to be made by instalments in such amounts and at such times as he determines, and each instalment of that duty or tax is due and payable at the time so determined in relation to that instalment.
- (4) If an instalment of duty or tax is not paid on or before the time for the due payment of that instalment, the whole of the duty or tax outstanding becomes due and payable at that time.

9A Unstamped instruments not to be registered

A person whose office it is to enrol, register or enter in or upon any rolls, books, or records an instrument chargeable with duty shall not enrol, register or enter such an instrument which is not duly stamped.

Penalty: \$5,000.

9B Liability to duty in respect of instruments outside Territory

Where an instrument that relates to property in the Territory or to a matter or thing done or to be done in the Territory is executed and held outside the Territory, this Act shall extend and apply to and in relation to the instrument, notwithstanding that the instrument is not in the Territory, in all respects as if the instrument were executed in the Territory.

9BA Apportionment

Where, in the opinion of the Commissioner, dutiable property is wholly or partly situated in the Territory or is wholly or partly related to a business undertaking carried on in the Territory, stamp duty shall be assessed in respect of that proportion of the dutiable property situated in the Territory or related to the business undertaking carried on in the Territory.

9BB Apportioning certain dutiable property where business in Territory and elsewhere

- (1) For the purposes of section 9BA, where a business undertaking is carried on both in and outside the Territory, the proportion of dutiable property situated in the Territory or related to the business undertaking carried on in the Territory is to be determined in accordance with this section.

- (2) Where the principal place of business of the business undertaking is in the Territory, the proportion of dutiable property situated in the Territory or related to the business undertaking carried on in the Territory is calculated in accordance with the following formula:

$$V \times \frac{(TS - LS)}{TS}$$

where:

V is the greater of the consideration for or the unencumbered value of all the property conveyed to the conveyee that would have been dutiable property had that property been wholly situated in the Territory or wholly related to the business undertaking carried on in the Territory;

TS is the volume or gross value of goods supplied and services provided by the business undertaking to all its customers during the last 3 completed financial years; and

IS is the volume or gross value of goods supplied and services provided by the business undertaking to its interstate customers during the last 3 completed financial years.

- (3) Where the principal place of business of the business undertaking is outside the Territory, the proportion of dutiable property situated in the Territory or related to the business undertaking carried on in the Territory is calculated in accordance with the following formula:

$$V \times \frac{NTS}{TS}$$

where:

V is the greater of the consideration for or the unencumbered value of all the property conveyed to the conveyee that would have been dutiable property had that property been wholly situated in the Territory or wholly related to the business undertaking carried on in the Territory;

NTS is the volume or gross value of goods supplied and services provided by the business undertaking to its Territory customers during the last 3 completed financial years; and

TS is the volume or gross value of goods supplied and services provided by the business undertaking to all its customers during the last 3 completed financial years.

(4) Despite subsections (2) and (3), the Commissioner may determine the proportion of dutiable property on another basis if satisfied that the other basis would be more appropriate in the particular circumstances.

(5) In this section:

dutiable property means the dutiable property referred to in paragraph (b), (c), (d), (e), (f) and (g) of the definition of ***dutiable property*** in section 4(1).

interstate customer means a customer who takes delivery of the goods or receives the services provided elsewhere in Australia than the Territory.

principal place of business, in relation to a business undertaking, means:

(a) the place where the head office of the business undertaking is located; or

(b) the place from which overall control or management emanates.

Territory customer means a customer who takes delivery of the goods or receives the services provided in the Territory.

9C Copies of instruments

(1) In this section ***copy***, in relation to an original instrument, includes:

(a) a duplicate, facsimile, photocopy or counterpart of the original instrument;

(b) an instrument that acknowledges, evidences or records the existence or terms of the original instrument; and

(c) an instrument that acknowledges, evidences or records the transaction or a part of the transaction to which the original instrument relates or related.

(2) Where an original instrument has not been duly stamped or has been destroyed without being duly stamped, or otherwise cannot be produced for stamping, a copy of the original instrument shall, for the purposes of this Act, be chargeable with duty and penalty, if applicable, as if it were the original instrument and be deemed to have been executed by the person or persons who executed the original instrument at the same time as the original instrument was executed.

- (3) Where a copy of an original instrument is duly stamped under this Act, the Commissioner shall, on application and production of the copy, stamp any further copy of the original instrument with a particular stamp denoting that it is duly stamped.

9D Instruments not fully executed may be lodged for assessment

Subject to this Act, where an instrument is required by this Act to be lodged with the Commissioner for assessment, the instrument may be lodged and the duty assessed notwithstanding that the instrument is not executed by all necessary parties to it and, if it is lodged, the date of execution shall be taken to be, for all purposes, the date of first execution of the instrument.

10 Evasion of duty

- (1) A person liable to duty or tax who knowingly evades the duty or tax commits an offence and is liable, on being found guilty, to a penalty not exceeding \$10,000.
- (2) Where a director, servant or agent of a company that is liable to duty or tax knowingly evades the duty or tax, the company and the director, servant or agent, as the case may be, commits an offence and is liable, on being found guilty, to a penalty not exceeding \$10,000.
- (3) Upon the finding of guilt of a person under either subsection (1) or (2) the court may, in addition to the penalty prescribed by the subsection and without affecting the person's liability to pay the amount of duty or tax evaded, order that person to pay to the Commissioner an amount not exceeding an amount equal to double the amount of the duty or tax.
- (4) A certificate of an order under subsection (3), in accordance with an approved form, may be registered in a court of competent jurisdiction.
- (5) Upon registration in accordance with subsection (4), the certificate becomes a record of the court with the same force and effect as a judgment of the court, and the like proceedings (including proceedings in bankruptcy) may be taken upon the certificate as if the order had been a judgment of the court in favour of the Commissioner.
- (6) Nothing in this section shall prejudice any other right or remedy that exists, or action that may be taken, under this or any other Act against a person in relation to the evasion of duty or tax or duty or tax evaded.

11 Duty denoted by stamps

- (1) Subject to this Act, payment of duty shall be denoted by adhesive stamp or impressed stamp and, payment of tax by impressed stamp.
- (2) The Commissioner may superimpose or place on or near a stamp impressed in accordance with this section handwriting to indicate the amount of tax or duty paid.
- (3) Handwriting superimposed or placed in pursuance of subsection (2) shall constitute a part of the impressed stamp as though the handwriting were itself impressed.

12 Fraudulently removing, &c., stamps

- (1) A person shall not, with intent to defraud:
 - (a) deface an adhesive stamp;
 - (b) remove an adhesive stamp from an instrument liable to duty;
 - (c) affix an adhesive stamp that has been so removed from an instrument to another instrument liable to duty; or
 - (d) impress on an instrument a stamp that is or resembles an impressed stamp.

Penalty: Imprisonment for 2 years.

- (2) An instrument shall be regarded as being duly stamped notwithstanding that an adhesive stamp has been defaced or removed if the Commissioner is satisfied that an adhesive stamp denoting the duty payable had been duly affixed to the instrument.

13 Refunds for spoilt, &c., stamps

- (1) Where an adhesive stamp has been spoilt by a person or has been affixed by a person to an instrument in error, the person may deliver the stamp or the instrument to the Commissioner and apply to him, in accordance with an approved form, for a refund of the amount of duty denoted by the stamp.
- (2) If the Commissioner is satisfied that an adhesive stamp has been so spoilt or has been so affixed to an instrument in error, he shall cause the stamp to be destroyed and shall refund to the applicant the amount of duty denoted by the stamp.

14 Cancellation of stamps

- (1) Subject to this section, where duty on an instrument is required or permitted by this Act to be denoted by adhesive stamp, and an adhesive stamp is accordingly affixed to the instrument, the person affixing the stamp shall, immediately after affixing it, cancel the stamp:
- (a) by writing in ink on or across the stamp, his name or initials, or by so writing the name or initials, or by impressing the seal, of a firm or company on whose behalf the instrument is executed on or across the stamp; and
 - (b) by writing in ink on or across the stamp the date on which the cancellation is made.

Penalty: \$5,000.

- (2) If there are several parties executing an instrument at the time an adhesive stamp is affixed to it, the cancellation shall be regarded as effectual if made as provided by subsection (1) by any one of the parties.
- (3) A person shall not fraudulently remove from an adhesive stamp any writing placed on it under subsection (1).

Penalty: Imprisonment for 2 years.

15 Matters subject to duty or tax

- (1) Where one instrument relates to several distinct matters in respect of which duty or tax is payable, each of those matters shall, for the purposes of this Act, be treated as if it were expressed in a separate instrument.
- (2) Where 2 or more instruments together but not separately relate to the same matter, the instruments shall be treated, for the purposes of this Act, as a single instrument executed at the time when the last instrument was executed.

16 Money in foreign currency to be valued

Where duty or tax in respect of an instrument is imposed in respect of an amount of money expressed in the instrument otherwise than in Australian currency, the duty or tax shall be calculated in Australian currency at the rate of exchange current at the date of the instrument.

17 Instrument on which no duty is payable

- (1) Where the Commissioner is satisfied that an instrument liable to duty has been duly stamped, he may put an impressed stamp in accordance with an approved style on a counterpart or copy of that instrument.
- (2) Where the Commissioner is satisfied that no duty or tax is payable in respect of an instrument, he may put an impressed stamp in accordance with an approved style on the instrument or on a counterpart or copy of the instrument.
- (4) A person shall not, without lawful authority, impress a stamp or print on or perforate an instrument in accordance with a style that resembles or purports to be an approved style under this section.

Penalty: Imprisonment for 2 years.

- (5) Subject to subsection (5A), an agreement for a conveyance or for the grant of a lease shall, for the purposes of this Act, be treated as the original of the conveyance or grant made subsequently to give effect to the agreement where that conveyance or lease is in conformity with the agreement, and the conveyance or lease so made or granted shall be treated as the counterpart of the agreement.
- (5A) A conveyance or lease shall not, for the purposes of subsection (5), be in conformity with an agreement to convey or lease where the conveyee or lessee is a person other than the conveyee or lessee named in the agreement.
- (5B) Notwithstanding subsection (5A), a conveyance shall be in conformity with an agreement to convey dutiable property or a marketable security notwithstanding that the conveyee is not the person named in the agreement, where the Commissioner is satisfied that the purchaser under the agreement to convey:
 - (a) was, at the time the agreement was executed, acting as the agent for the conveyee in the conveyance made pursuant to the agreement and:
 - (i) the Commissioner endorses the agreement accordingly; and
 - (ii) the agreement to convey is duly stamped; or

- (b) entered into the agreement intending to convey the dutiable property or the marketable security purchased to:
 - (i) a corporation that the purchaser intended to incorporate or acquire or was in the process of incorporating or acquiring; or
 - (ii) a trust that the purchaser intended to constitute or was in the process of constituting,

and the agreement to convey is duly stamped,

and the Commissioner is satisfied that there has not been a sub-sale or other dutiable dealing in the property before the execution of the conveyance.

(6) Where:

- (a) 2 or more instruments together but not separately relate to the same matter, being a matter in respect of which duty is payable;
- (b) each such instrument contains a reference to the other instrument or instruments; and
- (c) one of those instruments is duly stamped,

each such instrument shall be deemed to be duly stamped.

17A Duty accounted for by returns

(1) In this section:

approved person means a person or firm granted permission under subsection (3) to pay duty in respect of a class of instruments or transactions to which the permission relates.

firm means an unincorporated body of persons and includes a partnership.

- (2) A person or firm may, in an approved form, apply to the Commissioner for permission to pay duty in respect of any class of instruments or transactions specified in the application (not being instruments in respect of which the person or firm is required by any other provision of this Part to furnish returns to the Commissioner) in accordance with this section as an alternative to paying duty by the individual stamping of an instrument on which duty is payable, or otherwise.

- (3) The Commissioner may, in writing, grant or refuse permission applied for under subsection (2) and may at any time, in writing, revoke permission so granted.
- (4) Where permission is granted under subsection (3), the Commissioner shall in that permission specify the date on which the permission comes into force and the class of instruments or transactions to which it relates.
- (5) Subject to subsections (5A) or (6), an approved person shall, within 15 days after the end of the month to which the return relates, lodge with the Commissioner:
 - (a) a return in an approved form; and
 - (b) if one or more instruments have been made or transactions effected during that month, a remittance for the amount of duty that, if the permission concerned had not been granted, would have been payable in respect of each individual instrument or transaction to which that return relates.
- (5A) Despite subsection (5), the Commissioner may, by notice in writing, determine a different period for:
 - (a) including an instrument or transaction or a class of instruments or transactions in a return; or
 - (b) the lodgement of a remittance for an amount of duty in respect of an instrument or transaction or for a class of instruments or transactions.
- (6) If no instruments or transactions of the class to which the Commissioner's permission relates are made in any one month, the approved person shall lodge with the Commissioner a nil return in respect of that month.
- (7) An approved person shall make a record, at such times and of such particulars relating to an instrument or transaction to which the permission concerned relates, as the Commissioner, in writing, requires.
- (8) An approved person shall endorse on every instrument of a class to which the permission concerned relates the words "Northern Territory Stamp Duty Paid" and such other words or particulars (if any) as the Commissioner, in writing, requires.
- (9) An instrument bearing an endorsement made under subsection (8), details of which are to be included in a return lodged under subsection (5) with the Commissioner and on which duty is paid by

a remittance made under that subsection, shall be deemed to be duly stamped.

(10) An approved person paying duty in accordance with a permission granted under subsection (3) shall retain the records required to be made under subsection (7) for a period of 5 years from the date on which they were made and make those records available to the Commissioner or a person authorized by the Commissioner for that purpose for checking at all reasonable times within that period.

(11) An approved person who:

- (a) fails to lodge a return in accordance with subsection (5);
- (b) lodges with the Commissioner a return which is false in a material particular; or
- (c) contravenes or fails to comply with any other requirement of or under this section,

is guilty of an offence.

Penalty: \$5,000.

(12) The following applies where an approved person is a firm:

- (a) if a member of the firm commits an offence against this Act in circumstances connected with or arising out of the furnishing of a return or the remittance of an amount of duty under this section, every other member of the firm at the relevant time is to be taken to have committed the same offence;
- (b) if an amount is required to be paid under this Act by the firm or a member of the firm in circumstances connected with or arising out of the furnishing of a return or the remittance of an amount of duty under this section, each member of the firm at the relevant time is jointly and severally liable to pay the amount.

(13) It is a defence to a prosecution for an offence against this Act committed by virtue of subsection (12)(a) if the defendant proves:

- (a) that the member of the firm who committed the offence that the defendant is to be taken to have committed by virtue of subsection (12)(a) would have been able to establish a defence to the offence; or

- (b) that the defendant did not know, and ought not reasonably be expected to have known, the offence was to be or was being committed and took all reasonable steps to prevent or stop the commission of the offence or a similar offence.

Division 3B Electronic debit transaction duty

29H Interpretation

- (1) In this Division, unless a contrary intention appears:

financial institution means:

- (a) a bank;
- (b) a building society;
- (c) a credit union; or
- (d) a person or class of persons prescribed as being a financial institution for the purposes of this Division,

and includes any branch of any of them.

liable account means an account kept in the Territory with a financial institution, being an account in respect of which a transaction can be carried out directly by electronic means.

liable account holder means the person in whose name, or either or any of the persons in whose names, a liable account is kept.

liable debit transaction means the debit entered in a liable account as a result of a withdrawal made from that account directly by electronic means. but does not include such a debit:

- (a) made pursuant to section 29Q and reflecting the recovery of electronic debit transaction duty; or
 - (b) made pursuant to section 10(3) of the *Bank Account Debits Tax Administration Act* 1982 of the Commonwealth.
- (2) For the purposes of this Division, a transaction in respect of an account with a financial institution is carried out directly by electronic means if the account holder can initiate, or authorize the initiation of, the transaction by or through the use of an electrically powered machine without the presentation of a cheque, bill of exchange, withdrawal slip or similar instrument to authorize the transaction, and without the necessity for any intermediate action by a human agency.

29J Certain financial institutions to be registered

- (1) A financial institution shall not in the Territory keep or offer to keep a liable account for a person unless that financial institution is registered under this Division.

Penalty: \$5000.

- (2) Nothing in this section shall affect an obligation or liability to the holder of an account kept by a financial institution in contravention of this section.

29K Register of financial institutions

For the purposes of this Division, the Commissioner shall keep a register to be called the "Register of Financial Institutions".

29M Registration

- (1) A financial institution keeping or intending to keep a liable account in the Territory may apply to the Commissioner in accordance with an approved form for registration under this Division.

- (2) Upon receipt of an application under subsection (1), the Commissioner shall register the financial institution by entering its name in the Register of Financial Institutions, and shall then give notice of the registration to the applicant.

- (3) Where a financial institution registered under this Division:

- (a) requests the Commissioner to do so;
- (b) becomes bankrupt, is or is being wound up, has a liquidator or receiver appointed in respect of it, or ceases to carry on business as such; or
- (c) contravenes or fails to comply with, or evades or attempts to evade, any of the provisions of this Act,

the Commissioner may revoke its registration.

29N Returns and payment

- (1) Within 15 days after the expiry of each month, a registered financial institution shall forward to the Commissioner a return, in an approved form, setting out:

- (a) the number of liable debit transactions reflected in the accounts kept by the financial institution during that month; and

- (b) a computation of the amount of electronic debit transaction duty disclosed as being payable in relation to the return.
- (2) A return sent to the Commissioner under subsection (1) shall be verified by the signature of a senior administrative officer of the financial institution.
- (3) Any electronic debit transaction duty disclosed on a return as being payable under subsection (1)(b) shall be payable, in the time specified in subsection (1), by the financial institution which forwarded the return to the Commissioner.
- (4) A registered financial institution which fails to comply with subsection (1) or (2) is guilty of an offence.

Penalty: \$5000.

- (5) If a registered financial institution fails to comply with subsection (1) or (2), the Commissioner may give notice of that fact in the *Gazette*.
- (6) From the date of publication of a notice under subsection (5) until the date of publication of a further notice revoking that notice, each liable account holder of the registered financial institution that is the subject of the notice shall:
 - (a) be primarily liable for unpaid electronic debit transaction duty otherwise payable by the financial institution; and
 - (b) within 15 days after the receipt of a statement of account or of transactions from the financial institution:
 - (i) furnish a return to the Commissioner setting out, with any necessary modification, the information specified in subsection (1)(a) and (b); and
 - (ii) pay to the Commissioner any electronic debit transaction duty disclosed on the return as being payable.

Penalty: \$5,000.

29P Extension of time

- (1) The Commissioner may, on the application in writing of a registered financial institution in relation to the time specified in section 29N(1) within which a return must be made and electronic debit transaction duty paid, authorize the extension or variation of that time:
 - (a) specifically, in respect of a particular return or payment; or
 - (b) generally, in respect of all returns or payments,

from the registered financial institution.

- (2) The Commissioner may at any time revoke an authority under subsection (1).
- (3) Where the Commissioner authorizes an extension or variation of time under this section, then, for the purposes of this Act, the time specified in section 29N(1) shall be construed as if it were the time so extended or varied.

29Q Financial institution not prevented recovering duty paid from account holder

Nothing in this Act prevents a registered financial institution that has paid or is liable to pay electronic debit transaction duty in respect of the debit transactions of an account holder recovering an amount equal to the duty paid or payable from the account holder.

Division 6 Insurance business

38 Imposition of tax on policies of insurance

Tax is payable on a policy of insurance in respect of:

- (a) property in the Territory; or
- (b) a risk, contingency or event concerning an act or omission that, in the normal course of events, may occur within or partly within the Territory.

39 Insurer in the Territory to be registered

- (1) An insurer shall not carry on in the Territory the business of insurance in respect of which tax is imposed after the expiration of the period of 14 days from the date of commencement of this Act unless he is registered under this Division.

Penalty: \$5,000.

- (2) Nothing in this section affects the liability (including a contingent liability) of an insurer under a policy of insurance issued by the insurer in the course of carrying on the business of insurance in the Territory in contravention of this section.

40 Register of Insurers

For the purpose of this Division, the Commissioner shall keep a register to be called "Register of Insurers".

41 Registration

- (1) An insurer carrying on or intending to carry on in the Territory the business of insurance in respect of which tax is imposed may apply to the Commissioner in writing in accordance with an approved form for registration in the Register kept under this Division.
- (2) The Commissioner shall, upon receiving an application from an insurer under subsection (1), register the insurer by entering the name of the insurer in the Register.
- (3) The Commissioner shall give notice of the registration by instrument served on the insurer.
- (4) The Commissioner shall revoke the registration of an insurer under this Division by removing his name from the Register upon receiving notification of the death or bankruptcy of the insurer, or in the case of a company, of the winding-up of the company, or upon receiving a request from the insurer to revoke the registration.

42 Returns in respect of insurance business

- (1) An insurer registered under this Division shall, within 21 days after the expiration of each month of each year:
 - (a) furnish to the Commissioner a return of all premiums received in that month by the insurer in respect of which tax is imposed; and
 - (b) pay the tax payable in respect of those premiums less the amount of any tax remitted under section 43.

Penalty: \$5,000.

- (2) A return under this section shall be in accordance with an approved form and shall contain such particulars as are required by the form.

43 Refund or remission of tax for surrendered or cancelled insurance

Where the Commissioner is satisfied that:

- (a) a policy of insurance in respect of which tax is imposed has been surrendered or cancelled before the expiration of the policy; and

- (b) the insurer has refunded to the person by whom premiums were payable under the policy an amount equal to the amount of the premiums received by the insurer in respect of a period occurring after the surrender or cancellation,

the Commissioner shall:

- (c) if the insurer has not paid the tax in respect of that amount of premiums – remit the tax payable; and
- (d) if the insurer has paid the tax payable in respect of that amount of premiums – refund to the insurer the amount of the tax so paid.

44 Insurer not prevented recovering tax from person paying premiums

Nothing in this Act prevents an insurer that has paid or is liable to pay tax imposed on a policy of insurance recovering an amount equal to the tax paid or payable from the person who pays the premiums under the policy of insurance.

44A Insurance effected outside Territory

- (1) A person resident in the Territory who effects insurance in respect of:
 - (a) property in the Territory; or
 - (b) a risk, contingency or event concerning an act or omission that, in the normal course of events, may occur within or partly within the Territory,

for which insurance a policy of insurance, or renewal of such a policy, is or is to be issued outside the Territory shall, within 30 days after effecting the insurance, furnish to the Commissioner a return containing the approved particulars and in the approved form.

- (2) Subject to subsection (4), the person who effected the insurance to which this section applies is liable for the payment of tax in respect of that insurance and such tax is payable on lodgement of the return referred to in subsection (1) or within such further time as allowed by the Commissioner.
- (3) When a policy or renewal of a policy referred to in this section has, before the expiration of the period referred to in subsection (1) or such extension of that period as the Commissioner allows, been received in the Territory and duly stamped in accordance with this

Act, no tax is payable in respect of that insurance by the person who effected the insurance.

- (4) A person resident in the Territory who effects insurance referred to in subsection (1) 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 in account, money on or in respect of any insurance for which a return as required by that subsection has not been furnished,

is guilty of an offence.

Penalty: \$5,000.

- (5) In this section ***person resident in the Territory*** and ***person***, in the case of a company, includes:
- (a) a company incorporated or taken to be incorporated under the Corporations Act 2001; and
 - (b) a company holding property or carrying on business in the Territory.

44B Returns to be lodged in relation to insurance effected outside Territory

- (1) A person:
- (a) with whom there is effected by a person resident in the Territory insurance referred to in section 44A(1) and who, in connection with that insurance, issues a policy of insurance, or a renewal of such policy, outside the Territory; or
 - (b) who, for or on behalf of a person resident in the Territory, arranges insurance referred to in section 44A(1) for which insurance a policy of insurance, or a renewal of such a policy, is issued outside the Territory,

shall furnish to the Commissioner a return containing the approved particulars, in the approved manner and form and within the prescribed time.

Penalty: \$5,000.

- (2) A person resident in the Territory shall, when required by the Commissioner by notice in writing, furnish to the Commissioner, within the time specified in the notice, written particulars of insurance referred to in section (1) effected by him.

Penalty: \$5,000.

- (3) In this section ***person resident in the Territory*** and ***person*** have the same meaning as they have in section 44A.

Division 7 Life policies

44C Imposition of tax on life policies

Tax is payable on a life policy in respect of a person whose principal place of residence, or persons whose principal places of residence are, in the Territory.

45 Life insurer in the Territory to be registered

- (1) A company shall not carry on in the Territory the business of a life insurer issuing life policies in respect of which tax is imposed after the expiration of the period of 14 days from the date of commencement of this Act unless it is registered under this Division.

Penalty: \$5,000.

- (2) Nothing in this section affects the liability (including a contingent liability) of a life insurer under a life policy issued by the life insurer in the course of carrying on the business of a life insurer in the Territory in contravention of this section.

46 Register of Life Insurers

For the purpose of this Division, the Commissioner shall keep a register to be called "Register of Life Insurers".

47 Registration

- (1) A life insurer carrying on or intending to carry on in the Territory the business of life insurance in respect of which tax is imposed may apply to the Commissioner in writing in accordance with an approved form for registration in the Register kept under this Division.
- (2) The Commissioner shall, upon receiving an application from a life insurer under subsection (1), register the life insurer by entering the name of the life insurer in the Register.

- (3) The Commissioner shall give notice of the registration by instrument served on the life insurer.
- (4) The Commissioner shall revoke the registration of a life insurer under this Division by removing his name from the Register upon receiving notification of the winding-up of the life insurer, or upon receiving a request from the life insurer to revoke the registration.

48 Returns in respect of life insurance business

- (1) A life insurer registered under this Division shall, within 21 days after the expiration of each month of each year:
 - (a) furnish to the Commissioner a return of all life policies effected in that month by the life insurer in respect of which tax is imposed; and
 - (b) pay the tax payable in respect of those policies.

Penalty: \$5,000.

- (2) A return under this section shall be in accordance with an approved form and shall contain such particulars as are required by the form.

49 Life insurer not prevented recovering tax from person paying premiums

Nothing in this Act prevents a life insurer that has paid or is liable to pay tax imposed on a life policy recovering an amount equal to the tax paid or payable from the person who pays the premium under the life policy.

Division 7A Apportionment of premiums etc. between Territory and other jurisdictions

49A Application of Division

This Division applies to:

- (a) a policy of insurance in respect of:
 - (i) property in the Territory and property in another place; or
 - (ii) a risk, contingency or event concerning an act or omission that, in the normal course of events, may occur within or partly within the Territory or within or partly within another place or within or partly within the Territory and another place; or

- (b) a life policy in respect of persons whose principal places of residence are variously in the Territory and another place.

49B Schedule of Apportionment

- (1) The Commissioner may adopt a Schedule of Apportionment for the purpose of apportioning premiums for insurance or life insurance, or premiums paid for specific classes of insurance or life insurance, and other amounts in relation to insurance or life insurance in accordance with this Division.
- (2) The Schedule of Apportionment may be developed in consultation with any person the Commissioner considers suitable.

49C Apportionment in practice

- (1) Subject to this section, a premium or an amount is to be apportioned in accordance with the Schedule of Apportionment adopted for the time being.
- (2) An insurer or an insured person may apply in writing to the Commissioner to apportion a premium or an amount on a basis other than that provided by the Schedule of Apportionment and the Commissioner may apportion the premium or amount on the other basis.
- (3) If the Commissioner is not satisfied that a premium paid or another amount in relation to a policy of insurance or life policy has been properly apportioned for each risk insured, the Commissioner may determine the apportionment, reassess the liability to tax and charge tax accordingly.

Division 8 Conveyances and leases

50 Persons liable to pay duty

- (1) Duty imposed on a conveyance is payable by the conveyee.
- (2) Duty imposed on a lease is payable by the lessee.

51 How duty denoted

Payment of duty on conveyances or leases required to be lodged with the Commissioner under this Act shall be denoted by impressed stamp, and payment of duty on other conveyances or leases shall be denoted by adhesive stamp.

52 Instrument to be stamped or lodged for assessment

- (2) The lessee under a lease on which duty is imposed, being a lease:
- (a) the only consideration for which is by way of rent;
 - (b) the total amount or value of the consideration for which does not exceed \$1,500; and
 - (c) that is for a term not exceeding 3 years,
- shall, forthwith on the execution of the lease, cause the lease to be duly stamped.

Penalty: \$5,000.

- (3) The lessee under a lease on which duty is imposed, being a lease:
- (a) for which the only consideration is by way of rent the total amount or value of which exceeds \$1,500;
 - (b) the consideration for which is not wholly by way of rent; or
 - (c) that is for a term exceeding 3 years,
- shall, within 60 days after the execution of the lease, lodge the lease with the Commissioner for assessment.

Penalty: \$5,000.

52A Computation of duty where 2 or more instruments

- (1) This section applies to the following instruments:
- (a) an instrument by which, or evidencing a transaction or part of a transaction by which, dutiable property is conveyed;
 - (b) a statement under section 83B; and
 - (c) a memorandum created for the purposes of section 94, where the memorandum relates to an instrument under paragraph (a) or the failure to lodge a statement under section 83B.
- (2) In this section, **relevant transaction** means a transaction which is or should be evidenced by an instrument referred to in subsection (1)(b) or (c).
- (3) Where 2 or more instruments to which this section applies together form, or arise from, substantially one transaction or one series of

transactions, those instruments shall, unless the Commissioner is satisfied that it would not be just and reasonable in the circumstances, be chargeable with ad valorem duty as a single transaction calculated at the rate appropriate to the dutiable property conveyed on the sum of the amounts by reference to which ad valorem duty on each of those instruments would, but for this subsection, have been calculated, and that duty shall be apportioned to the various instruments as determined by the Commissioner.

- (4) Where a person conveys dutiable property to the same person (whether that person takes alone or with the same or different persons) by an instrument to which this section applies:
- (a) which has been, or appears to have been, executed within 12 months of:
 - (i) another such instrument; or
 - (ii) a relevant transaction; or
 - (b) being a statement under section 83B or a memorandum under section 94 evidencing a relevant transaction which, in the opinion of the Commissioner, was entered into within 12 months of:
 - (i) another relevant transaction evidenced by such a statement or memorandum; or
 - (ii) the execution of an instrument referred to in paragraph (a),

it shall be presumed, unless the Commissioner is satisfied to the contrary, that the instruments arose out of one transaction or one series of transactions.

- (5) Where ad valorem duty has been paid in respect of an instrument referred to in subsection (3), the duty otherwise payable under that subsection shall be reduced by the amount of duty already paid.
- (6) Except as provided by subsection (5), this section does not operate to reduce the duty payable on any instrument.

53 Interpretation in rent by instrument

A period specified in a lease as the period during which the lease is to continue shall be regarded as the term of the lease notwithstanding that the lease is expressed to be for a weekly, monthly, quarterly, half-yearly or yearly tenancy or otherwise.

54 Increase in rent by instrument

- (1) Where an instrument provides for an increase in the rent that has been reserved by a lease (in this section referred to as an original lease) granted after the commencement of this Act (whether or not that original lease is in writing), the instrument shall, for the purposes of this Act, be treated as a lease granted for a consideration equal to the amount of the additional rent provided by the instrument for the remaining term of the lease.
- (2) Where, apart from this subsection, an original lease would be liable to additional duty by reason of an increase in rent of a description referred to in subsection (1), no additional duty is payable on that original lease.

55 Payment of duty where rent unascertainable

- (1) This section applies to unascertainable rent, which is rent or a component of rent payable under a lease that cannot be ascertained as a definite amount at the time duty is payable on the lease.
- (2) The Commissioner may make a reasonable estimate of unascertainable rent.
- (3) Where rent consists of unascertainable rent only, duty is payable on the estimate by the Commissioner under subsection (2) of the unascertainable rent.
- (4) Where rent consists of both ascertainable and unascertainable rent, duty is payable on the sum of the ascertainable rent and the estimate by the Commissioner under subsection (2) of the unascertainable rent.
- (5) Once unascertainable rent under a lease is actually paid, the lessee may resubmit the lease to the Commissioner for a reassessment of the duty payable on the lease and, if the duty paid on the lease based on an estimate of unascertainable rent exceeds the duty that would have been payable had it been based on the rent actually paid, the lessee is entitled to a refund of the difference.
- (6) During the term of a lease, the Commissioner:
 - (a) may make periodic estimates of the unascertainable rent payable under a lease on the dates that the Commissioner, having regard to the provisions of the lease, determines; and
 - (b) after each periodic estimate, may adjust the duty payable on the unascertainable rent by the difference between the duty

that was paid on the unascertainable rent and the duty that would have been payable had it been based on the rent actually paid.

- (7) An adjustment under subsection (6) may be made:
 - (a) by adjusting the duty payable as a result of the next periodic estimate; or
 - (b) if there are no further periodic estimates – by refunding the difference to the lessee or requiring the lessee to pay the difference, as the case requires.
- (8) A lease in respect of which periodic estimates are made under subsection (6) is to be marked "interim stamp only".
- (9) Within one month after the date of a periodic estimate under subsection (6), the lessee must resubmit the lease to the Commissioner together with a statement setting out:
 - (a) the amount of unascertainable rent actually paid under the lease; and
 - (b) the amount of duty paid on the unascertainable rent under the lease.
- (10) Nothing in section 97(1) is to be taken to prevent the Commissioner from reassessing duty under this section at any time during the term of a lease.

55AA Payment of duty on lease containing rent review clause

- (1) Where:
 - (a) the rent or a component of the rent payable under a lease can be ascertained at the time duty is payable on the lease or estimated under section 55; and
 - (b) the lease contains a provision under which that rent or component of rent may be increased at intervals during the lease,

the Commissioner may estimate the increase in the rent payable under the lease by compounding the rate at which rent is payable during the first interval by the annual percentage increase in the Consumer Price Index published immediately before the lease was executed.

- (2) Once rent under a lease to which this section applies is actually paid, the lessee may resubmit the lease to the Commissioner for a reassessment of the duty payable on the lease and, if the duty paid on the lease based on an estimate of the rent payable under subsection (1) exceeds the duty that would have been payable had it been based on the rent actually paid, the lessee is entitled to a refund of the difference.
- (3) In this section, **Consumer Price Index** means the number appearing in the Consumer Price Index (All Groups Index) for Darwin published under the *Census and Statistics Act 1905* of the Commonwealth.

55A Refund of duty where party fails to execute

Where duty has been paid or is payable on a conveyance which had been or is lodged with the Commissioner for assessment and the conveyance had not been or is not fully executed, the Commissioner shall, if satisfied that the conveyance is ineffective by reason of a failure of the necessary parties to execute it, refund the amount of duty paid or, as the case may require, remit the duty otherwise payable.

56 Refund of duty where early determination of lease

- (1) Where duty has been paid on a lease that has been granted for a term of not less than 2 years and the lease is determined before the expiration of that term, an amount equal to the amount of the difference between the amount of duty so paid and the amount of duty that would have been payable on the lease if the lease had been granted for a term expiring on the date of the determination of the lease shall, subject to this section, be refunded to the person who was the lessee immediately before the determination of the lease.
- (2) A refund under this section is not payable to a person unless he furnishes to the Commissioner, within 90 days after the determination of the lease or within the further period allowed by the Commissioner under section 56B, an application in accordance with an approved form together with such information as the Commissioner requires to enable him to determine the amount of the refund.

56A Refund or remission of duty where transaction rescinded, etc.

- (1) Where:
- (a) duty has been paid or is payable in respect of a conveyance of dutiable property or marketable securities or the grant of a lease; and
 - (b) the conveyance or grant does not proceed or the entitlement to the dutiable property or marketable securities is, as a result of the rescission, cancellation, annulment or operation of the transaction by which it was conveyed, extinguished,
- the Commissioner must refund the duty paid or remit the duty payable, as the case requires.
- (2) Remission is not available, nor a refund payable, under subsection (1) to a person unless the person furnishes to the Commissioner, within 90 days after the rescission, cancellation, annulment, abandonment or relevant operation of the transaction to which that remission or refund relates or within the further period allowed in writing by the Commissioner under section 56B:
- (a) an application in an approved form, together with such information as the Commissioner requires to enable him to determine that the transaction has been rescinded, cancelled, annulled or abandoned or operates as claimed; and
 - (b) all instruments evidencing the transaction.
- (3) All instruments evidencing a transaction in respect of which duty has, in pursuance of this section, been remitted or refunded shall have a note of that fact endorsed on them by the Commissioner and, on being so endorsed, they shall have no effect in law or in equity to convey dutiable property or marketable securities or grant a lease.
- (4) This section does not apply to or in relation to a transaction where the Commissioner is of the opinion that a subsequent sale or other disposition of the dutiable property or marketable securities the subject of the transaction:
- (a) is a sub-sale or a transaction having the effect of a sub-sale, notwithstanding that the subsequent conveyance is executed by the person who was the vendor in that first-mentioned transaction; or
 - (b) is the result of a conveyance by direction, whether in writing or not, initiated by the conveyee in that transaction.

56B Extension of time to apply for refund

The Commissioner may allow a further period to furnish an application or information under section 56 or 56A if satisfied that there is a reasonable excuse that prevented a person from furnishing the application or information within the 90-day period.

Division 8AA Declarations of trust

56BA Imposition of duty on declarations of trust

- (1) Duty is payable on a declaration of trust over dutiable property or marketable securities as if the declaration were a conveyance of the property or securities.
- (2) For the purposes of subsection (1):
 - (a) the dutiable property or marketable securities vested or to be vested in the declarant is to be taken to be the property or securities conveyed;
 - (b) the declarant is to be taken to be the conveyee; and
 - (c) the conveyance is to be taken to have occurred at the time the declaration is made.
- (3) In this section, **declaration of trust** means a declaration (other than by a will or testamentary instrument) that identified dutiable property or marketable securities vested or to be vested in the person making the declaration is or is to be held in trust for the person or persons, or for the purpose or purposes, mentioned in the declaration although the beneficial owner of the property or securities or the person entitled to appoint the property or securities may not have joined in or assented to the declaration.

Division 8AAA Changes in beneficiaries and trustees of discretionary trusts

56BAA Definitions

In this Division:

beneficiary, in relation to a discretionary trust, means a person in whom the trustee may determine to vest the whole or part of the trust property and includes a person in whom the whole or part of the trust property vests if the trustee does not make such a determination.

change in control, in relation to a beneficiary, trustee or other body corporate, means a change in the person or the persons acting together who may (directly or indirectly) exercise, control the exercise of, or substantially influence the exercise of:

- (a) the majority of voting power at meetings of the directors of the beneficiary, trustee or other body corporate; or
- (b) more than 50% of the voting power attached to voting shares issued by the beneficiary, trustee or other body corporate.

discretionary trust means:

- (a) a trust under which the vesting of the whole or a part of the capital of the trust property, or the whole or a part of the income from that capital, or both:
 - (i) is required to be determined by a person either in respect of the identity of the beneficiaries, or the quantum of interest to be taken, or both; or
 - (ii) will occur in the event that a discretion conferred under the trust is not exercised; or
- (b) a trust declared by the Regulations to be a discretionary trust for the purposes of this Division,

but does not include a trust that is:

- (c) solely a charitable trust; or
- (d) declared by the Regulations not to be a discretionary trust for the purposes of this Division.

family member, in relation to a beneficiary, means:

- (a) the spouse of the beneficiary;
- (b) a child or other remoter lineal descendant of the beneficiary;
- (c) an adopted child or a step child of the beneficiary;
- (d) a lineal descendant of an adopted child or stepchild of the beneficiary;
- (e) the spouse of:
 - (i) a child or other remoter lineal descendant of the beneficiary; or

- (ii) an adopted child or a stepchild of the beneficiary; or
- (iii) a lineal descendant of an adopted child or stepchild of the beneficiary;
- (f) a sibling of the beneficiary or the beneficiary's spouse; or
- (g) a lineal descendant of a sibling of the beneficiary or the beneficiary's spouse.

56BAB Imposition of duty on addition of beneficiaries under discretionary trust

- (1) Subject to this section, duty is payable where a beneficiary or class of beneficiaries is added to the existing beneficiaries or classes of beneficiaries under a discretionary trust as if:
 - (a) the addition were a conveyance of the dutiable property or marketable securities over which the discretionary trust is declared;
 - (b) the trustees were the conveyees; and
 - (c) the conveyance had occurred at the time of the addition.
- (2) The additional beneficiaries or the members of the additional class of beneficiaries and the trustees are jointly and severally liable for the duty imposed in respect of the addition.
- (3) Duty is not payable under subsection (1):
 - (a) if the existing beneficiaries and the additional beneficiary, or the members of the existing classes of beneficiaries and the members of the additional class of beneficiaries, are family members; or
 - (b) if the addition is not a tax avoidance scheme or part of a tax avoidance scheme.
- (4) For the purposes of this section, the addition of a beneficiary or class of beneficiaries includes:
 - (a) the addition of a beneficiary who is a natural person or a body corporate;
 - (b) the addition of a class of beneficiaries the members of which are natural persons, bodies corporate or both;

- (c) the addition of a person or class of persons in whom the whole or part of the trust property vests if the trustee does not make a determination to vest that whole or part; and
 - (d) the transfer or other disposition by a beneficiary of his or her beneficial interest under the trust.
- (5) Where the effect of an amendment or variation of the terms of a non-discretionary trust is to create a discretionary trust, this section applies in relation to the discretionary trust as if, at the time the amendment or variation was made:
- (a) there were beneficiaries or classes of beneficiaries already existing under the discretionary trust; and
 - (b) the beneficiaries or classes of beneficiaries under the discretionary trust were added to the existing beneficiaries or classes of beneficiaries.

56BAC Imposition of duty where change in beneficiary and trustee under discretionary trust

- (1) Subject to this section:
- (a) where a change in control of a beneficiary under a discretionary trust and a change of or in control of a trustee of the discretionary trust occur within a 12-month period; and
 - (b) the changes arise from one transaction or one series of transactions or substantially from one transaction or one series of transactions,
- duty is payable as if:
- (c) there had been a conveyance of the dutiable property or marketable securities over which the trust is declared;
 - (d) the trustees were the conveyees; and
 - (e) the conveyance had occurred at the time of the later of the changes.
- (2) The beneficiary in which the change in control occurred and all the trustees are jointly and severally liable for the duty imposed in respect of the changes described in subsection (1).
- (3) Duty is not payable under subsection (1) if the changes described in subsection (1) are not a tax avoidance scheme or part of a tax avoidance scheme.

- (4) For the purposes of this section, a change of or in control of a trustee includes:
- (a) a change of or in control of the person who has the power to appoint and revoke the appointment of the trustee;
 - (b) a variation in, or the transfer or other disposition of, that power; and
 - (c) a change of or in control of a person who is in a position to influence (directly or indirectly) a determination by the trustee to vest the whole or part of the trust property.
- (5) Where duty is paid or payable under subsection (1):
- (a) the instrument effecting or evidencing the changes referred to in subsection (1)(a) is to be stamped; or
 - (b) if there are 2 or more instruments effecting or evidencing the changes – all or any of the instruments may be stamped and the duty is to be apportioned among the instruments as determined by the Commissioner.

Division 8AB Options to convey dutiable property or marketable securities

56BB Duty payable on simultaneous call and put options

- (1) Where:
- (a) a person has an option (a **call option**) exercisable within a specified period to require another person to sell to the first-mentioned person dutiable property or marketable securities (**the option property**); and
 - (b) the other person has an option (a **put option**) exercisable within a specified period that is the same as or overlaps with the period referred to in paragraph (a) to require the first-mentioned person to buy from that other person the same option property,
- duty is payable on the call option as if it were an agreement to convey the option property.
- (2) Duty imposed under subsection (1) is payable on:
- (a) the sum of the consideration for the grant of the call option and the consideration for the exercise of the call option; or

(b) the unencumbered value of the option property,
whichever is greater.

(3) Duty imposed under subsection (1) is payable by the holder of the call option as if the holder were the conveyee of the option property.

56BC Duty payable if neither option exercised

Where neither option referred to in section 56BB is exercised within the period specified for its exercise, duty is payable on the call option as an option to purchase the option property.

56BD Remission or refund of duty if neither option exercised

(1) Where:

- (a) duty has been paid or is payable on a call option under section 56BB; and
- (b) neither the call option nor the put option is exercised within the period specified for its exercise,

subject to subsection (2), an amount equal to the difference between the amount of duty paid or payable on the call option under section 56BB and the amount of duty paid or payable on the call option under section 56BC is to be remitted or is to be refunded to the person who held the call option.

- (2) A remission is not available or a refund is not payable under subsection (1) unless a person furnishes to the Commissioner, within 90 days after the period specified for the exercise of the call option expires or within the further period allowed by the Commissioner under subsection (3), an application in an approved form and the information that the Commissioner requires to determine the amount of the remission or refund.
- (3) The Commissioner may allow a further period to furnish an application or information under subsection (2) if satisfied that a person has a reasonable excuse for not furnishing the application or information within the 90-day period.

Division 8A Change of control of certain land-owning corporations and unit trusts

56C Interpretation

(1) In this Division, unless the contrary intention appears:

acquire, in relation to an interest in a corporation to which this Division applies, includes acquire the interest by virtue of:

- (a) the allotment or issue of a share to the person or another person, not being the issue of a share to a member on registration of the corporation;
- (b) the redemption, surrender or cancellation of a share by the corporation or by the person or another person; and
- (c) the variation, abrogation or alteration of a right pertaining to a share,

but does not include an acquisition:

- (d) that occurs solely as the result of:
 - (i) the appointment of a receiver or trustee in bankruptcy;
 - (ii) the appointment of a liquidator;
 - (iii) the making of a compromise or arrangement under Chapter 5 of the Corporations Act 2001 which has been approved by the court; or
 - (iv) the distribution of the estate of a deceased person, including an acquisition that occurs as the result of:
 - (A) a will, a codicil or an order of a court varying or modifying the provisions of a will or codicil; or
 - (B) an intestacy or an order of a court varying or modifying the application, in relation to the estate of a deceased person, of the provisions of a law relating to the distribution of the assets of persons who die intestate; or
 - (v) an arrangement (whether entered into before or after the commencement of section 6 of the *Taxation (Administration) Amendment Act (No. 2) 1988* relating to the provision of finance or the enforcement or termination of such an arrangement.

corporation has the same meaning as in the Corporations Act 2001.

director has the same meaning as in the Corporations Act 2001.

discretionary trust means:

- (a) a trust under which the vesting of the whole or a part of the capital of the trust property, or the whole or a part of the income from that capital, or both:
 - (i) is required to be determined by a person either in respect of the identity of the beneficiaries, or the quantum of interest to be taken, or both; or
 - (ii) will occur in the event that a discretion conferred under the trust is not exercised; or
- (b) a trust declared by the Regulations to be a discretionary trust for the purposes of this Division,

but does not include a trust that is:

- (c) solely a charitable trust; or
- (d) declared by the Regulations not to be a discretionary trust for the purposes of this Division.

entitled means beneficially entitled.

interest includes a majority interest and a further interest as defined in section 56Q.

share means a share in the share capital of a corporation and includes stock and an interest in a share or stock, and **shareholding** has a corresponding meaning.

- (2) For the purposes of section 56N:
 - (a) the following are associated persons in relation to a corporation:
 - (i) a related corporation as defined in section 50 of the Corporations Act 2001;
 - (ii) a related person within the meaning in subsection (3);
 - (iii) a director or secretary of the corporation or a related corporation;

- (iv) a person who is entitled to a shareholding in the corporation or a related corporation;
 - (v) a relative of a natural person referred to in subparagraph (ii), (iii) or (iv); and
 - (vi) a corporation in which the corporation or a person referred to in subparagraph (iii), (iv) or (v) is entitled to a shareholding;
- (b) in relation to a loan of money by a corporation or subsidiary, a person is not an associated person in relation to the corporation if the Commissioner is satisfied that the money was not lent to the person for the purpose of defeating the object of this Division; and
- (c) the following are relatives of a person for the purposes of paragraph (a)(v):
- (i) a child or remoter lineal descendant of the person or the spouse of the person;
 - (ii) a parent or remoter lineal ancestor of the person or the spouse of the person;
 - (iii) a brother or a sister of the person or the spouse of the person; and
 - (iv) the spouse of the person and a spouse of a person referred to in subparagraph (i), (ii) or (iii).
- (3) For the purposes of this Division, the following persons are related:
- (a) natural persons who are spouses of each other or between whom the relationship is that of parent and child;
 - (b) related corporations as defined in section 50 of the Corporations Act 2001;
 - (c) a trustee and another trustee if there is any beneficiary common to the trusts of which they are trustees, whether the beneficiary has a vested share or is contingently entitled or may benefit from a discretionary trust;
 - (d) a natural person and a corporation if the natural person is a majority shareholder, director or secretary of the corporation or a related corporation;

- (e) a natural person and a trustee if the natural person is a beneficiary under the trust of which the trustee is a trustee, whether the person has a vested share or is contingently entitled or may benefit from a discretionary trust;
 - (f) a corporation and a trustee if:
 - (i) the corporation, a majority shareholder, director or secretary of the corporation is a beneficiary of the trust of which the trustee is a trustee; or
 - (ii) a related corporation to the corporation is a beneficiary of the trust of which the trustee is a trustee,

whether any such beneficiary has a vested share or is contingently entitled or may benefit from a discretionary trust; and
 - (g) persons who acquire interests in a corporation by virtue of acquisitions that together form or arise from substantially one transaction or one series of transactions.
- (4) For the purposes of subsection (3), persons are not related persons in relation to an acquisition of an interest in a corporation if the Commissioner is satisfied that the persons were not acting in concert in relation to the acquisition.
- (5) For the purposes of subsections (2) and (3):
- (a) a spouse includes a de facto spouse; and
 - (b) a majority shareholder, in relation to a corporation, is a person who would have a substantial holding (within the meaning of section 9 of the Corporations Act 2001) in the corporation if the reference in paragraph (a) of the definition of **substantial holding** in that section to 5% were a reference to 50%.
- (6) For the purposes of this Division, the entitlement of a person to participate (otherwise than as a creditor or other person to whom the corporation is liable) in the distribution of the property of a corporation on a winding up of the corporation is an entitlement to an amount calculated as if:
- (a) the winding up were carried out in accordance with the constitution or rules of the corporation and the law relevant to the winding up, as the constitution or rules and law exist at the time of the winding up; or

- (b) the person had, immediately before the winding up, exercised all powers and discretions exercisable by the person by reason of having acquired an interest in the corporation to:
- (i) effect or compel an alteration to the constitution or rules;
 - (ii) vary the rights conferred by shares in the corporation; or
 - (iii) effect or compel the substitution or replacement of shares in the corporation with other shares in the corporation,

in such manner as to maximize that amount,

whichever of the amounts under paragraph (a) or (b) results in the greater amount, unless the Commissioner determines, where the calculation under paragraph (b) results in the greater amount, that the amount of the entitlement should be calculated under paragraph (a).

- (7) For the purposes of this Division, the entitlement of a person on the distribution of a trust shall be determined as the greatest entitlement that the person could derive at any time from the trust whether by the fulfilment of a condition, the outcome of a contingency or the exercise of a power or discretion or otherwise and, in particular, a person that may benefit from, or the trust property of another trust that may comprise or be augmented by a benefit from, a discretionary trust shall be deemed to be entitled to or comprise, or be augmented by:
- (a) the property subject to the discretionary trust, unless the Commissioner determines otherwise; or
 - (b) such part of that property as the Commissioner determines.

- (8) For the purposes of this Division, if the acquisition of an interest in a corporation is, or is to be, evidenced by a transfer of shares, the acquisition shall be deemed to occur on the date the transfer is made.

56D Lodgement of statements by trustees

- (1) If a person by a relevant acquisition acquires a majority interest or a further interest in a corporation to which this Division applies in the capacity of a trustee, the liability to prepare and lodge a statement under section 56K is not affected by the fact that the acquisition is not made by the person beneficially, and this Division applies as if the acquisition had been made beneficially.

- (2) Where the Commissioner considers that:
- (a) a person beneficially entitled to a share or interest in trust property, whether the person has a vested share or is contingently entitled or may benefit from a discretionary trust, is related to another person, within the meaning of section 56C(3), who has acquired an interest in a corporation; and
 - (b) the beneficial interest of the beneficiary in the corporation, when taken with that of such a related person, amounts to a greater interest than the interest of the trustee of the trust and a person who is related to the trustee,

on payment of the duty payable on the statement required to be lodged under section 56K by the beneficiary any duty paid by the trustee in respect of the acquisition giving rise to the requirement for that statement to be lodged shall be refunded to the trustee.

56E Valuation of land

- (1) The Commissioner may:
- (a) require a person who is required to lodge a statement under section 56K to furnish a further statement in an approved form concerning the unencumbered value of any land, or such other evidence of that value as the Commissioner thinks fit; and
 - (b) assess duty in accordance with the evidence of value referred to in paragraph (a).
- (1A) A person must comply with a requirement of the Commissioner under subsection (1)(a).

Penalty: \$5,000.

- (2) Where the Commissioner is not satisfied with the evidence of value furnished under subsection (1), the Commissioner may assess the duty chargeable on the basis of a valuation made at the request of the Commissioner by the Valuer-General appointed under the *Valuation of Land Act* or a person authorized by the Valuer-General.

56F Notice may be registered on title

- (1) Where in relation to the acquisition of an interest in a corporation:
 - (a) a statement has been lodged under section 56K(1) with the Commissioner or ought to have been so lodged;
 - (b) the Commissioner has made an assessment of duty payable under section 56M on the value of land to which the corporation is entitled; and
 - (c) the assessment has not been paid or has not been paid in full, the Commissioner may, if the corporation or a subsidiary as defined in section 56N(5) is the registered proprietor of the land, deliver to the Registrar-General a notice in the appropriate form within the meaning of the *Land Title Act* relating to the duty and any penalty that is payable under this Act, and the Registrar-General shall make the appropriate entries in the land register kept under the *Land Title Act* to give effect to the notice.
- (2) While the entries under subsection (1) are in the land register, the Registrar-General shall not register an instrument affecting the land unless:
 - (a) the instrument relates to a security interest in the land arising under an agreement entered into before the entries were made or that was lodged with the Registrar-General within 5 business days after the entries were made;
 - (b) the instrument is a duly stamped conveyance:
 - (i) that was executed under an agreement entered into before the entries were made;
 - (ii) made as a result of a sale of land under section 56H; or
 - (iii) made as a result of a sale of land by the holder of a security interest in the land registered before the entries were made or a security interest referred to in paragraph (a); or
 - (c) the Commissioner consents in writing.
- (3) An instrument registered in accordance with subsection (2)(a) has effect, in relation to the entries made under subsection (1), as if it had been registered before the entries were made.

- (4) Where an instrument referred to in subsection (2)(b) affecting land is registered by the Registrar-General, the entries made in accordance with subsection (1) shall be deemed to be cancelled on the registration of the instrument and the Registrar-General shall make the appropriate entries to give effect to the cancellation.
- (5) When:
 - (a) the duty and penalty (if any) in respect of which an entry has been made in the land register has been paid; or
 - (b) the Commissioner determines to withdraw a notice given under subsection (1),the Commissioner shall deliver to the Registrar-General a notice to that effect.
- (6) The Registrar-General shall make the appropriate entries in the land register to give effect to the notice under subsection (2) and thereupon the land ceases to be subject to that subsection.
- (7) If the Commissioner delivers a notice under subsection (1) to the Registrar-General relating to land of which a corporation or subsidiary is the registered proprietor, the Commissioner shall send a copy of the notice to the corporation or subsidiary with a direction that the corporation or subsidiary send a copy of the notice to each person the corporation or subsidiary believes may be affected by the operation of this section.
- (8) The Commissioner shall not deliver a notice in relation to a corporation or subsidiary under subsection (1) or, where the Commissioner has delivered such a notice, shall withdraw the notice if, on an application in accordance with subsection (9), the Commissioner determines that the application of the proceeds of sale of the land under section 56H would reduce the value of the interest of the holder of an interest in the corporation or subsidiary.
- (9) An application for the purposes of subsection (8) may be made by the holder of an interest in the corporation or subsidiary where the holder is not related to a person acquiring a majority interest or further interest in the corporation or subsidiary and the application is made within 60 days after the copy of the notice under subsection (7) is given to the corporation or subsidiary.
- (10) A person aggrieved by a decision under subsection (8) of the Commissioner may appeal against the decision to the Supreme Court and Part V, with the necessary changes, shall apply as if the decision of the Commissioner were an assessment made.

56G Charges on land

Where an entry has been made under section 56F in the land register in relation to the certificate of title to land, any duty and penalty to which the notice relates is a charge on the land and the charge continues in force until the duty and penalty (if any) is paid, the Commissioner withdraws the notice given under section 56F(1) or the entry is cancelled, whichever first occurs.

56H Power of sale

- (1) Where:
- (a) duty has been assessed on the value of land in accordance with section 56M;
 - (b) the duty and penalty (if any) has not been paid at the expiration of one year from the date of the assessment; and
 - (c) an entry has been made under section 56F in the land register in relation to the certificate of title to the land,

the Commissioner may, despite any judgment against the person liable to pay the duty and penalty (if any), cause to be published in the *Gazette* a notice specifying the land, and the amount of duty and penalty (if any) payable, and stating that if such amount is not paid within 6 months from the publication of the notice the Commissioner intends to apply to the Supreme Court for an order for the sale of the land.

- (2) A copy of a notice under subsection (1) shall be served on the registered proprietor of the land and such other persons as appear by the land register to be affected, which service may be effected by posting the document on the land if service cannot reasonably be effected in the Territory by other means.
- (3) The Commissioner may apply to the Supreme Court for the sale of so much of the land described in the notice under subsection (1) as may be necessary, and the Court shall, on being satisfied by affidavit or otherwise that the amount is lawfully due and that all things required by this Act to be done by the Commissioner have been done, order the sale of the land and that the proceeds be applied in accordance with section 56J(a).

56J Application of proceeds of sale

Where land has been sold under section 56H:

- (a) the purchase money arising from the sale shall be applied in accordance with section 93 of the *Law of Property Act* as if the relevant entry under section 56F in the land register were an overriding statutory charge to which section 93 of the *Law of Property Act* applies and the Commissioner were the person entitled to the benefit of an overriding statutory charge for the purposes of that section;
- (b) the conveyance shall be executed by the officer of the Court nominated by the Court for such purpose to the purchaser, in such form as approved by the Court; and
- (c) the conveyance shall vest the land sold in the purchaser as completely and effectually as if the conveyance had been executed by the owner of the land freed and discharged from all liability on account of the charge and any mortgage, charge or encumbrances registered or notified in the land register subsequent thereto; and
- (d) the Registrar-General shall, on production of the conveyance, register it in the land register.

56K When statement to be lodged

- (1) Where by a relevant acquisition a person acquires a majority interest or a further interest in a corporation to which this subdivision applies, that person shall prepare and lodge with the Commissioner a statement in respect of that acquisition.
- (2) Where a requirement under subsection (1) arises in circumstances where a person acquires a majority interest or a further interest by reason of acquisitions by that person and a related person or related persons being aggregated, one of those persons shall prepare and lodge a statement under that subsection of all acquisitions on behalf of all those persons.
- (3) The statement under subsection (1) shall be lodged within 3 months after the occurrence of the relevant acquisition.
- (4) The statement under subsection (1) shall be in an approved form and shall include:
 - (a) the name and address of the person who has acquired a majority interest or a further interest and of any related person referred to in subsection (2);

- (b) the date of the acquisition;
 - (c) particulars of the interest acquired and all interests previously acquired by the person or a related person in the corporation;
 - (d) the person's estimate of the unencumbered value of all land in the Territory to which the corporation is entitled as at that date; and
 - (e) the person's estimate of the unencumbered value of the assets of the corporation as at that date.
- (5) A statement under subsection (1) shall be deemed, for the purposes of this Act, to be an instrument executed on the day on which the relevant acquisition occurred.
- (6) A person who fails to comply with subsection (1), (2) or (3) commits an offence.

Penalty: \$5,000.

56M Statement chargeable with duty

- (1) A statement lodged under section 56K is chargeable, in accordance with section 56R, with duty at the rate provided for in item 5 in Schedule 1 to the *Stamp Duty Act* calculated:
- (a) where the statement relates to a relevant acquisition under section 56P(1)(a) – on the dutiable value determined under section 56R(2); and
 - (b) where the statement relates to a relevant acquisition under section 56P(1)(b):
 - (i) on the dutiable value determined under section 56R(3)(a);
 - (ii) reduced by the amount of duty determined on the dutiable value calculated under section 56R(3)(b).
- (2) There shall be deducted from the duty chargeable on a statement lodged under section 56K the amount (if any) paid under item 20 in Schedule 1 to the *Stamp Duty Act* in respect of any instrument effecting or evidencing the acquisition of an interest which is taken into account in determining liability under section 56K to lodge that statement, except duty previously deducted under this subsection in respect of a statement previously lodged under that section.

- (3) Despite section 9, duty on a statement lodged under section 56K is due and payable by the person liable to pay it:
- (a) on the date specified in the notice of assessment of the duty as the date on which the duty is due and payable; or
 - (b) if no date is specified or no notice is served – 30 days after the date on which the person is informed of the assessment.

56N Corporations to which this Division applies

- (1) This Division applies to a relevant acquisition of shares in a corporation that is:
- (a) a corporation, other than a corporation whose shares are quoted on a recognised stock exchange; and
 - (b) a land-holder within the meaning of subsection (2).
- (2) A corporation is a land-holder for the purposes of this Division if, at the time of a relevant acquisition:
- (a) it is entitled to land in the Territory and the unencumbered value of the land is not less than \$500,000 or it is entitled to land in the Territory as a co-owner of the freehold or of a lesser estate in the land and the value of the whole of the freehold or lesser estate is not less than \$500,000; and
 - (b) the value of all land to which the corporation is entitled, whether in the Territory or elsewhere, (other than primary production land) is 60% or more of the value of all property to which it is entitled, other than property directed to be excluded by subsection (4) but including primary production land.
- (3) In subsection (2) **primary production land**, in relation to a relevant acquisition, means, where the relevant acquisition is an acquisition of an interest in a corporation by a person from a lineal ancestor or lineal descendant of that person, land used primarily for:
- (a) cultivation for the purpose of selling the product of cultivation;
 - (b) the maintenance of animals or poultry for the purpose of selling them or their natural increase or their produce;
 - (c) the keeping of bees for the purpose of selling their honey;
 - (d) commercial fishing, including the preparation for commercial fishing, or the storage or preservation of fish or fishing gear; or

- (e) the cultivation or propagation for sale of plants, seedlings, mushrooms or orchids.
- (4) There shall not be included, for the purpose of calculating the value of property under subsection (2)(b), any property of a corporation or a subsidiary within the meaning of subsection (5) that is:
- (a) cash or money in an account at call;
 - (b) a negotiable instrument or money on deposit with any person;
 - (c) money lent by the corporation or a subsidiary to a person:
 - (i) who, in relation to the corporation, is an associated person; or
 - (ii) at call or on terms that require or allow full repayment to the company within 12 months after the money is lent;
 - (d) where the corporation is a holding company within the meaning of section 9 of the Corporations Act 2001 the shareholding of that corporation in a subsidiary corporation within the meaning of that section, but without limiting subsection (5);
 - (e) in the case of a corporation – property consisting of a share or interest in a trust referred to in subsection (5); or
 - (f) any property prescribed for the purpose of this paragraph, unless it is shown to the Commissioner's satisfaction that a reason for the corporation's ownership is not for the purpose of defeating the object of this Division.
- (5) Without limiting the meaning of **entitled**, a corporation shall be deemed to be entitled to land or property at the time of a relevant acquisition to the extent that a subsidiary is entitled to that land or property, and for the purposes of this subsection **subsidiary** means:
- (a) a subsidiary corporation within the meaning of section 9 of the Corporations Act 2001;
 - (b) the trustee of a trust if the corporation or a subsidiary corporation of the corporation, as defined in paragraph (a):
 - (i) is entitled to a share or interest in the trust, whether vested or contingent; or

- (ii) in the case of a discretionary trust, may benefit from that trust,

and, at the time of the relevant acquisition, the corporation or subsidiary is entitled to more than 50% of the value of the property held by the trustee as trustee of the trust (being the value determined on the basis of a distribution of the property at that time);

- (c) any other corporation, if the trustee of a trust to which paragraph (b) applies in which the corporation or a subsidiary corporation:

- (i) is entitled to a share or interest, whether vested or contingent; or

- (ii) in the case of a discretionary trust, may benefit from that trust,

would be entitled if the other corporation were to be wound up, after the time of the relevant acquisition, to participate (otherwise than as a creditor or other person to whom the other corporation is liable) in a distribution of the property of the other corporation to an extent greater than 50% of the value of the property distributable to all of the holders of shares in the other corporation; or

- (d) any other corporation or the trustee of any other trust that would, by an application of this subsection, be a subsidiary of a corporation that is a subsidiary of the first – mentioned corporation in this subsection.

- (6) A corporation that is a co-owner of an estate in land is not a co-owner for the purposes of subsection (2) if the Commissioner is satisfied that the reason for the corporation being a co-owner is not for the purpose of defeating the object of this Division.

- (7) For the purpose of calculating the value of land under subsection (2)(b):

- (a) all mining tenements and other rights and interests similar in nature to mining tenements that are held by the corporation, whether the tenements and other rights and interests are in the Territory or elsewhere, are to be included; and

- (b) all information about those tenements and other rights and interests that is held by the corporation, whether that information is in the Territory or elsewhere, is to be taken into account.

56P Meaning of *relevant acquisition*

- (1) An acquisition by a person is a relevant acquisition for the purposes of this Division:
- (a) where it:
 - (i) is an acquisition of an interest that alone constitutes a majority interest in the corporation; or
 - (ii) together with acquisitions by the person of interests in the corporation during the 12 months immediately preceding the day on which the acquisition occurs, constitutes a majority interest in the corporation; or
 - (b) where, by the acquisition, a person who has a majority interest in the corporation (and in acquiring that majority interest the person became subject to section 56K) acquires a further interest in the corporation,

other than an interest acquired:
 - (c) before 17 August 1988; or
 - (d) as a result of an agreement entered into before 17 August 1988.
- (2) For the purposes of subsection (1)(a)(ii), if a person acquires an interest in a corporation and within 12 months before or after the acquisition became or becomes entitled to a right to acquire a further shareholding in the corporation and that right is exercised, that person shall be deemed to acquire that further shareholding in the corporation within the period of 12 months after the first-mentioned acquisition, notwithstanding that the right is exercised after the expiration of that period.

56Q Meaning of *interest, majority interest and further interest*

- (1) For the purpose of section 56K, a person acquires an interest in a corporation if the person, or the person and a related person, acquires on or after 17 August 1988, otherwise than as a result of an agreement entered into before 17 August 1988, a shareholding in the corporation that would entitle the person, or the person and a related person, if the corporation were to be wound up after the shareholding was acquired, to participate (otherwise than as a creditor or other person to whom the corporation is liable) in a distribution of the property of the corporation.

- (2) For the purposes of section 56K, a person acquires a majority interest in a corporation if the person, or the person and a related person, acquires on or after 17 August 1988, otherwise than as a result of an agreement entered into before 17 August 1988, a shareholding in the corporation that would entitle the person, or the person and a related person, if the corporation were to be wound up after the shareholding was acquired, to participate (otherwise than as a creditor or other person to whom the corporation is liable) in a distribution of the property of the corporation to an extent of 50% or greater of the value of the property distributable to all of the holders of shares in the corporation.
- (3) For the purposes of section 56K, a person acquires a further interest in a corporation if the person, or the person and a related person:
 - (a) has a majority interest in the corporation;
 - (b) in acquiring that majority interest became subject to section 56K; and
 - (c) acquires a further shareholding in the corporation that would entitle the person, or the person and a related person, if the corporation were to be wound up after the shareholding was acquired, to participate further (otherwise than as a creditor or other person to whom the corporation is liable) in a distribution of the property of the corporation.

56R How dutiable value determined

- (1) Where section 56M(1) applies, duty is chargeable in accordance with this section on the basis of the unencumbered value (in this section called **the dutiable value**) of the land in the Territory to which the corporation is entitled.
- (2) Where by a relevant acquisition a person acquires a majority interest in a corporation, the dutiable value is the same proportion of the unencumbered value of the land in the Territory to which the corporation is entitled, as provided by subsection (4), at the time of the acquisition, as the proportion of the property of the corporation which the person, or the person and a related person, would be entitled, as provided in subsection (5), after the acquisition.
- (3) Where the relevant acquisition is under section 56P(1)(b), the dutiable value:
 - (a) for the purposes of section 56M(1)(b)(i) – is the same proportion of the unencumbered value of the land in the Territory to which the corporation is entitled, as provided by

- subsection (4), at the time of the acquisition, as the proportion of the property of the corporation to which the person, or the person and a related person, would be entitled, as provided in subsection (5), after the further acquisition; and
- (b) for the purposes of section 56M(1)(b)(ii) – is the same proportion of the unencumbered value of the land in the Territory to which the corporation is entitled, as provided by subsection (4), at the time of the acquisition, as the proportion of the property of the corporation to which the person, or the person and a related person, would have been entitled, as provided in subsection (5), at the time of the immediately preceding relevant acquisition by that person, or a related person.
- (4) For the purposes of subsections (2) and (3), the unencumbered value of the land to which a corporation is entitled at any time is the sum of:
- (a) in the case of land to which the corporation is entitled without reference to section 56N(5) – the unencumbered value of the land at that time; and
- (b) in the case of land to which a subsidiary is entitled as mentioned in section 56N – the amount to which, if the property of a subsidiary or of all subsidiaries in the chain of relationships were to be distributed at that time (in the case of a corporation, on the basis of a winding up), without having regard to any liabilities of the subsidiary or subsidiaries, the first-mentioned corporation in this subsection would be entitled in respect of the unencumbered value at that time of land to which the subsidiary is, or all subsidiaries are, entitled.
- (5) For the purposes of subsections (2) and (3), the property of a corporation to which a person, or the person and a related person, would be entitled is the property to which the person, or the person and a related person, would be entitled (otherwise than as a creditor or other person to whom the corporation is liable) if the corporation were to be wound up after the acquisition.

56S Liability for duty

- (1) Where a statement is required to be lodged under section 56K:
- (a) the person who is required to lodge the statement;
- (b) the corporation in which the interest is acquired; and

- (c) where the acquisition is a relevant acquisition by reason of a person and a related person acquiring an interest in the corporation, the related person,

are jointly and severally liable for the duty chargeable under this Division.

- (2) A person, other than a related person, may recover as a debt due and payable to the person from the person required to lodge the statement under section 56K or a related person required to lodge such a statement, the amount of any duty chargeable under this Division and penalty (if any) paid by the first-mentioned person.

56T Unit trust schemes

- (1) In this section:

private unit trust scheme means a unit trust scheme if, at the time of the acquisition of a unit, the deed relating to the scheme:

- (a) has not been approved for the purposes of Chapter 5C of the Corporations Act 2001 or the corresponding provisions of the law in force in a State or another Territory of the Commonwealth; or
- (b) has been so approved but:
- (i) no units have been issued to the public;
 - (ii) fewer than 50 persons are beneficially entitled to units under the scheme; or
 - (iii) 20 or fewer persons are beneficially entitled to 75% or more of the total issued units under the scheme.

unit means a right or interest, whether described as a unit or sub-unit or otherwise, of a beneficiary under a unit trust scheme, and includes an interest in a unit but does not include a unit acquired solely pursuant to an arrangement referred to in section 56U(b).

unit trustee means a trustee of a private unit trust scheme.

- (2) For the purposes of the definition of **private unit trust scheme** and determining the number of persons beneficially entitled to units:
- (a) units to which:
- (i) a corporation;

- (ii) a person who is entitled to more than 50% of the issued share capital of the corporation; or
 - (iii) a related corporation,is entitled shall be deemed to be held by one person; and
- (b) units to which:
 - (i) a trustee of a trust (including a unit trust scheme);
 - (ii) where the trust is a discretionary trust – a person who has an entitlement on the distribution of that trust; or
 - (iii) a person whose share or interest in the trust, whether vested or contingent, constitutes more than 50% of the trust property or of the issued units in the trust,is entitled shall be deemed to be held by one person.
- (3) This Division applies to a private unit trust scheme as if:
 - (a) the private unit trust scheme were a corporation;
 - (b) a unit in the private unit trust scheme were a share in a corporation;
 - (c) the acquisition of units in the private unit trust scheme were the acquisition of shares in a corporation;
 - (d) a reference to the constitution or rules of a corporation were a reference to the constituent documents of a private unit trust scheme; and
 - (e) a reference to a winding up of a corporation were a reference to a termination of a private unit trust scheme.
- (4) Where a unit trustee has a majority interest in another corporation or private unit trust scheme, all land situated in the Territory to which the corporation or private unit trust scheme is beneficially entitled for the purposes of this Division shall be deemed to be an undivided share in land held by the unit trustee.
- (5) The extent of the undivided share in land referred to in subsection (4) is the same proportion of the value of the land situated in the Territory to which the corporation or private unit trust scheme is beneficially entitled for the purposes of this Division as the proportion of the property of the corporation or the private unit trust scheme which the trustee would be entitled to claim in a distribution of property, as provided in section 56C(5), if the

corporation or the private unit trust scheme were to be wound up or terminated, as the case may be, at the time of the acquisition effected or evidenced by the relevant transfer or instrument.

- (6) A unit trustee has a majority interest in another corporation or private unit trust scheme if the trustee has a shareholding in the corporation or unit holding in the private unit trust scheme that would entitle the trustee, if the corporation or the private unit trust scheme were to be wound up or terminated, as the case may be, at the time of the acquisition effected or evidenced by the relevant transfer or instrument, to participate (otherwise than as a creditor or other person to whom the corporation is liable) in a distribution of the property of the corporation or private unit trust scheme as provided in section 56C(5), to an extent greater than 50% of the value of the property distributable to all the holders of shares in the corporation or units in the private unit trust scheme.

56U Division not to apply in certain circumstances

This Division does not apply to or in relation to:

- (a) an acquisition by a person of an interest in a corporation relating to property if a conveyance of the property to the person would not have been liable to duty under item 5 of Schedule 1 to the *Stamp Duty Act*; or
- (b) an acquisition of units in a private unit trust scheme within the meaning of section 56T if the units were acquired solely pursuant to an arrangement (whether entered into before or after the commencement of section 6 of the *Taxation (Administration) Amendment Act (No. 2) 1988*) entered into or carried out by any of the parties to the arrangement for the sole purpose of enabling the private unit trust scheme or a related person to:
- (i) obtain finance (whether by way of renewal or otherwise);
 - (ii) obtain an extension of the period for which finance was obtained under an earlier arrangement; or
 - (iii) enforce or terminate an arrangement for the provision of finance.

Division 9 Motor vehicle certificate of registration

57 Owner to pay duty

- (1) The applicant for registration of a motor vehicle in respect of which a motor vehicle certificate of registration is, on issue, liable to duty shall, before the issue of the certificate, pay to the Registrar an amount equal to the duty payable on that certificate.

Penalty: \$5,000.

- (2) Where a motor vehicle:
- (a) has been kept in the Territory for a period of less than 12 months; and
 - (b) during that period has been available for hire or lease to the public from a lender or registered lender under Division 13 of Part III,

the Commissioner may, on application in writing by the applicant for the certificate of registration issued in respect of the vehicle, reassess the duty payable on the certificate as being that proportion of the duty actually paid that the number of months the vehicle was kept in the Territory after registration bears to 12, and the provisions of section 97 apply accordingly.

- (3) For the purposes of subsection (2), a part of a month shall be deemed to be equivalent to a whole month.

58 Registrar not to register unless duty paid

- (1) The Registrar notwithstanding anything contained in the *Motor Vehicles Act*, shall not register a motor vehicle where the motor vehicle certificate of registration in respect of that vehicle is liable to duty unless:
- (a) there has been paid to the Registrar in respect of the registration the duty payable on the certificate; and
 - (b) the Registrar is satisfied that the duty paid on the certificate was based on the consideration for the transfer of the motor vehicle or the market value of the motor vehicle, as the case requires.
- (2) The Registrar shall pay to the Commissioner the amount of the duty received by him under this section.

59 Assessment of duty payable on motor vehicle certificate of registration

(1) In this section:

additional equipment means all equipment which is an integral part of the motor vehicle or added to the motor vehicle before registration and, without limiting the meaning, includes all features actually fitted by the manufacturer or usually fitted by a manufacturer, including air conditioning.

application for registration of a motor vehicle includes an application for the transfer of registration.

dutiable value means:

- (a) in the case of the transfer of a motor vehicle by a sale and purchase at arm's length – the sum of the amount for which the motor vehicle and any additional equipment in or added to the motor vehicle was sold (which is to include any deposit paid and any trade-in allowance) and the amount paid for dealer delivery charges; or
 - (b) in any other case – the market value of the motor vehicle and the additional equipment in or added to the motor vehicle as at the date the transaction that gives rise to the application for registration of the motor vehicle is entered into or at the date the application for registration is made, whichever is the greater.
- (1A) For the purposes of this section, the dutiable value of a motor vehicle is to be calculated without any deduction or discount for the amount of GST (if any) payable in relation to the supply of the vehicle.
- (2) Where a motor vehicle certificate of registration is liable to duty, it shall be assessed on the dutiable value of the motor vehicle and the applicant for registration of the motor vehicle shall declare the dutiable value on an approved form.
- (3) Where an application for registration relates to the transfer of a motor vehicle, within 14 days after the date of the transfer, the transferor shall notify on the form of application or in another approved manner the amount received as consideration for the transfer.

- (4) The Commissioner or the Registrar may require the applicant or transferor (as the case requires) to provide, within the time specified, the further information that the Commissioner or Registrar considers necessary to determine:
- (a) whether duty is payable under this Division; or
 - (b) if duty is payable, the amount of duty.
- (5) A person must not:
- (a) fail, refuse or neglect to comply with subsection (2) or (3) or a requirement under subsection (4); or
 - (b) in purported compliance with subsection (2) or (3) or a requirement under subsection (4), provide information that is false in a material particular.

Penalty: 50 penalty units.

60 How duty denoted

The payment of duty on a motor vehicle certificate of registration shall be denoted by an approved means.

61 Exemption to be claimed in declaration

A person claiming an exemption from paying duty on a motor vehicle certificate of registration shall, with his application for registration, lodge with the Registrar a declaration stating the grounds on which the exemption is claimed.

Division 11 Conveyances of marketable securities liable to duty

67 Conveyances subject to tax or stamp duty

Except where otherwise provided by or under this Act, stamp duty calculated at a rate specified in paragraph (4) of item 20 of Schedule 1 to the *Stamp Duty Act* is payable on a conveyance of a marketable security:

- (a) of an Australian company taken to be registered in the Territory by virtue of section 119A of the Corporations Act 2001;

- (b) of a company, other than an Australian company:
 - (i) if the marketable security was, immediately before the conveyance was executed, registered in a register kept in the Territory by a company; or
 - (ii) where there is no register of marketable securities kept by the company in Australia – if the place of the registered office of the company is in the Territory; or
- (c) that is a unit of a unit trust scheme where the principal register of the trust is situated in the Territory.

67A Buy-backs of marketable securities

- (1) For the purposes of section 67, an instrument under which the holder of marketable securities transfers or divests those marketable securities to give effect to a transaction under which a company buys back its own marketable securities is a conveyance of those marketable securities.
- (2) This section applies:
 - (a) to an instrument whether created or executed before or after the commencement of this section; and
 - (b) whether the transfer or divestiture of the marketable securities occurred before or occurs after the commencement of this section.
- (3) This section does not apply in relation to redeemable preference shares unless they are bought back on terms different from those on which they were on issue.

68 Duty payable by conveyee

Duty imposed on an instrument of conveyance of a marketable security is payable by the conveyee.

69 How duty denoted

The payment of duty imposed on an instrument of conveyance referred to in section 67 shall be denoted by impressed stamp.

Division 13 Hiring arrangements

71 Instrument to be made out

- (1) Subject to subsection (4), a lender shall make an instrument at the time the first or only payment is made under a hiring arrangement.
- (2) An instrument made out under subsection (1) shall clearly and truly set out:
 - (a) the full name and address of the lender;
 - (b) the full name and address of the user;
 - (c) a description of the goods sufficient to indicate their nature; and
 - (d) the total amount paid or payable to the lender in relation to the hiring arrangement, or the amount calculated under section 78.
- (3) A lender shall, upon making an instrument under subsection (1):
 - (a) mark it with the words "Original Instrument" on its front or first page;
 - (b) lodge it as a hiring arrangement with the Commissioner for assessment;
 - (c) pay the amount of duty assessed; and
 - (d) retain the instrument for a period of 12 months or such further time as the Commissioner may specify.
- (4) This section does not apply to and in relation to a registered lender or to a hiring arrangement in respect of which the Commissioner has under section 78 required the lender to pay duty as though he were a registered lender.
- (6) In the case of a hiring arrangement where the lender is a person resident outside the Territory or is not bound by this Act, the user, if he is resident or domiciled in the Territory, shall, unless duty has been paid on the hiring arrangement in accordance with this Act:
 - (a) furnish to the Commissioner a return setting out the information contained in subsection (2); and
 - (b) pay the same duty as if the return were a hiring arrangement.

- (7) A return under subsection (6) shall:
- (a) be in accordance with an approved form; and
 - (b) be furnished and the duty paid within 2 months of the date the first or only payment is made in accordance with the hiring arrangement.
- (8) A person shall not fail, refuse or neglect to comply with this section.
- Penalty: \$5,000.
- (9) A reference in this section to the total amount paid or payable to a lender in relation to a hiring arrangement or the amount calculated under section 78 in respect of a hiring arrangement is to be read as a reference to the total amount paid or payable or the amount calculated exclusive of the amount of GST (if any) payable in relation to the supply of the property the subject of the hiring arrangement.

72 Register of Lenders

For the purpose of this Division, the Commissioner shall keep a register to be called "Register of Lenders".

73 Registration

- (1) A lender liable to payment of duty under section 71 may apply to the Commissioner in writing in accordance with an approved form for registration in the Register kept under this Division.
- (2) The Commissioner may, upon receiving an application from a lender under subsection (1), register the lender by entering the name of the lender in the Register.
- (3) The Commissioner shall give notice of the registration by instrument served on the lender.
- (4) The Commissioner shall revoke the registration of a lender under this Division by removing his name from the Register upon receiving notification of the winding-up of the lender, or upon receiving a request from the lender to revoke the registration.
- (5) For the purposes of this Division, a lender who becomes registered or ceases to be registered during a month is to be taken to be registered for the whole of that month.

74 Certain particulars to be recorded

- (1) A registered lender shall, at the time the first or only payment is received in accordance with a hiring arrangement, make a record of such particulars relating to the hiring arrangement as the Commissioner may, by notice in writing given to him, require.

Penalty: \$5,000.

- (2) A person making a record in accordance with subsection (1) shall retain that record for a period of 5 years.

Penalty: \$5,000.

75 Returns in respect of hiring arrangements

- (1) A registered lender shall, within 21 days after the expiration of each month of each year:

(a) furnish to the Commissioner a return of the total amount paid or payable to the registered lender in relation to hiring arrangements during that month; and

(b) pay tax on that total amount of an amount calculated at the same percentage rate of duty as would be chargeable if the return were a hiring arrangement.

Penalty: \$5,000.

- (2) A return under this section shall be in accordance with an approved form and shall contain such particulars as are required by the form.

- (3) A reference in this section to the total amount paid or payable to a registered lender in relation to hiring arrangements is to be read as a reference to the total amount paid or payable exclusive of the amount of GST (if any) payable in relation to the supply of the property the subject of the hiring arrangements.

75AA No duty payable on final payment under hire-purchase agreement

Duty is not payable on the amount of a payment under a hire-purchase agreement if title to the goods passes to the user as a consequence of the payment.

75A Duty reduced where paid or payable elsewhere

- (1) Despite anything in this Act, where an amount of stamp duty (or duty of a like nature) is paid or payable on or in respect of a hiring arrangement to which this section applies under a law of a State or

another Territory of the Commonwealth, the amount of duty chargeable under this Act is reduced by the lesser of:

- (a) the amount of duty paid or payable under the other law; or
 - (b) the amount of duty otherwise payable on or in respect of that hiring arrangement.
- (2) This section applies to a hiring arrangement:
- (a) in respect of goods (other than a motor vehicle) where one or both of the following apply:
 - (i) the arrangement is entered into in the Territory;
 - (ii) the goods are supplied or delivered or agreed to be supplied or delivered in the Territory,but the goods are not used solely or principally in the Territory;
or
 - (b) in respect of a motor vehicle where the arrangement was entered into in the Territory where one or both of the following apply:
 - (i) the motor vehicle is not supplied or delivered and is not agreed to be supplied or delivered in the Territory;
 - (ii) the motor vehicle is not used solely or principally in the Territory.

76 Where duty paid on return, no further duty payable

- (1) Where tax has been paid in respect of a hiring arrangement in accordance with section 75(1)(b), an instrument evidencing the terms and conditions of that hiring arrangement is not chargeable with duty as a hiring arrangement.
- (2) A registered lender shall, when he makes out an instrument that, but for the provisions of subsection (1) would be chargeable with duty as a hiring arrangement, endorse on that instrument the words "Stamp Duty" followed by his name and signature.

Penalty: \$5,000.

- (3) An instrument endorsed in accordance with subsection (2) shall be deemed to be duly stamped.

77 Offence

A person, not being a registered lender, shall not endorse on an instrument that is chargeable with duty as a hiring arrangement anything suggesting or implying that the instrument is duly stamped under this Division.

Penalty: \$10,000.

78 Total amount not readily ascertainable

- (1) Where the Commissioner is satisfied that it is not reasonably practicable to calculate the total amount payable under a hiring arrangement, he may:
 - (a) calculate the total amount payable in such manner or on such basis as he thinks fit and the amount so calculated shall be deemed to be the total amount payable for the purposes of this Act and the Act imposing the duty; or
 - (b) require the lender to pay duty in respect of that hiring arrangement as though he were a registered lender and for that purpose the provisions of this Division relating to a registered lender apply as far as they are able to apply.

78A Commissioner may exempt lender

- (1) If, in the opinion of the Commissioner:
 - (a) a lender will not receive more than a total amount of \$36 000 under one or more hiring arrangements in a financial year; or
 - (b) the quotient of the total amount a lender will receive under one or more hiring arrangements in the financial year in which the lender will commence or cease entering hiring arrangements divided by the number of months (including parts of months) in that financial year after the lender commences or before the lender ceases entering hiring arrangements will not exceed \$3 000,

the Commissioner may exempt the lender from all or specified provisions of this Division.

- (2) An exemption granted under subsection (1) may be subject to such terms and conditions, if any, as the Commissioner thinks fit and specifies in the exemption.
- (3) The Commissioner may, at any time, amend, vary or revoke an exemption granted under subsection (1).

- (4) Where the Commissioner grants an exemption under subsection (1), this Division or the specified provisions of this Division, as the case may be, do not apply to or in relation to the lender while the exemption remains in force.

78B Automatic revocation of exemption

- (1) An exemption under section 78A is, by force of this subsection, revoked if:
- (a) the lender receives more than a total amount of \$36 000 under one or more hiring arrangements in a financial year; or
 - (b) the quotient of the total amount the lender receives under one or more hiring arrangements in the financial year in which the lender commences or ceases entering hiring arrangements divided by the number of months (including parts of months) in that financial year after the lender commences or before the lender ceases entering hiring arrangements exceeds \$3 000.
- (2) Where an exemption is, by virtue of subsection (1), revoked the lender shall, in respect of hiring arrangements entered into in that financial year:
- (a) be liable to pay tax as if the exemption had never been granted; and
 - (b) for that purpose, furnish to the Commissioner such information as the Commissioner directs.

78C Tax remitted or refunded where receipts do not exceed \$36 000 per year or \$3 000 per month

- (1) Where:
- (a) the total amount received by a lender under one or more hiring arrangements in a financial year does not exceed \$36 000; or
 - (b) the quotient of the total amount a lender received under one or more hiring arrangements in the financial year in which the lender commenced or ceased entering hiring arrangements divided by the number of months (including parts of months) in that financial year after the lender commenced or before the lender ceased entering hiring arrangements does not exceed \$3 000,

despite anything to the contrary in this Act, the Commissioner must refund or remit the amount of the tax paid or payable under this Division in respect of the hiring arrangements.

- (2) A refund by the Commissioner of an amount of tax under subsection (1) is to be made from the public moneys of the Territory and the Allocation for that purpose is established or increased to the extent necessary.

78D Hiring arrangement duly stamped

- (1) Subject to subsection (2), a hiring arrangement referred to in section 78A(1) shall, for the purposes of this Act, be deemed to be duly stamped.
- (2) Nothing in subsection (1) shall be construed as exempting a lender from liability to pay tax in respect of a hiring arrangement in respect of which tax is payable under section 78B.

79 Lender not prevented recovering duty from user

Nothing in this Act prevents a registered lender that has paid or is liable to pay duty imposed on a hiring arrangement recovering an amount equal to the duty paid or payable from the user under the hiring arrangement.

80 How duty denoted

The payment of duty on an instrument to which this Division applies shall be denoted by impressed stamp.

Division 14 Miscellaneous instruments

81 Assessment

- (1) Subject to section 82(1), instruments, other than those referred to in Division 3B to 13A (inclusive) of this Part, on which duty is imposed shall be lodged with the Commissioner for assessment.
- (2) An instrument lodged under this section shall be accompanied by an approved form containing such particulars as are required by the form.
- (3) A person who fails to comply with this section commits an offence.

Penalty: \$5,000.

82 How duty denoted

- (1) Where duty on an instrument is a fixed amount it need not be submitted for assessment under section 81(1), but the duty may be denoted by adhesive stamp.

- (2) Otherwise than as provided in subsection (1), duty on an instrument to which this Division applies shall be denoted by impressed stamp.

83 By whom duty payable

Duty on an instrument to which this Division applies is payable by the parties to the instrument, or any one or more of them.

Division 15 Transactions otherwise than by dutiable instruments

83A Application

- (1) This Division applies to a transaction that, on or after 17 August 1988, causes or results in a change in the beneficial ownership of dutiable property or causes or results in dutiable property being acquired or created.

(1A) In subsection (1), dutiable property includes:

- (a) a marketable security described in section 67; and
- (b) property prescribed, or of a class prescribed, for the purposes of this subsection.

(1B) For the purposes of subsection (1):

- (a) the addition of a beneficiary or class of beneficiaries under a discretionary trust described in section 56BAB is to be taken to cause or result in a change in the beneficial ownership of all the dutiable property and marketable securities vested in the trustees; and
- (b) the changes in relation to a discretionary trust described in section 56BAC are to be taken to cause or result in a change in the beneficial ownership of all the dutiable property and marketable securities vested in the trustees and, for the purposes of section 83B, that change in beneficial ownership is to be taken to have occurred on the date on which the last of the changes described in section 56BAC occurred.

- (2) A reference to a change in beneficial ownership in subsection (1) does not include a reference to a change in beneficial ownership occurring as the consequence of:

- (a) the appointment of a receiver or trustee in bankruptcy;
- (b) the appointment of a liquidator;

- (c) the making of a compromise or arrangement under Chapter 5 of the Corporations Law which has been approved by the Court;
 - (d) the issue or redemption of units in a unit trust scheme;
 - (e) the surrender of a lease;
 - (f) the transfer or conveyance of an estate or interest in property as a security, including the pledging or charging of property; or
 - (g) the release or termination of an option for the purchase of property.
- (3) This Division does not apply to a transaction or property which is prescribed, or is of a class prescribed, for the purposes of this subsection.
- (4) Notwithstanding anything to the contrary in any other Act, a regulation made for the purposes of subsection (3) may take effect from 17 August 1988 or a later date.

83B Payment of duty on statements in absence of dutiable instrument

- (1) A person, being a party to a transaction to which this Division applies which is not effected or evidenced by an instrument chargeable with ad valorem duty in accordance with Schedule 1 to the *Stamp Duty Act*:
- (a) item 5, under the heading "*Conveyance of Dutiable Property*";
 - (b) item 20, under the heading "*Conveyance of Marketable Securities*"; or
 - (c) any other heading whereby duty is charged as on a conveyance of dutiable property,
- shall, if the person would have been liable to pay such ad valorem duty in respect of the transaction had such an instrument been executed, lodge with the Commissioner a statement in respect of the transaction.
- (3) A statement under this section shall:
- (a) be lodged within 60 days after the change in beneficial ownership or an acquisition or creation of dutiable property which is caused by or results from the transaction;
 - (b) be in an approved form; and

- (c) for the purposes of this Act be deemed:
- (i) to be:
 - (A) an instrument effecting the transaction to which it relates; and
 - (B) in the case of a marketable security – to be an instrument of conveyance of the marketable security,

and is chargeable with the ad valorem duty referred to in subsection (1) appropriate to the transaction; and
 - (ii) to have been first executed on the date on which the change in beneficial ownership or an acquisition or creation of dutiable property occurs.

(4) The ad valorem duty with which a statement under this section is chargeable shall be charged on:

- (a) the unencumbered value of the dutiable property the subject of the transaction as at the date on which the change in beneficial ownership or an acquisition or creation of dutiable property occurs; or

- (b) the amount of the consideration in respect of the transaction,

whichever is the greater, and shall be paid at the time of lodgement of the statement with the Commissioner by the person required to lodge the statement.

83D Effect of execution of dutiable instruments

(1) An instrument executed for the purpose of effecting or evidencing, or apparently for the purpose of effecting or evidencing, a transaction to which this Division applies, being a transaction in respect of which a statement has been duly stamped in accordance with section 83B, is not chargeable with duty under this Act to the extent to which duty has been paid on the statement.

(2) Where, within 2 months after a change in beneficial ownership or an acquisition or creation of dutiable property occurs as the result of a transaction to which this Division applies, an instrument chargeable with ad valorem duty (not being a statement under section 83B) is executed for the purpose of effecting or evidencing, or apparently for the purpose of effecting or evidencing, the transaction and the instrument is duly stamped or lodged for assessment, section 83B ceases to apply to the transaction.

- (3) For the purposes of section 9, an instrument referred to in subsection (2) shall be deemed to have been first executed on the date on which the change in beneficial ownership occurs.

83E Aiding and abetting

A person who:

- (a) directly or indirectly, aids, abets, counsels or procures another person to enter into a transaction to which this Division applies; or
- (b) is, in any way, by act or omission, directly or indirectly concerned in, or party to, the entry by another person into a transaction to which this Division applies,

knowing or believing that the other person does not intend to lodge a statement under section 83B and pay duty in accordance with this Division in respect of the transaction, is guilty of an offence.

Penalty: \$10,000.

83F. Offences relating to statements

- (1) A person who, in respect of a transaction to which this Division applies, fails to lodge a statement under section 83B within 6 months after the date on which a change in beneficial ownership or an acquisition or creation of dutiable property occurs as a result of the transaction commits an offence.

Penalty: \$5,000.

- (1A) A person who, in respect of a transaction to which this Division applies, lodges a statement under section 83B that is false or misleading in a material particular commits an offence.

Penalty: \$10,000.

- (2) Proceedings for an offence against subsection (1):
- (a) may not be instituted without the consent of the Minister;
- (b) may, subject to that consent, be instituted at any time; and
- (c) may be disposed of:
- (i) before the Court of Summary Jurisdiction; or
- (ii) before the Supreme Court in its summary jurisdiction.

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- (3) The consent of the Minister to the institution of proceedings for an offence against this section shall be presumed unless the contrary is proved.

Part IV Assessments

84 Assessment of returns

- (1) The Commissioner shall, from a return and any other information in his possession, make an assessment of the amount of tax payable in respect of the return.
- (2) A return purporting to be made and signed by or on behalf of a person shall, unless the contrary is proved, be deemed to have been made and signed by him or with his authority.
- (3) A trustee of a deceased person shall furnish such returns as the deceased person, if he were still living, would be required by this Act to furnish.
- (4) The furnishing of a return for assessment does not relieve the person liable to pay tax in respect of the return of the liability to pay the tax as provided by this Act.
- (5) Where, by reason of an assessment of a return, a person has overpaid tax, the amount of tax overpaid shall be refunded.

85 Lodging of instruments for assessment

- (1) A person liable to pay duty on an instrument that is not required by this Act to be lodged for assessment of duty may, within 60 days after the date of execution of the instrument by him, lodge the instrument with the Commissioner for assessment of duty.
- (2) The lodging of an instrument for assessment of duty does not relieve a person liable to pay duty on the instrument of his liability to pay the duty in accordance with this Act and to cause the instrument to be duly stamped.

86 Information for the purpose of making assessment

- (1) The Commissioner may, at any time, by instrument served on a person who has furnished a return or lodged an instrument for assessment, require that person to furnish, within a specified period, further information by statutory declaration or otherwise in connection with the return so furnished or instrument so lodged.

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- (2) Where the Commissioner has reason to believe, for the purpose of the assessment or amendment of an assessment or enquiring into or ascertaining the liability of a person under this Act, that a person is capable of giving information or producing documents that may be used for that purpose, the Commissioner may, by instrument served on that person, require that person:
- (a) to furnish to him in writing, within the period and in the manner specified in the instrument, any such information;
 - (b) to attend before him or a person specified in the instrument at such time and place as is specified and there to answer questions for that purpose; or
 - (c) to produce to him or to a person specified in the instrument, in accordance with the instrument, any such document.
- (3) The Commissioner or person before whom a person is required to attend under subsection (2) may take evidence on oath or affirmation, and, for that purpose, may administer an oath or affirmation to the person attending.

87 Failure to comply with requirements for further information, &c.

- (1) A person shall not:
- (a) refuse or fail to comply with a requirement in an instrument served under section 86 to the extent to which he is capable of complying with it;
 - (b) in purported compliance with such a requirement, furnish information that is false or misleading in a material particular; or
 - (c) when attending before the Commissioner or a person in pursuance of such a requirement:
 - (i) make a statement or produce a document that is false or misleading in a material particular; or
 - (ii) refuse or fail to be sworn or to make an affirmation.

Penalty: \$10,000.

- (2) It is a defence to a prosecution for an offence against subsection (1) of furnishing information, or making a statement, or producing a document, that is false or misleading in a material particular if the defendant proves that the false or misleading

information, statement or document was furnished, made or produced through ignorance or inadvertence.

- (3) Upon the finding of guilt of a person for an offence of refusing or failing to comply with a requirement under subsection (1), the court may order that person within a period fixed by the court, to comply with that requirement.
- (4) A person to whom such an order is given shall not refuse or fail to comply with the order.

Penalty: \$10,000.

- (5) An order under subsection (3) may be given orally by the court to the person or may be served by sending a copy of the order by post addressed to that person at his last-known place of residence or business.
- (6) Upon the finding of guilt of a person for an offence against subsection (1) of furnishing information, or making a statement, or producing a document, that is false or misleading in a material particular, the court may, in addition to the penalty prescribed by that subsection and without affecting the person's liability to pay the amount of duty or tax properly payable, order that person to pay to the Commissioner an amount not exceeding an amount equal to double the amount of duty or tax that would have been avoided if the information, statement or document had been accepted as correct.

88 False or misleading returns

- (1) A person who is required by this Act to furnish a return to the Commissioner shall not furnish a return that is false or misleading in a material particular.

Penalty: \$10,000.

- (2) It is a defence to a prosecution for an offence against this section if the defendant proves that the false or misleading return was furnished through ignorance or inadvertence.
- (3) Upon the finding of guilt of a person for an offence against this section, the court may, in addition to the penalty prescribed by this section and without affecting the person's liability to pay the amount of duty properly payable, order that person to pay to the Commissioner an amount not exceeding an amount equal to double the amount of tax that would have been avoided if the return had been accepted as correct.

89 False or misleading declarations

- (1) Without derogating from any other provision of this Part, a person shall not furnish information to the Commissioner that is false or misleading in a material particular.

Penalty: \$10,000.

- (1A) Subsection (1) applies whether or not the information:
- (a) is required by or under this Act to be furnished; or
 - (b) is in the form of a declaration.
- (2) It is a defence to a prosecution for an offence against this section if the defendant proves that the false or misleading information was furnished through ignorance or inadvertence.
- (3) Upon the finding of guilt of a person for an offence against this section, the court may, in addition to the penalty prescribed by this section and without affecting the person's liability to pay any amount of duty or tax properly payable, order that person to pay to the Commissioner an amount not exceeding an amount equal to double the amount of duty or tax that would have been avoided if the information had been accepted as correct.

90 Incriminating information, &c.

A person is not excused from furnishing information or producing a document in compliance with an instrument served on him under section 86 or in compliance with an order of a court under section 87(3) on the ground that the information or document might tend to incriminate him, but his answer to any question asked in the order or instrument or any information furnished by him in pursuance of the order or instrument is not admissible in evidence against him in criminal proceedings other than proceedings under this Act.

91 Enforcement of court orders to pay

- (1) Where a court makes an order for the payment of an additional penalty under section 87 or 88, a certificate of the order in accordance with an approved form may be registered in a court of competent jurisdiction.
- (2) Upon registration under subsection (1), the certificate becomes a record of the court with the same force and effect as a judgment of the court, and the like proceedings (including proceedings in bankruptcy) may be taken upon the certificate as if the order had

been a judgment of the court in favour of the Commissioner.

92 Assessment of duty on instruments

- (1) Where an instrument is lodged with the Commissioner for assessment:
 - (a) if he adjudges that duty on the instrument is not payable – he may put an impressed stamp on the instrument as provided by section 17(2); or
 - (b) if he adjudges that duty is payable – he shall assess the amount of the duty.
- (2) The Commissioner shall inform the person lodging the instrument of his assessment under subsection (1), but is not required to give notice in writing of the assessment to that person unless so requested in writing by that person within 30 days after the lodging of the instrument.
- (3) If an instrument lodged for assessment has been returned before a request for notice in writing of the assessment, the Commissioner may refuse to give the notice in writing unless the person requesting the notice in writing relodges the instrument with him.
- (4) Where, by reason of an assessment of an instrument in respect of which an amount has been paid as duty, a person has overpaid duty, the amount of duty overpaid shall be refunded.

93 Retaining and impounding of instruments

- (1) Where the Commissioner has reason to believe that an instrument liable to duty has not been duly stamped, or has not been lodged for assessment as required by this Act, a person authorized by the Commissioner may seize the instrument.
- (2) The Commissioner may retain possession of an instrument lodged for assessment of duty, or seized under subsection (1), until his assessment and any duty assessed by him and any additional amount payable by way of penalty in respect of that instrument under this Act has been paid.
- (3) Notwithstanding subsection (2), the Commissioner shall, on being required to do so by subpoena, summons or order of a court, produce the instrument or cause it to be produced to the court for as long as it is required in proceedings in the court.

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- (4) This Act applies to an instrument that has been seized under this section as though it had been lodged with the Commissioner for assessment.

94 Default assessments

- (1) Where:

- (a) a person liable to furnish a return or to lodge a statement under section 83B has failed to furnish the return or lodge the statement, has furnished a return or lodged a statement that is false or misleading in a material particular or has failed to include in a return or statement particulars required by or under this Act to be included;
- (b) a person has not complied with a requirement under section 86 in respect of a return or instrument; or
- (c) the Commissioner has reason to believe or suspect that a person is liable to pay duty or tax under this Act,

the Commissioner may make an assessment of the amount of duty or tax that, in his opinion, is payable and for that purpose may create a memorandum of a return, statement, instrument or other document, which memorandum shall be deemed to be an instrument for the purposes of this Act.

- (2) Where:

- (a) a motor vehicle registered under the *Motor Vehicles Act* is sold or disposed of; and
- (b) the new owner does not apply to the Registrar for the transfer of the vehicle within the period required by section 20(2) of that Act,

the Registrar or the Commissioner may make an assessment of the duty payable under Division 9 of Part III as if:

- (c) the new owner had applied to the Registrar for the transfer of the vehicle on the date on which it was sold or disposed of; and
- (d) the Registrar had issued to the new owner a motor vehicle certificate of registration for the vehicle on that date,

and for that purpose may create a memorandum that is to be taken to be the application for transfer for the purposes of this Act.

95 Notice of default assessments

As soon as practicable after an assessment made in the circumstances referred to in section 94 under which duty is assessed to be payable, the Commissioner or, in the case of duty payable under Division 9 of Part III, the Registrar shall cause notice in writing of the assessment and the amount of the duty or tax payable to be served on the person who is adjudged by him to be the person liable to pay it.

96 Penalty additional to duty on default assessments

- (1) Where a person is liable to pay duty or tax by virtue of an assessment made under section 94, that person is liable to pay, by way of penalty, in addition to the amount of the duty or tax, an amount equal to double the amount of that duty or tax.
- (2) Where a person furnishes a return or lodges an instrument after the expiration of the period within which he is required by this Act, to furnish or lodge it, that person is liable to pay, by way of penalty, in addition to the amount of duty or tax that he is liable to pay in respect of that return or instrument, \$20 or an amount calculated at the rate of 1.5% per month upon the amount of that duty or tax, whichever is the greater.
- (2A) Where a person furnishes a return or lodges an instrument to which section 9B applies after the expiration of the period within which the person is required by this Act to furnish or lodge it, that person is liable to pay, by way of penalty, in addition to the amount of duty or tax that he is liable to pay in respect of that return or instrument and to an amount of penalty under subsection (2), a further amount equal to double the amount of that duty or tax.
- (3) For the purposes of subsection (2), the amount calculated at the percentage specified in that subsection shall be computed for the period commencing on the last day of the period within which that person is required to furnish the return or lodge the instrument and ending on the day upon which it is furnished or lodged.
- (4) Where a person fails to include in a return particulars of a matter required by this Act to be included and the amount of tax properly payable in respect of that matter is assessed to be greater than the amount of tax that would be payable on the basis of the particulars furnished by him, that person is liable to pay, by way of penalty, in addition to the amount of tax properly payable, an amount equal to double the amount of the difference between the amount of tax properly payable and the amount of tax that would be payable on the basis of those particulars.

- (5) The Commissioner or the Registrar shall include particulars of an amount payable by way of penalty under this section in a notice given under section 95.
- (6) The Commissioner or, in the case of duty payable under Division 9 of Part III, the Registrar may, in a particular case, for such reasons as in his discretion he thinks sufficient, remit the whole or part of an amount payable by way of penalty under this section.
- (7) The Commissioner or, in the case of duty payable under Division 9 of Part III, the Registrar shall denote on an instrument assessed under section 94 by impressed stamp or adhesive stamp, the payment of an additional amount payable by way of penalty under this section in respect of the instrument.

97 Amended assessment

- (1) The Commissioner may, at any time within a period of 3 years after the date of an assessment by him of duty, amend the assessment by making such alterations or additions to it as he thinks necessary.
- (2) Subsection (1) does not prevent the amendment of an assessment after the expiration of the period referred to in that subsection in order to give effect to a decision on an appeal under Part V, or the amendment of an assessment after the expiration of that period by way of reduction on an objection under that Part or pending such an appeal.
- (3) Where, by reason of an amendment of an assessment, a person has overpaid duty or tax, the amount of duty or tax overpaid shall be refunded.
- (4) As soon as practicable after the amendment of an assessment under this section, the Commissioner shall cause notice in writing of the amended assessment and the amount of duty or tax payable in accordance with the amended assessment, together with the amount of any duty or tax underpaid or overpaid, to be given to the person who is adjudged by him to be the person liable to pay the duty or tax.
- (5) Where duty has been paid under the *Stamp Duty Act* and the Commissioner is satisfied that the person who paid the duty was entitled to a concession under section 8B of that Act, the Commissioner shall refund to the person an amount equal to the concession that the person was entitled to have received under that section.

98 Assessments in relation to deceased persons

The Commissioner has the same powers of assessment of duty or tax in relation to a trustee of a deceased person as he would have had in relation to that person if he were still living.

99 Validity of assessments

The validity of an assessment is not affected by reason that a provision of this Act has not been complied with.

Part V Appeals**100 Objections to assessments**

- (1) A person who is aggrieved by an assessment made in relation to him under this Act may, within 30 days after the date on which he is informed of the assessment, post to, or lodge with, the Commissioner an objection in writing to the assessment.
- (2) An objector shall, in an objection to an assessment, state fully and in detail the grounds on which he relies.
- (3) The Commissioner shall consider the objection, and may either disallow it, or allow it, either wholly or in part.
- (4) The Commissioner shall cause notice in writing of his decision on an objection to be served on the objector.
- (6) The objector has no further right of objection in relation to an amended assessment than he would have had if the amendment had not been made, except to the extent to which a fresh liability is imposed upon him or an existing liability is increased by reason of the amendment.
- (7) If the Commissioner is satisfied that a person has a reasonable excuse for not lodging an objection within the 30-day period, the Commissioner may extend the time for lodging the objection.

101 Appeal to Supreme Court

- (1) An objector who is dissatisfied with a decision of the Commissioner on his objection may, within 30 days after service on him of notice of that decision or within such further time as the Commissioner may allow, appeal to the Supreme Court.

- (2) On appeal:
 - (a) the appeal shall be limited to the grounds stated in the objection; and
 - (b) the burden of proving that any assessment objected to is excessive lies on the objector.
- (3) If a person's liability or assessment has been reduced on an objection, the reduced liability or assessment shall be the liability or assessment appealed against.

102 Appeal pending not to affect liability or assessment

- (1) The fact that an appeal is pending with respect to any liability or assessment shall not in the meantime interfere with or affect the liability or assessment the subject of that appeal, and the duty or tax may be recovered as if no appeal were pending.
- (2) If the liability or assessment is altered on appeal, a due adjustment shall be made, for which purpose amounts in excess shall be refunded and amounts short paid shall be recoverable as arrears.

104 Adjustments of duty or tax after appeal

- (1) If a matter is remitted to the Commissioner by the Supreme Court for reassessment, the Commissioner shall forthwith reassess the matter.
- (2) If an assessment is varied on an appeal or by the Commissioner as the result of an appeal, the Commissioner shall:
 - (a) cause all necessary adjustments to be made; and
 - (b) cause notice in writing of the varied assessment to be given to the appellant.
- (3) If an assessment is varied on an appeal or by the Commissioner as the result of an appeal:
 - (a) an amount of duty or tax not paid or underpaid is recoverable from the person liable under the assessment as varied to pay the duty or tax; and
 - (b) an amount of duty or tax overpaid shall be refunded.

105 Supreme Court rules

The Chief Judge may make rules prescribing the practice and procedure applicable to appeals under this Part and, pending the

making of rules, a Judge of the Supreme Court may give such directions as to the practice and procedure applicable to the hearing of an appeal as he sees fit.

105A Interest payable on refunded duty or tax

(1) If, as a result of:

- (a) a decision by the Commissioner on an objection under section 100, being an objection lodged after the commencement of this section; or
- (b) a decision of the Supreme Court on an appeal under section 101 against a decision of the Commissioner on an objection, being an objection lodged after the commencement of this section,

a person has overpaid duty or tax (including additional or further duty or tax), in addition to a refund of the amount of the overpayment, the person is entitled to be paid interest on that amount in accordance with subsection (2).

(2) Interest under subsection (1) is payable:

- (a) at the prescribed rate; and
- (b) for the period commencing on the date on which the overpaid duty or tax was paid and ending on the date on which the refund is paid.

(3) In subsection (2):

prescribed rate means:

- (a) a rate prescribed by regulation; or
- (b) if a rate is not prescribed under paragraph (a) – the rate prescribed for the purposes of section 214A of the *Income Tax Assessment Act 1936* of the Commonwealth or the provision of the *Income Tax Assessment Act 1997* of the Commonwealth equivalent to that section.

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105B No judicial review of certain decisions

- (1) This section applies in relation to the following decisions of the Commissioner:
 - (a) under section 56BAB(3)(b) that the addition of a beneficiary or a class of beneficiaries under a discretionary trust described in section 56BAB is or is not a tax avoidance scheme or part of such a scheme;
 - (b) under section 56BAC(3) that the changes in relation to a discretionary trust described in section 56BAC are or are not a tax avoidance scheme or part of such a scheme.
- (2) Except as provided by this Part and despite any other law of the Territory, including the common law:
 - (a) no person or body is entitled to investigate, inquire into, review or otherwise call into question a decision referred to in subsection (1); and
 - (b) no proceedings for an injunction, a declaration or for certiorari, prohibition or mandamus are to be brought, and no judgment or order granting an injunction, a declaration or certiorari, prohibition or mandamus is to be given or made, in relation to a decision referred to in subsection (1).

Part VI Recovery of duty

106 Recovery of duty or tax

Duty or tax is, upon becoming due and payable under this Act, a debt due to the Territory and recoverable in a court of competent jurisdiction.

107 Additional penalty for failure to pay duty or tax on time

- (1) Where a person liable to duty or tax fails to pay the duty or tax on or before the day on which it becomes due and payable under this Act, that person is liable to pay, by way of penalty, in addition to the amount of the duty or tax that he has failed to pay or any other amount payable by way of penalty under this Act, \$20 or an amount calculated at the rate of 1.5% per month upon the amount of that duty or tax, whichever is the greater.
- (1A) For the purposes of subsection (1), the amount calculated at the percentage specified in that subsection shall be computed for the period commencing on the day, or the last day of the period within

which, the person is required to pay the duty or tax and ending on the day upon which it is paid.

- (1B) Where the new owner of a motor vehicle registered under the *Motor Vehicles Act* does not apply to the Registrar for the transfer of the vehicle within the period required by section 20(2) of that Act, subsection (1) applies as if:
- (a) the Registrar had issued to the new owner a motor vehicle certificate of registration for the vehicle on the fifteenth day after the date on which it was sold or disposed of; and
 - (b) the person had failed to pay the duty payable on that certificate on that date.
- (2) The Commissioner or, where subsection (1B) applies, the Registrar may, in a particular case, for such reasons as in his discretion he thinks sufficient, remit the whole or a part of an additional amount payable by way of penalty under this section.

108 Recovery of additional penalty

- (1) An additional amount payable by way of penalty under section 96 or 107 is a debt due to the Territory and is recoverable in the same way as duty or tax.
- (2) Where a person is liable to pay such an additional amount and a prosecution for an offence against this Act is instituted in respect of the same subject matter, the additional amount is not payable unless the prosecution is withdrawn.

108A Instrument not to be stamped until penalty paid

No unstamped instrument in respect of the execution or making of which a penalty has been imposed upon a person shall be stamped until the amount of the penalty and costs (if any awarded) has been paid by or on behalf of the person liable to the penalty.

109 Recovery of duty or tax from trustees of deceased persons

- (1) The Commissioner has the same powers and remedies for the recovery of duty or tax from a trustee of a deceased person as he would have had against that person if he were still living.
- (2) A trustee of a deceased person is subject to any additional amount payable under this Act to the same extent as the deceased person would be if he were still living.

110 Collection of duty or tax from person indebted to person liable to duty or tax

- (1) A person indebted, either alone or jointly with another person, to a person liable to duty or tax shall, when required by the Commissioner by instrument served on the person indebted, pay to the Commissioner the amount of the debt owing or accruing to the person so liable or so much of it as is sufficient to pay that duty or tax.
- (2) Upon the service of an instrument under this section, the amount of the debt owing or accruing to the person is liable to duty or tax, or so much of it as is sufficient to pay the duty or tax, becomes a debt due to the Territory and recoverable in a court of competent jurisdiction.
- (3) The Commissioner shall, in an instrument under subsection (1), specify the time within which the debt owing or accruing shall be paid, not being a time before the debt becomes due.
- (4) The Commissioner may, in an instrument under subsection (1), specify an amount to be paid out of each payment of the debt as it becomes due from time to time to the person liable to duty or tax until the amount of duty or tax is paid.
- (5) The Commissioner shall cause an instrument under this section to be served on the person indebted and a copy of the instrument to be served on the person liable to pay the duty or tax.
- (6) An instrument to be served under this section on the Territory may be served upon the Treasurer.
- (7) A payment in pursuance of an instrument served under this section shall be deemed to have been made with the authority of the person liable to duty or tax and of all other persons served with the instrument or copy of the instrument.
- (8) In this section:
debt, in relation to a person liable to duty or tax, means:
 - (a) money that is due or accruing, or that may become due, to that person;
 - (b) money that is held or is subsequently held for or on account of that person, or for or on account of another person for payment to that person; or

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(c) money authorized by another person to be paid to that person.

duty or tax includes an additional amount payable by way of penalty under this Act, a judgment debt or costs in respect of duty or tax or of such an additional amount, and a fine or costs imposed by a court in respect of an offence against this Act.

person indebted, in relation to a person liable to duty or tax, means a person, the Northern Territory or a statutory corporation by whom or which a debt is owing or accruing to the person liable to duty or tax.

111 Person in receipt, &c., of money for non-resident

- (1) A person resident in the Territory who has authority to receive, control or dispose of money belonging to a non-resident who is liable to duty or tax shall, when required to do so by the Commissioner by instrument served on the person resident in the Territory, pay that duty or tax.
- (2) When so required by the Commissioner, the person resident in the Territory is, by force of this section:
 - (a) authorized and required to retain from time to time any money that comes to him on behalf of the non-resident or so much of it as is sufficient to pay the duty or tax payable by the non-resident;
 - (b) made personally liable for that duty or tax after it becomes due and payable to the extent of any amount that he is required to retain under paragraph (a); and
 - (c) indemnified for all payments that he makes in pursuance of this Act.
- (3) For the purposes of this section, a person who is liable to pay money to a non-resident shall be deemed to be a person who has control of money belonging to the non-resident, and all moneys due by him to the non-resident shall be deemed to be money that comes to him on behalf of the non-resident.

112 Evidence

- (1) In proceedings for the recovery of duty or tax:
- (a) the production of an instrument under the hand of the Commissioner purporting to be a copy or record of a notice of assessment is evidence of the due making of the assessment and that the amount and particulars of the assessment are correct;
 - (b) the production of an instrument under his hand purporting to be a copy or record of an instrument issued or given by him under this Act is evidence that the instrument was so issued or given; and
 - (c) the production of a document certified by instrument under his hand as a copy of, extract from or record of a return or notice of assessment is evidence of the matter set out in the document to the same extent as the original return or notice would be if it were produced.

- (2) In subsection (1):

record means any thing or process:

- (a) on or by which information is recorded or stored; or
- (b) by means of which a meaning can be conveyed in visible or recoverable form,

whether or not the use or assistance of some electronic, electrical, mechanical, chemical or other device or process is required to recover or convey the information or meaning.

Part VII Prosecutions

113 Time of bringing prosecutions

- (1) A prosecution in respect of an offence against section 10 shall not be instituted later than 3 years after the commission of the offence.
- (2) A prosecution in respect of any other offence against this Act may be instituted at any time.

114 Protection of witnesses

A witness appearing on behalf of the Territory in a prosecution under this Act shall not be compelled to disclose the fact that he

received any information, the nature of the information or the name of the person who gave the information, and a person who is or has been employed by the Territory appearing as a witness shall not be compelled to produce a report made or received by him in his official capacity and containing confidential information.

115 Averment of prosecutor

- (1) In a prosecution under this Act, an averment of the prosecutor contained in the information, complaint, declaration or claim is evidence of the matter averred.
- (2) Where the matter averred is a mixed question of law and fact, the averment is evidence of the fact only.
- (3) This section does not apply to:
 - (a) an averment of the intent of the defendant; or
 - (b) a prosecution for an indictable offence.

116 Certain prosecutions by the Commissioner or an appointed person

A prosecution for an offence against this Act punishable on a summary finding of guilt shall not be instituted except by the Commissioner or by a person appointed by him in that behalf.

Part VIIA Reciprocal powers

116A Interpretation

- (1) In this Part, unless the contrary intention appears:

book includes a register or other record of information and any accounts or accounting records, however compiled, recorded or stored, and also includes an instrument.

Corresponding Commissioner, in relation to a Taxation Act, means the holder of an office declared under subsection (2) to be a corresponding office in relation to the office of Commissioner under that Act.

corresponding law, in relation to a Taxation Act, means a law of the Commonwealth or of a State or of another Territory declared under subsection (2) to be a corresponding law.

information includes a document.

relevant goods means tobacco, petroleum products or other goods to which a corresponding law applies.

Taxation Act means:

- (a) this Act (including the *Stamp Duty Act* and the *Financial Institutions Duty Act*);
- (c) the *Pay-roll Tax Act*;
- (d) the *Business Franchise Act*;
- (e) the *Energy Resource Consumption Levy Act*;
- (f) the *Debits Tax Act*; or
- (g) the *Fuel Subsidies Act*,

and any other Act prescribed for the purposes of this definition.

- (2) The Administrator may, by notice in the *Gazette*, declare:
 - (a) a law of the Commonwealth or of a State or of another Territory that:
 - (i) corresponds to this Part; or
 - (ii) is a Commonwealth, State or Territory Taxation Act within the meaning of an Act of the Commonwealth, the State or the other Territory corresponding to this Part,to be a corresponding law for the purposes of this Part in relation to a Taxation Act; and
 - (b) an office under such a law to be a corresponding office for the purposes of this Part in relation to the office of Commissioner.

116B Investigations by Corresponding Commissioners

- (1) If the Commissioner has given approval in writing to a proposed investigation by a Corresponding Commissioner, the Corresponding Commissioner may, while the approval is in force and subject to and in accordance with any conditions of that approval, exercise, or authorize in writing a person to exercise, any power referred to in section 116D that the Corresponding Commissioner, or a person authorized by the Corresponding Commissioner, may exercise under the corresponding law.

- (2) The Commissioner may, in writing given to the Corresponding Commissioner, vary or revoke an approval, or any condition of an approval, given under subsection (1).

116C Investigations on behalf of Corresponding Commissioners

If a Corresponding Commissioner in writing requests the Commissioner to exercise on behalf of the Corresponding Commissioner any power referred to in section 116D that the Corresponding Commissioner, or person authorized by the Corresponding Commissioner, may exercise under the corresponding law, the Commissioner, or a person authorized in writing by the Commissioner for that purpose, may, for and on behalf of the Corresponding Commissioner, exercise that power subject to and in accordance with:

- (a) conditions specified by the Corresponding Commissioner whether in the request or at any later time; and
- (b) conditions determined by the Commissioner.

116D Investigation powers

- (1) For the purposes of and in accordance with sections 116B and 116C, a Corresponding Commissioner or the Commissioner or other person authorized under either of those sections (in this section called an *inspector*) may, in relation to a corresponding law:

- (a) at any reasonable time, on production of a certificate under the hand of the Corresponding Commissioner or the Commissioner, as the case may be, of the authority of the inspector:
 - (i) require a person to produce for inspection any books in that person's possession or under that person's control, the inspection of which may show whether or not the provisions of the corresponding law are being or have been complied with; or
 - (ii) enter land under section 127, and the provisions of that section apply accordingly; or

- (b) if the corresponding law relates to relevant goods, at any reasonable time, on production of a certificate under the hand of the Corresponding Commissioner or the Commissioner, as the case may be, of the authority of the inspector:
 - (i) require a person to produce for inspection any books in that person's possession or under that person's control, the inspection of which may show whether or not the provisions of the corresponding law are being or have been complied with;
 - (ii) enter and remain in any place at or on which the inspector reasonably suspects the business of selling relevant goods is carried on or which is, or which the inspector reasonably suspects is, being used for the storage or custody of relevant goods or of any books relating to the sale or purchase of relevant goods, and the provisions of section 127 apply accordingly;
 - (iii) seize any such relevant goods; or
 - (iv) request any person holding a licence under the corresponding law or any person reasonably believed by the inspector to be involved in the sale, purchase or storage of relevant goods:
 - (A) to produce any books which relate to, or which the inspector reasonably suspects relate to, the sale or purchase of relevant goods and which at the time of the request are in the possession or under the control of that person; and
 - (B) to answer any question with respect to any such books or the sale or purchase of any relevant goods.
- (2) In accordance with sections 116B and 116C, a Corresponding Commissioner or the Commissioner may, by notice in writing, require a person:
 - (a) to furnish the Corresponding Commissioner or, as the case may be, the Commissioner with such information as is required; or
 - (b) to attend and give evidence before the Corresponding Commissioner or, as the case may be, the Commissioner or a person authorized in that behalf by the relevant Commissioner,

for the purpose of inquiring into or ascertaining the first person's or any other person's liability or entitlement under the corresponding law and may require the person to produce all books in the person's possession or under the person's control relating to that liability or entitlement.

- (3) For the purposes of subsection (2), the Corresponding Commissioner or the Commissioner or the authorized person may require the information or evidence to be given on oath or affirmation, and either orally or in writing, or to be given by statutory declaration, and for that purpose the Corresponding Commissioner or the Commissioner or authorized person may administer an oath or take an affirmation.
- (4) The Regulations may prescribe scales of expenses to be allowed to persons who attend and give evidence under subsection (2).
- (5) If a person records or stores any matters by means of a mechanical, electronic or other device, a duty imposed by this Part to produce a book containing those matters shall be construed as a duty to make the matters available in written form in the English language or to provide a document containing a clear reproduction in writing in the English language of the matters.
- (6) A person must not fail, neglect or refuse to comply with a request made or requirement under this section by a Corresponding Commissioner or the Commissioner or a person authorized by a Corresponding Commissioner or the Commissioner or delay or obstruct a Corresponding Commissioner or the Commissioner or a person so authorized in exercising their powers under this section.

Penalty: \$10,000.

116E Disclosure of information to Commonwealth, State or Territory officers

- (1) Notwithstanding anything to the contrary in a Taxation Act, the Commissioner and any person authorized by the Commissioner may communicate information respecting the affairs of a person disclosed or obtained under a Taxation Act to:
 - (a) the Commissioner, Second Commissioner or a Deputy Commissioner under a law of the Commonwealth relating to taxation or to a person authorized by the Commissioner, Second Commissioner or Deputy Commissioner;

- (b) the Commissioner or other officer of a State or other Territory of the Commonwealth administering a law of the State or Territory relating to taxation or to a person authorized by the Commissioner or other officer;
 - (c) the National Crime Authority or a person authorized by it;
 - (e) the Australian Securities and Investment Commission or a person authorized by it;
 - (f) the Chief Executive Officer of Customs, appointed under section 5 of the *Customs Administration Act 1985* of the Commonwealth, or a person authorised by him or her; or
 - (g) the Director of the Australian Transaction Report and Analysis Centre, established under section 35 of the *Financial Transactions Report Act 1988* of the Commonwealth, or a person authorised by him or her.
- (2) If the Commissioner gives consent to the communication of information respecting the affairs of a person disclosed to, or obtained under this Act by, a Corresponding Commissioner under a corresponding law, the Corresponding Commissioner and any person authorized by the Corresponding Commissioner, may, subject to and in accordance with the terms of the consent, communicate the information:
- (a) to a person referred to in subsection (1); and
 - (b) to a person to whom they are permitted under the corresponding law to communicate information disclosed or obtained under the corresponding law.
- (3) If a Corresponding Commissioner under a corresponding law gives consent to the communication of information respecting the affairs of a person disclosed to, or obtained under the corresponding law by the Commissioner, the Commissioner and any person authorized by the Commissioner, may, subject to and in accordance with the terms of the consent, communicate the information:
- (a) to a person referred to in subsection (1); and
 - (b) to a person to whom the Commissioner is permitted under a Taxation Act to communicate information disclosed or obtained under that Taxation Act.

- (4) Except as provided in subsection (2) or (3), a person shall not:
- (a) make a record of, divulge or communicate to any person or publish any information or book that is or was acquired by the person under this Part or under a corresponding law for the purposes of a Taxation Act, by reason of being, or having been, employed for the purposes of or in connection with the administration or execution of a corresponding law; or
 - (b) be required to produce in court any book connected with the administration or execution of a corresponding law acquired by the person under this Part or under a corresponding law for the purposes of a Taxation Act, or to divulge or communicate to any court any matter or thing coming under the notice of the person under this Part or such a corresponding law,
- unless the recording, divulgence, communication, publication or production is made:
- (c) with the consent of the person from whom the information or book was obtained;
 - (d) in connection with the administration or execution of this Part, a Taxation Act or a corresponding law for the purposes of a Taxation Act and in accordance with any consent given by the Commissioner or the Corresponding Commissioner under the corresponding law to the communication of the information; or
 - (e) for the purpose of any legal proceedings arising out of this Part, a Taxation Act or the corresponding law or any report of any such proceedings.

Penalty: Imprisonment for 2 years.

- (5) For the purposes of subsection (4), a person shall be deemed to have divulged or communicated information in contravention of that subsection if the person divulges or communicates that information to any Minister, Minister of State of the Commonwealth or any State Minister.

116F Evidence

The production of a document purporting to be certified by a Corresponding Commissioner as a copy of, or extract from, a document furnished to, or issued by, the Corresponding Commissioner is, for all purposes, sufficient evidence of the matter contained in the document, without production of the original.

Part VIII Miscellaneous**117 Extensions of time, &c.**

Where a person is required by or under this Act to do an act or thing in respect of a specified period or within a specified time, the Commissioner may, by instrument served on that person:

- (a) allow a further period or extend the time for the doing of the act or thing, notwithstanding that the specified period has expired; or
- (b) vary the specified period in respect of which or the time within which that person is required to do that act or thing,

and that person shall do that act or thing accordingly.

118 Refunds and remissions of duty tax

A refund or remission shall not be made of an amount of duty or tax under this Act to a person who has recovered it from another person and has not since repaid it to that other person.

119 Terms on which unstamped or insufficiently stamped instruments may be received in evidence

- (1) Upon the production of an instrument on which duty or tax is payable as evidence in any court of civil judicature, notice shall be taken by the judge of any omission or insufficiency of the duty or tax thereon and, if the instrument is one which may legally be stamped after execution, it may, on payment to an officer of the court of the amount of the unpaid duty or tax and the fine payable by law, be received in evidence, saving all just exceptions on other grounds.
- (2) Where subsection (1) applies, the officer shall detain and immediately transmit to the Commissioner the instrument, together with the duty or tax and fine so paid thereon, and the payment shall be denoted on the instrument accordingly.

120 Secondary evidence of documents

In proceedings in court, secondary evidence of a document may, saving all just exceptions on other grounds, be admitted notwithstanding that the document is subject to duty or tax and has not been duly stamped, if the amount of the duty or tax or the amount of the deficiency of the duty or tax and any fine imposed by this Act are paid to an officer of the court and if the document is one which may legally be stamped after execution.

121 Instruments not duly stamped inadmissible

Subject to sections 119 and 120, an instrument:

- (a) executed in the Territory; or
- (b) relating (wheresoever executed) to property situated or to a matter or thing done or to be done in a part of the Territory,

and which is liable to duty or tax in the Territory shall not, except in criminal proceedings, be pleaded or given in evidence, or admitted to be good, useful, or available in law or equity for any purpose whatsoever, unless it is duly stamped.

122 Rules as to instruments executed out of the Territory

- (1) An instrument executed out of the Territory, and which, by the law of the country in which it was executed, is inadmissible in evidence in that country by reason of its not having been stamped shall not be for that reason inadmissible in evidence in the Territory, unless it is proved that the instrument is, by the statute law of that country, expressly made void if made or executed without being stamped.
- (2) Nothing in this section renders valid an instrument executed out of the Territory that is void by the law of the place in which it was executed for a reason other than that it was not duly stamped.

123 Continuing offences

- (1) If, in committing an offence against a provision of this Act or the Regulations, a person fails to do an act within the time for doing the act specified in the provision, in addition to the offence for failure to do the act within the time the person commits an additional offence on each day after the expiry of the time during which the act continues not to be done.
- (2) On being found guilty of an offence referred to in subsection (1), a person is, in addition to the penalty for failure to do the act within the time, liable to a penalty not exceeding \$100 for each day after the expiry of the time during which the offence continues.

123A Regulatory offences

An offence against section 9, 9A, 14(1), 17A(11), 29J, 29N, 39, 42, 45, 48, 52, 57, 59(5), 71, 74, 75, or 76 is a regulatory offence.

124 Service of documents

- (1) A notice or other instrument that is required by this Act to be given or served on a person other than a company shall be given or served:
- (a) by delivering the notice or instrument to that person personally;
 - (b) by prepaying and posting the notice or instrument as a letter addressed to that person at:
 - (i) the person's last-known place of residence or last-known residential post office box;
 - (ii) the person's last-known place of business or last-known business post office box; or
 - (iii) if the person is carrying on business at 2 or more places or has 2 or more business post office boxes, at one of those places or boxes;
 - (c) by leaving the notice or instrument at the last-known place of residence of that person with some person apparently an inmate of that place and apparently not less than 16 years of age; or
 - (d) by leaving the notice or instrument at the last-known place of business of that person or, if he is carrying on business at 2 or more places, at one of those places with some person apparently in the service of that person and apparently not less than 16 years of age.
- (2) A notice or other instrument that is required by this Act to be given or served on a person, being a company, shall be given or served:
- (a) by prepaying and posting the notice or instrument as a letter to the company at:
 - (i) the company's last-known place of business or last-known post office box; or
 - (ii) if the company is carrying on business at 2 or more places or has 2 or more post office boxes, at one of those places or boxes; or
 - (b) by leaving it at that place or at one of those places with some person apparently in the service of the company and apparently not less than 16 years of age.

125 Judicial notice

For the purposes of this Act, all courts and tribunals and all judges and persons acting judicially or authorized by law to hear, receive and examine evidence shall take judicial notice of the signature of a person who holds or has held the office of Commissioner or acting Commissioner.

126 Books, accounts etc.

(1) For the purposes of this Act, a person registered under Divisions 3B, 6, 7 and 13 of Part III or the *Financial Institutions Duty Act*, shall:

- (a) keep proper books and accounts in the English language recording full particulars of all matters in relation to which duty is imposed;
- (b) preserve those books and accounts for a period of 5 years after the completion of those matters; and
- (c) preserve any documents or papers relating to those matters, including copies of instruments, for a period of 5 years after the completion of those matters.

Penalty: \$10,000.

(2) This section does not require the preservation by a person of books, accounts, documents, papers or copies of instruments:

- (a) in respect of which the Commissioner has notified the person that their preservation is not required; or
- (b) of a company that has been wound up.

127 Entry on land, &c.

(1) For the purposes of this Act, an officer authorized by the Commissioner to exercise powers under this section:

- (a) may, at all reasonable times, enter upon any land;
- (b) shall have full and free access at all reasonable times to all books, documents and other papers; and
- (c) may, for those purposes, take extracts from and make copies of any books, documents or papers.

(2) An officer who enters upon land in pursuance of this section is not authorized to remain on the land if, on request by the occupier of

the land, he does not produce a certificate in writing under the hand of the Commissioner certifying that he is an officer authorized to exercise the powers under this section.

- (3) A person shall not, without reasonable excuse, obstruct or hinder an officer in the exercise of his powers under this Act.

Penalty: Imprisonment for 2 years.

128 Appearances by Commissioner

- (1) In an action, prosecution or other proceeding under this Act in a court, the Commissioner may appear either personally or by a barrister or solicitor, or by an officer appointed by him.
- (2) The appearance of an officer appointed under subsection (1), and his statement that he appears by authority of the Commissioner, are sufficient evidence of that authority.

129 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular:

- (a) providing for the payment of fees and expenses to witnesses required under this Act to attend and give evidence before the Commissioner or another person;
- (b) prescribing the fees or other payments to be charged in respect of registration, proceedings under this Act or otherwise for the purposes of this Act, and prescribing the manner in which those fees or payments shall be paid;
- (c) providing for the inspection of a register kept under this Act;
- (ca) designating an offence against a regulation as a regulatory offence; and
- (d) prescribing penalties, not exceeding a fine of \$5,000, for offences against the regulations.

Schedule

section 3

Stamp Ordinance 1917

Stamp Ordinance 1929

Stamp Ordinance 1942

Stamp Ordinance 1948

Stamp Ordinance 1955

Stamp Ordinance 1958

Stamp Ordinance 1964

Stamp Ordinance 1965

Stamp Ordinance 1968

Stamp Ordinance (No. 2) 1968

Stamp Ordinance 1970

Stamp Ordinance 1974

Stamp Ordinance 1978

ENDNOTES
1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION***Taxation (Administration) Ordinance 1978 (Act No. 49, 1978)***

Assent date	30 June 1978
Commenced	1 July 1978 (s 2)

Taxation (Administration) Act (No. 2) 1978 (Act No. 96, 1978)

Assent date	5 September 1978
Commenced	5 September 1978

Taxation (Administration) Act (No. 3) 1978 (Act No. 14, 1979)

Assent date	26 January 1979
Commenced	26 January 1979

Taxation (Administration) Act 1979 (Act No. 72, 1979)

Assent date	26 June 1979
Commenced	26 June 1979

Taxation (Administration) Act (No. 2) 1979 (Act No. 160, 1979)

Assent date	12 December 1979
Commenced	9 May 1980 (Gaz G19, 9 May 1980, p 17)

Taxation (Administration) Amendment Act 1981 (Act No. 68, 1981)

Assent date	31 August 1981
Commenced	1 September 1981 (s 2)

Taxation (Administration) Amendment Act 1982 (Act No. 78, 1982)

Assent date	8 December 1982
Commenced	8 December 1982

Taxation (Administration) Amendment Act 1983 (Act No. 34, 1983)

Assent date	3 October 1983
Commenced	3 October 1983

Criminal Law (Regulatory Offences) Act 1983 (Act No. 68, 1983)

Assent date 28 November 1983
Commenced 1 January 1984 (s 2, s 2 *Criminal Code Act 1983* (Act No. 47, 1983), *Gaz* G46, 18 November 1983, p 11 and *Gaz* G8, 26 February 1986, p 5)

Taxation (Administration) Amendment Act 1985 (Act No. 26, 1985)

Assent date 26 June 1985
Commenced 4 June 1985 (s 2)

Taxation (Administration) Amendment Act (No. 2) 1985 (Act No. 54, 1985)

Assent date 25 November 1985
Commenced 1 December 1985 (s 2)

Companies and Securities (Consequential Amendments) Act 1986 (Act No. 18, 1986)

Assent date 30 June 1986
Commenced 1 July 1986 (s 2)

Taxation (Administration) Amendment Act 1986 (Act No. 61, 1986)

Assent date 19 December 1986
Commenced 19 December 1986

Taxation (Administration) Amendment Act 1987 (Act No. 31, 1987)

Assent date 31 July 1987
Commenced 1 August 1987 (s 2)

Taxation (Administration) Amendment Act (No. 2) 1987 (Act No. 34, 1987)

Assent date 31 July 1987
Commenced 1 August 1987 (s 2)

Taxation (Administration) Amendment Act 1988 (Act No. 4, 1988)

Assent date 21 March 1988
Commenced 24 August 1988 (*Gaz* S44, 24 August 1988)

Taxation (Administration) Amendment Act (No. 2) 1988 (Act No. 53, 1988)

Assent date 17 November 1988
Commenced ss 1: 5: 17 November 1988; ss 6 and 9: 17 August 1988;
ss 7 and 8: 1 September 1988 (s 2)

Taxation (Administration) Amendment Act 1989 (Act No. 23, 1989)

Assent date 15 June 1989
Commenced 29 November 1989 (s 2, s 2 *Racing and Betting Amendment Act 1989* (Act No. 12, 1989), s 2 *Unlawful Betting Act 1989* (Act No. 13, 1989) and *Gaz* G17, 3 May 1989, p 2)

Amending Legislation***Statute Law Revision Act 1989 (Act No. 60, 1989)***

Assent date 2 October 1989
Commenced 2 October 1989

Taxation (Administration) Amendment Act (No. 2) 1989 (Act No. 42, 1989)

Assent date 20 September 1989
Commenced s 7: 1 December 1989 rem: 20 September 1989 (s 2)

Taxation (Administration) Amendment Act 1990 (Act No. 22, 1990)

Assent date 7 June 1990
Commenced 1 January 1991 (s 2, s 2 *Stamp Duty Amendment Act 1990* (Act No. 21, 1990) and *Gaz S76*, 21 December 1990)

Local Court (Consequential Amendments) Act 1990 (Act No. 31, 1990)

Assent date 11 June 1990
Commenced 1 January 1991 (s 2, s 2 *Local Court Act 1989* (Act No. 31, 1989) and *Gaz G49*, 12 December 1990, p 2)

Statute Law Revision Act 1990 (Act No. 33, 1990)

Assent date 11 June 1990
Commenced 11 June 1990

Taxation (Administration) Amendment Act (No. 2) 1990 (Act No. 47, 1990)

Assent date 20 September 1990
Commenced 20 September 1990

Debits Tax Act 1990 (Act No. 55, 1990)

Assent date 14 December 1990
Commenced 1 January 1991 (s 2 and s 2 *Debits Tax Termination Act 1990* (Cth Act No. 136, 1990))

Corporations (Consequential Amendments) Act 1990 (Act No. 59, 1990)

Assent date 14 December 1990
Commenced 1 January 1991 (s 2, s 2 *Corporations (NT) Act 1990* (Act No. 56, 1990) and *Gaz S76*, 21 December 1990)

Taxation (Administration) Amendment Act 1991 (Act No. 18, 1991)

Assent date 3 June 1991
Commenced 3 June 1991

Real Property (Consequential Amendments) Act 1991 (Act No. 33, 1991)

Assent date 25 June 1991
Commenced 1 October 1991 (*Gaz S49*, 1 October 1991)

Taxation (Administration) Amendment Act (No. 2) 1991 (Act No. 80, 1991)

Assent date 24 December 1991
Commenced 1 January 1992 (s 2)

Taxation (Administration) Amendment Act 1992 (Act No. 52, 1992)

Assent date 18 September 1992
Commenced 1 July 1992 (s 2)

Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)

Assent date 30 June 1993
Commenced 1 July 1993 (s 2, s 2 *Public Sector Employment and Management Act 1993* (Act No. 11, 1993) and *Gaz S53*, 29 June 1993)

Taxation (Administration) Amendment Act 1993 (Act No. 59, 1993)

Assent date 5 October 1993
Commenced 31 August 1994 (*Gaz G35*, 31 August 1994, p 6)

Taxation (Administration) Amendment Act (No. 2) 1993 (Act No. 60, 1993)

Assent date 5 October 1993
Commenced 1 October 1993 (s 2)

Taxation (Administration) Amendment Act 1994 (Act No. 43, 1994)

Assent date 30 June 1994
Commenced 1 July 1994 (s 2)

Taxation (Administration) Amendment Act (No. 2) 1994 (Act No. 71, 1994)

Assent date 15 December 1994
Commenced 15 December 1994

Financial Management (Consequential Amendments) Act 1995 (Act No. 5, 1995)

Assent date 21 March 1995
Commenced 1 April 1995 (s 2, s 2 *Financial Management 1995* (Act No. 4, 1995) and Gaz S13, 31 March 1995)

Taxation (Administration) Amendment Act 1995 (Act No. 49, 1995)

Assent date 15 November 1995
Commenced 1 July 1995 (s 2 and s 2 *Stamp Duty Amendment Act (No. 2) 1995* (Act No. 48, 1995))

Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)

Assent date 19 April 1996
Commenced 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and Gaz S15, 13 June 1996)

Taxation (Administration) Amendment Act 1998 (Act No. 19, 1998)

Assent date 30 March 1998
Commenced 30 March 1998

Taxation (Administration) Amendment Act 1999 (Act No. 14, 1999)

Assent date 1 April 1999
Commenced ss 7(b), 18(a), (b), and (c) and 29(a): 1 July 1998;
rem: 1 April 1999 (s 2)

Statute Law Revision Act 1999 (Act No. 27, 1999)

Assent date 18 June 1999
Commenced 18 June 1999

Statute Law Revision Act (No. 2) 1999 (Act No. 48, 1999)

Assent date 10 November 1999
Commenced 10 November 1999

Statute Law Revision Act 2000 (Act No. 19, 2000)

Assent date 6 June 2000
Commenced 12 July 2000 (Gaz G27, 12 July 2000, p 2)

Financial Relations Agreement (Consequential Provisions) Act 2000 (Act No. 32, 2000)

Assent date 27 June 2000
Commenced 1 July 2001 (s 2)

Taxation (Administration) Amendment Act 2000 (Act No. 36, 2000)

Assent date 27 June 2000
Commenced 1 July 2000 (s 2)

Land Title (Consequential Amendments) Act 2000 (Act No. 45, 2000)

Assent date 12 September 2000
 Commenced 1 December 2000 (s 2, s 2 *Land Title Act 2000* (Act No. 2, 2000) and *Gaz G38*, 27 September 2000, p 2)

Statute Law Revision Act 2001 (Act No. 3, 2001)

Assent date 22 March 2001
 Commenced 22 March 2001

Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)

Assent date 29 June 2001
 Commenced s 17(1) and (6): 1 July 2000; rem: 15 July 2001 (s 2, s 2 *Corporations Act 2001* (Cth Act No. 50, 2001) and *Cth Gaz S285*, 13 July 2001)

Taxation (Administration) Amendment Act 2001 (Act No. 47, 2001)

Assent date 19 July 2001
 Commenced ss 4(1), 5, 15, 23 and 26: 29 May 2001; ss 4(2) and (3), 6 – 8, 14, 16 – 22, 24, 25, 27 – 29 and 31: 1 July 2001; ss 9, 13 and 30: nc

3 SAVINGS AND TRANSITIONAL PROVISIONS

s 4 *Taxation (Administration) Act* (No. 2) 1978 (Act No. 96, 1978)
 s 10 and pt 6, div 3 *Financial Relations Agreement (Consequential Provisions) Act 2000* (Act No. 32, 2000)
 ss 24 and 25(2) *Taxation (Administration) Amendment Act 2000* (Act No. 36, 2000)

4 LIST OF AMENDMENTS

It amd No. 31, 1987, s 15
 ss 1: 3 amd No. 31, 1987, s 15
 s 4 amd No. 96, 1978, s 3; No. 72, 1979, s 3; No. 160, 1979, s 4; No. 68, 1981, s 5; No. 78, 1982, s 3; No. 54, 1985, s 4; No. 61, 1986, s 3; No. 31, 1987, ss 4 and 15; No. 34, 1987, s 4; No. 4, 1988, s 4; No. 53, 1988, s 4; No. 42, 1989, s 4; No. 22, 1990, s 4; No. 47, 1990, s 3; No. 18, 1991, s 3; No. 80, 1991, s 4; No. 60, 1993, s 4; No. 43, 1994, s 4; No. 19, 1998, s 3; No. 14, 1999, s 4; No. 19, 2000, s 9; No. 32, 2000, ss 5, 13 and 26; No. 36, 2000, ss 4, 22, 25, 26, 27, 31 and 42; No. 17, 2001, s 17
 s 4A ins No. 36, 2000, s 17
 s 5 amd No. 31, 1987, s 15; No. 4, 1988, s 5
 ss 5A – 5B ins No. 4, 1988, s 6
 amd No. 28, 1993, s 3
 s 6 amd No. 31, 1987, s 15
 sub No. 19, 1998, s 4
 s 7 amd No. 31, 1987, s 15; No. 4, 1988, s 7; No. 42, 1989, s 5; No. 59, 1993, s 3; No. 60, 1993, s 5; No. 5, 1995, s 19; No. 14, 1999, s 5
 s 8 amd No. 31, 1987, s 15
 s 9 amd No. 72, 1979, s 4; No. 31, 1987, ss 5 and 15; No. 43, 1994, s 5; No. 14, 1999, s 6
 s 9A ins No. 78, 1982, s 4
 amd No. 43, 1994, s 6; No. 14, 1999, s 7; No. 32, 2000, s 27
 s 9B ins No. 31, 1987, s 6
 s 9BA ins No. 80, 1991, s 5

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s 9C	ins No. 31, 1987, s 6
s 9D	ins No. 18, 1991, s 4
s 10	amd No. 31, 1987, ss 7 and 15; No. 17, 1996, s 6; No. 14, 1999, s 8
s 11	amd No. 31, 1987, s 15
s 14	amd No. 31, 1987, s 15; No. 60, 1993, s 6; No. 14, 1999, s 30
s 15	amd No. 31, 1987, s 15
s 17	amd No. 72, 1979, s 5; No. 78, 1982, s 5; No. 31, 1987, ss 8 and 15; No. 60, 1993, s 7; No. 43, 1994, s 7
s 17A	ins No. 53, 1988, s 5 amd No. 42, 1989, s 6; No. 14, 1999, s 30; No. 36, 2000, s 43
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div 2 hdg	rep No. 60, 1993, s 20
s 18	amd No. 72, 1979, s 6; No. 31, 1987, s 15 rep No. 60, 1993, s 8
ss 19 – 20	amd No. 31, 1987, s 15 rep No. 60, 1993, s 8
s 21	rep No. 60, 1993, s 8
ss 22 – 23	amd No. 31, 1987, s 15 rep No. 60, 1993, s 8
s 24	amd No. 31, 1987, s 15 rep No. 60, 1993, s 8
s 24A	ins No. 14, 1979, s 3 rep No. 60, 1993, s 8
ss 25 – 26	rep No. 60, 1993, s 8
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s 27	rep No. 42, 1989, s 7
ss 28 – 29	amd No. 31, 1987, s 15 rep No. 42, 1989, s 7
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div 3A hdg	ins No. 54, 1985, s 5 rep No. 42, 1989, s 7
ss 29A – 29G	ins No. 54, 1985, s 5 rep No. 42, 1989, s 7
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s 29H	ins No. 54, 1985, s 5
s 29J	ins No. 54, 1985, s 5 amd No. 14, 1999, s 9
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s 29N	ins No. 54, 1985, s 5 amd No. 14, 1999, s 10
s 29P	ins No. 54, 1985, s 5
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div 4 hdg	rep No. 42, 1989, s 7
ss 30 – 31	rep No. 42, 1989, s 7
s 32	amd No. 72, 1979, s 7; No. 31, 1987, s 15 rep No. 42, 1989, s 7
s 33	amd No. 31, 1987, s 15 rep No. 42, 1989, s 7
s 34	rep No. 42, 1989, s 7
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div 5 hdg	rep No. 42, 1989, s 7
s 35	amd No. 72, 1979, s 8 rep No. 42, 1989, s 7

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s 36	sub No. 72, 1979, s 9 amd No. 31, 1987, s 15 rep No. 42, 1989, s 7
s 37	sub No. 72, 1979, s 9 rep No. 42, 1989, s 7
s 38	rep No. 42, 1989, s 7 ins No. 36, 2000, s 18
s 39	amd No. 31, 1987, s 15; No. 14, 1999, s 30
s 42	amd No. 31, 1987, s 15; No. 14, 1999, s 30
s 44	sub No. 14, 1999, s 12
s 44A	ins No. 26, 1985, s 3 amd No. 18, 1986, s 3; No. 59, 1990, s 4; No. 14, 1999, s 30; No. 36, 2000, s 19; No. 17, 2001, s 17
s 44B	ins No. 26, 1985, s 3 amd No. 14, 1999, s 30
s 44C	ins No. 36, 2000, s 20
s 45	amd No. 31, 1987, s 15; No. 14, 1999, s 30
s 48	amd No. 31, 1987, s 15; No. 14, 1999, s 30
s 49	amd No. 72, 1979, s 10 sub No. 14, 1999, s 13
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div 7A hdg	ins No. 36, 2000, s 21
ss 49A – 49C	ins No. 36, 2000, s 21
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div 8 hdg	amd No. 72, 1979, s 11
s 50	amd No. 72, 1979, s 12; No. 31, 1987, s 9
s 51	amd No. 72, 1979, s 13; No. 31, 1987, s 15
s 52	amd No. 72, 1979, s 14; No. 31, 1987, ss 10 and 15; No. 43, 1994, s 8; No. 14, 1999, s 30
s 52A	ins No. 80, 1991, s 6
s 54	amd No. 72, 1979, s 15; No. 31, 1987, s 15
s 55	amd No. 31, 1987, s 15; No. 14, 1999, s 30 sub No. 36, 2000, s 23 amd No. 3, 2001, s 8
s 55AA	ins No. 36, 2000, s 23
s 55A	ins No. 18, 1991, s 4
s 56	amd No. 36, 2000, s 44
s 56A	ins No. 72, 1979, s 16 sub No. 78, 1982, s 6 amd No. 31, 1987, s 11 sub No. 80, 1991, s 7 amd No. 36, 2000, s 45
s 56B	ins No. 4, 1988 s 8 rep No. 43, 1994, s 9 ins No. 36, 2000, s 46
pt III	
div 8AA hdg	ins No. 36, 2000, s 15
s 56BA	ins No. 36, 2000, s 15
pt III	
div 8AB hdg	ins No. 36, 2000, s 16
ss 56BB – 56BD	ins No. 36, 2000, s 16
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s 56C	ins No. 53, 1988, s 6 amd No. 48, 1999, s 3; No. 19, 2000, s 9; No. 36, 2000, s 5; No. 17, 2001, s 17
s 56D	ins No. 53, 1988, s 6

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- s 56E ins No. 53, 1988, s 6
amd No. 14, 1999, s 14; No. 36, 2000, s 6
- s 56F ins No. 53, 1988, s 6
amd No. 33, 1991, s 7; No. 80, 1991, s 8; No. 36, 2000, s 7; No. 45, 2000, s 11
- s 56G ins No. 53, 1988, s 6
amd No. 33, 1991, s 7; No. 36, 2000, s 8; No. 45, 2000, s 11
- s 56H ins No. 53, 1988, s 6
amd No. 33, 1991, s 7; No. 36, 2000, s 9; No. 45, 2000, s 11
- s 56J ins No. 53, 1988, s 6
amd No. 33, 1991, s 7; No. 36, 2000, s 10; No. 45, 2000, s 11
- s 56K ins No. 53, 1988, s 6
amd No. 14, 1999, s 15; No. 36, 2000, s 11
- s 56M ins No. 53, 1988, s 6
amd No. 33, 1990, s 9
- s 56N ins No. 53, 1988, s 6
amd No. 43, 1994, s 10; No. 19, 2000, s 9; No. 32, 2000, s 28; No. 36, 2000,
s 12; No. 17, 2001, s 17
- s 56P ins No. 53, 1988, s 6
- s 56Q ins No. 53, 1988, s 6
amd No. 43, 1994, s 11
- s 56R ins No. 53, 1988, s 6
amd No. 36, 2000, s 13
- s 56S ins No. 53, 1988, s 6
- s 56T ins No. 53, 1988, s 6
amd No. 48, 1999, s 3; No. 19, 2000, s 9; No. 36, 2000, s 14; No. 17, 2001, s 17
- s 56U ins No. 53, 1988, s 6
- s 57 amd No. 31, 1987, s 15; No. 47, 1990, s 4; No. 14, 1999, s 30
- s 58 amd No. 31, 1987, s 15; No. 60, 1993, s 10; No. 36, 2000, s 32
- s 59 amd No. 31, 1987, s 15; No. 47, 1990, s 5
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amd No. 14, 1999, ss 16 and 30; No. 32, 2000, s 14; No. 36, 2000, s 33
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- s 62 rep No. 32, 2000, s 29
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- s 63 amd No. 31, 1987, s 15; No. 14, 1999, s 17
rep No. 32, 2000, s 29
- s 64 amd No. 31, 1987, s 15; No. 14, 1999, s 30
rep No. 32, 2000, s 29
- s 65 rep No. 32, 2000, s 29
- s 66 amd No. 31, 1987, s 15; No. 36, 2000, s 40
rep No. 32, 2000, s 29
- pt III
- div 11 hdg
- s 67 amd No. 49, 1995, s 3
amd No. 78, 1982, s 7; No. 31, 1987, s 15; No. 42, 1989, s 8; No. 43, 1994, s 12
sub No. 71, 1994, s 3
amd No. 49, 1995, s 4; No. 32, 2000, s 30; No. 17, 2001, s 17
- s 67A ins No. 36, 2000, s 41
- s 68 amd No. 43, 1994, s 13
- s 69 sub No. 78, 1982, s 8
amd No. 49, 1995, s 5
- pt III
- div 11A hdg
- s 69A ins No. 72, 1979, s 17
rep No. 60, 1993, s 12
ins No. 72, 1979, s 17
amd No. 78, 1982, s 9
rep No. 60, 1993, s 12

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s 69B	ins No. 72, 1979, s 17 amd No. 78, 1982, s 10 rep No. 60, 1993, s 12
s 69C	ins No. 72, 1979, s 17 rep No. 60, 1993, s 12
s 69D	ins No. 72, 1979, s 17 amd No. 80, 1991, s 9 rep No. 60, 1993, s 12
s 69E	ins No. 72, 1979, s 17 amd No. 34, 1983, s 3 rep No. 60, 1993, s 12
ss 69F – 69H	ins No. 72, 1979, s 17 rep No. 60, 1993, s 12
s 69J	ins No. 34, 1983, s 4 rep No. 60, 1993, s 12
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div 11B hdg	ins No. 4, 1988, s 9 rep No. 32, 2000, s 31
ss 69K – 69M	ins No. 4, 1988, s 9 rep No. 32, 2000, s 31
s 69N	ins No. 4, 1988, s 9 amd No. 14, 1999, s 30 rep No. 32, 2000, s 31
ss 69P – 69Q	ins No. 4, 1988, s 9 rep No. 32, 2000, s 31
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s 70	amd No. 31, 1987, s 15 rep No. 23, 1989, s 3 ins No. 43, 1994, s 14 amd No. 14, 1999, s 18 rep No. 32, 2000, s 31
pt III	
div 12A hdg	ins No. 68, 1981, s 6 rep No. 22, 1990, s 5
ss 70A – 70D	ins No. 68, 1981, s 6 rep No. 22, 1990, s 5
s 71	amd No. 72, 1979, s 18; No. 31, 1987, s 15; No. 14, 1998, s 30; No. 32, 2000, s 15; No. 36, 2000, s 28
s 73	amd No. 72, 1979, s 19
s 74	amd No. 14, 1999, s 19
s 75	amd No. 72, 1979, s 20; No. 14, 1999, s 30; No. 32, 2000, s 16
s 75AA	ins No. 36, 2000, s 29
s 75A	ins No. 71, 1994, s 4 amd No. 36, 2000, s 30
ss 76 – 77	amd No. 31, 1987, s 15; No. 14, 1999, s 30
s 78	amd No. 72, 1979, s 21; No. 31, 1987, s 15
ss 78A – 78B	ins No. 52, 1992, s 3
s 78C	ins No. 52, 1992, s 3 amd No. 27, 1999, s 15
s 78D	ins No. 52, 1992, s 3
s 79	amd No. 72, 1979, s 22 sub No. 14, 1999, s 20
pt III	
div 13A hdg	ins No. 31, 1987, s 12 rep No. 32, 2000, s 6

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- s 80A ins No. 31, 1987, s 12
amd No. 34, 1987, s 5; No. 53, 1988, s 7
rep No. 32, 2000, s 6
- s 80B ins No. 31, 1987, s 12
amd No. 14, 1999, s 21
rep No. 32, 2000, s 6
- s 80C ins No. 31, 1987, s 12
amd No. 34, 1987, s 6
rep No. 32, 2000, s 6
- s 80D ins No. 31, 1987, s 12
sub No. 34, 1987, s 7
amd No. 53, 1988, s 8; No. 14, 1999, s 22
rep No. 32, 2000, s 6
- s 80E ins No. 31, 1987, s 12
sub No. 34, 1987, s 7
amd No. 14, 1999, ss 23 and 30
rep No. 32, 2000, s 6
- s 80F ins No. 31, 1987, s 12
sub No. 34, 1987, s 7
rep No. 32, 2000, s 6
- s 80G ins No. 31, 1987, s 12
amd No. 34, 1987, s 8
rep No. 32, 2000, s 6
- s 80H ins No. 31, 1987, s 12
amd No. 5, 1995, s 19
rep No. 32, 2000, s 6
- s 81
pt III
div 15 hdg
s 83A ins No. 53, 1988, s 9
ins No. 53, 1988, s 9
amd No. 80, 1991, s 10; No. 43, 1994, s 15; No. 71, 1994, s 5; No. 32, 2000,
s 32
- s 83B ins No. 53, 1988, s 9
amd No. 80, 1991, s 11; No. 43, 1994, s 16; No. 71, 1994, s 6
- s 83C ins No. 53, 1988, s 9
rep No. 80, 1991, s 12
- s 83D ins No. 53, 1988, s 9
amd No. 80, 1991, s 13; No. 71, 1994, s 7
- s 83E ins No. 53, 1988, s 9
amd No. 14, 1999, s 30
- s 83F ins No. 53, 1988, s 9
amd No. 31, 1990, s 7; No. 14, 1999, s 25
- ss 84 – 86
s 87 amd No. 31, 1987, s 15; No. 71, 1994, s 8; No. 17, 1996, s 6; No. 14, 1999, s 30
s 88 amd No. 31, 1987, s 15; No. 71, 1994, s 9; No. 17, 1996, s 6; No. 14, 1999, s 30
s 89 amd No. 31, 1987, s 15; No. 47, 1990, s 6; No. 71, 1994, s 10; No. 17, 1996,
s 6; No. 14, 1999, s 30
- s 90 amd No. 31, 1987, s 15
- s 93 amd No. 31, 1987, s 15
- s 94 amd No. 31, 1987, ss 13 and 15
sub No. 80, 1991, s 14
amd No. 36, 2000, s 34
- s 95 amd No. 36, 2000, s 35
- s 96 amd No. 72, 1979, s 23; No. 31, 1987, s 14; No. 36, 2000, s 36
- s 97 amd No. 43, 1994, s 17
- s 100 amd No. 72, 1979, s 24; No. 31, 1987, s 15; No. 36, 2000, s 47
- s 101 sub No. 72, 1979, s 25
amd No. 19, 2000, s 9

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s 102	sub No. 72, 1979, s 25
s 103	rep No. 72, 1979, s 25
s 105A	ins No. 36, 2000, s 48
s 106	amd No. 31, 1987, s 15
s 107	amd No. 72, 1979, s 26; No. 31, 1987, s 15; No. 36, 2000, s 37
s 108	amd No. 31, 1987, s 15
s 108A	ins No. 72, 1979, s 27
ss 109 – 111	amd No. 31, 1987, s 15
s 112	amd No. 31, 1987, s 15; No. 36, 2000, s 49
ss 113 – 115	amd No. 31, 1987, s 15
s 116	amd No. 31, 1987, s 15; No. 17, 1996, s 6
pt VIIA hdg	ins No. 4, 1988, s 10
s 116A	ins No. 4, 1988, s 10 amd No. 142, 1989, s 9; No. 55, 1990, s 22; No. 14, 1999, s 26
ss 116B –	
116C	ins No. 4, 1988, s 10
s 116D	ins No. 4, 1988, s 10 amd No. 14, 1999, s 30
s 116E	ins No. 4, 1988, s 10 amd No. 59, 1990, s 4; No. 19, 1998, s 5; No. 14, 1999, s 30; No. 17, 2001, s 17
s 116F	ins No. 4, 1988, s 10
ss 117 – 118	amd No. 31, 1987, s 15
s 119	amd No. 72, 1979, s 28
s 120	amd No. 31, 1987, s 15
s 121	amd No. 72, 1979, s 29
s 123	amd No. 31, 1987, s 15 sub No. 14, 1999, s 27
s 123A	ins No. 68, 1983, s 92 sub No. 14, 1999, s 28 amd No. 32, 2000, ss 7 and 33; No. 36, 2000, s 38
ss 124 – 125	amd No. 31, 1987, s 15
s 126	amd No. 31, 1987, s 15; No. 34, 1987, s 9; No. 42, 1989, s 10; No. 14, 1999, s 30; No. 32, 2000, ss 8 and 34
s 127	amd No. 31, 1987, s 15; No. 14, 1999, s 30
s 128	amd No. 31, 1987, s 15
s 129	amd No. 31, 1987, s 15; No. 43, 1994, s 18; No. 14, 1999, s 29; No. 32, 2000, s 35