

NORTHERN TERRITORY OF AUSTRALIA

STAMP DUTY ACT

As in force at 1 August 2003

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 August 2003

STAMP DUTY ACT

An Act relating to the imposition of stamp duty on certain instruments having a connection with the Northern Territory

1 Short title

This Act may be cited as the *Stamp Duty Act*.

2 Commencement

This Act shall come into operation on 1 July 1978.

3 Incorporation

This Act is incorporated and shall be read as one with the *Taxation (Administration) Act*.

4 Imposition of duty

Subject to this Act, stamp duty is imposed on the instruments included in the classes of instruments specified in Schedule 1.

5 Rate of duty

The rate of stamp duty on an instrument included in a class of instruments specified in Schedule 1 is the rate specified in that Schedule in relation to that class of instruments.

6 Exemptions

- (1) Stamp duty is not imposed on an instrument included in a class of instruments specified in section 8E or Schedule 2.
- (2) Stamp duty is not imposed on an instrument for which an exemption from stamp duty is provided by the *Bankruptcy Act 1966* of the Commonwealth or the *Commonwealth Inscribed Stock Act 1911* of the Commonwealth.

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- (3) Stamp duty is not imposed on an instrument included in a prescribed class of instruments executed by, or by an authority of, the Commonwealth or a State or another Territory prescribed for the purposes of this subsection.
 - (4) Subject to this Act and the *Taxation (Administration) Act*, stamp duty is not imposed on an instrument that is a counterpart or copy of another instrument that has been duly stamped.
 - (8) Except where other express provision is made by this or any other Act, stamp duty is not imposed by this Act on an instrument executed before the commencement of this Act.
 - (12) For the purposes of this section an instrument shall be deemed to have been executed on the date on which the last party to the instrument appears to have executed it.
 - (13) The Regulations may exempt a person from the whole or a part of the operation of this Act.

6A Stamp duty on statutory corporations

Stamp duty is imposed on an instrument executed by a statutory corporation except where the instrument is an instrument included in:

- (a) a class of instruments specified in Schedule 2; or
- (b) a class of instruments prescribed for the purposes of this section.

6B Stamp duty on Government Business Divisions

Despite any other Act, stamp duty is imposed on an instrument executed by a Government Business Division except where the instrument is an instrument included in:

- (a) a class of instruments specified in Schedule 2; or
- (b) a class of instruments prescribed for the purposes of this section.

7 Duty to be rounded down

Where an amount of stamp duty otherwise payable on any item specified in Schedule 1 is an amount that is not a multiple of 5 cents, the amount of stamp duty payable is the next lowest amount that is a multiple of 5 cents.

8 Waiver of payment of small amounts of duty or additional duty

- (1) Where an amount of stamp duty or an additional amount of duty payable by way of penalty under section 96 or 107 of the *Taxation (Administration) Act* that is otherwise payable is less than \$5, the Commissioner may waive payment of the amount.
- (2) If payment of an amount is waived under subsection (1), the instrument in respect of which the duty or additional duty is payable is to be marked as duly stamped and, subject to the requirements in respect of adhesive stamps under section 14 of the *Taxation (Administration) Act* (if applicable) being complied with, is to be taken to be duly stamped.

8A Assessing duty in certain circumstances

- (1) Where dutiable property is conveyed to or by persons as joint tenants, for the purpose of assessing duty on the instruments effecting the conveyance, a reference in the instrument to joint tenants shall be read as a reference to tenants in common.
- (2) In assessing the duty payable on a conveyance, where there are improvements on the land the subject of the conveyance claimed by the conveyee to have been effected by him, or at his expense, the Commissioner may exclude from the total value or amount on which duty is to be assessed such value or amount as the Commissioner thinks fit in respect of the value or amount, as at the date of execution of that conveyance, of those improvements.

8B Concession for first home owners

- (1) In this section:

Australian citizen has the same meaning as in the *First Home Owner Grant Act*.

built includes relocated from land on to other land and affixed to the other land.

first home owner concession means a concession from the payment of duty on the instruments effecting a conveyance of land equal to the lesser of:

- (a) the total amount of duty assessed as payable on the conveyance; or
- (b) the duty payable on a conveyance of land the consideration for or unencumbered value of which is \$125 000.

home has the same meaning as in the *First Home Owner Grant Act*.

permanent resident has the same meaning as in the *First Home Owner Grant Act*.

relevant interest has the same meaning as in section 5(2) and (3) of the *First Home Owner Grant Act*.

residential property has the same meaning as in the *First Home Owner Grant Act*.

spouse has the same meaning as in the *First Home Owner Grant Act*.

- (2) A conveyee or, if there is more than one conveyee, all of the conveyees of a conveyance of land is or are entitled to the first home owner concession if:
- (a) the conveyee or each of the conveyees is a natural person;
 - (b) the conveyee or at least one of the conveyees is an Australian citizen or a permanent resident;
 - (c) the conveyee and his or her spouse have not, or all of the conveyees and their spouses have not, previously received the first home owner concession or a concession on duty under section 8B of this Act as in force before 20 August 2002;
 - (d) the conveyee and his or her spouse have not, or all of the conveyees and their spouses have not, previously had a relevant interest in a residential property that was occupied by him, her or them as his, her or their residence;
 - (e) the conveyee or all of the conveyees will acquire the whole beneficial interest in the land the subject of the conveyance;
 - (f) the conveyee is not acquiring the land the subject of the conveyance, or none of the conveyees are acquiring the land the subject of the conveyance, in the capacity of a trustee; and
 - (g) either:
 - (i) there is a home built on the land and the Commissioner is satisfied that the conveyee or conveyees will occupy the home as his, her or their principal place of residence within one year, or the other longer period approved by the Commissioner, after the execution of the instruments evidencing the conveyance; or

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- (ii) at the time the land was conveyed no home is built on the land and the Commissioner is satisfied that:
- (A) a home will be built on the land within 3 years after the execution of the instruments evidencing the conveyance; and
 - (B) the conveyee or conveyees will occupy the home as his, her or their principal place of residence before:
 - (I) the expiry of the 3 year period referred to in subparagraph (A) or one year after the home is built, whichever period expires first; or
 - (II) the expiry of the other longer period approved by the Commissioner.
- (3) For the purposes of subsection (2)(c), if the Commissioner re-assesses under subsection (6) the duty payable by the conveyee or conveyees because the conveyee fails or conveyees fail to occupy a home on the land as his, her or their principal place of residence within the period referred to in subsection (2)(g), the conveyee is taken, or the conveyees are taken, not to have previously received the first home owner concession.
- (4) If there is more than one conveyee and not all of the conveyees will be able to occupy a home on the land as their principal place of residence within the period referred to in subsection (2)(g), the conveyees are (subject to subsection (2)(a), (b), (c), (d), (e) and (f)) entitled to the first home owner concession if the Commissioner is satisfied that:
- (a) at least one of the conveyees will be able to occupy a home on the land as his or her principal place of residence within the period referred to in subsection (2)(g); and
 - (b) there are special reasons why the other conveyee or conveyees will not be able to occupy a home on the land as his, her or their principal place of residence within the period referred to in subsection (2)(g),

and, if so, this section applies to the conveyees as if they satisfied the entitlement criteria specified in that paragraph.

- (5) If the conveyee fails or conveyees fail to occupy a home on the land as his, her or their principal place of residence within the period referred to in subsection (2)(g) (including that paragraph as applied by subsection (4)), the conveyee or conveyees must, within 30 days

after the expiry of that period, notify in writing the Commissioner of his, her or their failure to do so.

Penalty: 50 penalty units.

- (6) If a conveyee fails or conveyees fail to occupy a home on the land as his, her or their principal place of residence within the period referred to in subsection (2)(g) (including that paragraph as applied by subsection (4)), the Commissioner must amend the assessment of duty imposed on the conveyance to re-assess duty payable by the conveyee or conveyees as if the conveyee or conveyees were not eligible for the first home owner concession unless, in the opinion of the Commissioner, there are special reasons not to amend the assessment.
- (7) Section 97, other than subsection (1), of the *Taxation (Administration) Act* applies to and in relation to amending an assessment under subsection (6).
- (8) This section applies in relation to the acquisition of an interest in land under a Scheme set out in Schedule 5, 6 or 7 of the *Housing Assistance Schemes Regulations* as if:
 - (a) where a person is acquiring the interest alone – the person were acquiring 100% of the land; and
 - (b) where 2 or more persons are acquiring the interest – the persons were acquiring 100% of the land in the same proportions as they are acquiring the interest.
- (9) If a person is acquiring land or an interest in land in the capacity of guardian of a person under a legal disability, this section applies in relation to that acquisition, and entitlement to the first home owner concession in respect of that acquisition is determined, as if the person under the legal disability were the conveyee of the land or interest in the land and, for that purpose:
 - (a) a reference to a conveyee in this section includes a reference to the person under the legal disability; and
 - (b) the person under the legal disability is taken to be the person who receives the first home owner concession (and not his or her guardian).
- (10) A person claiming the first home owner concession, and his or her spouse, must give to the Commissioner a declaration, in the approved form, providing the information relating to the claim that the Commissioner requires.

8C Rebate for principal place of residence

(1) In this section:

built has the same meaning as in section 8B.

home has the same meaning as in section 8B.

principal place of residence rebate means a concession from the payment of duty on the instruments effecting a conveyance of land equal to the lesser of:

- (a) the total amount of duty assessed as payable on the conveyance; or
 - (b) \$1 500.
- (2) A conveyee or, if there is more than one conveyee, all of the conveyees of a conveyance of land is or are entitled to the principal place of residence rebate if:
- (a) the conveyee or each of the conveyees is a natural person;
 - (b) the conveyee is or the conveyees are not eligible for a first home owner concession under section 8B;
 - (c) the conveyee or all of the conveyees will acquire the whole beneficial interest in the land the subject of the conveyance;
 - (d) the conveyee is not acquiring the land the subject of the conveyance, or none of the conveyees are acquiring the land the subject of the conveyance, in the capacity of a trustee; and
 - (e) either:
 - (i) there is a home built on the land and the Commissioner is satisfied that the conveyee or conveyees will occupy the home as his, her or their principal place of residence within one year, or the other longer period approved by the Commissioner, after the execution of the instruments evidencing the conveyance; or
 - (ii) at the time the land was conveyed no home is built on the land and the Commissioner is satisfied that:
 - (A) a home will be built on the land within 3 years after the execution of the instruments evidencing the conveyance; and

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- (B) the conveyee or conveyees will occupy the home as his, her or their principal place of residence before;
 - (I) the expiry of the 3 year period referred to in subsubparagraph (A) or one year after the home is built, whichever period expires first; or
 - (II) the expiry of the other longer period approved by the Commissioner.
 - (3) If there is more than one conveyee and not all of the conveyees will be able to occupy a home on the land as their principal place of residence within the period referred to in subsection (2)(e), the conveyees are (subject to subsection (2)(a), (b), (c) and (d)) entitled to the principal place of residence rebate if the Commissioner is satisfied that:
 - (a) at least one of the conveyees will be able to occupy a home on the land as his or her principal place of residence within the period referred to in subsection (2)(e); and
 - (b) there are special reasons why the other conveyee or conveyees will not be able to occupy a home on the land as his, her or their principal place of residence within the period referred to in subsection (2)(e),

and, if so, this section applies to the conveyees as if they satisfied the entitlement criteria specified in that paragraph.

- (4) If the conveyee fails or conveyees fail to occupy a home on the land as his, her or their principal place of residence within the period referred to in subsection (2)(e) (including that paragraph as applied by subsection (3)), the conveyee or conveyees must, within 30 days after the expiry of that period, notify in writing the Commissioner of his, her or their failure to do so.

Penalty: 50 penalty units.

- (5) If a conveyee fails or conveyees fail to occupy a home on the land as his, her or their principal place of residence within the period referred to in subsection (2)(e) (including that paragraph as applied by subsection (3)), the Commissioner must amend the assessment of duty imposed on the conveyance to re-assess duty payable by the conveyee or conveyees as if the conveyee or conveyees were not eligible for the principal place of residence rebate unless, in the opinion of the Commissioner, there are special reasons for not amending the assessment.

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- (6) Section 97, other than subsection (1), of the *Taxation (Administration) Act* applies to and in relation to amending an assessment under subsection (5).
- (7) This section applies in relation to the acquisition of an interest in land under a Scheme set out in Schedule 5, 6 or 7 of the *Housing Assistance Schemes Regulations* as if:
- (a) where a person is acquiring the interest alone – the person were acquiring 100% of the land; and
 - (b) where 2 or more persons are acquiring the interest – the persons were acquiring 100% of the land in the same proportions as they are acquiring the interest.
- (8) If a person is acquiring land or an interest in land in the capacity of guardian of a person under a legal disability, this section applies in relation to that acquisition, and entitlement to the principal place of residence rebate in respect of that acquisition is determined, as if the person under the legal disability were the conveyee of the land or interest in the land and, for that purpose a reference to a conveyee in this section includes a reference to the person under the legal disability.
- (9) A person claiming the principal place of residence rebate must give to the Commissioner a declaration, in the approved form, providing the information relating to the claim that the Commissioner requires.

8E Conveyance of property used for farming purposes to family member exempt from duty

- (1) In this section:

convey includes agree to convey.

family member, in relation to a person who conveys prescribed property, means:

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

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- (e) the spouse of:
 - (i) a child or other remoter lineal descendant of the person;
or
 - (ii) an adopted child or a stepchild of the person; or
 - (iii) a lineal descendant of an adopted child or stepchild of the person;
 - (f) a sibling of the person or the person's spouse; or
 - (g) a lineal descendant of a sibling of the person or the person's spouse.

farming purposes means:

- (a) pastoral purposes as defined in section 3(1) of the *Pastoral Land Act*; or
- (b) a prescribed purpose.

prescribed property means property used solely or principally for farming purposes and includes an interest or estate in prescribed property.

spouse includes a de facto partner.

- (2) Subject to subsections (3) and (5) and section 8F, if a person conveys prescribed property to one or more family members for which no monetary consideration is given or agreed to be given, stamp duty is not imposed on the instrument effecting the conveyance.
- (3) Subsection (2) does not apply:
 - (a) unless each conveyee is a natural person who is a family member;
 - (b) if any of the conveyees will hold the prescribed property as a member of a body corporate or as an agent, a trustee or otherwise for or on behalf of another person;
 - (c) unless the conveyee or conveyees intend to use the prescribed property for farming purposes;
 - (d) if the instrument also conveys property that is not prescribed property; or
 - (e) unless the prescribed conditions, if any, are complied with.

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- (4) If an instrument that conveys prescribed property is exempt from stamp duty under this section and the next conveyance of the same prescribed property to one or more family members occurs within 5 years after the date of the instrument, the exemption from stamp duty allowed under this section does not apply to that subsequent conveyance.
 - (5) The exemption from stamp duty allowed under this section does not apply to instruments executed before the commencement of the *Stamp Duty Amendment Act 1999*.

8F Application for exemption allowed under section 8E

- (1) A person or persons to whom prescribed property referred to in section 8E is conveyed must apply to the Commissioner for the exemption from stamp duty allowed under that section.
- (2) The application under subsection (1) is to be in the approved form.
- (3) In determining the application, the Commissioner may request an applicant to provide further information to support the application.
- (4) If the Commissioner is satisfied that the instrument effecting the conveyance is an instrument to which the exemption allowed under section 8E applies, the instrument is exempt from stamp duty.

8G Refund of duty paid on certain matrimonial property settlements

- (1) In this section:

matrimonial property means dutiable property that belongs to the parties to a marriage or to either of them.
- (2) If duty imposed on an instrument effecting a conveyance of matrimonial property from a person to his or her spouse or former spouse has been paid under this Act and, within 12 months after the property is conveyed, orders that relate to the distribution of the matrimonial property between the person and his or her spouse that are consistent with the terms of the conveyance are made under Part VIII of the *Family Law Act 1975* of the Commonwealth and sealed by the Family Court, the Commissioner must refund to the person who paid the duty an amount equal to the duty paid.
- (3) A refund of stamp duty allowed under this section does not apply to instruments executed before the day on which the Administrator's assent to the *Stamp Duty Amendment Act 2002* is declared.

8H **Meaning of *managed investment scheme conveyance***

(1) In this section:

custodian means a corporation appointed under section 601FB of the Corporations Act 2001 to hold the property of a registered scheme as agent for the responsible entity of the registered scheme.

registered scheme has the same meaning as in the Corporations Act 2001.

responsible entity has the same meaning as in the Corporations Act 2001.

scheme property means the dutiable property or marketable securities of a registered scheme held by a person as the responsible entity of the registered scheme or as a custodian for the responsible entity of the registered scheme.

(2) Each of the following transactions is a managed investment scheme conveyance:

(a) a conveyance of dutiable property or a marketable security from a person as vendor to the custodian for a responsible entity of a registered scheme, where:

(i) the conveyance is made pursuant to an agreement for the conveyance of the dutiable property or marketable security between the person as vendor and the responsible entity as purchaser;

(ii) the dutiable property or marketable security is acquired by the responsible entity as scheme property; and

(iii) the agreement has been stamped with ad valorem duty;

(b) a conveyance of dutiable property or a marketable security that is either from the responsible entity of a registered scheme to the custodian for that responsible entity or from the custodian of a responsible entity of a registered scheme to that responsible entity, where:

(i) the dutiable property or marketable security is scheme property of that registered scheme; and

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- (ii) the conveyance is not part of an arrangement under which:
 - (A) the scheme property or an interest in the scheme property ceases to be scheme property; or
 - (B) the members of the registered scheme do not have the same trust interest in the scheme property after the conveyance of that property as they had immediately before the arrangement was entered into;
 - (c) a conveyance of dutiable property or a marketable security that is scheme property which is a consequence of the retirement of the responsible entity or custodian of a registered scheme or the appointment of a new responsible entity or custodian of the registered scheme, where the Commissioner is satisfied that:
 - (i) the only interest acquired by a person in relation to the property as a result of the conveyance is an interest acquired by the replacement or new responsible entity or custodian; and
 - (ii) the replacement or new responsible entity or custodian acquired that interest only because of its appointment as the responsible entity or custodian for the registered scheme.

9 Regulations

The Administrator may make Regulations not inconsistent with this Act prescribing all matters required or permitted to be prescribed by this Act, or necessary or convenient to be prescribed for the carrying out or giving effect to this Act.

Schedule 1

sections 4 and 5

RATES OF STAMP DUTY

Item No.	Class of instruments	Rate of stamp duty
3B.	<i>Electronic Debit Transactions</i>	\$0.10
	On each liable debit transaction as shown on a registered financial institution's return under Division 3B of the <i>Taxation (Administration) Act</i>	
5.	<i>Conveyance of Dutiable Property</i>	
(1)	Conveyance other than a conveyance of a description referred to in paragraph (2), (3), (4), (5), (6), (7) or (8)	<p>Where the amount of the consideration or the unencumbered value of the property the subject of the conveyance or transfer (whichever is the higher):</p> <p>Does not exceed \$500 000 ... duty on the amount or the unencumbered value (the value), calculated in accordance with the formula:</p> $D = (0.065 \times V2) + 21V$ <p>Where</p> <p>D = the duty payable in \$</p> <p>and</p> $V = \frac{\text{the value}}{1000}$ <p>Exceeds \$500 000 5.4% of that amount or unencumbered value</p>

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| (2) | Conveyance to or by persons as joint tenants where one or more of those persons retains an interest in the property the subject of the conveyance | At the rate specified in paragraph (1) above plus \$5.00 |
| (3) | Partition of land: | |
| (a) | where consideration is given or agreed to be given or where partition is unequal – on the unencumbered value of the additional portion making | At the rate specified in paragraph (1) above |
| (b) | in any other case | \$20.00 |
| (4) | Conveyance made subsequent to and in conformity with an agreement or agreements for the conveyance and the agreement or agreements has or have been stamped with ad valorem duty | \$5.00 |
| (5) | Grant by the Territory of an estate in fee simple in land or a convertible Crown lease where monetary consideration is given or agreed to be given | Calculated on the amount of monetary consideration, at the rate specified in paragraph (1) |
| (7) | A declaration of trust that declares the same trusts as those on which and subject to which the same dutiable property was transferred to the person declaring the trust if ad valorem duty has been paid on the transfer or the agreement to | |

	transfer	\$5.00
	(8) Managed investment scheme conveyance	\$20.00
6.	Deed (but not a deed that is the security for the repayment of money) or agreement under seal of any kind whatsoever, not otherwise chargeable under this Schedule, including any instrument which under the provisions of any statute (other than the <i>Land Title Act</i>) is given the operation or effect of a deed either before or after registration	
	By which a trust is created	\$20.00
	In any other case	\$20.00
	<i>Foreclosure Order</i>	
	On the unencumbered value of the property included in the order	The same duty as on a conveyance under paragraph (1) of item 5 in this Schedule
9.	<i>Hiring Arrangement</i>	An amount equal to 1.8% of the total amount paid or payable to the lender in relation to the arrangement or \$9,000, whichever is the lesser
9A.	<i>Special Hiring Arrangement</i>	An amount equal to 1.8% of the total amount paid or payable to the lender in relation to the arrangement or \$9 000, whichever is the lesser
11.	<i>Instrument of appointment any trustee</i>	\$20.00

12.	<i>Lease</i> that is a lease of land in the Territory or a franchise arrangement	
(1)	In respect of the total rent payable during the term without any consideration by way of premium, fine or foregift:	<p>Where such rent does not exceed \$100 \$0.50</p> <p>Exceeds \$100 – for every \$100 and also for any remaining fractional part of \$100 of that rent \$0.50</p>
(2)	In respect of a lease where there is an indefinite term	On an amount assessed by the Commissioner to be the equivalent of one year's rent on average within the terms of the lease or agreement (whether the lease or agreement runs for longer than one year or not) for every \$100 and also for any remaining fractional part of \$100 so assessed \$1.00
(3)	In consideration of a sum of money by way of premium, fine or foregift without rent	The same duty as on a conveyance under paragraph (1) of item 5 in this Schedule
(4)	In consideration of a sum of money by way of premium, fine, or foregift, and also of rent whether real or nominal:	On the amount of the premium, fine or foregift, the same duty as on a conveyance under paragraph (1) of item 5 in this Schedule
(5)	Where:	duty as on a lease under paragraph (1) hereof
(a)	there is no consideration in money or money's worth; or	The same duty as on a conveyance under paragraph (1) of item 5 in this Schedule
(b)	notwithstanding paragraphs (1) to (4) inclusive, the consideration is, in the opinion of the	

	Commissioner, nominal	
(6)	Of any other kind whatsoever	\$20.00
(7)	A lease made subsequently to and in conformity with a contract or agreement to grant such lease duly stamped	\$5.00
16.	<i>Motor Vehicle Certificate of Registration</i>	
	On a motor vehicle certificate of registration	An amount equal to \$3 for every \$100, or fractional part of \$100, of the dutiable value of the motor vehicle
17.	<i>Policies of Insurance</i> not being a policy of life insurance, or policy under the <i>Work Health Act</i>	
(1)	Upon every policy and every renewal of a policy of insurance for a term of one year or less	10% of the amount of the premium
(2)	Upon every policy and every renewal of policy of insurance for a term of more than one year	In respect of each year and also of any fractional part of a year in the term –10% of the amount of the premium
18.	<i>Policies of Life Insurance</i>	
(1)	Upon every policy (other than a temporary or term insurance policy)	For every \$100 and also for any fractional part of \$100 of the sum insured \$0.10
(2)	Upon a temporary or term insurance policy	5% of the first year's premium
20.	<i>Conveyance of Marketable Securities</i>	
(4)	Upon the conveyance of any marketable security	For every \$100 and also for every remaining fractional part of \$100 of the consideration or the unencumbered value (whichever

		is the greater)	\$0.60
(6)	Conveyance made subsequent to and in conformity with an agreement or agreements for the conveyance and the agreement or agreements has or have been stamped with ad valorem duty		NIL
22.	<i>Counterparts or Copies</i>		
(1)	On a counterpart or copy of an instrument upon which duty has been paid		\$5.00
(2)	Copy of original instrument, being a copy within the meaning of section 9C of the <i>Taxation (Administration) Act</i> of an original instrument within the meaning of that section	The same duty as on the original instrument	
23.	<i>Instrument to Correct Error</i>		
	On an instrument which the Commissioner is satisfied is executed solely to correct an error in or effected by an instrument upon which duty has been paid		\$20.00
24.	<i>Instruments relating to managed investment schemes</i>		
	On an instrument if the Commissioner is satisfied:		\$20.00
(a)	that the instrument was entered into as a consequence of the conversion of an undertaking to a registered scheme (within the meaning of		

Division 11 of Part 11.2 of the Corporations Law) for which a deed has been lodged under Division 5 of Part 7.12 of the Corporations Law as in force before the commencement of the *Managed Investments Act 1998* of the Commonwealth; and

- (b) that the members have the same beneficial interests in the scheme property as they had before the instrument was executed.

Schedule 2

section 6

EXEMPTIONS FROM STAMP DUTY

Item No.	Class of exempt instruments
5.	Lease of a building or part of a building to be used for residential purposes.
6A.	Conveyance to the Territory, to a Government Business Division declared by regulation to be a Government Business Division for the purposes of this item or to an authority of the Territory other than a Government Business Division to the extent only of the proportion of the duty otherwise payable on the instruments effecting the conveyance that represents the proportion the interest of the Territory, Government Business Division or authority in the property is in relation to the property.
6B.	Lease to the Territory, to a Government Business Division declared by regulation to be a Government Business Division for the purposes of this item or to an authority of the Territory other than a Government Business Division.
7.	Conveyance or lease to the Commonwealth or to an authority of the Commonwealth.
8.	Transfer of property for the purposes of a compulsory transfer of business under Part 4, Division 3 of the <i>Financial Sector (Transfer of Business) Act 1999</i> of the Commonwealth.
8A.	Conveyance by which dutiable property or a marketable security vests in a company only because of its registration under Chapter 5B, Part 5B.1 of the Corporations Act 2001.
9.	Transfer during the winding up of a company of its property (both real and personal) to a shareholder of the company where the shareholder is entitled to the property on a distribution in specie unless the transfer is or is part of a tax avoidance scheme.
9A.	Conveyance: <ul style="list-style-type: none"> (a) that the Commissioner is satisfied is made solely for the purpose of effecting the appointment of a new trustee on the retirement of a trustee and under which no beneficial interest passes in the property conveyed, other than a conveyance

under section 56BAC of the *Taxation (Administration) Act*;

- (b) subject to paragraph (ba), made by a trustee to a beneficiary, where the conveyance is not made for valuable consideration and the conveyance is in conformity with a trust contained in a validly constituted trust and the property the subject of the conveyance was acquired by the trustee by virtue of an instrument which was duly stamped or has been exempted from duty under this Schedule or was not otherwise subject to duty;
- (ba) made by a trustee of a discretionary trust to a beneficiary where:
 - (i) the beneficiary is a natural person and, as a result of the transfer, the beneficiary holds both the legal and equitable interests in the property the subject of the conveyance;
 - (ii) the conveyance is not made for valuable consideration, which includes money or moneys worth, the forgiveness of or release from a debt, gift or legal obligation (including the trustee's right of indemnity and exoneration against a beneficiary) and whether the valuable consideration is paid, payable, made over to, given or granted by or to the trustee, a beneficiary or a person acting for, in concert with or under an arrangement or understanding (which may be formal or informal or express or implied) with the trustee or a beneficiary; and
 - (iii) the conveyance is in conformity with a trust contained in a validly constituted trust and the property the subject of the conveyance was acquired by the trustee by virtue of an instrument which was duly stamped or has been exempted from duty under this Schedule or was not otherwise subject to duty; or
- (c) made by a trustee to a beneficiary, where the conveyance is not made for valuable consideration and the property the subject of the conveyance was acquired by the trustee by virtue of the operation of a testamentary instrument or intestacy.

9B. Transfer of an interest in the title to the property which the Commissioner is satisfied is the principal place of residence of persons who are married to each other or living in a de facto relationship, within the meaning of the *De Facto Relationships Act*, from one person to both with the effect that both own the property

- equally where there is no consideration and no other person obtains an interest or benefit from the transfer.
15. Transfer of a marketable security made in consequence of the appointment of a trustee to replace a deceased trustee or other change in trustees in compliance with an order of a court.
 16. Transfer of a marketable security from an executor of a deceased person's will or administrator of a deceased person's estate to another executor of that will or administrator of that estate.
 17. Transfer of a marketable security to a beneficiary entitled to it under a will or to a person entitled to it under an intestacy.
 19. Transfer of a marketable security to a trustee to be held solely as trustee of the transferor without change in beneficial ownership, and a transfer by way of re-transfer to the transferor.
 20. Transfer of a marketable security made solely for the purpose of:
 - (a) qualifying the transferee as the director of a company to act and vote, as directed, on behalf of another company; or
 - (b) re-transferring the marketable security from that director to the other company, being another company that:
 - (i) controls the appointment or removal of all or a majority of the board of directors of that first-mentioned company;
 - (ii) controls more than one-half of the voting power in that first-mentioned company; or
 - (iii) beneficially owns more than one-half of the paid-up capital of that first-mentioned company.
 21. Transfer of a marketable security made solely for the purpose of rectifying a clerical error in an instrument of transfer.
 22. Transfer of a marketable security made solely by way of security or by way of re-transfer to a person from another person who held the marketable security by way of security.
 23. Conveyance to a former bankrupt from the estate of the former bankrupt which results in the former bankrupt holding both the legal and the equitable interest in the property conveyed to him or her.

26. Letter or power of attorney:
- (a) in the form of an order, request, or direction, under hand only, from the proprietor of any stock to any company, or to any officer of any company, or to any banker, to pay the dividends or interest arising from the stock to any person therein named; or
 - (b) for the sole purpose of appointing a proxy to vote at a specified meeting or meetings generally, being a meeting or meetings at which votes may be given by proxy.
30. Any insurance cover-note in pursuance of which a duly stamped policy is issued within 3 months of the date of the cover-note.
31. Any policy of insurance issued to the original insured or his personal representative in pursuance of a cover-note which has been duly stamped as a policy.
32. Any policy of insurance taken out in pursuance of a requirement under the *Work Health Act*.
- 32A. A policy of insurance entered into in the course of a health insurance business conducted by a registered health benefits organisation within the meaning of Part VI of the *National Health Act 1953* of the Commonwealth, but only if the registered health benefits organisation issued the policy.
33. Grant of a statutory licence or permission used in or in connection with a business undertaking, not being a grant which is or, in the opinion of the Commissioner, amounts to or has the same effect as, a transfer of the licence or permission.
- 33A. Transfer under the *Commercial Passenger (Road) Transport Act* of a taxi licence or an agreement to make such a transfer.
- 33AA. Conveyance of a licence pursuant to section 12A of the *Fisheries Act*, not being an arrangement which is, or which, in the opinion of the Commissioner, amounts to or has the same effect as, the permanent transfer of the licence.
- 33B. Grant of an estate in fee simple or other lesser estate in land from the Crown other than:
- (a) a grant of an estate in fee simple or lesser estate after the surrender of a convertible Crown lease held over the same land the subject of the grant where:
 - (i) the grantee was not the person who surrendered the convertible Crown lease; and

- (ii) the grant is or, in the opinion of the Commissioner, amounts to or has the effect as if it were a transfer of the estate in the land; or
 - (b) a grant of an estate in fee simple or convertible Crown lease for which monetary consideration is given or agreed to be given.
- 33C. Transfer under the *Petroleum Act*, the *Energy Pipelines Act*, the *Petroleum (Submerged Lands) Act* or the *Petroleum (Prospecting and Mining) Act* of a lease, licence, permit or other authority, or any agreement to make such a transfer.
34. Articles of indenture of apprenticeships.
35. Wills and testamentary instruments.
36. An instrument effecting or evidencing the conveyance of dutiable property or the grant of a lease to a public hospital, public benevolent institution, religious institution or public education institution or a council, society, organisation or other body established or carried on exclusively or principally for the promotion of the interests of a school (other than a school carried on for the profit of an individual) if the property the subject of the conveyance or lease is to be used solely by that entity for purposes other than the carrying on of a commercial activity conducted by or on behalf of the entity.
37. Any of the following motor vehicle certificates of registration:
- (a) a motor vehicle certificate of registration issued to the person in whose name the vehicle was last registered before it was issued (whether registered in the Territory or elsewhere and whether or not that registration has expired) other than:
 - (i) a motor vehicle certificate of registration issued in respect of a motor vehicle that:
 - (A) was at any time registered under the *Interstate Road Transport Act 1985* of the Commonwealth; and
 - (B) is being registered under the *Motor Vehicles Act* by a person who has, until so registering the motor vehicle, never paid any stamp duty in relation to the motor vehicle under any law in force in the Commonwealth or a State or Territory of the Commonwealth;

- (ii) a motor vehicle certificate of registration issued in respect of a motor vehicle that:
 - (A) is a motor vehicle in which seating is provided for not less than 12 persons; and
 - (B) is being registered under the *Motor Vehicles Act* by a person who has, until so registering the motor vehicle, never paid any stamp duty in relation to that motor vehicle under any law in force in the Commonwealth or a State or Territory of the Commonwealth; or
- (iii) a motor vehicle certificate of registration, or a motor vehicle certificate of registration belonging to a class of motor vehicle certificates of registration, prescribed for the purposes of this subparagraph;
- (b) a motor vehicle certificate of registration issued following a transfer:
 - (i) to a person who is the spouse, de facto partner, parent or child of the person in whose name the vehicle was last registered (whether in the Territory or elsewhere) before the issue of the motor vehicle certificate of registration; or
 - (ii) to or from the spouse, de facto partner, parent or child jointly with that person,if the transfer is wholly by way of gift;
- (c) a motor vehicle certificate of registration issued to a person who is engaged solely or principally in the business of agricultural or pastoral production other than in respect of a vehicle designed primarily and principally for the transport of persons;
- (d) a motor vehicle certificate of registration issued to a person to give effect to:
 - (i) a change in that person's name; or
 - (ii) a change in the name of the business carried on by that person;

- (e) a motor vehicle certificate of registration issued to a person:
 - (i) who is the executor or administrator of, or the person administering, the estate of a deceased person for the purpose of transferring the vehicle to a person beneficially entitled to the vehicle;
 - (ii) who is the executor or administrator of, or the person administering, the estate of a deceased person for the purpose of sale in the course of winding up the estate of a deceased person; or
 - (iii) who is beneficially entitled to the vehicle under the estate of a deceased person;
- (f) a duplicate motor vehicle certificate of registration;
- (g) a motor vehicle certificate of registration issued on an application for registration by the Territory, by a Government Business Division declared by regulation to be a Government Business Division for the purposes of this item or by a person acting on behalf of the Territory other than a Government Business Division;
- (h) a motor vehicle certificate of registration issued in the name of a public hospital, public benevolent institution, religious institution or public education institution or a council, society, organisation or other body established or carried on exclusively or principally for the promotion of the interests of a school (other than a school carried on for the profit of an individual);
- (j) a motor vehicle certificate of registration issued to a person who, in the opinion of the Commissioner, is engaged principally in the business of buying and selling motor vehicles (a **motor vehicle trader**) in respect of:
 - (i) a vehicle acquired by the motor vehicle trader for the purpose of resale by the motor vehicle trader in the ordinary course of business; or
 - (ii) a new motor vehicle used solely or principally by the motor vehicle trader to sell new motor vehicles of the same class,other than:
 - (iii) a vehicle used solely or principally by the motor vehicle trader, a member of the motor vehicle trader's staff or a member of the motor vehicle trader's family; or

- (iv) a vehicle used for general purposes in the motor vehicle trader's business;
 - (k) a motor vehicle certificate of registration issued in respect of a vehicle that is:
 - (i) a motorized wheelchair;
 - (ii) an experimental or research vehicle that has no readily ascertainable market value;
 - (iii) a vehicle that has been brought into the Territory principally to take part in, or be part of, a specific event or specific events; or
 - (iv) a vehicle that is registered under the Motor Vehicles Act as a classic, veteran or vintage vehicle;
 - (m) a motor vehicle certificate of registration issued to a veteran who is totally and permanently incapacitated and who is eligible to receive the special rate of pension under section 24 of the *Veterans' Entitlements Act 1986* of the Commonwealth where the vehicle is for the veteran's non-commercial use.
38. Any instrument that is the security for the repayment of moneys and which is not otherwise subject to duty.

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**Stamp Duty Ordinance 1978 (Act No. 48, 1978)**

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

Stamp Duty Act (No. 2) 1978 (Act No. 94, 1978)

Assent date	5 September 1978
Commenced	5 September 1978

Stamp Duty Act (No. 3) 1978 (Act No. 98, 1978)

Assent date	13 October 1978
Commenced	13 October 1978

Stamp Duty Act (No. 4) 1978 (Act No. 13, 1979)

Assent date	26 January 1979
Commenced	26 January 1979

Stamp Duty Act 1979 (Act No. 61, 1979)

Assent date	15 June 1979
Commenced	22 June 1979 (<i>Gaz G25, 22 June 1979, p 5</i>)

Stamp Duty Act (No. 2) 1979 (Act No. 73, 1979)

Assent date	26 June 1979
Commenced	26 June 1979

Stamp Duty Act (No. 3) 1979 (Act No. 157, 1979)

Assent date	12 December 1979
Commenced	26 June 1979 (s 2, s 2 <i>Taxation (Administration) Act (No. 2) 1979 (Act No. 160, 1979) and Gaz G19, 9 May 1980, p 17</i>)

Stamp Duty Amendment Act 1981 (Act No. 66, 1981)

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

Stamp Duty Amendment Act 1982 (Act No. 77, 1982)

Assent date 8 December 1982
Commenced 8 December 1982

Stamp Duty Amendment Act 1983 (Act No. 33, 1983)

Assent date 3 October 1983
Commenced 30 August 1983 (s 2)

Stamp Duty Amendment Act 1985 (Act No. 27, 1985)

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

Stamp Duty Amendment Act (No. 2) 1985 (Act No. 55, 1985)

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

Stamp Duty Amendment Act 1987 (Act No. 24, 1987)

Assent date 25 June 1987
Commenced s 4: 1 May 1987; s 5(2): 1 March 1986; rem: 25 June 1987 (s 2)

Stamp Duty Amendment Act (No. 2) 1987 (Act No. 30, 1987)

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

Stamp Duty Amendment Act (No. 3) 1987 (Act No. 33, 1987)

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

Stamp Duty Amendment Act 1988 (Act No. 3, 1988)

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

Stamp Duty Amendment Act (No. 2) 1988 (Act No. 40, 1988)

Assent date 14 September 1988
Commenced 17 August 1988 (s 2)

Stamp Duty Amendment Act 1989 (Act No. 26, 1989)

Assent date 15 June 1989
Commenced 29 November 1989 (s 2, s 2 *Racing and Betting Amendment Act (No. 2) 1989 (Act No. 21, 1989) and Gaz G47*, 29 November 1989, p 7)

Amending Legislation

Statute Law Revision Act 1989 (Act No. 60, 1989)

Assent date 2 October 1989
Commenced 2 October 1989

Stamp Duty Amendment Act (No. 2) 1989 (Act No. 41, 1989)

Assent date 20 September 1989
Commenced ss 5, 6 and 7(a) and (c): 1 December 1989; rem: 20 September 1989 (s 2)

Stamp Duty Amendment Act 1990 (Act No. 21, 1990)

Assent date 7 June 1990
Commenced 1 January 1991 (*Gaz S76*, 21 December 1990)

Stamp Duty Amendment Act 1991 (Act No. 25, 1991)

Assent date 11 June 1991
 Commenced s 5(p): 1 July 1992; rem: 1 July 1991 (s 2)

Amending Legislation

Statute Law Revision Act 1994 (Act No. 50, 1994)

Assent date 20 September 1994
 Commenced 20 September 1994

Stamp Duty Amendment Act (No. 2) 1991 (Act No. 78, 1991)

Assent date 17 December 1991
 Commenced 1 January 1992 (s 2 and s 2 *Taxation (Administration) Amendment Act (No. 2) 1991 (Act No. 80, 1991)*)

Stamp Duty Amendment Act 1992 (Act No. 51, 1992)

Assent date 18 September 1992
 Commenced 1 July 1992 (s 2 and s 2 *Taxation (Administration) Amendment Act 1992 (Act No. 52, 1992)*)

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)

Stamp Duty Amendment Act 1993 (Act No. 50, 1993)

Assent date 27 September 1993
 Commenced 1 October 1993 (s 2)

Stamp Duty Amendment Act 1994 (Act No. 41, 1994)

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

Stamp Duty Amendment Act (No. 2) 1994 (Act No. 70, 1994)

Assent date 15 December 1994
 Commenced 15 December 1994

Stamp Duty Amendment Act 1995 (Act No. 31, 1995)

Assent date 26 June 1995
 Commenced 1 July 1995 (s 2)

Stamp Duty Amendment Act (No. 2) 1995 (Act No. 48, 1995)

Assent date 15 November 1995
 Commenced 1 July 1995 (s 2)

Stamp Duty Amendment Act 1998 (Act No. 20, 1998)

Assent date 30 March 1998
 Commenced 30 March 1998

Stamp Duty Amendment Act 1999 (Act No. 39, 1999)

Assent date 31 August 1999
 Commenced 31 August 1999

Stamp Duty Amendment Act (No. 2) 1999 (Act No. 49, 1999)

Assent date 16 November 1999
 Commenced 10 June 1999 (s 2)

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

Assent date 27 June 2000
 Commenced pts 5 and 6: 1 July 2001; rem: 1 July 2000 (s 2(2) and (3))

Stamp Duty Amendment Act 2000 (Act No. 35, 2000)

Assent date 27 June 2000
 Commenced pt 1: 27 June 2000; pts 2 – 8: 1 July 2000; pt 9: 16 May 2000 (s 2)

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

Assent date 22 March 2001
 Commenced 22 March 2001

Stamp Duty Amendment Act 2001 (Act No. 48, 2001)

Assent date 19 July 2001
 Commenced s 7(1): 29 May 2001; ss 4 – 6 and 7(2): 1 July 2001 (s 2)

Stamp Duty Amendment Act 2002 (Act No. 51, 2002)

Assent date 10 October 2002
 Commenced ss 4 and 6(f): 20 August 2002; rem: 10 October 2002 (s 2)

Stamp Duty Amendment Act 2003 (Act No. 35, 2003)

Assent date 30 June 2003
 Commenced s 5(a) and (b): 27 May 2003; rem: 1 July 2003 (s 2)

Commercial Passenger (Road) Transport (Consequential Amendments) Act 2003 (Act No. 41, 2003)

Assent date 7 July 2003
 Commenced 1 August 2003 (*Gaz G30*, 30 July 2003, p 2)

3 SAVINGS AND TRANSITIONAL PROVISIONS

s 4 *Stamp Duty Act (No. 2) 1978* (Act No. 94, 1978)
 s 5 *Stamp Duty Act (No. 4) 1978* (Act No. 13, 1979)
 s 4 *Stamp Duty Amendment Act 1981* (Act No. 66, 1981)
 s 7 *Stamp Duty Amendment Act 1993* (Act No. 50, 1993)
 s 4 *Stamp Duty Amendment Act 1995* (Act No. 31, 1995)
 s 5 *Stamp Duty Amendment Act (No. 2) 1995* (Act No. 31, 1995)
 ss 10 and 11 *Financial Relations Agreement (Consequential Provisions) Act 2000* (Act No. 32, 2000)
 s 7 *Stamp Duty Amendment Act 2000* (Act No. 35, 2000)
 s 4(2) and (3) *Stamp Duty Amendment Act 2003* (Act No. 35, 2003)

4 LIST OF AMENDMENTS

It amd No. 30, 1987, s 9
 ss 1 – 2 amd No. 30, 1987, s 9
 s 3 amd No. 30, 1987, s 9; No. 40, 1988, s 4
 sub No. 41, 1989, s 4
 s 4 amd No. 30, 1987, s 9

ENDNOTES

- s 6 amd No. 73, 1979, s 3; No. 66, 1981, s 5; No. 77, 1982, s 3; No. 30, 1987, ss 4 and 9; No. 40, 1988, s 5; No. 41, 1989, s 5; No. 50, 1993, s 4; No. 39, 1999, s 3
- s 6A ins No. 77, 1982, s 4
- s 6B ins No. 48, 2001, s 4
- s 7 amd No. 41, 1989, s 6
sub No. 70, 1994, s 2
- s 8 amd No. 157, 1979, s 4; No. 30, 1987, s 5; No. 40, 1988, s 6; No. 25, 1991, s 4
rep No. 78, 1991, s 3
ins No. 48, 2001, s 5
- s 8A ins No. 77, 1982, s 5
sub No. 30, 1987, s 6
amd No. 78, 1991, s 4
- s 8B ins No. 33, 1983, s 4
amd No. 30, 1987, s 7; No. 41, 1994, s 4; No. 35, 2000, s 14; No. 3, 2001, s 8
sub No. 51, 2002, s 4
- s 8BA ins No. 20, 1998, s 3
amd No. 39, 1999, s 4
rep No. 35, 2000, s 14
- s 8C ins No. 27, 1985, s 4
rep No. 35, 2000, s 5
ins No. 51, 2002, s 4
- s 8D ins No. 3, 1988, s 4
amd No. 48, 1995, s 3
rep No. 32, 2000, s 36
- ss 8E – 8F ins No. 39, 1999, s 5
- ss 8G – 8H ins No. 51, 2002, s 5
- s 9 amd No. 30, 1987, s 9
- sch 1 amd No. 94, 1978, s 3; No. 98, 1978, s 3; No. 13, 1979, s 3; No. 61, 1979, s 3; No. 73, 1979, s 4; No. 157, 1979, s 5; No. 66, 1981, s 6; No. 77, 1982, s 6; No. 33, 1983, s 5; No. 27, 1985, s 5; No. 55, 1985, s 4; No. 24, 1987, ss 4 and 5; No. 30, 1987, ss 8 and 9; No. 33, 1987, s 3; No. 3, 1988, s 5; No. 40, 1988, s 7; No. 26, 1989, s 3; No. 41, 1989, s 7; No. 21, 1990, s 4; No. 25, 1991, s 5; No. 78, 1991, s 5; No. 51, 1992, s 3; No. 50, 1993, s 5; No. 41, 1994, s 5; No. 31, 1995, s 3; No. 48, 1995, s 4; No. 20, 1998, s 4; No. 49, 1999, s 3; No. 32, 2000, ss 9, 17 and 37; No. 35, 2000, ss 6, 9, 12 and 15; No. 48, 2001, s 6; No. 51, 2002, s 6; No. 35, 2003, s 4
- sch 2 amd No. 13, 1979, s 4; No. 73, 1979, s 5; No. 66, 1981, s 7; No. 33, 1983, s 6; No. 27, 1985, s 6; No. 24, 1987, s 5; No. 30, 1987, s 9; No. 3, 1988, s 6; No. 21, 1990, s 5; No. 78, 1991, s 6; No. 28, 1993, s 3; No. 50, 1993, s 6; No. 41, 1994, s 6; No. 20, 1998, s 5; No. 32, 2000, s 38; No. 35, 2000, ss 4, 8 and 109; No. 48, 2001, s 7; No. 51, 2002, s 7; No. 35, 2003, s 5; No. 41, 2003, s 4