

Serial 211
Stamp Duty Amendment Bill 2004
Mr Stirling

**A BILL
for
AN ACT**

to amend the *Stamp Duty Act*



NORTHERN TERRITORY OF AUSTRALIA

STAMP DUTY AMENDMENT ACT 2004

No. of 2004

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NORTHERN TERRITORY OF AUSTRALIA

No. of 2004

AN ACT

to amend the *Stamp Duty Act*

[Assented to 2004]
[Second reading 2004]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Stamp Duty Amendment Act 2004*.

2. Commencement

(1) Section 4(b) is taken to have come into operation on 10 November 2003.

(2) Section 6 comes into operation, or is taken to have come into operation, on the day on which, but immediately after, Part 4, Division 5 of the *Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003* commences.

(3) The remaining provisions of this Act come into operation on 1 July 2004.

3. Principal Act

The *Stamp Duty Act* is in this Act referred to as the Principal Act.

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4. Concession for first home owners

Section 8B of the Principal Act is amended –

- (a) by inserting in subsection (1) after the definition of "permanent resident" the following:

" 'prescribed period' means –

- (a) a continuous period of 6 months; or
- (b) a period approved under subsection (12);";

- (b) by inserting after subsection (2)(a) the following:

"(aa) the conveyee is, or, if there is more than one conveyee, at least one of the conveyees is, at least 18 years of age when the instruments evidencing the conveyance are executed;";

- (c) by omitting from subsection (2)(g)(i) "the home as his, her or their principal place of residence" and substituting "or commence to occupy the home as his, her or their principal place of residence for the prescribed period";

- (d) by omitting from subsection (2)(g)(ii)(B) "the home as his, her or their principal place of residence" and substituting "or commence to occupy the home as his, her or their principal place of residence for the prescribed period";

- (e) by omitting subsection (3) and substituting the following:

"(3) For subsection (2)(c), if the Commissioner re-assesses the duty payable by the conveyee or conveyees under subsection (6) and the duty (and any penalty imposed) is paid, the conveyee is taken, or the conveyees are taken, not to have previously received the first home owner concession.

"(3A) For subsection (2)(d), if the Commissioner re-assesses the duty payable by the conveyee or conveyees under subsection (6) and the duty (and any penalty imposed) is paid, the conveyee is taken, or the conveyees are taken, not to have previously had a relevant interest in the residential property in respect of which the first home owner concession was received.";

- (f) by omitting from subsection (4) "subsection (2)(a)" and substituting "subsection (2)(a), (aa)";

- (g) by omitting from subsection (4)(a) "a home on the land as his or her principal place of residence" and substituting "or commence to occupy a home on the land as his or her principal place of residence for the prescribed period";

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(h) by omitting subsection (5) and substituting the following:

"(5) If a conveyee fails or conveyees fail to occupy a home on the land as his, her or their principal place of residence –

- (a) within the period referred to in subsection (2)(g) (including that paragraph as applied by subsection (4)); or
- (b) for the prescribed period in accordance with this section,

the conveyee or conveyees must, within 30 days after the date on which it first became apparent that the failure would occur, notify in writing the Commissioner of his, her or their failure to do so.

Penalty: 50 penalty units.";

(i) by omitting from subsection (6) all the words before "amend the assessment of duty" and substituting the following:

"(6) If a conveyee fails or conveyees fail to occupy a home on the land as his, her or their principal place of residence –

- (a) within the period referred to in subsection (2)(g) (including that paragraph as applied by subsection (4)); or
- (b) for the prescribed period in accordance with this section,

the Commissioner must"; and

(j) by adding at the end the following:

"(11) The Commissioner may exempt a conveyee from the requirement of subsection (2)(aa) if the Commissioner is satisfied that the conveyance of land does not form part of a scheme to circumvent limitations on, or requirements affecting, eligibility for or entitlement to a first home owner concession.

"(12) For subsection (2)(g), if the Commissioner is satisfied there are special reasons to do so, the Commissioner may approve a shorter period that a conveyee or conveyees must occupy the home as his, her or their principal place of residence.".

5. Rebate for principal place of residence

Section 8C of the Principal Act is amended –

(a) by inserting in subsection (1) after the definition of "home" the following:

" 'prescribed period' means –

- (a) a continuous period of 6 months; or

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- (b) a period approved under subsection (10);";
- (b) by omitting from subsection (2)(e)(i) "the home as his, her or their principal place of residence" and substituting "or commence to occupy the home as his, her or their principal place of residence for the prescribed period";
- (c) by omitting from subsection (2)(e)(ii)(B) "the home as his, her or their principal place of residence" and substituting "or commence to occupy the home as his, her or their principal place of residence for the prescribed period";
- (d) by omitting from subsection (3)(a) "a home on the land as his or her principal place of residence" and substituting "or commence to occupy a home on the land as his or her principal place of residence for the prescribed period";
- (e) by omitting subsection (4) and substituting the following:

"(4) If a conveyee fails or conveyees fail to occupy a home on the land as his, her or their principal place of residence –

- (a) within the period referred to in subsection (2)(e) (including that paragraph as applied by subsection (3)); or
- (b) for the prescribed period in accordance with this section,

the conveyee or conveyees must, within 30 days after the date on which it first became apparent that the failure would occur, notify in writing the Commissioner of his, her or their failure to do so.

Penalty: 50 penalty units.";

- (f) by omitting from subsection (5) all the words before "amend the assessment of duty" and substituting the following:

"(5) If a conveyee fails or conveyees fail to occupy a home on the land as his, her or their principal place of residence –

- (a) within the period referred to in subsection (2)(e) (including that paragraph as applied by subsection (3)); or
- (b) for the prescribed period in accordance with this section,

the Commissioner must"; and

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- (g) by inserting after subsection (9) the following:

"(10) For subsection (2)(e), if the Commissioner is satisfied there are special reasons to do so, the Commissioner may approve a shorter period that a conveyee or conveyees must occupy the home as his, her or their principal place of residence."

6. Further amendments

Section 8B of the Principal Act is amended –

- (a) by inserting in subsection (2)(c) "or de facto partner" after "spouse" and "or de facto partners" after "spouses";
- (b) by inserting in subsection (2)(d) "or de facto partner" after "spouse" and "or de facto partners" after "spouses"; and
- (c) by inserting in subsection (10) "or de facto partner" after "spouse".

7. Transitional provision

(1) If a first home owner concession or principal place of residence rebate is in respect of a conveyance of land (where the instrument evidencing the conveyance was executed before 10 November 2003), the Principal Act as in force before that date continues to apply in relation to the conveyance and the conveyee or, if there is more than one conveyee, in relation to all the conveyees as if this Act had not come into operation.

(2) If a first home owner concession or principal place of residence rebate is in respect of a conveyance of land (where the instrument evidencing the conveyance was executed on or after 10 November 2003 and before 1 July 2004), the Principal Act as in force immediately before 1 July 2004 continues to apply in relation to the conveyance and the conveyee or, if there is more than one conveyee, in relation to all the conveyees as if this Act (other than sections 4(b) and 6) had not come into operation.

- (3) In this section –

"first home owner concession" has the same meaning as in section 8B of the Principal Act;

"principal place of residence rebate" has the same meaning as in section 8C of the Principal Act.

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