Serial 111
Revenue Law Reform (Stamp Duty) Bill 2007
Mr Stirling

A BILL
for
AN ACT

to repeal the *Stamp Duty Act* and to amend the *Taxation (Administration) Act*

NORTHERN TERRITORY OF AUSTRALIA

REVENUE LAW REFORM (STAMP DUTY) ACT 2007

Act No. [ ] of 2007

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [ ] of 2007

AN ACT

to repeal the *Stamp Duty Act* and to amend the *Taxation (Administration) Act*

[*Assented to [ ] 2007*]
[*Second reading [ ] 2007*]

The Legislative Assembly of the Northern Territory enacts as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Revenue Law Reform (Stamp Duty) Act 2007*.

2. Commencement

This Act commences on 1 January 2008.

PART 2 – REPEAL OF LAWS

3. Repeal of laws

The laws specified in Schedule 2 are repealed.

PART 3 – AMENDMENT OF *TAXATION (ADMINISTRATION) ACT*

4. Act amended

This Part amends the *Taxation (Administration) Act*.

5. Amendment of long title

Long title

omit

the assessment, payment and collection of stamp duty and tax

substitute

stamp duty

6. Amendment of Part I heading

Part I, heading

omit

PART I

substitute

PART 1

7. Repeal and substitution of section 1

Section 1

repeal, substitute

1. Short title

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

8. Repeal of section 3

Section 3

repeal

9. Amendment of section 4 (Interpretation)

(1) Section 4(1), definitions "adhesive stamp", "assessment", "associated person", "cancellation", "Commissioner", "conveyance", "conveyee", "court", "discretionary trust", "duty", "impressed stamp", "insurer", "judge", "lease", "non-resident", "partnership interest", "recognised financial market", "repealed Ordinances", "return", "stamp duty", "surrender of dutiable property", "tax" and "this Act"

omit

(2) Section 4(1)

insert (in alphabetical order)

"associate", see subsection (2);

"authorised stamp" means a stamp approved by the Commissioner for use under this Act to denote the payment of duty (or that no duty is payable);

"beneficiary" includes an object of a discretionary trust;

"brother"/"sister" – a person is the brother or sister of another if they have one or both parents in common;

"change in control" of a corporation – a change in control of a corporation occurs when a person, or a group of associates, becomes able to exercise, or to control (directly or indirectly) the exercise of, a majority of the votes exercisable at meetings of the directors or shareholders of the corporation;

"change in control" of a trust includes the following:

(a) if a person has a power to appoint and revoke the appointment of the trustee:

(i) a change of, or a change in control of, the person who has the power; or

(ii) a variation in, or the transfer or some other disposition of, the power;

(b) a change of trustee, a change in control of a corporate trustee, or the appointment of an additional trustee;

(c) a change of, or a change in control of, a person in a position to make or influence (directly or indirectly) a decision to vest, or to refrain from vesting, an interest in the trust property in a beneficiary;

"conveyance" includes the following:

(a) the grant of property but not:

(i) the grant of a lease other than a convertible Crown lease; or

(ii) the grant of a patent;

(b) the transfer or assignment of property;

(c) the vesting of property in, or the accrual of property to, a person;

(d) the foreclosure of a mortgagor's equity of redemption in mortgaged property;

(e) a transaction that is taken to be, or treated as, a conveyance under this Act;

(f) an agreement to make a conveyance;

and includes an instrument effecting or evidencing a conveyance (including a decree, judgment or order of a court);

"conveyee" means a person to whom property is granted, transferred or assigned, in whom property is vested, or to whom property accrues under a conveyance;

"declaration of trust" means a declaration (other than a declaration by will or testamentary instrument) that property vested, or to be vested, in the declarant is, or is to be, held in trust and includes such a declaration whether made unilaterally or by agreement and whether made with or without the knowledge of the beneficiaries;

"discretionary trust" means a trust under which:

(a) the identity of a beneficiary, or the quantum of the interest in trust property to be taken by a beneficiary, is to be determined by the trustee or some other person; or

(b) an interest in trust property vests if a discretion conferred under the terms of the trust is not exercised; or

(c) an interest in trust property has vested but is liable, under the terms of the trust, to be divested on the exercise of a discretion by the trustee or some other person;

and includes a trust classified by regulation as a discretionary trust but does not include a trust solely for charitable purposes or a trust of a class excluded by regulation from the ambit of this definition;

"dutiable instrument" means an instrument:

(a) that is classified as a dutiable instrument in Schedule 1; or

(b) that is liable to duty under any other provision of this Act;

"dutiable transaction" – a transaction is a dutiable transaction if:

(a) a liability to ad valorem duty is imposed under this Act in respect of the transaction; or

(b) an instrument effecting, or evidencing, the transaction is liable to ad valorem duty under this Act; or

(c) the transaction was not effected by an instrument but, if it had been, the instrument would have been liable to ad valorem duty under this Act; or

(d) a statement or return is required under this Act in relation to the transaction and the statement or return is liable to ad valorem duty;

"dutiable value", see section 4AB;

"duty" means stamp duty;

"exempt instrument or transaction" means an instrument or transaction that:

(a) is exempt from duty under Schedule 2 or any other provision of this Act; or

(b) is exempted from duty under the regulations;

"family" means 2 or more persons connected with each other by family relationships;

"family company" means a company of which all shareholders are members of the same family;

"family relationship" means any of the following relationships:

(a) the relationship between a person and the person's spouse;

(b) the relationship between a person and the person's child or remoter lineal descendant;

(c) the relationship between a person and the child or remoter lineal descendant of the person's spouse;

(d) the relationship between a person and the person's brother or sister;

(e) the relationship between a person and the child or remoter lineal descendant of a brother or sister;

(f) the relationship between a person and the spouse of a person with whom a relationship exists under paragraph (b), (c), (d) or (e);

"family trust" means a trust established to benefit the members of a particular family and in which only members of the relevant family may be beneficiaries;

"farming land" means land, or an estate or interest in land, that is farming property;

"farming property" means property used solely or principally for farming purposes and includes an estate or interest in such property;

"farming purposes" means:

(a) the business of primary production; or

(b) a purpose classified by regulation as a farming purpose;

"insurer" means a person that grants, issues or renews, or intends to grant, issue or renew, a policy of insurance in respect of which duty is imposed;

"interest" in property includes the potential beneficial interest of an object of a discretionary trust;

"land-holding corporation" means a land-holding corporation as defined for Part 3, Division 8A and includes a unit trust scheme that is treated as a land-holding corporation for the purposes of that Division;

"lease" includes:

(a) a lease granted under an Act; and

(b) a sublease; and

(c) an agreement for a lease or sublease; and

(d) a franchise arrangement;

"legislation" includes subordinate legislation and an instrument made under principal or subordinate legislation;

"majority shareholder" of a corporation means a person who has a substantial holding (as defined in section 9 of the Corporations Act 2001) related to voting shares carrying 50% or more of the votes attached to voting shares in the corporation;

"object" of a discretionary trust means a person in whom an interest in the trust property might vest, or might be vested, under the terms of the trust;

"partnership acquisition", see section 27(2);

"partnership interest" means a partnership interest as defined in Part 3, Division 3;

"primary production" means:

(a) the growing or cultivation of trees, crops or other vegetation (including fungi) for sale or for sale of their produce; or

(b) the breeding, rearing or maintenance of living creatures for sale as food or for the production of skins, shells or bodily produce for sale;

"property" includes an estate or interest in property;

"recognised financial market" means a financial market that is a member of the World Federation of Exchanges or is declared by regulation to be a recognised financial market;

"related" – a corporation is related to another corporation if they are related corporations under section 50 of the Corporations Act 2001;

"responsible party" to a dutiable instrument or dutiable transaction means the party responsible for the payment of duty on the instrument or transaction and includes, where a dutiable transaction is not effected by a dutiable instrument, a person who would have been liable to pay duty on a dutiable instrument if such an instrument had existed;

"spouse" includes de facto partner;

"stamp duty" means duty imposed under this Act or the former *Stamp Duty Act*;

"statutory vesting" means the vesting of property by or under legislation of the Commonwealth, a State or Territory of the Commonwealth or a jurisdiction outside Australia;

"trust property" includes both capital and income of a trust;

(3) Section 4(1), definition "dutiable property", paragraph (j)(v), after "be issued"

insert

to the conveyee

(4) Section 4(3)

omit, substitute

(2) A person is an associate of another if:

(a) they are members of the same family; or

(b) they are related corporations; or

(c) one is a corporation and the other is a director of, or a shareholder in, the corporation; or

(d) they are both trustees of the same trust, or of different trusts with a common beneficiary, or one is a trustee and the other is a beneficiary of the same trust; or

(e) a chain of relationships can be traced between them under one or more of the above paragraphs.

(3) Legislation is taken to provide for the statutory vesting of property if it makes a person or body the successor in title to property of another person or body.

(4) An instrument is duly stamped if the payment of duty on the instrument or the non-liability of the instrument to duty is indicated by:

(a) an authorised stamp on the instrument; or

(b) an endorsement made on the instrument in a manner and form approved by the Commissioner.

10. Amendment of section 4A (Unencumbered value)

Section 4A(3A) to (6)

omit, substitute

(4) An encumbrance includes:

(a) a mortgage or charge; or

(b) a debt or liability that might give rise to a right of recourse against the property; or

(c) any agreement or arrangement (including a lease) that has the effect of reducing the value of the property unless:

(i) the parties to the agreement or arrangement are not associates; and

(ii) the Commissioner is satisfied that the agreement or arrangement was not made for a purpose (collateral or otherwise) of reducing the value of the property;

but does not include an easement or restrictive covenant unless the Commissioner is of the opinion that it was created or entered into for a purpose (collateral or otherwise) of reducing the value of the property.

(5) For the purpose of assessing duty on a particular conveyance the Commissioner may, if satisfied that improvements on land subject to the conveyance have been built by, or at the expense of, the conveyee, reduce the unencumbered value of the land by an amount that reflects, in the Commissioner's opinion, the value of the improvements at the date of the conveyance.

11. Repeal and substitution of section 4AB

Section 4AB

repeal, substitute

4AB. Dutiable value

(1) The dutiable value of dutiable property is:

(a) if consideration is, or is to be, given for the property – the amount or value of the consideration or the unencumbered value of the property (whichever is the greater); or

(b) if no consideration is given for the property – the unencumbered value of the property.

(2) If the amount of consideration is dependent on future contingencies, the dutiable value of the property will be assessed on the assumption that the contingencies will operate so as to maximise the consideration to be given for the property.

(3) However, if it is later shown, on an application for reassessment of duty, that the consideration actually given is less than the assumed consideration, and there is no further scope for contingent increase, the Commissioner may

reassess the dutiable value of the property taking into account the amount or value of the consideration actually given.

4AC. Valuing certain interests in property

(1) If property is held in common by 2 or more persons, the value of the interest of an owner in the property is assessed by multiplying the total value of the property by a fraction representing the owner's proportionate share of ownership.

(2) The interest of a joint owner of property is valued as if both or all joint owners were tenants in common in equal shares.

(3) This section is applicable both to unencumbered and dutiable value.

12. Amendment of section 4B (Tax avoidance schemes)

Section 4B(2)

omit, substitute

(2) A tax avoidance scheme is a scheme of which a purpose (collateral or otherwise) is, in the Commissioner's opinion:

(a) to avoid or reduce the duty that would be payable, apart from the scheme, under this Act; or

(b) to obtain the benefit of an exemption or concession from duty that would not be available apart from the scheme.

13. Repeal and substitution of section 4D

Section 4D

repeal, substitute

4D. Surrender of property amounts to conveyance in certain circumstances

(1) A person surrenders property:

(a) if the person relinquishes, renounces or abandons the property; or

(b) if the person owns the property and it is cancelled, abrogated, forfeited or extinguished.

(2) A surrender of property is a conveyance of the property if:

(a) the surrender results in an accretion to the interest of someone (the "conveyee") in property to which the surrender relates; or

Example

The surrender of a reversionary interest, or an interest in remainder.

(b) the surrender removes a restriction on the right that someone (the "conveyee") has to use the property to which the surrender relates; or

Example

The surrender of a lease over property.

(c) the surrender enables someone (the "conveyee") to convey the property or substantially similar property to a third person.

Example

The surrender of a franchise arrangement.

14. Repeal and substitution of Part II

Part II

repeal, substitute

PART 2 – STAMP DUTY

5. Imposition of duty

(1) Stamp duty is imposed, in accordance with this Act:

(a) on dutiable instruments; and

(b) in respect of dutiable transactions.

(2) However, duty is not imposed on, or in respect of, an exempt instrument or transaction.

6. Rate of duty

The rate of duty is the rate specified in Schedule 1 for an instrument or transaction of the relevant class.

15. Repeal and substitution of Part III heading

Part III, heading

repeal, substitute

PART 3 – LIABILITY TO DUTY

16. Repeal and substitution of sections 9 and 9A

Sections 9 and 9A

repeal, substitute

9. Time for lodgement of instrument etc.

(1) Subject to this Act, a dutiable instrument must be lodged with the Commissioner for the assessment of duty:

(a) within 60 days after it is first executed; or

(b) if it becomes legally effective without execution – within 60 days after it becomes legally effective.

(2) The obligation imposed by subsection (1) applies:

(a) whether the instrument is first executed within or outside the Territory; and

(b) whether the instrument is within or outside the Territory.

(3) However, the obligation to lodge a dutiable instrument for the assessment of duty does not extend to:

(a) a motor vehicle certificate of registration; or

(b) a policy of insurance (or life insurance); or

(c) an instrument that is exempt from duty under any of the following provisions of Schedule 2:

(i) items 9 to 13;

(ii) item 15;

(iii) items 24 to 28.

(4) If the instrument is a statement or return it must be lodged on or before the last day allowed for its lodgement.

(5) Duty on an instrument, or to be assessed by reference to an instrument, must be paid on or before the last day allowed for lodgement of the instrument unless a later date is fixed in a notice of assessment of duty.

(6) A person who is liable to duty on an instrument, or to be assessed by reference to an instrument, must ensure that:

(a) the instrument is lodged with the Commissioner for the assessment of duty on or before the last day allowed for its lodgement; and

(b) the duty is paid on or before the last day allowed for payment.

(7) If this Act does not make a particular party to a dutiable transaction liable for payment of duty on the transaction, or an instrument related to the transaction, then all parties are jointly and severally liable for the payment of duty.

9A. Unstamped instruments not to be registered

A person must not register, enrol or enter a dutiable instrument in an official register or record unless it is duly stamped.

Maximum penalty: 50 penalty units.

17. Amendment of section 9BB (Apportioning certain dutiable property where business in Territory and elsewhere)

Section 9BB(2) and (3)

omit

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;

substitute

V is the dutiable value of all the property subject to the conveyance that would, assuming it were wholly situated in the Territory or wholly related to the business carried on in the Territory, be dutiable property;

18. Amendment of section 9C (Copies of instruments)

Section 9C(2)

omit

duty and penalty, if applicable

substitute

duty (including any applicable interest and penalty tax)

19. Repeal and substitution of sections 10 to 13

Sections 10 to 13

repeal, substitute

10. Duty on statutory corporations and Government Business Divisions

An instrument to which a statutory corporation or a Government Business Division is a party is not exempt from stamp duty unless the instrument is of a class exempted by or under this Act from duty.

11. Denotation of payment of duty

(1) The payment of duty is denoted by authorised stamp or in some other way approved by the Commissioner.

(2) If the tax officer responsible for stamping a document indicates the amount of duty paid in handwriting placed on or near an authorised stamp, the handwriting is taken to form part of the authorised stamp.

20. Repeal and substitution of sections 15 to 17A

Sections 15 to 17A

repeal, substitute

15. Single instrument relating to multiple transactions

If a single instrument relates to 2 or more distinct transactions in respect of which duty is payable, the instrument is separately liable to duty in respect of each of those transactions.

16. Multiple instruments relating to a single transaction

(1) If 2 or more instruments together relate to the same transaction, and both or all instruments are required to give effect to the transaction, the instruments must be treated as a single instrument executed at the time when the instruments became legally effective.

Example

If a conveyance consists of a written offer followed by a written acceptance, both instruments would be treated as a single instrument of conveyance taking effect on the date of the acceptance.

(2) If one such instrument is duly stamped with the duty applicable to the transaction as a whole, another instrument relating to the same transaction and referring to the duly stamped instrument, will also be regarded as duly stamped.

17. Stamping of counterparts or copies

The Commissioner must, if satisfied that an instrument is a counterpart or copy of an instrument that has been duly stamped, stamp the counterpart or copy with a stamp indicating that the original has been duly stamped.

17A. Stamp duty on related instruments

(1) A conveyance to give effect to an agreement to convey dutiable property is to be stamped without payment (or further payment) of ad valorem duty if:

(a) the agreement is duly stamped as a conveyance; and

(b) the conveyance is subsequent to, and in conformity with, the agreement; and

(c) no further dutiable transaction affecting the dutiable property has occurred between the date of the agreement and the date of the conveyance.

(2) However:

(a) the conveyee must be the person, identified in the agreement, to whom the dutiable property was agreed to be conveyed; or

(b) the Commissioner must be satisfied that the person so identified entered into the agreement as agent for the conveyee; or

(c) the Commissioner must be satisfied that the person so identified entered into the agreement on behalf of:

(i) a corporation that was, as at the date of the agreement, yet to be incorporated or acquired by the person so identified; or

(ii) a trust that was, at the date of the agreement, yet to be established by the person so identified;

and that the conveyee is the corporation or the trustee of the trust.

(3) In this section, a reference to a conveyance extends to a lease that is liable to ad valorem duty.

21. Repeal and substitution of section 19

Section 19

repeal, substitute

19. Exemption: interposing new corporation between existing corporation and its shareholders

(1) A conveyance of shares in a corporation (the "target corporation") is not dutiable as the acquisition of a relevant interest in a land-holding corporation if:

(a) the target corporation becomes, as a result of the conveyance, the subsidiary of another corporation (the "interposed corporation"); and

(b) this section applies to the conveyance.

(2) Subject to subsection (3), this section applies to a conveyance of shares if, and only if:

(a) the interposed corporation is a corporation with limited liability; and

(b) the interposed corporation was dormant from its registration until the resolution to acquire the shares in the target corporation; and

(c) the interposed corporation acquires at least 90% of the issued shares in, and the voting control over, the target corporation as a result of the conveyance; and

(d) at least 90% of the consideration for the conveyance of the shares in the target corporation consists of shares in the interposed corporation that are issued to the shareholders of the target corporation; and

(e) the value of the consideration for the acquisition of the shares conveyed from each shareholder in the target corporation is equal to the value of the shares held by the shareholder immediately before the shares were conveyed; and

(f) immediately after the conveyance of the shares in the target corporation at least 90% of the shares in the interposed corporation consisted of the shares issued to the shareholders of the target corporation as consideration for the acquisition of their shares; and

(g) if, because of the conveyance of shares, the interposed corporation becomes the parent corporation of more than one subsidiary – the same shareholders owned at least 90% of the issued shares in, and had voting control over, each of the target corporations before the conveyance took effect.

(3) However, this section does not apply to a conveyance of shares if:

(a) the conveyance is a tax avoidance scheme, or part of a tax avoidance scheme; or

(b) the Commissioner is of the opinion that the conveyance is a scheme, or part of a scheme, of which a purpose (collateral or otherwise) is to frustrate the recovery of duty, tax or royalty that is payable to the Territory.

22. Amendment of section 21 (Meaning of "group property" in section 20)

(1) Section 21(c)

omit, substitute

(c) the conveyor and conveyee or transferor and transferee are interposed corporation and target corporation (within the meaning of section 19); or

(2) Section 21(a), (b) and (d)

insert

or

23. Amendment of section 23 (Reassessment for the purposes of paying duty on a conveyance, transfer or relevant acquisition exempted under section 19 or 20)

(1) Section 23, heading

omit, substitute

Reassessment of duty

(2) Section 23(1) and (2)

omit

an assessment

substitute

a reassessment

(3) Section 23(2)(a)

omit, substitute

(a) the limitation period for making reassessments of tax under the *Taxation Administration Act* has expired; or

(4) Section 23(3)

omit, substitute

(3) If the Commissioner makes a reassessment under subsection (1), all corporations that belonged to the relevant corporate group at the time the property was conveyed or transferred, or the relevant acquisition was made, are jointly and severally liable to pay the reassessed duty (including interest and penalty tax).

24. Amendment of section 24 (Time for parties to give notice that require reassessment)

(1) Section 24, heading

omit

require assessment

substitute

reassessment required

(2) Section 24

omit

If an

substitute

(1) If an

(3) Section 24(a) and (b) and penalty provision

omit, substitute

(a) give notice to the Commissioner that the event has occurred; and

(b) lodge with the Commissioner all documents necessary for the reassessment of duty.

(2) If subsection (1) is not complied with, each party to the conveyance, transfer or relevant acquisition is guilty of an offence.

Maximum penalty: 500 penalty units.

25. Amendment of section 25 (Application for ruling regarding proposed corporate re-construction)

Section 25(2) and (3)

omit, substitute

(2) The application must be accompanied by all relevant information.

(3) The Commissioner must give the applicant notice of the ruling.

26. Amendment of section 26 (Application for exemption regarding corporate re-construction)

Section 26(2) to (4)

omit, substitute

(2) The application must be accompanied by all relevant information.

(3) If the Commissioner is satisfied that the applicant is entitled to the exemption sought in the application, the Commissioner must grant the exemption accordingly.

(4) If the Commissioner previously gave a ruling in favour of the applicant in relation to the relevant transaction, the Commissioner is bound by the ruling unless it appears to the Commissioner that:

(a) the circumstances of the actual transaction differ in a material respect from the circumstances of the proposed transaction as disclosed in the application for the ruling (or the accompanying information); or

(b) the applicant failed to disclose, or misrepresented, a material fact in the application for the ruling.

27. Amendment of section 28 (Acquiring a partnership interest)

After section 28(2)

insert

(3) The acquisition of a partnership interest (a "partnership acquisition") is a conveyance.

(4) The partnership interest is taken to be a proportionate interest in dutiable property held by or on behalf of the partnership equivalent to the percentage defining the extent of the partnership interest.

28. Amendment of section 38 (Imposition of tax on policies of insurance)

(1) Section 38, heading

omit

tax

substitute

duty

(2) Section 38

omit

Tax

substitute

Stamp duty

29. Amendment of section 39 (Australian insurers to be registered)

Section 39(1) and (2)

omit

tax

substitute

duty

30. Repeal and substitution of sections 41 to 44A

Sections 41 to 44A

repeal, substitute

41. Registration

(1) An Australian insurer that intends to grant, issue or renew a policy of insurance on which duty is imposed may apply to the Commissioner for registration in the Register.

(2) The Commissioner must, on 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 must notify the insurer of its registration under this Division.

(4) The Commissioner must revoke the registration of an insurer under this Division on receiving notification of the winding-up of the insurer, or on receiving an application from the insurer to revoke the registration.

42. Returns in respect of insurance business

An Australian insurer registered, or required to be registered, under this Division must, within 21 days after the end of each month:

(a) lodge with the Commissioner a return detailing all premiums received in that month by the insurer in respect of which duty is imposed; and

(b) pay the duty payable in respect of those premiums.

43. Refund of duty for surrendered or cancelled insurance

If an insurer pays duty in respect of a premium that is later refunded in whole or part to the insured because of cancellation of the policy of insurance, a refund of overpaid duty is to be made under the *Taxation Administration Act* if (and only if) the Commissioner is satisfied, on application by the insurer, that the refund would not result in a windfall gain to the insurer.

44. Insurer may recover duty from the insured person

Nothing in this Act prevents an insurer from recovering duty paid or payable on a policy of insurance from the person who pays the premiums on the policy.

44A. Insurance granted, issued or renewed by overseas insurer

(1) A person 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 a policy of insurance is or is to be granted, issued or renewed (directly or indirectly) by an overseas insurer must, within 30 days after effecting the insurance, lodge with the Commissioner a return containing the approved particulars (including details of the premiums paid for policies of insurance in respect of which duty is imposed) and pay the relevant amount of duty.

(2) The person who effects insurance to which this section applies and the overseas insurer who granted, issued or renewed the policy of insurance for that insurance are jointly and severally liable for the duty imposed in respect of the policy of insurance.

31. Amendment of section 44C (Imposition of tax on life policies)

(1) Section 44C, heading

omit

tax

substitute

duty

(2) Section 44C

omit

Tax

substitute

Stamp duty

32. Amendment of section 45 (Life insurer in the Territory to be registered)

Section 45(1)

omit, substitute

(1) A company must not carry on, in the Territory, the business of a life insurer issuing life policies in respect of which duty is imposed unless it is registered under this Division.

Maximum penalty: 50 penalty units.

33. Repeal and substitution of sections 47 to 49

Sections 47 to 49

repeal, substitute

47. Registration

(1) A life insurer intending to issue a life policy in respect of which duty is imposed may apply to the Commissioner for registration.

(2) The Commissioner must, on 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 must notify the life insurer of its registration under this Division.

(4) The Commissioner must revoke the registration of a life insurer under this Division on receiving notification of the winding-up of the life insurer, or on receiving an application from the life insurer to revoke the registration.

48. Returns in respect of life insurance business

A life insurer registered, or required to be registered, under this Division must, within 21 days after the end of each month:

(a) lodge with the Commissioner a return of all life policies issued in that month by the life insurer in respect of which duty is imposed; and

(b) pay the duty payable in respect of those policies.

49. Life insurer not prevented recovering duty from person paying premiums

Nothing in this Act prevents a life insurer from recovering duty paid or payable under this Act on a life policy from the person who pays the premiums on the policy.

34. Amendment of section 49C (Apportionment in practice)

(1) Section 49C(2)

omit

in writing

(2) Section 49C(3)

omit

reassess the liability to tax and charge tax accordingly

substitute

reassess the liability to duty and charge duty accordingly

35. Repeal and substitution of section 50

Section 50

repeal, substitute

50. Persons liable to pay duty

Subject to this Act:

(a) duty imposed on a conveyance is payable by the conveyee; and

(b) duty imposed on a lease is payable by the lessee.

36. Amendment of section 52A (Computation of duty where 2 or more instruments)

Section 52A(1)(c) and (4)(b)

omit

section 94

substitute

section 86

37. Repeal of section 55A

Section 55A

repeal

38. Amendment of section 56A (Refund or remission of duty if transaction does not proceed etc.)

(1) Section 56A(1)

omit, substitute

(1) If:

(a) duty has been paid, or is payable, on a conveyance (other than a conveyance to which Division 8AB applies) or on the grant of a lease; and

(b) the conveyance or grant does not proceed:

(i) because of non-execution by an essential party, non-fulfilment of a condition precedent or the operation of some provision of the instrument; or

(ii) because the entitlements purportedly conferred by the conveyance or grant are extinguished by rescission, cancellation or annulment of the conveyance or grant;

the Commissioner must, subject to subsection (2), refund the duty paid or remit the duty payable (as the case requires).

(2) Section 56A(2)

omit, substitute

(2) A refund or remission of duty may only be made or granted under the *Taxation Administration Act* on an application:

(a) made within 90 days (or a longer period allowed by the Commissioner) after it first became apparent that the conveyance or grant would not proceed (which, in the case of rescission, cancellation or annulment, will be taken to be the date of the rescission, cancellation or annulment); and

(b) supported by all documents relevant to the application and such other evidence as the Commissioner may require.

(3) Section 56A(6) and (7)

omit, substitute

(6) An assessment may be made under subsection (5) even though the period of limitation for making reassessments has expired.

39. Repeal of section 56B

Section 56B

repeal

40. Repeal and substitution of section 56BA

Section 56BA

repeal, substitute

56BA. Declaration of trust

(1) A declaration of trust is a conveyance.

(2) The declaration is to be assessed for duty as a conveyance to the declarant of all the dutiable property subject to the trust (irrespective of whether the declarant has, or may acquire, a beneficial interest under the trust).

41. Repeal and substitution of sections 56BAA to 56BAC

Sections 56BAA to 56BAC

repeal, substitute

56BAB. Imposition of duty on addition or change of beneficiary under discretionary trust

(1) The following transactions are conveyances for the re-constitution of a trust:

(a) the addition of a person or class of persons as a beneficiary or beneficiaries of a discretionary trust;

(b) the sale (or other disposition) of a beneficial interest (or potential beneficial interest) by a beneficiary of a discretionary trust;

(c) an amendment or variation to the terms of a non-discretionary trust that has the effect of creating a discretionary trust.

(2) Such a conveyance is to be assessed for duty as a conveyance of all the dutiable property subject to the trust.

(3) All the trustees and any person who becomes a beneficiary as a result of the conveyance are jointly and severally liable for the duty payable on the conveyance.

(4) A transaction is not dutiable under this section if:

(a) all the existing beneficiaries, and all new beneficiaries, are members of the same family; or

(b) the Commissioner is satisfied the transaction is not a tax avoidance scheme or part of a tax avoidance scheme.

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

(1) Subject to this section, if:

(a) a change in control of a corporate beneficiary under a discretionary trust and a change in control 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;

the changes in control together constitute a conveyance occurring on the date of the later of the changes.

(2) The conveyance is to be regarded as a conveyance for the reconstitution of the trust and is to be assessed for duty as a conveyance of all the dutiable property subject to the trust.

(3) The beneficiary subject to the change in control, and all the trustees, are jointly and severally liable for the duty imposed on the conveyance.

(4) However, duty is not payable if the Commissioner is satisfied that the concurrent or consecutive changes in control are not a tax avoidance scheme or part of a tax avoidance scheme.

42. Amendment of section 56BC (Duty payable on call and put option)

Section 56BC(7)

omit, substitute

(7) If the option property is conveyed to a third person, the reduction of ad valorem duty available to the first person under subsection (6) will only extend to the third person if the Commissioner is satisfied:

(a) that:

(i) the first person was, at the time of the transfer of the call option, acting as agent of the third person; or

(ii) the third person is a corporation or the trustee of a trust that the first person was, at the time of the transfer of the call option, in the process of incorporating, establishing or acquiring; and

(b) that there has been no sub-sale or other dutiable dealing with the option property between the time of the transfer of the call option and the conveyance to the third person.

43. Amendment of section 56BD (Duty payable if neither option exercised)

Section 56BD(5) and (6)

omit, substitute

(5) A refund or remission of duty may only be made or granted under the *Taxation Administration Act* on an application:

(a) made within 90 days (or a longer period allowed by the Commissioner) after the expiry of the put or call option (whichever is last to expire); and

(b) supported by all documents relevant to the application and such other evidence as the Commissioner may require.

44. Amendment of section 56C (Interpretation)

(1) Section 56C(1), definitions "beneficiary", "change in control", "declaration of trust over shares", "land-holding corporation" and "statutory vesting"

omit

(2) Section 56C(1), definition "acquire", paragraphs (cd) and (ce)

omit, substitute

(cd) if shares are held subject to a discretionary trust – a change in control of a corporate beneficiary under the trust and a change in control of the trust if both changes:

(i) occur within a 12 month period; and

(ii) arise from (or substantially from) one transaction or one series of transactions;

(ce) a statutory vesting of shares;

(3) Section 56C(1), definition "acquire", paragraph (d)(v)

omit, substitute

(v) an arrangement for the provision of finance, or the enforcement or termination of such an arrangement;

(4) Section 56C(1), definition "private unit trust scheme", paragraph (b)(iii)

omit, substitute

(iii) no units in the scheme have been offered to the public under a prospectus or product disclosure statement lodged with, or notified to, ASIC;

(5) Section 56C(1A)(a)(iii)

omit, substitute

(iii) a related corporation;

(6) Section 56C(3)(a) to (c)

omit, substitute

(a) natural persons who are spouses of each other, or who are related as parent and child;

(b) related corporations;

(c) trustees of the same trust, or of different trusts if there is a beneficiary common to both trusts;

(7) Section 56C(3)(e) and (f)

omit, substitute

(e) a natural person and a trustee of a trust of which the natural person is a beneficiary;

(f) a corporation and a trustee of a trust of which:

(i) the corporation, or a majority shareholder, director or secretary of the corporation, is a beneficiary; or

(ii) a related corporation is a beneficiary;

(8) Section 56C(3)(h)

omit, substitute

(h) in relation to the acquisition of an interest in a corporation by a declaration of trust over shares – the trustees and beneficiaries of the trust;

(9) Section 56C(4) and (5)

omit, substitute

(4) But a person will not be regarded as related to another if the Commissioner is satisfied that they are not, and have not been, acting in concert in relation to the acquisition of interests in a corporation.

(10) Section 56C(9)

omit, substitute

(9) Farming land is not to be taken into account as land of a land-holding corporation for the purpose of assessing duty on a relevant acquisition if:

(a) the transaction would, assuming it were a conveyance of the farming land between the parties to the relevant acquisition, be exempt from duty under section 87; and

(b) the parties acquiring the relevant interest intend that the farming land will continue to be used solely or principally for farming purposes; and

(c) the parties from whom the relevant interest is acquired held the relevant interest for at least 5 years before the date of the relevant acquisition or the land-holding corporation acquired the farming land before those parties acquired their interest in it.

45. Repeal of section 56CA

Section 56CA

repeal

46. Amendment of section 56D (Lodgement of statements by trustees)

Section 56D(2)(a) and (b)

omit, substitute

(a) a beneficiary under a trust is related to another person who has acquired an interest in a corporation; and

(b) the beneficiary's interest when combined with that of the related person exceeds the trustee's interest;

47. Repeal of sections 56E to 56J

Sections 56E to 56J

repeal

48. Amendment of section 56K (When statement to be lodged)

(1) Section 56K(2)

omit, substitute

(2) If a relevant acquisition occurs through the aggregation of the interests of related persons, the requirement imposed by subsection (1) extends to each related person, but compliance by one of them is to be regarded as compliance by all.

(2) Section 56K(4)

omit, substitute

(4) The statement must include:

(a) the name and address of the person who has made the relevant acquisition (including the names and addresses of any related persons to whom subsection (2) applies); and

(b) the date of the relevant acquisition; and

(c) particulars of the interest acquired and of all interests previously acquired by the person or a related person and the date on which each of those interests was acquired; and

(d) the person's estimate of the unencumbered value of all land to which the corporation is entitled as at the date of the relevant acquisition and as at the date of each acquisition of an interest in the corporation by the person or a related person during the relevant period; and

(e) details of any duty paid under this Division in respect of any such acquisition within the relevant period.

49. Amendment of section 56M (Statement chargeable with duty)

(1) Section 56M(1)

omit, substitute

(1) A statement lodged under section 56K is chargeable with duty at the ad valorem rate applicable to a conveyance of dutiable property with a dutiable value determined under section 56R.

(2) Section 56M(2)(a)(i)

omit, substitute

(i) previously deducted under this paragraph;

(3) Section 56M(2)(c)(iii) and (iv)

omit

(4) Section 56M(2)(c)(vi)(A)

omit, substitute

(A) the existing and the additional beneficiaries are members of the same family;

(5) Section 56M(2)(c)(vii)

omit, substitute

(vii) the acquisition occurs through a change in control of a corporate beneficiary and a change in control of a discretionary trust and the Commissioner is satisfied that the changes are not a tax avoidance scheme or part of a tax avoidance scheme;

(6) Section 56M(2A)(a)

omit, substitute

(a) would not be liable to ad valorem duty because of a law of the Territory (other than Division 2); or

50. Amendment of section 56S (Liability for duty)

(1) Section 56S(1)(c)

omit, substitute

(c) any related person with whose interest the person's interest is aggregated;

(2) Section 56S(2)

omit

(3) Section 56S(3)

omit

amend the assessment of

substitute

reassess the

(4) Section 56S(4)

omit

51. Repeal and substitution of sections 56V and 56W

Sections 56V and 56W

repeal, substitute

56W. Duty on a statutory vesting of dutiable property

(1) The statutory vesting of dutiable property is a conveyance of the property.

(2) The body or person in whom the dutiable property vests is liable for duty on the conveyance at the ad valorem conveyance rate.

(3) The body or person in whom the dutiable property vests must, within 60 days after the date of the vesting, lodge a statement with the Commissioner:

(a) identifying the dutiable property subject to the vesting; and

(b) stating the unencumbered value of the dutiable property.

Maximum penalty: 50 penalty units.

(4) Duty is payable on the statement as if it were the instrument of conveyance.

52. Repeal and substitution of section 57

Section 57

repeal, substitute

57. Owner to pay duty

(1) If a certificate of registration for a motor vehicle is, on issue, liable to duty, the applicant for registration of the motor vehicle must, before the issue of the certificate, pay to the Registrar an amount equal to the duty payable on the certificate.

Maximum penalty: 50 penalty units.

(2) If a motor vehicle:

(a) has been kept in the Territory for a period of less than 12 months; and

(b) has, during that period, been available for hire or lease to the public from a person carrying on the business of hiring or leasing motor vehicles (without provision of a driver) to the public;

the Commissioner may, on application, assess the duty payable on the certificate as a proportion of the duty actually paid that the number of months the vehicle was kept in the Territory during the registration period (counting a part of a month as a whole month) bears to the number of months in the registration period.

53. Amendment of section 58 (Registrar not to register unless duty paid)

Section 58(1)(b)

omit, substitute

(b) the Registrar is satisfied that the duty paid on the certificate was based on the dutiable value of the motor vehicle.

54. Repeal of Part III, Division 14

Part III, Division 14

repeal

55. Repeal and substitution of sections 83A and 83B

Sections 83A and 83B

repeal, substitute

83B. Payment of duty on statement in absence of dutiable instrument

(1) If:

(a) a dutiable transaction occurs; and

(b) the transaction is not effected or evidenced by a dutiable instrument or such an instrument existed but has been lost or destroyed;

the responsible party must lodge a statement in respect of the transaction with the Commissioner.

(2) The statement:

(a) must be in the approved form; and

(b) must be lodged within 60 days after the date of the dutiable transaction to which it relates.

(3) The statement is a dutiable instrument that is liable to duty in the same way, and to the same extent, as if it were an instrument effecting the dutiable transaction executed on the date of that transaction.

(4) Duty on the statement must be paid on or before the last day allowed for its lodgement or a later date fixed in a notice of assessment of duty.

(5) If a statement is not lodged, or duty is not paid, as required by this section, the responsible party is guilty of an offence.

Maximum penalty: 100 penalty units.

(6) A statement is not liable to duty under this section if the Commissioner is satisfied that the relevant transaction:

(a) is not a tax avoidance scheme or part of a tax avoidance scheme; and

(b) the relevant transaction is:

(i) the appointment of a receiver or trustee in bankruptcy; or

(ii) the appointment of a liquidator under the Corporations Act 2001; or

(iii) the making of a compromise or arrangement under Part 5.1 of the Corporations Act 2001; or

(iv) the issue or redemption of units in a unit trust scheme; or

(v) a transfer of property by way or pledge or security; or

(vi) the release or termination of an option to purchase dutiable property.

83C. Stamping of other instruments related to same transaction

(1) If a statement relating to a dutiable transaction is duly stamped under this Division, the statement is to be regarded as a duly stamped instrument evidencing the relevant transaction.

(2) It follows that, if an instrument effecting the relevant transaction or another instrument evidencing the transaction is later produced for stamping, it may be stamped without further payment of ad valorem duty.

56. Repeal of sections 83D and 83F

Sections 83D and 83F

repeal

57. Repeal and substitution of Parts IV to XII

Parts IV to XII

repeal, substitute

PART 4 – ASSESSMENT AND STAMPING OF INSTRUMENTS

84. Assessment of duty on instruments

(1) The Commissioner must assess the duty payable on an instrument lodged for assessment.

(2) On payment of the amount of duty assessed (together with any interest and penalty tax), the Commissioner must stamp the instrument with a stamp indicating the payment of duty.

(3) An instrument is not to be stamped until the assessed duty (together with any interest and penalty tax) has been paid.

(4) If the Commissioner decides, on the assessment, that no duty is payable, the Commissioner may stamp the instrument with a stamp indicating that no duty is payable.

85. Retaining and impounding of instruments

(1) The Commissioner may retain possession of an instrument lodged for assessment of duty until the assessment is completed and any duty payable (including interest and penalty tax) has been paid.

(2) The Commissioner may retain possession of a dutiable instrument seized in the course of an authorised investigation until an assessment is completed and any duty payable (including interest and penalty tax) has been paid.

(3) This section does not relieve the Commissioner from the obligation to produce the instrument before a court when required to do so by order or process of a court.

86. Creation of memorandum for the purpose of assessment

(1) If the Commissioner has reason to suspect that:

(a) a dutiable transaction has occurred; but

(b) no instrument has been lodged in relation to the transaction for the assessment of duty;

the Commissioner may create a memorandum of the transaction.

(2) The memorandum is to be assessed for duty as if it were a dutiable instrument relating to the dutiable transaction brought into existence on the date of the dutiable transaction and lodged for the assessment of duty under this Act on the date of its creation by the Commissioner.

(3) If:

(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 transfer of registration of the vehicle within the period required by that Act;

the Commissioner may create a memorandum and assess it for duty as the certificate of registration that might have been issued if an application for transfer of registration had been made as required.

(4) If a memorandum is created under subsection (3), the new owner of the vehicle is liable to interest and penalty tax on the basis that a default in the payment of the duty assessed on the memorandum occurred at the end or the period within which an application for transfer of registration should have been made.

PART 5 – EXEMPTIONS, CONCESSIONS AND REBATES

Division 1 – Family farming properties

87. Exemption from duty on conveyance of family farming property to family members, family companies or family trusts

(1) A conveyance of farming property is exempt from stamp duty if the Commissioner is satisfied, on an application for exemption, that:

(a) the main purpose of the conveyance is to pass, or facilitate the passing, of a farming property, or the benefit of a farming property, from one generation of a family to a later generation or between members of the same generation; and

(b) the conveyance is eligible for exemption from stamp duty under this section.

(2) A conveyance of farming property is eligible for exemption from stamp duty if the conveyor is a natural person who does not hold the property as trustee and the property is conveyed to one or more of the following:

(a) a member of the conveyor's family who will not hold the property as trustee;

(b) a company that will not hold the property as trustee if:

(i) all the shareholders are members of the conveyor's family; and

(ii) no shareholder holds or will hold any shares in the company as trustee;

(c) a person who will hold the property as trustee if:

(i) all the beneficiaries of the trust are members of the conveyor's family; and

(ii) the trust deed includes provisions, that cannot be altered, specifying that only members of the conveyor's family may be beneficiaries of the trust and no beneficiary may be the trustee of another trust.

(3) A conveyance of farming property is eligible for exemption from stamp duty if the conveyor is a family company that does not hold the property as trustee (the "conveyor company") and the property is conveyed to one or more of the following:

(a) a member of the same family as the shareholders of the conveyor company who will not hold the property as trustee;

(b) a family company that will not hold the property as trustee (the "conveyee company") if:

(i) the shareholders of the conveyor company and the conveyee company are all members of the same family; and

(ii) no shareholder of the conveyee company holds or will hold any shares in that company as trustee;

(c) a person who will hold the property as trustee if:

(i) the beneficiaries of the trust and the shareholders of the conveyor company are all members of the same family; and

(ii) the trust deed includes provisions, that cannot be altered, specifying that only members of the relevant family may be beneficiaries of the trust and no beneficiary may be the trustee of another trust.

(4) A conveyance of farming property is eligible for exemption from stamp duty if the conveyor is the trustee of a family trust (the "conveyor trust") and the property is conveyed to one or more of the following:

(a) a member of the family for which the conveyor trust is established who will not hold the property as trustee;

(b) a family company that will not hold the property as trustee if:

(i) the shareholders of the company and the beneficiaries of the conveyor trust are all members of the same family; and

(ii) no shareholder holds or will hold any shares in the company as trustee;

(c) a person who will hold the property as trustee of a family trust (the "conveyee trust") if:

(i) the beneficiaries of the conveyor trust and the conveyee trust are all members of the same family; and

(ii) the trust deed includes provisions, that cannot be altered, specifying that only members of the relevant family may be beneficiaries of the conveyee trust and no beneficiary may be the trustee of another trust.

(5) However, a conveyance is not eligible for exemption from stamp duty under this section:

(a) if the Commissioner is satisfied the conveyance arises from a scheme with the principal purpose of taking advantage of the benefit of the exemption from stamp duty; or

(b) if a conveyee does not intend to use the farming property solely or principally for farming purposes; or

(c) if the conveyance also conveys property that is not farming property; or

(d) if any prescribed condition is not complied with; or

(e) if the conveyance occurs within 5 years after the date of an earlier conveyance of the same, or part of the same, farming property for which an exemption was allowed under this section (or a corresponding previous enactment).

Division 2 – Home incentive schemes

88. Interpretation

(1) In this Division:

"Australian citizen", see the *First Home Owner Grant Act*;

"built" – a home is taken to have been built on land if it is relocated, and affixed, to the land;

"first home owner concession" means a concession from the payment of duty on 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 with a dutiable value of $350 000;

"home", see the *First Home Owner Grant Act*;

"period for occupancy" of a home means:

(a) if, as at the relevant time, the home has been built on the land – 12 months from the relevant time or a longer period approved by the Commissioner under this Division; or

(b) if, as at the relevant time, no home had been built on the land:

(i) 3 years from the relevant time or 12 months from completion of the building of the home (whichever expires first); or

(ii) a longer period approved by the Commissioner under this Division;

"permanent resident", see the *First Home Owner Grant Act*;

"prescribed period" means:

(a) a continuous period of 6 months; or

(b) a shorter continuous period approved by the Commissioner under this Division;

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

(a) the total amount of duty assessed as payable on the conveyance; or

(b) $2 500;

"relevant interest" means:

(a) an interest (other than a non-conforming interest) that is a relevant interest under section 5 of the *First Home Owner Grant Act*; or

(b) an interest in residential property in a State or another Territory of the Commonwealth that is a relevant interest (but not a non-conforming interest) under a law of that State or Territory corresponding to the *First Home Owner Grant Act*;

"relevant time" means the time when the instruments effecting or evidencing a conveyance of land are executed;

"residential property", see the *First Home Owner Grant Act*.

(2) If the Commissioner is satisfied that, at the relevant time, a person:

(a) is married but not cohabiting with the spouse to whom the person is married (the "married spouse"); and

(b) has no intention of resuming cohabitation;

the married spouse is not to be regarded for the purposes of the application as the person's spouse.

89. First home owner concession

(1) The conveyee or conveyees of land are entitled to the first home owner concession if, on an application for the concession, the Commissioner is satisfied that:

(a) the conveyee or each of the conveyees is a natural person; and

(b) the conveyee is, or at least one of the conveyees is, at least 18 years of age at the relevant time; and

(c) the conveyee, or at least one of the conveyees, is an Australian citizen or a permanent resident at the time of making the declaration mentioned in subsection (8); and

(d) no conveyee and no spouse of a conveyee at the relevant time has previously received the first home owner concession or a corresponding concession under an earlier enactment; and

(e) no conveyee, and no spouse of a conveyee at the relevant time, has previously had a relevant interest in a residential property that was occupied by the conveyee or spouse as a residence; and

(f) no conveyee has a beneficial interest in the land the subject of the conveyance; and

(g) the conveyee or conveyees will acquire the whole beneficial interest in the land the subject of the conveyance; and

(h) no conveyee will acquire an interest in the land in the capacity of a trustee; and

(i) there is a home on the land or a home will be built within 3 years after the relevant time and the conveyee or conveyees will occupy the home as their principal place of residence for the prescribed period commencing within the period for occupancy.

(2) If there are 2 or more conveyees 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 for occupancy, but they would, but for that fact, be entitled to the first home owner concession, the Commissioner may authorise the concession if satisfied that:

(a) at least one of the conveyees will be able to occupy or commence to occupy a home on the land as his or her principal place of residence for the prescribed period commencing within the period for occupancy; and

(b) the other conveyee or conveyees will occupy the home as his, her or their principal place of residence for the prescribed period but there are special reasons why the occupancy cannot commence within the period for occupancy.

(3) If a conveyee or conveyees fail, or will fail, to occupy a home on the land as their principal place of residence:

(a) within the period for occupancy; 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 becomes apparent that the failure will occur, give written notice to the Commissioner of the failure or impending failure.

Maximum penalty: 50 penalty units.

(4) If a conveyee or conveyees fail to occupy a home on the land as their principal place of residence:

(a) within the period for occupancy; or

(b) for the prescribed period in accordance with this section;

the Commissioner must, even though the time limit for reassessment under the *Taxation Administration Act* may have passed, reassess duty on the conveyance on the basis that the conveyee or conveyees were not eligible for the first home owner concession unless, in the Commissioner's opinion, there are special reasons for not making the reassessment.

(5) If duty is reassessed under subsection (4), and duty (and any interest and penalty tax) payable on the reassessment is paid, then, for the purposes of any future application by the conveyee, or any of the conveyees, for the first home owner concession:

(a) the grant of the concession will be ignored; and

(b) the interest in residential property acquired under the conveyance on which duty was reassessed will be ignored.

(6) This section applies to the acquisition by a person, other than the Chief Executive Officer (Housing), of an interest in land under a scheme administered by the Chief Executive Officer (Housing) under section 22 or 24 of the *Housing Act* as if the person were acquiring 100% of the land or, if 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.

(7) If a person acquires land or an interest in land as guardian of a person under a legal disability, this section applies as if the person under the legal disability were:

(a) the conveyee of the land or interest; and

(b) the applicant for the first home owner concession; and

(c) if the concession is granted – the recipient of the concession.

(8) A person claiming the first home owner concession, and the person's spouse (if any), must give to the Commissioner a declaration, in the approved form, providing the information relating to the claim that the Commissioner requires.

(9) The Commissioner may exempt a conveyee from the requirement that the conveyee be at least 18 years of age at the relevant time if the Commissioner is satisfied that the conveyance does not form part of a scheme to circumvent limitations on, or requirements affecting, eligibility for or entitlement to a first home owner concession.

(10) If the Commissioner refuses to exempt a conveyee under subsection (9), the conveyee's acquisition of a relevant interest in residential property under the conveyance will be ignored for the purposes of a future application by the conveyee for the first home owner concession.

(11) The Commissioner may, if satisfied there are special reasons to do so:

(a) approve an extension of the period for occupancy; or

(b) approve a reduction (but not the complete elimination) of the prescribed period.

90. Principal place of residence rebate

(1) The conveyee or conveyees of land are entitled to the principal place of residence rebate if, on application for the rebate, the Commissioner is satisfied that:

(a) the conveyee or each of the conveyees is a natural person; and

(b) the conveyee or conveyees are not entitled to a first home owner concession; and

(c) no conveyee has a beneficial interest in the land the subject of the conveyance; and

(d) the conveyee or conveyees will acquire the whole beneficial interest in the land the subject of the conveyance; and

(e) no conveyee will acquire an interest in the land in the capacity of a trustee; and

(f) there is a home on the land or a home will be built within 3 years after the relevant time and the conveyee or conveyees will occupy the home as their principal place of residence for the prescribed period commencing within the period for occupancy.

(2) If there are 2 or more conveyees 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 for occupancy, but they would, but for that fact, be entitled to the principal place of residence rebate, the Commissioner may authorise the rebate if satisfied that:

(a) at least one of the conveyees will be able to occupy or commence to occupy a home on the land as his or her principal place of residence for the prescribed period commencing within the period for occupancy; and

(b) the other conveyee or conveyees will occupy the home as his, her or their principal place of residence for the prescribed period but there are special reasons why the occupancy cannot commence within the period for occupancy.

(3) If a conveyee or conveyees fail, or will fail, to occupy a home on the land as their principal place of residence:

(a) within the period for occupancy; 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 becomes apparent that the failure will occur, give written notice to the Commissioner of the failure or impending failure.

Maximum penalty: 50 penalty units.

(4) If a conveyee or conveyees fail to occupy a home on the land as their principal place of residence:

(a) within the period for occupancy; or

(b) for the prescribed period in accordance with this section;

the Commissioner must, even though the time limit for reassessment under the *Taxation Administration Act* may have passed, reassess duty on the conveyance on the basis that the conveyee or conveyees were not eligible for the principal place of residence rebate unless, in the Commissioner's opinion, there are special reasons for not making the reassessment.

(5) This section applies to the acquisition by a person, other than the Chief Executive Officer (Housing), of an interest in land under a scheme administered by the Chief Executive Officer (Housing) under section 22 or 24 of the *Housing Act* as if the person were acquiring 100% of the land or, if 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.

(6) If a person acquires land or an interest in land as guardian of a person under a legal disability, this section applies as if the person under the legal disability were:

(a) the conveyee of the land or interest; and

(b) the applicant for the principal place of residence rebate; and

(c) if the rebate is granted – the recipient of the rebate.

(7) 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.

(8) The Commissioner may, if satisfied there are special reasons to do so:

(a) approve an extension of the period for occupancy; or

(b) approve a reduction (but not the complete elimination) of the prescribed period.

Division3 – Matrimonial property settlements

91. Conveyances of matrimonial property

(1) A conveyance of dutiable property between a person and the person's spouse or former spouse is exempt from duty if, within 12 months after the date of the conveyance, an order, with which the terms of the conveyance are consistent, is made by the Family Court for the distribution of property between the parties to the conveyance under Part VIII of the *Family Law Act 1975* (Cth).

(2) If duty is paid on such a conveyance before it becomes exempt, the Commissioner must (subject to the *Taxation Administration Act*) refund the duty.

Division 4 – Managed investment schemes

92. Managed investment scheme conveyance

(1) A managed investment scheme conveyance is not liable to ad valorem duty.

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

(a) a conveyance of dutiable property 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 between the person as vendor and the responsible entity as purchaser; and

(ii) the dutiable property 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 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 is scheme property of that registered scheme; and

(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 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.

(3) 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", see the Corporations Act 2001;

"responsible entity", see the Corporations Act 2001;

"scheme property" means the dutiable property 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.

PART 6 – MISCELLANEOUS

93. Authorised stamps

(1) The Commissioner must decide the form of stamps ("authorised stamps") for use under this Act.

(2) Equipment for affixing authorised stamps must be kept under the Commissioner's control and used only as directed by the Commissioner.

94. Forgery etc. of authorised stamp

(1) A person must not:

(a) forge an authorised stamp; or

(b) dishonestly stamp an instrument with a stamp that could reasonably be taken to be an authorised stamp.

Maximum penalty: Imprisonment for 2 years.

(2) A person must not, without lawful authority or excuse, have possession of equipment capable of being used to forge an authorised stamp.

Maximum penalty: Imprisonment for 2 years.

95. Regulatory offences

An offence against any of the following provisions is a regulatory offence:

(a) section 9A;

(b) section 24;

(c) section 39;

(d) section 45;

(e) section 56K(6);

(f) section 57;

(g) section 59(5).

96. Admissibility of unstamped instruments

(1) A dutiable instrument that is not duly stamped is not admissible in evidence in any court in support or defence of a civil claim.

(2) However, the court may receive such an instrument in evidence if the party seeking to tender the instrument pays into court the duty payable on the instrument (together with any penalty).

(3) If duty is paid into court under subsection (2):

(a) the proper officer of the court must remit the payment to the Commissioner together with the instrument; and

(b) the Commissioner must stamp the instrument and return it to the proper officer of the court.

97. Former transitional provisions

Despite the repeal of former transitional provisions (Parts IX to XII), the effect of those provisions is preserved so far as they may have continuing relevance.

98. Regulations

The Administrator may make regulations under this Act.

58. Repeal and substitution of Schedule

Schedule

repeal, substitute

SCHEDULE 1

Section 4(1)
definition "dutiable instrument"

Dutiable Instruments and Rates of Duty

1. Conveyances

(1) A conveyance of dutiable property is a dutiable instrument.

(2) Subject to this clause, the duty payable on a conveyance of dutiable property is determined at the ad valorem rate as follows:

(a) if the dutiable value of the dutiable property subject to the conveyance does not exceed $500 000:

$D = (0.065 \times V^2) + 21V$

Where –

D is the duty (expressed in dollars)

V is 1/1000 of the dutiable value (expressed in dollars)

(b) if the dutiable value exceeds $500 000, the duty is 5.4% of the dutiable value.

(3) A conveyance of dutiable property by or to joint tenants is, if the conveyor, or one or more of the conveyors, retains an interest in the property, assessed for duty as a conveyance of the interest that is not retained by the conveyor or conveyors rather than the form of the conveyance but an additional $5 is payable.

Examples

1. *If property is held jointly by 2 persons, and they convey the property to one of them, the conveyance is assessed for ad valorem duty as a conveyance of a half-share of the property and the total amount of the duty is the amount so assessed plus $5.*

2. *If a sole owner conveys property to him/herself jointly with another, the conveyance is assessed for ad valorem duty as a conveyance of a half-share of the property and the total amount of the duty is the amount so assessed plus $5.*

(4) If the conveyance is for partition of land between persons who own the land as joint tenants or as tenants in common:

(a) in the case of a symmetrical partition of the land:

(i) if no consideration is given for the conveyance – the duty is $20; or

(ii) if consideration is given for the conveyance – the duty is assessed at the ad valorem rate on the amount or value of the consideration; or

(b) in the case of an asymmetrical partition of the land – ad valorem duty is to be assessed on the basis that the conveyance is a conveyance of a proportion of the whole land from the person or persons who take a lesser share (i.e. a share less than their proportionate interest prior to the partition) to the person or persons who take a greater share (i.e. a share greater than their proportionate interest prior to the partition).

Note

It follows from this that, if consideration is given for an asymmetrical partition, ad valorem duty will be calculated on the amount of the consideration or the relevant proportion of the unencumbered value of the land (whichever is the greater) and, if consideration is not given, on the relevant proportion of the unencumbered value of the land.

(5) For subclause (4), a symmetrical partition of land is one in which the portions resulting from the partition are in accordance with the proportionate interests of the owners prior to the partition; otherwise, the partition is to be regarded as asymmetrical.

(6) If the conveyance is made subsequent to, and in conformity with, an agreement for the conveyance that has been stamped with ad valorem duty, the duty payable on the conveyance is $5.

(7) If:

(a) a conveyance of dutiable property is made on terms under which the conveyee is to hold the property on trust; and

(b) a declaration of trust is made in anticipation of the conveyance of dutiable property to the declarant to be held on trust; and

(c) both instruments relate to the same dutiable property; and

(d) ad valorem duty has been paid on one of the instruments;

the duty payable on the other instrument is $5.

(8) The duty payable on a managed investment scheme conveyance is $20.

(9) If a conveyance is a grant by the Territory of an estate in fee simple in land, or of a convertible Crown lease, for monetary consideration, the duty is calculated at the ad valorem rate on the amount of the consideration (i.e. without regard to the unencumbered value of the property).

(10) If a conveyance is a foreclosure order, the duty is calculated at the ad valorem rate on the dutiable value of dutiable property subject to the mortgage to which the foreclosure relates.

2. Deeds not otherwise charged

(1) A deed that is not chargeable with ad valorem duty under this Schedule is a dutiable instrument.

(2) The duty payable on such a deed is $20.

(3) For this clause, a deed includes an instrument that has by statute (other than the *Land Title Act*) the force and effect of a deed (either before or after registration).

3. Instrument for the appointment of a trustee

(1) An instrument for the appointment of a trustee is a dutiable instrument.

(2) The duty payable on such an instrument is $20.

4. Lease of land in the Territory

(1) A lease of land in the Territory is a dutiable instrument if duty is chargeable on the grant of the lease.

(2) Duty is only chargeable on the grant of a lease if valuable consideration in addition to, or instead of, rent is given for the lease.

(3) If valuable consideration in addition to, or instead of, rent is given for a lease, duty is to be calculated at the ad valorem conveyance rate on the amount or value of the consideration.

(4) However, if a lease is entered into subsequent to, and in conformity with, an agreement for the lease that has been stamped with ad valorem duty, the duty payable on the lease is $5.

5. Motor vehicle certificate of registration

(1) A motor vehicle certificate of registration is a dutiable instrument.

(2) The duty payable on a motor vehicle certificate of registration is $3 for every $100 or fractional part of $100 of the dutiable value of the motor vehicle.

6. Policy of insurance

(1) A policy of insurance is a dutiable instrument.

(2) This clause extends to a policy of life insurance.

(3) The duty on a policy of insurance (other than a policy of life insurance):

(a) is payable on the issue and each renewal of the policy; and

(b) is:

(i) for a policy issued, or renewed, for one year or less – 10% of the amount of the premium; and

(ii) for a policy issued or renewed for a term of more than one year – 10% of the amount of the premium for each year and any fractional part of a year in the term.

(4) The duty on a policy of life insurance is:

(a) for a policy other than a temporary or term policy – 10c for every $100 or fractional part of $100 of the sum insured; or

(b) for a temporary or term policy – 5% of the first year's premium.

7. Instrument to correct error

(1) An instrument to correct an error in a duly stamped instrument (the "principal instrument") is itself a dutiable instrument.

(2) If the Commissioner is satisfied that the sole purpose of the instrument is to correct an error that would not have increased the liability of the principal instrument to duty, the duty payable on such an instrument is $20.

(3) If the Commissioner is not so satisfied, the duty is the difference between the amount of duty that should have been paid, and the amount actually paid, on the principal instrument plus interest and penalty tax assessed by the Commissioner on the basis that the person liable for duty on the principal instrument has been in default in respect of that sum since duty on the principal instrument fell due for payment.

8. Counterpart or copy of duly stamped instrument

The Commissioner must, on lodgement of a counterpart or copy of a duly stamped instrument, stamp the counterpart or copy with a stamp indicating that the original has been duly stamped on payment to the Commissioner of a fee of $5.

Note

A counterpart or copy is itself dutiable in the same way as the original if the original has not been duly stamped.

SCHEDULE 2

Section 4(1)
definition "exempt instrument or transaction"

Exemptions from Duty

Conveyances

1. Conveyance to the Territory, to a Government Business Division declared by regulation to be a Government Business Division to which this exemption applies or to an authority of the Territory other than a Government Business Division. (If a conveyance falls partially within and partially outside the terms of this exemption, duty is to be calculated as if the conveyance were not exempt and then proportionately reduced to reflect the extent of the exemption.)

2. Conveyance to the Commonwealth or to an authority of the Commonwealth.

3. Conveyance for the purposes of a compulsory transfer of business under Part 4, Division 3 of the *Financial Sector (Transfer of Business) Act 1999* (Cth).

4. Statutory vesting:

    (a) by which property vests in a company only because of its registration under Part 5B.1 of the Corporations Act 2001; or

    (b) by which property held by a person for or on behalf of an association vests in the association under section 12 of the *Associations Act* only because of its incorporation under that Act; or

    (c) by which property vests in the executor or administrator of a deceased person's estate under section 52 of the *Administration and Probate Act*; or

(d) by which property owned by the council for a council area vests in a community government council established for that area or part of that area under section 106(2)(a) of the *Local Government Act*.

5. Conveyance during the winding-up of a company of its property to a shareholder of the company where the shareholder is entitled to the property on a distribution in specie unless the conveyance is or is part of a tax avoidance scheme.

6. Conveyance:

(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 or as an additional trustee, if:

(i) no beneficial interest passes in the property conveyed; and

(ii) the trust is a discretionary trust – no change of potential beneficial interest occurs as a result of the transaction; and

(iii) the property conveyed was acquired by the retiring trustee or existing trustee in the capacity of trustee by virtue of an instrument that was duly stamped, was exempt from duty under this Schedule (or a corresponding previous enactment) or was for some other reason not liable to duty; or

(b) made by a trustee of a non-discretionary trust to a beneficiary in accordance with the terms of the trust if the property conveyed was acquired by the trustee by virtue of an instrument that was duly stamped, was exempt from duty under this Schedule (or a corresponding previous enactment) or was for some other reason not liable to duty; or

(c) 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 conveyance, becomes absolute owner of the property conveyed; and

(ii) the conveyance is not made for valuable consideration (which may take any form including the forgiveness of or release from a debt or obligation) given or to be given by the beneficiary or anyone else; and

(iii) the conveyance is in accordance with the terms of the trust and the property conveyed was acquired by the trustee by virtue of an instrument that was duly stamped, was exempt from duty under this Schedule (or a corresponding previous enactment) or was for some other reason not liable to duty; or

(d) made by a trustee as executor of the will, or administrator of the estate, of a deceased person, to a beneficiary of the deceased person's estate in accordance with the provisions of the will or the rules of intestate distribution.

7. Conveyance where the Commissioner is satisfied that:

(a) there are 2 parties to the conveyance and each is the spouse of the other; and

(b) the property subject to the conveyance is the principal place of residence of the parties to the conveyance; and

(c) no consideration is given for the conveyance; and

(d) the effect of the conveyance is that both parties to the conveyance will own the place of residence to which the conveyance relates in equal shares; and

(e) no other person takes an interest under the conveyance.

8. Conveyance to a former bankrupt from the estate of the former bankrupt (except where the bankrupt takes the property as trustee of a trust).

9. Grant of a statutory licence or permission used in or in connection with a business undertaking unless, in the opinion of the Commissioner, the grant forms part of a wider transaction amounting, in effect, to a transfer of the licence or permission.

10. Transfer under the *Commercial Passenger (Road) Transport Act* of a taxi licence or an agreement to make such a transfer.

11. Temporary transfer agreement under section 12A of the *Fisheries Act* unless, in the opinion of the Commissioner, the transfer forms part of a wider transaction amounting, in effect, to the permanent transfer of the licence.

12. 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, in the opinion of the Commissioner, forms part of a wider transaction amounting, in effect, to 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.

13. Transfer under the *Petroleum Act*, the *Energy Pipelines Act*, the *Petroleum (Submerged Lands) Act* or the *Petroleum (Prospecting and Mining) Act* (repealed) of a lease, licence, permit or other authority, or any agreement to make such a transfer.

14. Conveyance of dutiable property 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 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.

Leases

15. Lease of a building or part of a building to be used for residential purposes.

16. Lease to the Territory, to a Government Business Division declared by regulation to be a Government Business Division to which this exemption applies or to an authority of the Territory other than a Government Business Division.

17. Lease to the Commonwealth or to an authority of the Commonwealth.

18. 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 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.

Insurance

19. An insurance cover-note in pursuance of which a duly stamped policy is issued within 3 months of the date of the cover-note.

20. A policy of insurance issued to the original insured or the insured's personal representative in pursuance of a cover-note which has been duly stamped as a policy.

21. A policy of insurance taken out as required under the *Work Health Act*.

22. A policy of insurance issued in the course of a health insurance business by a registered health benefits organisation within the meaning of Part VI of the *National Health Act 1953* (Cth).

Motor vehicle certificates of registration

23. 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* (Cth); 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; or

        (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 conveyance of the motor vehicle:

(i) to a person who is the spouse, 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, parent or child jointly with that person;

if the conveyance 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; or

(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);

(i) 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;

(j) a motor vehicle certificate of registration issued in respect of a vehicle that is:

(i) a motorised wheelchair; or

(ii) an experimental or research vehicle that has no readily ascertainable market value; or

(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;

(k) a motor vehicle certificate of registration issued:

(i) to a veteran who is eligible to receive a pension at the rate specified by section 22(4) or 24(4) of the *Veterans' Entitlements Act 1986* (Cth); and

(ii) in respect of a motor vehicle for the veteran's non-commercial use;

(l) a motor vehicle certificate of registration issued to a person solely to correct an error on another motor vehicle certificate of registration on which stamp duty has been paid.

Miscellaneous instruments

24. Letter or power of attorney:

(a) in the form of an order or request to pay dividends or interest to a person named in the instrument; or

(b) to appoint a proxy to vote at a specified meeting or meetings generally.

25. Articles of indenture of apprenticeships.

26. Wills and testamentary instruments.

27. An instrument that secures the payment (or repayment) of money and is not liable to ad valorem duty on some other ground.

28. A deed:

(a) that:

(i) guarantees or otherwise secures the performance of a contractual or other obligation; or

(ii) indemnifies against non-performance of a contractual or other obligation; and

(b) that is not liable to ad valorem duty on some other ground.

PART 4 – AMENDMENT OF *TAXATION AND ROYALTY APPEALS TRIBUNAL RULES*

59. Rules amended

(1) This section amends the *Taxation Royalty Appeals Tribunal Rules*.

(2) Schedule 1 has effect.

SCHEDULE 1

Section 59

AMENDMENT OF *TAXATION AND ROYALTY APPEALS TRIBUNAL RULES*

Provision	Amendment	
	omit	substitute
Rule 2, definition "appeal"	whole definition	"Act" means the *Taxation Administration Act* or corresponding earlier legislation (as the case requires); "appeal" means an appeal to the Tribunal under the Act;
Rule 6(1)	whole subrule	(1) The notice of appeal must be in accordance with Form 1.
Rule 6(3)	whole subrule	(3) The appellant must lodge sufficient copies of the notice of appeal (with accompanying material attached) to allow for service of a sealed copy on the respondent.
Rule 10(a)(i)	whole subparagraph	(i) if the Tribunal is satisfied the appellant has a reasonable excuse for not commencing the appeal within the relevant time limit – an order extending the time for

			commencement;
Rule 10(b)	whole paragraph	(b)	directions about the lodgement and service of documents;
Schedule 1, Form 1, heading	**SECTION 105B OF *TAXATION (ADMINISTRATION) ACT***		
Schedule 1, Form 2, heading	**PART V, DIVISION 3 OF *TAXATION (ADMINISTRATION) ACT***		

SCHEDULE 2

Section 3

REPEAL OF LAWS

PART 1 – REPEAL OF ACTS

PART 1 – REPEAL OF ACTS	
Stamp Duty Ordinance 1978	Act No. 48 of 1978
Stamp Duty Act (No. 2) 1978	Act No. 94 of 1978
Stamp Duty Act (No. 3) 1978	Act No. 98 of 1978
Stamp Duty Act (No. 4) 1978	Act No. 13 of 1979
Stamp Duty Act 1979	Act No. 61 of 1979
Stamp Duty Act (No. 2) 1979	Act No. 73 of 1979
Stamp Duty Act (No. 3) 1979	Act No. 157 of 1979
Stamp Duty Amendment Act 1981	Act No. 66 of 1981
Stamp Duty Amendment Act 1982	Act No. 77 of 1982
Stamp Duty Amendment Act 1983	Act No. 33 of 1983
Stamp Duty Amendment Act 1985	Act No. 27 of 1985
Stamp Duty Amendment Act (No. 2) 1985	Act No. 55 of 1985
Stamp Duty Amendment Act 1987	Act No. 24 of 1987
Stamp Duty Amendment Act (No. 2) 1987	Act No. 30 of 1987
Stamp Duty Amendment Act (No. 3) 1987	Act No. 33 of 1987
Stamp Duty Amendment Act 1988	Act No. 3 of 1988
Stamp Duty Amendment Act (No. 2) 1988	Act No. 40 of 1988
Stamp Duty Amendment Act 1989	Act No. 26 of 1989
Stamp Duty Amendment Act (No. 2) 1989	Act No. 41 of 1989
Stamp Duty Amendment Act 1990	Act No. 21 of 1990

Stamp Duty Amendment Act 1991	Act No. 25 of 1991
Stamp Duty Amendment Act (No. 2) 1991	Act No. 78 of 1991
Stamp Duty Amendment Act 1992	Act No. 51 of 1992
Stamp Duty Amendment Act 1993	Act No. 50 of 1993
Stamp Duty Amendment Act 1994	Act No. 41 of 1994
Stamp Duty Amendment Act (No. 2) 1994	Act No. 70 of 1994
Stamp Duty Amendment Act 1995	Act No. 31, of 1995
Stamp Duty Amendment Act (No. 2) 1995	Act No. 48 of 1995
Stamp Duty Amendment Act 1998	Act No. 20 of 1998
Stamp Duty Amendment Act 1999	Act No. 39 of 1999
Stamp Duty Amendment Act (No. 2) 1999	Act No. 49 of 1999
Stamp Duty Amendment Act 2000	Act No. 35 of 2000
Stamp Duty Amendment Act 2001	Act No. 48 of 2001
Stamp Duty Amendment Act 2002	Act No. 51 of 2002
Stamp Duty Amendment Act 2003	Act No. 35 of 2003
Stamp Duty Amendment Act 2004	Act No. 29 of 2004
Stamp Duty Amendment Act (No. 2) 2004	Act No. 40 of 2004
Stamp Duty Amendment Act 2005	Act No. 29 of 2005

PART 2 – REPEAL OF SUBORDINATE LEGISLATION

Taxation (Administration) Regulations	Subordinate Legislation No. 19 of 1978
Amendment of Taxation (Administration) Regulations	Subordinate Legislation No. 55 of 1988
Amendment of the Taxation (Administration) Regulations	Subordinate Legislation No. 45 of 1990
Amendment of Taxation (Administration) Regulations	Subordinate Legislation No. 8 of 1997

Amendment of Taxation (Administration) Regulations	Subordinate Legislation No. 3 of 1998
Amendment of Taxation (Administration) Regulations	Subordinate Legislation No. 31 of 1999
Amendment of Taxation (Administration) Regulations	Subordinate Legislation No. 28 of 2001
Amendment of Taxation (Administration) Regulations	Subordinate Legislation No. 36 of 2002
Amendment of Taxation (Administration) Regulations	Subordinate Legislation No. 36 of 2004