

Serial 5
Stamp Duty Amendment Bill (No. 2) 2005
Mr Stirling

**A BILL
for
AN ACT**

to amend the *Stamp Duty Act*



NORTHERN TERRITORY OF AUSTRALIA

STAMP DUTY AMENDMENT ACT 2005

Act No. [] of 2005

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2005

AN ACT

to amend the *Stamp Duty Act*

[Assented to [] 2005]
[Second reading [] 2005]

The Legislative Assembly of the Northern Territory enacts as follows:

PART 1 – PRELIMINARY MATTERS

1. Short title

This Act may be cited as the *Stamp Duty Amendment Act 2005*.

2. Commencement

(1) The provisions of this Part (except section 3) come into operation on the day on which the Administrator's assent to this Act is declared.

(2) Section 3 and Parts 2, 3 and 8 are taken to have come into operation on 3 May 2005.

(3) Parts 4 and 5 are taken to have come into operation on 20 June 2005.

(4) Parts 6 and 7 are taken to have come into operation on 1 July 2005.

3. Principal Act amended

This Act amends the *Stamp Duty Act*.

**PART 2 – AMENDMENTS RELATING TO INCREASE IN
CONCESSION FOR FIRST HOME OWNERS**

4. Amendment of section 8B (Concession for first home owners)

Section 8B(1), definition of "first home owner concession", paragraph (b) –

omit

\$125 000

substitute

\$200 000

5. New Part 4

After section 9 –

insert

**PART 4 – TRANSITIONAL MATTERS FOR STAMP DUTY
AMENDMENT ACT 2005**

10. Application of Act from 3 May to 19 June 2005 to concession for first home owners

(1) Subject to subsection (2), the amendment of section 8B(1) effected by Part 2 of the *Stamp Duty Amendment Act 2005* applies only in relation to a conveyance of land executed on or after 3 May 2005 and before 20 June 2005.

(2) Section 8B(1) as in force immediately before 3 May 2005 continues to apply in relation to a conveyance of land if –

- (a) the instrument effecting the conveyance replaces an instrument executed before 3 May 2005 to effect the conveyance of the same or substantially similar land;
- (b) the conveyee had an option, granted before 3 May 2005, to purchase the land; or
- (c) the conveyer had an option, granted before 3 May 2005, to require the conveyee to purchase the land.

**PART 3 – AMENDMENTS RELATING TO EXTENSION OF
EXEMPTION FROM STAMP DUTY ON CONVEYANCE OF
PROPERTY USED FOR FAMILY FARMING**

6. Amendment of section 8E (Exemption from duty on conveyance of family farming property to family members, family companies or family trusts)

(1) Section 8E(1) –

insert (in alphabetical order)

"beneficiary" includes a person in whom the trustee may determine to vest the whole or part of the trust property and a person in whom the whole or part of the trust property vests if the trustee does not make such a determination;

"primary production" means –

- (a) the growing or rearing of plants (including trees, fungi and any crop) for the purpose of selling them, parts of them or their produce; or
- (b) the breeding, rearing or maintenance of living creatures for the purpose of –
 - (i) selling them (or their progeny) for food;
 - (ii) the production or collection of their skins, shells or bodily produce; or
 - (iii) selling parts of them or their skins, shells or bodily produce;

"scheme" has the same meaning as in section 4B(1) of the *Taxation (Administration) Act*;

(2) Section 8E(1), definition of "family member" –

omit

who conveys prescribed property, means –

substitute

means any of the following:

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(3) Section 8E(1), definition of "family member", paragraphs (e), (f) and (g) –
omit, substitute

- (e) a sibling of the person;
- (f) a lineal descendant of a sibling of the person;
- (g) the spouse of a family member referred to in paragraphs (b) to (f);

(4) Section 8E(1), definition of "farming purposes", paragraph (a) –
omit, substitute

- (a) the business of primary production; or

(5) Section 8E(2) –
omit, substitute

(2) Subject to section 8F, if a natural person, company or trustee (whether a natural person or company) conveys prescribed property to one or more family members, family companies or family trusts in accordance with this section, stamp duty is not imposed on the instrument effecting the conveyance.

(2A) Subsection (2) applies if the conveyance of prescribed property is by 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 family member of the conveyor if the family member will not hold the property as trustee;
- (b) a company that will not hold the property as trustee if –
 - (i) all the shareholders are family members of the conveyor; 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 family members of the conveyor; and
 - (ii) the trust deed includes provisions, that cannot be altered, specifying only family members of the conveyor may be beneficiaries of the trust and no beneficiary may be the trustee of another trust.

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(2B) Subsection (2) applies if the conveyance of prescribed property is by a 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 family member of all the shareholders of the conveyor company if the family member will not hold the property as trustee;
- (b) a company that will not hold the property as trustee (the "conveyee company") if –
 - (i) all the shareholders of the conveyee company are family members of all the shareholders of the conveyor company; 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) all the beneficiaries of the trust are family members of all the shareholders of the conveyor company; and
 - (ii) the trust deed includes provisions, that cannot be altered, specifying only family members of the shareholders of the conveyor company may be beneficiaries of the trust and no beneficiary may be the trustee of another trust.

(2C) Subsection (2) applies if the conveyance of prescribed property is by a person who holds the property as trustee of a trust (the "conveyor trust") and the property is conveyed to one or more of the following:

- (a) a family member of all the beneficiaries of the conveyor trust if the family member will not hold the property as trustee;
- (b) a company that will not hold the property as trustee if –
 - (i) all the shareholders are family members of all the beneficiaries of the conveyor trust; 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 trust (the "conveyee trust") if –
 - (i) all the beneficiaries of the conveyee trust are family members of all the beneficiaries of the conveyor trust; and

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

- (6) Section 8E(3)(a) and (b) –

omit, substitute

- (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;

- (7) Section 8E(3)(c), after "property" –

insert

solely or principally

- (8) Section 8E(4) –

omit

same prescribed property to one or more family members

substitute

same, or part of the same, prescribed property in accordance with this section

7. New section 11

After section 10 –

insert

11. Application of Act from 3 May 2005 to conveyance of family farming property

The amendments of section 8E effected by Part 3 of the *Stamp Duty Amendment Act 2005* apply only in relation to an instrument effecting the conveyance of prescribed property executed on or after 3 May 2005.

PART 4 – AMENDMENTS RELATING TO FURTHER INCREASE IN CONCESSION FOR FIRST HOME OWNERS

8. Amendment of section 8B (Concession for first home owners)

Section 8B(1), definition of "first home owner concession", paragraph (b) –

Stamp Duty Amendment Act 2005

omit

\$200 000

substitute

\$225 000

9. New section 12

After section 11 –

insert

12. Application of Act from 20 June 2005 to concession for first home owners

(1) Subject to subsections (2) and (3), the amendment of section 8B(1) effected by Part 4 of the *Stamp Duty Amendment Act 2005* applies only in relation to a conveyance of land executed on or after 20 June 2005.

(2) Section 8B(1) as in force immediately before 20 June 2005 continues to apply in relation to a conveyance of land if –

- (a) the instrument effecting the conveyance replaces an instrument executed between 3 May 2005 and 19 June 2005 to effect the conveyance of the same or substantially similar land;
- (b) the conveyee had an option, granted between 3 May 2005 and 19 June 2005, to purchase the land; or
- (c) the conveyor had an option, granted between 3 May 2005 and 19 June 2005, to require the conveyee to purchase the land.

(3) Section 8B(1) as in force immediately before 3 May 2005 continues to apply in relation to a conveyance of land if –

- (a) the instrument effecting the conveyance replaces an instrument executed before 3 May 2005 to effect the conveyance of the same or substantially similar land;
- (b) the conveyee had an option, granted before 3 May 2005, to purchase the land; or
- (c) the conveyor had an option, granted before 3 May 2005, to require the conveyee to purchase the land.

**PART 5 – AMENDMENTS RELATING TO INCREASE IN REBATE FOR
PRINCIPAL PLACE OF RESIDENCE**

10. Amendment of section 8C (Rebate for principal place of residence)

Section 8C(1), definition of "principal place of residence rebate", paragraph (b) –

omit

\$1 500

substitute

\$2 500

11. New section 13

After section 12 –

insert

13. Application of Act from 20 June 2005 to rebate for principal place of residence

(1) Subject to subsection (2), the amendment of section 8C(1) effected by Part 5 of the *Stamp Duty Amendment Act 2005* applies only in relation to a conveyance of land executed on or after 20 June 2005.

(2) Section 8C(1) as in force immediately before 20 June 2005 continues to apply in relation to a conveyance of land if –

- (a) the instrument effecting the conveyance replaces an instrument executed before 20 June 2005 to effect the conveyance of the same or substantially similar land;
- (b) the conveyee had an option, granted before 20 June 2005, to purchase the land; or
- (c) the conveyer had an option, granted before 20 June 2005, to require the conveyee to purchase the land.

**PART 6 – AMENDMENT RELATING TO ABOLITION OF STAMP
DUTY ON ELECTRONIC DEBIT TRANSACTIONS**

12. Amendment of Schedule 1

Schedule 1, item 3B –

omit

**PART 7 – AMENDMENT RELATING TO EXTENSION OF
EXEMPTION FROM STAMP DUTY ON VETERANS' MOTOR
VEHICLE CERTIFICATES OF REGISTRATION**

13. Amendment of Schedule 2

Schedule 2, item 37(m) –

omit, substitute

(m) 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.

PART 8 – OTHER AMENDMENTS

14. New Part 1 heading

Before section 1 –

insert

PART 1 – PRELIMINARY MATTERS

15. New Part 2 heading

After section 3 –

insert

PART 2 – STAMP DUTY PROVISIONS

16. New Part 3 heading

After section 8H –

insert

PART 3 – MISCELLANEOUS MATTERS

