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[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1926.

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# A BILL

To amend the Stamp Duties Act, 1920-1924, in certain particulars; and for purposes connected therewith.

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**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

**1.** (1) This Act may be cited as the "Stamp Duties Short title. (Amendment) Act, 1926," and shall be read with the Stamp Duties Act, 1920-1924.

(2) The Stamp Duties Act, 1920-1924, as amended by this Act, may be cited as the Stamp Duties Act, 1920-1926.

**2.** Part II of the Stamp Duties Act, 1920-1924, is amended—

Amendment of  
Part II of Stamp  
Duties Act,  
1920-1924.  
Sec. 12, new  
subsec. (6).

- (a) by adding at the end of section twelve the following new subsection:—
- (6) The Minister upon the recommendation of the Commissioner may cancel any license granted under this section, but before any such cancellation shall give consideration to any representations made by or on behalf of the licensee;
- (b) by omitting from section fourteen the words "where the same does not exceed twenty-five pounds";
- (c) by omitting from section nineteen the words "ad valorem" wherever occurring;
- (d) by inserting in section twenty-three after the word "adhesive" wherever occurring the words "or impressed."

Sec. 14.

**3.** The Stamp Duties Act, 1920-1924, is further amended—

Further  
amendment of  
Stamp Duties  
Act, 1920-1924.

- (a) by inserting at the end of section twenty-five the following new subsection:—
- (3) This section shall extend to cases where an instrument has been marked "Interim stamp only" under the provisions of subsection five of section forty-one or subsection seven of section forty-two, but with the following modification, that is to say, the words "after such execution or receipt as aforesaid" are to be deemed to be omitted from paragraphs (b) and (c), and the words "after the instrument was marked "Interim stamp only" are to be deemed to be inserted in lieu thereof.
- (b) by omitting from subsection one of section forty the word "conveyance";
- (c) by adding to subsection six of section forty-one the words "The Commissioner may exercise any of the powers conferred on him by section sixty-eight with respect to any such claim";
- (d)

Sec. 25.

Sec. 40 (1).

Sec. 41 (6).

- (d) by inserting in paragraph (c) of subsection Sec. 41 (7) (c). seven of section forty-one after the words "possession of" the words "or attorned tenant of";
- (e) (i) by inserting in subsection three of section Sec. 45A (3). 45A after the words "rubber stamp" the words "or otherwise than by means of a printing press";
- (ii) by inserting at the end of the same section Sec. 45A. the following new subsection:— New sub-section (6).
- (6) Any servant or agent of a bookmaker who issues a betting ticket except in relation to a bet made by the bookmaker personally, shall be liable to a fine of not less than *two* pounds nor more than *ten* pounds.
- (f) by inserting in section sixty-five after the Sec. 65. words "any person" the words "or by virtue of which any person becomes entitled to a share in any such property";
- (g) by inserting at the end of section seventy the Sec. 70. following new subsection:—
- (3) Where property subject to any charge or encumbrance is conveyed otherwise than on How conveyance of encumbered property is to be charged. sale to any person the conveyance shall be charged with ad valorem duty upon the unencumbered value of the property.
- (h) by inserting in section seventy-one after the Sec. 71. word "sale" the words "or creation";
- (i) (i) by omitting paragraph (a) of subsection Sec. 73 (1) (a). one of section seventy-three and by New paragraph (aa). inserting in lieu thereof the following new paragraphs:—
- (a) (i) an instrument appointing a new trustee; or
- (ii) an instrument appointing an additional trustee; or
- (iii) an instrument by which a trustee retires from a trust without any new trustee being appointed in his place; or
- (iv)

- (iv) a declaration by an executor under section eleven of the Trustee Act, 1925;
- (aa) an instrument whereby property is discharged from an existing charge, and imposing the same charge upon other property;
- (ii) by omitting subparagraph (a) of paragraph four of the matter appearing in the Second Schedule under the heading "Conveyances of any property" and by inserting in lieu thereof the following new subparagraph:—
  - (a) (i) an instrument appointing a new trustee; or
  - (ii) an instrument appointing an additional trustee; or
  - (iii) an instrument by which a trustee retires from a trust without any new trustee being appointed in his place; or
  - (iv) a declaration by an executor under section eleven of the Trustee Act, 1925;
- (iii) by inserting in subsection (2A) of section seventy-three after the word "appointment" the words "of a new or additional trustee";
- (iv) by inserting in paragraph four, subparagraph (f) of the matter appearing in the Second Schedule under the heading "Conveyances of any property" after the word "appointment" the words "of a new or an additional trustee";
- (v) by inserting at the end of subsection three of section seventy-three the words "or to extend to any instrument referred to in paragraph two of the matter appearing in the Second Schedule under the heading Declaration of Trust";

(j)

- (j) by inserting in subsection two of section Sec. 81 (2). eighty-one after the words "letter of" wherever occurring the words "allotment or letter of";
- (k) by inserting in subsection one of section Sec. 87 (1). eighty-seven after the word "insurance" the words "issued in New South Wales";
- (l) by omitting subsection one of section 94A and Sec. 94A (1). by inserting the following new subsection in lieu thereof:—
- (1) If a company under obligation to some person to issue or allot any of its shares to or at the direction of such person issues or allots any of the shares to some other person except upon the duly stamped direction in writing of the person entitled to have the shares so issued or allotted, the company shall be liable to a fine not exceeding *one hundred pounds*.
- (m) by inserting next after section one hundred New sec. 143. and forty-two the following new section:—
143. No assignment or transfer of a mortgage or of a debenture shall be registered in any office unless the assignment or transfer is stamped as a conveyance or is marked by the Commissioner as exempt from stamp duty. Assignment of mortgages, &c., to be marked before registration.
- (n) by inserting in the Second Schedule in paragraph five of the matter appearing under the heading "Conveyances of any property" after the word "Commissioner" the words "or he is satisfied that it has been duly stamped"; Second Schedule.
- (o) by omitting paragraph two of the matter Ibid. appearing in the Second Schedule under the heading "Declaration of Trust" and by inserting in lieu thereof the following new paragraphs:—
- |   |   |   |
|---|---|---|
| <p>(2) Any instrument declaring that any property vested or to be vested in the person executing the same is or shall be held in trust for the person or persons or purpose or purposes mentioned therein notwithstanding that the beneficial owner or person entitled to appoint such property may not have jointed therein or assented thereto.</p> | <p>The same duty as if the instrument was a conveyance of the property comprised therein.</p> | <p>The person declaring the Trust—or the person directing such Declaration.</p> |
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(3) Any such instrument as aforesaid by which (a) the same trusts are declared as have been declared in respect of the same property by an instrument duly stamped with ad valorem conveyance duty under this Act or (b) the trusts declared are the same trusts as those upon or subject to which the property was conveyed to the person declaring the trusts by an instrument duly charged with ad valorem conveyance duty under this Act.	1 0 0	The person declaring the Trust.
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(p) by omitting from the paragraph headed "Exemption" appearing in the Second Schedule under the heading "Lease or promise of or agreement for lease or hire" the words "a lease of a house used solely as a dwelling and a lease granted under the Crown Lands Act are exempt" and by inserting in lieu thereof the letters and words:—

- (a) a lease of a private dwelling-house; or
- (b) a lease under the Crown Lands Consolidation Act, 1913, or any Act amending the same; or
- (c) a lease under the Public Watering Places Act, 1900; or
- (d) a lease under the Prickly-pear Act, 1924; or
- (e) an occupation permit or forest lease under the Forestry Act, 1916; or
- (f) a grant of a homestead farm under the Closer Settlement Acts,

is exempt.

An agreement for the hire of an electricity, gas, or water meter is to be stamped as an agreement under hand (one shilling adhesive stamp).

(q) by inserting at the end of the exemptions appearing in the Second Schedule in the matter under the heading of "Policies of Insurance" the following paragraphs:—

- (f) any cover-note in pursuance of which a duly stamped policy is issued within one month of the date of the cover-note;

(g)

- (g) any policy issued in pursuance of a cover-note which has been duly stamped as a policy ;
- (r) (i) by inserting at the end of paragraph (q) of <sup>Second</sup> the exemptions appearing in the Second <sup>Schedule.</sup> Schedule under the heading " Receipt or discharge " the words " or the Deserted Wives and Children Act, 1901 " ;
- (ii) by inserting at the end of the exemptions *Ibid.* appearing in the Second Schedule under the same heading the following new paragraph—
- (t) Any receipt given for or upon the <sup>(Surf Life Saving Associations, &c.)</sup> payment of money to or for the use of the Surf Life Saving Association of Australia or clubs affiliated thereto.
- (s) by inserting in paragraph one of the matter *Ibid.* appearing in the Second Schedule under the heading " General Exemptions from Stamp <sup>(General Exemptions).</sup> Duty under Part III " after the word " soldier " the words " to a returned sailor or soldier " ;
- (t) by omitting paragraph nine of the matter *Ibid.* appearing in the Second Schedule under the heading " General Exemptions from Stamp <sup>*Ibid.*</sup> Duty under Part III " and by inserting in lieu thereof the following new paragraph :—
- (9) Any conveyance to or instrument (except a conveyance) executed by or on behalf of a public hospital. This exemption shall extend only to relieve the hospital from the payment of duty upon any such conveyance or instrument.
- (u) (i) by omitting from paragraph ten of the <sup>*Ibid.*</sup> matter appearing in the Second Schedule under the heading " General Exemptions <sup>*Ibid.*</sup> from Stamp Duty under Part III " the words " any instrument " and by inserting in lieu thereof the words " any conveyance to, or instrument (except a conveyance) " ;
- (ii)

(ii) by inserting at the end of the same paragraph the words " or the New South Wales District of the Saint John Ambulance Brigade (Overseas) or the Saint John Ambulance Association, New South Wales centre. This exemption shall extend only to relieve the said board, committee, brigade, or association, as the case may be, from the payment of duty upon any such instrument."

4. Part IV of the Stamp Duties Act, 1920-1924, is amended—

Amendment of Stamp Duties Act, 1920-1924, Part IV.

(Death Duties.)

Sec. 102.

- (a) (i) by inserting in subparagraph (b) of paragraph two of section one hundred and two after the words "money or money's worth" the words "Where the gift is of money, the amount of the money given, and where the gift is of property other than money, the property shall be deemed to be part of the estate of the deceased notwithstanding that at the date of his death the amount or property is not in the possession or under the control of the donee in this State or elsewhere or that the property is not in existence";
- (ii) by inserting in subparagraph (1) of the same paragraph after the word "consideration" the words "wholly or partly";
- (iii) by inserting at the end of the same subparagraph (1) the words "and whether the property is in existence or in the hands of such company or person or in this State or not at the date of the death of the deceased.

"Where property is included in the estate of a deceased person under this subparagraph the shares or other consideration for the transfer shall not form part of the dutiable estate of the deceased."

(b)



- (b) (i) by omitting paragraph (c) of subsection Sec. 103.  
one of section one hundred and three and  
by inserting in lieu thereof the following  
new paragraph :—  
(c) every share and all stock held by  
such person at the time of his death  
in any corporation, company, or  
society, whether registered or in-  
corporated within or out of New  
South Wales, having a register in  
New South Wales wherein such share  
or stock is registered and whether  
the same is also registered in a  
register out of New South Wales  
or not.
- (ii) by inserting in subsection two of the same  
section after the word “debts” the word  
“stock”;
- (c) by inserting at the end of section one hundred Sec. 105.  
and five the following new subsection :—  
(3) Where there are foreign assets as defined  
in section one hundred and eight, then for the  
purpose only of ascertaining the rate at which  
death duty shall be paid the final balance of the  
estate of a deceased person shall be computed by  
aggregating the value of the dutiable estate of  
the deceased with the value of all the foreign  
assets and deducting therefrom all debts  
actually due and owing by the deceased at the  
date of his death.
- (d) by omitting subsection one of section one Sec. 108 (1).  
hundred and eight and by inserting in lieu  
thereof the following new subsection :—  
(1) The allowance so to be made for un-  
secured debts shall extend only to those debts  
payable to persons within New South Wales,  
save that—  
(a) where there is an unsecured debt pay-  
able to a person outside New South  
Wales but there are no foreign assets,  
the debt may be deducted from his  
dutiable estate; and (b)

(b) where there are foreign assets, such portion only of an unsecured debt payable to a person outside New South Wales as exceeds the value of the foreign assets shall be allowed.

- (e) by omitting section one hundred and nine and Sec. 109. by inserting the following new section :—

109. The allowance to be made for secured debts shall extend only to debts secured by mortgage, lien, or charge solely upon any part of the dutiable estate, save that—

Where a debt is secured partly upon the dutiable estate and partly upon foreign assets, such portion only of such debt shall be allowed as bears the same ratio to the total debt as the value of the part of the dutiable estate so charged bears to the total value of the whole security: Provided that no such allowance shall exceed the value of the part of the dutiable estate so charged.

- (f) by omitting subsection two of section one hundred and eleven and by inserting the following new subsection :—

(2) No amount payable on the death of a deceased person by any society registered under the Friendly Societies Act, 1912, or a trade union registered under the Trade Union Act, 1881, as a funeral donation in accordance with the rules of such society or trade union, shall be included in the estate of the deceased.

- (g) by omitting subsection five of section one hundred and seventeen and by inserting in lieu thereof the following new subsection :—

(5) In connection with death duty under this Act or duty under any of the Acts repealed by this Act on the estate of a deceased person (whether dying before or after the passing of the Stamp Duties (Amendment) Act, 1926), the Commissioner may lodge with the Registrar-General a caveat against any application to bring land under the Real Property

Property Act, 1900, or against any application to be registered as proprietor of any land under that Act or any mortgage or encumbrance thereon, or any dealing with any such land, mortgage, or encumbrance.

Every such caveat shall be dealt with in all respects as if it were a caveat filed by the Registrar-General, except that the Commissioner shall be considered as the caveator.

- (h) by omitting from subsection one of section one Sec. 122 (1). hundred and twenty-two the words "carrying on business in New South Wales," and also the words "as owner";
- (i) by inserting at the end of subsection one of Sec. 140 (1). section one hundred and forty the words "but no refund shall be made in respect of any property wrongly included in such dutiable estate by reason of any mistake in the construction of this Act";
- (j) by inserting in the first column of the Second Schedule. Second Schedule at the end of paragraph two of the matter appearing under the heading "Agreement or Memorandum of an agreement and not otherwise specifically charged with any duty" the following words:—

Agreements made in pursuance of subsection seven of section forty-four of the Metropolitan Water, Sewerage, and Drainage Act, 1924, or section three hundred and ninety-nine of the Local Government Act, 1919, shall not be liable to a higher rate of duty than one shilling.

- (k) by inserting in the first column of the Ibid. Second Schedule under the heading "Agreement for the sale or conveyance (including exchange) of any property" the following words:—

Any agreement or memorandum under seal, made for or relating to the sale of any goods, wares, or merchandise, is to be charged only with a duty of £1, and

and if the agreement or memorandum is under hand only it is to be exempt from duty."

- (1) by inserting at the end of the Second Schedule Second  
Schedule. the following new paragraphs:—

(18) Any agreement made by a council with any Minister of the Crown in pursuance of section five hundred and thirty-nine of the Local Government Act, 1919.

(19) Any agreement made by a council with the Main Roads Board of New South Wales.