

1993

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**STAMP DUTIES AND TAXES (AMENDMENT) BILL (NO. 3) 1993**

**EXPLANATORY MEMORANDUM**

**Circulated by authority of the Chief Minister and Treasurer  
Rosemary Follett, MLA**

## **STAMP DUTIES AND TAXES (AMENDMENT) BILL (NO 3) 1993**

The Stamp Duties and Taxes Act 1987 (the Act) provides for the imposition of stamp duties on, among other things, the conveyance of property and premiums paid for life and general insurance.

These amendments will expand the range of stamp duty concessions available to spouses and provide concessions to employment groups forced to amalgamate as part of the Federal Government's micro-economic reforms. The Bill also introduces anti-avoidance measures in relation to duty on life and general insurance premiums.

The concessions currently available for transfers of property made under a court order upon dissolution of a marriage will be extended to a broader range of domestic relationships. Also, in the future couples in bona fide domestic relationships will be able to transfer ownership of their family home from single to joint ownership without attracting full stamp duty.

The Commonwealth Industrial Relations Amendment Act 1990 significantly raised the minimum membership requirement for registered organisations, including unions and employer organisations. Amendments have been made to provide stamp duty relief on the transfer of assets between these organisations which are amalgamating to meet the requirements for increased membership.

The Act currently imposes stamp duty on general and life insurance premiums received within Australia, where the relevant risk is located in the ACT. This bill will extend the stamp duty liability to include not only those premiums received in Australia but also those received outside Australia, where the risk is located in the Territory. This will create a liability for offshore insurers and ensure that all insurers are treated the same.

Previously insurers who carried on business in the ACT without being registered by the Commissioner for ACT Revenue faced only a minimal penalty. This bill will require that all insurers register with the Commissioner, and provides a more substantial penalty for failure to do so.

Persons who take out an insurance policy with an unregistered insurer will now also find themselves liable for payment of stamp duty. This amendment will complement the above mentioned change and facilitate a more effective method of debt recovery.

### **Financial Implications**

The concessions afforded to spouses and employment groups are expected to have a minimal negative effect on revenue. The amendments to stamp duty in relation to insurance premiums will decrease the possibility of revenue avoidance, but the effect is difficult to quantify.

Details of the bill are attached.

**DETAILS OF THE STAMP DUTIES AND TAXES (AMENDMENT) BILL (NO 3)  
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**Short title**

Clause 1 - Provides for the short title of this Act to be the Stamp Duties and Taxes (Amendment) Act (No 3) 1993 (the Act).

**Commencement**

Clause 2 - Provides that this Act is to commence on the day of gazettal.

**Principal Act**

Clause 3 - Provides that the 'Principal Act' is the Stamp Duties and Taxes Act 1987.

**Interpretation**

Clause 4 - Introduces the definition of "spouse" which includes a person who lives with another person in a bona fide domestic relationship, and who has done so for at least two years.

**Premiums subject to tax**

Clause 5 - Amends section 30 of the Principal Act to include insurance premiums in respect of a risk in the ACT as dutiable if they are received in Australia or elsewhere. Formerly the location of the receipt was limited to within Australia.

**Duty where insurer unregistered**

Clause 6 - Places the onus of stamp duty liability on the person being insured if they obtain an insurance policy from an unregistered insurer, and sets out the requirements to notify the Commissioner of their liability. Pursuant to section 32 of the Principal Act, the Commissioner maintains a register of life and general insurers.

**Unregistered insurers**

Clause 7 - Makes it a requirement for general and life insurance providers carrying on business in the ACT to register with the Commissioner, and provides a penalty for failure to do so. Previously there was no formal requirement to register although insurers who did not were liable to a daily penalty.

#### **Schedule 1**

Clause 8 - Schedule 1 provides for the imposition of stamp duty at a concessional rate on certain conveyances. This clause will expand the available concession categories.

Subclause (a) identifies court ordered transfers of property between spouses upon termination of a relationship. This subclause also allows for the imposition of a concessional rate of duty on the transfer of the family home from single to joint ownership.

Subclauses (b), (c), and (d) provide for the imposition of concessional duty on a conveyance made in accordance with section 253Y of the Commonwealth Industrial Relations Act 1988. This section of the Commonwealth legislation allows for transfer of property between employment groups amalgamating as a result of the Industrial Relations Amendment Act 1990 of the Commonwealth.

#### **Schedule 4**

Clause 9 - Schedule 4 applies concessional duty on certain transfers of marketable securities. Clause 9 amends Schedule 4 to include the transfer of marketable securities if the transfer is made pursuant to section 253ZA of the Industrial Relations Act 1988 of the Commonwealth. This section of the Commonwealth legislation allows for the transfer of marketable securities upon the amalgamation of employment organisations.

#### **Schedule 5**

Clause 10 - Schedule 5 imposes concessional duty on certain registrations of transfers of marketable securities. Clause 10 amends Schedule 5 to include the registration of transfer of marketable securities resulting from amalgamation of employment organisations.

#### **Schedule 6**

Clause 11 - Schedule 6 imposes concessional duty on certain registrations of vehicles. Clause 11 amends Schedule 6 to impose concessional duty on the transfer of vehicles resulting from amalgamation of employment organisations pursuant to the Commonwealth Industrial Relations Act 1988.