

1997
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

**Stamp Duties and Taxes (Amendment) Bill
1997**

**A BILL
FOR**

**An Act to amend the *Stamp Duties and Taxes Act*
1987**

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

- 5 1. This Act may be cited as the *Stamp Duties and Taxes (Amendment) Act 1997*.

Commencement

2. This Act commences on the day on which it is notified in the *Gazette*.

Principal Act

- 10 3. In this Act, "Principal Act" means the *Stamp Duties and Taxes Act 1987*.¹

Interpretation

4. Section 4 of the Principal Act is amended—

(a) by omitting from subsection (1) the definition of “spouse” and substituting the following definition:

5 “ ‘spouse’, in relation to a person, includes another person who is in a domestic relationship within the meaning of the *Domestic Relationships Act 1994* with the person;”;
and

(b) by inserting in subsection (1) the following definitions:

10 “ ‘Commonwealth Act’ means the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth;

‘complying superannuation fund’ means a superannuation fund within the meaning of the Commonwealth Act that is a complying superannuation fund for the purposes of
15 Division 2 of Part 5 of that Act;

‘custodian’ has the same meaning as in the Commonwealth Act;

‘pooled superannuation trust’ means a pooled superannuation trust within the meaning of the Commonwealth Act that is a pooled superannuation trust for the purposes of Division
20 2 of Part 5 of that Act;

‘solicitor’ means a barrister and solicitor, as defined in the *Legal Practitioners Act 1970*, who practises, either on his or her own account or as a member of a partnership, as a
25 solicitor or as both a barrister and solicitor;”.

Insertion

5. After section 18 of the Principal Act the following section is inserted:

Duty on certain other instruments

30 “18A. (1) Stamp duty of \$200 is payable on an instrument in respect of a conveyance by way of a transfer, or an agreement for a transfer, of—

(a) an estate in fee simple;

(b) a Crown lease (other than a lease referred to in paragraph 17 (1) (ca) of the Act); or

35 (c) a lease of land other than a Crown lease or a lease for residential purposes;

if the transfer is—

- (d) from the trustee or custodian of a complying superannuation fund or a pooled superannuation trust;
- 5 (e) to a trustee or custodian of a pooled superannuation trust in exchange for units in the trust; and
- (f) for the purpose of giving effect to an investment strategy that increases diversification of investment for the purposes of the Commonwealth Act.

10 “(2) Section 17 of this Act and subsection 27 (2) of the *Taxation (Administration) Act 1987* do not apply in relation to an instrument referred to in subsection (1).”.

Duty on Schedule 4 transfers

6. Section 46 of the Principal Act is amended by inserting in subsection (1A) “(other than in paragraph (s))” after “Schedule 4”.

15 Schedule 1

7. Schedule 1 to the Principal Act is amended by inserting after paragraph (da) the following paragraph:

20 “(daa) made pursuant to a domestic relationship agreement or a termination agreement within the meaning of the *Domestic Relationships Act 1994*, being an agreement that—

- (i) is in writing;
- (ii) has been signed by the parties; and
- (iii) has endorsed on it, or is accompanied by, a certificate in relation to each party by a solicitor given before the signing of the agreement to the effect that the solicitor had advised that party, independently of the other party, as to the following matters:
 - 25 (A) the effect of the agreement on the rights of the parties under the *Domestic Relationships Act 1994*;
 - 30 (B) if it was advantageous, financially or otherwise, for that party to enter into the agreement;
 - (C) if it was prudent for that party to enter into the agreement;
 - 35 (D) if the agreement was fair and reasonable in the light of the circumstances that were reasonably foreseeable then;”.

Schedule 4

8. Schedule 4 to the Principal Act is amended—

- (a) by omitting from paragraph (p) “or”;
- (b) by adding at the end of paragraph (r) “or”; and
- (c) by adding at the end the following paragraph:

“(s) from the trustee or custodian of a complying superannuation fund or a pooled superannuation trust to a trustee or custodian of a pooled superannuation trust (in this paragraph called the ‘receiving trust’) in exchange for units in the receiving trust for the purpose of giving effect to an investment strategy that increases diversification of investment for the purposes of the Commonwealth Act.”.

NOTE

Principal Act

- 1 Reprinted as at 28 February 1995 See also Acts Nos 13 and 54, 1995, Nos 49, 50 and 57, 1996.