

## EXPLANATORY STATEMENT

### AUSTRALIAN CAPITAL TERRITORY

#### REAL PROPERTY (AMENDMENT) ORDINANCE 1987

No. 66 of 1987

The Real Property (Amendment) Ordinance 1987 ("the Ordinance") amends the Real Property Ordinance 1925 ("the principal Ordinance") to provide that instruments stamped in accordance with the Stamp Duties and Taxes Ordinance 1987 may be registered by the Registrar of Titles and also that documents required to be stamped under the Stamp Duties and Taxes Ordinance 1987 but which are not so stamped shall not be registered by the Registrar of Titles.

The Ordinance also provides that instruments executed on or after 1 August 1987 do not have to be stamped in accordance with the Australian Capital Territory Taxation (Administration) Act 1969, with the exception of loan securities, which have to be stamped in accordance with that Act if executed prior to 1 September 1987.

The Ordinance is deemed to have commenced on 1 August 1987, the date of commencement of the Stamp Duties and Taxes Ordinance 1987. The retrospective operation of the Ordinance prevents difficulties which would otherwise arise with instruments stamped under the Stamp Duties and Taxes Ordinance 1987 since 1 August and which could not, without the operation of the provisions of the Ordinance, have been registered by the Registrar of Titles.

Details of the Ordinance are as follows.

Section 1 provides that the Ordinance may be cited as the Real Property (Amendment) Ordinance 1987.

Section 2 provides that the Ordinance shall be deemed to have come into operation on 1 August 1987.

Section 3 amends section 51 of the principal Ordinance to provide that:

- a) a transfer or agreement for transfer of an estate in fee simple; a transfer or agreement for transfer of a Crown lease for a term exceeding 5 years; a lease (other than a Crown lease) and a transfer or assignment or agreement for a transfer or assignment of a lease other than a Crown lease for a term exceeding 5 years that is executed on or after 1 July 1969 and before 1 August 1987;
- b) a loan security connected with the Territory that is executed on or after 1 January 1986 and before 1 September 1987; and

c) a Crown lease of land in the Territory that is executed on or after 1 January 1987 and before 1 August 1987, shall not be registered by the Registrar of Titles unless:

- 1) the instrument is duly stamped within the meaning of the Australian Capital Territory Taxation (Administration) Act 1969;
- 2) the instrument has a stamp impressed under the provisions of that Act to the effect that no stamp duty is payable; or
- 3) the instrument is a counterpart of another instrument that has been duly stamped and carries a stamp to that effect impressed under the terms of that Act.

Section 51 of the principal Ordinance is further amended by the insertion of subsection (3) to provide that the Registrar of Titles shall not register an instrument of a kind referred to in paragraph 17(a), (b), (c) or (d) of the Stamp Duties and Taxes Ordinance 1987 unless the instrument has been duly stamped within the meaning of that Ordinance. The instruments concerned are:

- a) a transfer or an agreement for a transfer of an estate in fee simple;
- b) a Crown lease or a transfer or an agreement for a transfer of a Crown lease;
- c) a lease of land (not being a Crown lease); and
- d) a transfer or assignment, or an agreement for a transfer or assignment of a lease of land (not being a Crown lease).

Authorised by the  
Minister for the Arts,  
Sport, The Environment  
Territories and Tourism