



AUSTRALIAN CAPITAL TERRITORY

Duties (Consequential and Transitional Provisions) Act 1999

No. 8 of 1999

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AUSTRALIAN CAPITAL TERRITORY

Duties (Consequential and Transitional Provisions) Act 1999

No. 8 of 1999

An Act to make certain transitional provisions, and to amend certain Acts, in consequence of the enactment of the *Duties Act 1999*

[Notified in ACT Gazette S8: 1 March 1999]

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

PART I—PRELIMINARY

1. Short title

This Act may be cited as the *Duties (Consequential and Transitional Provisions) Act 1999*.

2. Commencement

(1) This Part commences on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on the day fixed for the purposes of subsection 2 (2) of the *Duties Act*.

3. Interpretation

- (1) In this Act, unless the contrary intention appears—
- “commencement day” means the day fixed for the purposes of subsection 2 (2) of the Duties Act;
 - “Duties Act” means the *Duties Act 1999*;
 - “Stamp Duties and Taxes Act” means the *Stamp Duties and Taxes Act 1987*.
- (2) Unless the contrary intention appears, an expression used in this Act has the same meaning as in the Duties Act.

PART II—REPEALS

4. Acts repealed

The Acts specified in the Schedule are repealed.

PART III—TRANSITIONAL PROVISIONS

5. Application of Duties Act to instruments

Except as provided by this Part, the Duties Act applies in relation to an instrument first executed on or after the commencement day.

6. Continued operation of Stamp Duties and Taxes Act in relation to instruments

- (1) Notwithstanding the repeal of the Stamp Duties and Taxes Act, that Act continues to apply in relation to—
- (a) a transfer, or an agreement for a transfer, of an estate in fee simple;
 - (b) a Crown lease (not being a lease referred to in paragraph (c)), or a transfer or an agreement for a transfer of a Crown lease;
 - (c) a Crown lease granted to the lessee of a previous Crown lease (whether or not of the same parcel of land) because of the surrender of the previous Crown lease;
 - (d) a lease of land (not being a Crown lease or a lease for residential purposes); and
 - (e) a transfer or assignment, or an agreement for a transfer or assignment, of a lease of land (not being a Crown lease);
- that was first executed before the commencement day.

(2) In its continued application under subsection (1), section 29 of the Stamp Duties and Taxes Act has effect as if the reference in paragraph (1) (b) of that section to section 37A of the *City Area Leases Act 1936* were a reference to section 178 of the *Land (Planning and Environment) Act 1991*.

7. Application of Chapter 2 of the Duties Act

(1) Subject to section 9, the duty charged by Chapter 2 of the Duties Act is charged on dutiable transactions that occur on or after the commencement day.

(2) Dutiable transactions that occurred before the commencement day are not to be aggregated under section 24 of the Duties Act.

8. Approval to pay duty by periodic return

A corporation that was, immediately before the commencement day, a corporation prescribed for the purposes of section 49D of the Stamp Duties and Taxes Act shall be taken to have been given, on that day, approval under section 43 of the *Taxation Administration Act 1999* to pay duty on transactions to which Part IV of Chapter 2 of the Duties Act applies by the arrangements applicable under sections 49D and 49E of the Stamp Duties and Taxes Act immediately before the commencement day.

9. Transfers back from a nominee

(1) Section 57 of the Duties Act applies in relation to—

- (a) a transfer of dutiable property to a trustee; and
- (b) the payment of duty on that transfer;

before the commencement day if the transfer back to the transferor occurs on or after that day.

(2) In its application under subsection (1), section 57 of the Duties Act has effect as if the reference in subsection (2) of that section to duty paid in respect of an initial transfer included a reference to stamp duty paid under the Stamp Duties and Taxes Act in respect of such a transfer.

10. Credit for duty paid on the acquisition of a business

(1) Notwithstanding the repeal of the Stamp Duties and Taxes Act, subsections 64E (2) and (3) of that Act continue to apply in relation to an acquisition of a business in respect of which tax had been paid under section 64A of that Act.

(2) In its continued application under subsection (1), subsection 64E (2) of the Stamp Duties and Taxes Act has effect as if the reference in paragraph (a) of that subsection to stamp duty included a reference to duty chargeable under the Duties Act.

(3) In its continued application under subsection (1), subsection 64E (3) of the Stamp Duties and Taxes Act has effect as if the reference in that subsection to stamp duty included a reference to other duties.

11. Application of Chapter 3 of the Duties Act

The duty charged by Chapter 3 of the Duties Act is charged on transactions that occur on or after the commencement day.

12. How duty is charged on relevant acquisitions

(1) The reference in section 90 of the Duties Act to a period of 3 years is a reference to a period of 3 years ending on or after the commencement day.

(2) However acquisitions that occurred before the commencement day are not to be aggregated under that section.

13. Application of Chapter 4 of the Duties Act

(1) Subject to subsection (2), the duty charged by Chapter 4 of the Duties Act is charged on—

- (a) sales and purchases of marketable securities; and
- (b) associated transactions referred to in paragraph 118 (1) (d) of that Act;

that take place on or after the commencement day.

(2) Section 125 of the Duties Act applies in relation to sales and purchases of marketable securities made before the commencement day if the liability for duty under that section arises on or after that day.

14. Continued application of Stamp Duties and Taxes Act in relation to marketable securities

Notwithstanding the repeal of the Stamp Duties and Taxes Act, that Act continues to apply in relation to—

- (a) a sale or purchase of marketable securities referred to in section 38 of that Act that occurred before the commencement day;
- (b) a transfer of marketable securities referred to in section 44 of that Act that was made before the commencement day; and

- (c) a change in the beneficial ownership of a marketable security to which section 49F of that Act applied and that was made before the commencement day.

15. Application of Chapter 5 of the Duties Act

- (1) Subject to subsection (2), the duty charged by Chapter 5 of the Duties Act is charged on lease instruments that are first executed on or after the commencement day.
- (2) The duty charged by Chapter 5 of the Duties Act is applicable to a lease instrument that was first executed before the commencement day if a variation made to the lease on or after that day increases the cost of the lease.
- (3) Section 148 of the Duties Act applies to a lease instrument in respect of which stamp duty was paid before the commencement day if the lease is terminated on or after that day.
- (4) In its application under subsection (3), section 148 of the Duties Act has effect as if the references to duty in subsections (1) and (4) of that section included references to stamp duty.
- (5) Section 149 of the Duties Act applies to a lease instrument in respect of which stamp duty was paid before the commencement day if the lease is varied on or after that day so as to reduce the total cost of the lease.
- (6) In its application under subsection (5), section 149 of the Duties Act has effect as if the references to duty in subsections (1) and (3) of that section included references to stamp duty.

16. Application of Chapter 6 of the Duties Act

The duty charged by Chapter 6 of the Duties Act is charged—

- (a) in respect of the hire of goods by a person who is a commercial hire business—on the hiring charges received by the person on or after the commencement day; and
- (b) in respect of the hire of goods by a person who is not a commercial hire business—on a hire of goods that is entered into by the person on or after the commencement day.

17. Continued operation of Part VIB of the Stamp Duties and Taxes Act

(1) Notwithstanding the repeal of the Stamp Duties and Taxes Act, that Act continues to apply in relation to—

- (a) hiring charges received by a commercial hirer before the commencement day; and
- (b) a transaction entered into before the commencement day that is—
 - (i) an equipment financing arrangement; or
 - (ii) a hiring (not being an equipment financing arrangement) where the amount of the charges for the hiring exceeds the duty-free threshold;

being a transaction under which hiring charges are payable to a person who is not a commercial hirer.

(2) In this section “commercial hirer”, “duty-free threshold”, “equipment financing agreement” and “hiring charge” have the same respective meanings as in Part VIB of the Stamp Duties and Taxes Act immediately before that Act was repealed.

18. Registered commercial hirers

A person who was, immediately before the commencement day, a commercial hirer registered under Division 2 of Part VIB of the Stamp Duties and Taxes Act shall be taken to have been registered as a commercial hire business under Part III of Chapter 6 of the Duties Act on that day.

19. Application of Chapter 8 of the Duties Act

(1) The duty charged by Chapter 8 of the Duties Act is charged on—

- (a) the amount of a premium paid on or after the commencement day in relation to a contract that effects general insurance;
- (b) the sum insured by a policy of life insurance, other than a temporary or term insurance policy, executed on or after the commencement day;
- (c) the first years premium in respect of a policy of temporary or term insurance, or a life insurance rider, executed on or after the commencement day; and

- (d) a premium paid on or after the commencement day in respect of a policy of disability income insurance, being insurance under which an amount is payable in the event of the disablement of the insured by accident or sickness.

(2) For the purposes of this section, a payment of a periodic premium in respect of disability income insurance that is continued, but not renewed, on the payment of the premium shall be taken to be paid in respect of a new policy of disability income insurance.

20. Continued operation of Part IV of the Stamp Duties and Taxes Act

Notwithstanding the repeal of the Stamp Duties and Taxes Act, that Act continues to apply in relation to—

- (a) premiums received, whether in Australia or elsewhere, in respect of life insurance effected in respect of a person domiciled in the Territory when the insurance was effected, being life insurance provided by a life insurance policy executed before the commencement day;
- (b) premiums received before the commencement day, whether in Australia or elsewhere, in respect of general insurance effected in respect of—
 - (i) property situated in the Territory when the insurance was effected; or
 - (ii) any act or omission occurring in the Territory; and
- (c) premiums received in the Territory before the commencement day in respect of general insurance, other than the insurance referred to in paragraph (b), where—
 - (i) tax or stamp duty is not payable under a corresponding law in respect of the premium; or
 - (ii) tax or stamp duty payable under a corresponding law in respect of the premium has not been paid.

21. Registered insurers

A person who was, immediately before the commencement day, registered as a life insurer or general insurer under section 33 of the Stamp Duties and Taxes Act shall be taken to have been registered as an insurer under Part IV of Chapter 8 of the Duties Act on that day.

22. Refunds where premiums are returned

(1) Section 182 of the Duties Act applies in respect of tax paid under Part IV of the Stamp Duties and Taxes Act on premiums paid in respect of insurance that was general insurance within the meaning of the Stamp Duties and Taxes Act.

(2) In its application under subsection (1), section 182 of the Duties Act has effect as if—

- (a) a reference in that section to duty included a reference to tax paid under Part IV of the Stamp Duties and Taxes Act;
- (b) a reference in that section to dutiable premium included a reference to taxable premium; and
- (c) a reference in that section to a person to whom section 180 of the Duties Act applies included a reference to a person to whom section 36A of the Stamp Duties and Taxes Act applied.

23. Refund on cancellation of policy of life insurance

(1) Section 188 of the Duties Act applies in respect of tax paid under Part IV of the Stamp Duties and Taxes Act on premiums paid in respect of insurance that was life insurance within the meaning of the Stamp Duties and Taxes Act.

(2) In its application under subsection (1), section 188 of the Duties Act has effect as if a reference in that section to duty included a reference to tax paid under Part IV of the Stamp Duties and Taxes Act.

24. Application of Chapter 9 of the Duties Act

(1) Subject to subsection (2), the duty charged by Chapter 9 of the Duties Act is charged on—

- (a) an application to register a motor vehicle made on or after the commencement day; and
- (b) an application to register a motor vehicle made before the commencement day in respect of which a certificate of registration is issued on or after that day.

(2) Duty is not chargeable under Chapter 9 of the Duties Act in respect of an application to register a motor vehicle if the vehicle is a used motor vehicle and—

- (a) duty has been paid in respect of the registration under section 56A of the Stamp Duties and Taxes Act; or

- (b) a return has been lodged by a licensed vehicle dealer under section 56D of the Stamp Duties and Taxes Act in respect of a sale of the vehicle to the applicant.

25. Continued operation of certain provisions of Part VI of the Stamp Duties and Taxes Act

(1) Notwithstanding the repeal of the Stamp Duties and Taxes Act, sections 56A, 56B and 56D of that Act continue to apply in respect of a sale of a used vehicle made by a licensed vehicle dealer before the commencement day.

(2) Notwithstanding the repeal of the Stamp Duties and Taxes Act, section 56F of that Act continues to apply in relation to tax paid under Part VI of that Act on a sale of a used vehicle by a licensed vehicle dealer.

26. Certificates of exemption

(1) A certificate in effect under section 62 of the Stamp Duties and Taxes Act immediately before the commencement day shall, on and after that day, be taken to have been issued under section 222 of the Duties Act.

(2) A certificate to which subsection (1) applies that was issued for a reason referred to in paragraph 62 (1) (a) of the Stamp Duties and Taxes Act shall, on and after the commencement day, be taken to have been issued for the corresponding reason referred to in paragraph 222 (1) (a) of the Duties Act.

27. Duty and tax paid under the Stamp Duties and Taxes Act

If an assessment or reassessment of duty under the Duties Act is required to take into consideration another amount of duty paid, a reference in the Duties Act to duty includes a reference to stamp duty, tax and duty within the meaning of the Stamp Duties and Taxes Act that has been paid in accordance with the provisions of that Act.

28. Stamping under the Stamp Duties and Taxes Act

An instrument is duly stamped for the purposes of the Duties Act if, immediately before the commencement day, it was duly stamped for the purposes of the Stamp Duties and Taxes Act.

29. Determined duties and taxes

(1) Notwithstanding the repeal of the *Taxation (Administration) Act 1987*, a determination under that Act in respect of stamp duty, duty or tax payable under a continuing provision, being a determination in force immediately before the commencement day, continues in force on and after that day for the purposes of that provision.

(2) In subsection (1)—

“continuing provision” means a provision of the Stamp Duties and Taxes Act that continues to apply on and after the commencement day by virtue of this Part.

30. Interim determination of rates of duty for certain dutiable transactions and certain leases

(1) Subject to this section, with effect on and after the commencement day, duty at the rate referred to in Column 3 of the following table opposite a range of amounts in Column 2 of the table shall be taken to have been determined by the Minister under section 139 of the *Taxation Administration Act* for the purposes of section 31 of the *Duties Act* to be the rate of duty chargeable in respect of a dutiable transaction the dutiable amount of which is included in that range of amounts.

TABLE
RATES OF DUTY

Column 1	Column 2	Column 3
Item	Range of dutiable amounts of dutiable transactions	Rate of duty
1	Not more than \$14,000	\$1.25 for every \$100, or part of \$100, of the dutiable value or \$20, whichever is the greater
2	More than \$14,000 but not more than \$30,000	\$175 plus \$1.50 for every \$100, or part of \$100, by which the dutiable value exceeds \$14,000

3	More than \$30,000 but not more than \$60,000	\$415 plus \$2 for every \$100, or part of \$100, by which the dutiable value exceeds \$30,000
4	More than \$60,000 but not more than \$100,000	\$1,015 plus \$2.50 for every \$100, or part of \$100, by which the dutiable value exceeds \$60,000
5	More than \$100,000 but not more than \$300,000	\$2,015 plus \$3.50 for every \$100, or part of \$100, by which the dutiable value exceeds \$100,000
6	More than \$300,000 but not more than \$1,000,000	\$9,015 plus \$4.50 for every \$100, or part of \$100, by which the dutiable value exceeds \$300,000
7	More than \$1,000,000	\$40,515 plus \$5.50 for every \$100, or part of \$100, by which the dutiable value exceeds \$1,000,000

(2) Subject to this section, with effect on and after the commencement day, duty at the rate referred to in Column 3 of the following table opposite a range of amounts in Column 2 of the table shall be taken to have been determined by the Minister under section 139 of the Taxation Administration Act for the purposes of section 141 of the Duties Act to be the rate chargeable in respect of a lease the total cost of which is included in that range of amounts.

TABLE
RATES OF DUTY

Column 1	Column 2	Column 3
Item	Total cost of lease	Rate of duty
1	Not more than \$14,000	\$1.25 for every \$100, or part of \$100, of the total cost or \$20, whichever is the greater

2	More than \$14,000 but not more than \$30,000	\$175 plus \$1.50 for every \$100, or part of \$100, by which the total cost exceeds \$14,000
3	More than \$30,000 but not more than \$60,000	\$415 plus \$2 for every \$100, or part of \$100, by which the total cost exceeds \$30,000
4	More than \$60,000 but not more than \$100,000	\$1,015 plus \$2.50 for every \$100, or part of \$100, by which the total cost exceeds \$60,000
5	More than \$100,000 but not more than \$300,000	\$2,015 plus \$3.50 for every \$100, or part of \$100, by which the total cost exceeds \$100,000
6	More than \$300,000 but not more than \$1,000,000	\$9,015 plus \$4.50 for every \$100, or part of \$100, by which the total cost exceeds \$300,000
7	More than \$1,000,000	\$40,515 plus \$5.50 for every \$100, or part of \$100, by which the total cost exceeds \$1,000,000

(3) For the purpose of facilitating revocation or variation by determination under section 139 of the Taxation Administration Act of the ranges of amounts and the corresponding rates of duty provided for in the table in subsection (1) or (2), the Minister may, after the commencement day, by notice published in the *Gazette*, make a determination for the purposes of section 31 or 141 of the Duties Act that is expressed to determine those ranges of amounts and corresponding rates of duty.

(4) Upon the publication in the *Gazette* of a determination referred to in subsection (3) that is made for the purposes of section 31 of the Duties Act, subsection (1) of this section shall be taken to have expired.

(5) Upon the publication in the *Gazette* of a determination referred to in subsection (3) that is made for the purposes of section 141 of the Duties Act, subsection (2) of this section shall be taken to have expired.

(6) A determination referred to in subsection (3) is not a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

(7) A determination referred to in subsection (3) has effect according to its terms and may be revoked or varied as if it had been made under section 139 of the Taxation Administration Act.

(8) In subsection (1)—

“dutiable amount”, in relation to a dutiable transaction, means the dutiable value of the dutiable property subject to the transaction.

31. Interim determination of certain rates of duty

(1) Subject to this section, with effect on and after the commencement day—

- (a) the rate of 60 cents for every \$100, or part of \$100, of the dutiable value of the marketable securities shall be taken to have been determined for the purposes of subsection 32 (1) of the Duties Act;
- (b) the rate of 30 cents for every \$100, or part of \$100, of the dutiable value of the marketable securities shall be taken to have been determined for the purposes of subsection 32 (2) of the Duties Act;
- (c) the rate of 60 cents for every \$100, or part of \$100, of the dutiable value of the property the subject of the transaction, insofar as it is property to which subsection 33 (1) of the Duties Act applies, shall be taken to have been determined for the purposes of that subsection;
- (d) the rate of 50 cents for every \$100, or part of \$100, of the total cost of the lease shall be taken to have been determined for the purposes of section 140 of the Duties Act;
- (e) the rate of 0.75% of the total amount of the hiring charges of the equipment financing arrangement shall be taken to have been determined for the purposes of subsection 159 (1) of the Duties Act;

- (f) the rate of 1.5% of the total amount of the hiring charges of the ordinary hire of goods shall be taken to have been determined for the purposes of subsection 159 (2) of the Duties Act;
- (g) the rate of 10% of the amount of the premium paid in relation to a contract of general insurance shall be taken to have been determined for the purposes of section 178 of the Duties Act;
- (h) the rate of—
 - (i) \$1 on the first \$2,000, or part of \$2,000, of the sum insured; and
 - (ii) 20 cents for every \$200, or part of \$200, in excess of the first \$2,000 of the sum insured;shall be taken to have been determined for the purposes of subsection 185 (1) of the Duties Act;
- (i) the rate of 5% of the first year's premium for the temporary or term insurance policy shall be taken to have been determined for the purposes of subsection 185 (2) of the Duties Act;
- (j) the rate of 5% of the first year's premium for the rider shall be taken to have been determined for the purposes of subsection 185 (3) of the Duties Act;
- (k) the rate of 10% of the premium paid to effect the insurance shall be taken to have been determined for the purposes of subsection 185 (4) of the Duties Act;
- (l) the rate of \$3 for every \$100, or part of \$100, of the dutiable value of the motor vehicle shall be taken to have been determined for the purposes of subsection 208 (1) of the Duties Act; and
- (m) the rate of \$5 for every \$100, or part of \$100, of the dutiable value of the motor vehicle shall be taken to have been determined for the purposes of subsection 208 (2) of the Duties Act.

(2) For the purpose of facilitating revocation by determination under section 139 of the Taxation Administration Act of a rate of duty specified in a paragraph of subsection (1), the Minister may, after the commencement day, by notice published in the *Gazette*, make a determination for the purposes of the provision of the Duties Act referred to in that paragraph, being a determination that is expressed to determine a rate of duty that is to have effect in place of the rate specified in the paragraph.

- (3) Upon the publication in the *Gazette* of a determination referred to in subsection (2), the paragraph of subsection (1) that relates to the provision of the Duties Act for the purposes of which the determination was made shall be taken to have expired.
- (4) A determination referred to in subsection (2) is not a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.
- (5) A determination referred to in subsection (2) has effect according to its terms and may be revoked or varied as if it had been made under section 139 of the Taxation Administration Act.
- (6) A reference in subsection (1) to a determination that is to be taken to have been made shall be read as a reference to a determination that is to be taken to have been made by the Minister under section 139 of the Taxation Administration Act.

PART IV—CONSEQUENTIAL AMENDMENTS

32. Amendment of the Land Titles Act

Section 51 of the *Land Titles Act 1925* is amended by omitting subsection (3) and substituting the following subsections:

“(3) The Registrar-General shall not register an instrument executed on or after 1 August 1987 and before the repeal day, being an instrument of a kind referred to in paragraph 17 (1) (a), (b), (c), (ca) or (d) of the *Stamp Duties and Taxes Act 1987*, unless the instrument has been duly stamped within the meaning of that Act.

“(4) In subsection (3)—

‘repeal day’ means the day on which the *Stamp Duties and Taxes Act 1987* is repealed.”.

33. Amendment of the Administrative Decisions (Judicial Review) Act

Schedule 1 to the *Administrative Decisions (Judicial Review) Act 1989* is amended by inserting:

“*Taxation Administration Act 1999*;
Duties Act 1999”

after:

“*Stamp Duties and Taxes Act 1987*”.

PART V—MISCELLANEOUS

34. Consequential and transitional regulations

(1) The Executive may make regulations amending the provisions of this Act (other than this section), the Duties Act or any other Act in relation to any matter arising from, connected with or consequential upon the enactment of the Duties Act.

(2) Regulations made under subsection (1) may be expressed to have taken effect on a day earlier than the day on which they are notified in the *Gazette*, not being a day earlier than the commencement day.

(3) If regulations made under subsection (1) are expressed to take effect on a day earlier than the day on which they are notified in the *Gazette*, they do not operate so as to—

(a) affect, in a manner prejudicial to any person (other than the Territory or a Territory authority), the rights of that person existing at the day of notification; or

(b) impose liabilities on any person (other than the Territory or an authority of the Territory) in respect of any act or omission before the day of notification.

(4) The Executive may only make regulations under subsection (1) during the period of 12 months commencing on the commencement day.

SCHEDULE

Section 4

ACTS REPEALED

Stamp Duties and Taxes Act 1987
Stamp Duties and Taxes (Amendment) Act 1987
Stamp Duties and Taxes (Amendment) Act 1988
Stamp Duties and Taxes (Amendment) Act (No. 2) 1988
Stamp Duties and Taxes (Amendment) Act (No. 3) 1988
Stamp Duties and Taxes (Amendment) Act 1989
Stamp Duties and Taxes (Amendment) Act 1990
Stamp Duties and Taxes (Amendment) Act 1991
Stamp Duties and Taxes (Amendment) Act 1992
Stamp Duties and Taxes (Amendment) Act 1993
Stamp Duties and Taxes (Amendment) Act (No. 2) 1993
Stamp Duties and Taxes (Amendment) Act (No. 3) 1993
Stamp Duties and Taxes (Amendment) Act (No. 4) 1993
Stamp Duties and Taxes (Amendment) Act 1994
Stamp Duties and Taxes (Amendment) Act 1995
Stamp Duties and Taxes (Amendment) Act 1996
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Stamp Duties and Taxes (Amendment) Act (No. 3) 1996
Stamp Duties and Taxes (Amendment) Act 1997
Stamp Duties and Taxes (Amendment) Act 1998

[Presentation speech made in Assembly on 10 December 1998]