

EXPLANATORY STATEMENT

STAMP DUTIES AND TAXES (AMENDMENT) ORDINANCE (No. 2) 1988

ORDINANCE NO. 56 OF 1988

The Stamp Duties and Taxes Ordinance 1987 (The Principal Ordinance) provides for the imposition and payment of stamp duties and certain taxes and other related purposes.

The Stamp Duties and Taxes (Amendment) Ordinance (No. 2) amends the Principal Ordinance to rationalise the levy of stamp duty on grants of Crown leases which are made following an arrangement for the surrender of a previous Crown lease.

Previously the grant of a Crown lease was exempt from stamp duty where the surrender of the previous Crown lease was in connection with a purpose specified in the Principal Ordinance. Purposes previously exempted included amalgamation of adjoining leases, subdivision of leases, extension of term of lease, conversion to Crown lease at “peppercorn” rent and correction of errors or omissions.

The situations previously exempted from duty under the Ordinance are not exhaustive of the situations in which arrangements are made for the surrender and regrant of Crown leases. Instances which were not exempt were, for example, where the boundaries of the lease granted differ from those of the lease surrendered and where a lease is surrendered for the purpose of removing a restrictive lease covenant. In such cases, leases regranted were subject to duty payable on the total value of the lease granted.

The Ordinance makes all cases where a Crown lease is granted to the lessee of a previous Crown lease, because of the surrender of the previous Crown lease, subject to special stamp duty provisions.

The amount of duty payable will be determined from time to time by an instrument made under section 99 of the Taxation (Administration) Ordinance 1977. The Ordinance provides that the amount so determined will not exceed the amount that would have been payable if the Ordinance had not been made.

The Ordinance provides that such a determination made under section 99 will reduce retrospectively stamp duty liability under the Principal Ordinance in relation to those conveyances, referred to above, which were not exempt altogether from duty, but instead were subject to the full duty on a grant of a Crown lease.

Details of the Ordinances are as follows:

Section 1 provides for the short title of the Ordinance to be cited as the Stamp Duties and Taxes (Amendment) Ordinance (No. 2) 1988.

Section 2 provides for section 4 to be deemed to have commenced on 1 August 1987.

Section 3 recites that the Principal Ordinance is the Stamp Duties and Taxes Ordinance 1987.

Section 4 amends section 17 of the Principal Ordinance by describing, as a separate category of conveyance liable to stamp duty, 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.

This section also provides that a determination relating to the amount of stamp duty payable on such a conveyance may be expressed to take effect at any time after 31 July 1987 and that the amount of stamp duty so determined shall not exceed the amount that would have been payable if the amendments made by section 4 of the Ordinance had not been made.

Section 5 amends Schedule 1 of the Principal Ordinance to remove from the categories of conveyance exempt from stamp duty a conveyance of a Crown lease granted to the lessee of a previous Crown lease because of the surrender of the previous Crown lease, where the surrender was in connection with the purposes listed in subparagraphs (iii) to (vi) at paragraph (k) of Schedule 1.

ISSUED BY THE AUTHORITY OF
THE MINISTER FOR THE ARTS AND
TERRITORIES