

## New Zealand.



### ANALYSIS.

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1924, No. 27.

Title.

AN ACT to amend the Stamp Duties Act, 1923.

[18th October, 1924.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Short Title.

1. This Act may be cited as the Stamp Duties Amendment Act, 1924, and shall be read together with and deemed part of the Stamp Duties Act, 1923 (hereinafter referred to as the principal Act).

Limitation of duty payable on assignments of moneys owing by dairy company to suppliers of milk, &c.

2. Section seventy-nine of the principal Act is hereby amended by adding to paragraph (b) the following proviso :—

“Provided that no transfer of moneys payable or to become payable in respect of the supply of milk, cream, or other dairy-produce to a factory shall be chargeable with a greater duty than twelve shillings and sixpence.”

Repeal.

3. Section ninety-four of the principal Act is hereby repealed.

Repeal.

4. Section one hundred and nine of the principal Act is hereby repealed, and the following sections substituted therefor :—

“109. (1.) Subject to the provisions of this Part of this Act, every mortgage of land shall be charged with *ad valorem* stamp duty (hereinafter termed mortgage duty), for which the mortgagee shall be primarily liable, and which shall be computed at the rate of five shillings for every one hundred pounds or fractional part of a hundred pounds of the principal sum secured thereby. Mortgage duty

“(2.) A general exemption from stamp duties contained in any Act shall be construed subject to the provisions of this section.

“109A. (1.) Where the same sum or any part of the same sum is secured by a mortgage of land and also by a mortgage of any other property (whether such security is contained in one instrument or in two or more instruments, and whether such instruments are contemporaneous, or are between the same parties, or not), the following provisions shall apply:— Mortgage duty on mixed mortgages.

“(a.) The mortgagee may notify to the Commissioner or an Assistant Commissioner in writing what amount is intended by him to be secured upon the land, and in such case mortgage duty shall be payable only on the amount so notified, and the land shall for all purposes be deemed to be charged only with the amount in respect whereof mortgage duty has been paid:

“Provided that the mortgagee or his assigns may at any time and from time to time thereafter during the currency of the mortgage notify the Commissioner or an Assistant Commissioner in writing that he desires that the land shall be a security for an increased amount, and thereupon additional mortgage duty shall become payable accordingly; and upon such payment the land shall become charged with and be a security also for such increase. In any such case a memorial of the increase shall be endorsed by the Commissioner or Assistant Commissioner on the mortgagee's copy of the mortgage, and on production of the mortgagee's copy to the District Land Registrar or the Registrar of Deeds, as the case may require, and on payment of a fee of five shillings, a copy of such memorial shall be made upon the registered copy or on the recorded copy, as the case may be, of such mortgage.

“(b.) If the mortgagee does not notify the Commissioner or an Assistant Commissioner, before the mortgage is stamped, what part of the moneys is intended by him to be secured upon the land, the Commissioner shall have power to apportion the amount secured, in such proportions as he thinks just, as between the land and the other property, and mortgage duty shall be payable only on the amount apportioned in respect of the land.

“(2.) Nothing in this section shall apply with respect to any mortgage to secure the payment or repayment of moneys lent or to become owing upon a current account.”

5. Section one hundred and eleven of the principal Act is hereby repealed, and the following section substituted therefor:— Repeal.

“111. (1.) A mortgage of land to secure the payment or repayment of money to be lent or to become owing upon a current account, either Mortgages to secure current accounts.

with or without money previously owing, shall be charged, where the total amount secured is in any way limited, with the same duty as a mortgage of land for the amount so limited:

“ Provided that where the amount so limited exceeds the value of the security the duty shall be the same as on a mortgage for the value of the security. In estimating the value of any security account shall be taken of the amount of any prior encumbrances.

Where amount  
secured is limited

“(2.) Where moneys owing or to become owing upon a current account as aforesaid are secured by a mortgage of land and also by a mortgage of any other property (whether such security is contained in one instrument or in two or more instruments, and whether such instruments are contemporaneous, or are between the same parties, or not), and where the total amount secured is in any way limited, the following provisions shall apply:—

“(a.) The mortgagee may notify to the Commissioner or an Assistant Commissioner in writing what amount is intended by him to be secured upon the land, and in such case mortgage duty shall be payable only on the amount so notified, and the land shall for all purposes, save as provided in subsection four hereof, be deemed to be charged only with the amount in respect whereof mortgage duty has been paid.

“(b.) If the mortgagee does not notify the Commissioner or an Assistant Commissioner, before the mortgage is stamped, what part of the moneys is intended by him to be secured upon the land, the Commissioner shall have power to apportion the amount secured, in such proportions as he thinks just, as between the land and the other property, and mortgage duty shall be payable only on the amount apportioned in respect of the land.

Where amount  
secured is unlimited.

“(3.) Where moneys owing or to become owing upon a current account as aforesaid are secured either by a mortgage of land only, or by a mortgage of land and also by a mortgage of any other property, and the total amount so secured is unlimited, the security, in so far as it consists of a mortgage of land, shall be available for such amount only as the mortgage duty with which the mortgage has been stamped extends to cover.

“(4.) In any case to which subsection two or subsection three of this section relates, whether the security consists wholly of a mortgage of land, or consists of a mortgage of land and also of any other property, the mortgagee or his assigns may at any time and from time to time during the currency of the mortgage notify the Commissioner or an Assistant Commissioner in writing that he desires that the land shall be security for an increased amount, and thereupon additional mortgage duty shall become payable accordingly; and upon such payment the land shall become charged with and be a security for such increase, but in respect of such increase to the extent only of moneys lent or becoming owing upon the current account after payment of such additional duty or within the period of one month immediately preceding the date of such payment. In any such case a memorial of the increase shall be endorsed by the Commissioner or Assistant Commissioner on the mortgagee's copy of the mortgage, and on production of the mortgagee's copy to the District Land Registrar or the Registrar of Deeds, and on payment

of a fee of five shillings, a copy of such memorial shall be made upon the registered copy or on the recorded copy, as the case may be, of such mortgage."

6. Mortgage duty paid in respect of any agreement to mortgage that may be contained in an agreement of sale, for the purpose of securing any balance of purchase-money payable by the purchaser to the seller, shall be refunded if and so far as the Commissioner is satisfied that the agreement to mortgage has been rescinded, and that application for a refund has been made by the person entitled thereto within twelve months after the execution of the instrument or earliest instrument of agreement of sale.

Refund of mortgage duty in certain cases where an agreement to mortgage is contained in an agreement of sale.

7. Section one hundred and one of the principal Act is hereby amended by adding the following subsection:—

"(5.) Every declaration of trust in respect of property to be held on a charitable trust in New Zealand shall be exempt from duty under this section."

Exemption from duty of declarations of trust of property to be held on charitable trust in New Zealand.

8. (1.) An instrument whereby any person who, by contract or otherwise, is entitled to call for the issue and allotment to himself or to any other person of shares in a New Zealand company (not being paid-up shares within the meaning of section one hundred and five of the principal Act) directs or authorizes the company to issue or allot any such shares to any person other than himself shall be chargeable with conveyance duty as if it were an instrument for the transfer of an equitable interest in shares.

Duty chargeable on issue of shares pursuant to direction of person entitled thereto.

(2.) Any such instrument executed before the passing of this Act, but not earlier than the first day of April, nineteen hundred and twenty-three (being the date originally fixed for the coming into force of the Stamp Duties Act, 1922), shall be chargeable with conveyance duty at the rate prescribed by section seventy-nine of the principal Act in respect of transfers of shares or of any equitable interest in shares, and shall not be chargeable with any other stamp duty.

9. Section one hundred and ten of the principal Act is hereby amended by adding the following as subsection two thereof:—

"(2.) Where an actual mortgage executed in pursuance of an agreement to mortgage is presented for stamping within one month after the execution of the agreement to mortgage, the mortgage may be stamped with mortgage duty, and the agreement to mortgage shall thereupon, to the extent to which it has been carried into effect by the execution of the mortgage, be exempt from duty."

Agreement to mortgage to be exempt from duty if actual mortgage presented for stamping within one month.

10. In any case where duty at the special rate fixed by section one hundred and twelve of the principal Act has been paid on any mortgage of land (being, in relation to another mortgage on which mortgage duty has been duly paid, a collateral, auxiliary, additional, or substituted mortgage or a mortgage by way of further assurance), such first-mentioned mortgage shall not become liable to any further stamp duty under the principal Act if and because it thereafter becomes collateral security for moneys subsequently advanced, or if and because the principal mortgage is thereafter discharged.

Limitation of duty on collateral securities payable under section 112 of principal Act.

11. Section one hundred and fifteen of the principal Act is hereby amended as follows:—

(a.) By omitting from subsection one the words "the mortgage duty on such mortgage shall be charged and computed

Method of computing duty payable on mortgages securing annuities or other periodical payments.

in accordance with this section," and substituting the words "the instrument of mortgage shall be charged with mortgage duty computed on the present value of the annuity or periodical payments as determined by the Commissioner":

(b.) By repealing subsections two, three, and four thereof.

Holder of unstamped bill of exchange may affix and cancel stamp.

12. (1.) Every person into whose hands any bill of exchange or promissory note comes before it has been duly stamped shall, before he presents it for payment, or endorses, transfers, or otherwise negotiates it, or accepts it, or pays it, affix thereto the proper adhesive stamp, and shall cancel every stamp so affixed; but no person shall thereby be relieved from liability for any offence theretofore committed by him against the principal Act in respect of that bill.

Consequential repeals.

(2.) Sections one hundred and thirty-eight and one hundred and thirty-nine of the principal Act are hereby repealed.

Duty on agreements.

13. Section one hundred and fifty-four of the principal Act is hereby amended, as from the commencement of that Act, as follows:—

(a.) By repealing subsection one; and

(b.) By repealing subsection five, and substituting the following subsection:—

"(5.) The following agreements shall be exempt from stamp duty under this section:—

"(a.) An agreement contained in any instrument charged with any other stamp duty not less than the duty chargeable on agreements under this section:

"(b.) Any agreement the matter whereof is not of the value of twenty pounds or upwards:

"(c.) Any agreement relating to the hire of services:

"(d.) An agreement with a company to accept shares in that company:

"(e.) An agreement contained in any policy or contract of insurance, or in a transfer or mortgage of any such policy or contract:

"(f.) An agreement by deed."

Duty on certificates of incorporation of companies.

14. Section one hundred and sixty-two of the principal Act is hereby amended by omitting from subsection one the words "under the Companies Act, 1908," and substituting the words "issued pursuant to section twenty-six of the Companies Act, 1908."

Declarations as to non-revocation of power of attorney not exempt from stamp duty.

15. Section one hundred and sixty-six of the principal Act is hereby amended by adding to paragraph (n) the words "but not including a declaration to the effect that any power of attorney has not been revoked."

Exemption from duty of certain deeds.

16. (1.) In addition to the exemptions from duty provided for in subsection two of section one hundred and sixty-eight of the principal Act, the following instruments shall be exempt from duty under that section:—

(a.) Any declaration of trust in respect of property to be held on a charitable trust in New Zealand:

(b.) Any conveyance on sale of the legal ownership of shares in a mining company within the meaning of Part VIII of the principal Act.

(2.) Subsection one of the said section one hundred and sixty-eight is hereby amended by adding the following proviso:—

“Provided that where any instrument chargeable with duty under this section is expressly exempted from any *ad valorem* duty chargeable under any other provision of this Act the duty charged under this section shall not exceed the amount of the *ad valorem* duty that would have been payable if the instrument were not exempt from such *ad valorem* duty.”

17. Section one hundred and seventy-eight of the principal Act is hereby amended by adding to subsection one the following proviso:—

“Provided that the Commissioner may, if he thinks fit, on special grounds, reduce or remit in whole or in part any penalty so incurred, or may on such grounds refund in whole or in part any such penalty, but no such refund shall be made at any time later than six months after the payment of the penalty.”

18. (1.) In addition to the exemption from duty provided for in section one hundred and eighty-one of the principal Act, the following receipts shall be exempt from duty:—

(a.) A receipt for money paid into any building and investment company, or into any industrial and provident society registered under the Industrial and Provident Societies Act, 1908:

(b.) A receipt given for moneys paid to any person as charitable aid:

(c.) A receipt given for moneys paid as compensation or otherwise pursuant to the Workers' Compensation Act, 1922.

(2.) The exemption provided for by paragraph (a) of the last preceding subsection shall be deemed to have been in force as from the commencement of the principal Act.

19. Any declaration required for the purposes of the State Advances Act, 1913, or in any way required by the State Advances Superintendent shall be exempt from stamp duty.

20. (1.) In this section the term “instrument of guarantee” means an instrument, signed by the party to be charged therewith, whereby the promisor undertakes to be answerable to the promisee for the debt, default, or miscarriage of another person.

(2.) Every instrument of guarantee where the undertaking of the promisor is the principal object shall be charged with a stamp duty of two shillings and sixpence, for which the promisor shall be primarily liable.

(3.) An instrument of guarantee may be either written on stamped paper or stamped by the Stamp Duties Office on presentation for stamping in accordance with Part II of the principal Act.

(4.) Every instrument of guarantee the matter whereof is not of the value of twenty pounds or upwards shall be exempt from duty under this section.

Commissioner may remit penalty payable in respect of failure to stamp any receipt.

Exemption from duty of certain receipts.

Declarations required for purposes of State Advances Office to be exempt from stamp duty.

Duty chargeable on instruments of guarantee.