

## STAMP DUTIES AMENDMENT BILL

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### EXPLANATORY NOTE

THIS Bill amends the Stamp Duties Act 1954.

*Clause 1* relates to the Short Title.

*Clause 2* abolishes the reference fee of 5s. where a person objects to an assessment of duty by delivering the objection to the Commissioner of Inland Revenue.

*Clause 3* abolishes the fee of £2 where a person appeals to the Supreme Court against the decision of the Commissioner in respect of an objection.

*Clause 4* substitutes a new section for section 60 of the principal Act relating to the valuation of land for the purpose of assessing stamp duty. At present the value of land is determined either by the capital value on the current district valuation roll or by a special valuation made by the Valuer-General at the request of the Commissioner of Inland Revenue.

The new section will now provide for the value to be determined as follows:

- (a) By agreement:
- (b) Failing agreement, by the Commissioner by reference to the current capital value in the district valuation roll plus the cost of improvements not included in the roll value; or by a special valuation made at the Commissioner's request without charge to the person liable to pay the duty.

If the value is based on the roll value plus cost of improvements, the person liable to pay duty may request a special valuation at his own expense.

Existing rights of appeal to the Land Valuation Court against special valuations are retained but a new provision provides for a preliminary objection to the Valuer-General.

The clause will come into force on 1 January 1967.

*Clause 5* substitutes a new paragraph (d) of section 69 of the principal Act.

At present, a conveyance by a trustee, executor, or administrator to a beneficiary, devisee, legatee, appointee under a power of appointment, or successor on an intestacy, of property to which the recipient is entitled under the trust, will, or intestacy, is exempt from conveyance duty so far as the property received is that to which he is entitled.

Under the Trustee Act 1956, unless the trust instrument otherwise provides, a trustee has the power to appropriate any part of the trust property in or towards satisfaction of any legacy. In this case no duty is payable notwithstanding that the property conveyed is not that to which the recipient is specifically entitled.

In practice however this power of appropriation is not often exercised. Usually a trustee consults the beneficiaries and a deed of family arrangement is executed which divides the assets *in specie*. This deed is subject to conveyance duty as it has a contractual element.

Frequently it is difficult to determine whether a transaction is a true appropriation by a trustee or whether there is a contractual element present.

The amendment removes these difficulties by exempting from duty every conveyance of property from a trustee to a beneficiary to the extent of the value of the property to which the recipient is specifically entitled.

*Clause 6* amends section 121 of the principal Act by making it clear that sums of money payable by way of commutation of duty on bills of exchange constitute a debt payable to the Crown. Doubts had arisen as to whether payment of such sums could be enforced as, strictly speaking, they did not constitute duty.

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*Hon. Mr Lake*

## STAMP DUTIES AMENDMENT

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### ANALYSIS

Title	4. Valuation of land
1. Short Title	5. Exemptions from conveyance duty
2. Abolition of reference fee	6. Commutation of duty on bills of exchange
3. Abolition of appeal fee	

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### A BILL INTITULED

#### An Act to amend the Stamp Duties Act 1954

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

**1. Short Title**—This Act may be cited as the Stamp Duties Amendment Act 1966, and shall be read together with and deemed part of the Stamp Duties Act 1954\* (hereinafter referred to as the principal Act).

- 10 **2. Abolition of reference fee**—Section 23 of the principal Act is hereby amended by omitting from subsection (1)—
- (a) The words “and on payment of a reference fee of five shillings,”;
- 15 (b) The words “If, as the result of the objection, the assessment is thereafter reduced or cancelled the reference fee so paid shall be refunded.”

\*Reprinted 1964, Vol. 3, p. 2241  
Amendment: 1965, No. 21

**3. Abolition of appeal fee**—(1) Section 25 of the principal Act is hereby amended by omitting from subsection (1) the words “of a fee of two pounds and”.

(2) Section 25 of the principal Act is hereby further amended by repealing subsection (2). 5

**4. Valuation of land**—(1) The principal Act is hereby amended by repealing section 60, and substituting the following section:

“60. (1) For the purpose of assessing stamp duty the value of any land situated in New Zealand shall be determined 10 either—

“(a) By agreement between the Commissioner and the person liable to pay stamp duty on the instrument; or

“(b) In default of agreement, by the Commissioner in 15 accordance with—

“(i) The capital value of the land as it appears in the district valuation roll, in force under the Valuation of Land Act 1951, at the date on which the value of the land is to be determined 20 for the purpose of the assessment of the duty, together with the cost of any improvements not included in the valuation appearing in the roll; or

“(ii) A special valuation of the capital value of the land, made by the Valuer-General on the 25 requisition of the Commissioner for the purposes of this Act, as at the date on which the value of the land is to be determined for the purpose of the assessment of the duty.

“(2) Where the value of any land has been determined 30 by the Commissioner in accordance with subparagraph (i) of paragraph (b) of subsection (1) of this section, the person liable to pay stamp duty on the instrument may, within one month after the date on which notice of the determination is given or within such extended time as the Commis- 35 sioner in his absolute discretion thinks fit, require the Commissioner to redetermine the value of the land in accordance with subparagraph (ii) of the said paragraph (b).

“(3) There shall be payable to the Valuer-General by the Commissioner in respect of any special valuation made 40 pursuant to this section such fee as may be fixed pursuant to any regulations for the time being in force under the Valuation of Land Act 1951. In every case where the valuation has been made pursuant to the requirement of a person

liable to pay stamp duty on an instrument, under subsection (2) of this section, the amount of the fee shall be recoverable from that person by the Commissioner as a debt due to the Crown.

5 “(4) Subject to subsections (7) and (8) of this section, every determination or redetermination made under subsection (1) or subsection (2) of this section shall be final and conclusive.

10 “(5) Where a special valuation of any land is made by the Valuer-General under subsection (1) or subsection (2) of this section, notice of the amount of that valuation shall be given by him to the Commissioner.

15 “(6) The Commissioner shall thereupon determine the value of the land in accordance with the special valuation, and shall give notice of the determination to the person liable to pay stamp duty on the instrument.

20 “(7) Any person to whom any such notice is given may, within one month after the date on which the notice is given, object to the special valuation by delivering or posting to the Commissioner a written notice of objection stating the grounds of the objection and the value at which he contends the land should be assessed for duty. The Commissioner shall thereupon forward the objection to the Valuer-General, and the provisions of sections 20, 21, 22, and 23 of the Valuation of Land Act 1951, as far as they are applicable and with the necessary modifications, shall apply to the objection:

25 “Provided that where the objector is not also the owner of the land, the owner of the land shall not have any right to object to the special valuation or to have served on him any notice required to be served under those sections.

30 “(8) If, as a result of the objection, any alteration is made to the special valuation the Valuer-General shall notify the Commissioner who shall redetermine the value of the land accordingly.

35 “(9) No alteration shall be made to the district valuation roll by virtue of any agreement reached, or valuation or revaluation made, for the purposes of this section, or by virtue of any decision of the Valuer-General or the Land Valuation Court pursuant to this section.

40 “(10) In this section the terms ‘capital value’, ‘land’, and ‘owner’ have the same meaning as in the Valuation of Land Act 1951.”

(2) The Valuation of Land Act 1951 is hereby amended—

45 (a) By repealing paragraph (a) of subsection (1) of section 31:

(b) By omitting from subsection (2) of section 31 the words “(including the Stamp Duties Office)”:

(c) By repealing sections 32, 33, and 34.

(3) Section 7 of the Valuation of Land Amendment Act 1965 is hereby consequentially amended by repealing subsection (2).

(4) This section shall come into force on the first day of January, nineteen hundred and sixty-seven. 5

**5. Exemptions from conveyance duty**—(1) Section 69 of the principal Act is hereby amended by repealing paragraph (d), and substituting the following paragraph:

“(d) A conveyance by a trustee, executor, or administrator to a beneficiary, devisee, legatee, appointee under a power of appointment, or successor on an intestacy, whether of property to which the beneficiary, devisee, legatee, appointee, or successor is entitled under the trust, will, or intestacy, or of other property in substitution therefor, to the extent of the value of the property to which he is so entitled:” 10 15

(2) This section shall apply to every conveyance by a trustee, executor, or administrator to a beneficiary, devisee, legatee, appointee, or successor on an intestacy, executed on or after the date of the commencement of this Act. 20

(3) All duty on any such conveyance executed before the commencement of this Act, and all penalties incurred in respect thereof, shall be recovered and enforced as if this section had not been enacted. 25

**6. Commutation of duty on bills of exchange**—(1) Section 121 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsections:

“(4) Provision may be made by regulations under this Act for the granting of licences exempting bills of exchange and promissory notes from the duty imposed by this Act in consideration of the payment of sums by way of commutation of that duty. Security for the payment of such sums may be required in such form as the Commissioner determines. 30 35

“(5) Every sum payable by way of commutation of duty shall constitute a debt payable to the Crown by the person or persons to whom a licence has been granted in accordance with this section.”

(2) Section 8 of the Stamp Duties Amendment Act 1961 is hereby consequentially amended by repealing subsection (1). 40