



## ANALYSIS

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1988, No. 16

**An Act to amend the Stamp and Cheque Duties Act  
1971** [24 March 1988]

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Stamp and Cheque Duties Amendment Act (No. 2) 1988, and shall be read together with and deemed part of the Stamp and Cheque Duties Act 1971 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 17th day of March 1988.

**2. Interpretation**—(1) Section 2 of the principal Act is hereby amended by repealing the definition of the term “land”, and substituting the following definition:

“‘Land’ means land within New Zealand, and includes—

“(a) Buildings, appurtenances, and improvements; and

“(b) Any mining right relating to land within New Zealand; and

“(c) Any mining right relating to the foreshore, the seabed, the subsoil beneath the seabed, or the waters above the seabed, within the territorial limits of New Zealand; and

“(d) Any licence issued under the Petroleum Act 1937 or the Continental Shelf Act 1964 in respect of

the continental shelf beyond the territorial limits of New Zealand,—

and includes any estate or interest in land (whether legal or equitable, corporeal or incorporeal); but does not include any mortgage, or any debenture, bond, or other security for the payment of money that is charged on land:”.

(2) Section 2 of the principal Act is hereby further amended by repealing the definition of the term “property”, and substituting the following definition:

“‘Property’ means every description of property or proprietary right in—

“(a) Land; and

“(b) Shares in a flat or office owning company:”.

(3) Section 2 of the principal Act is hereby further amended by repealing the definition of the term “shares”, and substituting the following definitions:

“‘Shares’ means shares in a flat or office owning company;

“‘Shares in a flat or office owning company’ means shares in a company whose articles provide that the registered holder of specified shares in the company is entitled, by virtue of being the holder of shares, to occupy or use a specified residential flat, office, or commercial or other premises forming part of land within New Zealand owned by the company:”.

**3. Stamp duty payable**—(1) The principal Act is hereby amended by repealing section 10, and substituting the following section:

“10. Unless otherwise provided by this Act, or by or pursuant to any enactment mentioned in the First Schedule to this Act, or by any local or private Act, stamp duty shall be payable to the Crown in respect of—

“(a) Conveyances and leases of land; and

“(b) Conveyances of shares in a flat or office owning company,—

on every instrument executed on or after the 17th day of March 1988.”

(2) The repeal of section 10 of the principal Act by subsection (1) of this section shall not affect any liability to stamp duty arising before the commencement of this Act, and any such liability shall be determined in accordance with the provisions of the principal Act as if this Act had not been passed.

**4. No conveyance duty payable in respect of conveyance of residential land**—The principal Act is hereby amended by repealing section 24 (as amended by section 3 (2) of the Stamp and Cheque Duties Amendment Act 1981 and section 2 of the Stamp and Cheque Duties Amendment Act 1983), and substituting the following section:

“24. (1) Subject to subsection (2) of this section, no conveyance duty is payable on any instrument of conveyance where the property conveyed is—

“(a) A dwellinghouse; or

“(b) Land acquired for the purpose of having a dwellinghouse erected on it; or

“(c) Shares in a flat or office owning company that carry a right of use and occupation of a dwellinghouse,— and the Commissioner is satisfied that the dwellinghouse will, as soon as practicable after the date of execution of the instrument of conveyance, be occupied primarily or principally as a residence.

“(2) Where—

“(a) The property conveyed by an instrument consists partly of property referred to in paragraphs (a) to (c) of subsection (1) of this section, and partly of other property; or

“(b) The property conveyed is greater in area than—

“(i) 4,500 square metres; or

“(ii) An area that would be reasonably appropriate for residential purposes, having regard to the size and character of the dwellinghouse or dwellinghouses erected or to be erected on the property, and to the nature of the property,— whichever is the greater; or

“(c) Any building or buildings on or to be erected on the property are to be used partly as a dwellinghouse or dwellinghouses and partly for other purposes,—

such proportion of the value of the property conveyed as the Commissioner determines is not attributable to the purposes of occupation as a dwellinghouse shall be subject to conveyance duty as if the instrument of conveyance related to that proportion of the property only.

“(3) In this section, the term “dwellinghouse” means a building, or part of a building, that is a house, flat, townhouse, home unit, or similar dwelling erected primarily and principally as a residence, and includes any land, improvements, or appurtenances belonging to the dwellinghouse or usually enjoyed with it.”

**5. No lease duty payable in respect of lease of residential land**—The principal Act is hereby amended by repealing section 35 (as amended by section 4 of the Stamp and Cheque Duties Amendment Act 1983), and substituting the following section:

“35. (1) Subject to subsection (2) of this section, no lease duty is payable on the lease of any land where the land leased is—

“(a) A dwellinghouse; or

“(b) Land leased for the purpose of having a dwellinghouse erected on it,—

and the Commissioner is satisfied that the dwellinghouse will, as soon as practicable after the date of execution of the lease, be occupied primarily or principally as a residence.

“(2) Where—

“(a) The land leased consists partly of land referred to in paragraph (a) or paragraph (b) of subsection (1) of this section, and partly of other land; or

“(b) The land leased is greater in area than—

“(i) 4500 square metres; or

“(ii) An area that would be reasonably appropriate for residential purposes, having regard to the size and character of the dwellinghouse or dwellinghouses erected or to be erected on the land, and to the nature of the land,—

whichever is the greater; or

“(c) Any building or buildings on or to be erected on the land are to be used partly as a dwellinghouse or dwellinghouses and partly for other purposes,—

such proportion of the value of the land leased as the Commissioner determines is not attributable to the purposes of occupation as a dwellinghouse shall be subject to lease duty as if the lease related to that proportion of the land only.

“(3) In this section, the term “dwellinghouse” means a building, or part of a building, that is a house, flat, townhouse, home unit, or similar dwelling erected primarily and principally as a residence, and includes any land, improvements, or appurtenances belonging to the dwellinghouse or usually enjoyed with it.”

**6. Deed duty and denoting duty abolished**—(1) The principal Act is hereby amended by repealing section 36 (as amended by section 5 of the Stamp and Cheque Duties Amendment Act 1981) and section 37.

(2) The principal Act is hereby further amended by repealing section 38 (as amended by section 6 of the Stamp and Cheque Duties Amendment Act 1981) and section 39 (as substituted by section 5 of the Stamp and Cheque Duties Amendment Act (No. 2) 1974).

**7. Consequential amendments, repeals, and revocation**—(1) The principal Act is hereby consequentially amended in the manner indicated in Part I of the Schedule to this Act.

(2) The enactments specified in Part II of the Schedule to this Act are hereby amended in the manner indicated in that Part.

(3) The Stamp and Cheque Duties Act (Transferable Certificates of Deposit) Notice 1985 (S.R. 1985/209) is hereby revoked.

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## Section 7

## SCHEDULE

## CONSEQUENTIAL AMENDMENTS

## Section 7 (1)

## PART I

## AMENDMENTS TO STAMP AND CHEQUE DUTIES ACT 1971

Provision	Amendment
Section 2 ..	<p>By repealing the definitions of the terms "contract note" and "insurance".</p> <p>By omitting from the definition of the term "public authority" the words "deed or" in both places where they occur.</p> <p>By omitting from the definition of the term "stamp duty" the words ", lease duty, deed duty, and denoting duty", and substituting the words "and lease duty".</p> <p>By repealing the definition of the term "transferable certificate of deposit" (as inserted by section 2 (2) of the Stamp and Cheque Duties Amendment Act 1972 and amended by section 2 (1) of the Stamp and Cheque Duties Amendment Act 1978 and clause 2 of the Stamp and Cheque Duties Act (Transferable Certificates of Deposit) Notice 1985).</p>
Section 3 ..	<p>By repealing this section, and substituting the following section:</p> <p><b>"3. Meaning of the term 'instrument'</b>—For the purposes of this Act, the term 'instrument' includes every writing, whether executed in New Zealand or elsewhere, affecting—</p> <p style="padding-left: 2em;">“(a) Any property situated in New Zealand; or</p> <p style="padding-left: 2em;">“(b) Any property situated or to be situated on the continental shelf beyond the territorial limits of New Zealand, but that pursuant to the Continental Shelf Act 1964 would or will be deemed to have taken place in New Zealand,— but does not include a will or other instrument operating only by way of testamentary disposition, or a bill of exchange.”</p>
Section 5 (8)	By repealing paragraph (e).
Section 6 ..	By repealing this section.
Section 7 ..	<p>By omitting from paragraph (c) the words "rent charge or similar", and substituting the word "other".</p> <p>By omitting from that paragraph the expression "charge".</p>

SCHEDULE—*continued*PART I—*continued*AMENDMENTS TO STAMP AND CHEQUE DUTIES ACT 1971—*continued*

Provision	Amendment
Section 7— <i>continued</i>	By repealing paragraphs (e) and (j).
Section 11 (1) ..	By repealing paragraph (a) (as substituted by section 3 of the Stamp and Cheque Duties Amendment Act 1972), paragraphs (c), (d), (e), (g), and (h), paragraph (i) (as amended by section 50 of the Rural Banking and Finance Corporation Act 1974 and section 50 (1) of the Housing Corporation Act 1974), paragraph (j), paragraph (k) (as substituted by section 2 (1) of the Stamp and Cheque Duties Amendment Act (No. 2) 1974), paragraph (ka) (as inserted by section 52 of the Trustee Banks Act 1983), paragraph (l), paragraph (la) (as inserted by section 2 (2) of the Stamp and Cheque Duties Amendment Act (No. 2) 1974), paragraphs (m), (p), (q), (t), (v), and (w), and paragraph (y) (as substituted by section 5 (1) of the Reserve Bank of New Zealand Amendment Act 1977).
Section 11 (2) ..	By repealing paragraphs (a), (b), (c), and (g).
Section 12 (1) ..	By repealing paragraph (a) (as amended by section 3 (1) of the Stamp and Cheque Duties Amendment Act (No. 2) 1974).
	By repealing paragraph (d) (as added by section 4 (2) of the Stamp and Cheque Duties Amendment Act 1972) and paragraph (e) (as added by section 2 (2) of the Stamp and Cheque Duties Amendment Act 1976).
Section 12 (2) ..	By repealing this subsection.
Section 13 (1) ..	By repealing paragraphs (e) and (f), and paragraph (j) (as inserted by section 2 (2) of the Stamp and Cheque Duties Amendment Act 1974 and amended by section 2 (1) of the Stamp and Cheque Duties Amendment Act 1975).
Section 15 (3) ..	By repealing this subsection (as amended by section 2 (2) of the Stamp and Cheque Duties Amendment Act 1981 and section 2 (2) of the Stamp and Cheque Duties Amendment Act 1982), and substituting the following subsection: “(3) Notwithstanding the rates of conveyance duty specified in subsection

SCHEDULE—*continued*PART I—*continued*AMENDMENTS TO STAMP AND CHEQUE DUTIES ACT 1971—*continued*

Provision	Amendment
Section 15 (3)— <i>continued</i>	(2A) of this section, and notwithstanding subsections (2B) and (2C) of this section, if the property conveyed by an instrument of conveyance, other than a share warrant issued under the Companies Act 1955, is— “(a) Shares in a flat or office owning company; or “(b) A mining right, or any legal or equitable interest in a mining right,— the duty shall be computed at the rate of 40 cents for each \$100, and for such amount as may be less than \$100.”
Section 17 ..	By repealing paragraph (g).
Section 22B (1) ..	By repealing paragraph (b) (as enacted by section 2 of the Stamp and Cheque Duties Amendment Act 1977).
Section 22B (3) ..	By omitting from paragraph (a) (as so enacted) the words “or shares”. By omitting from paragraph (b) (i) (as so enacted) the words “or the farm land being the principal asset of the farming company of which the shares were conveyed”. By omitting from paragraph (b) (ii) (as so enacted) the words “or the shares in the farming company”, and also the words “or those shares”. By repealing subparagraph (iii) of paragraph (b) (as so enacted). By omitting from paragraph (c) (as so enacted) the words “or, as the case may be, in the farming company in respect of which the shares are conveyed”.
Section 22B (7) ..	By repealing the definition of the term “controlling interest” (as so enacted), and substituting the following definition: “‘Controlling interest’ means any interest which, in the opinion of the Commissioner, has the effect of controlling the use of the farm land conveyed, whether directly or indirectly.”. By repealing the definition of the term “farming company” (as so enacted).

SCHEDULE—*continued*PART I—*continued*AMENDMENTS TO STAMP AND CHEQUE DUTIES ACT 1971—*continued*

Provision		Amendment
Section 24A	..	By repealing this section (as inserted by section 3 of the Stamp and Cheque Duties Amendment Act 1981 and amended by section 3 of the Stamp and Cheque Duties Amendment Act 1983).
Section 27	..	By repealing subsection (1).
Section 28	..	By repealing this section.
Section 51	..	By repealing this section (as amended by section 6(2) of the Stamp and Cheque Duties Amendment Act 1977).
Section 51A	..	By repealing this section (as inserted by section 4 of the Stamp and Cheque Duties Amendment Act 1977 and amended by section 5 of the Stamp and Cheque Duties Amendment Act 1983).
Section 62	..	By omitting the words “Subject to section 51 of this Act.”.
Section 66	..	By omitting from subsection (1) the words “, unless the instrument is one of those mentioned in subsection (2) of this section.”.
Section 73 (1)	..	By repealing subsection (2). By repealing paragraph (ba) (as inserted by section 3(3) of the Stamp and Cheque Duties Amendment Act 1981).
Section 92	..	By repealing this section.
Section 92A	..	By omitting from this section (as inserted by section 6(1) of the Stamp and Cheque Duties Amendment Act 1977) the words “, otherwise than in accordance with section 51 or section 51A of this Act.”.
Section 96	..	By repealing this section (as amended by section 4(2) of the Stamp and Cheque Duties Amendment Act 1977).
Second Schedule	..	By repealing so much of the Second Schedule as relates to— (a) The Mortgagors and Lessees Rehabilitation Act 1936; (b) The Wages Protection and Contractors' Liens Act 1939; (c) The Rural Housing Act 1989; (d) The Post Office Act 1959.

SCHEDULE—*continued*

Section 7 (2)

## PART II

## AMENDMENTS TO OTHER ACTS

Title of Act	Amendment
1936, No. 33—The Mortgagors and Lessees Rehabilitation Act 1936 (R.S. Vol. 10, p. 171)	By repealing section 74.
1972, No. 6—The Stamp and Cheque Duties Amendment Act 1972	By repealing sections 2, 3, and 4 (2), (3), and (4).
1974, No. 3—The Rural Banking and Finance Corporation Amendment Act 1974	By repealing so much of the Schedule as relates to sections 11 (1) (i) and 12 (2) of the Stamp and Cheque Duties Act 1971.
1974, No. 36—The Stamp and Cheque Duties Amendment Act 1974	By repealing section 2 (2).
1974, No. 135—The Stamp and Cheque Duties Amendment Act (No. 2) 1974	By repealing sections 2, 3, and 5.
1975, No. 22—The Stamp and Cheque Duties Amendment Act 1975	By repealing section 2 (1).
1976, No. 120—The Stamp and Cheque Duties Amendment Act 1976	By repealing section 2.
1977, No. 68—The Reserve Bank of New Zealand Amendment Act 1977	By repealing so much of the First Schedule as relates to the Stamp and Cheque Duties Act 1971.
1977, No. 97—The Stamp and Cheque Duties Amendment Act 1977	By repealing section 6.
1978, No. 125—The Stamp and Cheque Duties Amendment Act 1978	By repealing section 2.
1981, No. 7—The Stamp and Cheque Duties Amendment Act 1981	By repealing sections 2 (2), 3, 4, 5, and 6.
1982, No. 8—The Stamp and Cheque Duties Amendment Act 1982	By repealing section 2 (2).
1983, No. 39—The Stamp and Cheque Duties Amendment Act 1983	By repealing sections 2, 3, 4, and 5.

SCHEDULE—*continued*PART II—*continued*AMENDMENTS TO OTHER ACTS—*continued*

Title of Act	Amendment
1983, No. 116—The Trustee Banks Act 1983	By repealing so much of the First Schedule as relates to the Stamp and Cheque Duties Act 1971.

This Act is administered in the Inland Revenue Department.

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