

REFORM TO STAMP DUTY IN WESTERN AUSTRALIA **PART 2 – SUBSTITUTED PURCHASERS OR AGENTS**

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The Duties Act retains options for signing a contract on behalf of another person but they remain limited in scope.

Substitute purchases (where you sign a contract to buy land but want to substitute someone else in your place after having signed) are permitted where the parties agree and the substitute purchaser is related to the person signing the contract.

The range of persons who are related for the purposes of the Duties Act are limited. This means there is a very real risk of incurring additional duty if you attempt to rely on the provisions without having taken advice to ensure that the substitution will be effective.

The Duties Act also allows the Office of State Revenue to decide that a person signing a contract was acting as the agent of the intended purchaser at the time.

In these circumstances, the transfer to the person will not incur double stamp duty.

The simplest way to demonstrate a relationship of agency is to name the agent and the intended purchaser in the contract, for example: "Jane Smith as agent for Joe Blogs".

The signatory will be required to provide evidence to prove the agency relationship if that relationship is not clearly recorded in the contract. Double duty may be incurred if the agency relationship cannot be adequately shown.

It is essential that you consider any duty implications carefully before signing a contract on behalf of another party and seek legal advice.

This is general information only, and does not constitute specific legal advice. If you would like further information in relation to this matter or other legal matters please contact our office at reception@hhg.com.au.

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