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# ELIZABETHAE II REGINAE

A.D. 1990

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No. 33 of 1990

An Act to amend the Stamp Duties Act, 1923.

[Assented to 26 April 1990]

The Parliament of South Australia enacts as follows:

## Short title

1. (1) This Act may be cited as the *Stamp Duties Act Amendment Act (No. 2), 1990*.
- (2) The *Stamp Duties Act, 1923*, is referred to in this Act as “the principal Act”.

## Stamp duty on application for motor vehicle registration

2. Section 42b of the principal Act is amended—

(a) by striking out subsection (1b) and substituting the following subsections:

(1b) Where, after the commencement of the *Stamp Duties Act Amendment Act (No. 2), 1990*—

(a) the registered owner of a motor vehicle applies to transfer the registration into joint names with his or her spouse;

or

(b) a motor vehicle is registered in the names of two persons who are each other's spouses and they apply to transfer the registration into the name of one of them,

the amount of stamp duty payable upon the application is one-half of the amount that would, but for this subsection, have been payable pursuant to subsection (1a).

(1c) In subsection (1b)—

“spouse” of a person includes a *de facto* husband or wife of the person who has been cohabiting continuously with the person for at least five years.;

and

(b) by inserting after subsection (6) the following subsection:

(7) The Commissioner or the Registrar of Motor Vehicles may require an applicant who claims to be entitled to an exemption from, or reduction in, stamp duty under this section—

(a) to state that fact on the application;

and

(b) to provide such information as the Commissioner or Registrar may require for the purpose of determining the applicant's claim.

#### Repeal of s. 42c

3. Section 42c of the principal Act is repealed.

#### Power to refund duty overpaid

4. Section 42d of the principal Act is amended by striking out from subsection (1a) "30 days" and substituting "three months".

#### Regulations

5. Section 42e of the principal Act is amended by striking out "42c,".

#### Substitution of ss. 66a and 66ab

6. Sections 66a and 66ab of the principal Act are repealed and the following section is substituted:

##### Computation of duty where instruments are interrelated

67. (1) Subject to subsection (2), this section applies to the following instruments:

(a) a conveyance on sale;

(b) a conveyance operating as a voluntary disposition *inter vivos*;

or

(c) an instrument chargeable with duty as if it were a conveyance (including a statement under section 71e).

(2) This section does not apply to the following instruments:

(a) a conveyance that relates to property that is being conveyed in separate parcels to different persons by separate conveyances where the Commissioner is satisfied that no arrangement or understanding exists between the persons under which the parcels of property conveyed are to be used otherwise than separately and independently from each other;

(b) a conveyance of stock, implements or other chattels in a case where section 31a applies;

(c) a conveyance on sale of any marketable security;

(d) an instrument excluded from the operation of this section by the regulations.

(3) Where two or more instruments to which this section applies—

(a) arise from a single contract of sale;

or

(b) together form, or arise from, substantially one transaction or one series of transactions,

the instruments are chargeable with *ad valorem* duty calculated on the sum of the amounts by reference to which *ad valorem* duty on each of the instruments would, but for this subsection, have been calculated, and that duty will be apportioned to the various instruments as determined by the Commissioner.

(4) Where by instruments that have been, or appear to have been, executed within 12 months of each other a person conveys property or interests in property to the same

person (whether that person takes alone or with the same or different persons), it will be presumed, unless the Commissioner is satisfied to the contrary, that the instruments form one transaction or one series of transactions.

(5) A person who executes, or is otherwise engaged or concerned in the preparation or certification of, an instrument chargeable with duty under subsection (3) and who, upon submission of the instrument to the Commissioner for stamping, fails to disclose the total consideration (if any) given and the whole of the property included in the transaction or series of transactions in connection with which the instrument is executed, is guilty of an offence.

Penalty: \$5 000.

(6) It is a defence to a charge under subsection (5) to prove that the defendant did not know and could not reasonably have been expected to know the matters required to be disclosed by that subsection.

(7) This section does not operate to reduce the duty payable on an instrument.

(8) In this section—

“interest” includes a potential beneficial interest as defined in section 71 (15).

#### **Duty in certain cases**

7. Section 68 of the principal Act is amended by striking out subsections (1) and (2).

#### **Repeal of section 69**

8. Section 69 of the principal Act is repealed.

#### **Transactions otherwise than by dutiable instrument**

9. Section 71e of the principal Act is amended by striking out subsection (10).

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor