



ANNO DECIMO QUARTO

## ELIZABETHAE II REGINAE

A.D. 1965

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## No. 58 of 1965

An Act to amend the Stamp Duties Act, 1923-1964.

[Assented to 23rd December, 1965.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

Short titles.

**1.** (1) This Act may be cited as the "Stamp Duties Act Amendment Act, 1965".

(2) The Stamp Duties Act, 1923-1964, as amended by this Act, may be cited as the "Stamp Duties Act, 1923-1965".

(3) The Stamp Duties Act, 1923-1964, is hereinafter referred to as "the principal Act".

Incorporation.

**2.** This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.

Commencement.

**3.** (1) Sections 1, 2, 3, 4, 6, 9, 14, and paragraphs (b), (l), (m), (n) and (o) of section 15 and section 16 of this Act shall come into force on the day on which this Act is assented to by the Governor.

(2) The other provisions of this Act shall come into force on the fourteenth day of February, one thousand nine hundred and sixty-six.

Amendment of principal Act, s. 2—Arrangement.

**4.** Section 2 of the principal Act is amended by striking out the line "PART IV.—Special Provisions with respect to Amusements Duty :—" therein.

Amendment of principal Act, s. 20—Penalty for not duly stamping.

**5.** Subsection (1) of section 20 of the principal Act is amended by striking out the word "pounds" after the word "ten" (thirdly occurring) therein.

6. Section 42d of the principal Act is amended by inserting therein after subsection (1) thereof the following subsection :—

Amendment of principal Act, s. 42d—  
Power to refund duty overpaid.

(1a) Without limiting the effect of subsection (1) of this section, in any case where the Commissioner is satisfied that before the expiration of seven days after registration of a motor vehicle or of the transfer of a motor vehicle that motor vehicle has been returned by the applicant to the person from whom the motor vehicle was acquired and accepted by that person, or that the registration or transfer of registration (as the case may be) was made in error, the Commissioner may refund to the applicant the stamp duty paid in respect of that registration or transfer.

7. The following section is inserted in the principal Act after section 47a thereof :—

Enactment of s. 47b of principal Act—

47b. Notwithstanding any provision of this Act, the additional duty imposed by the Stamp Duties Act Amendment Act, 1965, shall not be payable on a cheque made out on a form issued by a bank or financial institution to a customer before the fourteenth day of February, one thousand nine hundred and sixty-six : Provided that this section shall not apply to or in respect of any such cheque drawn after a day to be specified in a proclamation by the Governor being a day not earlier than one month after the making of such proclamation.

Additional duty on cheques imposed by Stamp Duties Act Amendment Act, 1965.

8. Subsection (3) of section 48 of the principal Act is amended by striking out the words "three pence" therein and inserting in lieu thereof the words "five cents".

Amendment of principal Act, s. 48—  
When bills, notes, etc., to be stamped.

9. The following section is inserted in the principal Act immediately after section 60 thereof :—

Enactment of s. 60a of principal Act—

60a. (1) Subject to the provisions of this section, any instrument whereby property is conveyed or transferred to any person in contemplation of a sale of that property shall be deemed to be a conveyance on sale of that property for a consideration equal to the consideration for the contemplated sale or the value of that property whichever is the greater.

Conveyance in contemplation of sale.  
Cf. U.K.

(2) If on a claim made to the Commissioner not later than one year after the making or execution of an instrument chargeable with duty in accordance with subsection (1) of this section, it is shown to his satisfaction—

(a) that the sale in contemplation of which the instrument was made or executed has not taken place and the property has been re-conveyed or re-transferred to the person from whom it was conveyed or transferred or to a person to whom his rights have been transmitted on death or bankruptcy; or

(b) that the sale has taken place for a consideration which is less than the amount in respect of which duty was paid on the instrument by virtue of subsection (1) of this section, but not less than the value of the property,

the Commissioner shall refund the duty paid by virtue of this section, in a case falling under paragraph (a) of this subsection, so far as it exceeds the stamp duty which would have been payable apart from this section and, in a case falling under paragraph (b) of this subsection, so far as it exceeds the stamp duty which would have been payable if the instrument had been charged with duty based upon the consideration for the sale or upon the value of the property whichever is the greater.

(3) A person who has paid duty under subsection (1) of this section and who is entitled to a refund of duty under subsection (2) shall be deemed to be possessed in respect of the amount of the refund of stamped material rendered useless by being inadvertently spoiled, within the meaning of section 106, and the provisions of that section shall apply accordingly.

(4) No instrument chargeable with duty in accordance with subsection (1) of this section shall be deemed to be duly stamped unless the Commissioner has been required to express his opinion thereon under section 23 of this Act and has expressed his opinion thereon in accordance with that section.

(5) The foregoing provisions of this section shall apply whether or not an instrument conveys or transfers other property in addition to the property in contemplation of the sale of which it is made or executed, but those provisions shall not affect the stamp duty chargeable on the instrument in respect of that other property.

10. Section 82 of the principal Act is amended by striking out the words "two pounds" (thrice occurring) therein and inserting in lieu thereof the words "fifty dollars" in each case.

Amendment of principal Act, s. 82—  
Provisions as to duty upon receipts.

11. Section 83 of the principal Act is amended by striking out the words "but within one month" in paragraph II of the first proviso therein.

Amendment of principal Act, s. 83—  
How duty on receipts may be denoted.

12. Section 83a of the principal Act is repealed.

Repeal of s. 83a of principal Act.

13. (1) Section 84 of the principal Act is amended—

(a) by striking out the words "to give" in paragraph (b) thereof and inserting in lieu thereof the words "or without reasonable excuse (proof whereof shall lie on him) omits to give or tender";

Amendment of principal Act, s. 84 and enactment of ss. 84a, 84b and 84c—  
Penalty for offences in reference to receipts.

(b) by inserting at the end thereof the following subsections (the preceding portion of the section as amended by paragraph (a) of this section being designated as subsection (1) thereof):—

(2) The obligation imposed by paragraph (b) of subsection (1) of this section to give or tender a receipt duly stamped shall not be affected or diminished in any way by any commercial practice or by any acquiescence, intimation or indication expressed or implied by the payer relating to the giving or tendering or non-giving or non-tendering of any such receipt.

(3) Where a receipt has not been requested a receipt shall be deemed to have been given for the purpose of this section if a receipt is made out and duly stamped notwithstanding that the receipt is not sent or delivered to any person.

(4) Where a receipt is made out and duly stamped but not sent or delivered to the person who has made the payment the person making out the receipt shall retain possession of that receipt for at least two years after the receipt has been made out: Provided that this subsection shall not apply where a receipt for an amount of money paid by cheque is made out on such cheque.

(2) The following sections are inserted in the principal Act after section 84 thereof :—

Alternative arrangements regarding stamp duty on receipts.

84a. (1) Any person carrying on any trade, business or profession may give notice in writing in the prescribed form to the Commissioner that he elects to pay duty under this section in lieu of being obliged to comply with the requirements of this Act with respect to the payment of duty on receipts pursuant to section 84 hereof, and any person who has given such a notice may revoke the notice by giving a notice of revocation in the prescribed form to the Commissioner.

(2) The Commissioner shall assign a number to every notice given to him under subsection (1) of this section.

(3) Where any person has given notice to the Commissioner pursuant to subsection (1) of this section, and has not given a notice of revocation, such person shall not be liable to pay duty on receipts by impressed or adhesive stamps in respect of any receipt given by him after such notice has been given but shall be liable for the payment of stamp duty in accordance with the provisions of section 84b of this Act.

Procedure.

84b. (1) Where any person has given notice to the Commissioner pursuant to subsection (1) of section 84a of this Act and has not given a notice of revocation, such person shall either—

(a) forward to the Commissioner at such intervals as are prescribed a statement in the prescribed form verified in the prescribed manner summarizing the transactions for which but for this section a receipt would have been required to be made out and stamped pursuant to section 84 of this Act ; or

(b) satisfy the Commissioner at such intervals as are prescribed that the number and nature of such transactions during such intervals were such that the amount assessed by the Commissioner would satisfy the duty on receipts for the transactions for which, but for this section, receipts would have been required to be made out and stamped pursuant to section 84 of this Act.

(2) Such person shall—

(a) pay to the Commissioner the amount of duty which but for this section would have been

payable for the sum of the transactions summarized or assessed in accordance with subsection (1) of this section; and

- (b) endorse on every receipt issued by him "SD/" and the serial number assigned by the Commissioner to the notice given by that person to the Commissioner.

84c. (1) Every person who has given notice to the Commissioner pursuant to subsection (1) of section 84a and who refuses to give a receipt on which duty would have been payable but for this section or who fails to comply with any of the requirements of section 84b at any time before he gives a notice of revocation to the Commissioner shall be guilty of an offence and shall be liable to a penalty of not more than two hundred dollars and shall be liable to pay double the amount of the duty that would have been payable if that section had been complied with. Penalties.

(2) Any person who endorses any receipt with the expression "SD/" and a serial number or a word "stamp duty paid" or with any similar words or expression unless he has given notice pursuant to subsection (1) of section 84a of this Act to the Commissioner and has not given a notice of revocation and unless the endorsement is made in accordance with this Act shall be guilty of an offence against this Act.

Penalty : Two hundred dollars or imprisonment for a term of not more than three months or both.

14. The heading "PART IV.—SPECIAL PROVISIONS WITH RESPECT TO AMUSEMENTS DUTY." and sections 91 to 105 (inclusive) of the principal Act are repealed. Repeal of heading to and ss. 91 to 105 inclusive of principal Act.

15. The Second Schedule to the principal Act is amended— Amendment of Second Schedule to principal Act.

- (a) by striking out the heading "£. s. d." wherever occurring therein and inserting in lieu thereof in each case the heading "\$";
- (b) by striking out Item 8 of the *Exemptions* in the paragraph therein commencing "AFFIDAVIT OR DECLARATION";
- (c) by striking out the figures "0 0 3" in the paragraph therein commencing "BILL OF EXCHANGE, CHEQUE, ORDER payable on demand" and inserting in lieu thereof the symbol and figures "0.05";

- (d) by inserting after the word "society" in Item 8 of the *Exemptions* in the said paragraph commencing "BILL OF EXCHANGE, CHEQUE, ORDER payable on demand" the words "or by or on behalf of any community or subsidized hospital approved by the Chief Secretary";
- (e) by striking out the figures "0 0 1" in the paragraph therein commencing "LETTER OF ALLOTMENT" and inserting in lieu thereof the symbol and figures "0.05";
- (f) by striking out the line "RECEIPT—Every receipt for forty shillings or upwards . . . 0 0 2" and inserting in lieu thereof the following passage :—
- "RECEIPT—  
Every receipt for \$50.00 or over . . . . . 0.05."
- (g) by striking out all the words after the word "in" (first occurring) in item 3 of the *Exemptions* in the paragraph therein commencing "RECEIPT" and inserting in lieu thereof the words "or withdrawn from any bank other than money deposited in any bank as a fixed deposit for any period";
- (h) by striking out item 5 of the *Exemptions* in the said paragraph commencing "RECEIPT";
- (i) by striking out the words "by any seaman, labourer, or menial servant for the payment of wages" in Item 6 of the *Exemptions* in the said paragraph commencing "RECEIPT" and inserting in lieu thereof the passage "for the payment of the salary, wages or pension of any person";
- (j) by striking out the words "five pounds" in Item 8 of the *Exemptions* in the said paragraph commencing "RECEIPT" and inserting in lieu thereof the words "twenty dollars";
- (k) by inserting in the said paragraph commencing "RECEIPT" after Item 8 thereof the following Items :—

9. RECEIPT or acknowledgement for any money paid to or by a person licensed under Part IV of the Lottery and Gaming Act, 1936-1964, for or as a result of any bet on any racecourse, trotting ground, place where a coursing meeting is being held, or

premises registered under the said Part IV during the holding of a race-meeting for horse races, trotting races or coursing meetings.

10. RECEIPT or acknowledgement for any money paid to or by persons for or as a result of any bet on a totalizator operated by any racing club.

11. RECEIPT or acknowledgement of any income by way of dividend or interest received by or on behalf of any natural person on any investment.

12. RECEIPT or acknowledgement for or in relation to the allotment, purchase or sale of—

(a) any stock debentures or Treasury bonds Treasury notes or Treasury bills of the Government of the United Kingdom or of the Commonwealth of Australia or of South Australia or any other State of the said Commonwealth or any other part of Her Majesty's Dominions ; or

(b) stock debentures or bonds of any public statutory body constituted under the law of South Australia.

13. RECEIPT or acknowledgement for any money delivered to or by any carrier approved by the Commissioner for delivery from or to any bank. ;

(l) by inserting after Item 14a of the "GENERAL EXEMPTIONS FROM ALL STAMP DUTIES" therein the following item :—

14b. Hire-Purchase Agreement made or entered into by the Minister of Aboriginal Affairs. ;

(m) by inserting after subparagraph (d) in the definition of "prescribed person" in item 23 of the "GENERAL EXEMPTIONS FROM ALL STAMP DUTIES" therein the following subparagraph :—

(d1) a person who (whether before or after the commencement of the Stamp Duties Act Amendment Act, 1965) has been on active service as a member of a Naval, Military



or Air Force of the Commonwealth or the United Kingdom or of any other part of Her Majesty's Dominions in any area outside Australia or in any naval, military or air force operation that is proclaimed to be an area or (as the case may be) a naval, military or air force operation for the purposes of this paragraph whether or not he is still on such service at the time when he claims exemption under this paragraph. ;

(n) by striking out the passage "or (d)" in subparagraph (e) in the said definition and inserting in lieu thereof the passage "(d) or (d1)";

(o) by inserting after the word "cease" being the last word in the said definition of "prescribed person" in the said Item 23 the passage "Notwithstanding the provisions of this paragraph or of any proclamation made in pursuance thereof the war which commenced on the third day of September, one thousand nine hundred and thirty-nine shall, for the purposes of any conveyance, transfer or mortgage executed or entered into after the commencement of the Stamp Duties Act Amendment Act, 1965, be deemed to have ceased on the thirty-first day of December, One thousand nine hundred and forty-five.

Amendment of  
Fourth  
Schedule to  
principal Act.

16. The Fourth Schedule to the principal Act is struck out.

General amend-  
ment of  
principal Act  
relating to  
decimal  
currency.

17. The principal Act is amended by striking out every passage therein (except any passage in section 47a thereof and any passage in any provision amended by sections 5, 8, 10 and 15 of this Act) representing an amount of money in terms of the currency provided for by the *Coinage Act 1909-1947*, of the Commonwealth howsoever expressed and inserting in lieu thereof in each case a passage (in words, symbols, figures, or a combination of words, symbols or figures as the case may require) representing an amount of money in terms of the currency provided for by the *Currency Act 1965*, of the Commonwealth, calculated on the basis of the equivalents specified in subsection (4) of section 8 of the last mentioned Act.

18. The following section is inserted in the principal Act immediately after section 112 thereof:—

Enactment of  
ss. 113 and 114  
of principal  
Act—

113. Any instrument which on or after the fourteenth day of February, one thousand nine hundred and sixty-six, is stamped under this Act shall be deemed to be duly stamped for the purposes of this Act if, on or before such day as the Governor by proclamation determines, that instrument is stamped by an impressed or adhesive stamp or stamps denoting an amount of duty expressed in terms of the currency provided for by the *Coinage Act 1909-1947* of the Commonwealth corresponding to or greater than the amount of duty chargeable on that instrument under this Act calculated on the basis of the equivalents specified in subsection (4) of section 8 of the *Currency Act 1965*, of the Commonwealth.

Use of old  
currency  
stamps after  
introduction  
of decimal  
currency.

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

EDRIC BASTYAN, Governor.