



ANNO TRICESIMO QUINTO

# ELIZABETHAE II REGINAE

A.D. 1986

\*\*\*\*\*

No. 8 of 1986

An Act to amend the Stamp Duties Act, 1923.

[Assented to 13 March 1986]

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

1. (1) This Act may be cited as the "Stamp Duties Act Amendment Act, 1986". Short title.

(2) The Stamp Duties Act, 1923, is in this Act referred to as "the principal Act".

2. Section 4 of the principal Act is amended—

(a) by inserting before the definition of "Commissioner" the following definition:

"adhesive stamp" means an adhesive stamp purchased or otherwise obtained from the Commissioner or a distributor of stamps in pursuance of this Act;

(b) by striking out the definition of "die" and substituting the following definition:

"die" means die or other machine or implement used for impressing or imprinting stamps upon documents;

(c) by inserting after the definition of "forge" the following definition:

"impressed stamp" means—

(a) a stamp impressed or imprinted by means of a die;

or

(b) a record imprinted or made by means of any machine or implement,

under the direction of the Commissioner in pursuance of this Act;

(d) by striking out the definitions of "stamp" and "stamped" and substituting the following definitions:

Amendment of  
s. 4—  
Interpretation.

“stamp” means an adhesive stamp or an impressed stamp:

“stamped” means bearing an impressed stamp or having an adhesive stamp affixed:

Insertion of new  
s. 6a.

Secrecy  
provisions.

3. The following section is inserted after section 6 of the principal Act:

6a. A person shall not divulge or communicate information that is or was acquired by the person by reason of being, or having been, employed in, or in connection with, the administration of this Act except—

(a) with the consent of the person from whom the information was obtained;

(b) in connection with the administration of this Act;

(c) to an officer of the Commonwealth, or of another State or a Territory of the Commonwealth, employed in the administration of laws relating to taxation;

(d) to the Commissioner for Corporate Affairs;

or

(e) for the purposes of legal proceedings under this Act.

Penalty: \$10 000.

Insertion of new  
s. 42ab.

Unlicensed  
insurers.

4. The following section is inserted after section 42aa of the principal Act:

42ab. (1) The Commissioner may enter into an agreement with an insurer who is not required to take out an annual licence under this Act under which—

(a) the Commissioner approves the insurer for the purposes of this section;

and

(b) the insurer undertakes to pay duty as if the insurer were required to be licensed and were in fact licensed under this Act.

(2) A party to an agreement under this section may, by notice in writing to the other party, terminate the agreement at any time.

(3) Where an insurer is neither licensed under this Act nor approved under this section, a person who pays a premium to the insurer shall, within 21 days after the end of the month in which the premium was paid—

(a) furnish a return to the Commissioner stating the amount of premium;

and

(b) pay stamp duty on the return calculated by reference to the amount of the premium and the appropriate rate prescribed by the second schedule in relation to annual licences.

Penalty: \$10 000.

(4) This section does not apply in relation to a levy paid under the Workers Rehabilitation and Compensation Act, 1986.

(5) In this section—

“insurer” means a person, firm or company that carries on assurance or insurance business in the State.

5. The following section is inserted after section 76 of the principal Act:

Insertion of new s. 76a.

76a. (1) In this section, “financial institution” means a financial institution within the meaning of the Financial Institutions Duty Act, 1983.

Payment of duty by return.

(2) The Commissioner may, upon an application in writing from a financial institution, authorize the financial institution to pay duty in respect of mortgages in accordance with this section.

(3) An authority under subsection (2)—

(a) must specify the class or classes of mortgage to which it relates;

(b) may be subject to conditions as to the manner and form in which endorsements are to be made in pursuance of the authority and such other conditions as the Commissioner thinks fit;

and

(c) may be revoked by the Commissioner at any time.

(4) A financial institution that holds an authority under subsection (2) may, subject to the conditions of the authority, endorse an instrument of mortgage with the amount of duty payable on the instrument.

(5) An instrument of mortgage endorsed pursuant to subsection (4) shall be deemed to be stamped under this Act with the amount of duty shown on the endorsement.

(6) A financial institution shall not later than 2.30 p.m. on Thursday of each week—

(a) lodge with the Commissioner a return stating the total of the amounts endorsed on instruments of mortgage by the financial institution during the week ended on the preceding Saturday;

and

(b) pay to the Commissioner a sum equal to that total.

(7) A financial institution shall at the time of making an endorsement under this section make a record of—

(a) the name of the mortgagor;

(b) the property to which the mortgage relates;

and

(c) the amount of duty endorsed on the instrument of mortgage,

and shall keep the record for at least 3 years.

(8) A financial institution that—

(a) contravenes or fails to comply with a provision of this section;

or

(b) knowingly endorses an instrument of mortgage with an amount of duty less than the amount payable under this Act,

is guilty of an offence.

Penalty: \$10 000 plus (if the offence results in avoidance of or delay in the payment of duty) twice the amount of that duty.

(9) A person, not being a financial institution that holds an authority under subsection (2), who endorses an instrument of mortgage in a manner which suggests or implies that the instrument is endorsed pursuant to this section is guilty of an offence.

Penalty: \$10 000 plus twice the amount of duty payable under this Act.

Insertion of new s. 90g.

6. The following section is inserted in Part IIIA of the principal Act after section 90f:

Transactions in South Australian marketable securities on the Stock Exchange of the United Kingdom.

90g. (1) In this section, unless the contrary intention appears—

“broker” means a person, firm or corporation who or which is a member of the U.K. Stock Exchange:

“corporation” means a municipal or other corporation, company or society:

“jobber” means a person, firm or corporation who or which is recognized as a jobber according to the rules and practices of the U.K. Stock Exchange:

“marketable security” means—

(a) a marketable security of a corporation incorporated in the State;

or

(b) a marketable security of a corporation incorporated outside Australia that is listed on a register of the corporation in the State:

“relevant transaction” means a transaction effecting a transfer from one person to another of a beneficial interest in a marketable security that is held in trust by a trustee:

“the U.K. Stock Exchange” means The Stock Exchange of the United Kingdom:

“trustee” means a person declared to be a trustee under subsection (2).

(2) The Governor may, by notice published in the *Gazette*—

(a) declare a person to be a trustee;

or

(b) vary or revoke a declaration previously made under this subsection.

(3) Where a trustee—

- (a) is notified of a disposition by a beneficiary of an interest in a marketable security that the trustee holds in trust;
- or
- (b) is directed by a beneficiary to hold a marketable security on behalf of some other person,

the trustee shall be deemed to have effected a relevant transaction in relation to that marketable security.

(4) A trustee shall on or before the twenty-eighth day of each month—

- (a) furnish to the Commissioner in such manner and form as the Commissioner requires a return setting out particulars of relevant transactions effected by the trustee during the preceding month;
- and
- (b) if any duty is payable, in respect of any such relevant transaction, pay to the Commissioner the duty in respect of each such relevant transaction prescribed by the second schedule.

(5) A trustee who fails to comply with any provision of this section is guilty of an offence.

Penalty: \$10 000 plus twice the amount of duty referred to in subsection (4) (b).

(6) Subsection (4) does not apply to or in respect of a relevant transaction where the disposition to which the relevant transaction relates—

(a) is made—

- (i) by way of security otherwise than to secure the rights of a purchaser or intended purchaser under a contemplated sale;

or

- (ii) in consequence of such a security being no longer required;

(b) is, in accordance with the rules of the U.K. Stock Exchange, a stock loan transaction;

(c) is made or effected by a jobber to a broker who acquires a beneficial interest in the marketable securities as principal and who, within 2 clear days (not including any day on which the U.K. Stock Exchange is closed for business) after acquisition, disposes of the beneficial interest in those securities;

(d) is made or effected by a broker as principal within 2 such clear days after the broker acquired a beneficial interest in those marketable securities as principal—

- (i) to a jobber:

or

(ii) to another broker as principal who, within 2 such clear days after the acquisition, disposes of the beneficial interests in those securities;

(e) is made or effected by or to a person who is a South Australian dealer;

or

(f) is made or effected by a jobber to another jobber.

(7) Where in consequence of a relevant transaction—

(a) a beneficial interest in marketable securities is transferred from a broker to a jobber or from a jobber to a broker;

(b) a beneficial interest in marketable securities is transferred from a broker to another broker who acquires the interest as principal and who, within 2 clear days after acquisition (not including any day on which the U.K. Stock Exchange is closed for business) disposes of the beneficial interest;

or

(c) a beneficial interest in marketable securities is transferred from a broker to another broker as principal within 2 such clear days after the acquisition of the beneficial interest by the firstmentioned broker,

the amount payable under subsection (4) in respect of that relevant transaction shall be one-half of the amount that would otherwise be payable.

(8) A trustee shall, for the purposes of this Act, keep such records as are necessary to give a true indication of the relevant transactions made or effected by the trustee and shall retain those books for a period of 3 years after the completion of the transactions to which they relate.

Amendment of  
second schedule.

7. The second schedule to the principal Act is amended—

(a) by inserting in paragraph (2) of the item commencing “ANNUAL LICENCE to be taken out” after the passage “so as to exclude” the passage “any amount in respect of stamp duty on the annual licence received or charged on or after 1 January, 1986,”;

(b) by inserting after exemption No. 6 to the item commencing “ANNUAL LICENCE to be taken out” the following exemption:

7. Any premium or portion of a premium received or charged on or after 1 January, 1986, under any life insurance policy, being a policy for the payment of an annuity to the person insured.;

(c) by inserting after exemption No. 5 to paragraph (A) of the item commencing “APPLICATION to Register a Motor Vehicle” the following exemption:

5a. Any application to register a motor vehicle or to transfer the registration of a motor vehicle made under the

scheme established for the registration of motor vehicles used for or in connection with Government or Government sponsored services and known as "the Continuous Government Registration Scheme".;

- (d) by inserting after exemption No. 3 to paragraph (B) of the item commencing "APPLICATION to Register a Motor Vehicle" the following exemption:

3a. Policy of insurance where the motor vehicle is or is to be registered under the scheme established for the registration of motor vehicles used for or in connection with Government or Government sponsored services and known as "the Continuous Government Registration Scheme".;

- (e) by inserting in paragraph (aa) of the item commencing "CONVEYANCE or TRANSFER or sale of any property (not otherwise charged), including contract or agreement for sale" after the passage "section 90d" the passage "or any return furnished under section 90g";

- (f) by inserting after the item commencing "RETURN lodged with the Commissioner by a South Australian dealer pursuant to section 90d" the following item:

RETURN under section 90g—

Duty is payable in respect of each relevant transaction in accordance with the following scale:

Where the value of the marketable security comprised in the disposition—

- (a) is less than \$100—for every \$25 and any fractional part of \$25 ..... 0.14;
- (b) is \$100 or more—for every \$100 and any fractional part of \$100 ..... 0.60.;

and

- (g) by inserting after paragraph 13b of the item commencing "GENERAL EXEMPTIONS FROM ALL STAMP DUTIES" the following paragraph:

13c. Acquisition by a municipal or district council of land for the purposes of providing a public park, being an acquisition enabled or assisted by an advance under the Public Parks Act, 1943.

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

D. B. DUNSTAN, Governor