

Acts reprinted pursuant to the Amendments Incorporation  
Act, 1937

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MINING ACT, 1930-1951  
STAMP DUTIES ACT, 1923-1952

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With notes of judicial decisions affecting sections of the reprinted Acts



# MINING ACT, 1930-1951.

BEING

MINING ACT, 1930, No. 1953 OF 1930 [ASSENTED TO 18TH SEPTEMBER, 1930.]

AS AMENDED BY

MINING ACT AMENDMENT ACT, 1931, No. 2004 OF 1931 [ASSENTED TO 6TH AUGUST, 1931.]

MINING (PETROLEUM) ACT, 1940, No. 58 OF 1940 [ASSENTED TO 5TH DECEMBER, 1940.]

MINING ACT AMENDMENT ACT, 1941, No. 15 OF 1941 [ASSENTED TO 23RD OCTOBER, 1941.]

MINING ACT AMENDMENT ACT, 1945, No. 15 OF 1945 [ASSENTED TO 22ND NOVEMBER, 1945.]

MINING ACT AMENDMENT ACT, 1946, No. 11 OF 1946 [ASSENTED TO 24TH OCTOBER, 1946.]

MINING ACT AMENDMENT ACT, 1950, No. 25 OF 1950 [ASSENTED TO 9TH NOVEMBER, 1950.]

AND

MINING ACT AMENDMENT ACT, 1951, No. 36 OF 1951 [ASSENTED TO 6TH DECEMBER, 1951.]

An Act to consolidate certain Acts relating to mining and to the issue of leases for dredging for gold.

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

## PART I.

PART I.

### PRELIMINARY.

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|--|---|
| 1. This Act may be cited as the "Mining Act, 1930-1951".   | Short title.  |
| 2. This Act is a consolidation of the Acts mentioned in the first schedule, and the said Acts are hereby repealed. | Acts consolidated and repealed.   |
| 3. The provisions of this Act are arranged as follows:—  | Arrangement of Act.   |
| PART I.—Preliminary.   | Amended by 58, 1940, s. 2, and by 2004, 1931, s. 4, as revived by 15, 1941, s. 2. |
| PART II.—Administration.   |   |

s. 3. In addition to the Parts mentioned in section 3, Part IX.A (Uranium and thorium) which was enacted by section 4 of the Mining Act Amendment Act, 1945, is included in this reprint.

Mining Act, 1930-1951.

PART III.—Acquisition of Rights of Prospecting, Mining and Occupation—

DIVISION I.—General:

DIVISION II.—Miners' Rights:

DIVISION III.—Goldfields:

DIVISION IV.—Gold Leases:

DIVISION V.—Mineral Leases:

DIVISION VI.—Coal Leases:

DIVISION VII.—Miscellaneous Leases:

DIVISION VIII.—Special Mining Leases:

DIVISION IX.—Business and Occupation Licences.

PART IIIA.—Mining on Private Land.

PART IV.—Forfeiture of Mining Leases.

PART V.—Search Licences.

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PART VII.—Dredging Leases.

PART VIII.—Drainage from Mines.

PART IX.—Encouragement of Mining.

PART X.—Miscellaneous.

PART XI.—Regulations.

Definition.  
587, 1893,  
s. 4.  
881, 1905,  
s. 2.  
1352, 1918,  
s. 3.  
1512, 1922,  
s. 3.

4. In the construction of this Act, except where inconsistent with the context or subject matter—

“business” means any business, profession, trade, calling, or occupation, except mining:

“business claim” means a claim held under a business licence:

“business licence” means a business licence granted under this Act:

“claim” means any area held under a miner’s right or business licence, and includes amalgamated claims:

“coal” includes all descriptions of coal and shale:

“coal lease” means a coal lease granted under this Act for the purpose of mining for coal:

Amended by  
58, 1940, s. 2.

“Crown lands” means all lands in South Australia, except—

- (a) lands reserved for or dedicated to any public purpose:
- (b) lands subject to a grant or contract for a grant in fee simple by or on behalf of the Crown:
- (c) lands subject to any licence for mining purposes, or to any lease granted by or on behalf of the Crown, or held by virtue of a miner’s right or a business licence or occupation licence:

And includes all lands situate between high and low water-mark on the seashore and on the margin of tidal rivers:

“dredging lease” means a lease granted under this Act for the purpose of dredging for gold:

“gold” means gold and also any substance containing gold, or having gold mixed therewith, or set apart for the purpose of extracting gold therefrom:

“goldfield” means a proclaimed goldfield:

“gold lease” means a lease granted under this Act for the purpose of mining for gold:

“inspector” means an inspector of mines appointed under this Act:

“metals” includes gold:

“mine” as a noun, includes all lands and works on, in, or by which mining is carried on:

“mineral lands” includes all Crown lands, and also all other lands which are proclaimed as mineral lands pursuant to section 6, and all lands made mineral lands pursuant to section 7:

“mineral lease” means a lease granted under this Act, for the purpose of mining for metals or minerals other than gold:

“minerals” means all metals and minerals other than gold and the ore of any metal other than gold, and also sand, gravel, stone, and shell, together with all rocks and earthy substances, excepting—

- (a) precious stones:

## Mining Act, 1930-1951.

(b) salt and gypsum:

(c) coal, shale, and oil:

(d) guano:

Amended by  
58, 1940, s. 2.

“mining” or “to mine” includes quarrying and all modes of prospecting for, obtaining, collecting, or treating any metals, minerals, precious stones, coal, salt, or gypsum:

“mining lease” means a lease of any kind granted under this Act or any of the repealed Acts:

“Minister” means the Minister of Mines under this Act:

“miner’s right” means a miner’s right issued under this Act:

Definition of  
“oil” struck  
out by 58,  
1940, s. 2.

\* \* \* \* \*

Inserted by  
2004, 1931,  
s. 5, as  
revived by  
15, 1941, s. 2.

“owner” includes mortgagee in possession, lessee, trustee, guardian, and committee:

“precious stones” includes diamond, ruby, sapphire, emerald, beryl, aquamarine, opal, turquoise, tourmaline, and any other mineral which may from time to time be declared by proclamation to be a precious stone within the meaning of this Act:

Inserted by  
2004, 1931,  
s. 5, as  
revived by  
15, 1941, s. 2.

“private land” means any land the metals, minerals, precious stones, salt, gypsum, coal, shale, or oil on or under which are alienated from the Crown by grant in fee simple:

Amended by  
58, 1940, s. 2.

“prospecting” includes all modes of prospecting for metals, minerals, precious stones, coal, salt, or gypsum:

“repealed Acts” means the Acts repealed by this Act and the Acts repealed by the Mining Act, 1893:

“warden” means a warden appointed under this Act or under the repealed Acts:

“worked-out lands” means mineral lands which have been worked for alluvial gold and which have been reported upon by a warden as no longer capable of being profitably worked for alluvial gold.

5. This Act applies only to Crown lands and mineral lands, and to private lands as provided by Part IIIA.

Application of Act.

587, 1893, s. 6.  
1512, 1922, s. 4.

Amended by 2004, 1931, s. 6, as revived by 15, 1941, s. 2.

6. The Governor, by proclamation, may—

- (a) declare to be mineral lands any lands belonging to or vested in the Crown, and any lands out of which minerals have been reserved to the Crown:
- (b) declare any Crown lands or mineral lands to be a goldfield:
- (c) reserve from the operation of all or any of the provisions of this Act any specific portion or class of Crown lands or mineral lands:
- (d) revoke or alter any previous proclamation.

Power of Governor to make certain proclamations.  
587, 1893, s. 7.

7. All public reserves, the fee simple of which has not been alienated from the Crown, and all public streets, roads, and highways, shall, for the purposes of this Act, be mineral lands and may be dealt with accordingly, subject to any regulations for protecting the public user of the surface of the reserves, streets, roads, or highways, and for securing to any person who, for the time being has the right of mining upon any property intersected by or abutting on any such reserve, street, road, or highway the preferential right of mining on or under the reserve, street, road, or highway so intersecting or abutting.

Reserves and roads to be mineral lands subject to special conditions.  
587, 1893, s. 8.  
1512, 1922, s. 5.

8. (1) Mineral lands which are lawfully and *bona fide* used—

Exemption of certain lands.  
587, 1893, s. 9.

- (a) as a yard, garden, cultivated field, or orchard:
  - (b) as the site of a house, outhouse, shed, or other building which is actually used and occupied:
  - (c) as the site of an artificial dam or reservoir,
- shall be exempted from the operation of this Act.

(2) Any such exemption shall cease upon payment of compensation for loss resulting from the cesser of the exemption to the person (if any) entitled to purchase the lands, or to the lessee (if any) of the lands, the said compensation to be determined by arbitration in the prescribed manner. The

s. 6. *LANE V. SYMONDS* (1932) S.A.S.R. 439. Held, that private lands, alienated in fee simple from the Crown, and under the provisions of The Real Property Act, 1886, are subject to the provisions of this Act, if not within the exceptions comprised in this Act.

## PART I.

person desiring the cesser of the exemption, and the person entitled to purchase, or the lessee, as the case may be, shall be deemed parties to a submission to such arbitration.

## PART II.

## PART II.

## ADMINISTRATION.

Minister of  
Mines.  
587, 1893,  
s. 10.

9. The Minister of Mines and his successors in office are hereby continued as a body corporate under the name of "The Minister of Mines," with perpetual succession and a common seal.

Mining  
districts.  
587, 1893,  
s. 13.

10. The State, for the purposes of this Act, may be divided into mining districts, with the names and boundaries to be fixed by the Governor by proclamation.

Powers of  
Governor.  
587, 1893,  
s. 14.

11. The Governor, by proclamation, may vary the boundaries of any mining district, abolish any mining district, and constitute new mining districts.

Mining  
registrar.  
587, 1893,  
s. 15.

12. A mining registrar shall be appointed by the Governor for each district, who shall reside therein and shall be called "The Mining Registrar for the District of \_\_\_\_\_," the blank being filled in with the distinctive name of the particular district.

Officer not to  
be interested  
in mining.  
587, 1893,  
ss. 16 and  
124.  
1512, 1922,  
ss. 6 and 26.

13. No officer appointed under this Act, or entitled to exercise any powers hereunder, (other than a mining surveyor) shall hold, either directly or indirectly, any share or interest in any mining venture in South Australia, and any officer as aforesaid who holds any such share or interest in contravention of this section shall be liable to a penalty not exceeding five hundred pounds or to imprisonment to any term not exceeding six months.

Powers of  
warden.  
587, 1893,  
s. 17.

14. A warden may hear and determine in a summary way all suits concerning any right claimed in, under, or in relation to a miner's right or business or occupation licence, or any advantage thereof or liability thereunder, or any contract in respect thereof.

Jurisdiction  
of warden.  
587, 1893,  
s. 18.

15. The jurisdiction of a warden shall extend not only to cases where the litigants are the parties originally interested in the cause of suit, but to cases where the title of litigants is derived from or through any of such parties.

16. The warden may decide any suit, and any matter arising therein, in such manner as may be just, and may make and give all orders and directions necessary for enforcing his decision, and may award reasonable costs.

Power of hearing.  
587, 1893,  
s. 19.

17. The mode of proceeding in a suit before a warden shall be as follows:—

Mode of proceeding before warden.  
587, 1893,  
s. 20.

- i. The person suing shall lodge a plaint note at the warden's office nearest to the land in reference to which or to any thing taken from which the cause of action arose:
- ii. Where paragraph i. of this section does not apply, the plaint note may be lodged at the office of any warden, and in any such case, and also in any case where it shall appear that the plaint note has been lodged at the wrong office, the warden at whose office the plaint note has been lodged, if he thinks that the suit may conveniently to the parties be decided by him, may decide the same, but otherwise shall transmit a certified copy of the proceedings in the suit to the office of the warden who, in his opinion, can with most convenience to the parties decide the suit. The last mentioned warden shall thereupon have jurisdiction in the matter:
- iii. The plaint note shall be in the form No. 1 in the fourth schedule or in a form to the like effect, and shall specify shortly the subject matter of the complaint, and the relief claimed:
- iv. Upon receipt of the plaint note the warden shall give notice in the form No. 2 in the fourth schedule, by post or otherwise, to the party sued of the nature of the suit, and the time and place at which the same will be heard and determined:
- v. At the time and place appointed the parties shall attend and state their cases before the warden, and may call evidence on oath (which oath the warden is hereby authorized to administer) in support thereof, and the warden, having heard such statement and evidence, shall give his decision, which shall be final, except as hereinafter provided:
- vi. The warden may adjourn the hearing of a suit to any other time or place, and may, either at the original

s. 16. LANE v. WARD (1935) S.A.S.R. 111. Observations that a practice of the warden's court to allow to the successful party the expenses of any witness called, irrespective of the effect that his testimony may have upon the court, was not in accordance with justice.

hearing or at any adjournment, proceed in the absence of either party:

- vii. No person who is not the holder of a miner's right in his own name shall have any right to institute proceedings before a warden.

Warden's order.  
587, 1893,  
s. 21.

18. A warden's order or decision need not be formally drawn up, but the record in the warden's book, which he is hereby required to keep for the purpose, shall be conclusive evidence of the order or decision. Any person may obtain a copy of the record on payment to the warden of the prescribed fee.

Power of warden to order metal, etc., to be seized.

587, 1893,  
s. 22,  
1352, 1918,  
s. 4.

Amended by  
58, 1940, s. 2.

Inspection by warden.

587, 1893,  
s. 23,  
1352, 1918,  
s. 5.

Amended by  
58, 1940, s. 2.

19. The warden, upon the hearing of a suit, may cause any metal, precious stones, mineral, or coal to be summarily seized and delivered to the person entitled thereto.

20. Any warden or any person authorized by the Minister may, at all reasonable times, enter and inspect any mine held under a claim or mining lease, and examine and take extracts from all books, accounts, vouchers, and documents relating thereto, or to any metals, precious stones, minerals, or coal obtained therefrom.

Entry on land for geological survey.

Inserted by  
25, 1950, s. 3.

20a. (1) For the purpose of making geological investigations and surveys the Minister, the Government Geologist and any officer of the Crown authorized in writing by the Minister or the Government Geologist may, with or without assistants, vehicles and equipment—

- (a) enter upon any land; and
- (b) conduct geological surveys, inspections and investigations thereon; and
- (c) take and remove from the land any geological specimens or samples; and
- (d) remain upon the land for such time as is necessary for the purpose of conducting geological surveys, inspections, and investigations.

(2) This section shall apply to all land whether owned or occupied by the Crown or any other person, and irrespective of the tenure thereof.

(3) A person exercising any power under this section shall not unnecessarily impede or obstruct any lawful work or

operations being carried out by the owner or occupier of any land.

(4) Any person who interferes with or obstructs any person in the exercise of any power conferred by this section shall be guilty of an offence and liable to a fine not exceeding fifty pounds.

(5) Any person entering upon any land pursuant to this section shall, if requested by the owner or occupier of such land, display his authority to such owner or occupier.

21. The Justices Act, 1921, and any other Act for the time being regulating proceedings before and the powers of justices, shall, so far as practicable, and subject to any modifications, alterations, or additions which may be prescribed, apply to proceedings before a warden, and to the enforcement of his decisions in like manner as if such decisions were the decisions of justices.

Application of Justices Act, 1921. 587, 1893, s. 24.

22. There shall be an appeal pursuant to the provisions of the Justices Act, 1921, from any determination of a warden, or from any order of dismissal.

Appeal. 587, 1893 s. 25.

PART III.

PART III.

ACQUISITION OF RIGHTS OF PROSPECTING,  
MINING, AND OCCUPATION.

DIVISION I.—GENERAL.

DIVISION I.

23. Prospecting and mining shall be permitted pursuant to this Act by virtue of—

Modes of acquiring rights of prospecting, mining, and occupation. 587, 1893, s. 26.

(a) a miner's right;

(b) a gold lease;

s. 21. THE COMMONWEALTH PLASTER COMPANY LIMITED v. MOULDEN (1925) S.A.S.R. 325. Held, that a warden when exercising jurisdiction is not a court of summary jurisdiction as defined by the Justices Act, 1921.

S.A. ASBESTOS SYNDICATE N.L. v. COOLA PRODUCTS LIMITED (1937) S.A.S.R. 1. Held, that an amendment to a plaint was properly made. The effect of the section is to make the provisions of section 56 of the Justices Act, 1921, applicable to proceedings in a warden's court.

s. 22. THE COMMONWEALTH PLASTER COMPANY LIMITED v. MOULDEN (1925) S.A.S.R. 325. Held, under section 25 of The Mining Act, 1893, that an appeal from a warden's decision was to a local court of full jurisdiction and that the Supreme Court had no jurisdiction to hear such an appeal. Section 22 of this Act has been substituted for the said section 25 and the verbiage has been considerably altered.

(c) a mineral lease;

(d) a coal lease;

Para. (e)  
struck out by  
58, 1946, s. 2.

\* \* \* \* \*

(f) a miscellaneous lease; or

(g) a special mining lease.

And in addition to the rights of occupation conferred by the foregoing, occupation shall be permitted pursuant to this Act by virtue of—

(i.) a business licence; or

(ii.) an occupation licence.

Basis of  
royalties in  
certain cases.  
Inserted by  
11, 1946, s. 3.

**23a.** (1) Where, pursuant to this Part, a lease reserves a sum based on the gross amount realized from the sale of any substances obtained from the land comprised in the lease, then for the purpose of computing that gross amount—

(a) any such substance which is used by the lessee in manufacture, shall be deemed to be sold by him at the time when it is so used:

(b) the value of the substance assuming that it were sold at the time when it is so used, and that the buyer took delivery of it on the land comprised in the lease, shall be deemed to be the said gross amount.

(2) If any dispute arises between the lessee and the Minister as to the value of any substance for the purpose of this section, the Minister or the lessee may require it to be settled by arbitration. Thereupon it shall be referred to and decided by a single arbitrator nominated by the Governor. The Governor shall nominate as arbitrator either a Judge of the Supreme Court, a Local Court Judge, or a Special Magistrate, or a legal practitioner of not less than ten years standing.

DIVISION II.

DIVISION II.—MINERS' RIGHTS.

Miners'  
rights.  
587, 1893,  
s. 27.

**24.** (1) A miner's right shall be issued by any warden or mining registrar to any person applying for the same, upon payment of the sum of five shillings.

s. 24. REGINA (on the application of JOACHIM MATTHIAS WENDT) v. GEE (1889) 23 S.A.L.R. 164. Held, under the Gold Mining Act, 1885 (section 4 of which provided that 'a miner's right may be granted by the warden' upon payment of certain fees) that the Crown through the warden had an absolute discretion as to the issue of miners' rights and licences under that Act.

(2) A miner's right shall be in the form contained in the second schedule and shall remain in force for one year from the date of the issue thereof.

25. A miner's right may be renewed at any time during its currency on payment of the sum of five shillings.

Renewal of miner's right.  
587, 1893, s. 28.  
Effect of renewal.  
587, 1893, s. 29.

26. Every renewal shall be in force for one year from the expiration of the right renewed.

27. A miner's right shall, in the first instance, authorize the holder to prospect for any metal, precious stones, mineral, coal, oil, salt, or gypsum, the property of the Crown, or as provided by Part IIIA, and to peg out in the prescribed manner and of the prescribed shape and dimensions on any land whereon the same may be or be supposed to be—

Privileges under miner's right.  
587, 1893, s. 30,  
1852, 1918, s. 6,  
1512, 1922, s. 7.  
Amended by 2004, 1931, s. 7, as revived by 15, 1941, s. 2.

(a) a gold claim not exceeding the prescribed area:

(b) a precious stones claim not exceeding the prescribed area:

(c) a mineral claim not exceeding forty acres in area:

(d) a coal claim not exceeding six hundred and forty acres in area:

\* \* \* \* \*

Para. (e) struck out by 58, 1940, s. 2.

(f) a salt or gypsum claim not exceeding the prescribed area.

28. The holder of the miner's right shall be the person in whose name the miner's right is issued, and he shall be the owner of the claim pegged out.

Ownership of claims.  
587, 1893, s. 31.

29. The ownership of a claim shall confer the right to reside thereon, and the following rights in respect thereof—

Rights of owners of claims.  
587, 1893, s. 32,  
1852, 1918, s. 7,  
1512, 1922, s. 8.

I. As to a gold claim, the preferential right to a gold lease, and in the meantime the right of mining for gold and the ownership of all gold, precious stones, and other metals or minerals found:

II. As to a precious stones claim, the right of mining for precious stones, and the ownership of all precious stones found:

s. 27. PARA WIRRA GOLD MINES NO LIABILITY v. HILL (1934) S.A.S.R. 394; partly reversing HILL v. PARA WIRRA GOLD MINES NO LIABILITY (1934) S.A.S.R. 240. Held that, where inscriptions were placed by the holder of a miner's right on pegs previously placed on a claim by a person whose miner's right had expired, the action of so doing constituted a proper pegging of the claim.

- III. As to a mineral claim, the preferential right to a mineral lease, and in the meantime the right to mine on the claim for any metals or minerals, except gold, and the ownership of all such metals and minerals when found:
- IV. As to a coal claim, the preferential right to a coal lease, and in the meantime the right to mine for coal, and the ownership of all coal found:
- v. As to a salt or gypsum claim, the preferential right to a miscellaneous lease for the purpose of the manufacture or obtaining of salt or gypsum. The ownership of a salt or gypsum claim shall not confer on the owner thereof the right of mining for salt or gypsum thereon, and, except with the approval of the Minister and subject to the prescribed conditions, no salt or gypsum shall be mined by the owner of any such claim on the land comprised therein until a miscellaneous lease for the purpose of the manufacture or obtaining of salt or gypsum has been granted to him by the Governor.

Amended by  
58, 1940, s. 2.

Additional  
rights of  
owners of  
claims.  
587, 1893,  
s. 33.

**30.** The owner of a claim, for the purpose of mining thereon, may exercise the following rights in relation to any Crown lands, that is to say, he may—

- (a) cut, construct, and use water races, dams, and reservoirs, and take, divert, and use water, and cut, take, and use timber, and take and use stone, clay, or gravel:
- (b) take possession of, and while actively engaged in prospecting or mining, occupy for the purpose of residence any prescribed area:
- (c) put up any building or other erection upon the area so occupied, and remove the same while in lawful possession of such area.

Priority of  
claims.

587, 1893,  
s. 34,  
1852, 1918,  
s. 8,  
1512, 1922,  
s. 9.

Amended by  
58, 1940, s. 2.

**31.** Whenever the same area shall be included in different classes of claims, the different classes shall have priority in the following order:

- (a) gold claims:
- (b) precious stones claims:
- (c) mineral claims:
- (d) coal claims:
- (e) salt or gypsum claims:

but the owners of all claims shall comply with prescribed requisites for securing to each the benefit of his claim, and for preventing unnecessary interference with any rights previously existing.

**32.** No area which is pegged out under one class of claim shall be liable to be again pegged out under the same class during the term of the miner's right under which the same is held, unless the forfeiture of the claim has been declared, or the same has been abandoned.

Claim not to be pegged twice of the same class.  
587, 1893,  
s. 35.

**33.** No holder of a miner's right shall prospect or mine upon or under a street, road, or highway without the consent, in writing, of the municipal corporation or district council having the control thereof.

No mining under road, etc., without consent.  
587, 1893,  
s. 36.

Amended by 2004, 1931,  
s. 8.

If any such municipal corporation or district council refuses its consent to any person to prospect or mine as aforesaid, the said person may apply to a warden for consent to prospect or mine as aforesaid. The warden may in his discretion grant any such application, in which case the applicant may prospect or mine as aforesaid without the consent of the municipal corporation or district council.

**34.** No claim shall be pegged out upon any area which is being lawfully mined, so as wholly or partially to come within fifty yards of a shaft or sinking in actual use for the purpose of such mining without the consent in writing of the person mining.

No claim within fifty yards of shaft.  
587, 1893,  
s. 37.

**35.** No person shall at the same time own more than one claim by virtue of the same miner's right; but any person may hold any number of miner's rights, and for each miner's right so held by him he may own one claim: Provided that no person shall hold more than one alluvial gold claim.

Conditions as to claims.  
587, 1893,  
s. 38.

**36.** (1) Every claim shall be liable to forfeiture upon non-compliance by the owner with the prescribed conditions as to working the same.

Forfeiture.  
587, 1893,  
s. 39,  
1852, 1918,  
s. 9.

(2) If at any time the Minister is satisfied by the report of a warden that payable results have been obtained on any claim, other than an alluvial gold claim or precious stones

s. 32. PARA WIRRA GOLD MINES NO LIABILITY V. HILL (1934) S.A.S.R. 394; partly reversing HILL V. PARA WIRRA GOLD MINES NO LIABILITY (1934) S.A.S.R. 240. Held that, where a claim is pegged out by a person holding a miner's right which subsequently expires and is not renewed, no declaration of forfeiture is necessary to enable the area comprised in the claim to be pegged out after such expiration for the same class of claim by any other person who is the holder of a miner's right.

claim, he may require the owner of the claim to take a lease of his claim, and in default of compliance with any such requisition the claim shall be liable to forfeiture.

Preferential right of person establishing forfeiture of claim.  
587, 1893, s. 40.

**37.** Any holder of a miner's right who shall, in a suit instituted by him before a warden, prove that a claim is liable to forfeiture, shall be entitled to an order declaring and enforcing such forfeiture, and shall, for fourteen days after the making of the order, have a preferential right to enter upon and peg out the claim as a claim of the same class as the one forfeited.

Claim to be personal property.  
587, 1893, s. 41.

**38.** Every claim shall be personal property.

Claim to be registered.  
587, 1893, s. 42.

**39.** The owner of a claim, and every person deriving title from or through him, within thirty days after the claim is first pegged out, or the title is acquired, or within such additional time (if any), not exceeding fourteen days, as a warden may, on the ground of sickness, absence, or other like disability of any such owner or person allow, shall register the claim or title in the prescribed manner, in the office of the mining registrar in the mining district wherein the claim is situated.

Miner's right to be produced on registration.  
587, 1893, s. 43.

**40.** No claim or title shall be registered unless the miner's right under which the claim is held is produced to the officer required to register the same.

Effect of non-registration.  
587, 1893, s. 44.

**41.** If any owner or person neglects to register his claim or title pursuant to section 39, he shall not be authorized while the default continues, to prospect or mine thereon, and for default by the owner the claim shall be liable to forfeiture.

Transfer of claims and interests therein.  
587, 1893, s. 45.

**42.** After, but not before, the registration of a claim the owner may, subject to the regulations, and in the prescribed manner, by instrument in writing, divide the interest in the claim into such shares as he shall think proper, and may allot shares and transfer the claim or create or transfer any interest therein.

Amalgamation of claims.  
587, 1893, s. 46.

**43.** Two or more adjoining claims may be amalgamated in manner prescribed, and every amalgamation shall be registered as prescribed.

## DIVISION III.—GOLDFIELDS.

## DIVISION III.

44. Mining and occupation shall be permitted in goldfields in manner prescribed.

Mining in goldfields.  
587, 1893,  
s. 48.

45. (1) On the report of any person of his discovery of gold in apparently payable quantities on mineral lands made to a warden in manner prescribed, the warden shall forthwith post a notice of the discovery outside his office, which notice shall operate to proclaim provisionally as a goldfield as on and from the day when the discovery was reported all mineral lands contained in a square, the boundary lines of which shall be directed to the cardinal points and the central point in each boundary line whereof shall be distant half a mile from the place of discovery.

Discovery of payable gold.  
587, 1893,  
s. 49.  
1512, 1922,  
s. 10.

(2) Any such provisional proclamation shall be in force, and have the effect of a proclamation under section 6, until the area comprised therein or any enlarged or diminished area is proclaimed as a goldfield under the said section or the provisional proclamation is revoked.

46. The warden to whom any such discovery is reported, or some officer to be authorized in that behalf by the Minister, shall forthwith inspect the alleged discovery and report thereon to the Minister; and if on such report the Minister is of opinion that the alleged discovery does not warrant the proclamation of a goldfield he may, by notice in the *Government Gazette*, revoke the provisional proclamation.

Revocation of provisional proclamation.  
587, 1893,  
s. 50.

## DIVISION IV.—GOLD LEASES.

## DIVISION IV.

47. (1) The Governor may grant to a holder of a miner's right a gold lease of land not exceeding forty acres in area.

Gold leases.  
587, 1893,  
s. 51.  
1352, 1918,  
s. 10.  
1927, 1929,  
s. 3.  
Cf. U.K.  
36 & 37  
Vict. c. 36,  
s. 4.  
Cf. U.K.  
17 & 18  
Geo. 5 c. 23,  
s. 7.

(2) Lands held under a miner's right or business or occupation licence may be leased under this section with the consent in writing of the holder of the right or licence, or, in case of land held under a business or occupation licence, without such consent on payment to the holder of compensation for all loss and damage, the amount of the compensation in case of difference to be settled by a warden.

(3) Lands comprised in a goldfield shall not be leased under this section until after the expiration of one year from the date of the proclamation of the goldfield.

Amended by  
11, 1946, s. 4.

(4) A gold lease may be for any term not exceeding twenty-one years, and shall reserve an annual rental of one shilling per acre, payable yearly in advance, the first payment to be made on making the application for the lease, and shall

reserve a further sum of sixpence in the pound sterling on the net profits obtained from the occupation and working of the lands comprised in the lease and the sale of the metals, precious stones, and minerals obtained therefrom: Provided that where the gold lease is granted after the commencement of the Mining Act Amendment Act, 1946, the said further sum so reserved shall be two and one-half per centum of the gross amounts realized from the sale of metals, precious stones and minerals obtained from the lands comprised in the lease.

Covenants in  
gold leases.  
587, 1893,  
s. 52.  
1927, 1929,  
s. 4.

**48.** Every gold lease shall contain the following covenants by the lessee:—

- I. That he will pay the rent reserved by the lease as and when it shall become due:
- II. That he will not without permission in writing from the Minister use the leased land for any other purpose than that of mining on the land as authorized by his lease:
- III. That he will, during the term of the lease, observe the prescribed labour conditions, and that he will furnish the Minister, whenever required by the Minister, with satisfactory evidence that the said labour conditions have been and are being observed:
- IV. That he will furnish the prescribed statements of the workings and proceeds of the mine, and observe all the provisions of this Act:
- V. Such other covenants and conditions as may be prescribed:

and shall contain a proviso that the lease shall be liable to forfeiture upon breach by the lessee of any covenant or condition therein.

Holder of  
mineral claim  
or lease to  
have right to  
gold lease.  
587, 1893,  
s. 54.

**49.** The owner of a mineral claim and the holder of a mineral lease shall have a preferential right to a gold lease of the land comprised in the claim or lease, or any part thereof, subject to such terms as may be prescribed.

Rights of  
gold lessee  
to mine for  
other metals  
or minerals.  
587, 1893,  
s. 55.  
1952, 1918,  
s. 11.  
1912, 1922,  
s. 11.

**50.** The holder of a gold lease shall be entitled by virtue of his lease to mine for all metals, precious stones, and minerals, in and upon the land comprised therein, subject to the conditions of his lease and to the regulations.

Number of  
leases.  
587, 1893,  
s. 56.

**51.** Any number of gold leases may be held by one person.

DIVISION V.—MINERAL LEASES.

DIVISION V.

**52.** (1) The Governor may grant to a holder of a miner's right a mineral lease of lands not comprised in a goldfield, and not exceeding forty acres in area.

Mineral leases.  
587, 1893,  
s. 57.  
1352, 1918,  
s. 12.  
1512, 1922,  
s. 12.  
Cf. U.K.  
36 & 37  
Vict. c. 36,  
s. 4.  
Cf. U.K.  
17 & 18  
Geo. 5 c. 23,  
s. 7.

(2) Lands held under a miner's right or business or occupation licence and not comprised in a goldfield may be leased under this section with the consent in writing of the holder of the right or licence, or, in case of land held under a business or occupation licence, without such consent on payment to the holder of compensation for all loss and damage, the amount of the compensation in case of difference to be settled by a warden.

Amended by  
11, 1946, s. 5.

(3) A mineral lease may be for any term not exceeding twenty-one years, and shall reserve an annual rental of one shilling per acre, payable yearly in advance, and shall reserve a further sum of sixpence in the pound sterling on the net profits obtained from the occupation and working of all mines on, and the sale of all metals and minerals which shall be obtained from, the land comprised in the lease: Provided that where the lease is granted after the commencement of the Mining Act Amendment Act, 1946, the said further sum so reserved shall be two and one-half per centum of the gross amounts realized from the sale of metals and minerals obtained from the land comprised in the lease.

**53.** Every mineral lease shall contain the following covenants by the lessee:—

Conditions of lease.  
587, 1893,  
s. 58.  
1352, 1918,  
s. 13.

- i. That he will pay the rent reserved by the lease as and when it shall become due:
- ii. That he will not, without permission in writing from the Minister, use the leased land for any other purpose than that of mining on the land:
- iii. That he will during the term of the lease observe the prescribed labour conditions, and that he will furnish the Minister, whenever required by him, with satisfactory evidence that the said labour conditions have been and are being observed:
- iv. That he will forward the returns required by, and observe all the provisions of this Act:
- v. Such other covenants and conditions as may be prescribed:

And shall contain a proviso that the lease shall be liable to forfeiture upon breach by the lessee of any covenant or condition therein.

PART III.  
DIVISION V.

Number of  
leases.  
587, 1893,  
s. 59.

54. Any number of mineral leases may be held by one person.

## DIVISION VI.

## DIVISION VI.—COAL LEASES.

Heading  
amended by  
58, 1940, s. 2.

Leases for  
coal mining.  
587, 1893,  
s. 60.  
751, 1900,  
s. 14.  
1352, 1918,  
s. 14.  
1512, 1922,  
s. 13.  
Cf. U.K.  
36 & 37  
Vict. c. 36,  
s. 4.  
Cf. U.K.  
17 & 18  
Geo. 5 c. 23,  
s. 7.

Amended by  
58, 1940, s. 2,  
and by 11,  
1946, s. 6.

55. (1) The Governor may grant to a holder of a miner's right a coal lease of lands not comprised in a goldfield and not exceeding six hundred and forty acres in area.

(2) Lands held under a miner's right or business or occupation licence, and not comprised in a goldfield, may be leased under this section with the consent in writing of the holder of the right or licence, or, in case of land held under a business or occupation licence, without such consent on payment to the holder of compensation for all loss and damage, the amount of the compensation in case of difference to be settled by a warden.

(3) A lease under this section may be for any term not exceeding twenty-one years, and may be granted at such a rental and upon such terms and conditions as the Governor may think fit, or as may be prescribed. The rent reserved by any such lease shall be payable yearly in advance.

(4) A lease under this section which is granted after the fifth day of December, nineteen hundred, shall, in addition to the annual rent, reserve a further sum equal to sixpence in the pound sterling on the net profits obtained from the occupation and working of the lands comprised in the lease and the sale of the coal obtained therefrom: Provided that where the lease is granted after the commencement of the Mining Act Amendment Act, 1946, the said further sum so reserved shall be two and one-half per centum of the gross amounts realized from the sale of coal obtained from the lands comprised in the lease.

Covenants  
in lease.  
587, 1893,  
s. 61

Amended by  
58, 1940, s. 2.

56. Every coal lease shall contain the following covenants by the lessee:—

- I. That he will pay the rent reserved by the lease as and when it shall become due:
- II. That he will not, without permission in writing from the Minister, use the leased land for any other purpose than that of mining as authorized by his lease:
- III. That he will, during the term of the lease, keep continuously employed in mining or prospecting upon the leased land as authorized not less than one man

for every forty acres of the land leased, and that he will furnish the Minister whenever required by him, with satisfactory evidence that the said number of men have been and are employed:

- iv. That he will observe all the provisions of this Act:
- v. Such other covenants and conditions as may be prescribed:

And shall contain a proviso that the lease shall be liable to forfeiture upon breach by the lessee of any covenant or condition therein.

57. The owner of a gold claim and the owner of a gold lease shall have a preferential right to a coal lease of the land comprised in the claim or lease, or any part thereof, subject to such terms as may be prescribed.

Gold lessee to have right to coal lease.  
1512, 1922, s. 14.

Amended by 58, 1940, s. 2.

58. Any number of coal leases may be held by one person.

Number of leases.  
587, 1893, s. 62.

Amended by 58, 1940, s. 2.

DIVISION VII.—MISCELLANEOUS LEASES.

DIVISION VII.

59. (1) The Governor may grant to a holder of a miner's right a lease of mineral lands for any term not exceeding twenty-one years, at such rent and upon such terms and conditions as may be prescribed, for all or any of the following purposes:—

Salt and gypsum leases, etc.  
587, 1893, s. 63.  
751, 1900, s. 14.  
1352, 1918, s. 15.  
1512, 1922, s. 15.  
Cf. U.K. 36 & 37 Vict. c. 36, s. 4.  
Cf. U.K. 17 & 18 Geo. 5 c. 23, s. 7.

- I. For the manufacture or obtaining of salt or gypsum:
- II. For the working of mineral springs:
- III. For sites for smelting works or any other mining works approved by the Governor:

Amended by 11, 1946, s. 7.

(2) The rent reserved by any such lease shall be payable yearly in advance.

(3) A lease under paragraph I. or II. of subsection (1) of this section which is granted after the fifth day of December, nineteen hundred, shall, in addition to the annual rent, reserve a further sum equal to sixpence in the pound sterling on the net profits obtained from the occupation and working of the lands comprised in the lease and the sale of the salt, gypsum, or mineral waters obtained therefrom: Provided that where the lease is granted after the commencement of the Mining Act Amendment Act, 1946, the said further sum shall be two and one-half per centum of the gross amounts realized from the sale of salt and gypsum or mineral waters obtained from the lands comprised in the lease.

PART III.  
DIVISION VII.Conditions  
of lease.587, 1893,  
s. 64.  
1512, 1922,  
s. 16.

60. Every lease granted under section 59 shall contain—

- (a) a covenant by the lessee to use the leased land *bona fide* for the purpose for which it shall have been leased, and for no other purpose:
- (b) such other covenants and conditions as may be prescribed:
- (c) a proviso for forfeiture upon breach by the lessee of any covenant or condition therein.

Holders of  
lands on  
which salt  
lakes are  
situated  
to have  
preferential  
rights to  
a salt-lease of  
such lands.  
613, 1895,  
s. 2.

61. Any person who, at the sixteenth day of October, eighteen hundred and ninety-five, held any lands under agreement for purchase of the same upon credit, or under any selector's right of purchase, perpetual, or miscellaneous lease granted by or on behalf of the Crown upon which any salt lake is situated, shall have a preferential right to a lease under this Division of any portion of the said lands (not exceeding in area the amount prescribed by the regulations) for the purpose of obtaining salt, the said right to be exercised within two months from the giving of a notice to the said person from the Minister requiring the said person to exercise the said preferential right.

## DIVISION VIII.

## DIVISION VIII.—SPECIAL MINING LEASES.

Special  
mining lease.  
1927, 1929,  
s. 6.

62. (1) The Governor may, upon the recommendation of the Minister, grant a special mining lease of any mineral lands in any case where the Minister is satisfied that by reason of the difficulties or cost attending the prospecting or development thereof, the construction of plant thereon, the treatment of the materials to be mined therefrom, or for any other reason a special mining lease of the land should be granted.

(2) The Minister may, on application being made for a special mining lease, direct the Government Geologist or Inspector of Mines to inquire into and report to him on the application, on the rent and royalty to be paid, on the term of the lease, on the area of the land to be comprised in the lease, and on the labour and other conditions to be incorporated in the lease.

(3) The term of any special mining lease may be for any period not exceeding two years.

(4) The lessee shall furnish the Minister, whenever required by the Minister, with satisfactory evidence that all the terms and conditions of the lease have been and are being

properly complied with, and if the lessee makes default in complying with the provisions of this subsection, his lease may be cancelled forthwith.

(5) The lessee shall, during the term of his lease, if proper compliance has been made with all the terms and conditions thereof, have a preferential right to an ordinary lease or leases under this Act appropriate to the substance to be mined or treated, of the whole or any part of the land comprised in the special mining lease.

(6) The Governor may fix the term of and the area of the land to be comprised in any such special mining lease, the rent and royalty to be paid, and the labour conditions and other conditions, reservations, and exceptions to be contained therein, but in all other respects every such special mining lease and the application for the same shall be subject to the provisions of this Act.

**62a.** (1) Before the Governor grants a lease under section 62 of this Act, the Minister may require the proposed lessee to deposit with him a bond in the sum of one thousand pounds or such greater sum as the Minister requires.

Deposit of bonds by holders of special mining leases.

Inserted by 15, 1945, s. 3.

(2) The bond shall be given to the Minister by the proposed lessee or by some other person approved by the Minister and shall be conditioned upon the due execution and observance of all the terms, covenants and conditions of the lease when granted.

(3) The sum mentioned in a bond given under this section shall not be a penalty, but shall be liquidated damages and recoverable in full unless the person giving the bond proves performance of every condition upon which the bond is defeasible.

(4) Every bond given under this section shall be in the form prescribed by regulation.

DIVISION IX.—BUSINESS AND OCCUPATION LICENCES.

DIVISION IX.

**63.** A business licence in the form in the third schedule may be granted by a warden or mining registrar to any person upon payment of ten shillings for a licence for six months, or one pound for a licence for a year.

Business licence. 587, 1893, s. 65.

**64.** (1) Every business licence shall entitle the holder to peg out a business claim, and to occupy the business claim for the purposes of residence and of business.

Effect of business licence. 587, 1893, s. 66.

(2) Every such holder shall, during the continuance of the business licence, be the owner of the claim (except as against His Majesty).

(3) No person shall own or occupy more than one business claim.

(4) No business claim shall exceed in extent a quarter of an acre in township sites and one acre on other lands.

Transfer of  
business  
licence.  
587, 1893,  
s. 67.

65. The holder of a business licence may by writing under his hand in the prescribed form, and signed by him before a warden, mining registrar, or justice, transfer the same. The transfer shall be registered as prescribed, and shall operate to transfer the business claim to the transferee.

No business  
claim allowed  
in certain  
cases.  
587, 1893,  
s. 68.

66. No business claim shall be pegged out within five miles of any Government township unless the same shall be pegged out within a goldfield.

Power of  
Minister  
to grant  
occupation  
licences.  
587, 1893,  
s. 69.  
1054, 1911,  
s. 4.

67. (1) The Minister may grant to any person an occupation licence authorizing the holder thereof to occupy, for the purpose of residence and cultivation by himself and his family only, any defined portion of Crown lands not exceeding half an acre, and (with the consent in writing of the holder or lessee thereof) any portion not exceeding half an acre of the lands comprised in a claim (other than a gold claim), or comprised in a mining lease.

(2) An occupation licence shall be for fourteen years, and at such annual rent, not being less than two shillings and not more than ten shillings, as is approved by the Minister; and shall be transferable by writing, in the prescribed form, signed by the holder of the licence.

(3) The Minister shall renew an occupation licence on the request of the holder thereof until the land comprised therein shall be required for the purpose of any road, railway, or public work.

(4) Every such licence, and every transfer thereof, shall be registered in the prescribed manner by the holder or transferee at the office of the mining registrar nearest to the site of the land comprised therein.

Power of  
lessee to  
resume lands  
held under  
occupation  
licence.  
587, 1893,  
s. 70

68. In the case of an occupation licence granted in respect of lands comprised in a claim or a mining lease the owner of the claim, or the holder of the lease may, on giving three months' notice in writing of his intention so to do, resume for the purpose only of mining therein and thereon, the land

comprised in the licence, on paying therefor such compensation as a warden may consider just for the loss of so much of the term of the licence as may then be unexpired, together with the value, fixed by a warden of any improvements made thereon by the licensee or his predecessor in title.

69. When any land included in an occupation licence is required for the purpose of any road, railway, or public work, during the term of the licence, the licence shall thereupon determine; but the holder thereof shall be entitled to claim from the Crown the same compensation and payment for the value of improvements as is by the last preceding section directed to be paid on the resumption of land by the owner of a claim.

Cesser of licence on resumption by Crown. 587, 189B, s. 71.

PART IIIA.

MINING ON PRIVATE LAND.

PART IIIA.

Cf. U.K. 13 & 14 Geo. 5 c. 20.

69a. (1) This Part shall apply to all private lands in the State except—

Application of Part.

(a) land exempted pursuant to section 69b; and

Inserted by 2004, 1931, s. 9, as revised by 15, 1941, s. 2.

(b) land declared by the Governor by proclamation to be land to which this Part shall not apply.

(2) The Governor may make any such proclamation as aforesaid and may by proclamation revoke or alter any such proclamation.

69aa. Nothing in this Act shall apply to any sand, gravel, stone, or shell in or upon any private lands in any case where the sand, gravel, stone, or shell has been alienated from the Crown, and no right of mining over any such sand, gravel, stone, or shell shall be conferred pursuant to this Act.

Non-application of Act to sand, gravel, stone, and shell on private lands. Inserted by 2004, 1931, s. 9, as revised by 15, 1941, s. 2.

69b. (1) The following private lands shall be exempted from the operation of this Part, namely:—

Exemption of certain lands.

I. Land lawfully and *bona fide* used as a garden, orchard, or vineyard:

Inserted by 2004, 1931, s. 9, as revised by 15, 1941, s. 2.

II. Any church, chapel, or schoolhouse, college, hospital, or asylum, and any ground enclosing the same and occupied therewith:

- iii. Any park lands or ornamental or recreation grounds vested in any municipal corporation or district council or in any other public body or trustees:
- iv. Any land of less area than half an acre within any city, town, or township:
- v. Any land within one hundred and fifty yards of any artificial well, reservoir, or dam, or of any dwelling-house, factory, or building, in any case in which the well, reservoir, dam, dwelling-house, factory, or building is not of less value than fifty pounds:
- vi. Any land within one hundred yards of any spring, watering trough, or artificial watering place which is habitually used for stock.

Cf. U.K.  
18 & 14  
Geo. 5 c. 20,  
s. 9.

(2) Any such exemption as referred to in subdivisions i., iv., or v. of subsection (1) hereof shall cease upon payment of compensation for loss resulting from the cesser of the exemption to the owner of the private land, the said compensation to be determined by arbitration in the prescribed manner. The person desiring the cesser of the exemption and the owner of the land shall be deemed parties to a submission to such arbitration. Any such exemption as is referred to in subdivision vi. of subsection (1) hereof shall cease upon the granting of a certificate in writing by a warden and shall cease to the extent therein specified. Any such certificate may be granted upon such conditions as the warden thinks fit and no such cesser or partial cesser shall be deemed in any way to affect the operation of section 69e.

(3) Subject to any rights of prospecting, mining, or occupation conferred pursuant to this Part, nothing in this Part shall be deemed to debar the person in whom, but for this Part, the ownership of any substances in or upon any private land would be vested, from carrying out otherwise than pursuant to this Act any mining operations upon the said land or causing the same to be so carried out; and private land upon which mining is carried on otherwise than pursuant to this Act shall be exempt from the operations of this Part for so long as the said land is continuously and *bona fide* mined with the number of men and in the manner which would be necessary if the said land were held under a mining lease, and for a further period of one month after mining as aforesaid ceases to be carried on. Any dispute as to whether this subsection applies to any private land shall be heard and determined by a warden. The provisions of Part II. shall apply to every such dispute and hearing.

**69c.** Subject to this Part, all the provisions of this Act, except Divisions III., VIII., and IX. of Part III. and Parts VII. and VIII. shall apply to private land to which this Part applies, and all such private land shall, subject as aforesaid, be open to mining as if the same were mineral lands.

Opening of private land to mining.

Inserted by 2004, 1931, s. 9, as revised by 15, 1941, s. 2.

**69d.** (1) No person shall enter upon any private land to which this Part applies for any mining purpose unless he has an authority to do so pursuant to this section.

Authority to enter.

Cf. U.K. 24 & 25 Geo. 5 c. 36, s. 2.

(2) Any person desiring to enter as aforesaid may obtain the written authority of the occupier of the private land and may thereupon enter upon the land. Within seven days after entering as aforesaid the said person shall give to the registrar of the Department of Mines at Adelaide notice in writing of the granting of the authority and the entry.

Inserted by 2004, 1931, s. 9, as revised by 15, 1941, s. 2.

(3) If any person desiring to enter as aforesaid does not obtain the consent as aforesaid of the occupier of the private land, such person may make application to a warden for an authority to enter upon the said land.

(4) The warden shall give notice of the application to the occupier of the land. The notice may be given by post.

(5) Upon the expiration of fourteen days after the sending of the notice the warden may, upon considering any representations made to him by the occupier of the land, issue to the applicant an authority to enter the said private land. If the warden is satisfied that there is no occupier of the private land he may issue an authority without giving notice as aforesaid.

Any such authority may be cancelled at any time by a warden. Except as hereinafter provided, upon such cancellation the authority to enter and remain upon the land and every right of prospecting, mining, and occupation in respect of any land comprised in such authority and held by the person named in the authority shall be absolutely determined, but no such cancellation shall have application to or affect any mining lease of any land comprised in such authority and granted to the person named in the authority.

(6) In the exercise of his powers under this section the warden may have regard to the following matters:—

1. The character of the applicant, and in the case of a person holding an authority, the character of such person and his conduct in the exercise of any rights or powers under the authority:

- II. Whether in the opinion of the warden, there are no substances in payable quantities capable of being mined on the private land in question.

Any person who—

- (a) is the owner or occupier of any land to which any authority applies; or
- (b) is the holder of or an applicant for any authority,

may within one month of the giving of any decision by a warden granting or cancelling any authority or refusing to grant or cancel any authority, apply by summons to a judge of the Supreme Court for an order directing the warden to grant or cancel the authority; as the case may be, and the judge may make such order as to him shall seem just in the circumstances.

(7) Entry without authority as aforesaid shall be deemed to be unlawful.

(8) Nothing in this section and no authority issued pursuant to this section shall relieve any person from any obligation to comply with the provisions of the Act relating to the acquisition of any right of prospecting, mining, or occupation, or any other provision of this Act.

Compensation  
for damages.

Inserted by  
2004, 1931,  
s. 9, as  
revived by  
15, 1941, s. 2.

**69e.** Where damage is sustained by the owner, lessee, or purchaser of any private land through any person or his servant or agent entering thereon pursuant to the provisions of this Part, and searching for, mining or removing metals, minerals, precious stones, salt, gypsum, coal, shale, or oil, compensation shall be made to the owner, lessee, or purchaser by such person for the damage so sustained, and in any such case the provisions of subsection (2) of section 56 of the Crown Lands Act, 1929, shall apply.

Royalty from  
claims on  
private land,  
and from  
search licences  
and permits.

Inserted by  
2004, 1931,  
s. 9, as  
revived by  
15, 1941, s. 2.

**69f.** (1) There shall be payable to the Minister by the owner of every claim under Division II. of Part III. on private land to which this Act applies a sum amounting to one per centum of the gross amount obtained from the occupation and working of the land comprised in the claim and the sale of the substances mined thereon.

(2) There shall be payable to the Minister by every licensee under Part V. and every holder of a permit under Part VI. issued in respect of any private land to which this Part applies a sum amounting to one per centum of the gross amount obtained from the sale of any substance mined thereon pursuant to the licence or permit, as the case may be.

(3) In addition to the annual rent, there shall be payable to the Minister by every lessee under any mining lease of private land to which this Part applies, a further sum amounting to one per centum of the gross amount obtained from the occupation and working of the land comprised in the lease and the sale of the substances mined thereon or obtained therefrom. No other amounts shall be payable as royalty under any such mining lease.

**69g.** All amounts payable as royalty pursuant to section 69f shall, after the deduction therefrom by the Minister of one-tenth thereof, be paid by the Minister to the person in whom, but for this Part, the ownership of the substances mined would be vested.

Payment of royalty to owner.

Inserted by 2004, 1931, s. 9, as revised by 15, 1941, s. 2.

**69h.** (1) Notwithstanding the provisions of Part III. the annual rental payable under a gold lease or a mineral lease of private land to which this Part applies shall be one pound per acre, and the annual rental payable under any other mining lease of any such private land shall be at least one pound per acre.

Rental of mining leases of private lands.

Inserted by 2004, 1931, s. 9, as revised by 15, 1941, s. 2.

(2) All amounts received by the Minister as rent payable under any mining lease of any such private land or as fees payable under any search licence or permit to prospect for oil in respect of any such land shall, after the deduction of one-twentieth thereof, be paid by the Minister to the owner of the land.

**69i.** Upon the discovery in any private land of gold in such quantities as the Minister considers payable, the Governor may resume for mining so much of such land as he may consider necessary. But no such resumption shall be made of land occupied for the time being under any mining lease unless with the consent of the lessee and the persons entitled to the rental and royalties payable thereunder, and no such resumption shall be made of land which is exempted from the operation of this Part pursuant to subsection (3) of section 69b.

Resumption of private lands.

Inserted by 2004, 1931, s. 9, as revised by 15, 1941, s. 2.

**69j.** Every such resumption shall be notified in the *Gazette*, and in some newspaper published or circulating in the district in which such land is situated, and shall take effect at the date specified for that purpose in the said notification, and such land shall thereupon vest in His Majesty and become Crown land within the meaning of this Act, and

Resumption to be notified.

Inserted by 2004, 1931, s. 9, as revised by 15, 1941, s. 2.

shall be reserved from sale and from lease for other than mining purposes until such reservation is revoked by the Governor.

Copies of all such notifications, together with the reasons for the resumption therein notified, shall be laid upon the tables of both Houses of Parliament forthwith if Parliament is then sitting, and if not, then within fourteen days after the commencement of the next session thereof.

Compensation.

Inserted by  
2004, 1931,  
s. 9, as  
revived by  
15, 1941, s. 2.

**69k.** When any land is resumed under this Part, the Minister shall pay compensation therefor, which shall be assessed as provided by the Compulsory Acquisition of Land Act, 1925, but the land shall vest as provided in section 69j, and the compensation shall, failing agreement between the parties, be recoverable as if it were a disputed claim for compensation. The provisions of the said Act shall apply accordingly, but—

- (a) in assessing the amount of compensation payable, regard shall not be had to any increase in value of the land resumed by reason of the discovery of gold thereon; and
- (b) the value of the land shall be taken to be its value at the date of the publication in the *Gazette* of the notification of resumption as provided in section 69j.

PART IV.

PART IV.

FORFEITURE OF MINING LEASES.

Application  
for forfeiture  
of mining  
lease.  
1952, 1918,  
s. 21.

**70.** (1) Any person who is the holder of a miner's right in his own name, and who is of opinion that any mining lease is liable to forfeiture, may lodge a plaint note at the warden's office nearest to the lands comprised in the lease praying that the lease shall be forfeited and stating the grounds for the forfeiture.

(2) The said person shall, at the time of lodging the plaint note, lodge at the office of the same warden a sum of not less than two pounds which, if the Minister considers the complaint to be frivolous, and not otherwise, shall be absolutely forfeited to the Government.

(3) The plaint note may also contain a request that in the event of the mining lease being forfeited a lease under this Act of the lands comprised in the lease so forfeited be granted to the complainant.

71. The provisions of Part II. shall, so far as practicable, apply to applications for forfeiture under section 70.

Part. II. to apply to applications for forfeiture. 1352, 1918, s. 22.

72. If the decision of the warden is that the lease has become liable to forfeiture, he shall forward a certified copy of the evidence taken at the hearing, together with a report thereon, to the Minister, and may recommend that the lease be forfeited.

Duty of warden to report to Minister. 1352, 1918, s. 23.

73. If an appeal is made from the decision of the warden, a certificate under the hand of the clerk of the appellate court stating the result of the appeal shall be forthwith forwarded to the Minister.

If appeal from warden's decision, certificate as to result thereof to be forwarded to Minister. 1352, 1918, s. 24.

74. (1) Where no appeal is made from the decision of the warden within the time allowed by law, after considering the evidence and the report and recommendations of the warden forwarded to him as provided in section 72, the Minister shall, if he is of opinion that the lease is liable to forfeiture, submit the matter for the determination of the Governor.

Duty of Minister to submit question of forfeiture to Governor. 1352, 1918, s. 25.

(2) Where an appeal has been made from the decision of the warden, and the decision on the appeal is that the lease has become liable to forfeiture, after considering the decision and the evidence, the Minister shall, if he is of opinion that the lease is liable to forfeiture, submit the matter for the determination of the Governor.

75. The Governor may cancel the said lease, and thereupon the complainant shall be entitled to a mining lease of the class requested in the plaint note of the lands comprised in the cancelled lease for the unexpired balance of the term of the lease not exceeding in any case the period of twenty-one years.

Power of Governor to cancel mining lease. 1352, 1918, s. 26. 1512, 1922, s. 27.

76. If the warden or the appellate court orders that costs be paid by the lessee to the complainant, the said costs shall not be payable in the event of the Minister refusing to submit the question of forfeiture to the Governor, unless the Minister approves of the order for costs.

Costs. 1352, 1918, s. 27.

## PART V.

## PART V.

## SEARCH LICENCES.

Search  
licences.  
751, 1900.  
s. 6.

**77.** The Minister may grant licences to search on any specific mineral lands not exceeding five square miles in area for any of the following minerals, namely:—

I. Precious stones:

II. Mineral phosphates:

\* \* \* \* \*

Para. iii.  
struck out by  
58, 1940, s. 2.

IV. Rare metals, minerals, and earths, the mining for which, in the opinion of the Minister, has not been proved payable in any instance in any portion of the State.

Fee.  
751, 1900.  
s. 7.

**78.** A fee of twenty shillings for each square mile or portion thereof included in any licence under this Part shall be paid by the licensee to the Minister before the issue of the licence.

Maximum  
area.  
751, 1900.  
s. 8.

**79.** No person shall directly or indirectly hold more than five square miles of land at one time under licence under this Part.

Exemption.  
751, 1900,  
s. 9.

**80.** Lands held under miner's right or mining lease shall be exempt from the operation of licences under this Part.

Provisions  
of licence.  
751, 1900.  
s. 10.

Amended by  
58, 1940, s. 2.

**81.** Licences under this Part may be in the form in the fifth schedule, and shall be in force for twelve months from the date thereof, and shall, subject to the regulations, authorize the licensee, his assigns, servants, and workmen—

(a) to search and mine the land comprised in the licence for precious stones, mineral phosphates, metals, minerals, or earths, as the case may be;

(b) to remove any material from the said land, not exceeding twenty tons in the whole, for testing purposes only.

Duties of  
licensee.

751, 1900.  
s. 11.  
1054, 1911,  
s. 5.

Amended by  
58, 1940, s. 2.

**82.** Every licensee under this Part shall—

(a) from the expiration of three months after the granting of the licence employ and keep constantly employed throughout the remainder of the term of the licence in searching for precious stones, mineral phosphates, rare metals, minerals, or earths, on the land comprised in the licence, not

less than one man for every six hundred and forty acres, or part thereof, of land so comprised: Provided that the Minister may grant to a licensee an exemption or partial exemption from the provisions of this subdivision for any period not exceeding three months on payment of the fee prescribed by regulations to be paid on the registration of the suspension of a lease;

- (b) furnish the Minister, whenever required by him or by the regulations, with satisfactory evidence of compliance with the provisions of this section;
- (c) report to the Minister forthwith after the discovery in payable quantities of precious stones, mineral phosphates, or any metal or mineral earth:

And if any licensee shall make default in complying with the provisions of this section his licence shall be forfeited.

**83.** (1) Every licensee under this Part shall, during the currency of the licence, have a preferential right—

Preferential right.  
751, 1900.  
s. 12.  
1952, 1918,  
s. 19.

- (a) in case of a licence to search for metals, minerals, or earths, to a mineral lease of any part, not exceeding forty acres, of the land comprised in the licence:
- (b) in case of a licence to search for mineral phosphates, to a mineral lease of any part, not exceeding one hundred acres, of the land comprised in the licence:

\* \* \* \* \*

Para. (c)  
struck out by  
58, 1940, s. 2.

- (d) in case of a licence to search for precious stones, to a precious stones claim of any area not exceeding the prescribed area.

(2) Upon the preferential right being exercised the licence shall at once cease and determine, and shall be returned by the licensee to the Minister.

**84.** No licence under this Part shall operate to prevent persons holding miners' rights from prospecting for gold, silver, lead, or copper on the lands comprised in the licence, or from acquiring thereon claims or leases for mining for the said metals.

Reservation of right to prospect for gold, silver, etc.  
751, 1900.  
s. 13.

Part VI.  
(ss. 85 to 95)  
repealed by  
56, 1940, s. 2.

\* \* \* \* \*

PART VII.

PART VII.

DREDGING LEASES.

Dredging  
leases.  
881, 1905,  
s. 3.

96. The Minister may grant to the holder of a miner's right a dredging lease, for the purpose of dredging for gold, of any mineral lands certified by a warden to be worked-out lands, or of any other mineral lands certified by a warden to be too poor for profitable working in alluvial or reefing claims.

Plan to be  
lodged with  
warden.  
881, 1905,  
s. 4.

97. A plan of the said lands shall be lodged with the warden within three months of the date of the grant of the lease.

Term, rent,  
and area.  
881, 1905,  
s. 5.

98. Every dredging lease shall be for a term of ten years, and shall reserve a rental of one shilling per acre, payable yearly in advance, and may be granted in respect of an area of not exceeding two hundred acres, and shall contain a right of renewal for a term not exceeding ten years, on such conditions as may be approved by the Minister: Provided that in no case where any such renewal is granted shall the rental exceed five shillings per acre.

Covenants and  
conditions.  
881, 1905,  
s. 6.

99. Every dredging lease shall contain the following covenants by the lessee:—

- i. That he will pay the rent reserved by the lease as and when the same shall become due:
- ii. That he will not, without the permission in writing of the Minister, use the leased lands for any other purpose than that authorized by the lease:
- iii. That he will, during the term of the lease, after the first six months, keep continuously employed in dredging for gold upon the leased lands not less than one man for every ten acres of the said lands, or in the alternative will keep so continuously employed, fully manned, machinery of a value of not less than one thousand pounds for every fifty acres of land in the lease; and that he will, whenever required by the Minister, furnish him with

satisfactory evidence that the said number of men have been and are so employed or, as the case may be, that the said machinery has been and is so employed:

- iv. That he will, yearly, on such dates as shall be fixed in the lease, furnish statements of all expenses incurred in dredging for gold and of all proceeds derived from such dredging:

And shall contain—

- (a) such reservations and such other covenants and conditions as may be prescribed by regulations under this Act; and
- (b) a proviso that the lease shall be liable to forfeiture on breach of or non-compliance with any covenant or condition in the lease.

100. Applications for dredging leases shall be made to the Minister, and shall be accompanied by the first year's rent, and shall be considered in order of priority. In the event of simultaneous applications, the order of priority shall be decided by lot.

Applications  
for leases.  
881, 1905,  
s. 7.

101. The lessee of a gold or mineral lease or leases of contiguous land may, with the consent of the Minister, and, subject to the regulations, at any time during the currency of the said lease or leases, upon proof to the satisfaction of the Minister of the due performance and observance by him of all covenants and conditions in the said lease or leases, surrender the said lease or leases and obtain a dredging lease under this Part of the area surrendered.

Right of  
lessees to  
surrender  
and obtain  
new leases  
hereunder.  
881, 1905,  
s. 11.

## PART VIII.

## PART VIII.

## DRAINAGE FROM MINES.

Power of Governor to resume lands for drainage purposes.  
587, 1893,  
s. 82.

**102.** The Governor may by proclamation resume possession of any lands comprised in a claim or mining lease, which shall be required for the purpose of constructing drainage works under this Act, saving, nevertheless, the rights of the lessees or holders of the lands in respect of mining under the surface.

Power of Governor to proclaim districts.  
587, 1893,  
s. 83.

**103.** The Governor may by proclamation constitute any drainage district for the purposes of this Part, and define the boundaries thereof, and vary or alter the said boundaries, and withdraw from the operation of this Part any lands included within a proclaimed district. No drainage district shall be proclaimed until a report shall have been received from an inspector, stating that, in his opinion, all the land proposed to be included therein ought, from its natural conformation, to be so included.

Power of Governor to grant licences for drainage purposes.  
587, 1893,  
s. 84.

Amended by  
2004, 1931,  
s. 10.

**104.** The Governor may grant licences to any person for the occupation of lands resumed as aforesaid, and of any mineral lands within a drainage district, for any term not exceeding twenty-one years, for the purpose of constructing works for the drainage of mines, and for conveying away the water to be raised therefrom on and through the resumed land, and on and through any Crown or mineral lands.

Power to cross roads and railways.  
587, 1893,  
s. 85.

**105.** (1) Any person holding a licence as aforesaid may, upon giving the prescribed notice (if any), enter upon and construct drainage works as aforesaid on, under, over, through, or across any railway and lands used for the purposes of any railway, and any road, doing no unnecessary damage, and making compensation for any damage to be done or occasioned thereby.

(2) The Compulsory Acquisition of Land Act, 1925, is incorporated with this Act.

Contents of licence.  
587, 1893,  
s. 86.

**106.** Every such licence shall contain a description of the works to be undertaken and completed, and clauses and stipulations for the protection of the interests of the public.

Rights to use drains.  
587, 1893,  
s. 87.

**107.** Any person may lead water into any drains constructed under any such licence, upon payment of such a sum as may be agreed upon between the parties, or, as may,

in case of disagreement, be fixed by arbitration, and the person or company holding the licence, and any person desir-  
 inly to lead water into the said drains, shall be deemed parties  
 to a submission to such arbitration.

**108.** (1) Licences granted under this Part shall be num-  
 bered consecutively, and as soon as the works by any licence  
 authorized to be executed are complete and ready for use  
 a proclamation shall be made assigning a number to the  
 works, which shall be called a public drainage works, and  
 distinguished by the said number.

Licences to be  
 numbered.  
 587, 1893,  
 s. 88.

(2) The proclamation shall specify the area of the lands  
 the water from which is intended to be drained into the public  
 drainage work specified in the proclamation. The Governor  
 may, by proclamation, withdraw any lands within the said  
 area from the operation of the first-mentioned proclamation,  
 but may, notwithstanding the said withdrawal, grant a licence  
 under section 104 in relation to the lands so withdrawn.

(3) No person shall, after one month's notice in writing  
 given to him of the completion of the drainage work referred  
 to in any proclamation under subsection (1) of this section,  
 permit or suffer any water pumped or raised from lands  
 comprised in the area specified in the proclamation to flow  
 out, over, along, or across, or to remain on lands comprised  
 in the said area, so as in the opinion of an inspector to impede  
 or injure the working of any neighbouring mine.

(4) Any person not complying with subsection (3) of this  
 section within thirty days after notice to him of the said  
 opinion of the inspector shall forfeit and pay to the person  
 or company working the public drainage work mentioned in  
 the said proclamation the sum of five pounds for every day  
 on which the said non-compliance shall continue after the  
 notice as last aforesaid, but the liability to the said penalty  
 shall not prejudice or affect any right of action of the said  
 person or company, or any other person, for damages  
 occasioned by the said non-compliance.

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## PART IX.

PART IX.

### ENCOURAGEMENT OF MINING.

**109.** The Minister, out of any moneys which are appro-  
 priated by Parliament for the purpose, shall cause to be  
 paid to the future actual discoverer of any new mineral dis-  
 trict, or of any new and valuable deposit of metals, minerals,  
 or coal, such reward as may be prescribed.

Rewards to  
 discoverers.  
 587, 1893,  
 s. 89.

Amended by  
 58, 1940, s. 2.

## PART IX.

Subsidies.  
587, 1893,  
s. 90.

**110.** (1) The Minister, out of any moneys which are appropriated by Parliament for the purpose, may subsidise and assist persons engaged in deep sinking or otherwise prospecting or mining, and either directly or by loan of diamond drills or other machinery, or by advance of money.

(2) Any money received by way of subsidy under this section shall be a debt due to the Crown, and shall be repaid as may be prescribed.

(3) No subsidy aforesaid shall be granted unless the same be recommended by the Government Geologist or Inspector of Mines.

Boring plant.  
587, 1893,  
s. 91.

**111.** The Minister, out of any moneys which are appropriated by Parliament for the purpose, may purchase and obtain plant suitable for boring for prospecting purposes, and may let the said plant to persons applying for the use thereof upon terms to be prescribed.

## PART IXA.

## PART IXA.

## URANIUM AND THORIUM.

Title of Crown  
to uranium  
and thorium.

Inserted by  
15, 1945, s. 4.

**111a.** (1) Notwithstanding anything to the contrary in any Act, land grant, certificate of title, lease, agreement, or other instrument of title, all uranium and thorium existing in its natural condition on or below the surface of any land in the State whether alienated from the Crown or not and, if alienated, whether alienated before or after the passing of this Act, is hereby declared to be the property of the Crown.

(2) The title of the Crown to uranium and thorium under subsection (1) of this section shall be subject to any rights granted by any special mining lease issued after the enactment of this section, but to no other rights.

Provision as  
to uranium  
and thorium  
in special  
mining leases.

Inserted by  
15, 1945, s. 4.

**111b.** A special mining lease which authorizes the lessee to mine for uranium or thorium may—

(a) provide in such manner as the Minister thinks fit for the ownership by the Crown of any uranium or thorium won by the lessee, or for the acquisition by the Crown on such terms and conditions as are specified in the lease of any such uranium or thorium;

- (b) contain any terms and conditions which the Minister thinks fit as to the use or disposal by the lessee of any such uranium or thorium.

**111c.** (1) Every person who discovers any uranium or thorium shall—

Reports of discovery of uranium and thorium.

- (a) forthwith report that discovery to the Minister;  
 (b) comply with any notice in writing given to him by the Minister requiring him to furnish particulars relating to such discovery.

Inserted by 15, 1945, s. 4.

(2) A person who contravenes any provision of this section shall be guilty of an offence.

**111d.** (1) A person shall not have in his possession, use, sell or otherwise dispose of or part with the possession of any uranium or thorium unless he has obtained from the Minister a licence to do so.

Control of uranium and thorium.

Inserted by 15, 1945, s. 4.

(2) A licence granted under this section may contain such terms and conditions as the Minister considers to be required in the public interest.

(3) A person who—

- (a) has in his possession, uses, sells, disposes of or parts with the possession of any uranium or thorium contrary to this section; or  
 (b) contravenes or fails to observe any condition of a licence granted to him under this section,

shall be guilty of an offence and liable to a fine not exceeding five hundred pounds or imprisonment for a term not exceeding six months.

**111e.** (1) The Minister may by notice in writing require any person who has in his possession any uranium or thorium, and has not a licence granted by the Minister authorizing such possession, to deliver the uranium or thorium to him at a time and place to be specified in the notice.

Delivery of possession of uranium and thorium.

Inserted by 15, 1945, s. 4.

(2) A person who fails to comply with a notice under this section shall be guilty of an offence and liable to a fine not exceeding five hundred pounds or imprisonment for a term not exceeding six months.

(3) The Minister may take possession of any uranium and thorium unlawfully in possession of any person and for that

purpose may enter and remain on any land or premises and do any other act, matter or thing either personally or by any person authorized by him.

(4) The Minister may by notice in writing given to the person from whom he has received or taken any uranium or thorium pursuant to this section, declare that that uranium or thorium is acquired by him on behalf of the Crown and thereupon it shall belong to the Crown.

Interpretation  
of uranium  
and thorium.

Inserted by  
15, 1945, s. 4.

**111f.** In the last preceding five sections—

“uranium” includes any minerals or rocks containing uranium:

“thorium” includes any minerals or rocks containing thorium.

## MISCELLANEOUS.

Report of  
payable  
results.

587, 1893,  
s. 94.  
1352, 1918,  
s. 17.  
1512, 1922,  
s. 18.

Amended by  
58, 1940, s. 2.

**112.** When payable gold is struck, or metals, precious stones, minerals, coal, salt, or gypsum are found in payable quantities on any claim or mining lease the matter shall be reported to a warden in manner prescribed, and if default shall be made in compliance with this section, the claim or lease shall be liable to forfeiture.

Duty of claim-  
holders and  
leaseholders  
to furnish  
half-yearly  
returns.

587, 1893,  
s. 95  
1512, 1922,  
s. 19.

Amended by  
58, 1940, s. 2.

**113.** (1) Every holder of a claim or mining lease, other than an alluvial claim, shall, half-yearly, in the months of January and July, furnish to the warden of the district in which the mining claim or lease is situated a full and true return, showing the quantity of stone or ore treated, and the quantity of gold or other metals, and precious stones, minerals, coal, salt, or gypsum taken from the claim or lease during the preceding half-year, and if default shall be made in compliance with the provisions of this section shall be liable to a penalty not exceeding ten pounds for every such default.

(2) Whilst the holder of any claim or mining lease makes default in compliance with the provisions of this section, the provisions of this Act with respect to the suspension of the prescribed conditions as to working any claim, the remission of any of the covenants and conditions contained in any lease,

the extension of the period for performance of the said conditions, and the amalgamation of claims or leases, shall not apply in respect of the said claim or lease.

114. (1) The holder of any mining lease, other than a special mining lease, shall, on due performance and observance of the covenants, conditions, and provisos of the lease, be entitled to a renewal from time to time of the lease for any period at each renewal not exceeding twenty-one years from the expiration of the lease or any renewal thereof.

Renewal of leases.  
1352, 1918,  
s. 28.

(2) The application for renewal shall be made in the manner and at the time prescribed.

(3) Every lease so renewed shall be at the rent for the time being chargeable by law in respect of leases of the same class of the lease so renewed and shall be subject to the covenants, conditions, and provisos prescribed by any Act or regulations for the time being in force relating to leases of the same class as the lease so renewed.

115. The amount payable under any mining lease by reason of the reservation, in addition to the rent, of any further sum on the net profits obtained from the occupation and working of the land comprised in the lease or of the mines thereon or from the sale of the products obtained from the land shall, in accordance with the regulations, be calculated on the basis of the said net profits for every period of twelve months.

Royalties payable under leases to be calculated yearly.  
1512, 1922,  
s. 28.

116. (1) The Minister may, at any time before breach thereof suspend or wholly or partially remit all or any of the covenants and conditions contained in any mining lease, in any case where he is satisfied that by reason of special circumstances it would be impossible to comply with, or would inflict great hardship upon the lessee to enforce the covenants or conditions.

Power of Minister to remit covenants.  
587, 1893,  
s. 96.

(2) A return of all such remissions, with the reasons therefor, shall be annually laid before Parliament within one month after the opening of Parliament for the dispatch of business.

117. The Governor may—

- (a) when lands have been proclaimed as mineral lands:
- (b) when a goldfield has been proclaimed upon mineral lands:

Partial suspension of leases, etc., on proclamation of mineral lands, etc.  
587, 1893,  
s. 97.

(c) when a mining lease has been granted or a claim pegged out under this Act,

suspend or cancel any lease or licence in respect of the mineral land comprised in the proclamation, or in the mining lease, or the claim, subject to the conditions as to resumption contained in such lease or licence, or upon payment of such compensation as may be agreed upon between the Minister and the lessee or licensee, or as may, in case of dispute, be determined by arbitration. The Minister and the lessee or licensee shall be deemed parties to a submission to the arbitration. Upon suspension or cancellation of the lease or licence the Minister shall remit to the lessee or licensee a fair proportion of the rent or other consideration for the lease or licence.

Reservation  
of rights to  
surface  
waters.  
587, 1893,  
s. 98.

**118.** Notwithstanding the existence of any mining lease or claim other than a gold claim every pastoral lessee of the area included in the lease or claim shall retain a right of access and user for domestic purposes, and for the purposes of watering stock, to and of any surface water on the area which shall not have been provided or stored by artificial means by the mining lessee or by the owner of the claim.

Amalgamation  
of leases.  
587, 1893,  
s. 99.

**119.** The Minister may, subject to regulations, allow one or more lessees of contiguous lands held under a mining lease or leases to surrender the lease or leases and obtain one or more leases of the same nature of the lands included therein, or any part thereof, but no such lease shall include an area greater than that heretofore specified with regard to a lease of the same nature.

Amalgamation  
of working  
conditions of  
leases.

1512, 1922,  
s. 20.  
1927, 1929,  
s. 5.

Amended by  
58, 1940, s. 2.

**120.** (1) The Minister may, subject to the regulations, permit the amalgamation by any lessee of any number of contiguous gold leases held by him, of any number of contiguous mineral leases held by him, of any number of contiguous coal leases held by him, or of any number of contiguous miscellaneous leases of the same nature held by him. Every such permission shall continue for such period (not longer than two years) as is fixed by the Minister, and permission as aforesaid may be given from time to time.

(2) While the amalgamation of any leases is permitted by the Minister as aforesaid, the labour conditions of every lease so amalgamated shall be deemed to be observed and complied with by the lessee if, for the period prescribed by the lease in respect of the said labour conditions, the number of men, or the aggregate labour, employed in mining or prospecting on any part of the land comprised in any of the

said leases is equal to the aggregate number of men, or the aggregate labour, required by the leases so amalgamated to be employed in mining or prospecting for the same period.

(3) The Minister may, for any breach of the conditions of any mining lease, cancel his permission to amalgamate any leases, and upon the giving of notice of the cancellation to the lessee, the permission to amalgamate shall immediately cease and determine.

**121.** No survey shall be required of the area included in any claim, licence, or lease unless and until a warden shall be satisfied that a survey is necessary for the prevention of differences as to the boundaries of the land, or for securing a proper definition of the area; and provision shall be made by the regulations for the making of surveys at a reasonable cost.

Survey.  
587, 1893,  
s. 100.  
1512, 1922,  
s. 21.

**122.** A lessee may, subject to the regulations, surrender a mining lease.

Power to  
surrender  
lease.  
587, 1893,  
s. 101.

**123.** All rights of surrender conferred by this Act are subject to the rights of persons claiming from or under the lessee.

Rights of  
surrender  
subject to  
other rights.  
587, 1893,  
s. 102.

**124.** The rent reserved by any mining lease may be levied or recovered by or under the authority of the Minister, in like manner as rent is or shall be leviable or recoverable by law in cases where His Majesty's subjects only are concerned; and, in case the rent is levied by distress, an order under the hand of the Minister shall be a sufficient warrant and authority to distrain. This section shall not affect any other remedy for the recovery of the rent.

Recovery  
of rent.  
587, 1893,  
s. 103.

**125.** (1) In this section—

“sum reserved by a mining lease” or “reserved sum” includes rent, royalty, and every other sum reserved by or payable pursuant to a mining lease, whether granted before or after the enactment of this section;

Penalties for  
non-payment  
of money  
payable under  
leases.

Substituted  
by 36, 1951,  
s. 3.

“appointed day” means the day fixed by or under a mining lease for the payment of any sum reserved by or payable under that lease to His Majesty or the Minister.

(2) If any sum reserved by a mining lease is not paid in full on or before the appointed day a penalty of five per

cent of that sum shall be added to that sum and shall be due and payable on the day following the appointed day.

(3) If any sum reserved by a mining lease, together with any penalty added thereto under subsection (2) of this section, is not paid in full within one calendar month after the appointed day a further penalty of ten per cent of the said reserved sum shall be added to that sum and the said penalty, and shall be due and payable on the first day after the expiration of the said month.

(4) Any sum reserved by a mining lease and any penalty added to any such reserved sum may be recovered by the Minister by action brought by him in any court of competent jurisdiction at any time after the said sum or (as the case may be) the said penalty becomes due.

Such an action may be brought in the name of the Minister of Mines without specifying the name of the holder of the office for the time being.

Forfeiture  
of lease.  
587, 1893,  
s. 105.  
1512, 1922,  
s. 22.

**126.** (1) In every case where the rent of land held under a mining lease is unpaid for more than three months after the day on which the rent is payable under the lease, the Governor may cancel the lease, and the Minister shall thereupon insert a notice in the *Government Gazette* declaring the lease to be forfeited.

(2) In every case where the Minister has reason to believe that there has been a breach of any of the covenants or conditions contained in any lease, except in the case of non-payment of the rent as aforesaid, and except in cases of non-compliance with the labour conditions of any leases, the Minister shall give written notice to the lessee specifying the covenants or conditions which he has reason to believe are not being complied with, and notifying him that the lease will be liable to forfeiture at the expiration of one month from the date of notice, unless in the meantime the said covenants and conditions are duly complied with; and if at the expiration of the notice the said covenants or conditions are still not being complied with by the lessee, the Governor may cancel the lease, and the Minister shall thereupon insert a notice in the *Government Gazette* declaring the lease to be forfeited.

(3) In case of non-payment of rent or the non-compliance with the labour conditions, the Governor may exercise the power of cancellation without giving the written notice hereinbefore mentioned.

(4) If a breach of any covenant or condition contained in any lease is committed by the lessee, the lease may be can-

celled by the Governor notwithstanding that the rent payable under the lease for the period during which the breach is committed may have been paid and notwithstanding any implied waiver of the breach by the lessor.

(5) Every notice as aforesaid shall be conclusive evidence that the lease therein mentioned was legally cancelled and forfeited, and the land included therein may be dealt with as if the lease had never been granted; and the Registrar-General shall, at the request of the Minister, make the entries in the register book necessary to give effect to the cancellation and forfeiture.

**127.** (1) Whenever a mining lease is liable to forfeiture, and in the opinion of the Minister a less penalty than forfeiture would meet the justice of the case, the Minister may extend the period during which the lessee may perform the conditions of his lease, for such time and subject to such terms and conditions as the Minister may think fit; and the terms and conditions so imposed by the Minister shall bind the lessee and all transferees, mortgagees, assignees, and other persons claiming through or under him, and the lease shall thereafter be construed as if the said terms and conditions were inserted therein.

Extension  
after breach.  
587, 1893,  
s. 106.  
1512, 1922,  
s. 23.

(2) The Minister shall advertise the said extension in the *Government Gazette* with his reasons for granting the same.

(3) This section shall not apply in respect of any lease in respect of which a plaint note praying for the forfeiture of the lease has been lodged under section 70, but has not been finally disposed of under the provisions of Part IV.

**128.** (1) In any case in which the Minister thinks fit, the Minister by licence may, for the purpose of tracing any lode, vein, or gutter from any land held under claim or mining lease into any adjoining land, authorize any person to remove any earth, rock, or ore from the said adjoining land, and to do any other work necessary for the said purpose.

Power of  
Minister to  
authorize  
exploration.  
587, 1893,  
s. 107.

(2) The person authorized as aforesaid may after giving a fortnight's notice to the owner or lessee of the said adjoining land, remove the earth, rock, or ore and carry out the work as authorized by the licence, but no such removal or work shall be carried out which interferes with any mining operations of the said owner or lessee on the said land or any other land.

(3) Nothing in this section or done pursuant to this section shall deprive the owner or lessee aforesaid of any

gold, mineral, or coal which may be won from his land by reason of anything done pursuant to a licence granted under this section.

(4) The licensee shall, in addition, pay to the owner or lessee aforesaid compensation for any damage occasioned by the exercise of the powers conferred upon the licensee pursuant to this section, and also a fair rent for the use of the said powers, the amount of the compensation and rent in case of difference to be fixed by a warden.

Right of  
owner to  
remove plant.  
587, 1893,  
s. 110,  
1512, 1922,  
s. 24.

**129.** (1) The owner of any machinery on any forfeited or surrendered lease or claim may, at any time within three months from the date of forfeiture or surrender, remove therefrom any plant, machinery, engines, or tools, but shall not remove or interfere with any timber in any mine.

(2) If any person removes or causes to be removed from any such forfeited or surrendered lease or claim any timber in any mine, he shall be liable to a penalty of not less than five pounds nor more than one hundred pounds.

Disability of  
persons under  
sixteen to  
hold mining  
lease, etc.  
587, 1893,  
s. 111.

**130.** (1) No person under the age of sixteen years shall hold, directly or otherwise, a mining lease, business or occupation licence, or miner's right, except in a representative capacity.

(2) All covenants and conditions contained in or imposed by a mining lease or a licence granted to an infant of the age of sixteen years or upwards shall be as binding upon him as if he were of full age.

Arbitration.  
587, 1893,  
s. 112.

**131.** Every arbitration in pursuance of this Act shall be under the Arbitration Act, 1891, and the parties to the submission shall, for the purposes of the arbitration and of the last mentioned Act, be deemed to have entered into a written agreement to submit the differences in respect of the matter in question to the arbitration of two arbitrators, one to be appointed by each party, and the Arbitration Act, 1891, shall apply accordingly.

Rights under  
certain mining  
leases.  
587, 1893,  
s. 117.

**132.** The lessee under a mining lease granted under any enactment in force before the twenty-eighth day of February, eighteen hundred and ninety-four, shall have the following rights, powers, and privileges:—

1. He may continue to hold the lease, and hold and enjoy the land comprised therein, subject only to the covenants and conditions contained in or imposed by the lease or the enactment by virtue whereof the

same was granted to him, and to paragraph III. of this section:

- II. He may with the consent of the Minister, subject to the regulations, at any time during the currency of the lease upon proof, to the satisfaction of the Minister of the due performance and observance by him of all the covenants and conditions in the lease, surrender the lease and obtain a lease under this Act of a similar nature to that of the surrendered lease, and for the term of forty-two years less the expired term of his existing lease:
- III. Notwithstanding anything in paragraph I. of this section, no renewal of any such lease shall be granted under any enactment in force before the twenty-eighth day of February, eighteen hundred and ninety-four, but any lessee having a right of renewal under any such enactment may obtain a lease of a similar nature under this Act and upon similar terms and conditions as if the first mentioned lease had been a lease of a similar nature under this Act.

133. Any person who prospects or mines shall, unless he is authorized so to do by virtue of this Act or any of the repealed Acts, be liable to pay for every such offence a penalty not exceeding one pound for every day on which he so prospects or mines.

Unauthorized mining.  
587, 1893,  
s. 118.

134. Any person who occupies mineral lands for the purpose of business or residence, except as legally authorized, shall be liable to a penalty not exceeding five pounds for the first offence, and to a penalty of not less than five pounds nor more than ten pounds for every subsequent offence.

Penalty for unauthorized occupation.  
587, 1893,  
s. 119.

135. (1) Any person who forges a miner's right, business licence, occupation licence, or lease, issued or purporting to be issued under the authority of this Act or any of the repealed Acts, or fraudulently uses, utters, or exhibits any such forged miner's right, business licence, occupation licence, or lease, knowing the same to be forged, or fraudulently personates the holder of any such miner's right, business licence, occupation licence, or lease, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years.

Forgery.  
587, 1893,  
s. 121.

(2) Any person who fraudulently uses or exhibits as his own any such miner's right, business licence, occupation

licence, or lease, belonging or granted to any other person, or uses or exhibits as a valid miner's right, business licence, occupation licence, or lease, any miner's right, business licence, occupation licence, or lease, which has expired, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding two years.

Obstructing  
officer.  
587, 1893,  
s. 122.

**136.** Any person who wilfully obstructs, hinders, assaults, or resists a warden or inspector, or a person duly authorized by a warden or inspector, or a person authorized by this Act to exercise any right or power or execute any duty, or who wilfully disobeys a warden's order other than an order for the payment of money, or is guilty of contempt of a warden acting in a judicial capacity, shall be liable to a penalty not exceeding fifty pounds, or to be imprisoned for any period not exceeding six months.

Infringement  
of Act or  
regulation.  
587, 1893,  
s. 123.

**137.** Any person who infringes a provision of this Act or the regulations, for the infringement whereof no penalty is prescribed, shall be liable for every such offence to a penalty not exceeding ten pounds.

Onus of proof.  
587, 1893,  
s. 125.

**138.** (1) In any action, suit, or proceeding under this Act the averment that any lands are Crown lands, mineral lands, dedicated lands, reserved lands, or lands belonging to or vested in the Crown, or that any person is an inspector of mines, warden, mining registrar, or other person authorized to take any proceedings or perform any duty under this Act, shall be sufficient without proof of that fact, unless the defendant proves the contrary.

(2) If any question arises as to the authority of the defendant to do the act complained of, the proof thereof shall lie upon the defendant.

(3) Judicial notice shall, in every such action, suit, or proceeding, be taken of all miners' rights, mining leases, licences, certificates, maps, plans, and office copies purporting to be signed by any person authorized by this Act to sign the same.

Proceedings  
for recovery  
of penalty.  
587, 1893,  
s. 126.

**139.** (1) All proceedings for offences against this Act or any regulation (other than proceedings under section 135), and which are not within the jurisdiction of a warden under Part II., shall be disposed of summarily.

(2) In every case of the adjudication of a fine or pecuniary penalty or amends under this Act, or any regulation, by a court of summary jurisdiction, or a warden, and of

non-payment thereof, any justice may commit the offender or person making default in payment to any gaol in the State for a term not exceeding twelve months, the imprisonment to cease on payment of the sum due, and any costs which may have been awarded, and of the costs of the proceedings taken under this section, which latter costs the justice shall have power to assess.

140. The *Government Gazette* in which is published any proclamation, regulation, or notification under this Act, shall be *prima facie* evidence of the matters therein appearing.

*Government Gazette. evidence.*  
587, 1893,  
s. 130.

PART XI.

PART XI.

REGULATIONS.

141. In addition to any power by this Act conferred on the Governor to make regulations as to any special matter (which power shall in every case be implied for the purposes of any section in this Act in which regulations are referred to, or in which the word "prescribed" is used), the Governor may, subject to the provisions of this Act, make regulations, either of general or limited application. The said regulations may be for any of the purposes following:—

Power of Governor to make regulations.  
587, 1893,  
s. 92.  
881, 1905,  
s. 8.  
1352, 1913,  
s. 16.  
1444, 1920,  
s. 3.  
1866, 1928,  
s. 14.

- i. For prescribing the terms and conditions upon which miners' rights, business licences, and occupation licences shall be granted, and the modes, times, and places of issue thereof:
- ii. For prescribing the mode of transferring or assigning any lease or miner's right, or business licence or occupation licence, or any claim, and for prohibiting any such transfer or assignment, and regulating the form thereof and the fees to be paid therefor:
- iii. For determining the dimensions, boundaries, shapes, and position of any gold claim, or class of gold claims, and the subsequent adjustment of the same where necessary; when such determination shall be deemed to take effect; and the number, extent, and classes of gold claims, which any one person, or any two or more persons in conjunction may take possession of under a miner's right, or miners' rights:

- iv. For regulating the cutting, constructing, use, and maintenance of races, dams, and reservoirs upon Crown lands or mineral lands, or upon claims or lands held under mining leases under this or any other Act:
- v. For prescribing the manner in which, and with what incident rights and obligations, and subject to what liabilities as to forfeiture and otherwise, any claim or class of claims, business or residence areas, race, dam, or reservoir, or any water taken or diverted by virtue of a miner's right, shall be taken possession of, held, occupied, used, worked, or transferred:
- vi. For determining the order of priority among the holders of miners' rights, entitled to the use of any water; how such priority is to be regulated, and under what conditions and circumstances:
- vii. For prescribing the mode of registration of land occupied under this Act for residence or business, or of any claim, race, dam, reservoir, or easement enjoyed under a miner's right, or any share or interest therein or encumbrance thereon; and the mode of registration of the transfer or assignment of any such land, claim, race, dam, reservoir, or easement, or of any share or interest therein or encumbrance thereon, or of the discharge of any such encumbrance; and the mode of registration of the devolution of any such share or interest; or of the sale of any such share or interest under the decree, judgment, or order of any court, or the decision of a warden; and the mode of registration of amalgamated claims, and of claims for suspension of work, and for fixing the fees to be charged on any such registration:
- viii. For enforcing and regulating the drainage of claims and of lands held under mining leases whether granted before or after the passing of this Act:
- ix. For regulating the mode in which the rights and privileges of the owners of claims, and of races, dams, reservoirs, and easements under a miner's right, and of land occupied under this Act for residence or business, may be exercised or enjoyed, and limiting, qualifying, or restricting the exercise and enjoyment of such rights and privileges; and generally for the protection of such owners in the

exercise and enjoyment of the rights, privileges, and interests conferred by this Act:

- x. For providing for specially-sized claims to be pegged out under the prescribed sanction by the discoverer of payable gold on the reporting by him of such discovery in the prescribed manner:
- xI. For preventing the accumulation, and for the removal to some convenient place, of sludge, tailings, and other refuse matter oozing or flowing from or connected with any land held or occupied under this Act, and of waste water; and for the making of channels for any of the purposes aforesaid; and for otherwise regulating, as between claims, such oozing, flowing, and running to waste:
- xII. For the protection from injury, destruction, and unlawful removal of races, drains, dams, and reservoirs used or enjoyed under miners' rights, and of the water therein, and of pegs, posts, fences, and notices, and of plant or appliances used for or in connection with mining, and for the protection from obstruction of such races and dams, and of channels, drains, creeks, and rivers used for mining purposes:
- xIII. For regulating the mode of construction and the materials used in the construction, and the strength of embankments of dams and reservoirs used or to be constructed by virtue of a miner's right:
- xIV. For the construction and keeping in repair of suitable bridges or other crossings over races, channels, or drains used for mining purposes cut across roads or thoroughfares, or over such races, channels, or drains over which roads or thoroughfares shall be carried, and for making proper approaches to such bridges or crossings, and for determining the width of such bridges, crossings, and approaches:
- xv. For making and keeping in repair and for regulating the width and formation of private ways and passages used for mining purposes over claims or races, or any lands used in connection with mining under this Act, or business carried on under business licences, and for regulating and imposing conditions on the right to change the direction of any such way or passage, and for the protection of the same from

injury or obstruction by the leaving of felled or fallen timber or other obstruction, or any waste or injurious matter thereon:

- xvi. For the prevention of nuisances in and about residences or places of business held under a miner's right or business or occupation licence, and for cleansing and keeping clean the same:
- xvii. For preventing the defiling or wasting of water used for domestic purposes, and for determining whether any and what waterhole, spring, or other depository of water shall be reserved for domestic use, and the mode of such reservation:
- xviii. For compelling contributions by parties benefited of a fair share of the cost of pumping in cases where pumping in one mine benefits other mines:
- xix. For fixing fees, prescribing forms, regulating registration and otherwise fully and effectually carrying out and giving force and effect to the various objects, purposes, powers, and authorities of this Act, and guarding against evasions and violations thereof:
- xx. For prescribing the duties and powers of wardens, inspectors, mining registrars, and other officers to be appointed under this Act:
- xxi. For fixing the minimum number of men to be employed in mining under a mineral lease and the periods during which such men shall be so employed, either in relation to mining for all minerals or any particular kind of mineral or minerals:

xxia. For carrying out the provisions of Part IIIA.:

\* \* \* \* \*

xxiii. For prescribing forms under Part VII.:

xxiv. For prescribing the reservations, covenants, and conditions to be inserted in dredging leases:

xxv. For prescribing the procedure for the forfeiture of dredging leases:

xxvi. For imposing penalties for breaches of the regulations not exceeding one hundred pounds for any one offence:

General words in this section shall not be limited or controlled by particular words.

Inserted by 2004, 1931, s. 11, as revived by 15, 1941, s. 2. Para. xxii. struck out by 58, 1940, s. 2.

SCHEDULES.

THE FIRST SCHEDULE.

ACTS REPEALED.

Reference to Act.	Title.
No. 587 of 1893 . . . . .	The Mining Act, 1893.
No. 618 of 1895 . . . . .	The Mining Act Amendment Act, 1895.
No. 751 of 1900 . . . . .	The Mining Act Amendment Act, 1900.
No. 881 of 1905 . . . . .	The Gold Dredging Act, 1905.
No. 1054 of 1911 . . . . .	The Mining Act Amendment Act, 1911.
No. 1352 of 1918 . . . . .	Mining Act Further Amendment Act, 1918.
No. 1512 of 1922 . . . . .	Mining Act Further Amendment Act, 1922.
No. 1866 of 1928 . . . . .	Mining (Prospecting for Oil) Act, 1928.
No. 1927 of 1929 . . . . .	Mining Act Amendment Act, 1929.

THE SECOND SCHEDULE.

587, 1893,  
Schedule B.

South [Royal Arms] Australia,  
*Miner's Right.*

No. \_\_\_\_\_ Date \_\_\_\_\_  
 Issued at the mining office for the district of \_\_\_\_\_ to A.B., of [*residence and occupation*] under the provisions of the Mining Act, 1930.  
 To be in force until the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ .  
 Fee paid. \_\_\_\_\_ C.D.,  
 Mining Registrar for the District of \_\_\_\_\_

THE THIRD SCHEDULE.

587, 1893,  
Schedule C.

South [Royal Arms] Australia,  
*Business Licence.*

No. \_\_\_\_\_ Date \_\_\_\_\_  
 Issued at the mining office for the district of \_\_\_\_\_ to A.B., of [*residence and occupation*] under the provisions of the Mining Act, 1930.  
 To be in force until the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ .  
 Fee paid. \_\_\_\_\_ C.D.,  
 Mining Registrar for the District of \_\_\_\_\_

THE FOURTH SCHEDULE.

587, 1893,  
Schedule D.

No. 1.

South [Royal Arms] Australia,  
Mining Act, 1930.

To C.D., Esquire, warden.  
 A.B., of \_\_\_\_\_, complains of E.F., of \_\_\_\_\_, and says—  
 1. That, etc.  
 2. That, etc.  
 [*Set forth the subject-matter of complaint in paragraphs.*]  
 The complainant therefore prays [*set forth relief sought*], or such other or further relief as shall be just. The amount sought to be recovered, so far as the demand is pecuniary, is £ \_\_\_\_\_  
 Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ .  
 A.B.

## Mining Act, 1930-1951.

No. 2.

South [Royal Arms] Australia.

Mining Act, 1930.

Plaint No.

To [insert names of all the defendants] of

You are hereby summoned to appear before me, or some other warden, at  
 , on the day of 19 , at o'clock  
 in the noon precisely, to answer the complaint of [insert names, addresses,  
 and occupations of all the complainants], by which complaint he seeks [here  
 insert nature of complaint.]

You may have a summons to compel the attendance of any witness, or for the  
 production of any books or documents, by applying at my office.

Bring this summons with you when you come to my office.

Given under my hand, this day of , 19  
 C.D., Warden.

751, 1900,  
Second  
Schedule.

## THE FIFTH SCHEDULE.

South [Royal Arms] Australia.

FORM OF LICENCE TO SEARCH FOR [set out precious stones, mineral phosphates, or  
 oil, as the case may be.]

Pursuant to the Mining Act, 1930, I hereby grant to [set out name in full,  
 address, and occupation of the licensee] licence and authority to search and mine  
 the mineral lands, being [describe land sufficiently to identify it], containing  
 [set out area of land in square miles or acres], for [set out precious stones,  
 mineral phosphates, or oil, as the case may be], subject to the provisions of the  
 said Act and the Mining Regulations for the time being in force, so far as the  
 same are applicable. This licence is to remain in force for twelve calendar  
 months from the date hereof, unless forfeited or determined in the meantime.

Dated the day of , 19  
 , Minister of Mines.

Fee, £ , paid.

1866, 1928,  
The Schedule.

## THE SIXTH SCHEDULE.

South [Royal Arms] Australia.

*Form of Permit to Prospect for Oil.*

Pursuant to the Mining Act, 1930, I hereby grant to [set out name in full,  
 address, and occupation of the holder of the permit], permission and authority to  
 search and prospect the mineral lands being situated [describe land sufficiently  
 to identify it], as shown in the plan herewith and containing [set out area of  
 land in square miles], for mineral oil, subject to the provisions of the said Act  
 and the Mining Regulations for the time being in force, so far as the same are  
 applicable. This permit is to remain in force for two years from the date hereof,  
 unless forfeited or determined in the meantime.

Dated the day of , 19  
 , Minister of Mines.

Fee, £ paid.

[As reprinted pursuant to the Amendments Incorporation Act, 1937.]



## STAMP DUTIES ACT, 1923-1952.

BEING

STAMP DUTIES ACT, 1923, No. 1569 OF 1923 [ASSENTED TO  
21st NOVEMBER, 1923.]

AS AMENDED BY

STAMP DUTIES ACT, 1927, No. 1822 OF 1927 [ASSENTED TO  
21st DECEMBER, 1927.]

STAMP DUTIES AMENDMENT ACT, 1928, No. 1860 of 1928  
[ASSENTED TO 17th OCTOBER, 1928.]

LOTTERY AND GAMING ACT AMENDMENT ACT, 1928, No. 1877 OF  
1928 [ASSENTED TO 1st NOVEMBER, 1928.]

STATUTE LAW REVISION ACT, 1935, No. 2246 OF 1935  
[ASSENTED TO 19th DECEMBER, 1935.]

STAMP DUTIES ACT AMENDMENT ACT, 1936, No. 2312 OF 1936  
[ASSENTED TO 19th NOVEMBER, 1936.]

STAMP DUTIES ACT AMENDMENT ACT, 1937, No. 2359 OF 1937  
[ASSENTED TO 19th NOVEMBER, 1937.]

STAMP DUTIES ACT AMENDMENT ACT, 1938, No. 2387 OF 1938  
[ASSENTED TO 25th AUGUST, 1938.]

STAMP DUTIES ACT AMENDMENT ACT, 1941, No. 48 OF 1941  
[ASSENTED TO 27th NOVEMBER, 1941.]

STAMP DUTIES ACT AMENDMENT ACT, 1942, No. 22 OF 1942  
[ASSENTED TO 12th NOVEMBER, 1942.]

STAMP DUTIES ACT AMENDMENT ACT, 1944, No. 30 OF 1944  
[ASSENTED TO 24th DECEMBER, 1944.]

STAMP DUTIES ACT AMENDMENT ACT, 1945, No. 32 OF 1945  
[ASSENTED TO 3rd JANUARY, 1946.]

STAMP DUTIES ACT AMENDMENT ACT, 1947, No. 41 OF 1947  
[ASSENTED TO 11th DECEMBER, 1947.]

STAMP DUTIES ACT AMENDMENT ACT, 1950, No. 16 OF 1950  
[ASSENTED TO 2nd NOVEMBER, 1950.]

STAMP DUTIES ACT AMENDMENT ACT, 1952, No. 5 OF 1952  
[ASSENTED TO 2nd OCTOBER, 1952.]

STATUTE LAW REVISION ACT, 1952, No. 42 of 1952 [ASSENTED TO  
4th DECEMBER, 1952.]

AND

STAMP DUTIES ACT AMENDMENT ACT (No. 2), 1952, No. 55 OF 1952  
[ASSENTED TO 8th JANUARY, 1953.]

An Act to consolidate certain Acts relating to stamp duties.

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

## PART I.

## PART I.

## PRELIMINARY PROVISIONS.

Short title.

1. This Act may be cited as the "Stamp Duties Act, 1923-1952."

Arrangement of Act.

2. The provisions of this Act are arranged as follows:

PART I.—Preliminary Provisions:

PART II.—General Provisions with respect to Stamp Duties:

PART III.—Special Provisions with respect to certain Stamp Duties:

PART IV.—Special Provisions with respect to Amusements Duty:

PART V.—Miscellaneous Provisions.

Acts consolidated and repealed.

3. This Act is a consolidation of the Acts mentioned in the first schedule, and the said Acts are hereby repealed.

Interpretation. 372, 1886, s. 2.

4. In this Act, unless it is otherwise provided or there is something in the context repugnant thereto—

"Commissioner" means any person appointed Commissioner of Stamps under this Act:

Cf. U.K. 54 &amp; 55 Vict. c. 38, s. 27. Cf. U.K. 54 &amp; 55 Vict. c. 39, s. 122.

"die" includes any plate, type, tool, or implement whatever used under the direction of the Commissioner for denoting any duty, or the fact that any duty or penalty has been paid, or the fact that any instrument is duly stamped or is not chargeable with any duty, and also includes any part of any such plate, type, tool, or implement:

"duty" includes every duty chargeable under this Act:

**Stamp Duties Act, 1927:** This Act was proclaimed to commence on 24th December, 1927: *Gazette* 22nd December, 1927, p. 1609.

**Stamp Duties Act Amendment Act (No. 2), 1952:** Sections 4, 5 and 6 of this Act were proclaimed to commence on 22nd January, 1953: *Gazette* 22nd January, 1953, p. 72.

“executed” and “execution,” with reference to instruments not under seal, mean signed and signature:

“forge” includes counterfeit:

“instrument” includes every written document:

“material” means any sort of material upon which words or figures can be expressed:

“money” includes all sums expressed in British, foreign, or colonial currency:

“stamp” means as well a stamp impressed by means of a die as an adhesive stamp:

“stamped” means impressed with a stamp by means of a die or having an adhesive stamp affixed:

“stock” means any share in the stocks or funds of any foreign or colonial State or Government, or in the capital stock or funded debt of any company, corporation, or society in South Australia, or of any foreign or colonial company, corporation, or society:

“write,” “written,” and “writing” include every mode in which words or figures can be expressed upon material.

5. (1) Subject to the exemptions contained in the second schedule, there shall be charged, for the use of His Majesty, the several stamp duties specified in the said schedule upon and for the several instruments therein set forth, and also such other duties as are specified in the said schedule.

Stamp duties to be charged. 789, 1902, s. 5 (part). Cf. U.K. 54 & 55 Vict. c. 39, s. 1.

(2) The duty chargeable upon any such instrument shall be a debt due to His Majesty from every party who executes such instrument, and shall be recoverable in the name of the Commissioner on behalf of His Majesty from any such party or parties in any court of competent jurisdiction.

Stamp duty to be recoverable as a debt. 1216, 1915, s. 15.

(3) It shall not be necessary to stamp any instrument executed before the sixth day of December, eighteen hundred and eighty-six.

372, 1886, s. 16.

6. (1) The Governor may appoint a Commissioner of Stamps, a Deputy Commissioner of Stamps, and any other necessary officers for carrying this Act into effect.

Power to appoint officers. 372, 1886, s. 4. 789, 1902, s. 33 (part).

s. 5. (3) SMITH AND OTHERS V. SCAMMELL (1892) 25 S.A.L.R. 95; affirming SMITH AND OTHERS V. SCAMMELL (1890-91) 24 S.A.L.R. 110. Where the signatories to a deed between several parties executed the deed, some before and others after the date mentioned in subsection (3) of section 5, held that the deed was executed after the said date.

## PART I.

(2) Such Commissioner, such Deputy Commissioner, and every such other officer shall give such security for the due discharge of his duties under this Act as the Governor may direct.

(3) The said Commissioner may sue and be sued by the name of the "Commissioner of Stamps."

(4) The said Deputy Commissioner shall have and exercise all the powers and duties of the said Commissioner.

Distributors  
of stamps.  
372, 1886,  
s. 5.  
Cf. U.K.  
54 & 55 Vict.  
c. 38, ss. 3, 4

7. (1) The Governor may appoint any person a distributor of stamps.

(2) Any such distributor may be remunerated by a commission upon the value of stamps purchased for disposal by him, or by salary, or by any other allowance, and upon the sale of stamps to any such distributor such discount may be allowed as may be authorized by regulations made under this Act.

Inserted by  
5, 1952, s. 3.

(3) A bank paying duty to the Treasurer in respect of cheque forms issued pursuant to section 48a of this Act may be allowed commission at the rate authorized by regulations made under this Act, as if—

(a) the bank had been duly appointed a distributor of stamps:

(b) the amount of the duty so paid were money paid by the bank for the purchase of stamps.

Inserted by  
5, 1952, s. 3.

(4) Subsection (3) of this section shall be deemed to have come into operation on the second day of November, nineteen hundred and fifty, and the Treasurer may, out of the general revenue and without any further appropriation than this section, pay to any bank the commission allowed under subsection (3) of this section, in respect of all duty paid to the Treasurer as mentioned in subsection (3) of this section after the said day.

Stamps to be  
provided.  
372, 1886,  
s. 6.

8. The Treasurer shall, for denoting the several duties chargeable under this Act, provide such stamps or dies as may be required for the purposes of this Act, and may do any other act which may be necessary for effectually collecting the said duties.

## PART II.

## PART II.

## GENERAL PROVISIONS WITH RESPECT TO STAMP DUTIES.

9. All duties chargeable upon any instrument shall be paid and denoted according to the provisions of this Act.

How stamp duties to be denoted.  
789, 1902, s. 5 (part).

10. Except where express provision is made to the contrary, all duties shall be denoted by impressed stamps only; and where it is provided that any duty may be denoted by an adhesive stamp, such duty may be denoted by an impressed stamp or by an adhesive stamp.

Duty, how denoted.  
372, 1886, s. 24.  
Cf. U.K. 54 & 55 Vict. c. 39, s. 2.

11. (1) Any stamp which, by any word or words on the face of it, is appropriated to any particular description of instrument, shall not be used for any instrument of another description.

Appropriate stamps to be used.  
372, 1886, s. 10.  
Cf. U.K. 54 & 55 Vict. c. 39, s. 10.

(2) Any instrument falling under the particular description to which any stamp is so appropriated as aforesaid shall not be deemed duly stamped unless it is stamped with the stamp so appropriated.

(3) No instrument shall be deemed duly stamped with an adhesive stamp unless the words "Duty stamp" are printed on and form part of such stamp.

789, 1902, s. 39.

12. (1) Any instrument, the duty upon which is required or permitted by this Act to be denoted by an adhesive stamp, shall not be deemed duly stamped with an adhesive stamp unless—

Adhesive stamps to be cancelled.  
789, 1902, s. 38 (part).  
U.K. 54 & 55 Vict. c. 39, s. 8.

(a) the person required by this Act to cancel the adhesive stamp cancels the same by writing on or across the stamp his name or initials, or the name or initials of his firm, together with the true date of his so writing, or otherwise effectually cancels the stamp and renders the same incapable of being used for any other instrument; or

(b) it is otherwise proved that the stamp appearing on the instrument was affixed thereto at the proper time.

(2) When two or more adhesive stamps are used to denote the duty upon an instrument, each stamp shall be cancelled in the manner aforesaid.

## PART II.

(3) Every person who, being required by this Act to cancel an adhesive stamp, neglects or refuses duly and effectually to do so in the manner aforesaid, shall be liable to a penalty not exceeding ten pounds.

How instruments to be stamped.  
372, 1886, s. 7.  
Cf. U.K. 54 & 55 Vict. c. 39, s. 3.

13. (1) Every instrument written upon stamped material shall be written in such manner, and every instrument partly or wholly written before being stamped shall be so stamped, that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument written upon the same piece of material.

(2) If more than one instrument is written upon the same piece of material, each one of such instruments shall be separately and distinctly stamped with the duty with which it is chargeable.

Instruments to be separately charged.  
372, 1886, s. 8.  
U.K. 54 & 55 Vict. c. 39, s. 4

14. Except where express provision is made to the contrary—

- i. Any instrument containing or relating to several distinct matters shall be separately and distinctly charged with duty in respect of each of such matters, as if the portion of such instrument containing or relating to each such matter were a separate instrument:
- ii. Any instrument made for any consideration in respect whereof it is chargeable with *ad valorem* duty, and also for any further or other valuable consideration, shall, in addition to being charged with such *ad valorem* duty, be charged with duty in respect of such last-mentioned consideration, as if it were an instrument made for such consideration only.

Duty to be calculated on value in Australian money.  
372, 1886, s. 12.  
Cf. U.K. 54 & 55 Vict. c. 39, s. 6.

Amended by 48, 1941, s. 2

15. Where any instrument is chargeable with *ad valorem* duty in respect of any money in any currency other than Australian currency, such duty shall be calculated on the value of such money in Australian currency according to the current rate of exchange on the day of the date of such instrument.

Ascertainment of value of property subject to powers, etc.  
Cf. N.S.W. 13, 1931, s. 7 (a).  
Inserted by 48, 1941, s. 3.

15a. In any case in which it is necessary to ascertain the value of any property for the purpose of assessing *ad valorem* duty on any instrument executed after the passing of the Stamp Duties Act Amendment Act, 1941, the existence of any over-riding power of revocation or re-conveyance in that or any other instrument may be disregarded in determining the value of such property.

16. The duty chargeable upon any instrument shall be calculated according to the rates in force at the time when such instrument is produced to the Commissioner for the purpose of being stamped.

Duty in force when instrument produced for stamping to apply.  
1216, 1915, s. 10.

17. The duplicate or counterpart of any instrument chargeable with duty (including the counterpart of a lease, whether executed by the lessor or not) may be impressed with a particular stamp denoting that the instrument of which it is the duplicate or counterpart has been duly stamped; but unless such duplicate or counterpart is so impressed, it shall be chargeable with duty as an original.

Duplicates and counterparts.  
372, 1886, s. 9.  
Cf. U.K. 54 & 55 Vict. c. 39, s. 72.

18. Where the duty with which any instrument is chargeable depends in any manner upon the duty paid upon another instrument, the payment of such last-mentioned duty may, on production of both the instruments, be denoted in such manner as the Commissioner thinks fit upon the first-mentioned instrument.

Duty on other instruments.  
372, 1886, s. 14.  
U.K. 54 & 55 Vict. c. 39, s. 11.

19. (1) All the facts and circumstances affecting the liability of any instrument to duty, or the amount of the duty with which any instrument is chargeable, shall be fully and truly set forth in the instrument.

All facts to be truly set forth.

372, 1886, s. 11.  
1216, 1915, s. 4.  
Cf. U.K. 54 & 55 Vict. c. 39, s. 5.

(2) Every person who, with intent to defraud His Majesty (and the suppression of any such fact or circumstance shall be *prima facie* evidence of such intent)—

- (a) executes any instrument in which all the said facts and circumstances are not fully and truly set forth; or
- (b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all the said facts and circumstances,

shall be liable to a penalty of not less than fifty pounds and not exceeding five hundred pounds.

20. (1) Except where express provision is made to the contrary, any unstamped or insufficiently stamped instrument may be stamped after the execution thereof on payment of the unpaid duty and a penalty of ten pounds, and on payment also, by way of further penalty when the unpaid

Penalty for not duly stamping.  
372, 1886, s. 15.  
789, 1902, s. 40.  
Cf. U.K. 54 & 55 Vict. c. 39, s. 15.

s. 19. *SMEATON V. THE MUTUAL LIFE ASSOCIATION OF AUSTRALASIA* (1904) S.A.L.R. 147; 11 Austn. Digest 890. Section 19 does not affect the provisions of section 24 of the Life Assurance Companies Act, 1936, and does not make it necessary to indorse on a transfer by way of security of a policy of life insurance, a statement that the transfer is for securing the repayment of money.

duty exceeds ten pounds of interest on the unpaid duty at the rate of ten pounds per centum per annum from the day on which such instrument was first executed up to the time when such interest is equal in amount to the unpaid duty, or up to the time when such instrument is stamped under the authority of this section, whichever is the earlier time: Provided that—

- i. any instrument may be stamped without penalty within one month after the execution thereof:
- ii. any unstamped instrument executed out of South Australia may be stamped without penalty at any time within two months after it is first received in South Australia:

Subdiv. III.  
repealed by  
S.L.E. Act,  
1935.

\* \* \* \* \*

(2) The payment of any such penalty and interest shall be denoted on the instrument by a particular stamp.

(3) The Commissioner may, at any time after the execution of any instrument, remit any penalty or any part thereof incurred in respect of such instrument.

Admissibility  
of unstamped  
instruments  
in evidence.  
372, 1886,  
s. 17.  
Of. U.K.  
54 & 55 Vict.  
c. 39, s. 14.  
Of. U.K.  
23 & 24  
Geo. 5 c. 19,  
s. 42.

21. (1) Upon the production of any instrument chargeable with duty as evidence in any civil proceedings in any part of South Australia, the officer whose duty it is to read the instrument shall call the attention of the presiding judge, special magistrate, or justices to any omission or insufficiency of the stamp thereon.

(2) If the instrument is one which may legally be stamped after the execution thereof it may, on payment to the said officer of the amount of the unpaid duty and of the penalty payable under this Act on stamping the same as aforesaid and of a further sum of one pound, be received in evidence, saving all just exceptions or other grounds.

(3) The officer receiving the said duty and penalty shall—

- (a) give a receipt for the same;
- (b) make an entry in a book kept for that purpose of the payment and of the amount thereof;
- (c) communicate to the Commissioner the name or title of the cause or proceeding in which, and of the party from whom, he received the said duty and penalty, and the date and description of the instrument; and

(d) pay over to the Commissioner the money received by him in payment of the said duty and penalty.

(4) Upon production to the Commissioner of any instrument in respect of which any duty and penalty has been paid as aforesaid, together with the receipt of the said officer, the payment of such duty and penalty shall be denoted on such instrument accordingly.

22. Except as provided by section 21, no instrument chargeable with duty executed in any part of South Australia or relating, wheresoever executed, to any property situated, or to any matter or thing done or to be done, in any part of South Australia, shall, except in criminal proceedings, be pleaded or given in evidence or admitted to be good, useful, or available at law or in equity unless duty stamped.

Except as aforesaid no unstamped instrument to be received in evidence.  
372, 1886, s. 18.  
Of U.K.  
32 & 33 Vict. c. 49, s. 5.  
Of U.K.  
54 & 55 Vict. c. 39, s. 14 (4).

23. (1) Subject to any regulations made under this Act, the Commissioner may be required by any person to express his opinion with reference to any executed instrument upon the following questions—

Assessment of duty.  
372, 1886, s. 19.  
Of U.K.  
54 & 55 Vict. c. 39, s. 12.

- I. Whether it is chargeable with any duty:
- II. With what amount of duty it is chargeable.

(2) If the Commissioner is of opinion that such instrument is not chargeable with any duty, such instrument may be stamped with a particular stamp denoting that it is not chargeable with any duty.

(3) If the Commissioner is of opinion that such instrument is chargeable with duty, he shall assess the duty with which it is, in his opinion, chargeable, and when the instrument is duly stamped in accordance with the assessment of the Commissioner, it may also be stamped with a particular stamp denoting that it is duly stamped.

(4) Every instrument stamped with the particular stamp denoting either that it is not chargeable with any duty or that it is duly stamped shall be admissible in evidence and shall be available for all purposes, notwithstanding any objection relating to duty.

(5) Notwithstanding anything contained in this section—

(a) any instrument upon which the duty has been assessed by the Commissioner shall not, if it is unstamped or insufficiently stamped, be stamped otherwise than in accordance with the assessment of the Commissioner:

- (b) the stamping after the execution thereof of any instrument prohibited by this Act from being so stamped shall not be lawful.

Appeal from  
assessment.  
372, 1886,  
s. 20.  
Of. U.K.  
54 & 55 Vict.  
c. 39, s. 13.

24. (1) Any person who is dissatisfied with the assessment of the Commissioner may, on payment of duty in accordance therewith—

- (a) within fourteen days after the date of the Commissioner's assessment forward to the Treasurer a statement of the grounds of his objection to the assessment; or
- (b) within twenty-one days after the date of the Commissioner's assessment, appeal to the Supreme Court.

(2) If such person forwards to the Treasurer a statement of the grounds of his objection to the Commissioner's assessment, the Treasurer may confirm or modify such assessment. If such assessment is not confirmed, the amount of the duty to be ultimately retained shall be that fixed by the Treasurer, and the difference shall be refunded to the person forwarding the statement.

(3) If, upon the confirmation or modification by the Treasurer of the Commissioner's assessment, such person is still dissatisfied, he may, within twenty-one days after the Treasurer's decision is communicated to him, appeal to the Supreme Court.

(4) For the purpose of any appeal to the Supreme Court under this section, the appellant may require the Commissioner to state and sign a case setting forth the question upon which his opinion was required and the assessment made by him.

(5) The Commissioner shall thereupon state and sign a case accordingly and deliver the same to the appellant, and upon his application such case may be set down for hearing in the Supreme Court.

(6) Upon the hearing of such case (at least seven days' notice of which shall be given to the Commissioner) the Court shall determine the question submitted, and assess the duty, if any, chargeable under this Act.

s. 24. O'HARA v. COMMISSIONER OF STAMPS (1912) S.A.L.R. 116. Where a case is stated by the Commissioner and filed by the appellant, the court has no power to amend the case without the Commissioner's consent.

(7) If it is decided by the Court that the assessment of the Commissioner is erroneous, any excess of duty which may have been paid in accordance with such erroneous assessment, together with any penalty which may have been paid in consequence thereof, shall be ordered by the Court to be repaid by the Commissioner to the appellant, together with the costs incurred by him in relation to the appeal.

(8) If the assessment of the Commissioner is confirmed by the Court, the costs incurred by the Commissioner in relation to the appeal shall be ordered by the Court to be paid by the appellant to the Commissioner.

(9) For the purposes of this section the Supreme Court may consist of one Judge only.

**25.** In any case where the Commissioner is required to express his opinion with reference to any instrument, the Commissioner may require to be furnished with an abstract of the instrument, and also such evidence as he deems necessary in order to show whether every fact and circumstance affecting the liability of the instrument to duty, or the amount of the duty with which the instrument is chargeable, has been fully and truly set forth, and the Commissioner may refuse to express any opinion with reference to the instrument until such abstract and evidence has been furnished accordingly.

Abstract of instrument to be furnished.  
372, 1886, s. 21.  
Cf. U.K. 54 & 55 Vict. c. 39, s. 12. (2).

**26.** All public officers having in their custody any rolls, books, records, papers, documents, or proceedings, the inspection of which may tend to secure any duty, or to the proof or discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person thereunto authorized by the Commissioner to inspect all such rolls, books, records, papers, documents, and proceedings, and to take such notes and extracts as such person deems necessary without fee or reward.

Records open to inspection.  
372, 1886, s. 22.  
Cf. U.K. 54 & 55 Vict. c. 39, s. 16.

**27.** No person whose office it is to enrol, register, or enter in or upon any rolls, books, or records any instrument chargeable with any duty, or the memorial of any instrument chargeable with any duty, shall enrol, register, or enter any such instrument or memorial, unless the instrument is duly stamped.

No instrument to be enrolled or registered unless stamped.  
372, 1886, s. 23.  
Cf. U.K. 54 & 55 Vict. c. 39, s. 17.  
Amended by 48, 1941, s. 4.

**27a.** (1) In any case in which the amount of stamp duty chargeable on any instrument depends upon the value of any property thereby conveyed or transferred, or upon the amount of the consideration paid or given therefor, and in

Power of Commissioner to make certain inquiries.  
Inserted by 1822, 1927, s. 4.

any other case in which it may be necessary to ascertain any facts in order to determine the amount of stamp duty chargeable upon any instrument, the Commissioner may require the instrument to be submitted for his opinion pursuant to section 23 and may, before assessing the duty with which the instrument is chargeable, hold an inquiry for the purpose of ascertaining the true amount of such consideration, or such other facts as aforesaid.

Amended by  
2359, 1937,  
s. 3,

(2) For the purpose of any such inquiry the Commissioner may require any person to make and produce to him a statutory declaration setting forth any facts relevant to the matter being inquired into, so far as they are known to such person, or may hear, receive, and examine evidence upon oath (which oath such Commissioner is hereby empowered to administer), and by summons under his hand, may require all such persons as he may think fit to appear personally before him, at a time and place to be fixed in and by such summons, and to produce to him all such books, papers, and documents as may be relevant to such inquiry.

The statement of every person so examined shall be taken down in writing and signed by him in the presence of the Commissioner.

(3) Any person who, without just excuse, neglects or refuses to make any such declaration, or to comply with the tenor of any such summons, or who, having appeared before the Commissioner, refuses, without just excuse, to be examined on oath concerning the subject-matter of the inquiry, or to take such oath, or, having taken such oath, to answer such questions concerning the said subject-matter as shall be put to him, shall be guilty of an offence. Penalty— one hundred pounds.

Power of  
Commissioner  
to retain  
unstamped  
instrument  
till penalty  
paid.

Inserted by  
1822, 1927,  
s. 4.

**27b.** When any instrument chargeable with stamp duty, and which is unstamped or insufficiently stamped, has come into the possession of the Commissioner, he shall retain possession of such instrument until the amount of stamp duty due thereon, together with any penalty and costs imposed in respect of the making of such unstamped instrument, have been paid.

PART III.

PART III.

SPECIAL PROVISIONS WITH RESPECT TO CERTAIN STAMP DUTIES.

*Affidavits and Declarations.*

28. The duty upon an affidavit or declaration may be denoted by an adhesive stamp, which shall be cancelled by the person making such affidavit or declaration.

Duty on affidavits and declarations may be denoted by adhesive stamps. 789, 1902, s. 6.

*Agreements.*

29. The duty upon an agreement not under seal may be denoted by an adhesive stamp, which shall be cancelled by one of the parties executing the agreement.

Adhesive stamp may be used for agreement not under seal. 789, 1902, s. 7. Cf. U.K. 54 & 55 Vict. c. 39, s. 22.

30. In any case where an agreement is constituted by two or more letters, such agreement and all such letters shall be deemed to be duly stamped if any one of such letters is duly stamped with the duty payable upon and for such agreement.

When agreement comprised of several letters. 789, 1902, Second Schedule, Note.

31. (1) Any contract or agreement in writing for the sale of any estate or interest in any property whatsoever (including goods, wares, and merchandise not being goods, wares, and merchandise agreed to be sold in the ordinary course of trade by a party whose principal business is the sale of such goods, wares, and merchandise), except—

Certain contracts to be chargeable as conveyances on sale. 1216, 1915, s. 20. Amended by 1822, 1927, s. 5 (a).

(a) property which cannot vest in the purchaser except upon registration of a conveyance; or

Cf. U.K. 54 & 55 Vict. c. 39, s. 59.

\* \* \* \* \*

Para. (b) repealed by 1822, 1927, s. 5 (b).

(c) stock or marketable securities, or shares in the stock, funds, or capital of any corporation, company, or society,

shall be charged with the same *ad valorem* duty as if it were an actual conveyance on sale of the estate or interest contracted or agreed to be sold.

(1a) If any contract or agreement in writing is made whereby any person agrees to hire any goods, wares or merchandise and the contract or agreement provides that such person may buy the goods, wares or merchandise or that

Inserted by 48, 1941, s. 5 (a).

## PART III.

the property in the goods, wares or merchandise will or may pass to such person, the contract or agreement shall, unless the goods, wares or merchandise is agreed to be hired as aforesaid in the ordinary course of trade by a party whose principal business is the sale or hiring as aforesaid of such goods, wares or merchandise, be charged with the same *ad valorem* duty as if it were an actual conveyance on sale of the goods, wares or merchandise.

Amended by  
48, 1941,  
s. 5 (b).

(2) Where duty has been duly paid in accordance with the provisions of subsection (1) or (1a) hereof on any such contract or agreement as mentioned in such subsection, any conveyance made to the purchaser in pursuance of such contract or agreement shall not be chargeable with any duty; and the Commissioner, upon application and upon the production of such contract or agreement duly stamped, shall stamp such conveyance with a particular stamp denoting that it is duly stamped.

(3) For the purposes of this section a receipt for the payment, in pursuance of any contract or agreement, of any purchase-money shall, in the absence of any further or other instrument being or evidencing such contract or agreement, be charged with *ad valorem* duty as hereinbefore provided.

Amended by  
48, 1941,  
s. 5 (b).

(4) If any such contract or agreement as mentioned in subsection (1) or (1a) hereof is afterwards rescinded or annulled, or for any other reason is not substantially performed or carried into effect so as to operate as, or to be followed by, a conveyance, the person who paid the *ad valorem* duty upon such contract or agreement shall be deemed to be possessed, in respect of such contract or agreement, of stamped material rendered useless by being inadvertently spoiled, within the meaning of section 106, and the provisions of that section shall apply accordingly.

Duty on  
agreements  
for "walk in  
walk out"  
sales.

Inserted by  
2387, 1938,  
s. 3.

### 31a. Notwithstanding section 31 of this Act if—

- (a) a contract or agreement in writing provides for the sale as a going concern of a pastoral holding, farm, orchard or other land used wholly or mainly for primary production, together with stock, implements and other chattels held or used in connection therewith; and
- (b) the contract or agreement sets out separately the consideration payable for the land and the consideration payable for stock, implements or other chattels; and

- (c) the Commissioner certifies in writing on the contract or agreement that he is of opinion that the consideration specified as being payable for the land represents the value of that land,

then the contract or agreement in writing shall be chargeable with stamp duty as if it related solely to the land mentioned therein and not to the stock, implements and other chattels.

*Annual Licences.*

32. In this Act—

Definitions.  
789, 1902,  
s. 8.  
1216, 1915,  
s. 6 (1).

- “firm of persons” includes any association of underwriters carrying on marine assurance or insurance business through a managing underwriter solely:
- “company” includes corporation and society, whether corporate or unincorporate:
- “policy” means and includes as well any policy as any instrument in the nature of a policy, an open policy, an insurance cover, or any instrument in any manner covering any assurance or insurance:
- “assurance or insurance business” means and includes—
- (a) the granting or issuing of any life, personal accident, fire, fidelity, guarantee, livestock, plate glass, marine or other assurance or insurance policies;
- (b) the acceptance, either directly or indirectly, of any premium, renewal premium, or consideration for or in respect of the granting or issuing or keeping alive or in force of any life, personal accident, fire, fidelity, guarantee, live stock, plate glass, marine or other policy, whether issued before or after the passing of this Act;
- (c) the receiving of any letter or declaration of interest attaching to any life, personal accident, fire, marine or other policy issued in South Australia or elsewhere at any time, whether before or after the passing of this Act; or
- (d) the carrying out by means of assurance or insurance effected out of South Australia of any written, verbal, or implied contract or undertaking to effect assurance or insurance.

## PART III.

Yearly licences required by companies and persons carrying on insurance business.  
789, 1902, s. 9.  
1216, 1915, s. 6 (2).

**33.** (1) Every company, person, or firm of persons which carries on or desires to carry on in South Australia any life, personal accident, fire, fidelity, guarantee, live stock, plate glass, marine or other assurance or insurance business whatever, and whether the head office or principal place of business of such company, person, or firm of persons is in South Australia or elsewhere, shall take out an annual licence every year in the form in the third schedule hereto.

(2) The Commissioner is hereby authorized to issue such licence on the payment to him of the duty specified in the second schedule hereto.

789, 1902, s. 23 (part).

(3) The duty payable in respect of any annual licence shall be denoted by impressed stamps.

Time of issue and duration of licences.  
789, 1902, s. 10.

**34.** An annual licence shall be issuable on the first day of January in every year: Provided that the first licence issued to any company, person, or firm of persons may be issued at any time during the year, but shall continue in force for the remaining part of such year only, and the duty payable in such case shall be a proportionate part of the duty chargeable on an annual licence, except where, in the opinion of the Commissioner, the licence should have been previously obtained, when the full amount of duty shall be payable thereon.

Application for licence.  
789, 1902, ss. 13, 14, 15.

**35.** (1) Any company, person, or firm of persons requiring an annual licence shall make a written application to the Commissioner, stating therein—

- (a) the nature and exact amount of all the assurance or insurance business transacted by such company, person, or firm of persons, and all the branches and agencies thereof in South Australia;
- (b) the exact amount of all gross premiums of any kind whatsoever received or in any manner credited or charged in account by such company, person, or firm of persons during the twelve months preceding the year or part thereof for which the licence is required;
- (c) the exact amount of all commissions or discounts actually paid or allowed;
- (d) the exact amount actually paid away by way of re-insurance effected in South Australia with any other such company, person, or firm of persons; and

(e) the net amount of premiums in respect of which duty is chargeable.

(2) The truth of the statements contained in any such application shall be verified by a statutory declaration made—

i. as to any company—by the public officer appointed under the Taxation Act, 1927, or by the chairman and the secretary, actuary, or other principal officer thereof:

Amended by  
S.L.R. Act,  
1935.

ii. as to any person—by such person:

iii. as to any firm of persons—by any member of such firm and the principal accountant of such firm.

(3) In case the information contained in any such application is not, in the opinion of the Commissioner, sufficiently explicit to enable him to determine what amount of duty is payable, he may require further information, which shall be verified and declared in the same manner as the statements contained in the original application.

(4) Every person who, with intent to defraud His Majesty—

(a) executes any such application or any instrument furnishing such further information, in which all the requisite facts and circumstances are not fully and truly set forth; or

(b) being employed or concerned in or about the preparation of any such application or instrument, neglects to set forth fully and truly therein all the said facts and circumstances,

shall be liable to a penalty of ten pounds.

**36.** If the amount of premium payable or chargeable or paid or chargeable in account in respect of any letters or declarations of interest in or attaching to any life, fire, or marine policy, or assurance or insurance cover, or any open policy, is not stated therein, the amount of premium in respect of which duty is payable shall be estimated and determined by the Commissioner.

Duty where  
premium not  
stated in  
policy.  
789, 1902,  
s. 16.

s. 35. (2) The Taxation Act, 1927, so far as it relates to income tax, has been repealed and superseded by the Income Tax Assessment Act, 1936, and so far as it relates to land tax, has been repealed and superseded by the Land Tax Act, 1936.

## PART III.

Power to  
summon and  
examine  
witnesses for  
purpose of  
determining  
duty payable  
on annual  
licence.

789, 1902,  
ss. 17, 18.

**37.** (1) The Commissioner may, in order to determine the duty payable on any annual licence, summon any person, and require and compel such person to produce any books, papers, deeds, documents, or writings in his possession or control; and the Commissioner may examine any such person on oath touching or concerning any statement made in any written application.

(2) If any person so summoned—

(a) does not appear in accordance with the summons; or

(b) appearing, refuses to be sworn, or fails or neglects to produce any such books, papers, deeds, documents, or writings,

such person shall be liable to a penalty of twenty pounds.

Questions to  
be settled by  
Commissioner,  
subject to  
appeal.

789, 1902,  
s. 19.

**38.** If any question arises as to the liability of any company, person, or firm of persons to take out an annual licence, or as to the amount of duty payable in respect of any annual licence, the Commissioner may be required to express his opinion with reference thereto, and the decision of the Commissioner shall be final: Provided that, in the case of a decision of the Commissioner as to the amount of duty payable in respect of any annual licence, there shall be an appeal against such decision in the manner provided by section 24 for appeal against an assessment of the Commissioner, and for the purposes of such appeal all the provisions of that section shall, *mutatis mutandis*, apply to an appeal under this section.

Effect of  
annual  
licences.

789, 1902,  
s. 20.

**39.** An annual licence shall, subject to the provisions of any Act in force for the time being relating to assurance or insurance, be deemed to authorize the lawful business of any company, person, or firm of persons named therein to be carried on in South Australia and by all branches and agencies thereof in South Australia, and for one or more kinds of the assurance or insurance business mentioned in such licence.

Registrar of  
Companies  
not to issue  
certificate  
until duty  
paid.

789, 1902,  
s. 21.

**40.** (1) It shall not be lawful for the Registrar of Companies to take any steps towards registering or obtaining the incorporation of any company required to take out an annual licence under this Act until the full amount of duty payable in respect of such licence has been paid.

(2) The production of the licence issued by the Commissioner shall be evidence of the payment of the full amount

of the duty payable in respect of the licence required to be taken out by the company specified in such licence.

41. (1) If any company, person, or firm of persons hereby required to take out an annual licence—

(a) carries on in South Australia any assurance or insurance business whatever without having taken out such annual licence; or

(b) neglects for two months after the expiration of the annual licence to take out another annual licence,

such company, person, or firm of persons shall be liable to a penalty not exceeding fifty pounds for every month or part of a month during which such annual licence is not taken out.

(2) All contracts of marine assurance or insurance effected by any company, person, or firm of persons not duly licensed under this Act shall be absolutely null and void, unless any such contract is made with any company, person, or firm of persons publicly holding out itself, himself, or themselves at any place in South Australia as being licensed under this Act.

(3) The payment by any company, person, or firm of persons of the duty in respect of any annual licence taken out by such company, person, or firm of persons shall be notified in the *Government Gazette*, and such notification shall be sufficient evidence of the company, person, or firm of persons specified in the notification being duly licensed under this Act.

42. If, after any duty has been paid with respect to any annual licence, it is found within three months after the payment of such duty that too much duty has been paid, the Commissioner shall, on being satisfied that such overpayment has been made, and without further or other authority than this Act, refund the amount thereof to the company, person, or firm of persons by which the overpayment was made, or to any person acting in its, his, or their behalf.

Carrying on insurance business without licence.  
789, 1902, ss. 22, 23.

Refund of overpaid duty.  
789, 1902, s. 24.

#### *Bank Notes.*

43. In this Act—

“bank” means any corporation, society, partnership, or person carrying on the business of banking in South Australia:

“bank note” means any bill of exchange or promissory note issued by any bank for payment of money on

Interpretation.  
372, 1886, s. 27.

demand, or purporting or intended to entitle the owner or holder thereof, without indorsement, or without any further or other indorsement than may be thereon at the time of the issue thereof, to payment of money on demand, whether the same is so expressed or not, or in whatever form or by whomsoever such bill or note is drawn or made.

Duty to be paid by banks.  
789, 1902,  
s. 25.

44. There shall be paid quarterly to the Commissioner by every bank the duty specified in that behalf in the second schedule on the average amount of bank notes issued by such bank stated to be in circulation by the quarterly returns made by such bank pursuant to the Banking Companies Act.

Payment to be made quarterly.  
372, 1886,  
s. 29.

45. The above-mentioned duty shall become due and payable by quarterly payments on the fourth day of February, the fourth day of May, the fourth day of August, and the fourth day of November in each year, and each quarterly payment by each bank shall be computed upon the amount of notes shown to be in circulation by the returns of such bank for the last preceding quarter prepared in accordance with the provisions of the Banking Companies Act.

Power to compound duty on bank notes.  
Inserted by  
22, 1942, s. 2.

45a. If any duty is payable by any bank as provided by section 44 in respect of any bank notes issued by that bank, the Treasurer may, in payment of all future duty payable by the bank upon those bank notes, accept payment from the bank of a sum of money which if invested at interest at the rate of four per centum per annum would bear interest annually of an amount equal to the amount of duty which would otherwise be payable annually in respect of the bank notes. Upon payment to the Treasurer as aforesaid, the liability to pay any further duty upon those bank notes shall be determined.

*Bills of Exchange, Promissory Notes, Coupons, and Interest Warrants.*

Interpretation.  
372, 1886,  
s. 30.  
Cf. U.K.  
54 & 55 Vict.  
c. 39, s. 32.

46. In this Act—

“bill of exchange” means and includes—

(a) any bill of exchange, draft, order, cheque, and letter of credit, and any document or writing (except a bank note) entitling or purporting to

ss. 44 and 45. The Banking Companies Act was repealed and superseded by the Banking Companies Act, 1935, and the latter Act was repealed by the Banking Companies Act Repeal Act, 1946.

s. 46. In the matter of an appeal of the FEDERAL BANK OF AUSTRALIA LIMITED from the assessment of the COMMISSIONER OF STAMPS (1889) 23 S.A.L.R. 43. Held that a certain fixed deposit receipt was not a “promissory note.”

entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money therein mentioned;

- (b) any order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen; and
- (c) any order for the payment of any sum of money at any stated period, and also any order for the payment of any sum of money by any person at any time after the date thereof sent or delivered by the person making the same to the person by whom the payment is to be made, or to any person on his behalf.

“promissory note” means and includes—

- (a) any document or writing (except a bank note) containing or importing a promise to pay any sum of money; and
- (b) any note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen.

Cf. U.K.  
54 & 55 Vict.  
c. 39, s. 33.

**47.** The duty on a bill of exchange (including draft payable on demand), promissory note, coupon, or interest warrant may be denoted by an adhesive stamp: Provided that in the case of a bill of exchange or promissory note drawn or made out of South Australia, the duty shall be denoted by an adhesive stamp only.

Duty on bills, notes, etc., how denoted.  
372, 1886, s. 31 (part), s. 32 (1).  
1244, 1916, s. 26 (1).  
789, 1902, s. 27.  
Cf. U.K. 54 & 55 Vict. c. 39, s. 34 (part).

**47a.** Where a bill of exchange, cheque or order payable on demand or a coupon or interest warrant has thereon an impressed stamp denoting a duty of one penny halfpenny, any additional duty becoming payable on such bill, cheque, order, coupon or warrant pursuant to the amendments made by the Stamp Duties Act Amendment Act, 1952, shall be denoted by an adhesive or impressed stamp.

Additional duty on cheques with impressed stamps.  
Inserted by 55, 1952, s. 4.

## PART III.

When bills, notes, etc., to be stamped.

372, 1886, s. 31 (part).  
1244, 1916, s. 26 (part).  
Cf. U.K. 54 & 55 Vict. c. 39, s. 34 (part).  
Cf. U.K. 23 & 24 Geo. 5, c. 19, s. 42.

789, 1902, s. 27 (part).

372, 1886, s. 34 (2), (3).

Amended by S.L.R. Act, 1935.

837, 1903, s. 3.

372, 1886, s. 32 (part).  
1244, 1916, s. 26 (1) (part).  
Cf. U.K. 54 & 55 Vict. c. 39, s. 35.

43. (1) The adhesive stamp denoting the duty upon any bill of exchange, promissory note, coupon, or interest warrant shall be cancelled by the person by whom the bill of exchange, promissory note, coupon, or interest warrant is drawn, made, or issued, before he delivers it out of his hands, custody, or power.

(2) In the case of a draft payable on demand the stamp may be affixed and cancelled by the maker or holder thereof.

(3) If any bill of exchange for the payment of money on demand, or any coupon or interest warrant, chargeable only with the duty of two pence or less, is presented for payment unstamped or insufficiently stamped, the person to whom it is so presented may affix thereto a proper adhesive stamp, and may cancel the same as if he had been the drawer of such bill or the issuer of such coupon or interest warrant, and may, upon so doing, pay the sum mentioned in the said bill, coupon or interest warrant, and charge the duty, or part thereof, as the case may be, in account against the person by whom the bill was drawn, or the coupon or interest warrant was issued, or deduct such duty or part thereof from the said sum, and such bill, coupon, or interest warrant shall, so far as respects the duty, be deemed good and valid: Provided that nothing in this subsection shall relieve any person from any penalty he may have incurred in relation to such bill, coupon, or interest warrant.

(4) If any bill of exchange or promissory note, other than a bill of exchange or promissory note payable on demand, has not been stamped, or has been insufficiently stamped, the holder may, within fourteen days from the date thereof, by paying the duty or the deficiency to the Commissioner, have such bill of exchange or promissory note duly stamped.

(5) Every holder of any unstamped bill of exchange, promissory note, coupon, or interest warrant drawn or issued out of South Australia shall, before he presents it for payment, or indorses, transfers, or in any manner uses, negotiates, or pays the same, cause it to be duly stamped: Provided that—

- i. if, at the time when any such bill, note, coupon, or interest warrant comes into the hands of any *bona fide* holder thereof, there is affixed thereto an adhesive stamp appearing to be duly cancelled, such stamp shall, so far as it relates to such holder, be

deemed to be duly cancelled, although it does not appear to be so affixed or cancelled by the proper person:

- ii. if, at the time when any such bill, note, coupon, or interest warrant comes into the hands of any *bona fide* holder thereof, there is affixed thereto an adhesive stamp not duly cancelled, it shall be competent for such holder to cancel such stamp as if he were the person by whom it was affixed, and upon his so doing such bill, note, coupon, or interest warrant shall be deemed duly stamped, and shall be as valid and available as if the stamp had been cancelled by the person by whom it was affixed,

but nothing in this subsection shall relieve any person from any penalty under this Act.

**48a.** (1) The Treasurer, at his discretion, may issue to any bank a licence enabling that bank to issue to its customers cheque forms having the words "Stamp duty paid" printed thereon.

Licences for  
duty paid  
cheques.

Inserted by  
16, 1950, s. 3.

(2) Every such licence—

- (a) shall be in such form and contain such terms, conditions, limitations and restrictions as the Treasurer thinks fit;
- (b) in particular shall contain such conditions as the Treasurer thinks proper with respect to the payments of duty at the rate fixed in respect of cheques by this Act, which the bank holding the licence shall make to the Treasurer in respect of cheque forms issued by that bank;
- (c) shall be revocable at any time at the will of the Treasurer.

(3) A cheque form issued by a bank pursuant to a licence in force under this section shall be deemed to be duly stamped under this Act.

(3a) If before a cheque form printed pursuant to a licence under this section is issued as a cheque, or presented by the drawer to the bank for payment, the rate of duty on the cheque is increased above the amount indicated on the cheque, then such cheque shall not be deemed to be duly stamped unless an adhesive or impressed stamp of the amount of the increase is attached to the cheque.

Inserted by  
55, 1952, s. 5.

(4) Any money due to the Treasurer by a bank in accordance with a licence issued under this section may be recovered by the Treasurer by action brought by him in his corporate name in any court having jurisdiction in common law actions up to the amount claimed.

(5) The power to make regulations conferred on the Governor by section 112 of this Act shall include power to make regulations with respect to the printing and control of cheque forms for use under this section, and generally with respect to licences and the duties of persons holding licences under this section.

(6) In this section—

“bank” means—

(a) any bank carrying on the business of banking in the State, including any bank owned or carried on by the Crown in right of the Commonwealth or the State; and

(b) any company or other corporation which holds money on current account on behalf of its customers or clients and pays such money on unconditional written orders payable on demand and addressed by such customers or clients to the company or corporation:

“cheque” includes any such unconditional written order as mentioned in paragraph (b) of the definition of “bank” in this section.

Penalty on taking unstamped bill or promissory note. 789, 1902, s. 26.

**49.** Any person who takes or receives from any other person any bill of exchange or promissory note not duly stamped, either in payment or as a security or by purchase or otherwise, without causing the same to be duly stamped after receiving it, shall be liable to a penalty not exceeding twenty pounds.

Where bill or note deemed to be drawn. 789, 1902, s. 33. Cf. U.K. 54 & 55 Vict. c. 39, s. 36.

**50.** A bill of exchange or promissory note purporting to be drawn or made out of South Australia shall, for the purposes of this Act, be deemed to have been so drawn or made, although it may, in fact, have been drawn or made within South Australia.

Bills or notes issued unstamped. 789, 1902, s. 34 (1). Cf. U.K. 54 & 55 Vict. c. 39, s. 38.

**51.** (1) Any person who issues, indorses, transfers, uses, negotiates, presents for payment, or pays any bill of exchange, promissory note, coupon, or interest warrant chargeable with duty and not duly stamped, shall be liable to a penalty not exceeding twenty pounds.

(2) Any person who takes or receives from any other person any bill of exchange, promissory note, coupon, or interest warrant not duly stamped, either in payment or as a security or by purchase or otherwise, shall not be entitled to recover thereon, or to make the same available for any purpose whatever, until the same is duly stamped.

52. When a bill of exchange is drawn in a set, according to the custom of merchants, and one of the set is duly stamped, the other or others of the set shall, unless issued or in some manner negotiated apart from such duly stamped bill, be exempt from duty, and upon proof of the loss or destruction of a duly stamped bill forming one of a set, any other bill of the set which has not been issued or in any manner negotiated apart from such lost or destroyed bill may, although unstamped, be admitted in evidence to prove the contents of such lost or destroyed bill.

Bills in sets.  
372, 1886,  
s. 35.  
Cf. U.K.  
54 & 55 Vict.  
c. 39, s. 39.

#### *Bills of Lading.*

53. (1) A bill of lading shall not be stamped after the execution thereof.

When to be stamped.

372, 1886,  
s. 36.  
U.K. 54 & 55  
Vict. c. 39,  
s. 40.

(2) Any person who makes or executes any bill of lading not duly stamped shall be liable to a penalty of fifty pounds.

#### *Contract Notes and Options.*

54. (1) In this Act the term "contract note" means a note sent by a broker or agent to his principal advising him of the sale or purchase of any stock or marketable security, but does not include a note sent by a broker or agent to a person who is acting as a broker or agent for a principal and is himself a member of a stock exchange in the Commonwealth of Australia.

Provisions as to contract notes.  
1216, 1915,  
s. 16.  
Cf. U.K.  
10 Edw. 7  
c. 8, s. 77 (3).

(2) Where a contract note advises the sale or purchase of more than one description of stock or marketable security, the note shall be deemed to be as many contract notes as there are descriptions of stock or marketable securities sold or purchased.

(3) Where a contract note is a continuation or carrying-over note made for the purpose of continuing or carrying over any transaction for the sale or purchase of stock or marketable securities, the contract note, although it is made in respect of both a sale and a purchase, shall be charged with duty under this Act as if it related to one of those transactions only, and if different amounts are chargeable as duty in respect of those transactions, as if it related to

that one of those transactions which would render the contract note chargeable with the greater amount of duty.

Adhesive stamps may be used.

1216, 1915, s. 17.  
Cf. U.K. 10 Edw. 7 c. 8, s. 78 (4).

**55.** (1) The duty on a contract note may be denoted by an adhesive stamp.

(2) Every adhesive stamp on a contract note shall be cancelled by the person by whom the note is executed.

(3) Any person who fails to comply with the provisions of subsection (2) hereof shall be liable to a penalty not exceeding ten pounds.

Penalty for not making a stamped note.

1216, 1915, s. 18 (1), (2).  
Cf. U.K. 54 & 55 Vict. c. 39, s. 109.  
Cf. U.K. 10 Edw. 7 c. 8, s. 78 (1), (2).

**56.** (1) Any person who effects a sale or purchase of any stock or marketable security as a broker or agent shall forthwith make and execute a contract note, and transmit the same to his principal, and in default of so doing shall be liable to a penalty not exceeding twenty pounds: Provided that this section shall not apply in the case of transactions, carried out in the course of their ordinary business relations, between brokers or agents who are members of any stock exchange in the Commonwealth of Australia.

(2) If any person makes or executes any contract note chargeable with duty which is not duly stamped, he shall be liable to a penalty not exceeding twenty pounds.

Certificate on conveyance or transfer.

Inserted by 48, 1941, s. 6.

**56a.** (1) Every person who effects a sale or purchase of any stock or marketable security as a broker or agent shall make and sign a certificate upon the conveyance or transfer of the stock or marketable security that any contract note required by this Act to be given in respect of the sale or purchase, as the case may be, has been duly stamped as required by this Act.

(2) Any person who fails to make or sign a certificate as required by subsection (1) shall be liable to a penalty not exceeding twenty pounds.

Duty may be added to brokerage.

1216, 1915, s. 18 (4).  
10 Edw. 7 c. 8, s. 78 (5).

**57.** The duty upon a contract note may be added to the charge for brokerage or agency, and shall be recoverable as part of such charge.

Unstamped notes.

1216, 1915, s. 18 (4).  
Cf. U.K. 10 Edw. 7 c. 8, s. 78 (3).

**58.** No broker, agent, or other person shall have any legal claim to any charge for brokerage, commission, or agency with reference to the sale or purchase of any stock or marketable security mentioned or referred to in any contract note unless such note is duly stamped.

59. The provisions of this Act as to contract notes shall apply to any contract under which an option is given or taken to purchase or sell any stock or marketable security at a future time at a certain price, in the same manner as it applies to the sale or purchase of any stock or marketable security: Provided that; if under the contract a double option is given or taken, the contract shall be deemed to be a separate contract in respect of each option.

Contracts for options.  
1216, 1915,  
s. 19.  
Cf. U.K.  
10. Edw. 7  
c. 8, s. 79 (1).

*Conveyances and Conveyances on Sale.*

60. In this Act—

“conveyance” includes—

- (a) every conveyance, assignment, transfer, or declaration of trust, and every application under The Real Property Act, 1886;
- (b) every decree or order of any court, judge, or commissioner;
- (c) every other application or request of any kind; and
- (d) every other assurance or instrument of any kind,

Definition of “conveyance.”  
1216, 1915,  
s. 11 (part).  
Cf. U.K.  
54 & 55 Vict.  
c. 39, ss. 54,  
62.

whereby or by virtue thereof, or by the operation whereof, whether upon registration or otherwise, or by the issue of a certificate of title in pursuance whereof, any real or personal property, or any estate or interest in any such property, is assured to or vested in any person; the term also includes a surrender to the Crown of any lease or other interest in land with a view to granting another lease or any other interest in any land to the person surrendering or to a person nominated by him:

“to convey” has a meaning co-extensive with the meaning of the term “conveyance,” as extended by this section:

1216, 1915,  
s. 11 (part).

“conveyance on sale” includes—

- (a) every conveyance assignment, transfer, or application under The Real Property Act, 1886;

372, 1886,  
s. 37.  
789, 1902,  
s. 28 (part).

s. 60. *CLAUSEN AND OTHERS V. HABERLE* (1888) 22 S.A.L.R. 131. Neither a contract for sale, which does not identify the property to which it refers, nor an executory contract, is a “conveyance on sale.”

*WINTER V. BROWN* (1892) 25 S.A.L.R. 11. An offer in writing to sell land which is accepted by parol is not a “conveyance on sale.”

Stamp Duties Act, 1923-1952.

(b) every decree or order of any court, judge, or commissioner;

(c) every other application or request of any kind; and

(d) every other assurance or instrument,

whereby, or by virtue whereof, any real or personal property upon the sale thereof is legally or equitably transferred to or vested in the purchaser or any other person on his behalf or by his direction: the term also includes—

(e) every application for a foreclosure order under The Real Property Act, 1886; and

(f) every lease for which any consideration other than the rent reserved may be paid or agreed to be paid (but only so far as such consideration is concerned).

Method of estimating value of consideration where consideration consists of shares.  
1216, 1915, s. 12.  
1244, 1916, s. 23.  
Cf. U.K. 54 & 55 Vict. c. 39, s. 55.

61. Where the consideration or part of the consideration upon which a conveyance is chargeable with *ad valorem* duty consists of shares or debentures to be issued by a company, or a contract to issue such shares or debentures, the market value of such shares or debentures shall be taken as the value of such consideration or part.

S. 62 repealed by 1822, 1927, s. 6.

\* \* \* \* \*

Consideration in case of application for foreclosure order.  
789, 1902, s. 28 (part).

63. In the case of an application for a foreclosure order under The Real Property Act, 1886, the value of the land in respect of which the application is made shall be deemed the consideration for the conveyance on sale.

Consideration in case of lease.  
789, 1902, s. 28 (part).

64. In the case of a lease for which any consideration other than the rent reserved may be paid or agreed to be paid, the amount of such other consideration shall be deemed the consideration for the conveyance on sale.

Where consideration consists of real or personal property.  
372, 1886, s. 38.

65. Where the consideration, or any part of the consideration, for a conveyance on sale consists of any real or personal property other than money, such conveyance shall be chargeable with *ad valorem* duty in respect of the value of such real or personal property at the date of such conveyance.

66. (1) Where the consideration, or any part of the consideration, for a conveyance on sale consists of money payable periodically for a definite period, so that the total amount to be paid can be previously ascertained, such conveyance shall be chargeable in respect of such consideration with *ad valorem* duty on such total amount.

Where consideration is payable in instalments. 372, 1886, s. 39. Cf. U.K. 54 & 55 Vict. c. 39, s. 52.

(2) Where the consideration, or any part of the consideration, for a conveyance on sale consists of money payable periodically in perpetuity, or for any indefinite period not terminable with life, such conveyance shall be chargeable in respect of such consideration with *ad valorem* duty on the total amount which may, according to the terms of sale, be payable during the period of twenty years next after the day of the date of such instrument.

(3) Where the consideration, or any part of the consideration, for a conveyance on sale consists of money payable periodically during any life or lives, such conveyance shall be chargeable in respect of such consideration with *ad valorem* duty on the amount which may, according to the terms of sale, be payable during the period of twelve years next after the day of the date of such instrument.

(4) No conveyance on sale chargeable with *ad valorem* duty in respect of any periodical payments, and containing also provision for securing such periodical payments, shall be charged with any duty whatsoever in respect of such provision.

66a. (1) Where any goods, wares or merchandise is assigned to any purchaser at or about the time of the conveyance or transfer of any other property, whether by the same or another instrument or otherwise, in such circumstances that such assignment and the conveyance or transfer together form substantially one transaction, the consideration for such conveyance or transfer shall be deemed to include all moneys paid in respect of the assignment of such goods, wares, or merchandise.

Mode of computing consideration in certain cases.

Inserted by 1822, 1927, s. 7, which was repealed by 2359, 1937, s. 4, and inserted by 48, 1941, s. 7.

(2) Any person who executes and any person engaged or concerned in the preparation of certification of any such conveyance or transfer as mentioned in subsection (1) hereof which does not disclose the true consideration paid or agreed to be paid for the whole of the property included in the transaction in connection with which the conveyance or transfer is executed, shall be guilty of an offence and liable to a penalty not exceeding five hundred pounds: Provided that no person shall be convicted of an offence under this sub-

section if he proves that he did not know and could not reasonably have had knowledge that the conveyance or transfer did not disclose the true consideration required to be disclosed as aforesaid.

(3) This section shall be construed subject to the provisions of section 31a of this Act.

Valuation where consideration doubted.

Inserted by 1822, 1927, s. 7.

**66b.** (1) Where in the opinion of the Commissioner the consideration in any transfer or conveyance does not represent the value of the property referred to or dealt with in such instrument, or the evidence of value is unsatisfactory, he may cause a valuation of the property to be made by some person appointed by him, and may assess the duty payable on the basis of such valuation.

(2) The Commissioner may, having regard to the merits of the case, charge the whole or any part of the expenses of or incidental to the making of the valuation to the person liable to pay the duty, and may recover the same from him as a debt due to His Majesty.

Where property is subject to debt.

372, 1886, s. 40.  
U.K. 54 & 55  
Vict. c. 39,  
s. 57.

**67.** Where any property is conveyed to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or encumbrance upon the property or not, such debt, money, or stock shall be deemed the whole, or part, as the case may be, of the consideration in respect whereof the conveyance is chargeable with *ad valorem* duty.

Duty in certain cases.

372, 1886, s. 41.  
1216, 1915, s. 5.  
Cf. U.K. 54 & 55  
Vict. c. 39, s. 58.

**68.** (1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts or parcels by different instruments, the consideration shall be apportioned in such manner as the parties think fit, so that a distinct consideration for each separate part or parcel shall be set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration.

(2) Where any property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts or parcels by separate instruments, to the persons by or for whom the same has been purchased for distinct parts of the consideration, the conveyance of each separate part or parcel shall be chargeable with *ad valorem* duty in respect of the distinct part of the consideration specified therein.

(3) Where a person having contracted for the purchase of any property, but not having obtained a conveyance thereof, contracts to sell the same to any other person, and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in respect of the consideration for the sale to the original purchaser, and also in respect of the consideration for the sale by the original purchaser to the sub-purchaser, in the same manner as if such considerations were specified in separate instruments.

(4) Where a person having contracted for the purchase of any property, but not having obtained a conveyance, contracts to sell the whole or any part or parts thereof to any other person, and the property is in consequence conveyed by the original seller to different persons in parts or parcels, the conveyance of each part or parcel shall be chargeable with *ad valorem* duty in respect of the consideration for the sale to the original purchaser, and also in respect of the consideration for the sale by the original purchaser to the sub-purchaser, in the same manner as if such considerations were specified in separate instruments. The consideration for the sale to the original purchaser in respect of each part or parcel shall, for the purposes of this sub-section, be ascertained by determining the ratio which the value of the part or parcel in question bears to the value of the whole property, and shall be specified in the instrument of conveyance.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration moving from him, and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with *ad valorem* duty in respect of the consideration for the sale to the original purchaser.

69. Where there are several instruments of conveyance for completing the purchaser's title to the property sold, the principal instrument of conveyance only shall be chargeable with *ad valorem* duty, and the other instruments shall be respectively chargeable with such other duty as they may be liable to, but such last-mentioned duty shall not exceed the *ad valorem* duty payable in respect of the principal instrument, and the parties, with the approval of the Commissioner, may decide which of such several instruments is the principal instrument.

Where there are several instruments. 372, 1886, s. 42. Cf. U.K. 54 & 55 Vict. c. 39, ss. 61 (part), 106.

## PART III.

Instrument  
executed to  
evade duty.  
372, 1886,  
s. 43.

70. Every mortgage, lease, or other instrument executed in order, either directly or indirectly, to avoid or evade the payment of duty payable on a conveyance on sale shall be void, except after *bona fide* transfer of the same to a third person, and shall then only be valid when the same has been duly stamped as a conveyance.

Conveyance  
operating  
as a voluntary  
disposition  
*inter vivos*.  
1216, 1915,  
s. 29.  
Cf. U.K.  
10 Edw. 7  
c. 8, s. 74.

71. (1) The value for the purposes of this Act of the property conveyed by any conveyance operating as a voluntary disposition *inter vivos* shall be declared in the conveyance.

(2) Notwithstanding anything in section 23, the Commissioner may be required to express his opinion under that section on any conveyance operating as a voluntary disposition *inter vivos*, and no such conveyance shall be deemed to be duly stamped unless the Commissioner has expressed his opinion thereon in accordance with that section.

1244, 1916,  
s. 25.

(3) Any conveyance which is not chargeable with duty as a conveyance on sale or which is not such a conveyance as is referred to in subsection (4) hereof shall, for the purposes of this Act, be deemed to be a conveyance operating as a voluntary disposition *inter vivos*.

1244, 1916,  
s. 25.

(4) A conveyance made for nominal consideration for the purpose of securing the repayment of an advance or loan, or made for effectuating the appointment of a new trustee or the retirement of a trustee (whether the trust is expressed or implied) and under which no beneficial interest passes in the property conveyed, or made to a beneficiary by a trustee or other person in a fiduciary capacity under any trust (whether expressed or implied), or operating as a voluntary disposition of property for charitable or religious purposes, shall not be chargeable with duty as a conveyance operating as a voluntary disposition *inter vivos*.

Provision  
where trust  
property  
distributed  
*in specie*.

Inserted by  
48, 1941, s. 8.

71a. If any will or any instrument whereby any trust is declared contains a direction to convert any property into money and to pay the proceeds of such conversion to any beneficiary and, in lieu of such conversion into money and payment, the executor, administrator, or trustee, as the case may be, conveys the property *in specie* to the beneficiary, such conveyance shall not be chargeable with duty as a conveyance on sale or as a conveyance operating as a voluntary disposition *inter vivos*.

**71b.** Where upon the partition or division of any property any consideration exceeding in amount or value one hundred pounds is paid or given, or agreed to be paid or given, for equality, the instrument whereby the partition or division is effected shall be charged with the same *ad valorem* duty as a conveyance on sale for the consideration, and with that duty only.

Partition or division of property.

Cf. U.K. 54 & 55 Vict. c. 39, s. 73.

Inserted by 48, 1941, s. 8.

### *Leases.*

**72.** An agreement for a lease, or with respect to the letting of any lands, shall be chargeable with the same duty as if it were an actual lease made for the term and consideration mentioned in the agreement.

Agreements for lease to be charged as a lease.

789, 1902,

s. 29.

Cf. U.K.

54 & 55 Vict. c. 39, s. 75.

**73.** (1) Where the consideration or any part of the consideration for which a lease is granted or agreed to be granted consists of any produce or other goods, the value of the produce or goods shall be deemed a consideration in respect of which the lease or agreement is chargeable with *ad valorem* duty.

Leases, how to be charged in respect of produce, etc.

789, 1902,

s. 30.

Cf. U.K.

54 & 55 Vict. c. 39, s. 76.

(2) Where it is stipulated in any lease or agreement for a lease that the value of the produce or goods shall amount at least to, or shall not exceed, a given sum, or where the lessee is specially charged with or has the option of paying after any permanent rate of conversion, the value of the produce or goods shall, for the purpose of assessing the *ad valorem* duty, be estimated at the given sum, or according to the permanent rate.

(3) A lease or agreement for a lease, made either wholly or partially for any such consideration, if it contains a statement of the value thereof and is stamped in accordance with the statement, shall, so far as regards the subject-matter of the statement, be deemed duly stamped, unless or until it is otherwise shown that the statement is incorrect, and that the lease or agreement is in fact not duly stamped.

**74.** (1) A lease or agreement for a lease or with respect to the letting of any lands shall not be chargeable with any duty in respect of any penal rent, or increased rent in the nature of a penal rent, thereby reserved or agreed to be reserved or made payable, or by reason of being made in consideration of the surrender or abandonment of any existing lease or agreement of or relating to the same subject-matter.

Directions as to duty in certain cases.

789, 1902,

s. 31.

Cf. U.K.

54 & 55 Vict.

c. 39, s. 77

(part).

(2) A lease made for any consideration in respect whereof it is chargeable with *ad valorem* duty, and in further consideration either of a covenant by the lessee to make, or of his having previously made, any substantial improvement of or addition to the property demised to him, or of any covenant relating to the subject-matter of the lease, shall not be chargeable with any duty in respect of such further consideration.

*Letters of Allotment, Scrip Certificates, and Scrip.*

Penalty for not stamping letter of allotment. 1216, 1915, s. 14. Cf. U.K. 54 & 55 Vict. c. 39, s. 79 (1).

75. Every person who executes, grants, issues, or delivers out any instrument chargeable with duty as a letter of allotment or scrip certificate or scrip, before the same is duly stamped, shall be liable to a penalty not exceeding twenty pounds.

*Mortgages.*

Interpretation of term. 1216, 1915, s. 21. 1244, 1916, s. 24. Cf. U.K. 54 & 55 Vict. c. 39, s. 86.

76. In this Act the term "mortgage" means a security by way of mortgage for the payment of any definite and certain sum of money advanced and lent at the time when such security is executed or previously due and owing, or forborne to be paid (being payable), or for the repayment of money to be lent, advanced, or paid, or which may become due upon an account current, either alone or together with any sum already advanced or due, and includes—

- (a) any conveyance of any real or personal property whatsoever, or any estate or interest therein, in trust to be sold or otherwise converted into money, intended only as a security, and redeemable before the sale or other disposal thereof, either pursuant to express stipulation or otherwise, except where such conveyance is made for the benefit of creditors generally, or for the benefit of creditors specified who accept the provision thereby made for payment of their debts in full satisfaction thereof, or who exceed five in number;
- (b) any defeasance, declaration, or other instrument for defeating or making redeemable or explaining or qualifying any conveyance of any real or personal property whatsoever, or any estate or interest therein, apparently absolute but intended only as a security;
- (c) any agreement, contract, or bond, accompanied by a deposit of any muniments of title, to make a mortgage or any such conveyance or instrument as

aforesaid, of or concerning any real or personal property comprised in such title deeds, or any estate or interest therein, or for pledging or charging the same as a security; and

- (d) any equitable mortgage, that is to say, any agreement or memorandum, under hand only, relating to the deposit of any title deeds or instruments constituting, or being evidence of, a title to any property whatever, or creating a charge on such property.

Cf. U.K.  
54 & 55 Vict.  
c. 39, s. 86  
(2).

77. If several instruments are necessary to make a mortgage, and duty would, but for this section, be chargeable on more than one of such instruments, the duty shall be chargeable upon the principal instrument only, and the other instruments shall not be liable to any duty, and the parties, with the approval of the Commissioner, may decide which is the principal instrument.

Where mortgage consists of several instruments.  
1216, 1915,  
s. 22.  
Cf. U.K.  
54 & 55 Vict.  
c. 39, s. 61  
(part).

78. A security for the transfer or re-transfer of any stock shall be chargeable with the same duty as a similar security for a sum of money equal in amount to the value of such stock; and a transfer or assignment of any such security shall be chargeable with the same duty as an instrument of the same description relating to a sum of money equal in amount to the value of such stock.

Security for stock, how to be charged.  
1216, 1915,  
s. 24.  
Cf. U.K.  
54 & 55 Vict.  
c. 39, s. 87  
(1).

79. (1) A security by way of mortgage for the payment or repayment of money to be lent, advanced, or paid, or which may become due upon an account current, either alone or together with money previously due, is to be charged, where the total amount secured or to be ultimately recoverable is in any way limited, with the same duty as a security for the amount so limited.

Security for future advances, how to be charged.  
1216, 1915,  
s. 25.  
Cf. U.K.  
54 & 55 Vict.  
c. 39, s. 88.

(2) Where such total amount is unlimited, the security is to be available for such an amount only as the *ad valorem* duty denoted thereon extends to cover, but where any advance or loan is made in excess of the amount covered by that duty the security shall for the purpose of stamp duty be deemed to be a new and separate instrument, bearing date on the day on which the advance or loan is made.

Amended by  
48, 1941, s. 9.

(3) Notwithstanding any provision of The Real Property Act, 1886, no reconveyance or discharge of any mortgage given for an unlimited amount shall be registered unless the duty payable upon the highest amount advanced upon the security has been paid.

## PART III.

Security for repayment by periodical payments, how to be charged. 1216, 1915, s. 26. Cf. U.K. 54 & 55 Vict. c. 39, s. 87 (2).

**80.** A security for the payment of any rent charge, annuity, or other periodical payment, by way of repayment or in satisfaction or discharge of any loan, advance, or payment intended to be so repaid, satisfied, or discharged, shall be chargeable with the same duty as a similar security for the payment of the sum of money so lent, advanced, or paid: Provided that an encumbrance to secure periodical payments during an indefinite period not terminable with life, or during any life or lives, shall be charged as a security for an amount calculated in accordance with the provisions of subsections (2) and (3) of section 66.

Transfers and further charges. 1216, 1915, s. 27. Cf. U.K. 54 & 55 Vict. c. 39, s. 87 (3).

**81.** No transfer of a duly stamped security, and no security by way of further charge for money or stock added to money or stock previously secured by a duly stamped instrument, shall be chargeable with any duty by reason of containing any further additional security for such money or stock transferred or previously secured, or the interest or dividends thereon, or any new covenant, proviso, power, stipulation, or agreement in relation thereto, or any further assurance of the property comprised in the transferred or previous security.

*Receipts.*

Provisions as to duty upon receipts. 789, 1902, s. 32 (1). Cf. U.K. 54 & 55 Vict. c. 39, s. 101 (1).

**82.** In this Act the term "receipts" includes any note, memorandum, or writing whereby—

- (a) any money amounting to two pounds or upwards, or any bill of exchange or promissory note for money amounting to two pounds or upwards, is acknowledged or expressed to have been received or deposited or paid; or
- (b) any debt or demand, or any part of a debt or demand, of the amount of two pounds or upwards, is acknowledged to have been settled, satisfied, or discharged, or which signifies or imports any such acknowledgment,

and whether the same is or is not signed with the name of any person.

How duty on receipts may be denoted. 789, 1902, ss. 32 (2), 33 (proviso). Cf. U.K. 54 & 55 Vict. c. 39, ss. 101 (2), 102.

**83.** The duty upon a receipt may be denoted by an adhesive stamp, which shall be cancelled by the person by whom the receipt is given before he delivers it out of his hands: Provided that any person may stamp a receipt with an impressed stamp upon the terms following, that is to say:—

- i. Within fourteen days after the receipt has been given, on payment of the duty and a penalty of not exceeding five pounds:
- ii. After fourteen days but within one month after the receipt has been given, on payment of the duty and a penalty of not exceeding ten pounds:

In no other case shall a receipt be stamped with an impressed stamp: Provided further that a receipt may be written upon a form which has been stamped before signature with an impressed stamp.

1216, 1915,  
s. 7.

**83a.** (1) The duty payable upon any receipts for salaries or wages paid by any person to persons employed by him may, subject to subsection (2) of this section but notwithstanding section 83, be denoted by an impressed stamp to the amount of the whole of the duty payable in respect of all the said receipts and impressed on any pay sheet or summary of a pay sheet.

Receipts for  
salaries or  
wages.  
Inserted by  
48, 1941,  
s. 10.

(2) The Commissioner may, in any case he thinks fit, by notice in writing given to any such employer, approve of the payment of duty as provided by subsection (1). Any such approval may be given subject to such conditions thought fit by the Commissioner and may at any time be revoked by the Commissioner by notice in writing.

**84.** If any person—

- (a) gives a receipt liable to duty and not duly stamped; or
- (b) in any case where a receipt would be liable to duty, refuses to give a receipt duly stamped; or
- (c) upon payment to an amount the receipt for which is liable to duty gives a receipt for a less amount, or separates or divides the amount paid, with intent to evade the whole or any part of the duty,

he shall be liable to a penalty not exceeding ten pounds.

Penalty for  
offences in  
reference to  
receipts.  
789, 1902,  
s. 33 (part).  
U.K. 54 & 55  
Vict. c. 39,  
s. 103.

#### *Totalizators.*

**85.** In this Act the term “racing club” includes a trotting club.

Racing club  
to include  
trotting club.  
789, 1902,  
s. 37.

**86.** There shall be payable upon the gross takings of every totalizator, or other instrument or machine of a like nature and conducted upon the like principle, the duty specified in the second schedule.

Duty on  
takings of  
totalizator.  
789, 1902,  
s. 34 (part).  
1216, 1915,  
s. 8.

## PART III.

Payment of stamp duty shall be made to the Commissioner.  
789, 1902, s. 34 (part).

**87.** (1) Payment of any such duty shall be made to the Commissioner.

(2) No such payment shall be deemed to be a discharge for the duty payable upon the gross takings of any totalizator until a formal receipt therefor has been given by the Commissioner, who shall in each case, prior to giving a receipt, satisfy himself that the full amount of duty has been paid.

Statement of takings to be forwarded to the Commissioner.  
789, 1902, s. 34 (part).  
Amended by S.L.R. Act, 1935.

**88.** For the purpose of ascertaining the amount of the duty hereby imposed, it shall be the duty of each racing club, racing committee, and racing association to forward to the Commissioner, within fourteen days after the holding of any race meeting held or conducted by such club, committee, or association at which any totalizator is used, a full statement in writing showing the total amount of the takings of each totalizator used at such meeting, and the particulars of such amount.

Penalty on failure to deliver such statement.  
789, 1902, s. 35.

**89.** If any racing club, committee, or association—

- (a) neglects to make out and deliver such full statement as aforesaid within one month after the holding of any race meeting held or conducted by such club, committee, or association at which any totalizator is used; or
- (b) wilfully delivers any such statement which is false in any particular,

such club, committee, or association, and every officer thereof respectively who has taken an active part in the holding or conduct of any such race meeting, shall be liable to a penalty of twenty pounds.

Exemption from totalizator duty.  
Inserted by 2359, 1937, s. 5.

**89a.** (1) Subject to subsection (3) of this section, where the Treasurer is satisfied that any racing club, racing committee or racing association intends to apply the whole of the profits derived by it from any race meeting (including any commission retained by it under section 28 of the Lottery and Gaming Act, 1936) to charitable purposes, or purposes which the Treasurer considers should be regarded as charitable for the purpose of this section, the Treasurer may authorize the club, committee or association to apply towards such purposes the amount of any duty which would apart from this section be payable to the Commissioner on the gross takings of any totalizator used at the race meeting so held.

(2) If the club, committee or association satisfies the Treasurer that the amount of such duty has been so applied,

the club, committee or association shall be exempt from the obligation to pay such duty to the Commissioner.

(3) In each year this section shall apply only in relation to four race meetings.

(4) The meetings to which this section applies shall be determined by the governing body of the South Australian Jockey Club Limited.

(5) The foregoing provisions of this section shall also apply *mutatis mutandis* in relation to not more than four trotting meetings held in any year by trotting clubs.

The trotting meetings to which this section shall apply shall be determined by the South Australian Trotting League Incorporated.

90. (1) In addition to any power by any other section of this Act conferred on the Governor to make regulations as to any matter, the Governor may make regulations—

Regulations.  
789, 1902,  
s. 36.

(a) for arranging with any racing club for the collection and payment of the duty payable by any other racing club, committee, or association in the same district;

(b) for prescribing the form of any statement, affidavit, declaration, bond, or other instrument required in connection with the payment of duty upon the gross takings of any totalizator: Provided that any statement required shall be verified by an affidavit or declaration sworn or made before a justice; and

(c) generally for facilitating or compelling payment of duty upon the gross takings of any totalizator.

(2) Subsections (2) and (3) of section 112 shall apply to regulations made under this section.

## PART IV.

## PART IV.

SPECIAL PROVISIONS WITH RESPECT TO  
AMUSEMENTS DUTY.

Interpretation.  
1244, 1916,  
s. 5.

Cf. U.K.  
6 & 7 Geo. 5  
c. 11, s. 1 (6).

Amended by  
1822, 1927,  
s. 8.

**91.** In this Part, unless inconsistent with the context or some other meaning is clearly intended—

“admission” means admission as a spectator or one of the audience, and includes admission for the purpose of participating in any exercise or amusement in which the payment for admission entitles him to participate, and “payment on admission” includes any payment made by a person who, having been admitted to one part of a place where an amusement is held, is subsequently admitted to another part thereof for admission to which a payment involving duty or more duty is required:

“amusement” means amusement (including, though without limiting the meaning of that term, concert, recital, lecture, reading, entertainment of the stage, cinematograph or other picture show, dancing, boxing, horse-racing, or other exhibition, performance, amusement, sport, game, or contest of any kind whatsoever) to which persons are admitted for payment; and “admission to an amusement” includes admission to any place in which the amusement is held:

“promoter,” in relation to any amusement, includes the person, company, corporate body, or association having the superintendence or management of the amusement, and also includes the agent, trustee, manager, or committee of any such person, company, corporate body, or association respectively, and also includes any person responsible for the management of the amusement.

PART IV. The Amusement Duty (Suspension) Act, 1942, provides that no amusement duty shall be charged, levied or paid on any payment for admission to any amusement held during the period commencing 1st October, 1942, and ending on the last day of the first financial year to commence after the day on which His Majesty ceases to be engaged in the present war.

s. 91. *BROWN v. HOFFMANN* (1936) S.A.S.R. 1. As to what constitutes “admission” and “payment on admission.” A person took part in a bridge competition for a prize. There was no charge for admission to the place where the contest was held; the payment was a voluntary one and to enable him to compete for a prize and mere participation in the play was free of charge. Held that the promoter of the amusement had not been guilty of the offence of admitting the said person for payment to an amusement without complying with the provisions of section 93.

*Duty to be Paid on Admission to Amusements.*

**92.** There shall be charged, levied, and paid on all payments for admission to any amusement as defined by this Part a stamp duty (in this Part referred to as "amusements duty") at the rates specified in the fourth schedule: Provided that no duty shall be charged, levied or paid on any payment not exceeding one shilling.

Duty on payments for admission to amusements. 1244, 1916, s. 6. U.K. 6 & 7 Geo. 5 c. 11, s. 1 (1).

Proviso added by 2312, 1936, s. 3, and amended by 2359, 1937, s. 6.

**93.** (1) No person shall be admitted for payment to any amusement where the payment is subject to amusements duty, except—

Persons not to be admitted to amusements without duly stamped ticket.

(a) upon the production and delivery to some person appointed by the promoter of such amusement of a ticket stamped with a stamp (not before used) denoting that the proper amusements duty has been paid; or

1244, 1916, s. 7. Cf. U.K. 6 & 7 Geo. 5 c. 11, s. 1 (2).

(b) in special cases with the approval of the Commissioner, through a barrier which, or by means of a mechanical contrivance which, automatically registers the number of persons admitted,

unless the promoter of the amusement has made arrangements approved by the Commissioner for furnishing returns of the payments for admission to the amusement and has given security up to an amount and in a manner approved by the Commissioner for the payment of duty.

(2) If any person is admitted for payment to any amusement and the provisions of this section are not complied with, the person admitted and the promoter of the amusement to which he is admitted shall be liable in respect of each offence to a penalty, in the case of the person admitted of five pounds, and in the case of the promoter of fifty pounds, and the promoter shall in addition be liable to pay any duty which should have been paid.

Amended by 2359, 1937, s. 7.

**94.** (1) Where persons are admitted to an amusement by stamped ticket the amusements duty shall be charged in respect of each person admitted for payment and shall be paid by means of the stamp on the ticket.

How duty to be calculated and paid.

1244, 1916, s. 8. U.K. 6 & 7 Geo. 5 c. 11, s. 1 (3).

(2) Where persons are admitted to an amusement through a barrier or by means of a mechanical contrivance which automatically registers the number of persons admitted the

Subsecs. (1), (2), and (2a) substituted by 2359, 1937, s. 8 (1).

## PART IV.

amusements duty shall be calculated and paid on the gross amount paid for such admission (including amounts charged by the promoters for the purpose of paying the duty).

(2a) Where persons are admitted to an amusement otherwise than as mentioned in subsection (1) or subsection (2) of this section or in section 95 of this Act, the duty shall be calculated and paid on the number of admissions.

Amended by  
2359, 1937,  
s. 8 (2).

(3) Amusement duty, in the case of admission otherwise than by stamped ticket, shall except where this Part otherwise provides, be payable to the Commissioner seven days after the holding of the amusement in respect of which the duty is charged and shall be recoverable from the promoter, and may, if the amount of duty is less than fifty pounds, without prejudice to any other means of recovery, be recovered by the Commissioner in a summary manner.

Members'  
tickets and  
season tickets.  
1244, 1916,  
s. 9.  
U.K. 6 & 7  
Geo. 5 c. 11,  
s. 1 (4).

95. Where the payment for admission to an amusement is made by means of a lump sum paid as a subscription or contribution to any club, association, or society, or for a season ticket or for the right of admission to a series of amusements or to any amusement during a certain period of time, the amusements duty shall be paid on the amount of the lump sum, but where the Commissioner is of opinion that the payment of a lump sum or any payment for a ticket represents payment for other privileges, rights, or purposes besides the admission to an amusement, or covers admission to an amusement during any period for which the duty has not been in operation, the duty shall be charged on such an amount as appears to the Commissioner to represent the right of admission to amusements in respect of which amusements duty is payable.

Exemptions.  
1244, 1916,  
s. 10.  
Cf. U.K.  
6 & 7 Geo. 5  
c. 11, s. 1 (5).  
Cf. U.K.  
6 & 7 Geo. 5  
c. 24, s. 12.

96. (1) Where, upon application being made by the promoter of any amusement to the Commissioner prior to the giving of such amusement, the Commissioner is satisfied—

(a) that the whole of the gross takings or the whole of the net proceeds of such amusement are to be devoted to charitable, patriotic, religious, educational, or scientific purposes; and

(b) that the estimated expenses (if any) to be incurred in connection with such amusement are reasonable,

he may give to such promoter a certificate under his hand exempting such amusement from the payment of amusements

duty, and such certificate shall be evidence that amusements duty is not chargeable on payments made for admission to such amusement.

(2) If the estimate of expenses to be incurred in connection with such amusement is exceeded, any certificate granted under subsection (1) hereof with respect thereto may be declared by the Commissioner to be null and void, and thereupon—

- (a) the exemption hereby granted shall cease; and
- (b) the promoter to whom the same was granted shall be liable to a penalty not exceeding twenty pounds, unless he satisfies the Commissioner that such excess could not reasonably have been foreseen.

(3) Amusements duty shall not be charged on payments for admission to any agricultural, horticultural, floricultural, poultry, dog, or other like show.

(4) Amusements duty shall not be charged on payments for admission to any amusement being a dance, concert, or card party, or any other amusement specially approved by the Treasurer, if the amusement is held for any of the following purposes:—

Inserted by  
2359, 1937,  
s. 9.

- (a) Raising funds for any hospital or any institute being a member of the Institutes Association of South Australia, or any public school as defined in the Education Act, 1915-1935; or
- (b) Raising funds to defray the cost of building any church, or any hall available or intended to be available for general public use, or to repay any loan raised to pay such cost; or
- (c) Raising funds to defray the cost of beautifying or improving any streets, roads, public parks, public playgrounds, public reserves or other like public places; or
- (d) Any other charitable, patriotic, religious, educational or scientific purpose; or
- (e) Any other purpose specially approved by the Treasurer,

and if the whole of such net proceeds (if any) as are derived from the amusement are used for any such purpose.

## PART IV.

No certificate of exemption shall be required in relation to any such amusement, but in any proceedings to recover amusements duty, it shall lie on the defendant to prove that the amusement was exempt from duty by virtue of this subsection.

*Supplementary Provisions.*

Use of  
automatic  
barriers.  
1244, 1916,  
s. 11.

97. (1) The Commissioner may, upon application being made to him by the promoter of any amusement, grant to such promoter permission to use properly constructed barriers or mechanical contrivances which automatically register the actual number of persons admitted through or past such barriers or contrivances as the means of giving admission to such amusement, in lieu of giving admission by duly stamped tickets.

(2) Every such permission shall be in writing and signed by the Commissioner, and shall be authority for the use of such barriers or contrivances on the occasion or occasions therein mentioned only.

Obligations  
of promoters  
using auto-  
matic barriers.  
1244, 1916,  
s. 12.

98. (1) Every promoter to whom the permission mentioned in section 97 is given shall, immediately upon the termination of the amusement at which any such barriers or contrivances have been used, check the numbers registered upon such barriers or contrivances and shall make a return verified by statutory declaration showing the numbers registered thereon and the prices of admission through or past each such barrier or contrivance.

(2) Such return shall be in the prescribed form, and shall be delivered to the Commissioner within three days from the holding of such amusement, together with the amount of amusements duty payable.

(3) Any promoter failing or neglecting to comply with the provisions of this section, or making an incorrect or fraudulent return hereunder, shall be liable to a penalty not exceeding fifty pounds.

Commissioner  
may require  
returns to  
be furnished.  
1244, 1916,  
s. 13.

99. The Commissioner may require the promoter of any amusement to make arrangements approved by the Commissioner for furnishing returns of the payments for admission to such amusement and to give security up to an amount and in a manner approved by the Commissioner for the payment of duty, and if such promoter refuses or fails or neglects to make such arrangements or to give such security, or to carry out such arrangements when made, he shall be liable to a penalty not exceeding fifty pounds.

## PART IV.

**100.** (1) Every promoter of an amusement shall, after the conclusion of such amusement, deliver to the Commissioner all tickets which have been collected from any person or persons admitted to such amusement, and every promoter retaining or being concerned in retaining, or not delivering, such tickets as aforesaid shall be liable to a penalty not exceeding fifty pounds.

Used tickets  
to be  
delivered  
to the  
Commissioner.  
1244, 1916,  
s. 14.

For the purposes of this section, in the case of continuous amusements the phrase "the conclusion of such amusement" means the conclusion of the final amusement on each day.

(2) In the case of any amusement held within a radius of ten miles of the General Post Office at Adelaide, all such tickets as mentioned in this section shall be delivered at the office of the Commissioner at Adelaide within twelve hours from the conclusion of the amusement, and in the case of other amusements all such tickets as aforesaid shall be forwarded to the Commissioner at Adelaide by the first available post.

**101.** The Commissioner may, upon application in writing by the promoter of any amusement, and upon proof to his satisfaction that any amusement tickets have not been used, repay to such promoter the value of the stamp upon such tickets, subject to such deductions as may lawfully be made in the case of a refund by the Commissioner under section 106 of the value of spoiled or unused stamps of the same value.

Unused  
tickets.  
1244, 1916,  
s. 15.

**102.** (1) The Commissioner, or any person authorized in writing by the Commissioner, may enter any place where an amusement is held while the amusement is proceeding, and any place ordinarily used for the holding of an amusement at any reasonable times, with a view to seeing whether the provisions of this Act as to amusements duty are being complied with, and may—

Power of  
entry and  
inspection.  
1244, 1916,  
s. 16.  
Cf. U.K.  
6 & 7 Geo. 5  
c. 11, s. 2 (2).

- (a) inspect and check any tickets; or
- (b) take any particulars, or require any information, which he considers necessary for the proper administration of this Act.

(2) If any person prevents or obstructs the entry of the Commissioner or any person so authorized, or refuses or fails to furnish any information required, he shall be liable to a penalty not exceeding twenty pounds.

## PART IV.

Police may be authorized to exercise powers of Commissioner.  
1244, 1916, s. 17.  
Cf. U.K. 6 & 7 Geo. 5 c. 11, s. 2 (4).

**103.** The Commissioner may, if he thinks fit, by agreement in writing with the Commissioner of Police, arrange for the exercise by the Commissioner of Police, either concurrently with the Commissioner or to the exclusion of the Commissioner, of any powers of the Commissioner with respect to amusements and amusements duty; and, so far as required for the purpose of giving effect to any such arrangement, the provisions of this Act with respect to amusements and amusements duty shall have effect as if the Commissioner of Police and the members of the police force were mentioned therein in addition to, or substituted for, the Commissioner or a person authorized by the Commissioner.

*Regulations.*

Governor may make regulations.  
1244, 1916, s. 18.  
Cf. U.K. 6 & 7 Geo. 5 c. 11, s. 2 (1).

**104.** (1) In addition to any power by any other section of this Part conferred on the Governor to make regulations as to any matter (which power shall in every case be implied for the purposes of any section in which the word "prescribed" is used), the Governor may make any regulations which may be necessary or convenient for carrying out any of the provisions of this Part, or for better effecting the objects of this Part, and in particular (without limiting the effect of this section) for all or any of the following purposes, namely:—

- I. For the supply and use of stamps or stamped tickets, or for the stamping of tickets sent to be stamped; and for securing the defacement of stamps when used; and
- II. For the use of tickets covering the admission of more than one person and the calculation of the duty thereon; and for the payment of duty on the transfer from one part of a place where an amusement is held to another; and
- III. For controlling the use of barriers or mechanical contrivances (including the prevention of the use of the same barrier or mechanical contrivance for payments of a different amount), and for securing proper records of admission by means of barriers or mechanical contrivances.

(2) Any such regulation may fix penalties, not exceeding in any case the sum of ten pounds, for any breach of the same or any other regulation.

## PART IV.

**105.** (1) Any contravention of or failure to observe any provision of this Part, whether by act or omission, shall be an offence against this Part.

Penalty.  
1244, 1916,  
s. 19.

(2) Every person guilty of an offence against this Part for which no specific penalty is prescribed shall be liable to a penalty not exceeding fifty pounds, or to be imprisoned for any period not exceeding twelve months.

## PART V.

## PART V.

## MISCELLANEOUS PROVISIONS.

**106.** Subject to any regulations made under this Act, the Commissioner may, on the application of any person possessed of stamps or stamped material unused or rendered useless by being inadvertently spoiled, give to such person in lieu of such stamps or stamped material so spoiled or unused, other stamps of the same or another denomination of the same amount in value, or, at his discretion, the same value in money, deducting the proper allowance on purchase of stamps of the like description: Provided that the Commissioner may, if he thinks it just to do so, refrain from making any such deduction.

Spoiled or  
unused  
stamps.  
372, 1886,  
s. 45.  
Of U.K.  
54 & 55 Vict.  
c. 38, ss. 9, 10.  
Of U.K.  
12 & 13  
Geo. 5 c. 17,  
s. 48.  
Proviso  
added by  
2359, 1937,  
s. 10.

**107.** Any person making, or assisting in making, any false statement, or any fraudulent alterations in any statement or document required under this Act, with intent to evade the payment of duty shall be deemed guilty of a misdemeanour, and shall be liable to imprisonment for any period not exceeding three years, and to a fine of one hundred pounds.

Penalty for  
fraudulent  
misstatements.  
372, 1886,  
s. 47.

**108.** (1) Any person who—

- (a) forges any die or stamp:
- (b) impresses any material with a forged die:
- (c) cuts, tears, or in any way removes from any material any stamp, with intent to make fraudulent use of such stamp or of any part thereof:
- (d) mutilates any stamp with intent to make fraudulent use of any part thereof:

Penalties for  
felonies.  
372, 1886,  
s. 48.  
Of U.K.  
54 & 55 Vict.  
c. 38, s. 13.

- (e) fraudulently fixes or places upon any material, or upon any stamp, any stamp or part of a stamp which has been cut, torn, or in any way removed from any other material, or out of or from any other stamp:
- (f) erases or otherwise removes from any stamped material any name, sum, date, or other matter or thing whatsoever therein written, with the intent that any fraudulent use should be made of the stamp upon such material:
- (g) knowingly sells or exposes for sale, or utters or uses, any forged stamp:
- (h) knowingly and without lawful excuse (the proof of which lawful excuse shall lie on the person accused) has in his possession any forged die or stamp, or any stamp or part of a stamp, which has been fraudulently cut, torn, or otherwise removed from any material, or any stamp which has been fraudulently mutilated, or any stamped material out of which any name, sum, date, or other matter or thing has been fraudulently erased or otherwise removed,

shall be guilty of felony, and liable to imprisonment, with or without hard labour, for any term not less than one year and not exceeding seven years.

(2) Any person who causes to be done, or knowingly assists in doing, any of the acts mentioned in subdivisions (a) to (h) of subsection (1) hereof shall be deemed to be guilty of the principal offence and shall be punishable accordingly.

Penalty for  
fraud.  
372, 1886,  
s. 26.  
Of U.K.  
54 & 55 Vict.  
c. 39, s. 9.

109. Any person who—

- (a) fraudulently removes or causes to be removed from any instrument any adhesive stamp, or fraudulently affixes to any instrument any adhesive stamp which has been removed from any other instrument, with intent that such stamp may be used again;
- (b) knowingly sells or offers for sale or utters any adhesive stamp which has been removed from any instrument, or utters any instrument having thereon any adhesive stamp which to his knowledge has been so removed as aforesaid; or

(c) practises or is concerned in any fraudulent act, contrivance, or device, with intent to evade any duty under this Act,

shall be liable to a penalty of fifty pounds, and in the last case shall also forfeit the amount of the duty sought to be evaded.

\* \* \* \* \*

S. 109a inserted by 22, 1942, s. 3, and repealed by 42, 1952, s. 3.

110. (1) Penalties incurred under this Act may be recovered in a summary way before any two justices, or may be sued for by information in the Supreme Court in the name of the Attorney-General for South Australia, and may be recovered with full costs of suit.

Recovery of penalties. 372, 1886, s. 49.

(2) The Treasurer may, at his discretion, mitigate, stay, or compound proceedings for any penalty, and may reward any person who informs the Commissioner of any offence against this Act or assists in the recovery of any penalty.

111. (1) The Supreme Court may, upon application by or on behalf of the Commissioner, grant a rule requiring any person who has received money payable by way of duty or penalty under this Act, or the executor or administrator of any such person, to show cause why he should not deliver to the Commissioner an account upon affidavit of any duty or sum of money received by such person, or executor or administrator, and why the same should not be forthwith paid to the Commissioner.

Remedy for misappropriation. 372, 1886, s. 50.

(2) The Court may make absolute such rule, and enforce, by attachment or otherwise the payment of any such duty or sum of money as appears to be due, together with costs.

112. (1) The Governor may make such regulations and may authorize such forms as may be necessary from time to time, for carrying this Act into effect, and may, by any such regulation, impose a penalty not exceeding fifty pounds for any breach thereof.

Regulations. 372, 1886, s. 51.

(2) Every such regulation and form, when published in the *Government Gazette*, shall have the force of law.

(3) Every such regulation shall be laid before both Houses of Parliament forthwith, if Parliament is sitting, and, if not, then within thirty days after the commencement of the next session.

SCHEDULES.

Section 3.

THE FIRST SCHEDULE.

Reference to Acts.	Short Titles of Acts.
No. 372 of 1886 ..	Stamp Act, 1886.
No. 789 of 1902 ..	The Stamp Act Amendment Act, 1902.
No. 837 of 1903 ..	Stamp Act Further Amendment Act, 1903.
No. 849 of 1904 ..	The Stamp Act Further Amendment Act, 1904.
No. 885 of 1905 ..	The Stamp Act Further Amendment Act, 1905.
No. 1216 of 1915 .	Stamp Act Further Amendment Act, 1915.
No. 1244 of 1916 .	Stamp Act Further Amendment Act, 1916.
No. 1277 of 1917 .	Stamp Act Further Amendment Act, 1917.
No. 1374 of 1919 .	Stamp Act Further Amendment Act, 1919.

Reference to sections of this Act.

THE SECOND SCHEDULE.

Section 28.

Cf. U.K. 54 & 55 Vict. c. 39, 1st Sch.

Nature of Instrument.	Amount of Duty. £ s. d.
AFFIDAVIT OR DECLARATION when sworn or declared and subscribed before any competent authority, for each deponent or declarant . . . . .	0 1 0
<i>Exemptions—Every affidavit or declaration—</i>	
1. Filed, read, or used in any Court, or before any Judge, Registrar, Clerk, or officer of any Court.	
2. Required to be made by any officer of the Government in respect of any matters relating to the duties of his office.	
3. Made before a notary or other authority as to the execution of any instrument, and any certificate by such notary or authority that such declaration has been duly made.	
4. Required by the Banking Companies Act, or in proof of death or identity.	
5. Required to be made under the Acts relating to the registration of births, deaths, and marriages, or relating to vaccination.	
6. Relating to military or naval pensions.	
7. Relating to any bonus for the destruction of wild dogs, foxes, or other vermin, or with respect to any vermin rate.	
8. Verifying any return required by and made under section 98 of this Act.	
AGREEMENT or any MEMORANDUM of any AGREEMENT, not under seal, and not otherwise specifically charged with any duty, whether the same is only evidence of a contract or obligatory upon the parties from its being a written instrument . . . . .	0 1 0

Section 29.

Cf. U.K. 54 & 55 Vict. c. 39, 1st Sch.

**Second Schedule:** The Banking Companies Act was repealed and superseded by the Banking Companies Act, 1935, and the latter Act was repealed by the Banking Companies Act Repeal Act, 1946.

Section 11 of the Hire-Purchase Agreements Act, 1931, provides that the stamp duty payable on an assignment of any of the rights, powers, and liabilities of the owner under a hire-purchase agreement shall be at the rate of one shillings for every £50 or part of £50 comprised in the consideration for the assignment.

## Nature of Instrument.

Reference to sections of this Act.

*Exemptions—*

1. Any agreement or memorandum for the hire of any labourer, artificer, manufacturer, or menial servant.
2. Any agreement or memorandum made for or relating to the sale of any goods, wares, or merchandise where the value does not exceed £50, whether the same is only evidence of a contract or obligatory on the parties from its being a written instrument, including every schedule, receipt, or other matter put or indorsed thereon or annexed thereto. This exemption shall be construed subject to section 31 of this Act.
3. Any agreement or memorandum made between a master and any mariner of any ship or vessel for wages on any voyage coastwise, from port to port, in the State of South Australia.
4. Any life, fire, personal accident, fidelity, guarantee, livestock, plate glass, or marine insurance or assurance policy or cover note.
5. Storage notes for wheat in the Form A hereto appended, or to like effect only.
6. Any agreement made before the thirtieth day of September, nineteen hundred and sixteen, between any person, firm, or company and the Government of the State, or any Minister of the Crown, authorizing the said Government, or any Minister of the Crown, to handle and sell wheat on behalf of such person, firm, or company.

Amended by 1822, 1927, s. 9 (a), and by 48, 1941, s. 11 (1).

## ANNUAL LICENCE—

Sections 32 to 42.

To be taken out by any company, person, or firm of persons, whether corporate or unincorporate, which carries on in South Australia any life, personal accident, fire, fidelity, guarantee, livestock, plate glass, marine or other insurance or assurance business whatsoever, and whether the head office or principal place of business of such company, person, or firm of persons is in South Australia or elsewhere.

25s. for every £100 or part of £100 of net premiums of any kind whatsoever received or in any manner charged in account by any such company, person, or firm of persons, or by his or their agents, during the twelve months preceding the year for which such licence may be taken out (except life and personal accident insurance premiums, the licence on which shall be 10s. for every £100, or part of £100). Such premiums shall be the net premiums and be counted so as to exclude any commission or discount and any portion of such net premiums actually paid away by way of re-insurance effected in South Australia with any other such company, person, or firm of persons. No premiums received by any such company, person, or firm of persons for fire or marine insurance risks out of the State shall be counted. The duty in respect of any one licence shall not in any case be less than £25.

Reference to sections of this Act.

Nature of Instrument.	Amount of Duty. £ s. d.
In the case of any such company, person, or firm of persons which has not, prior to applying for an annual licence, transacted any assurance or insurance business—	
If the annual licence is required for the full period of twelve months . . . . .	25 0 0
If such licence is required for a shorter period than twelve months . . . . .	A proportionate part of £25.

*Exemptions—*

1. Any private guarantee fidelity insurance scheme promoted amongst and sustained solely for the benefit of the officers and servants of any one particular public department, company, person, or firm of persons, and not extended either directly or indirectly beyond such officers and servants; or
2. Any such scheme promoted amongst and sustained solely for the benefit of the officers and members of any registered friendly society or branch, and not extended either directly or indirectly beyond such officers and members.

Sections 43 to 45.  
Of U.K.  
54 & 55 Vict.  
c. 39, 1st Sch.

**BANK NOTE.**—A duty to be paid by each bank quarterly on bank notes issued by it—

For every £100, and also for the fractional part of £100, of the average amount of such notes stated to be in circulation by the quarterly returns made by the bank pursuant to the Banking Companies Act . . . . . 0 10 0

Sections 46 to 52.  
Amended by 1822, 1927, s. 9 (b), by 2357, 1938, s. 4, and by 55, 1952, s. 6.

**BILL OF EXCHANGE, CHEQUE, ORDER payable on demand, COUPON, OR INTEREST WARRANT . . . . . 0 0 2**

Of U.K.  
54 & 55 Vict.  
c. 39, 1st Sch.

*Exemption—*

Coupons and interest warrants issued by or on behalf of, or in connection with any security guaranteed by, the Government of South Australia.

**Second Schedule:** Bill of Exchange, Cheque, etc. Section 7 of the Stamp Duties Act Amendment Act (No. 2), 1952, provides that the additional duty imposed by that Act shall not be payable on a cheque made out on a form issued by a bank or financial institution before 20th November, 1952.

Nature of Instrument.	Amount of Duty. £ s. d.	Reference to sections of this Act.
BILLS OF EXCHANGE of any kind whatsoever drawn in South Australia other than bills on demand, payable at any place beyond the limits of the Commonwealth of Australia—		
For every £100, or fractional part thereof . . . . .	0 1 0	
BILL OF EXCHANGE of any kind whatsoever, and PROMISSORY NOTE of every kind whatsoever, drawn or expressed to be payable, or actually paid or indorsed, or in any manner negotiated, in South Australia—		
For every £25, and also for any fractional part of £25 . . . . .	0 0 6	
<i>Exemptions—</i>		
<ol style="list-style-type: none"> <li>1. Bill, note, bond, or debenture issued by or on behalf of or guaranteed by the Government of South Australia.</li> <li>2. Draft or order for the payment of money issued by any duly authorized officer of the Government on account of the public service.</li> <li>3. Post office order or postal note.</li> <li>4. Cheque or order drawn upon the Savings Bank of South Australia.</li> <li>5. Draft or order drawn by any bank in South Australia upon any other bank in South Australia, not payable to bearer or to order, and used solely for the purpose of settling or clearing any account between such banks.</li> <li>6. Letter written by any bank in South Australia to any other bank in South Australia, directing the payment of any sum of money, the same not being payable to bearer or to order, and such letter not being sent or delivered to the person to whom payment is to be made, or to any person on his behalf.</li> <li>7. Letter of credit granted in South Australia authorizing drafts to be drawn out of South Australia.</li> <li>8. Cheque drawn by any registered friendly society.</li> </ol>		
BILL OF LADING or SHIPPING NOTE for goods exported from the State . . . . .	0 0 6	Section 53.
CONTRACT NOTE (not otherwise charged) for or relating to the sale or purchase of any stock or marketable security.		
For every £50, or fractional part of £50, of the face value of such stock or marketable security . . . . .	0 1 0	Sections 54 to 59. Amended by 1822, 1927, s. 9 (c).
CONTRACT NOTE for or relating to the sale or purchase of any stock or marketable security, which note is made or executed in pursuance and in consequence of the exercise of an option given or taken under a contract		Cf. U.K. 54 & 55 Vict. c. 39, 1st Sch. Cf. U.K. 10 Edw. 7. c. 8, s. 79 (2).

Reference to sections of this Act.	Nature of Instrument.	Amount of Duty. £ s. d.
	duly stamped, and bears on its face a certificate by the broker, agent, or other person referred to in section 56 of this Act to the effect that it is made or executed in the exercise of an option for which a duly stamped contract note has been rendered on a date mentioned in the certificate—	
Amended by 1822, 1927, s. 9 (d).	For every £50, or fractional part of £50, of the face value of such stock or marketable security . . . . .	0 0 6
	CONTRACT giving or taking any option to purchase or sell any stock or marketable security at a future time at a certain price—	
Amended by 1822, 1927, s. 9 (e).	For every £50, or fractional part of £50, of the face value of such stock or marketable security in respect of each option . . . . .	0 0 6
Sections 60 to 71.	CONVEYANCE OR TRANSFER on sale of any property (not otherwise charged), including contract or agreement for sale—	
Amended by 1822, 1927, s. 9 (f), and by 48, 1941, s. 11 (2). Cf. U.K. 54 & 55 V. t. c. 39, 1st Sch.	(a) In the case of any stock or marketable security— For every £50, or fractional part of £50, of the face value of such stock or marketable security . . . . .	0 2 0
	(b) In any other case— Where the amount or value of the consideration for the sale— Does not exceed £50 . . . . . Exceeds £50 and does not exceed £100 . . . . . Exceeds £100, for every £100, or fractional part of £100, such amount or value . . . . .	0 10 0 1 0 0 1 0 0
	<i>Exemptions—</i> Grant of land from the Crown. Conveyance, whether on sale or otherwise, to the Crown, and to any person on behalf of the Crown.	
Para. repealed by 1822, 1927, s. 9 (g).	* * * * *	* * * * *
Amended by 1822, 1927, s. 9 (h), and new para. substituted by 1860, 1928, s. 2 (a), and amended by 30, 1944, s. 3.	CONVEYANCE operating as a voluntary disposition, <i>inter vivos</i> , of any property. For every £100 or fractional part of £100 of the value of the property conveyed . . . . .	1 0 0
	<i>Exemptions—</i> Conveyance operating as a voluntary disposition <i>inter vivos</i> by an employer of any property for the purpose of providing individual personal benefits, pensions or retiring allowances for his employees.	
Inserted by 48, 1941, s. 11 (3).	CONVEYANCE for the partition or division of any property where the consideration for equality does not exceed £100 or where there is no consideration for equality . . . . .	1 0 0

Nature of Instrument.	Amount of Duty.			Reference to sections of this Act.
	£	s.	d.	
CONVEYANCE for effectuating the appointment of a new trustee or the retirement of a trustee . . . . .	0	10	0	Inserted by 48, 1941, s. 11 (3).
CONVEYANCE of any other kind not before charged . . . . .	1	0	0	
DOCUMENT or other INSTRUMENT made for the purpose of securing periodical payments provided for by a separate conveyance on sale, in respect of which provision for periodical payments such conveyance on sale is chargeable with <i>ad valorem</i> duty, of whatever description and howsoever otherwise chargeable . . . . .	No sum higher than 10s.			Section 66. Cf. U.K. 54 & 55 Vict. c. 39, 1st Sch.
DEED (except as otherwise provided in this schedule)—				Cf. U.K. 54 & 55 Vict. c. 39, 1st Sch.
For any deed where the consideration money therein expressed is not more than £100 . . . . .	0	5	0	
For every additional £100, up to a total of £400, a further sum of . . . . .	0	5	0	
For every deed or transfer of any kind whatsoever not otherwise specified in this schedule . . . . .	1	0	0	
LEASE (not being a lease made subsequently to and in conformity with a duly stamped agreement for a lease) or AGREEMENT for a LEASE, or any written document for the tenancy or occupancy of any lands, tenements, or hereditaments, the following duties in respect of the rent at the rate per annum—				Sections 72 to 74. Cf. U.K. 54 & 55 Vict. c. 39, 1st Sch.
Where the rate of the rent does not exceed £50 per annum . . . . .	0	2	6	
Where the same exceeds £50 and does not exceed £100 . . . . .	0	5	0	
Where the same exceeds £100, for every £50 or fractional part of £50 thereof . . . . .	0	5	0	
Of any other kind whatsoever . . . . .	1	0	0	
LEASE made subsequently to and in conformity with a duly stamped agreement for a lease . . . . .	0	2	6	
<i>Exemption—</i>				
Lease or agreement for a lease, or any written document for the tenancy or occupancy of any lands, tenements, or hereditaments for a term not exceeding one year where the rent reserved does not exceed the rate of £26 per annum.				
LETTER OF ALLOTMENT or any other document having the effect of a letter of allotment of any share, or part of any share, in any company or proposed company; and SCRIP CERTIFICATE, SCRIP, or other document entitling any person to become the proprietor of any share, or part of any share, in any company or proposed company . . . . .	0	0	1	Section 75. Cf. U.K. 54 & 55 Vict. c. 39, 1st Sch.

Reference to sections of this Act.

Nature of Instrument.

Amount of Duty.  
£ s. d.

Sections 76 to 81.  
Cf. U.K. 54 & 55 Vict. c. 39, 1st Sch.

MORTGAGE, BOND, DEBENTURE, COVENANT, WARRANT OF ATTORNEY to confess and enter up judgment—

Being the only or principal or primary security for the payment or repayment of money—

For every £100 or fractional part of £100 (not reckoning any money to be advanced for the insurance of any property comprised in the security against damage by fire) . . . . . 0 2 6

Where any further money is added to the money already secured. } The same duty as a principal security for such further money.

*Exemption—*

Every collateral or auxiliary or additional or substituted security, or security by way of further assurance for the abovementioned purpose, where the principal or primary security is duly stamped.

Cf. U.K. 54 & 55 Vict. c. 39, 1st Sch.

POWER OF ATTORNEY or other instrument in the nature thereof—

Any instrument not under seal . . . . . 0 10 0  
Any instrument under seal . . . . . 1 0 0

*Exemptions—*

1. An instrument for the sole purpose of appointing or authorizing any one person to vote as a proxy at any meeting at which votes may be given by proxy.
2. Any instrument or order for the receipt of any salary or wages.
3. Any instrument or order for the receipt of dividends or interest when made for the receipt of one payment only.

Sections 82 and 84.  
Cf. U.K. 54 & 55 Vict. c. 39, 1st Sch.

RECEIPT—Every receipt for forty shillings or upwards . . . . . 0 0 2

*Exemptions—*

1. Receipt for payment of municipal or district council rates.
2. Receipt written upon any instrument duly stamped under this Act acknowledging the receipt of the consideration money therein expressed.
3. Receipt for money deposited in any bank in current account and not as a fixed deposit for any period.
4. Receipt for money paid into any charitable institution, or for money paid into any registered building or friendly society by any

## Nature of Instrument.

Reference to sections of this Act.

member of such society on account of subscriptions, or for money paid into any fire, life, personal accident, fidelity, guarantee, live stock, plate glass, marine, or other insurance or assurance company on account of premiums, or into any post office or other savings bank established in pursuance of any Act on deposit.

5. Receipt for money withdrawn by any depositor from the Savings Bank.
6. Receipt or discharge given by any seaman, labourer, or menial servant for the payment of wages.
7. Receipt for money paid by any friendly or benefit society for sick pay.
8. Receipt for money less than five pounds paid to any person by way of gift or gratuity.

**TOTALIZATOR.**—There shall be payable for each day on which any totalizator is used by any racing club a duty calculated according to the gross takings of all the totalizators or other like machines used by the club on that day in accordance with the following scale:—

Substituted by 1877, 1928, s. 9.

Where the said gross takings do not exceed £2,000 the duty shall be:  $1\frac{1}{4}$  per centum of the gross takings.

Where the said gross takings exceed £2,000 but do not exceed £3,000 the duty shall be:  $2\frac{1}{4}$  per centum of the gross takings.

Where the said gross takings exceed £3,000 but do not exceed £4,000 the duty shall be:  $3\frac{1}{4}$  per centum of the gross takings.

Where the said gross takings exceed £4,000 but do not exceed £5,000 the duty shall be:  $4\frac{1}{4}$  per centum of the gross takings.

Where the said gross takings exceed £5,000 the duty shall be:  $5\frac{1}{4}$  per centum of the said gross takings.

**GENERAL EXEMPTIONS FROM ALL STAMP DUTIES.**

1. Wills and testamentary instruments.
2. Certificates of title issued from the Lands Titles Registration Office.
3. Customs bonds.
4. Administration bonds.
5. Bonds to the Crown.
6. Bills, bonds, debentures, and other securities issued by the Government of the Commonwealth in connection with any loan raised by the said Government for any of the purposes of the recent war, and any coupons or interest warrants issued in connection with any such security.

Of. U.K. 54 &amp; 55 Vict. c. 89, 1st Sch.

**Second Schedule:** General exemptions from all stamp duties. Section 4 of the Stamp Duties Act Amendment Act, 1945, as amended by section 3 of the Stamp Duties Act Amendment Act, 1947, provides that paragraph 23 is to be deemed to have come into force on 3rd September, 1939, and makes provision for the refund of duty paid prior to that day.

Reference to sections of this Act.

7. Bond on appointment of a special bailiff.
8. Memorandum of association, articles of association, and rules and regulations of any incorporated company, association, or society.
9. Marriage settlements.
10. Mortgage bonds guaranteed by the Government of South Australia.
11. Articles or indentures of apprenticeship and assignments of articles or indentures of apprenticeship.
12. Leases to the Crown and to any person on behalf of the Crown.
13. Power of attorney limited to a power to sign and seal leases from the Crown.
14. Conveyance on sale of any goods, wares, merchandise, horses, cattle, sheep, or other movable chattels when the value does not exceed £20.
15. Any transfer of any fire, personal accident, fidelity, guarantee, live stock, plate glass, or marine insurance or assurance policy.
16. Any cemetery leases.

Amended by 48, 1941, s. 11 (4).

Inserted by 1822, 1927, s. 9 (i), and amended by 48, 1941, s. 11 (4).

17. Conveyance or transfer on sale of any share or shares in the stock, funds, or capital of or of any debenture or debentures or bond or bonds issued by any corporation, company, or society whatever if such sale is made through a broker or agent who is a member of a stock exchange in the Commonwealth of Australia.
18. Bills, bonds, inscribed stock, debentures, deposit receipts, and other securities issued by the Government of the State, and coupons or interest warrants issued in connection with any such bills, bonds, stock, debentures, deposit receipts, or other securities, and any transfer of or document relating to the purchase or sale of any such bills, bonds, stock, debentures, deposit receipts, or other securities.

Inserted by 1822, 1927, s. 9 (i).

Inserted by 1860, 1928, s. 2 (b), and amended by 48, 1941, s. 11 (4).

19. Conveyance or transfer of any share or shares in the stock, funds, or capital of or of any debenture or debentures or bond or bonds issued by any corporation, company, or society by the personal representatives of a deceased person to any beneficiary who is entitled by virtue of the provisions of the will of such deceased person, or upon his intestacy, to have the share or shares or debenture or debentures or bond or bonds so conveyed or transferred to him.

Inserted by 48, 1941, s. 11 (4).

20. Conveyance or transfer of any share or shares in the stock, funds, or capital of or of any debenture or debentures or bond or bonds issued by any corporation, company or society if the conveyance or transfer is made for the purpose of effectuating the appointment of a new trustee or the retirement of a trustee and all duty chargeable on any instrument for the appointment of the new trustee or the retirement of the trustee, as the case may be, has been duly paid.

21. Conveyance or transfer of any share or shares in the stock, funds, or capital of or of any debenture or debentures or bond or bonds issued by any corporation, company or society if the conveyance or transfer is made in pursuance of any deed of settlement or deed of gift and all duty chargeable on the deed of settlement or deed of gift, as the case may be, has been duly paid.

Reference to sections of this Act.

Inserted by 48, 1941, s. 11 (4).

\* \* \* \* \*

Para. 22 inserted by 22, 1942, s. 4, and repealed by 42, 1952, s. 3.

23. Any conveyance, transfer, or mortgage to which a prescribed person is a party and which is executed or entered into in connection with the purchase or gift of any land on which the prescribed person resides or intends to reside shall be exempt from stamp duty on so much of the amount on which the duty is chargeable as does not exceed twelve hundred pounds: Provided that a conveyance transfer or mortgage shall not be exempt under this paragraph unless the Commissioner is satisfied by such evidence as he requires—

Inserted by 30, 1944, s. 4, and substituted by 32, 1945, s. 3.

- (a) that the purchase or gift is made for the purpose of enabling the prescribed person to become the owner, or lessee from the Crown, of a dwelling house in which he resides or intends to reside:
- (b) that a conveyance transfer or mortgage to which the prescribed person was a party and which was executed or entered into in connection with any other purchase or gift of land on which the prescribed person resided or intended to reside, has not previously been exempt from stamp duty pursuant to this paragraph or any enactment relating to advances for homes.

In this paragraph—

“prescribed person” means—

- (a) a person who, during any war in which the Commonwealth is or was engaged, has served as a member of a naval, military, or air force of the Commonwealth or of the United Kingdom or of any part of His Majesty’s Dominions, whether or not he is still so serving at the time when he claims exemption under this paragraph;
- (b) a person who, during any such war, was employed in seagoing service on a ship registered in any territory under the dominion of His Majesty the King whether or not he is still so employed at the time when he claims exemption under this paragraph;
- (c) a person who has been on active service in the Korean war as a member of a naval, military, or air force of the Commonwealth or of the United Kingdom or of any other part of Her Majesty’s Dominions whether or not he is still on such service at the time when he claims exemption under this paragraph;

Substituted by 5, 1952, s. 4.

Reference to sections of this Act.

The expression "Korean war" in this paragraph of this definition means the war in Korea which commenced on the twenty-fifth day of June, nineteen hundred and fifty. For the purposes of this paragraph of this definition the said war shall be deemed to end on the day on which a proclamation is issued by the Governor declaring that the Korean war has ceased;

Inserted by 5, 1952, s. 4.

(d) a person who has been on active service as a member of a naval, military, or air force of the Commonwealth or of the United Kingdom or of any other part of Her Majesty's Dominions operating for the suppression of unlawful violence in Malaya, whether or not he is still on such service at the time when he claims exemption under this paragraph;

Inserted by 5, 1952, s. 4.

(e) the widow of any deceased person who during his lifetime served or was employed as mentioned in paragraph (a), (b), (c), or (d) of this definition.

Inserted by 42, 1952, s. 3.

For the purposes of paragraph (a) and paragraph (b) of this definition, a war shall be deemed to continue from the commencement thereof until the day declared by the Governor by proclamation to be the day on which the war shall be deemed to cease.

"land" includes the fee simple of any land and the estate and interest of a lessee of land held under a Crown lease, and of a purchaser of land held under an agreement for sale and purchase granted by the Crown.

FORM A.

No. .... 19

We have this day received from , of bags of wheat, containing bushels lbs., to be stored subject to the following conditions:—

We claim to have the offer, at market price, of all wheat stored with us. Should we purchase, our terms are twelve months' storage free. After that time a charge will be made of per bushel per month. Should we not purchase, we will deliver to the storer, or his order, wheat of a quality equal to that originally received, either at station where wheat was stored, or at the nearest shipping port, at our option, the storer paying all charges thereon, which can be ascertained from the agent at the time of delivery.

For..... Agent.

THE THIRD SCHEDULE.

Section 33.

Form of Annual Licence to be issued to any Company, Person, or Firm of Persons which carries on or desires to carry on in South Australia any Life, Personal Accident, Fire, Fidelity, Guarantee, Live Stock, Plate Glass, Marine, or other Assurance or Insurance Business.

Name of company, person, or firm of persons to whom licence granted.....

Nature of business.....

Reference to sections of this Act.

Amount of net premiums of any kind whatsoever received or in any manner charged in account by such company, person, or firm of persons during the year ended 31st December, 19 .

Period over which licence extends.....year ending 31st December, 19 .

This is to certify that.....is a company [*person or firm of persons*] duly licensed under the provisions of the Stamp Duties Act, 1923, to carry on in South Australia [*life, personal accident, fire, fidelity, guarantee, live stock, plate glass, marine, or other*] assurance and insurance business during the abovenamed period.

Dated at the office of the Commissioner of Stamps at Adelaide this.....day of....., nineteen hundred and



A. B., Commissioner.

Notice.—This licence must be given up and a fresh licence applied for before the 1st January next, as provided by the Stamp Duties Act, 1923.

THE FOURTH SCHEDULE.

Amusements duty shall be payable as follows:—

- 1. Where the payment does not exceed one shilling no duty shall be payable.

Where the payment, excluding the amount of duty, exceeds one shilling, the duty shall be one penny for every sixpence or fractional part of sixpence of such payment.

- 2. Members' or season tickets . . . . .

Amount of Duty.

one penny for every sixpence or fractional part of sixpence of the price of such ticket.

Section 92. Para. 1 substituted by 2359, 1937, s. 11 (1).

3. In cases where properly constructed barriers or mechanical contrivances which automatically register the actual number of persons admitted through or past such barriers or contrivances as the means of gaining admission to an amusement are permitted to be used in lieu of duly stamped tickets, duty shall be payable at the rate of one-seventh of the total amount (including the amounts charged by the promoter for the purpose of paying the duty), paid by persons so gaining admission to the amusement: Provided that where any persons are admitted to the amusement upon payment of sums not exceeding one shilling per person, no duty shall be payable in respect of the sums so paid.

Para. 3 substituted by 2359, 1937, s. 11 (2).