

South Australia

# **Real Property (Calculation of Transfer Fees) Variation Regulations 2019**

under the *Real Property Act 1886*

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## **Part 1—Preliminary**

### **1—Short title**

These regulations may be cited as the *Real Property (Calculation of Transfer Fees) Variation Regulations 2019*.

### **2—Commencement**

These regulations will come into operation on the day on which Part 15 of the *Statutes Amendment and Repeal (Budget Measures) Act 2018* comes into operation.

### **3—Variation provisions**

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

## **Part 2—Variation of *Real Property Regulations 2009***

### **4—Variation of regulation 3—Interpretation**

Regulation 3—after the definition of *Act* insert:

*capital value* means capital value as defined in the *Valuation of Land Act 1971*;

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## 5—Variation of regulation 16—Fees payable to Registrar-General

Regulation 16(2) to (4)—delete subregulations (2) to (4) (inclusive) and substitute:

- (2) If the Registrar-General determines, not more than 5 years after payment of a registration fee in respect of a transfer, that the capital value of the transferred land at the time of the transfer was higher than the purported capital value used as the basis for calculating the fee, the following amounts are recoverable as a debt by the Registrar-General:
  - (a) an amount equal to the difference between the registration fee paid and the registration fee that would have been payable if the fee had been determined on the basis of the capital value determined by the Registrar-General;
  - (b) interest on the amount underpaid calculated on a daily basis from the date of lodgment of the transfer until the date on which the payment is made at the market rate applying from time to time under Part 5 Division 1 of the *Taxation Administration Act 1996*.
- (3) If the Registrar-General determines, not more than 5 years after payment of a registration fee in respect of a transfer, that the capital value of the transferred land at the time of the transfer was lower than the purported capital value used as the basis for calculating the fee, the Registrar-General must—
  - (a) refund the difference between the registration fee paid and the registration fee that would have been payable if the fee had been determined on the basis of the capital value determined by the Registrar-General; and
  - (b) if the Registrar-General's determination is made as a result of an objection under section 82 of the *Taxation Administration Act 1996* or an appeal under section 92 of that Act—pay interest calculated on a daily basis from the date of lodgment of the transfer for registration until the date on which the difference is refunded at the market rate applying from time to time under Part 5 Division 1 of that Act.
- (4) The Registrar-General may, for the purposes of making a determination under this regulation, have regard to the capital value of land as determined by the Valuer-General or any other relevant information.

## 6—Variation of Schedule 1—Fees payable to Registrar-General

Schedule 1, item 2—delete the item and substitute:

- 2 For registering a transfer—
  - (a) where the consideration, or the capital value of the land, (whichever is the greater)—
    - (i) does not exceed \$5 000 \$163.00

(ii)	does not exceed \$20 000	\$182.00
(iii)	does not exceed \$40 000	\$199.00
(iv)	exceeds \$40 000	\$280.00
	plus \$82.50 for every \$10 000 (or part of \$10 000) above \$50 000	
(b)	where the Commissioner of State Taxation has adjudged the transfer to be exempt from stamp duty or where no <i>ad valorem</i> stamp duty is payable (other than in respect of land that is qualifying land under section 105A of the <i>Stamp Duties Act 1923</i> )	\$163.00
(c)	that has been assessed pursuant to section 71CA, 71CB, 71CBA or 71CC of the <i>Stamp Duties Act 1923</i>	\$163.00

## Schedule 1—Transitional provision

### 1—Transitional provision

Regulation 16(2), (2a), (3) and (4) of the *Real Property Regulations 2009*, as in force immediately before the commencement of these regulations, continue to apply in relation to a registration fee paid in respect of a transfer where the fee was paid before the commencement of these regulations.

**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

### Made by the Governor

with the advice and consent of the Executive Council  
on 31 January 2019

No 7 of 2019

MTIL19/002CS