Legislative Council—No 34A
As reported with suggested amendments, report adopted, Standing Orders suspended and passed remaining stages, 17 September 2026

South Australia

Stamp Duties (Residential Purposes and Residential Land) Amendment Bill 2026

A BILL FOR

An Act to amend the *Stamp Duties Act 1923* and the *Stamp Duties Regulations 2013*.

Contents

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Stamp Duties (Residential Purposes and Residential Land) Amendment Act 2026*.

2—Commencement

This Act will be taken to have come into operation on the day on which the Bill for this Act was introduced into the House of Assembly.

Part 2—Amendment of *Stamp Duties Act 1923*

3—Amendment of section 2—Interpretation

(1) Section 2(1)—after the definition of ***money*** insert:

Planning and Design Code means the Planning and Design Code under the *Planning, Development and Infrastructure Act 2016*;

(2) Section 2(1)—after the definition of ***property*** insert:

qualifying land means land that is being used for any purpose other than—

(a) land that is taken to be used for residential purposes in accordance with subsection (1a); or

(b) land that is taken to be used for primary production in accordance with subsection (1e);

~~(2a) Section 2(1)—after the definition of ***sale*** insert:~~

~~***short stay accommodation***—land is rented for the purposes of short stay accommodation if the land is provided for the temporary accommodation of a person away from their usual place of residence under a lease, licence or other arrangement for fee, reward or other consideration that does not amount to an agreement to which the *Residential Tenancies Act 1995* applies;~~

~~**Note—**~~

~~For example, land that is rented on a short term basis through marketplaces such as Airbnb™ or Stayz™.~~

(3) Section 2—after subsection (1) insert:

(1a) For the purposes of the definition of ***qualifying land***, but subject to subsection (1d), land will be taken to be used for residential purposes if—

(a) the Commissioner determines that—

(i) the land is neither vacant nor vacant with only minor improvements; and

(ii) the land—

(A) is, or is capable of being, occupied as a residence or as accommodation; or

(B) will be capable of being occupied as a residence or as accommodation after the completion of building work on the land that has, at the date of the relevant conveyance or transfer, commenced,

regardless of the term, or possible term, of occupation or any other purpose for which the land is, or is or will be capable of being, used; or

(b) the Commissioner determines that—

(i) the land is vacant or vacant with only minor improvements; and

(ii) the land is within a zone or subzone under the Planning and Design Code that allows the land to be used for a residence or for other accommodation (notwithstanding that the zoning of the land may, in a manner consistent with the Planning and Design Code, allow the land to be used for some other purpose).

(1b) In determining whether land is, or will be, capable of being occupied as a residence or as accommodation for the purposes of subsection (1a)(a)(ii), the Commissioner may have regard to any characteristics of land indicative of such occupation that are prescribed by the regulations.

(1c) For the purposes of subsection (1a)(a)(ii)(B), the regulations may prescribe circumstances in which building work will be taken to have commenced.

(1d) Land will not be taken to be used for residential purposes for the purposes of the definition of ***qualifying land*** in subsection (1) if it is land of a classification, or used for a purpose, excluded by the regulations.

~~(1da) To avoid doubt, land may be taken to be used for residential purposes whether or not the land is rented for the purposes of short stay accommodation.~~

(1e) For the purposes of the definition of ***qualifying land***, but subject to subsection (1f), land will be taken to be used for primary production if the Commissioner determines that—

(a) it is being predominantly used for primary production purposes; or

(b) although the land is not being used at the relevant time the land should be taken to be used for primary production purposes due to a classification that has been assigned to the land by the Valuer-General.

(1f) Land will not be taken to be used for primary production for the purposes of the definition of ***qualifying land*** in subsection (1) if it is land of a classification, or used for a purpose, excluded by the regulations.

(1g) The Commissioner may, in making a determination under subsection (1a) or (1e), take into account information provided by the Valuer-General.

4—Insertion of sections 60D and 60E

After section 60C insert:

60D—Refund of duty on conveyance or transfer of vacant land in prescribed circumstances

(1) The regulations may make provision for the refund, in prescribed circumstances, of duty paid on a conveyance or transfer of land that the Commissioner determines, subject to regulations made under subsection (2), is, at the time of the conveyance or transfer, vacant or vacant with only minor improvements.

(2) The regulations may prescribe circumstances in which land may, or may not, be determined to be vacant or vacant with only minor improvements for the purposes of a regulation made under subsection (1).

(3) A refund referred to in subsection (1) does not create an entitlement to a refund of fees paid in respect of the conveyance or transfer under the *Real Property Act 1886*.

60E—Exemption from duty on conveyance or transfer of vacant land in prescribed circumstances

(1) The regulations may make provision for the exemption, in prescribed circumstances, from duty of a conveyance or transfer of land that the Commissioner determines, subject to regulations made under subsection (2), is, at the time of the conveyance or transfer, vacant or vacant with only minor improvements.

(2) The regulations may prescribe circumstances in which land may, or may not, be determined to be vacant or vacant with only minor improvements for the purposes of a regulation made under subsection (1).

(3) Without limiting subsection (1), the regulations may make provision in respect of—

(a) the assessment of a conveyance or transfer referred to in subsection (1), and any instrument that gives effect to, acknowledges, evidences or records the conveyance or transfer; and

(b) conditions to which an exemption referred to in subsection (1) is subject; and

(c) the revocation of an exemption referred to in subsection (1); and

(d) the payment, assessment and calculation of duty, and liability to pay interest and penalty tax, in circumstances in which an exemption referred to in subsection (1) is revoked.

(4) A conveyance or transfer in respect of which duty is exempt under a regulation made under this section is to be taken, for the purposes of the *Real Property Act 1886*, to be a conveyance or transfer that is not exempt from duty under the regulation.

5—Amendment of section 71DC—Concessional duty on designated real property transfers

(1) Section 71DC(1) and (2)—delete subsections (1) and (2)

(2) Section 71DC(3)—delete "subsections (1) and (2)" and substitute:

this section

6—Amendment of section 72—Surcharge for foreign purchasers of residential land

Section 72(8)—delete subsection (8) and substitute:

(8) Subject to subsection (8c), land will be taken to be residential land for the purposes of this section if—

(a) the Commissioner determines that—

(i) the land is neither vacant nor vacant with only minor improvements; and

(ii) the land—

(A) is, or is capable of being, occupied as a residence or as accommodation; or

(B) will be capable of being occupied as a residence or as accommodation after the completion of building work on the land that has, at the date of the relevant conveyance or transfer, commenced,

regardless of the term, or possible term, of occupation or any other purpose for which the land is, or is or will be capable of being, used; or

(b) the Commissioner determines that—

(i) the land is vacant or vacant with only minor improvements; and

(ii) the land is within a zone or subzone under the Planning and Design Code that allows the land to be used for a residence or for other accommodation (notwithstanding that the zoning of the land may, in a manner consistent with the Planning and Design Code, allow the land to be used for some other purpose).

(8a) In determining whether land is, or will be, capable of being occupied as a residence or as accommodation for the purposes of subsection (8)(a)(ii), the Commissioner may have regard to any characteristics of land indicative of such occupation that are prescribed by the regulations.

(8b) For the purposes of subsection (8)(a)(ii)(B), the regulations may prescribe circumstances in which building work will be taken to have commenced.

(8c) Land will not be taken to be residential land for the purposes of this section if it is land that is taken to be used for primary production in accordance with subsection (8d) or land of a classification, or used for a purpose, excluded by the regulations.

~~(8ca) To avoid doubt, land may be taken to be residential land whether or not the land is rented for the purposes of short stay accommodation.~~

(8d) For the purposes of subsection (8c), land will be taken to be used for primary production if the Commissioner determines that—

(a) it is being predominantly used for primary production purposes; or

(b) although the land is not being used at the relevant time the land should be taken to be used for primary production purposes due to a classification that has been assigned to the land by the Valuer-General.

(8e) The Commissioner may, in making a determination under subsection (8) or (8d), take into account information provided by the Valuer-General.

7—Amendment of section 102AB—Surcharge where foreign person or group acquires interest in residential land

Section 102AB(9)—delete subsection (9) and substitute:

(9) Subject to subsection (9c), land will be taken to be residential land for the purposes of this section if—

(a) the Commissioner determines that—

(i) the land is neither vacant nor vacant with only minor improvements; and

(ii) the land—

(A) is, or is capable of being, occupied as a residence or as accommodation; or

(B) will be capable of being occupied as a residence or as accommodation after the completion of building work on the land that has, at the date of the relevant conveyance or transfer, commenced,

regardless of the term, or possible term, of occupation or any other purpose for which the land is, or is or will be capable of being, used; or

(b) the Commissioner determines that—

(i) the land is vacant or vacant with only minor improvements; and

(ii) the land is within a zone or subzone under the Planning and Design Code that allows the land to be used for a residence or for other accommodation (notwithstanding that the zoning of the land may, in a manner consistent with the Planning and Design Code, allow the land to be used for some other purpose).

(9a) In determining whether land is, or will be, capable of being occupied as a residence or as accommodation for the purposes of subsection (9)(a)(ii), the Commissioner may have regard to any characteristics of land indicative of such occupation that are prescribed by the regulations.

(9b) For the purposes of subsection (9)(a)(ii)(B), the regulations may prescribe circumstances in which building work will be taken to have commenced.

(9c) Land will not be taken to be residential land for the purposes of this section if it is land that is taken to be used for primary production in accordance with subsection (9d) or land of a classification, or used for a purpose, excluded by the regulations.

~~(9ca) To avoid doubt, land may be taken to be residential land whether or not the land is rented for the purposes of short stay accommodation.~~

(9d) For the purposes of subsection (9c), land will be taken to be used for primary production if the Commissioner determines that—

(a) it is being predominantly used for primary production purposes; or

(b) although the land is not being used at the relevant time the land should be taken to be used for primary production purposes due to a classification that has been assigned to the land by the Valuer-General.

(9e) The Commissioner may, in making a determination under subsection (9) or (9d), take into account information provided by the Valuer-General.

8—Amendment of section 105A—Abolition of duty on designated real property transfers

Section 105A(1) and (2)—delete subsections (1) and (2) and substitute:

(1) For the purposes of this section, the date that is relevant to a determination as to whether land is qualifying land is the date of the relevant conveyance or transfer.

Part 3—Amendment of *Stamp Duties Regulations 2013*

9—Insertion of regulation 4A

After regulation 4 insert:

4A—Exclusions from land taken to be used for residential purposes and taken to be residential land

(1) Pursuant to section 2(1d) of the Act, the following land is excluded from land that is taken to be used for residential purposes for the purposes of the definition of ***qualifying land*** in section 2(1):

(a) land used for purpose-built student accommodation;

(b) land assigned the following land use codes by the Valuer-General:

(i) 1800 (Hotel and Motel);

(ii) 1810 (Hotel);

~~(iia) 1820 (Motel);~~

(iii) 1825 (Serviced apartments (including Strata-titled Hotel/Motel units));

(iv) 1831 (Hotel/Motel community);

(v) 1832 (Hotel/Motel other);

(vi) 1834 (Short term accommodation – multiple units);

(vii) 5830 (Sanatoria, Nursing home, convalescent and rest home and health centres).

(2) Pursuant to section 72(8c) of the Act, the land referred to in subregulation (1) is excluded from land that is taken to be residential land for the purposes of section 72.

(3) Pursuant to section 102AB(9c) of the Act, the land referred to in subregulation (1) is excluded from land that is taken to be residential land for the purposes of section 102AB.

~~(3a) To avoid doubt, land does not fall within the scope of subregulation (1)(b) merely because the land is rented for the purposes of short stay accommodation.~~

(4) In this regulation—

purpose-built student accommodation means off-campus, fit-for-purpose accommodation with communal areas and facilities that is developed and managed exclusively for students enrolled to study at an educational institution.

10—Insertion of regulation 5A

After regulation 5 insert:

5A—Characteristics of land capable of being occupied as residence or as accommodation.

For the purposes of sections 2(1b), 72(8a) and 102AB(9a) of the Act, the following characteristics are prescribed as being indicative that land is, or will be, capable of being occupied as a residence or as accommodation:

(a) a room or area designed for overnight occupation (whether or not the room or area is furnished for such occupation and whether private or shared);

(b) bathroom facilities (whether private or shared);

(c) a dedicated area for food preparation and storage, such as a kitchen or kitchenette (whether private or shared);

(d) laundry facilities or plumbing fixtures to enable laundry facilities to be installed (whether private or shared);

(e) any other characteristic the Commissioner considers indicates that the land is, or will be, capable of being occupied as a residence or as accommodation.

11—Insertion of regulations 10C and 10D

After regulation 10B insert:

10C—Refund of duty on conveyance or transfer of vacant land in certain circumstances

(1) Pursuant to section 60D of the Act, if—

(a) duty is paid on a conveyance or transfer of land that the Commissioner determines is, at the time of the conveyance or transfer, vacant or vacant with only minor improvements; and

(b) a party who paid the duty, within the prescribed period after the conveyance or transfer (the ***relevant period***)—

(i) applies to the Commissioner for a refund of the duty in the manner and form determined by the Commissioner; and

(ii) provides the Commissioner with evidence that the land has been, within the relevant period, developed for a predominant purpose that would result in it being qualifying land (a ***qualifying purpose***); and

(c) the Commissioner is satisfied that—

(i) the land has been, within the relevant period, developed for a qualifying purpose; and

(ii) the qualifying purpose is the first new predominant purpose for which the land is developed following the conveyance or transfer,

the Commissioner must refund the duty paid on the conveyance or transfer.

(2) For the purposes of subregulation (1), land will only be taken to have been developed for a qualifying purpose within the relevant period if the development has been completed within that period.

(3) In this regulation—

development does not include the following:

(a) a change in the use of land;

(b) the division of land;

prescribed period means—

(a) 3 years; or

(b) if the Commissioner so determines on application in the manner and form determined by the Commissioner—5 years.

10D—Exemption from duty on conveyance or transfer of vacant land in certain circumstances

(1) Pursuant to section 60E of the Act, if—

(a) duty is, but for this regulation, payable on a conveyance or transfer of land that the Commissioner determines is, at the time of the conveyance or transfer, vacant or vacant with only minor improvements; and

(b) a party who is liable to pay the duty—

(i) applies to the Commissioner for an exemption from the duty at or before the time of the conveyance or transfer and in the manner and form determined by the Commissioner; and

(ii) makes a declaration to the Commissioner, in the manner and form determined by the Commissioner, that the land will be, within the relevant period, developed for a predominant purpose that would result in it being qualifying land (a ***qualifying purpose***); and

(c) the Commissioner is satisfied that—

(i) the land will be, within the relevant period, developed for a qualifying purpose; and

(ii) the qualifying purpose will be the first new predominant purpose for which the land is developed following the conveyance or transfer,

the Commissioner must exempt the conveyance or transfer from duty.

(2) For the purposes of subregulation (1), land will only be taken to have been developed for a qualifying purpose within the relevant period if the development has been completed within that period.

(3) If the Commissioner exempts a conveyance or transfer under subregulation (1), the Commissioner must assess the conveyance or transfer, and any instrument that gives effect to, acknowledges, evidences or records the conveyance or transfer, as exempt from duty.

(4) An exemption granted under this regulation in relation to a conveyance or transfer is subject to a condition that the applicant for the exemption will advise the Commissioner in writing if the applicant becomes aware that—

(a) the land has not been, or will not be able to be, developed for a qualifying purpose within the relevant period; or

(b) the qualifying purpose is not, or will not be, the first new predominant purpose for which the land is developed following the conveyance or transfer; or

(c) they provided false or misleading information, or failed to provide relevant information, in support of the application for the exemption.

(5) The Commissioner may, at any time, revoke an exemption granted under this regulation if—

(a) the Commissioner is satisfied that the land has not been, or will not be, developed for a qualifying purpose within the relevant period; or

(b) the Commissioner is satisfied that the qualifying purpose is not, or will not be, the first new predominant purpose for which the land is developed following the conveyance or transfer; or

(c) the Commissioner becomes aware that the applicant for the exemption provided false or misleading information, or failed to provide relevant information, in support of the application for the exemption; or

(d) the applicant for the exemption fails to comply with a condition under subregulation (4).

(6) If the Commissioner determines to revoke an exemption granted under this regulation in relation to a conveyance or transfer, the following provisions apply:

(a) the Commissioner must give written notice of the determination to the party who was, but for this regulation, liable to pay duty on the conveyance or transfer (the ***relevant party***);

(b) if the exemption is revoked after the conveyance or transfer takes place—

(i) duty is payable in relation to the conveyance or transfer from the date of the conveyance or transfer; and

(ii) the liability of the relevant party to pay duty is to be assessed in relation to the circumstances applying at the date of the conveyance or transfer as if the conveyance or transfer had not been an exempted conveyance or transfer; and

(iii) the duty chargeable on an instrument is to be calculated according to the rates in force as at the date of the instrument; and

(iv) for the purposes of section 20 of the Act, the duty is to be regarded as having become chargeable on any relevant instrument in consequence of the Commissioner's determination to revoke the exemption; and

(v) the relevant party may, at the discretion of the Commissioner, be liable to pay interest and penalty tax as if the failure to pay duty at the date of the conveyance or transfer were a tax default under the *Taxation Administration Act 1996*.

(7) In this regulation—

development does not include the following:

(a) a change in the use of land;

(b) the division of land;

prescribed period means—

(a) 3 years; or

(b) if the Commissioner so determines on application in the manner and form determined by the Commissioner—5 years;

relevant period, in respect of a conveyance or transfer of land (the ***original conveyance or transfer***), means—

(a) the prescribed period after the original conveyance or transfer; or

(b) if the entirety of the land has been conveyed or transferred to another person or persons within the period referred to in paragraph (a)—the period starting on the day of the original conveyance or transfer and ending on the day on which the land has been entirely conveyed or transferred to another person or persons.

Schedule 1—Transitional provisions

1—Transitional provisions

(1) The amendments made by this Act to sections 2, 71DC, 72, 102AB and 105A of the principal Act operate both prospectively and retrospectively insofar as they are applicable to land that is vacant or vacant with only minor improvements and to the extent necessary to give full meaning and effect to those sections.

(2) For the purposes of subclause (1), a reference to the Planning and Design Code in a section referred to in that subclause will, in relation to a conveyance or transfer occurring before the commencement of the Planning and Design Code, be taken to be a reference to a Development Plan under the *Development Act 1993*.

(3) Stamp duty paid before the commencement day in respect of a conveyance or transfer of land that was, at the time of that conveyance or transfer, vacant or vacant with only minor improvements is taken to have been paid in accordance with the principal Act, as in operation in accordance with subclause (1), and a person who paid that duty is not, by force of this subclause, eligible for any refund in respect of that duty.

(4) Any designated assessment, decision or determination in respect of stamp duty payable on a conveyance or transfer of land that was, at the time of that conveyance or transfer, vacant or vacant with only minor improvements is taken to have been made under the principal Act, as in operation in accordance with subclause (1), and is not, by force of this subclause, to be subject to any re-assessment, review, objection or appeal.

(5) Any relevant assessment, decision, determination or objection in respect of stamp duty payable on the conveyance or transfer of land that was, at the time of that conveyance or transfer, vacant or vacant with only minor improvements is not, by force of this subclause, to be subject to any re-assessment, review, objection or appeal.

(6) Nothing in this clause affects any proceedings commenced, or objection made under the *Taxation Administration Act 1996*, before the commencement of this clause.

(7) In this clause—

commencement day means the day on which this Act is taken to have come into operation in accordance with section 2;

designated assessment, decision or determination means an assessment, a decision or a determination made under the principal Act before the commencement day;

principal Act means the *Stamp Duties Act 1923*;

relevant assessment, decision, determination or objection means an assessment, a decision or a determination made, or an objection determined, under the *Taxation Administration Act 1996* before the commencement day.