

SOUTH AUSTRALIA

STAMP DUTIES ACT, 1923

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 November 1984.

The Commissioner of Statute Revision is authorised by the Acts Republication Act, 1967, to make textual alterations of various kinds to an Act in preparing it for reprint. These alterations do not affect the substantive law; they are designed to bring the form and language of the Act into conformity with contemporary standards of good drafting (so far as that object can be achieved without risk of semantic change).

A report has been prepared containing a comprehensive list of the textual alterations made under the Acts Republication Act, 1967, in the preparation of this reprint. Copies of the report are available, on request, from the office of the Commissioner of Statute Revision, 11th Floor, S.G.I.C. Building, Victoria Square, Adelaide.

SUMMARY OF PROVISIONS
PART I**PRELIMINARY PROVISIONS**

Section

1. Short title
4. Interpretation
5. Stamp duties to be charged and to be recoverable as a debt
- 5a. Application of Stamp Duties Act Amendment Act, 1980
- 5b. Liability to duty of instruments outside South Australia
6. Power to appoint officers
7. Distribution of stamps, commission, etc.
8. Stamps to be provided

PART II**GENERAL PROVISIONS WITH RESPECT TO STAMP DUTIES**

9. Payment and denotation of stamp duties
10. Duty, how denoted
11. Appropriate stamps to be used
12. Adhesive stamps to be cancelled
13. How instruments to be stamped
14. Instruments to be separately charged
15. Duty to be calculated on value in Australian money
- 15a. Ascertainment of value of property subject to powers, etc.
16. Duty in force when instrument produced for stamping to apply
18. Duty on other instruments
19. All facts to be truly set forth
- 19a. Certain copies dutiable
20. Penalty for not duly stamping
21. Admissibility of unstamped instruments in evidence
22. Except as aforesaid no unstamped instrument to be received in evidence
23. Assessment of duty
24. Appeal from assessment
25. Abstract of instrument to be furnished
26. Records open to inspection
27. No instrument to be enrolled or registered unless stamped
- 27a. Power of Commissioner to make certain inquiries
- 27b. Power of Commissioner to retain unstamped instrument until penalty paid
- 27c. Inspection of documents, etc.
- 27d. Power of Commissioner to assess duty on impounded instruments, etc.
- 27e. Commissioner not liable for acting *bona fide* in exercise of his powers or discharge of his duties

PART III**SPECIAL PROVISIONS WITH RESPECT TO CERTAIN STAMP DUTIES***Affidavits and Declarations*

28. Duty on affidavits and declarations may be denoted by adhesive stamps

Agreements

29. Adhesive stamp may be used for agreement not under seal
30. When agreement comprised of several letters
31. Certain contracts to be chargeable as conveyances on sale
- 31a. Duty on agreements for "walk in walk out" sales of land used for primary production

Rental Business

- 31b. Interpretation
- 31d. Persons carrying on rental business to be registered
- 31e. Registration
- 31f. Statement to be lodged by registered person
- 31g. Amounts to be included in statement
- 31h. Manner of denoting duty on statement
- 31i. Matters not required to be included in statement
- 31j. Registered person to keep records
- 31k. Calculation by other methods
- 31l. Registered person not to add duty on amount payable in respect of rental business

Annual Licences

- 32. Interpretation
- 33. Yearly licences required by companies and persons carrying on insurance business
- 34. Time of issue and duration of licences
- 34a. Duty payable upon acquisition of undertaking of insurance company
- 35. Application for licence
- 36. Duty where premium not stated in policy
- 37. Power to summon and examine witnesses for purpose of determining duty payable on annual licence
- 38. Questions to be settled by Commissioner subject to appeal
- 39. Effect of annual licences
- 41. Carrying on insurance business without licence
- 42. Refund of overpaid duty
- 42aa. Duty on policies effected outside South Australia

Application for Motor Vehicle Registration

- 42a. Interpretation
- 42b. Stamp duty on application for registration or transfer of registration of motor vehicle
- 42c. Statement in support of claim for exemption
- 42d. Power to refund duty overpaid
- 42e. Regulations

Bills of Exchange, Promissory Notes, Coupons and Interest Warrants

- 46. Interpretation
- 46a. Some duty not to be chargeable after 1 January 1984
- 47. Duty on bills, notes, etc., how denoted
- 47a. Stamping of bill of exchange where terms of bill are changed
- 48. When bills, notes, etc., to be stamped
- 48a. Licences for duty paid cheques
- 49. Penalty on taking unstamped bill or promissory note
- 50. Where bill or note deemed to be drawn
- 51. Bills or notes issued unstamped
- 52. Bills in sets

Bills of Lading

- 53. When to be stamped

Duty on Transactions on Branch Registers

- 59b. Returns to be lodged by companies

Conveyances and Conveyances on Sale

- 60. Interpretation
- 60a. Value of property conveyed or transferred
- 60b. Refund of duty where transaction is rescinded or annulled
- 61. Method of estimating value of consideration where consideration consists of shares
- 64. Consideration in case of lease
- 65. Where consideration consists of real or personal property
- 66. Where consideration is payable in instalments
- 66a. Mode of computing consideration in certain cases
- 66ab. Computation of duty in case of certain real property transactions
- 68. Duty in certain cases
- 69. Where there are several instruments
- 70. Evasion of duty
- 71. Instruments chargeable as conveyances operating as voluntary dispositions *inter vivos*
- 71a. Provision where trust property distributed *in specie*
- 71b. Partition or division of property
- 71c. Concessional rates of duty in respect of the purchase of a first home, etc.
- 71ca. Exemption from duty in respect of certain maintenance agreements, etc.
- 71d. Concessional duty to encourage mineral or petroleum exploration activity

Leases

- 72. Agreement for lease to be charged as a lease
- 73. Leases, how to be charged in respect of produce, etc.
- 74. Duty in respect of certain kinds of lease

Letters of Allotment, Scrip Certificates and Scrip

75. Penalty for not stamping letter of allotment, etc.

Mortgages

76. Interpretation
 77. Where mortgage consists of several instruments
 78. Security for stock, how to be charged
 79. Security for future advances, how to be charged
 80. Security for repayment by periodical payments, how to be charged
 81. Transfers and further charges
 81a. Duty may be denoted in certain cases by adhesive stamps
 81b. Duty chargeable proportioned to value of South Australian property
 81c. Duty paid upon one mortgage may be denoted as having been paid upon another mortgage

PART IIIA

SALES AND PURCHASES OF MARKETABLE SECURITIES BY BROKERS
AND DUTY THEREON

- 90a. Interpretation
 90b. Application of Part
 90c. Sales and purchases to be recorded
 90d. Returns to be lodged and duty paid
 90e. Endorsement of instrument of transfer as to payment of duty
 90f. Power of dealer to recover duty paid by him

PART V

MISCELLANEOUS PROVISIONS

106. Spoiled or unused stamps
 106a. Transfers of marketable securities not to be registered unless duly stamped
 107. Penalty for fraudulent misstatements
 108. Penalties for felonies
 109. Penalty for fraud
 110. Recovery of penalties
 110a. Offences
 111. Remedy for misappropriation
 112. Regulations
 114. Exemption from stamp duty

SCHEDULES

STAMP DUTIES ACT, 1923

being

Stamp Duties Act, 1923, No. 1569 of 1923 [Assented to 21 November 1923]

as amended by

Stamp Duties Act, 1927, No. 1822 of 1927 [Assented to 21 December 1927]¹;
Stamp Duties Amendment Act, 1928, No. 1860 of 1928 [Assented to 17 October 1928];
Lottery and Gaming Act Amendment Act, 1928, No. 1877 of 1928 [Assented to 1 November 1928];
Statute Law Revision Act, 1935, No. 2246 of 1935 [Assented to 19 December 1935];
Stamp Duties Act Amendment Act, 1936, No. 2312 of 1936 [Assented to 19 November 1936];
Stamp Duties Act Amendment Act, 1937, No. 2359 of 1937 [Assented to 19 November 1937];
Stamp Duties Act Amendment Act, 1938, No. 2387 of 1938 [Assented to 25 August 1938]²;
Stamp Duties Act Amendment Act, 1941, No. 48 of 1941 [Assented to 27 November 1941];
Stamp Duties Act Amendment Act, 1942, No. 22 of 1942 [Assented to 12 November 1942];
Stamp Duties Act Amendment Act, 1944, No. 30 of 1944 [Assented to 14 December 1944];
Stamp Duties Act Amendment Act, 1945, No. 32 of 1945 [Assented to 3 January 1946]³ (as amended by Stamp Duties Act Amendment Act, 1947, No. 41 of 1947);
Stamp Duties Act Amendment Act, 1950, No. 16 of 1950 [Assented to 2 November 1950];
Stamp Duties Act Amendment Act, 1952, No. 5 of 1952 [Assented to 2 October 1952];
Statute Law Revision Act, 1952, No. 42 of 1952 [Assented to 4 December 1952];
Stamp Duties Act Amendment Act (No. 2), 1952, No. 55 of 1952 [Assented to 8 January 1953]⁴;
Stamp Duties Act Amendment Act, 1953, No. 30 of 1953 [Assented to 10 December 1953];
Stamp Duties Act Amendment Act, 1954, No. 29 of 1954 [Assented to 2 December 1954];
Stamp Duties Act Amendment Act, 1956, No. 8 of 1956 [Assented to 11 October 1956]⁵;
Stamp Duties Act Amendment Act, 1959, No. 45 of 1959 [Assented to 17 December 1959]⁶;
Stamp Duties Act Amendment Act, 1960, No. 7 of 1960 [Assented to 19 May 1960];
Banks Statutory Obligations Amendment Act, 1962, No. 32 of 1962 [Assented to 1 November 1962] (as amended by Statute Law Revision Act, 1973, No. 77 of 1973);
Statutes Amendment (Stamp Duties and Motor Vehicles) Act, 1964, No. 24 of 1964 [Assented to 9 October 1964]⁷;
Stamp Duties Act Amendment Act, 1965, No. 58 of 1965 [Assented to 23 December 1965]⁸ (as amended by Stamp Duties Act Amendment Act, 1966, No. 59 of 1966)⁹;
Lottery and Gaming Act Amendment Act (No. 2), 1966, No. 46 of 1966 [Assented to 13 October 1966]¹⁰;
Stamp Duties Act Amendment Act, 1966, No. 59 of 1966 [Assented to 10 November 1966]¹⁰;
Marketable Securities Transfer Act, 1967, No. 14 of 1967 [Assented to 6 April 1967]¹¹;
Stamp Duties Act Amendment Act, 1967, No. 48 of 1967 [Assented to 19 October 1967];
Stamp Duties Act Amendment Act (No. 2), 1968, No. 26 of 1968 [Assented to 5 December 1968]¹²;
Stamp Duties Act Amendment Act, 1968, No. 32 of 1968 [Assented to 12 December 1968]¹³ (as amended by Statute Law Revision Act, 1974, No. 42 of 1974);
Stamp Duties Act Amendment Act (No. 3), 1968, No. 56 of 1968 [Assented to 19 December 1968]¹⁴;

¹ Came into operation 24 December 1927: *Gaz.* 22 December 1927, p. 1609.

² S. 4 (1) came into operation 16 January 1939: s. 4 (2); remainder of Act came into operation on assent.

³ S. 3 came into operation 3 September 1939: s. 4 (1), as amended by Stamp Duties Act Amendment Act, 1947; remainder of Act came into operation on assent.

⁴ Ss. 4-6 came into operation 22 January 1953: *Gaz.* 22 January 1953, p. 72; remainder of Act came into operation on assent.

⁵ S. 6 came into operation 10 September 1956: s. 6 (3); remainder of Act came into operation on assent.

⁶ Came into operation 1 February 1960: *Gaz.* 7 January 1960, p. 1.

⁷ S. 3 (1) came into operation 1 February 1960: s. 3 (2); remainder of Act came into operation on assent.

⁸ Ss. 1, 2 and 9 (a) came into operation on assent: s. 2 (1); remainder of Act came into operation 19 October 1964: *Gaz.* 15 October 1964, p. 1203.

⁹ Ss. 1-4, 6, 9, 14, 15 (b), (1)-(o) and 16 came into operation on assent: s. 3 (1); remainder of Act came into operation 14 February 1966: s. 3 (2).

¹⁰ S. 9 (1) came into operation 14 February 1966: s. 9 (2); remainder of Act came into operation 21 November 1966: *Gaz.* 10 November 1966, p. 1882.

¹¹ Came into operation 8 December 1966: *Gaz.* 8 December 1966, p. 2152.

¹² Came into operation 1 July 1967: *Gaz.* 25 May 1967, p. 1657.

¹³ Came into operation 1 January 1969: *Gaz.* 5 December 1968, p. 2429.

¹⁴ Came into operation 1 February 1969: *Gaz.* 12 December 1968, p. 2558.

¹⁵ Came into operation 1 February 1969: *Gaz.* 19 December 1968, p. 2670.

Stamp Duties Act, 1923

Stamp Duties Act Amendment Act, 1970, No. 42 of 1970 [Assented to 3 December 1970];
 Stamp Duties Act Amendment Act, 1971, No. 71 of 1971 [Assented to 4 November 1971]¹ (as amended by Stamp
 Duties Act Amendment Act, 1971, Amending Act, 1971, No. 103 of 1971)²;
 Stamp Duties Act Amendment Act (No. 2), 1971, No. 80 of 1971 [Assented to 18 November 1971]³;
 Statute Law Revision Act, 1974, No. 42 of 1974 [Assented to 11 April 1974];
 Stamp Duties Act Amendment Act, 1974, No. 90 of 1974 [Assented to 2 December 1974]⁴;
 Stamp Duties Act Amendment Act, 1975, No. 63 of 1975 [Assented to 4 September 1975]⁵;
 Statutes Amendment (Gift Duty and Stamp Duties) Act, 1975, No. 76 of 1975 [Assented to 16 October 1975]⁶;
 Statutes Amendment (Gift Duty and Stamp Duties) Act, 1976, No. 54 of 1976 [Assented to 28 October 1976]⁷;
 Stamp Duties Act Amendment Act, 1976, No. 101 of 1976 [Assented to 16 December 1976]⁸;
 Racing Act, 1976, No. 104 of 1976 [Assented to 16 December 1976]⁹;
 Stamp Duties Act Amendment Act, 1977, No. 28 of 1977 [Assented to 28 July 1977];
 Stamp Duties Act Amendment Act, 1978, No. 27 of 1978 [Assented to 30 March 1978]¹⁰;
 Stamp Duties Act Amendment Act (No. 2), 1978, No. 89 of 1978 [Assented to 30 November 1978]¹¹;
 Stamp Duties Act Amendment Act, 1979, No. 66 of 1979 [Assented to 15 November 1979]¹²;
 Stamp Duties Act Amendment Act, 1980, No. 111 of 1980 [Assented to 18 December 1980]¹³;
 Stamp Duties Act Amendment Act, 1981, No. 70 of 1981 [Assented to 30 October 1981]¹⁴;
 Stamp Duties Act Amendment Act, 1982, No. 15 of 1982 [Assented to 11 March 1982]¹⁵;
 Stamp Duties Act Amendment Act (No. 2), 1982, No. 30 of 1982 [Assented to 8 April 1982]¹⁶;
 Stamp Duties Act Amendment Act (No. 3), 1982, No. 95 of 1982 [Assented to 23 December 1982]¹⁷;
 Stamp Duties Act Amendment Act, 1983, No. 65 of 1983 [Assented to 29 September 1983]¹⁸;
 Stamp Duties Act Amendment Act (No. 2), 1983, No. 89 of 1983 [Assented to 1 December 1983]¹⁹;
 Statute Law Revision Act, 1984, No. 50 of 1984 [Assented to 24 May 1984]²⁰.

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

PRELIMINARY PROVISIONS

Short title.

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

¹ Came into operation (except s. 13 (3)) 1 December 1971: *Gaz.* 11 November 1971, p. 1928; s. 13 (3) came into operation 1 January 1972: *Gaz.* 3 December 1971, p. 2298.

² Came into operation 30 November 1971: s. 1 (1).

³ Came into operation 1 January 1972: *Gaz.* 23 December 1971, p. 2627.

⁴ Came into operation (except s. 7) 16 December 1974; s. 7 came into operation 2 January 1975: *Gaz.* 2 December 1974, p. 3555.

⁵ Came into operation 18 September 1975: *Gaz.* 18 September 1975, p. 1574.

⁶ Came into operation 14 July 1975: s. 2.

⁷ Came into operation 14 July 1976: s. 2.

⁸ Came into operation 16 June 1977: *Gaz.* 16 June 1977, p. 1708.

⁹ Came into operation (except s. 4 (1) and Part II, Division 3) 1 January 1977: *Gaz.* 16 December 1976, p. 2252; s. 4 (1) and Part II, Division 3 came into operation 1 February 1977: *Gaz.* 27 January 1977, p. 179.

¹⁰ Came into operation (except ss. 3-6 and 9) on assent: s. 2 (1); ss. 3-6 and 9 had not been brought into operation at the date of, and the amendments effected by those provisions have not been included in, this reprint.

¹¹ Came into operation 18 January 1979: *Gaz.* 18 January 1979, p. 97.

¹² Came into operation 1 November 1979: s. 2.

¹³ Came into operation 6 November 1980: s. 2.

¹⁴ Came into operation 2 November 1981: *Gaz.* 30 October 1981, p. 1423.

¹⁵ Came into operation 22 March 1982: *Gaz.* 18 March 1982, p. 857.

¹⁶ Came into operation (except s. 4) 24 December 1981: s. 2; s. 4 came into operation 19 August 1982: *Gaz.* 19 August 1982, p. 512.

¹⁷ Came into operation 23 December 1982: *Gaz.* 23 December 1982, p. 1935.

¹⁸ Came into operation 1 January 1984: *Gaz.* 24 November 1983, p. 1515.

¹⁹ Came into operation 1 January 1984: s. 2.

²⁰ Came into operation (except Scheds. 1, 3, 4 and 5) 1 November 1984: *Gaz.* 1 November 1984, p. 1398; remainder of Act suspended.

*	*	*	*	*	*	*	*	*	*	S. 2 amended by 58, 1965, s. 4; 14, 1967, s. 14 ¹ .
*	*	*	*	*	*	*	*	*	*	S. 3 ² .

4. In this Act, unless it is otherwise provided or there is something in the context repugnant thereto— Interpretation.
372, 1886, s. 2.

“Commissioner” means any person appointed Commissioner of Stamps under this Act, and includes the Deputy Commissioner of Stamps and any other officer while performing any of the duties or functions of the Commissioner: Def. amended by
42, 1970, s. 2.

“die” includes any plate, type, tool or implement 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:

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

“fixed interest security” means any debenture, debenture stock, bond, note or other security issued at a fixed rate of interest by a government or by any municipal or other corporation, company or society, whether constituting a charge on assets or not, but does not include any such security that carries an option under which the security may be converted into stock or shares: Def. inserted by
111, 1980, s. 3
(a).

“forge” includes counterfeit:

“instrument” includes every written document:

“marketable security” includes—

(a) any stock, share or other security of any municipal or other corporation, company or society;

(b) any debenture, debenture stock, bond, note or other security of a government or of any municipal or other corporation, company or society, whether constituting a charge on the assets of the government, municipal or other corporation, company or society or not;

(ba) any interest under a deed approved for the purposes of Division 6 of Part IV of the *Companies (South Australia) Code*, other than an interest of a kind excluded by regulation for the purposes of this Act; Para. (ba)
inserted by 111,
1980, s. 3 (b);
amended by 50,
1984, s. 3 (1) (6th
Sched.).

¹ S. 2 omitted pursuant to the Acts Republication Act, 1967, s. 7 (1): see Summary of Provisions.

² S. 3 omitted pursuant to the Acts Republication Act, 1967, s. 7 (2).

- (c) any stock or other security of such a kind as is or can be bought or sold through the agency of a member of any stock exchange in the Commonwealth;
- (d) a right in respect of a marketable security;
- and
- (e) any other security of a kind prescribed for the purposes of this Act:

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

Def. substituted by 50, 1984, s. 3 (1) (6th Sched.).

“money” includes all sums expressed in Australian or foreign currency:

Def. inserted by 14, 1967, s. 15 (b).

“right in respect of a marketable security” means a right, whether actual, prospective or contingent, of any person to have issued to him a marketable security, whether or not on payment of any money or other consideration for the marketable security:

Def. inserted by 32, 1962, s. 2, as amended by 77, 1973, s. 5 (1); substituted by 50, 1984, s. 3 (1) (6th Sched.).

“savings bank” means any of the following banks:

- (a) the Australia and New Zealand Savings Bank Limited;
- (b) the Commonwealth Savings Bank;
- (c) the National Australia Savings Bank Limited;
- (d) the State Bank of South Australia;
- (e) Westpac Savings Bank Limited:

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

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

Def. amended by 50, 1984, s. 3 (1) (6th Sched.).

“stock” means any share in the stocks or funds of any State or government, or in the capital stock or funded debt of any company, corporation or society (whether incorporated in this State or elsewhere):

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

Stamp duties to be charged and to be recoverable as a debt.
789, 1902, s. 5 (part).
Subsec. (1) amended by 32, 1968, s. 3 (a)-(c); 50, 1984, s. 3 (1) (6th Sched.).

5. (1) Subject to the exemptions contained in the second schedule and other provisions of this Act, there shall be charged, for the use of the Crown, the several stamp duties specified in that schedule and elsewhere in this Act upon and for the several instruments therein set forth, and also such other duties as are specified in that schedule or in any other provision of this Act.

1216, 1915, s. 15.
Subsec. (2) amended by 50, 1984, s. 3 (1) (6th Sched.).

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

* * * * *

Subsec. (3) repeated by 50, 1984, s. 3 (1) (6th Sched.).

(4) Where by any provision of this Act any duty is expressed to be payable by any person or by any person of a class, the duty shall be a debt due to the Crown from such person and shall be recoverable from such person in accordance with subsection (2) as if it were duty chargeable upon an instrument executed by that person.

Subsec. (4) inserted by 14, 1967, s. 16; amended by 50, 1984, s. 3 (1) (6th Sched.).

5a. (1) Subject to subsection (2), this Act, as in force immediately before the commencement of the Stamp Duties Act Amendment Act, 1980, applies in relation to instruments executed before that commencement.

Application of Stamp Duties Act Amendment Act, 1980.
S. 5a inserted by 111, 1980, s. 4.

(2) The amendments made to this Act by sections 9, 13 and 15 (b), (f) and (g) of the Stamp Duties Act Amendment Act, 1980, apply in relation to instruments executed before or after the commencement of that Act.

(3) This Act, as amended by the Stamp Duties Act Amendment Act, 1980, applies in relation to instruments executed or brought into existence after the commencement of that Act.

5b. Subject to this Act, duty shall be chargeable in respect of an instrument that is outside South Australia if the instrument relates (wherever it was executed) to property situated, or any matter or thing done or to be done, in South Australia.

Liability to duty of instruments outside South Australia.
S. 5b inserted by 111, 1980, s. 4; amended by 50, 1984, s. 3 (1) (6th Sched.).

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. 38 (part).

* * * * *

Subsec. (2) repeated by 50, 1984, s. 3 (1) (6th Sched.).

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

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

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

Distribution of stamps, commission, etc.
372, 1886, s. 5.

(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.

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

Subsec. (3) inserted by 5, 1952, s. 3.

(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.

(4) 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) in respect of all duty paid to the Treasurer by the bank in respect of cheque forms.

Subsec. (4) inserted by 5, 1952, s. 3; amended by 50, 1984, s. 3 (1) (6th Sched.).

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 duties.

PART II

GENERAL PROVISIONS WITH RESPECT TO STAMP DUTIES

Payment and denotation of stamp duties.
789, 1902, s. 5 (part).

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

Duty, how denoted.
372, 1886, s. 24.

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, the duty may be denoted by an impressed stamp or by an adhesive stamp.

Appropriate stamps to be used.
372, 1886, s. 10.

11. (1) A 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.

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

789, 1902, s. 39.

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

Adhesive stamps to be cancelled.
789, 1902, s. 38 (part).

12. (1) An 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—

(a) the person required by this Act to cancel the adhesive stamp cancels it 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 it 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) Where two or more adhesive stamps are used to denote the duty upon an instrument, each stamp shall be cancelled in the manner described above.

Subsec. (3) amended by 58, 1965, s. 17.

(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 described above shall be liable to a penalty not exceeding twenty dollars.

How instruments to be stamped.
372, 1886, s. 7.

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 those instruments shall be separately and distinctly stamped with the duty with which it is chargeable.

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

- (a) 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 the instrument containing or relating to each such matter were a separate instrument;
- (b) any instrument made for any consideration in respect of which it is chargeable with *ad valorem* duty, and also for any further or other valuable consideration, shall, in addition to being charged with *ad valorem* duty, be charged with duty in respect of the last mentioned consideration as if it were an instrument made only for that consideration.

Instruments to be separately charged.
372, 1886, s. 8.

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

Duty to be calculated on value in Australian money.
372, 1886, s. 12.
S. 15 amended by 48, 1941, s. 2 (a), (b).

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 overriding power of revocation or reconveyance in that or any other instrument may be disregarded in determining the value of the property.

Ascertainment of value of property subject to powers, etc.
Cf. N.S.W. 13, 1931, s. 7 (a).
S. 15a inserted by 48, 1941, s. 3.

16. The duty chargeable upon any instrument shall be calculated according to the rates in force at the time when the 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.

* * * * *

S. 17 repealed by 111, 1960, s. 5.

18. Where the duty with which any instrument is chargeable depends in any manner upon the duty paid upon another instrument, the payment of the 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.

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.

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

Subsec. (2) amended by 58, 1965, s. 17; 50, 1984, s. 3 (1) (6th Sched.).

- (a) executes any instrument in which all the facts and circumstances affecting the liability to duty that arises upon the instrument are not fully and truly set forth;

Para. (a) amended by 50, 1984, s. 3 (1) (6th Sched.).

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 those facts and circumstances,

shall be liable to a penalty of not less than one hundred dollars and not more than one thousand dollars.

Certain copies
dutiabie.
S. 19a inserted by
111, 1980, s. 6.

19a. (1) Notwithstanding any other provision of this Act, but subject to subsection (2), where an original instrument chargeable with duty under this Act has not been duly stamped or has been destroyed without being duly stamped, any copy of the instrument shall, for the purposes of this Act, be chargeable with duty and penalty (if applicable) as if it were the original and be deemed to have been executed by the person or persons who executed the original at the same time as the original was executed.

(2) Where an original instrument or a copy of an instrument is duly stamped under this Act, the Commissioner shall, upon application and production of that original or copy, stamp any copy or further copy or the original, as the case may be, with a particular stamp denoting that it is duly stamped.

(3) In this section—

“copy” includes—

- (a) a duplicate or counterpart of an original instrument;
 - (b) an instrument that acknowledges, evidences or records the existence or terms of an original instrument;
- or
- (c) an instrument that acknowledges, evidences or records the transaction or a part of the transaction to which an original instrument relates or related.

Penalty for not
duly stamping.
372, 1886, s. 15.
789, 1902, s. 40.
Subsec. (1)
amended by 2246,
1935, s. 4 (2nd
Sched.); 58, 1965,
ss. 5, 17;
substituted by 111,
1980, s. 7 (a).

20. (1) Except where express provision is made to the contrary, an instrument may be stamped without penalty—

- (a) where it was executed in South Australia—within two months after its execution;
- or
- (b) where it was executed outside South Australia—within two months after its receipt in South Australia or within six months after its execution, whichever period first expires.

Subsec. (1a)
inserted by 111,
1980, s. 7 (a).

(1a) Except where express provision is made to the contrary, an instrument that is unstamped or insufficiently stamped after the expiration of the period referred to in subsection (1) shall, in addition to the unpaid duty, be charged with a penalty of—

- (a) fifty dollars;
- or
- (b) an amount equal to 10 per centum of the amount of the unpaid duty for each month for which the instrument has remained unstamped or insufficiently stamped from the day when it was executed until the amount equals the amount of the unpaid duty,

whichever is the greater amount.

Subsec. (2)
amended by 111,
1980, s. 7 (b).

(2) The payment of any such penalty 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 the instrument.

21. 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.

Admissibility of unstamped instruments in evidence.
372, 1886, s. 17.

* * * * *

Subsec. (2) amended by 58, 1965, s. 17; repealed by 50, 1984, s. 3 (1) (6th Sched.).

* * * * *

Subsecs. (3) and (4) repealed by 50, 1984, s. 3 (1) (6th Sched.).

22. No instrument chargeable with duty executed in any part of South Australia, or relating, wherever it was 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 duly stamped.

Except as aforesaid no unstamped instrument to be received in evidence.
372, 1886, s. 18.
S. 22 amended by 50, 1984, s. 3 (1) (6th Sched.).

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.

- (a) whether it is chargeable with duty;
- (b) with what amount of duty it is chargeable.

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

(3) If the Commissioner is of the opinion that the 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 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.

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 a person forwards to the Treasurer a statement of the grounds of his objection to the Commissioner's assessment, the Treasurer may confirm or modify the assessment. If the 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 the 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 it to the appellant and, upon his application, the case may be set down for hearing in the Supreme Court.

(6) Upon the hearing of such a 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.

(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 the 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.

Abstract of
instrument to be
furnished.
372, 1886, s. 21.
S. 25 amended by
50, 1984, s. 3 (1)
(6th Sched.).

25. In any case where the Commissioner is required to express his opinion with reference to any instrument, the Commissioner may require an abstract of the instrument and also such evidence as he thinks 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 the abstract and evidence have been furnished accordingly.

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 authorized to do so by the Commissioner to inspect all such rolls, books, records, papers, documents and proceedings and to take, free of charge, such notes and extracts as the authorized person thinks necessary.

Records open to inspection.
372, 1886, s. 22.
S. 26 amended by 50, 1984, s. 3 (1) (6th Sched.).

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 an instrument or memorial unless the instrument is duly stamped.

No instrument to be enrolled or registered unless stamped.
372, 1886, s. 23.
S. 27 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 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 that consideration or those other facts.

Power of Commissioner to make certain inquiries.
S. 27a inserted by 1822, 1927, s. 4.

(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 that 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 by the summons, and to produce to him all such books, papers and documents as may be relevant to the inquiry.

Subsec. (2) amended by 2359, 1937, s. 3.

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 an oath or, having taken an oath, to answer such questions concerning the subject matter as are put to him, shall be guilty of an offence.

Subsec. (3) amended by 58, 1965, s. 17.

Penalty: Two hundred dollars.

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

Power of Commissioner to retain unstamped instrument until penalty paid.
S. 27b inserted by 1822, 1927, s. 4.

27c. (1) The Commissioner, or any officer appointed for carrying this Act into effect who has been granted written authority by the Commissioner for the purposes of this section (whether the authority is general or for any particular case), may require any person at any reasonable time to produce for inspection by him, or by any such officer designated by the Commissioner, all or any books, records, papers or documents in that person's custody, possession or control, the inspection of which might tend to prove, or lead

Inspection of documents, etc.
S. 27c inserted by 32, 1968, s. 4, as amended by 42, 1974, s. 3 (1) (2nd Sched.).
Subsec. (1) amended by 50, 1984, s. 3 (1) (6th Sched.).

to the discovery of, any fraud or omission in relation to any stamp duty or other duty under this Act that has not been paid or to secure the payment of any such duty, and the Commissioner or any such officer may inspect, and take extracts from, any such books, records, papers or documents.

Subsec. (1a)
inserted by 50,
1984, s. 3 (1) (6th
Sched.).

(1a) An officer who acts under subsection (1) in pursuance of the written authority of the Commissioner shall produce a copy of that authority for the inspection of any person to whom a requirement is addressed under that subsection.

(2) A person who—

(a) fails, neglects or refuses to produce for inspection any such books, records, papers or documents when required under subsection (1) to do so;

or

(b) delays or obstructs the Commissioner or any such officer in carrying out his duties or exercising his powers under this section,

shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

(3) Where any instrument which ought to be, but is not, stamped or which is insufficiently stamped is produced for inspection under this section, the Commissioner may impound the instrument and, if it is produced for inspection to an officer, the officer may impound it and deliver it to the Commissioner.

(4) The Commissioner shall retain any instrument impounded under subsection (3) until the stamp duty or any penalty payable under this Act in respect thereof, or both, has or have been paid.

Power of
Commissioner to
assess duty on
impounded
instruments, etc.
S. 27d inserted by
32, 1968, s. 4, as
amended by 42,
1974, s. 3 (1) (2nd
Sched.).

27d. When, or at any time after, an instrument has been impounded pursuant to powers conferred by this Act, the Commissioner may, notwithstanding anything contained in this Act, assess the duty with which the instrument is in his opinion chargeable, and the provisions of sections 23 (3), (4) and (5) and 24 shall apply to and in relation to any such assessment in all respects as if it were an assessment under section 23 made pursuant to a requirement for an expression of opinion under that section.

Commissioner
not liable for
acting *bona fide*
in exercise of his
powers or
discharge of his
duties.
S. 27e inserted by
32, 1968, s. 4, as
amended by 42,
1974, s. 3 (1) (2nd
Sched.).

27e. No action shall lie against the Commissioner by reason of the exercise or discharge or the purported exercise or discharge by him in good faith of his powers or duties under this Act or in respect of any matter arising out of the exercise or discharge or the purported exercise or discharge of those powers or duties.

PART III

SPECIAL PROVISIONS WITH RESPECT TO CERTAIN STAMP DUTIES

Affidavits and Declarations

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

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

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.

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

When agreement comprised of several letters.
789, 1902, 2nd Sched., Note.

31. (1) Any contract or agreement in writing for the sale of any estate or interest in any property (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 business is or includes the sale of such goods, wares and merchandise) except—

Certain contracts to be chargeable as conveyances on sale.
1216, 1915, s. 20.
Subsec. (1) amended by 1822, 1927, s. 5 (a), (b); 30, 1953, s. 3 (a).

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

* * * * *

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

or

(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.

* * * * *

Subsec. (1a) inserted by 48, 1941, s. 5 (a); amended by 30, 1953, s. 3 (b); repealed by 45, 1959, s. 4 (a).

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

Subsec. (2) amended by 48, 1941, s. 5 (b); 45, 1959, s. 4 (a); 50, 1984, s. 3 (1) (6th Sched.).

(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 the contract or agreement, be charged with *ad valorem* duty.

Subsec. (3) amended by 50, 1984, s. 3 (1) (6th Sched.).

(4) If any such contract or agreement as is mentioned in subsection (1) 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 the contract or agreement shall be deemed to be possessed of stamped material rendered useless by being inadvertently spoiled, within the meaning of section 106, and the provisions of that section shall apply accordingly.

Subsec. (4) amended by 48, 1941, s. 5 (b); 45, 1959, s. 4 (a); 50, 1984, s. 3 (1) (6th Sched.).

(5) This section shall not apply to, or in respect of, any hire-purchase agreement within the meaning of this Act.

Subsec. (5) inserted by 45, 1959, s. 4 (b).

Duty on agreements for "walk in walk out" sales of land used for primary production.
S. 31a inserted by 2387, 1938, s. 3.

31a. Notwithstanding section 31, 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;
 - (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 the 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.

Rental Business

Heading inserted by 45, 1959, s. 5; substituted by 56, 1968, s. 3; amended by 50, 1984, s. 3 (1) (6th Sched.).

31b. For the purposes of the provisions of this Act falling under the heading of *Rental Business*, unless the contrary intention appears—

Interpretation.
S. 31b inserted by 45, 1959, s. 5; amended by 7, 1960, s. 3; substituted by 56, 1968, s. 3; amended by 50, 1984, s. 3 (1) (6th Sched.).

Def. of "bank" repealed by 50, 1984, s. 3 (1) (6th Sched.) * * * * *

Def. of "credit arrangement" amended by 42, 1970, s. 3 (a); 71, 1971, s. 3 (a); repealed by 50, 1984, s. 3 (1) (6th Sched.). * * * * *

Def. of "credit business" repealed by 50, 1984, s. 3 (1) (6th Sched.). * * * * *

Def. of "discount transaction" amended by 42, 1970, s. 3 (b); 71, 1971, s. 3 (b); repealed by 50, 1984, s. 3 (1) (6th Sched.). * * * * *

"goods" includes all chattels personal and any fixture severable from the realty, but does not include money, livestock or things in action:

Defs. of "guarantee" and "guarantor" inserted by 71, 1971, s. 3 (c); repealed by 50, 1984, s. 3 (1) (6th Sched.). * * * * *

*	*	*	*	*	*	*	*	*	*	Def. of "interest" repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	Def. of "loan" amended by 42, 1970, s. 3 (c); 71, 1971, s. 3 (d), (e); 101, 1976, s. 2 (1) (a); repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	Def. of "prescribed rate" inserted by 71, 1971, s. 3 (f); substituted by 95, 1982, s. 3 (a); repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	Defs. of "principal" and "rate of interest" repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	Def. of "registered credit union" inserted by 42, 1970, s. 3 (d); substituted by 101, 1976, s. 2 (1) (b); repealed by 50, 1984, s. 3 (1) (6th Sched.).

"registered person" means a person registered under section 31e:

"related corporation", in relation to a corporation, means a corporation that is, by virtue of section 7 (5) of the *Companies (South Australia) Code*, deemed to be related to the first mentioned corporation: Def. inserted by 71, 1971, s. 3 (g); amended by 50, 1984, s. 3 (1) (6th Sched.).

"rental business" means the business of— Def. substituted by 71, 1971, s. 3 (g).

(a) letting, bailing, or otherwise giving rights to use, goods other than books;

or

(b) acquiring the rights of the lessor, bailor or other disponer under any agreement or arrangement for the letting, bailing or hiring of goods other than books, or under any other similar agreement or arrangement with respect to the use of goods other than books,

but does not include the business of giving to any person the right to use goods in conjunction with a lease of, or licence to occupy or use, any land.

*	*	*	*	*	*	*	*	*	*	Subsec. (1a) inserted by 71, 1971, s. 3 (h); substituted by 95, 1982, s. 3 (b); repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	Subsecs. (2)-(9) repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	Subsec. (10) inserted by 71, 1971, s. 3 (i); repealed by 50, 1984, s. 3 (1) (6th Sched.).

S. 31c inserted by 45, 1959, s. 5; substituted by 56, 1968, s. 3; amended by 42, 1970, s. 4; 71, 1971, s. 4; substituted by 89, 1983, s. 3; repealed by 50, 1984, s. 3 (1) (6th Sched.).

* * * * *

Persons carrying on rental business to be registered.
S. 31d inserted by 45, 1959, s. 5; substituted by 56, 1968, s. 3; amended by 89, 1983, s. 4 (a).

31d. (1) Subject to subsection (3), a person shall not carry on any rental business in South Australia (whether or not he also carries on any other business), or advertise or hold himself out in any way as carrying on any such business, whether the head office or principal place of business of that person is in South Australia or elsewhere, unless he is a registered person.

Penalty: Five thousand dollars.

Subsec. (2) substituted by 89, 1983, s. 4 (b).

(2) Any person who, in the course of any business, undertakes negotiations in South Australia with the object of transacting any rental business shall be deemed to carry on rental business in South Australia, whether or not he has an established place of business in South Australia.

(3) Subsection (1) shall not apply to a person acting as an agent or employee of a registered person by reason only of the fact that he is so acting.

(4) A person who is convicted of an offence that is a contravention of subsection (1) shall, in addition to any other penalty that may be imposed, be liable to pay a penalty equal to double the amount of duty that he should have paid if at the material time he had been a registered person and he had lodged with the Commissioner, in relation to the business in respect of which he is convicted; a statement as required by section 31f (1).

Registration.
S. 31e inserted by 56, 1968, s. 3.

31e. (1) The Commissioner shall register any person who applies in the prescribed form for registration under this section.

Subsec. (2) substituted by 89, 1983, s. 5.

(2) A registered person who is no longer required to be registered may, by notice in the prescribed form given to the Commissioner, cancel his registration under this section.

Statement to be lodged by registered person.
S. 31f inserted by 56, 1968, s. 3.
Para. (a) amended by 42, 1970, s. 5; 71, 1971, s. 5 (a), (b); 101, 1976, s. 3; substituted by 50, 1984, s. 3 (1) (6th Sched.).

31f. (1) Subject to this Act, and in particular to section 31i, a registered person shall—

(a) not later than the twenty-first day of each month, lodge with the Commissioner a statement in the prescribed form and verified in the prescribed manner setting out the total amount received by him as rent during the preceding month in respect of his rental business;

and

(b) at the time of lodging the statement with the Commissioner, pay to the Commissioner, as duty on that statement, a sum equal to 1.8 per centum of the amount referred to in paragraph (a).

Para. (b) substituted by 50, 1984, s. 3 (1) (6th Sched.).

Subsec. (2) amended by 63, 1975, s. 3.

(2) Where—

(a) a registered person has been carrying on rental business;

and

(b) the total amount received by him during the last preceding period of twelve months in respect of that rental business did not exceed two thousand dollars,

Para. (a) amended by 89, 1983, s. 6.

the registered person may, instead of lodging a statement with the Commissioner under subsection (1), by notice in writing given to the Commissioner, elect to lodge with the Commissioner, not later than the thirty-first day of March in each year, a statement showing the total amount received by him in the period commencing on the first day of February in the last preceding year and ending on the thirty-first day of January in the year in which the statement is lodged in respect of his rental business (not including any amount previously included in a statement lodged with the Commissioner pursuant to subsection (1) (a)) and to pay to the Commissioner as duty on that statement an amount equal to 1.8 per centum of the total amount.

(3) The registered person who has given to the Commissioner a notice of election under subsection (2) shall be liable to pay and shall pay to the Commissioner at the time of lodging the statement the amount of duty on the statement in accordance with the notice of election but, where the total amount so received by the registered person in that period does not exceed two thousand dollars, the registered person shall not be liable to pay to the Commissioner any duty on that statement.

(4) Any election made by a registered person pursuant to subsection (2) may be cancelled with effect from and in relation to the period of twelve months commencing on the first day of February next following, by notice in writing under the hand of the registered person given to the Commissioner or by notice in writing under the hand of the Commissioner given to the registered person, if the Commissioner is satisfied that the total amount received by the registered person who has made the election was in excess of three thousand dollars in any period of twelve months.

*	*	*	*	*	*	*	*	*	*	*	Subsecs. (4a)-(4c); inserted by 71, 1971, s. 5 (c); repealed by 50, 1984, s. 3 (1) (6th Sch.).
*	*	*	*	*	*	*	*	*	*	*	Subsec. (5) repealed by 50, 1984, s. 3 (1) (6th Sch.).

(6) A registered person who contravenes or fails to comply with any of the requirements of this section shall be liable to a penalty not exceeding five hundred dollars and shall be liable to pay a penalty equal to double the amount of any duty that would have been payable if that requirement had not been contravened or had been complied with, as the case may be.

31g. The amounts to be shown in any statement required to be lodged under section 31f include—

*	*	*	*	*	*	*	*	*	*	*	Amounts to be included in statement. S. 31g inserted by 56, 1968, s. 3. Paras. (a)-(c) repealed by 50, 1984, s. 3 (1) (6th Sch.).
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- (d) in relation to rental business, amounts received by, or on behalf of, the registered person in respect of the use of goods, where—
 - (i) the right to use the goods was granted in South Australia;
 - (ii) any of the negotiations by, or on behalf of, the registered person with respect to the grant of the right to use the goods were undertaken in South Australia;

or

 - (iii) the goods were delivered in South Australia to the person to whom the right to use those goods was granted.

Manner of denoting duty on statement.
S. 31h inserted by 56, 1968, s. 3.

31h. The duty paid by a registered person on a statement lodged with the Commissioner under section 31f shall be denoted by cash register imprint on the statement or in such other manner approved by the Auditor-General as is notified by the Commissioner in the *Gazette*.

Matters not required to be included in statement.
S. 31i inserted by 56, 1968, s. 3.

31i. (1) Nothing contained in section 31f shall require a registered person to include in a statement required by that section to be lodged with the Commissioner any amount in respect of—

(a) a transaction entered into by him in the course of any business carried on by him as a pawnbroker licensed under the Pawnbrokers Act, 1888;

Paras. (b)-(d) repealed by 50, 1984, s. 3 (1) (6th Sched.).

* * * * *

Para. (e) amended by 71, 1971, s. 6; repealed by 50, 1984, s. 3 (1) (6th Sched.).

* * * * *

(f) an amount not exceeding 40 per centum of the amount received for, or in relation to, the use of goods under a lease, bailment, licence or other agreement providing for the registered person to be responsible for servicing the goods under the lease, bailment, licence or agreement, being an amount equivalent to the cost of servicing the goods or such higher amount in respect of any particular goods as is fixed by the Commissioner, on the application of the registered person, where, in the opinion of the Commissioner or some person nominated by him in that behalf, the higher amount is properly attributable to the cost of servicing such goods;

Para. (g) amended by 50, 1984, s. 3 (1) (6th Sched.).

(g) the grant, by a corporation to a related corporation, of the right to the use of goods beneficially owned by that first mentioned corporation;

or

(h) any business transacted by him outside South Australia, where—

(i) no negotiations leading to the transaction of the business took place in South Australia;

and

(ii) the amounts obtained or the goods obtained by the other party to the transaction were obtained for the purpose of being wholly expended or wholly used outside South Australia.

(2) A registered person shall supply to the Commissioner such particulars of the matters referred to in this section as are prescribed or as are in any particular case required by the Commissioner.

Registered person to keep records.
S. 31j inserted by 56, 1968, s. 3.

31j. (1) A registered person shall keep or cause to be kept in South Australia sufficient books and records to enable all amounts required to be set out in a statement to be lodged by him with the Commissioner under section 31f to be accurately calculated.

Penalty: Five hundred dollars.

(2) A registered person shall keep the books and records referred to in subsection (1), together with all working papers used in making the calculations referred to in that subsection, available for inspection for a period

of three years from the month or year, as the case may be, to which each statement in which such amounts are set out relates or for such lesser period as the Commissioner may in any particular case allow.

Penalty: Five hundred dollars.

31k. (1) Where the Commissioner is satisfied that—

(a) it is not reasonably practicable to calculate precisely any amount which is to be set out in the statement of any registered person required to be lodged under section 31f, he may agree to accept from that person statements in which that amount is calculated in such a manner or on such a basis as he thinks fit;

or

(b) in the circumstances of a particular case, it is not reasonable to require statements to be lodged by the registered person in each month, he may agree to accept statements at such times and relating to such periods as he thinks fit.

(2) Where, pursuant to subsection (1), the Commissioner agrees to accept from a registered person a statement—

(a) in which an amount is calculated in a manner or on a basis different from that required under section 31f;

or

(b) at a time, or relating to a period, otherwise than in accordance with that section,

the registered person shall, at the time of lodging that statement with the Commissioner, pay to the Commissioner the amount of duty that would be payable on that statement if it were lodged by him with the Commissioner in accordance with that section.

(3) The Commissioner may, by notice in writing served personally or by post on a registered person, cancel any agreement made pursuant to subsection (1) and, upon the day specified in the notice as the day on which the agreement is cancelled, that agreement shall have no further force or effect in relation to that registered person.

31l. (1) Except as provided in this section, a registered person or any person acting on his behalf shall not add the amount of any duty or of any part of the duty payable by the registered person as such under this Act to any amount payable by any other person with whom he has entered into or is conducting any rental business, whether by agreement or otherwise, or otherwise demand or recover or seek to recover any such first mentioned amount from that other person.

Penalty: Two hundred dollars.

(2) In the event of a contravention of subsection (1)—

(a) the court by which the defendant is convicted shall, in addition to imposing a penalty for the offence, order the defendant to refund to the other person referred to in that subsection any such amount which has been paid by that other person;

or

Calculation by other methods. S.31k inserted by 56, 1968, s. 3.

Registered person not to add duty to amount payable in respect of rental business. S. 31l inserted by 56, 1968, s. 3; repealed by 70, 1981, s. 3; inserted by 15, 1982, s. 3. Subsec. (1) amended by 50, 1984, s. 3 (1) (6th Sched.).

(b) the other person referred to in that subsection may recover any such amount from the registered person, or person to whom he paid it, by action in a court of competent jurisdiction as if it were a debt due to him from that person.

Subsecs. (3)-(5) repealed by 50, 1984, s. 3 (1) (6th Sched.).	*	*	*	*	*	*	*	*	*	*
Heading inserted by 56, 1968, s. 3; repealed by 50, 1984, s. 3 (1) (6th Sched.).	*	*	*	*	*	*	*	*	*	*
S. 31m inserted by 56, 1968, s. 3; repealed by 50, 1984, s. 3 (1) (6th Sched.).	*	*	*	*	*	*	*	*	*	*
S. 31ma inserted by 89, 1983, s. 7; repealed by 50, 1984, s. 3 (1) (6th Sched.).	*	*	*	*	*	*	*	*	*	*
S. 31n inserted by 56, 1968, s. 3; amended by 89, 1983, s. 8; repealed by 50, 1984, s. 3 (1) (6th Sched.).	*	*	*	*	*	*	*	*	*	*
S. 31o inserted by 56, 1968, s. 3; amended by 42, 1970, s. 6; 71, 1971, s. 7; repealed by 50, 1984, s. 3 (1) (6th Sched.).	*	*	*	*	*	*	*	*	*	*
S. 31p inserted by 56, 1968, s. 3; repealed by 70, 1981, s. 4; inserted by 15, 1982, s. 4; repealed by 50, 1984, s. 3 (1) (6th Sched.).	*	*	*	*	*	*	*	*	*	*
S. 31q inserted by 56, 1968, s. 3; repealed by 50, 1984, s. 3 (1) (6th Sched.).	*	*	*	*	*	*	*	*	*	*
S.31r inserted by 56, 1968, s. 3; amended by 71, 1971, s. 8; repealed by 50, 1984, s. 3 (1) (6th Sched.).	*	*	*	*	*	*	*	*	*	*
Ss. 31s and 31t inserted by 56, 1968, s. 3; repealed by 50, 1984, s. 3 (1) (6th Sched.).	*	*	*	*	*	*	*	*	*	*

Annual Licences

32. In this Act—

“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, livestock, plate glass, marine or other policy;

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

Para. (b) amended
by 50, 1984, s. 3
(1) (6th Sched.).

(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;

Para. (c) amended by 50, 1984, s. 3 (1) (6th Sched.).

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:

“company” includes corporation and society, whether corporate or unincorporate:

“firm of persons” includes any association of underwriters carrying on marine assurance or insurance business through a managing underwriter solely:

“policy” includes 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.

Def. amended by 50, 1984, s. 3 (1) (6th Sched.).

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, livestock, plate glass, marine or other assurance or insurance business, and whether the head office or principal place of business of that 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.

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

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

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

789, 1902, s. 23 (part).

34. An annual licence shall be issuable on the first day of January in every year, except 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 that year only, and the duty payable in that case shall be a proportionate part of the duty chargeable on an annual licence unless, in the opinion of the Commissioner, the licence should have been previously obtained, in which case the full amount of duty shall be payable.

Time of issue and duration of licences. 789, 1902, s. 10. S. 34 amended by 50, 1984, s. 3 (1) (6th Sched.).

34a. (1) Where a company, person or firm referred to in the item in the second schedule commencing “ANNUAL LICENCE” has acquired contractual rights and obligations of, or in connection with, the assurance or insurance business of some other such company, person or firm which, at any time within the period of two years before the day of the acquisition, had received or charged in account, whether directly or by agents, premiums of any kind, then, notwithstanding any other provision of this Act—

Duty payable upon acquisition of undertaking of insurance company. S. 34a inserted by 71, 1971, s. 9.

(a) the first mentioned company, person or firm shall, for the purposes of that item, be deemed to have received or charged in account such of those premiums as are premiums in respect of which duty has not been paid by the second mentioned company, person or firm under that item;

(b) where the second mentioned company, person or firm was the holder of an annual licence at the time of the acquisition, the first mentioned company, person or firm shall, at the time of applying for its annual licence for the year next following the

acquisition, furnish the Commissioner in writing with a notification of the acquisition and state in the application such particulars in relation to the assurance and insurance business conducted within that period of two years by the second mentioned company, person or firm as the Commissioner may require and, upon receipt of notice of the Commissioner's assessment for the purpose, shall be liable to pay and shall pay to the Commissioner, in addition to any other amount of duty it or he may be liable to pay under that item, duty in respect of the net premiums received or charged in account by the second mentioned company, person or firm, whether directly or by agents, within the period of twelve months preceding the year for which that licence is to be taken out as if the first mentioned company, person or firm had received those premiums or charged them in account;

and

- (c) where the second mentioned company, person or firm was not the holder of an annual licence at the time of the acquisition, the first mentioned company, person or firm shall, within two months, or such further time as the Commissioner may allow, after the acquisition, furnish the Commissioner in writing with a notification of the acquisition and such particulars in relation to the assurance and insurance business conducted within that period of two years by the second mentioned company, person or firm as the Commissioner may require and, upon receipt of notice of the Commissioner's assessment for the purpose, shall be liable to pay and shall pay to the Commissioner, as additional duty on its annual licence for the current year, duty in respect of the net premiums received or charged in account by the second mentioned company, person or firm, whether directly or by agents, within the period of twelve months preceding the first day of January in the year in which the acquisition took place as if the first mentioned company, person or firm had received those premiums or charged them in account,

and that item shall be read and construed accordingly.

(2) If a company, person or firm contravenes or fails to comply with any provision of subsection (1) or fails to comply with a requirement made by the Commissioner under that subsection and the contravention or non-compliance continues for a time exceeding one month, then, without affecting or limiting any liability to pay any duty or additional duty under this section, that company, person or firm shall be liable to a penalty not exceeding one hundred dollars for every month or part of a month during which the contravention or non-compliance continues.

35. (1) A company, person or firm of persons requiring an annual licence shall make a written application to the Commissioner in the prescribed form containing the prescribed information.

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

- (a) where the applicant is a natural person—by that person;

Application for licence.
789, 1902, s. 13.
Subsec. (1) substituted by 111, 1980, s. 8.

Para. (a) amended by 2246, 1935, s. 4 (2nd Sched.); substituted by 50, 1984, s. 3 (1) (6th Sched.).

(b) where the applicant is a firm—by a member of the firm;

Para. (b)
substituted by 50,
1984, s. 3 (1) (6th
Sch.).

(c) where the applicant is a company—by a member of the board or committee of management of the company.

Para. (c)
substituted by 50,
1984, s. 3 (1) (6th
Sch.).

(3) Where 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.

789, 1902, s. 14.

(4) Every person who, with intent to defraud the Crown—

789, 1902, s. 15.

(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;

Subsec. (4)
amended by 58,
1965, s. 17; 50,
1984, s. 3 (1) (6th
Sch.).

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 those facts and circumstances,

shall be liable to a penalty of twenty dollars.

36. If the premium is not stated in a policy, the Commissioner may estimate and determine the amount in respect of which duty is payable.

Duty where
premium not
stated in policy.
789, 1902, s. 16.
S. 36 substituted
by 50, 1984,
s. 3 (1) (6th
Sch.).

37. (1) The Commissioner may, in order to determine the duty payable on any annual licence, summon any person and require and compel that 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.

Power to
summon and
examine witnesses
for purpose of
determining duty
payable on annual
licence.
789, 1902, s. 17.

(2) If any person so summoned—

789, 1902, s. 18.

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

Subsec. (2)
amended by 58,
1965, s. 17.

or

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

that person shall be liable to a penalty of forty dollars.

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 but, 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 the decision in the manner provided by section 24 for appeal against an assessment of the Commissioner and, for the purposes of such an appeal, all the provisions of that section shall, *mutatis mutandis*, apply to an appeal under this section.

Questions to be
settled by
Commissioner
subject to appeal.
789, 1902, s. 19.
S. 38 amended by
50, 1984, s. 3 (1)
(6th Sch.).

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 the licence.

S. 40 repealed by
30, 1953, s. 4 (1).

* * * * *

Carrying on
insurance
business without
licence.
789, 1902, s. 22.
Subsec. (1)
amended by 58,
1965, s. 17.

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 without having taken out an annual licence;

or

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

that company, person or firm of persons shall be liable to a penalty not exceeding one hundred dollars for every month or part of a month during which an 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.

789, 1902, s. 23
(part).

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

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

42. If after any duty has been paid with respect to any annual licence it is found within three months after the payment of the duty that too much duty has been paid, the Commissioner shall, on being satisfied that an 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.

Duty on policies
effected outside
South Australia.
S. 42aa inserted
by 42, 1970, s. 7.

42aa. (1) Every company, person or firm of persons which is not required to take out an annual licence under section 33 and which obtains, effects or renews, outside South Australia, a policy of assurance or insurance wholly or partly in respect of any property in South Australia, or any risk, contingency or event occurring in South Australia, shall, within one month of obtaining, effecting or renewing that policy, lodge with the Commissioner a return in the prescribed form containing such particulars of that policy and such other information as may be prescribed or as the Commissioner may in any particular case require.

(2) The Commissioner may allow a rebate of the duty payable on that proportion of any premium which is, in his opinion, properly attributable to the assurance or insurance of any property outside South Australia or any risk, contingency or event occurring outside South Australia.

(3) The person lodging such a return shall, upon lodgment, pay to the Commissioner the duty payable thereon, which shall be denoted by cash register imprint on the receipt issued therefor.

(4) Any company, person or firm of persons which or who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding one hundred dollars and, by way of additional penalty, an amount equal to double the amount of the duty which would have been payable if the provisions of this section had been complied with.

(5) Subsection (1) does not apply to any policy of life assurance.

Application for Motor Vehicle Registration

Heading inserted by 24, 1964, s. 4; amended by 26, 1968, s. 3; 63, 1975, s. 4.

42a. In this Act—

Interpretation. S. 42a inserted by 24, 1964, s. 4.

“applicant” means a person making an application to register a motor vehicle or an application to transfer the registration of a motor vehicle:

“application to register a motor vehicle” means an application to register a motor vehicle made under the Motor Vehicles Act, 1959, and includes an application so made to renew the registration of a motor vehicle:

Def. substituted by 26, 1968, s. 4; 80, 1971, s. 3 (a).

“application to transfer the registration of a motor vehicle” means an application to transfer the registration of a motor vehicle made under the provisions of the Motor Vehicles Act, 1959:

“dealer” means a person licensed as a secondhand dealer under the Second-hand Dealers Act, 1919, who is engaged in the business of buying, selling or exchanging secondhand motor vehicles:

“motor vehicle” and “trailer” have the same meanings as those expressions respectively have in the Motor Vehicles Act, 1959:

“policy of insurance” means a policy of insurance under Part IV of the Motor Vehicles Act, 1959.

Def. inserted by 80, 1971, s. 3 (b).

42b. (1) For the purposes of this Act, the value of a motor vehicle is, subject to the provisions of subsections (4), (5) and (6), such amount as is stated in writing by the applicant as the value of the motor vehicle as at the time when the application is made.

Stamp duty on application for registration or transfer of registration of motor vehicle. S. 42b inserted by 24, 1964, s. 4.

(1a) The amount of stamp duty—

Subsec. (1a) inserted by 80, 1971, s. 4 (a).

(a) payable upon an application to register a motor vehicle shall be an amount calculated by the addition of—

(i) the amount prescribed by the second schedule as the component payable in respect of registration;

and

(ii) the amount prescribed by the second schedule as the component payable in respect of a policy of insurance;

or

Para. (b) amended
by 28, 1977,
s. 2 (a).

- (b) payable upon an application to transfer the registration of a motor vehicle shall, subject to subsection (1b), be the amount prescribed by the second schedule as the component payable in respect of registration and, in the case of such an application, no additional component shall be payable in respect of a policy of insurance.

Subsec. (1b)
inserted by 28,
1977, s. 2 (b).

(1b) Where—

- (a) the registered owner of a motor vehicle makes an application to transfer the registration to himself jointly with his spouse;
- or
- (b) a motor vehicle is registered in the names of husband and wife and they make an application to transfer the registration to the husband or the wife,

the amount of stamp duty payable upon the application shall be one-half of the amount that would, but for this subsection, have been payable in pursuance of subsection (1a).

Subsec. (2)
substituted by 26,
1968, s. 5; 80,
1971, s. 4 (a);
amended by 28,
1977, s. 2 (c).

(2) The amount payable upon an application in accordance with subsection (1a) or (1b) shall be paid by the applicant to the Registrar of Motor Vehicles at the time of making the application.

Subsec. (2a)
inserted by 26,
1968, s. 5.

(2a) The duty paid by any person—

- (a) on an application to register a motor vehicle shall be denoted by impressed stamp or cash register imprint, or by both, on the certificate or interim certificate of registration relating to that motor vehicle issued by the Registrar or on such form or forms as may be approved by the Commissioner;

and

- (b) on an application to transfer the registration of a motor vehicle shall be denoted by impressed stamp or cash register imprint, or by both, on such form or forms as may be approved by the Commissioner.

Subsec. (3)
substituted by 26,
1968, s. 5; 80,
1971, s. 4 (c).

(3) The Registrar of Motor Vehicles shall furnish the Commissioner, at least once in every month, with a statement showing details of amounts received by him as stamp duty on applications to register, and to transfer the registration of, motor vehicles, and showing separately the amounts so received upon applications to register motor vehicles in respect of policies of insurance, and shall pay all amounts of stamp duty received by him to the Treasurer who shall—

(a) place to the credit of the General Revenue—

- (i) all amounts representing the stamp duty received by the Registrar on applications to register motor vehicles except amounts paid upon such applications in respect of policies of insurance;

and

- (ii) all amounts representing the stamp duty received by the Registrar upon applications to transfer the registration of motor vehicles;

and

(b) place to the credit of the Hospitals Fund kept at the Treasury all amounts representing stamp duty received by the Registrar upon applications in respect of policies of insurance.

(3a) The moneys placed to the credit of the Hospitals Fund in accordance with subsection (3) (b) shall be used for the provision, maintenance, development and improvement of public hospitals within the meaning of section 16 of the State Lotteries Act, 1966, and equipment for such hospitals in such amounts as the Treasurer shall upon the recommendation of the Chief Secretary (but subject to appropriations for the purpose which Parliament may from time to time determine) approve.

Subsec. (3a) inserted by 26, 1968, s. 5.

(4) The Commissioner may, if he is not satisfied that the amount stated by an applicant under subsection (1) is the value of the motor vehicle as at the time therein referred to, require the applicant to furnish the Commissioner, within the time specified by the Commissioner, with such evidence (including if so required a valuation by a competent person) as to that value as the Commissioner thinks fit.

(5) Upon receipt of such evidence, the Commissioner may, having regard to that evidence, make a further assessment of the duty payable on the application or may cause a valuation of the motor vehicle to be made by some person appointed by him or may obtain other information, advice, estimates or opinions as to the value of the motor vehicle and may make a further assessment of the duty payable on the application on the basis of such last mentioned valuation, information, advice, estimates or opinions as he thinks fit.

(6) If the applicant does not furnish the Commissioner, within the time specified by the Commissioner, with such evidence as the Commissioner has required, the Commissioner may cause a valuation of the motor vehicle to be made by some person appointed by him or may obtain other information, advice, estimates or opinions as to the value of the motor vehicle and may assess the duty payable on the basis of such valuation, information, advice, estimates or opinions as he thinks fit.

(7) The Commissioner may recover the amount of any additional duty payable pursuant to an assessment made under subsection (5) or (6) or may refund to an applicant any amount of duty overpaid by the applicant. Every amount of additional duty paid to, or recovered by, the Commissioner and every refund of duty made by the Commissioner pursuant to this subsection shall, at the request of the Commissioner, be recorded by the Registrar of Motor Vehicles on the application.

* * * * *

Subsec. (8) repealed by 50, 1984, s. 3 (1) (6th Sched.).

42c. The Registrar of Motor Vehicles may require an applicant who claims exemption from stamp duty upon his application to state that fact on the application and to forward to him a statement setting out the facts and circumstances upon which he bases his claim.

Statement in support of claim for exemption. S. 42c inserted by 24, 1964, s. 4; amended by 26, 1968, s. 6; 80, 1971, s. 5.

42d. (1) In any case where the Commissioner is satisfied that duty has been paid where no duty was payable, or that too much duty has been paid, upon an application to register a motor vehicle or upon an application to transfer the registration of a motor vehicle, the Commissioner may refund, or authorize the Registrar of Motor Vehicles to refund, to the applicant the duty or the excess of duty so paid, as the case may be.

Power to refund duty overpaid. S. 42d inserted by 24, 1964, s. 4. Subsec. (1) amended by 26, 1968, s. 7 (a), (b); 80, 1971, s. 6 (a).

Subsec. (1a) inserted by 58, 1965, s. 6; amended by 26, 1968, s. 7 (c), (d); 80, 1971, s. 6 (b); 50, 1984, s. 3 (1) (6th Sched.).

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

(2) The money required to make any refund authorized by section 42b or this section shall be paid out of the General Revenue of the State and this Act shall be sufficient authority without any other appropriation for any such payment.

Regulations. S. 42e inserted by 24, 1964, s. 4; amended by 26, 1968, s. 8 (a), (b); 80, 1971, s. 7.

42e. In addition to any power by any other section conferred on the Governor to make regulations as to any matter, the Governor may make any regulations which may be necessary or convenient for carrying out any of the provisions of sections 42a, 42b, 42c, 42d and this section or for better effecting the objects of those sections and in particular (without limiting the effect of this section) for prescribing exemptions additional to or in substitution for or repealing or varying any of the exemptions to the item in the second schedule commencing "APPLICATION to Register a Motor Vehicle".

Ss. 43-45 and heading repealed by 111, 1980, s. 9.

* * * * *

S. 45a inserted by 22, 1942, s. 2; repealed by 111, 1980, s. 9.

* * * * *

Bills of Exchange, Promissory Notes, Coupons and Interest Warrants

Interpretation. 372, 1886, s. 30.

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 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.

46a. Notwithstanding any other provisions of this Act, duty shall not be chargeable in respect of a bill of exchange (other than a cheque) or promissory note issued on or after the first day of January, 1984.

Some duty not to be chargeable after 1 January 1984. S. 46a inserted by 89, 1983, s. 9.

47. The duty on a bill of exchange (including a draft payable on demand), promissory note, coupon or interest warrant may be denoted by an adhesive stamp and, 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, ss. 31 (part), 32 (1); 1244, 1916, s. 26 (1); 789, 1902, s. 27. S. 47 amended by 50, 1984, s. 3 (1) (6th Sched.).

47a. (1) Where a bill of exchange has been accepted as payable otherwise than as drawn, the bill shall be deemed for the purposes of this Act to be a bill of exchange drawn as accepted.

Stamping of bill of exchange where terms of bill are changed. S. 47a inserted by 55, 1952, s. 4; repealed by 71, 1971, s. 10; inserted by 63, 1975, s. 5.

(2) Where a bill of exchange has been endorsed and the endorsement prevents the endorsee as a holder of the bill from requiring payment as drawn, the bill shall be deemed for the purposes of this Act to be a bill of exchange drawn as endorsed.

(3) Where the drawer of a bill of exchange or any other person has expressly or by implication signified that the bill may be accepted otherwise than as drawn, the bill shall be deemed for the purposes of this Act to have been drawn as so signified.

(4) Where under any agreement express or implied a bill of exchange is to be paid otherwise than as drawn or accepted, the bill shall be deemed for the purposes of this Act to have been drawn or accepted, as the case may be, in accordance with the agreement.

(5) Where a bill of exchange becomes liable to *ad valorem* duty by the operation of any of the provisions of this section and has already been stamped with any *ad valorem* duty under this Act, the amount of *ad valorem* duty to which, but for this subsection, it would be liable is reduced by the amount of the *ad valorem* duty under this Act with which it has already been stamped.

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S. 47b inserted by 58, 1965, s. 7; repealed by 70, 1981, s. 5.

* * * * *

S. 47c inserted by 71, 1971, s. 11; repealed by 70, 1981, s. 5.

* * * * *

S. 47d inserted by 90, 1974, s. 3; repealed by 70, 1981, s. 5.

When bills, notes, etc., to be stamped.
372, 1886, s. 31 (part).
1244, 1916, s. 26 (part).

48. (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.

789, 1902, s. 27 (part).

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

372, 1886, s. 34 (2), (3).
Subsec. (3) amended by 2246, 1935, s. 4 (2nd Sched.); 8, 1956, s. 3; 58, 1965, s. 8; 90, 1974, s. 4; 70, 1981, s. 6; 50, 1984, s. 3 (1) (6th Sched.).

(3) If any bill of exchange for the payment of money on demand, or any coupon or interest warrant, chargeable only with duty of ten cents 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 it as if he had been the drawer of the bill or the issuer of the coupon or interest warrant and may, upon so doing, pay the sum mentioned in the 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 the duty or part thereof from that sum, and the bill, coupon or interest warrant shall, so far as respects the duty, be deemed good and valid; but nothing in this subsection shall relieve any person from any penalty he may have incurred in relation to the bill, coupon or interest warrant.

837, 1903, s. 3.

(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 the bill of exchange or promissory note duly stamped.

372, 1886, s. 32 (part).
1244, 1916, s. 26 (1) (part).
Subsec. (5) amended by 50, 1984, s. 3 (1) (6th Sched.).

(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 endorses, transfers or in any manner uses, negotiates or pays it, cause it to be duly stamped; but—

(a) 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, the stamp shall, so far as it relates to the holder, be deemed to be duly cancelled, although it does not appear to be so affixed or cancelled by the proper person;

(b) 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 the holder to cancel the stamp as if he were the person by whom it was affixed and, upon his so doing, the 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.

Licences for duty paid cheques.
S. 48a inserted by 16, 1950, s. 3.
Subsec. (1) amended by 32, 1962, s. 7; 101, 1976, s. 4 (a); substituted by 95, 1982, s. 4 (a).

48a. (1) The Commissioner may, in his discretion, issue to a bank a licence enabling the bank to do either or both of the following:

(a) to issue (whether within or outside South Australia) cheque forms having the words "STAMP DUTY PAID" printed on the cheque forms;

or

(b) to endorse on cheques drawn outside South Australia the words "STAMP DUTY PAID".

(2) Every such licence—

(a) shall be in such form and contain such terms, conditions, limitations and restrictions as the Commissioner thinks fit;

Para. (a) amended by 101, 1976, s. 4 (a).

(b) in particular shall contain such conditions as the Commissioner thinks proper with respect to the payment of duty, at the rate fixed in respect of cheques by this Act, which the bank holding the licence shall make to the Commissioner in respect of cheque forms issued or cheques endorsed by the bank pursuant to the licence;

Para. (b) amended by 101, 1976, s. 4 (a); 95, 1982, s. 4 (b).

(c) shall be revocable at any time at the will of the Commissioner.

Para. (c) amended by 101, 1976, s. 4 (a).

* * * * *

Subsec. (3) repealed by 70, 1981, s. 7 (a).

* * * * *

Subsec. (3a) inserted by 55, 1952, s. 5; amended by 90, 1974, s. 5; 101, 1976, s. 4 (a); repealed by 70, 1981, s. 7 (a).

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

Subsec. (4) amended by 101, 1976, s. 4 (a), (b).

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

Subsec. (5) amended by 95, 1982, s. 4 (c).

(5a) Notwithstanding any other provision of this Act, but subject to subsection (5b), a cheque drawn on a form—

Subsec. (5a) inserted by 70, 1981, s. 7 (b).

(a) that was issued to a customer by a bank pursuant to a licence in force under this section;

or

(b) that was issued to a customer by a bank and impressed with a stamp for the amount of duty payable in respect of cheques at the time of stamping,

shall be deemed to be duly stamped, notwithstanding that the rate of duty payable in respect of cheques increased before the time at which the cheque was drawn.

(5b) Subsection (5a) does not apply to a cheque where—

Subsec. (5b) inserted by 70, 1981, s. 7 (b).

(a) the form on which the cheque was drawn was issued by a bank before the day¹ specified for the purposes of this paragraph in a proclamation;

and

(b) the cheque was drawn after the day specified for the purposes of this paragraph in the proclamation, being a day not earlier than the thirtieth day after the publication of the proclamation.

¹ No day had been proclaimed at the date of this reprint.

Subsec. (5c)
inserted by 70,
1981, s. 7 (b).

(5c) A proclamation may be made for the purposes of subsection (5b) in relation to a particular increase in the rate of duty payable in respect of cheques and subsequent proclamations may be made for the purposes of that subsection in relation to subsequent increases in that rate of duty.

Subsec. (5d)
inserted by 70,
1981, s. 7 (b).

(5d) Where a proclamation referred to in subsection (5b) is made and, by virtue of the operation of the proclamation and that subsection, subsection (5a) does not apply to a cheque, the cheque shall be deemed to have been duly stamped if—

(a) an adhesive stamp or impressed stamp is applied to the cheque, being a stamp for the amount of the increase in duty that became payable between the time of the issue of the form on which the cheque was drawn and the time at which the cheque was drawn;

or

(b) the Commissioner signifies, in writing, that he is satisfied that proper arrangements have been made with him for payment of the additional duty referred to in paragraph (a).

Subsec. (5e)
inserted by 95,
1982, s. 4 (d).

(5e) Notwithstanding any other provision of this Act, a cheque drawn outside South Australia and endorsed with the words "STAMP DUTY PAID" pursuant to a licence under this section shall be deemed to be duly stamped.

(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 the customers or clients to the company or corporation:

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

Penalty on taking
unstamped bill or
promissory note.
789, 1902, s. 26.
S. 49 amended by
58, 1965, s. 17.

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

Where bill or
note deemed to
be drawn.
789, 1902, s. 33.

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).
Subsec. (1)
amended by 58,
1965, s. 17.

51. (1) Any person who issues, endorses, 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 forty dollars.

(2) Any person who takes or receives from any other person any bill of exchange, promissory note, coupon or interest warrant not duly stamped,

in payment, as a security, by purchase or otherwise, shall not be entitled to recover thereon, or to make it available for any purpose, until it 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 the 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 the lost or destroyed bill may, although unstamped, be admitted in evidence to prove the contents of the lost or destroyed bill.

Bills in sets.
372, 1886, s. 35.

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.

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

Subsec. (2) amended by 58, 1965, s. 17.

(3) The duty on a bill of lading may be denoted by an adhesive stamp which shall be cancelled in accordance with this Act by a person by whom the document is signed.

Subsec. (3) inserted by 42, 1970, s. 8.

*	*	*	*	*	*	*	*	*	*	Heading repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	S. 54 amended by 14, 1967, s. 17; repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	S. 55 amended by 58, 1965, s. 17; repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	S. 56 amended by 58, 1965, s. 17; 14, 1967, s. 18; repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	S. 56a inserted by 48, 1941, s. 6; amended by 24, 1964, s. 5; 58, 1965, s. 17; 14, 1967, s. 19; repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	Sa. 57 and 58 repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	S. 59 amended by 14, 1967, s. 20; repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	S. 59a inserted by 24, 1964, s. 6; repealed by 50, 1984, s. 3 (1) (6th Sched.).

Duty on Transactions on Branch Registers

59b. (1) In this section—

Heading inserted by 27, 1978, s. 7.

“exempt entry” means—

Returns to be lodged by companies.
S. 59b inserted by 27, 1978, s. 7.

(a) an entry made in a prescribed branch register;

or

(b) an entry made in a branch register to give effect to an instrument of transfer which is an instrument of a kind referred to in section 5 of the Marketable Securities Act, 1971, or of a kind referred to in a corresponding enactment of any proclaimed State or Territory of the Commonwealth:

“prescribed branch register” means a branch register kept at a place which is within any proclaimed State or Territory of the Commonwealth or within any other proclaimed country.

(2) The Governor may, by proclamation¹, declare a State or Territory of the Commonwealth or any country to be a proclaimed State, Territory or country for the purposes of this section and may, by subsequent proclamation, vary or revoke any such proclamation.

Subsec. (3)
amended by 50,
1984, s. 3 (1) (6th
Sched.).

(3) A company shall, not later than the fourteenth day of each month, lodge with the Commissioner a return containing such particulars and information as may be prescribed of all entries in a branch register of the company (other than exempt entries) relating to the transfer of shares, copies of which entries have been received by it during the preceding calendar month pursuant to section 262 (5) of the *Companies (South Australia) Code*.

(4) A company that is required to lodge a return under subsection (3) shall furnish the Commissioner with such other evidence and information as he may in any case require to enable him to verify the correctness of the duty paid on the return.

(5) Every such return shall be liable to the same duty as would, in aggregate, have been payable if the transfers to which the entries relate were transfers executed in South Australia of shares on a register situated in South Australia.

(6) The duty chargeable on a return lodged in accordance with this section shall be payable by the company that lodges the return under subsection (3) on the lodging of the return and shall be denoted by cash register imprint on the receipt issued therefor.

(7) A payment by a company of duty under this section shall be deemed to be a payment on behalf of the parties to whom the entries in the return relate and the amount of duty attributable to any entry may be deducted by the company from any money payable by the company to any such party or recovered by suit or action from any such party as a debt.

(8) A company that contravenes, or fails to comply with, any requirement of this section shall be liable—

(a) to a penalty, fixed by the Commissioner, not exceeding five hundred dollars;

and

(b) to an additional penalty equal to double the amount of duty that would have been payable if the requirement had not been contravened or had been complied with.

(9) The Commissioner may remit wholly or in part the penalty referred to in subsection (8).

¹ Proclaimed States: the State of New South Wales, the State of Victoria, the State of Queensland, the State of Western Australia and the State of Tasmania; proclaimed Territory: Australian Capital Territory; proclaimed countries: the United Kingdom of Great Britain and Northern Ireland and New Zealand: *Gaz.* 30 March 1978, p. 1034.

(10) A company shall at all reasonable times permit the Commissioner or any inspector or other officer authorized by him to enter on premises to inspect and take copies of papers, records and documents for, or relating to, the entries made in a branch register.

(11) A company or any director or employee of a company who fails or refuses to comply with any of the provisions of subsection (10) shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

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,

by which or by virtue of which or by the operation of which, whether upon registration or otherwise, or by the issue of a certificate of title in pursuance of which, any real or personal property or any estate or interest in any such property is assured to, or vested in, any person, and also includes a surrender to the Crown of any lease or other interest in land, in order that the Crown may grant to a person other than the surrenderor a lease of, or other interest in, the same land or any part thereof; and “to convey” has a meaning coextensive with the meaning of “conveyance”, as extended by this section:

“conveyance on sale” includes—

- (a) every conveyance, assignment, transfer or 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,

by which or by virtue of which 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, and 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).

Interpretation.
1216, 1915, s. 11
(part).

Def. amended by
30, 1953, s. 5.

372, 1886, s. 37.
789, 1902, s. 28
(part).

Value of property conveyed or transferred. S. 60a inserted by 58, 1965, s. 9; substituted by 95, 1982, s. 5.

60a. (1) Subject to subsection (2), a reference in this Act to the value of property conveyed or transferred is a reference to the market value of the property—

(a) in the case of a conveyance on sale—as at the date of the sale;

or

(b) in any other case—as at the date of the conveyance,

assuming, in either case, that the property had, at that date, been free from any encumbrances.

(2) In the case of a conveyance on sale, the Commissioner may treat the consideration for the sale as being the value of the property conveyed or transferred unless it appears to the Commissioner that the consideration may be less than the value of the property as referred to in subsection (1).

(3) Where no evidence of the value of property conveyed or transferred, or comprising or forming part of the consideration for a conveyance, is furnished to the Commissioner, or the evidence so furnished is, in his opinion, unsatisfactory, the Commissioner may cause a valuation of the property to be made by some person appointed by him and may assess the duty payable by reference to that valuation.

Subsec. (4) amended by 50, 1984, s. 3 (1) (6th Sched.).

(4) The Commissioner may, having regard to the merits of the case, charge the whole or a part of the expenses of, or incidental to, the making of a valuation pursuant to subsection (3) to the person liable to pay the duty and may recover the amount so charged from him as a debt due to the Crown.

(5) In subsection (1)—

“encumbrance” does not include a prescribed encumbrance or an encumbrance of a prescribed kind.

Refund of duty where transaction is rescinded or annulled. S. 60b inserted by 63, 1975, s. 6.

60b. (1) Where a party to an instrument of a kind that is registrable under the Real Property Act, 1886, satisfies the Commissioner, upon application made to him not later than one year after execution of the instrument—

(a) that he has paid duty upon the instrument;

and

(b) that the transaction in respect of which the instrument was executed has been frustrated or avoided or has miscarried through failure of a party to comply with a condition,

the applicant shall be deemed to be possessed of stamped material rendered useless by being inadvertently spoiled within the meaning of section 106, and the provisions of that section shall apply accordingly.

(2) This section does not apply in respect of an instrument executed before the commencement of the Stamp Duties Act Amendment Act, 1975.

Method of estimating value of consideration where consideration consists of shares. 1216, 1915, s. 12, 1244, 1916, s. 23. S. 61 amended by 95, 1982, s. 6.

61. Where the consideration or part of the consideration for a conveyance 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 the shares or debentures shall be taken as the value of the consideration or part.

S. 62 repealed by 1822, 1927, s. 6.

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* * * * *

S. 63 repealed by 95, 1982, s. 7.

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 the other consideration shall be deemed the consideration for the conveyance on sale.

Consideration in case of lease. 789, 1902, s. 28 (part).

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, the market value of the real or personal property at the date of the sale shall be taken as the value of the consideration or part of the consideration.

Where consideration consists of real or personal property. 372, 1886, s. 38. S. 65 amended by 95, 1982, s. 8.

66. 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, the total amount shall be taken as the consideration or part of the consideration.

Where consideration is payable in instalments. 372, 1886, s. 39. S. 66 amended by 95, 1982, s. 9 (a).

* * * * *

Subsecs. (2) and (3) substituted by 28, 1977, s. 3; repealed by 95, 1982, s. 9 (b).

* * * * *

Subsec. (4) repealed by 95, 1982, s. 9 (b).

66a. (1) Where any goods, wares or merchandise are 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 the assignment and the conveyance or transfer together form substantially one transaction, the consideration for the conveyance or transfer shall be deemed to include the consideration given in respect of the assignment of the goods, wares or merchandise.

Mode of computing consideration in certain cases. S. 66a inserted by 1822, 1927, s. 7; repealed by 2359, 1937, s. 4; inserted by 48, 1941, s. 7. Subsec. (1) amended by 63, 1975, s. 7 (a).

(2) A person who executes or is otherwise engaged in, or concerned with, the preparation or certification of a conveyance or transfer to which subsection (1) applies and who, upon submission of the conveyance or transfer to the Commissioner for stamping, does not disclose the total consideration paid in respect of 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 one thousand dollars.

Subsec. (2) amended by 58, 1965, s. 17; substituted by 63, 1975, s. 7 (b).

(2a) It is a defence to a charge under subsection (2) that the defendant did not know and could not reasonably be expected to have known the total consideration required to be disclosed by that subsection.

Subsec. (2a) inserted by 63, 1975, s. 7 (b).

(3) This section shall be construed subject to the provisions of section 31a.

66ab. (1) Where land or interests in land is or are conveyed by separate conveyances—

(a) that arise from a single contract of sale;

or

(b) that together form, or arise from, substantially one transaction or one series of transactions,

Computation of duty in case of certain real property transactions. S. 66ab inserted by 63, 1975, s. 8. Subsec. (1) amended by 101, 1976, s. 5 (a); 111 1980, s. 10 (a).

Para. (b) amended by 101, 1976, s. 5 (b).

the conveyances shall be chargeable with *ad valorem* duty calculated upon the sum of the amounts by reference to which *ad valorem* duty on each of

the conveyances would, but for this subsection, have been calculated, and that duty shall be apportioned to the various conveyances as determined by the Commissioner.

Subsec. (1a) inserted by 101, 1976, s. 5 (c); substituted by 111, 1980, s. 10 (b).

(1a) Where, by conveyances that have been, or appear to have been, executed within twelve months of each other, a person conveys land or interests in land to the same person (whether that person takes alone or with the same or different persons), it shall be presumed, unless the Commissioner is satisfied to the contrary, that the conveyances arose out of one transaction or one series of transactions.

Subsec. (1b) inserted by 70, 1981, s. 8.

(1b) Subsection (1) does not apply in relation to land used wholly or mainly for primary production conveyed in separate parcels to different persons by separate conveyances arising from sales made to different persons, where the Commissioner is satisfied—

(a) that each transferee is to use the parcel of land conveyed to him wholly or mainly for primary production;

and

(b) that no arrangement or understanding exists between the purchasers under which the parcels of land conveyed by the separate conveyances are to be used otherwise than separately and independently from each other.

Subsec. (2) amended by 111, 1980, s. 10 (c), (d).

(2) A person who executes, or is otherwise engaged or concerned in the preparation or certification of, a conveyance to which subsection (1) applies and who, upon submission of the conveyance to the Commissioner for stamping, does not disclose the total consideration, if any, given and the whole of the property included in the transaction or series of transactions in connection with which the conveyance is executed shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

Subsec. (3) amended by 111, 1980, s. 10 (e).

(3) It is a defence to a charge under subsection (2) that the defendant did not know and could not reasonably be expected to have known the matters required to be disclosed by that subsection.

Subsec. (4) inserted by 101, 1976, s. 5 (d).

(4) This section does not operate to reduce the duty payable on any instrument.

Subsec. (5) inserted by 111, 1980, s. 10 (f).

(5) In this section—

“conveyance” means a conveyance on sale or a conveyance operating as a voluntary disposition *inter vivos*;

“interest”, in relation to land, includes a potential beneficial interest as defined in section 71 (15).

S. 66b inserted by 1822, 1927, s. 7; amended by 28, 1977, s. 4; repealed by 95, 1982, s. 10.

* * * * *

S. 67 repealed by 95, 1982, s. 10.

* * * * *

Duty in certain cases. 372, 1886, s. 41, 1216, 1915, s. 5. Subsec. (1) amended by 63, 1975, s. 9 (a); 95, 1982, s. 11 (a); 50, 1984, s. 3 (1) (6th Sched.).

68. (1) Subject to sections 66a and 66ab, 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 each conveyance shall be

chargeable with *ad valorem* duty as a conveyance for the distinct consideration apportioned to it.

(2) Subject to sections 66a and 66ab, 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 it has been purchased for distinct parts of the consideration, the conveyance of each separate part or parcel shall be chargeable with *ad valorem* duty as a conveyance for the distinct part of the consideration specified in it.

Subsec. (2)
amended by 63,
1975, s. 9 (b); 95,
1982, s. 11 (b).

(3) Where a person, having contracted for the purchase of any property but not having obtained a conveyance, contracts to sell it to any other person and the property is in consequence conveyed immediately to the subpurchaser, the conveyance shall be chargeable with *ad valorem* duty as a conveyance for the consideration for the sale to the original purchaser and also as a conveyance for the consideration for the sale by the original purchaser to the subpurchaser, in the same manner as if the considerations were specified in separate instruments.

Subsec. (3)
amended by 95,
1982, s. 11 (c).

(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 as a conveyance for the consideration for the sale to the original purchaser and also as a conveyance for the consideration for the sale by the original purchaser to the subpurchaser, in the same manner as if the 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 subsection, 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.

Subsec. (4)
amended by 95,
1982, s. 11 (d).

(5) Where a subpurchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty as a conveyance for 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 as a conveyance for the consideration for the sale to the original purchaser.

Subsec. (5)
amended by 95,
1982, s. 11 (e).

69. Subject to sections 66a and 66ab, 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 the 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 the several instruments is the principal instrument.

Where there are
several
instruments.
372, 1886, s. 42.
S. 69 amended by
63, 1975, s. 10.

70. (1) Subject to subsection (2), an instrument executed in order, either directly or indirectly, to avoid or evade the payment of the duty payable upon a conveyance on sale is void.

Evasion of duty
372, 1886, s. 43.
S. 70 substituted
by 50, 1984, s. 3
(1) (6th Sched.).

(2) Where a third party relying in good faith on an instrument that is void by virtue of subsection (1) purports to acquire an interest in property subject to the instrument, the instrument shall, for the purposes of that

transaction, be treated as valid, provided that it is duly stamped as a conveyance on sale.

Instruments chargeable as conveyances operating as voluntary dispositions *inter vivos*.
1216, 1915, s. 29.
1244, 1916, s. 25.

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.

Subsec. (3) substituted by 111, 1980, s. 11.

(3) For the purposes of this Act, the following instruments shall, subject to this section, be deemed to be conveyances operating as voluntary dispositions *inter vivos*:

(a) an instrument to which subsection (4) applies effecting or acknowledging, evidencing or recording, any of the following transactions:

(i) a transfer of property to a person who takes as trustee;

(ii) a declaration of trust;

or

(iii) a transfer of a beneficial interest in property subject to a trust or a potential beneficial interest in, or in relation to, property subject to a discretionary trust,

whether or not any consideration is given for the transaction;

or

(b) an instrument to which paragraph (a) does not apply, being a conveyance that is not chargeable with duty as a conveyance on sale.

1244, 1916, s. 25.
Subsec. (4) amended by 24, 1964, s. 7; substituted by 111, 1980, s. 11.

(4) This subsection applies to any instrument that relates to land, a marketable security or a unit under a unit trust scheme, or an interest or potential beneficial interest in land, a marketable security or a unit under a unit trust scheme.

Subsec. (5) inserted by 76, 1975, s. 7; repealed by 66, 1979, s. 3; inserted by 111, 1980, s. 11.

(5) Subject to subsection (6), an instrument effecting or acknowledging, evidencing or recording, any of the following transactions shall be deemed not to be a conveyance operating as a voluntary disposition *inter vivos*:

(a) a transfer of property for nominal consideration for the purpose of securing the repayment of an advance or loan, not being land subject to the provisions of the Real Property Act, 1886;

(b) a transfer *in specie* of property of a company in liquidation made by the liquidator to a shareholder of the company;

(c) a transfer of any marketable security issued by a public company to a person who takes as trustee, where—

(i) the beneficial interest in the property is, upon the transfer, vested in the transferor;

and

(ii) the transfer is not in pursuance of a sale;

- (d) a transfer of property for the purpose of effectuating the retirement of a trustee or the appointment of a new trustee, where the Commissioner is satisfied that the transfer is not part of a scheme for conferring a benefit, in relation to the trust property, upon the new trustee or any other person, whether as a beneficiary or otherwise, to the detriment of the beneficial interest or potential beneficial interest of any person;
- (e) a transfer of property to a person who has the beneficial interest in the property by virtue of an instrument that is duly stamped;
- (f) a transfer to a natural person who is an object of a discretionary trust of property or a beneficial interest in property subject to the discretionary trust, where—
- (i) the discretionary trust was created by an instrument that is duly stamped;
- and
- (ii) the Commissioner is satisfied that the discretionary trust was created wholly or principally for the benefit of that person or a family group of which that person is a member;
- (g) a transfer of a potential beneficial interest in property subject to a discretionary trust, where—
- (i) the discretionary trust was created by an instrument that is duly stamped wholly or principally for the benefit of a family group;
- and
- (ii) the transfer is made by one member of the family group to another member of the family group, or by a member of the family group by way of surrender or renunciation of the potential beneficial interest and another member of the family group is to continue as an object or beneficiary under the trust;
- (h) a transfer to or by a person in his capacity as the personal representative of a deceased person or the trustee of the estate of a deceased person, being a transfer made in pursuance of the provisions of the will of the deceased person or the laws of intestacy and not being a transfer in pursuance of a sale;
- (i) any variation of the terms of a trust, where the trust was created by an instrument that is duly stamped and the variation does not involve the creation or variation of any beneficial interest or potential beneficial interest in property subject to the trust;
- (j) a voluntary disposition of property that is wholly for charitable or religious purposes;
- (k) a transfer of a prescribed class.

(6) Subsection (5) does not apply in relation to a transfer of property or a beneficial interest in property to a person who has, prior to the transfer, a beneficial interest or potential beneficial interest in the property but who takes the property or interest transferred to him as trustee under a further trust.

Para. (h)
amended by 95,
1982, s. 12 (a).

Subsec. (6)
inserted by 76,
1975, s. 7;
amended by 54,
1976, s. 7;
repealed by 66,
1979, s. 3;
inserted by 111,
1980, s. 11.

Subsec. (7)
inserted by 76,
1975, s. 7;
repealed by 66,
1979, s. 3;
inserted by 111,
1980, s. 11.

(7) For the purposes of subsection (5) (e), a person who is an object of a discretionary trust by virtue of an instrument that is duly stamped shall not be regarded as having a beneficial interest in the trust property by virtue of an instrument that is duly stamped unless that person has been appointed to be a beneficiary under the discretionary trust by a further instrument that is duly stamped.

Subsec. (8)
inserted by 76,
1975, s. 7;
repealed by 66,
1979, s. 3;
inserted by 111,
1980, s. 11;
amended by 95,
1982, s. 12 (b).

(8) A conveyance operating as a voluntary disposition *inter vivos* that transfers a potential beneficial interest in, or in relation to, property subject to a discretionary trust shall, subject to this Act, be chargeable with duty as if it transferred the beneficial interest in the property that the transferee would have if the discretion under the discretionary trust were so exercised as to confer upon him the greatest benefit in relation to that property that can be conferred upon him under the discretionary trust.

Subsec. (9)
inserted by 111,
1980, s. 11.

(9) An instrument that acknowledges, evidences or records a transaction of a kind referred to in subsection (3) (a) (not being a copy within the meaning of section 19a that is duly stamped) shall, for the purposes of this Act, be deemed to have effected the transaction and to have been executed by the parties to the transaction at the same time as the transaction took place.

Subsec. (10)
inserted by 111,
1980, s. 11.

(10) For the purposes of this Act, in determining the value of property transferred by a conveyance operating as a voluntary disposition *inter vivos*, no regard shall be had to the fact that the person to whom the property is transferred takes or is to hold the property subject to a trust or has a beneficial interest in the property.

Subsec. (11)
inserted by 111,
1980, s. 11.

(11) Notwithstanding any other provisions of this Act, the rate of duty chargeable in respect of a conveyance operating as a voluntary disposition *inter vivos* of a marketable security shall, if that conveyance is made in pursuance of sale, be the rate fixed by the second schedule in respect of a conveyance or transfer on sale of a marketable security or, as the case may require, in respect of a return lodged pursuant to section 90d.

Subsec. (12)
inserted by 111,
1980, s. 11.

(12) Where an instrument of a kind referred to in subsection (3) (a) is duly stamped under this Act, the Commissioner shall, upon application and production of that instrument, stamp any other instrument of a kind referred to in subsection (3) (a) that he is satisfied relates to the same transaction with a particular stamp denoting that it is duly stamped.

Subsec. (13)
inserted by 111,
1980, s. 11.

(13) Without limiting the generality of subsection (12), where an instrument that is duly stamped transfers or creates, or acknowledges, evidences or records, the transfer or creation of any property or interest in property and the person to or in whom the property or interest in property is transferred or vested takes the property or interest in property as trustee, the Commissioner shall, upon application and production of that instrument, stamp any declaration of trust or other instrument that acknowledges, evidences or records the fact that the person took the property or interest in property as trustee with a particular stamp denoting that it is duly stamped.

Subsec. (14)
inserted by 111,
1980, s. 11.

(14) Notwithstanding any other provisions of this Act, where—

- (a) property has been transferred to a person who took as trustee;
- (b) that property is subsequently transferred back to the transferor;
- and
- (c) the Commissioner is satisfied that no person other than the transferor under the first transfer has had a beneficial interest in the property during the period elapsing between the transfers,

the Commissioner shall, if *ad valorem* duty was paid in respect of the first transfer, upon application, refund to the person who paid that duty an amount equal to the difference between the amount of the duty and four dollars.

(15) In this section—

“discretionary trust” means an arrangement, however made, under which a person holds property, and the beneficial interest in all or any part of that property may be vested in a person (in this section referred to as an “object”) upon the exercise of a discretion, whether subject to any other contingency or not and whether the exercise of the discretion is obligatory or optional:

Subsec. (15)
inserted by 111,
1980, s. 11.

“family group” means a group of persons connected by an unbroken series of relationships of consanguinity or affinity:

“potential beneficial interest” means the rights, expectancies or possibilities of an object of a discretionary trust in, or in relation to, property subject to the discretionary trust:

“public company” means a public company within the meaning of the *Companies (South Australia) Code*:

Def. amended by
50, 1984, s. 3 (1)
(6th Sched.).

“transfer” means—

(a) transfer, assure or vest property (including a potential beneficial interest in, or in relation to, property) to or in any person, whether legally or equitably and whether or not subject to registration, the issue of a certificate of title or other similar requirement;

(b) surrender or renounce a beneficial interest or potential beneficial interest in, or in relation to, property;

or

(c) surrender to the Crown any lease or other interest in land in order that the Crown may grant to a person other than the surrenderor a lease of, or other interest in, the same land or any part of the same land:

“trust” includes an implied trust or a discretionary trust:

“trustee” includes—

(a) a trustee under an implied trust;

or

(b) a person who holds property subject to a discretionary trust:

“unit”, in relation to a unit trust scheme, means a right or interest (however described) of a beneficiary under a unit trust scheme:

“unit trust scheme” means an arrangement made for the purpose, or having the effect, of providing for persons having funds available for investment facilities for the participation by them, as beneficiaries under a trust, in any profits or income arising from the acquisition, holding, management or disposal of any property, not being an arrangement made by a deed approved for the purposes of Division 6 of Part IV of the *Companies (South Australia) Code*.

Def. amended by
50, 1984, s. 3 (1)
(6th Sched.).

Provision where trust property distributed *in specie*.

S. 71a inserted by 48, 1941, s. 8; amended by 111, 1980, s. 12; 50, 1984, s. 3 (1) (6th Sched.).

71a. If any will or any instrument by which any trust is declared contains a direction to convert any property into money and to pay the proceeds to any beneficiary and, instead of converting the property into money the executor, administrator or trustee, as the case may be, conveys the property *in specie* to the beneficiary, the conveyance shall not be chargeable with duty as a conveyance on sale or as a conveyance operating as a voluntary disposition *inter vivos* if, in the case of a trust other than a trust declared by a will, the beneficiary is beneficiary by virtue of an instrument that is duly stamped.

Partition or division of property.

U.K. 54 and 55 Vict., c. 39, s. 73.

S. 71b inserted by 48, 1941, s. 8; amended by 58, 1965, s. 17; 95, 1982, s. 13 (a); redesignated s. 71b (1) by 95, 1982, s. 13 (b).

71b. (1) Where upon the partition or division of any property any consideration exceeding in amount or value two hundred dollars is paid or given, or agreed to be paid or given, for equality, the instrument by which the partition or division is effected shall be charged with duty as if it were a conveyance on sale and that consideration were equal to the value of the property.

Subsec. (2)

inserted by 95, 1982, s. 13 (b).

(2) A person who executes, or is otherwise engaged or concerned in the preparation or certification of, an instrument effecting the partition or division of any property and who, upon submission of the instrument to the Commissioner for stamping, does not disclose the total consideration (if any) paid or given, or agreed to be paid or given, for equality shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

Subsec. (3)

inserted by 95, 1982, s. 13 (b).

(3) It is a defence to a charge under subsection (2) that the defendant did not know and could not reasonably be expected to have known the total consideration required to be disclosed by that subsection.

Subsec. (4)

inserted by 95, 1982, s. 13 (b).

(4) This section applies only in relation to a conveyance for the partition or division of property between members of a family group.

Subsec. (5)

inserted by 95, 1982, s. 13 (b).

(5) In this section—

“family group” has the meaning assigned to that expression by section 71 (15).

Concessional rates of duty in respect of the purchase of a first home, etc.
S. 71c inserted by 66, 1979, s. 4.

71c. (1) Where upon an application made in a manner and form determined by the Commissioner and supported by such evidence as he may require the Commissioner is satisfied—

(a) that the applicant or applicants—

(i) are natural persons;

(ii) on or after the fifteenth day of September, 1979, entered into a contract for the purchase of a relevant interest in land or for the purchase of shares in a company that confer a right to occupy land of the company;

(iii) are the sole purchasers of the land or the shares;

and

(iv) have entered into a contract for the construction of a dwelling house on the land and intend to occupy the dwelling house as their principal place of residence within three months of completion of construction or, where there is presently a dwelling house on the land, intend to occupy that dwelling house as their principal place of residence within three months of the date of the conveyance;

and

(b) that no party to the application has previously—

(i) held either in the State or elsewhere any relevant interest in a dwelling house or any interest in shares conferring upon him a right to occupy a dwelling house;

or

(ii) received the benefit of this section,

this section applies to a conveyance under which the land or shares are conveyed to the purchaser or purchasers.

(2) The duty payable upon a conveyance to which this section applies shall be as follows:

(a) where the conveyance arises from a contract entered into before the first day of December, 1982, and—

Para. (a)
substituted by 95,
1982, s. 14.

(i) the amount by reference to which the duty would, apart from this section, be calculated does not exceed \$30 000—no duty shall be payable;

or

(ii) the amount by reference to which the duty would, apart from this section, be calculated exceeds \$30 000—the duty payable shall be the amount payable apart from this section less the amount of duty payable on a conveyance of property the value of which is \$30 000;

or

(b) where the conveyance arises from a contract entered into on or after the first day of December, 1982, and—

Para. (b)
substituted by 95,
1982, s. 14.

(i) the amount by reference to which the duty would, apart from this section, be calculated does not exceed \$40 000—no duty shall be payable;

or

(ii) the amount by reference to which the duty would, apart from this section, be calculated exceeds \$40 000—the duty payable shall be the amount payable apart from this section less the amount of duty payable on a conveyance of property the value of which is \$40 000.

(3) In this section—

“dwelling house” does not include residential premises that form part of industrial or commercial premises:

“perpetual lease” means a perpetual lease under the Crown Lands Act, 1929:

“relevant interest”, in relation to land or a dwelling house, means any estate or interest conferring a right to possession, including any such estate or interest arising under a perpetual lease but not including any other leasehold estate or interest.

(4) This section applies to a conveyance lodged with the Commissioner for stamping on or after the first day of November, 1979.

Exemption from duty in respect of certain maintenance agreements, etc.
S. 71ca inserted by 30, 1982, s. 3.

71ca. (1) In this section—

“instrument to which this section applies” means—

(a) a maintenance agreement registered under Part VIII of the *Family Law Act 1975* of the Commonwealth;

or

(b) a deed or other instrument (including an application to transfer registration of a motor vehicle) for the purposes of, or consequential upon—

(i) a maintenance agreement registered under Part VIII of the *Family Law Act 1975* of the Commonwealth;

or

(ii) an order under Part VIII of the *Family Law Act 1975* of the Commonwealth:

“maintenance agreement” means a maintenance agreement as defined in the *Family Law Act 1975* of the Commonwealth:

“marriage” includes a marriage that is void and thus liable to annulment, and “married” has a corresponding meaning.

(2) Where an instrument to which this section applies—

(a) provides for a disposition of property between two persons who, at the time of execution of the instrument, are or have been married to each other and no other person takes or is entitled to take an interest in property in pursuance of the instrument;

or

(b) in the case of an application to transfer registration of a motor vehicle—is consequential upon a disposition of property between two persons who, as at the date of the application, are or have been married to each other,

the instrument is exempt from stamp duty if, at the time it is submitted for stamping, the marriage of the two persons referred to above has been dissolved or annulled.

(3) Where an instrument to which this section applies would have been exempt from stamp duty under subsection (2) if it were not for the fact that when it was submitted for stamping a marriage had not been dissolved or annulled, a person by whom stamp duty was paid on the instrument shall be entitled to a refund of the duty on proof to the satisfaction of the Commissioner that the marriage was subsequently dissolved or annulled.

Concessional duty to encourage mineral or petroleum exploration activity.
S. 71d inserted by 111, 1980, s. 13.

71d. (1) Where upon an application made in a manner and form determined by the Treasurer and supported by such evidence as he may require the Treasurer, after consultation with the Minister of Mines and Energy, is satisfied—

(a) that the applicants are parties to a conveyance of an exploration tenement or an interest in an exploration tenement;

and

(b) that—

(i) commercially exploitable mineral or petroleum deposits have not yet been found to exist in the area subject to the tenement;

or

(ii) mineral or petroleum deposits have been found to exist in the area subject to the tenement but further substantial exploratory or investigatory operations are required in order to determine the nature or extent of those deposits or whether they are commercially exploitable or whether other deposits exist in the area,

this section applies to the conveyance.

(2) The duty payable upon a conveyance to which this section applies shall be the amount specified in the second schedule.

(3) In this section—

“exploration tenement” means—

(a) an exploration licence granted under the Mining Act, 1971;

(b) a petroleum exploration licence granted under the Petroleum Act, 1940;

or

(c) an exploration permit for petroleum granted under the Petroleum (Submerged Lands) Act, 1967.

(4) This section applies to a conveyance lodged with the Commissioner for stamping on or after the sixteenth day of September, 1980.

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.

Agreement for lease to be charged as a lease.
789, 1902, s. 29.

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.

(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.

Duty in respect of certain kinds of lease.
789, 1902, s. 31.

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.

(2) A lease made for any consideration in respect of which 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 the further consideration.

Letters of Allotment, Scrip Certificates and Scrip

Penalty for not stamping letter of allotment, etc.
1216, 1915, s. 14.
S. 75 amended by 58, 1965, s. 17; redesignated s. 75 (1) by 42, 1970, s. 9.

75. (1) Every person who executes, grants, issues or delivers out any instrument chargeable with duty as a letter of allotment, scrip certificate or scrip, before it is duly stamped, shall be liable to a penalty not exceeding forty dollars.

Subsec. (2) inserted by 42, 1970, s. 9.

(2) The duty on a letter of allotment, scrip certificate or scrip may be denoted by an adhesive stamp, which shall be cancelled in accordance with this Act by a person who executes or grants the letter of allotment, certificate or scrip.

Heading inserted by 24, 1964, s. 8¹.

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S. 75a inserted by 24, 1964, s. 8; repealed by 56, 1968, s. 4.

* * * * *

S. 75aa inserted by 56, 1968, s. 5; repealed by 50, 1984, s. 3 (1) (6th Sched.).

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Mortgages

Interpretation.
1216, 1915, s. 21.
1244, 1916, s. 24.

76. In this Act—

“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 the 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, 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 the 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;

¹ Heading omitted pursuant to the Acts Republication Act, 1967, s. 7 (2).

- (b) any defeasance, declaration or other instrument for defeating or making redeemable or explaining or qualifying any conveyance of any real or personal property, 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 described above of or concerning any real or personal property comprised in the title deeds, or any estate or interest therein, or for pledging or charging them 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 or creating a charge on property.

77. If several instruments are necessary to make a mortgage and duty would, but for this section, be chargeable on more than one of those 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.

78. A security for the transfer or retransfer 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 the 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 the stock.

Security for stock, how to be charged.
1216, 1915, s. 24.

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.

(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 the date of the day on which the advance or loan is made.

Subsec. (2) 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.

80. A security for the payment of any rentcharge, 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.

Security for repayment by periodical payments, how to be charged.
1216, 1915, s. 26.
S. 80 amended by 95, 1982, s. 15.

Transfers and
further charges.
1216, 1915, s. 27.

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 or additional security for the 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.

Duty may be
denoted in certain
cases by adhesive
stamps.
S. 81a inserted by
101, 1976, s. 6.

81a. (1) Subject to subsection (2), the duty on a security by way of mortgage, bond, debenture or covenant securing the payment or repayment of an amount not exceeding \$4 000 may be denoted by an adhesive stamp affixed in accordance with the regulations.

(2) This section does not apply in respect of a security by way of mortgage for the payment or repayment of moneys that may become due on an account current unless—

(a) where the total amount secured or to be ultimately recoverable is limited—the amount so limited does not exceed \$4 000;

or

(b) where the total amount secured or to be ultimately recoverable is not limited—the total amount actually secured or recoverable does not exceed \$4 000.

Duty chargeable
proportioned to
value of South
Australian
property.
S. 81b inserted by
111, 1980, s. 14.

81b. Notwithstanding any other provision of this Act, where—

(a) a security creates a charge upon property in South Australia and property outside South Australia, the duty chargeable under this Act in respect of the security shall be calculated by reference only to that part of the amount to be paid or repaid under the security that bears to the total amount to be paid or repaid the same proportion as the value of the property in South Australia bears to the total value of the property subject to the charge;

or

(b) a security creates a charge upon property outside South Australia and not upon property in South Australia, the duty chargeable under this Act in respect of the security shall, subject to any exemption under this Act, be four dollars.

Duty paid upon
one mortgage
may be denoted
as having been
paid upon
another mortgage.
S. 81c inserted by
95, 1982, s. 16.

81c. (1) The Commissioner may, upon the application of a party to a mortgage upon which duty has been paid, authorize the whole or a part of the duty paid upon the mortgage to be denoted as having been paid upon some other mortgage or mortgages if he is satisfied, upon the basis of such evidence as he may require—

(a) that the duty was paid upon the first mentioned mortgage instead of the other mortgage or mortgages as a result of an error on the part of a party to the mortgage or his agent;

(b) that the parties to the first mentioned mortgage are the same as the parties to the other mortgage or mortgages;

and

(c) that the first mentioned mortgage has not been acted upon or relied upon in any way as a security.

(2) An application under subsection (1) must—

- (a) be made in a form approved by the Commissioner;
- (b) be made not later than three months after the date on which duty was paid upon the first mentioned mortgage;

and

- (c) be accompanied by the prescribed charge.

(3) The Commissioner may, upon an application under subsection (1), if he thinks it just to do so, waive payment of the prescribed charge.

(4) The Commissioner may require any evidence given in support of an application under subsection (1) to be verified by statutory declaration.

(5) Duty shall not be denoted as having been paid upon the other mortgage or mortgages in pursuance of subsection (1) unless the original and every copy of the first mentioned mortgage stamped under this Act has been produced to the Commissioner and dealt with in accordance with the regulations.

(6) For the purposes of this section—

- (a) mortgagees that are related corporations shall be regarded as one and the same person;

and

- (b) corporations are related if they are deemed to be related by virtue of the provisions of the *Companies (South Australia) Code*.

*	*	*	*	*	*	*	*	*	*	Heading repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	S. 82 amended by 58, 1965, s. 10; 59, 1966, s. 4; substituted by 32, 1968, s. 5; repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	S. 82a inserted by 32, 1968, s. 5; amended by 42, 1970, s. 10; repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	S. 83 amended by 58, 1965, s. 11; substituted by 32, 1968, s. 5; repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	S. 83a inserted by 48, 1941, s. 10; repealed by 58, 1965, s. 12.
*	*	*	*	*	*	*	*	*	*	S. 84 amended by 58, 1965, s. 13 (1); 59, 1966, s. 5; substituted by 32, 1968, s. 5; amended by 42, 1970, s. 11; repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	S. 84a inserted by 58, 1965, s. 13 (2); substituted by 32, 1968, s. 5; repealed by 50, 1984, s. 3 (1) (6th Sched.).
*	*	*	*	*	*	*	*	*	*	S. 84b inserted by 58, 1965, s. 13 (2); amended by 59, 1966, s. 6; substituted by 32, 1968, s. 5; repealed by 50, 1984, s. 3 (1) (6th Sched.).

S. 84c inserted by 58, 1965, s. 13 (2); amended by 59, 1966, s. 7; substituted by 32, 1968, s. 5; repealed by 50, 1984, s. 3 (1) (6th Sched.).	*	*	*	*	*	*	*	*	*	*
Ss. 84d and 84e inserted by 32, 1968, s. 5; repealed by 50, 1984, s. 3 (1) (6th Sched.).	*	*	*	*	*	*	*	*	*	*
S. 84f inserted by 32, 1968, s. 5; amended by 42, 1970, s. 12; repealed by 50, 1984, s. 3 (1) (6th Sched.).	*	*	*	*	*	*	*	*	*	*
Ss. 84g-84i inserted by 32, 1968, s. 5; repealed by 50, 1984, s. 3 (1) (6th Sched.).	*	*	*	*	*	*	*	*	*	*
S. 84j inserted by 32, 1968, s. 5; amended by 42, 1970, s. 13; repealed by 50, 1984, s. 3 (1) (6th Sched.).	*	*	*	*	*	*	*	*	*	*
Heading repealed by 104, 1976, s. 4 (2) (2nd Sched.).	*	*	*	*	*	*	*	*	*	*
S. 85 amended by 42, 1970, s. 14; repealed by 104, 1976, s. 4 (2) (2nd Sched.).	*	*	*	*	*	*	*	*	*	*
Ss. 86 and 87 repealed by 104, 1976, s. 4 (2) (2nd Sched.).	*	*	*	*	*	*	*	*	*	*
S. 88 amended by 2246, 1935, s. 4 (2nd Sched.); repealed by 104, 1976, s. 4 (2) (2nd Sched.).	*	*	*	*	*	*	*	*	*	*
S. 89 amended by 58, 1965, s. 17; repealed by 104, 1976, s. 4 (2) (2nd Sched.).	*	*	*	*	*	*	*	*	*	*
S. 89a amended by 2359, 1937, s. 5; 42, 1970, s. 15; 42, 1974, s. 3 (2nd Sched.); repealed by 104, 1976, s. 4 (2) (2nd Sched.).	*	*	*	*	*	*	*	*	*	*
S. 90 repealed by 104, 1976, s. 4 (2) (2nd Sched.).	*	*	*	*	*	*	*	*	*	*

Part IIIA and heading inserted by 14, 1967, s. 21.

PART IIIA

SALES AND PURCHASES OF MARKETABLE SECURITIES BY BROKERS AND DUTY THEREON

Interpretation.
S. 90a inserted by 14, 1967, s. 21.

90a. In this Part, unless inconsistent with the context or some other meaning is clearly intended—

“broker” means a person, firm or corporation who or which is a member of The Stock Exchange of Adelaide Limited:

“broker’s agent” means a person who is an agent or employee of a broker within the meaning of any corresponding Act and is carrying on business for, or on behalf of, that broker in this State:

“corresponding Act” means an enactment in force in a State other than this State or in a Territory of the Commonwealth that is declared by proclamation to be a corresponding Act¹ for the purposes of this Part:

“dealer” means a broker or a broker’s agent within the meaning of this Act or any corresponding Act:

“odd lot” means a parcel of marketable securities that is, under the rules of the stock exchange on which the sale or purchase is effected, required to be bought or sold through an odd lot specialist: Def. inserted by 70, 1981, s. 9.

“odd lot specialist” means a broker who is appointed by The Stock Exchange of Adelaide Limited for the purposes of buying and selling odd lots: Def. inserted by 70, 1981, s. 9.

“South Australian dealer” means a broker or a broker’s agent.

90b. This Part and the duty chargeable in accordance with the second schedule on the return referred to in section 90d apply and have effect to and in relation to a sale or purchase of a marketable security only where— Application of Part. S. 90b inserted by 14, 1967, s. 21.

(a) the sale or purchase of the marketable security is made by or through a South Australian dealer;

(b) the consideration for the sale or purchase is in money or money’s worth not less than the unencumbered market value of the security;

(c) the security is quoted on, or permission to deal therein has been granted by, a stock exchange; Para. (c) amended by 50, 1984, s. 3 (1) (6th Sched.).

and

(d) no duty is charged against the transferor or the transferee under the second schedule in respect of the conveyance or transfer of the securities on the sale thereof.

90c. (1) Subject to subsections (3) and (4), a South Australian dealer shall, forthwith on a sale or purchase being made or being deemed to have been made, whether within or outside the State— Sales and purchases to be recorded. S. 90c inserted by 14, 1967, s. 21.

(a) pursuant to an order to sell or an order to purchase lodged with him in the State;

or

(b) on his own account or behalf,

being a sale or purchase to or in relation to which this Part applies, make a record relating to the sale or purchase showing—

(c) the date of the sale or purchase;

(d) the name of the principal (if any) for whom such sale or purchase was made;

(e) the name of the dealer (if any) with whom the sale or purchase was effected;

¹ Corresponding Acts: Stamp Duties Act, 1920 (N.S.W.); *Stamps Act*, 1958 (Vic.); *Stamp Act* 1894 (Qld); *Stamp Act*, 1921 (W.A.); *Stamp Duties Act* 1931 (Tas.); see Gaz. 15 June 1967, p. 1809; *Australian Capital Territory Taxation (Administration) Act* 1969; *Australian Capital Territory Tax (Sales of Marketable Securities) Act* 1969; *Australian Capital Territory Tax (Purchases of Marketable Securities) Act* 1969; see Gaz. 10 July 1969, p. 68.

- (f) the quantity and full description of the marketable security sold or purchased;
- (g) the selling or purchase price of such marketable security or, if more than one, of each marketable security and the total selling or purchase price of all;
- (h) the amount of stamp duty chargeable in accordance with the second schedule in respect of that sale or purchase on the return referred to in section 90d which relates to that sale or purchase;

Para. (h)
amended by 48,
1967, s. 3 (a), (b).

and

- (i) such other particulars as are prescribed for the purposes of this section.

(2) For the purposes of subsection (1)—

- (a) a South Australian dealer who makes a purchase of a marketable security, whether on his own account or on behalf of another person, from any person who is not a dealer shall, notwithstanding that no order to sell was in fact lodged with him, be deemed to have also made a sale of the security pursuant to an order to sell lodged with him in the State by the person from whom he made the purchase;

and

- (b) a South Australian dealer who makes a sale of a marketable security, whether on his own account or on behalf of another person, to any person who is not a dealer shall, notwithstanding that no order to purchase was in fact lodged with him, be deemed to have also made a purchase of the security pursuant to an order to purchase lodged with him in the State by the person to whom he made the sale.

Subsec. (3)
amended by 70,
1981, s. 10.

(3) Subsection (1) does not require a South Australian dealer to make a record—

- (a) in respect of a sale of a marketable security, where the sale is made pursuant to an order to sell lodged with him by, or on behalf of, another dealer;
- (b) in respect of the purchase of a marketable security, where the purchase is made pursuant to an order to purchase lodged with him by, or on behalf of, another dealer;

or

Para. (c) inserted
by 70, 1981, s. 10.

- (c) in respect of any sale or purchase, where the sale or, as the case may be, the purchase is of an odd lot by an odd lot specialist.

(4) Subsection (1) does not apply to the sale or purchase of a marketable security, the conveyance or transfer in respect of which would be exempt from duty.

(5) A South Australian dealer may, in any record kept by him pursuant to subsection (1), incorporate therein additional information for his own use.

(6) The record shall be kept by the South Australian dealer in a suitable and legible form for a period of not less than three years from the date of the sale or purchase.

(7) The Commissioner may require a South Australian dealer to make and keep such additional records relating to sales and purchases made by or through him of marketable securities as he considers necessary.

(8) A South Australian dealer who fails to make or keep a record as required by this section or who fails to make and keep such additional records as are required by the Commissioner under this section shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

(9) Any person having the custody of any papers, records or documents of a South Australian dealer relating to the sale or purchase of any marketable security shall at all reasonable times permit the Commissioner, or any person authorized in that behalf by the Commissioner, to enter any premises occupied by him, or on his behalf, and to inspect such papers, records and documents.

Penalty: Five hundred dollars.

90d. (1) Every South Australian dealer shall, not later than 2.30 p.m. on the Thursday of each week—

Returns to be lodged and duty paid.
S. 90d inserted by 14, 1967, s. 21.

(a) lodge with the Commissioner a return in the prescribed form in accordance with this section;

Para. (a) amended by 48, 1967, s. 4 (a).

and

(b) if any stamp duty is payable, but not paid, in respect thereof, pay to the Commissioner the stamp duty in respect of each sale and each purchase to which the return relates as prescribed by the second schedule.

Para. (b) amended by 48, 1967, s. 4 (b).

(2) The return shall contain a certificate in the prescribed form relating to all sales and purchases, records relating to which have been made by the dealer under section 90c, being sales and purchases made during the week ended on the Saturday preceding the day on which the return is lodged and the total stamp duty payable on the return in respect of those sales and purchases, and shall contain a certificate signed by the dealer that the record required by section 90c has been duly made and such other particulars as are prescribed; but where there has been no sale or purchase made during that week, the South Australian dealer shall lodge with the Commissioner a "Nil" return.

Subsec. (2) amended by 48, 1967, s. 4 (c), (d).

(3) A South Australian dealer who fails to lodge a return as required under this section, or who lodges a return which is false in any material particular, shall be liable to a penalty not exceeding five hundred dollars and, in addition, as a further penalty, shall be liable to pay an amount not exceeding twice the amount of the duty which would have been payable had a return been lodged in accordance with the requirements of this Act.

(4) A South Australian dealer who fails to pay the duty chargeable on a return lodged by him under this section shall be liable to a penalty not exceeding five hundred dollars and, in addition, as a further penalty, shall be liable to pay an amount equivalent to twice the duty which was payable in accordance with the requirements of this Act.

90e. (1) On making the record relating to a sale or purchase in accordance with section 90c (1), or on the making of a sale or purchase to which section 90c (1) does not apply by virtue of the operation of section 90c (4),

Endorsement of instrument of transfer as to payment of duty.
S. 90e inserted by 14, 1967, s. 21.

the South Australian dealer shall either endorse the instrument of transfer in respect of the sale or purchase or ensure that it is endorsed with a statement to the effect that the stamp duty (if applicable) has been or will be paid, and shall affix his stamp and insert the date of the endorsement thereunder.

(2) A South Australian dealer who affixes his stamp under such an endorsement without making the appropriate record provided for in section 90c (1) shall be liable to a penalty not exceeding one thousand dollars.

(3) Where an instrument of transfer of marketable securities has affixed thereto, in accordance with the provisions of this section or in accordance with any corresponding Act, the respective stamps of the dealers by whom the sale and purchase of those securities were effected, the instrument shall be deemed to be duly stamped.

Power of dealer to recover duty paid by him.
S. 90f inserted by 14, 1967, s. 21; amended by 48, 1967, s. 5.

90f. Any South Australian dealer who, on lodging with the Commissioner a return pursuant to section 90d, pays any duty under this Act in respect of any sale or purchase of marketable securities to which the return relates may recover from the seller or purchaser for whom he made the sale or purchase, or is deemed to have made the sale or purchase, the amount of the duty so paid as a debt due to him and recoverable in a court of competent jurisdiction and may, in reimbursement of that amount, retain any moneys in his hands belonging to the seller or purchaser, as the case may be.

Part IV comprising heading and ss. 91-105 amended by 1822, 1927, s. 8; 2312, 1936, s. 3; 2359, 1937, ss. 6-9; repealed by 58, 1965, s. 14.

* * * * *

PART V

MISCELLANEOUS PROVISIONS

Spoiled or unused stamps.
372, 1886, s. 45.
S. 106 amended by 2359, 1937, s. 10; 50, 1984, s. 3 (1) (6th Sched.).

106. Subject to any regulations made under this Act, the Commissioner may, on the application of any person in possession of stamps or stamped material unused or rendered useless by being inadvertently spoiled, give to that person, in lieu of the stamps or stamped material so spoiled or unused, other stamps (of the same or another denomination) of the same value or, at his discretion, money of the same value, deducting the proper allowance on purchase of stamps of the same description; but the Commissioner may, if he thinks it just to do so, refrain from making any such deduction.

Transfers of marketable securities not to be registered unless duly stamped.
S. 106a inserted by 14, 1967, s. 22.

106a. (1) A transfer of a marketable security to which Part IIIA does not apply but which is otherwise liable to duty under this Act shall not be registered, recorded or entered in the books of the corporation, company or society by which the security was issued—

(a) unless a proper instrument of transfer has been delivered to the corporation, company or society in which, in the case of a transfer by way of sale, the consideration therefor is expressed in terms of money and the actual date of sale and the date or dates of execution by the transferor and transferee are set out;

and

(b) unless the instrument is duly stamped under this Act or is, under subsection (1b), deemed to have been duly stamped.

Para. (b) amended by 70, 1981, s. 11 (a).

(1a) Notwithstanding any other provision of this Act, where marketable securities are transferred pursuant to a takeover scheme, the Commissioner may, if he thinks it expedient to do so, upon payment of the duty payable in respect of the instruments of transfer, denote payment of the duty on a statement in the prescribed form.

Subsec. (1a)
inserted by 70,
1981, s. 11 (b).

(1b) Where payment of duty is denoted on a statement pursuant to subsection (1a), each instrument of transfer to which the statement relates shall be deemed to have been duly stamped.

Subsec. (1b)
inserted by 70,
1981, s. 11 (b).

(2) A transfer of a marketable security to perfect a sale or purchase to which Part IIIA applies shall not be registered, recorded or entered in the books of the corporation, company or society by which the security was issued—

(a) unless a proper instrument of transfer has been delivered to the corporation, company or society;

and

(b) unless the transfer is, under section 90e (3), deemed to have been duly stamped.

(3) After a transfer of any marketable security has been registered, recorded or entered in the books of the corporation, company or society in this State, the instrument of transfer shall be retained in this State by the corporation, company or society for a period of not less than three years.

(4) If any corporation, company or society contravenes or fails to observe and comply with any of the provisions of this section, that corporation, company or society shall be guilty of an offence and shall, for each such offence, be liable to a penalty not exceeding one hundred dollars.

(5) The right or title of any transferee or subsequent holder of any marketable security shall not be invalidated by reason only that the transfer of the security was registered, recorded or entered in the books of a corporation, company or society in contravention of the provisions of this section.

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 guilty of a misdemeanour and shall be liable to imprisonment for a period not exceeding three years and to a fine of two hundred dollars.

Penalty for
fraudulent
misstatements.
372, 1886, s. 47.
S. 107 amended
by 58, 1965, s. 17.

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 the stamp or of any part thereof;

(d) mutilates any stamp with intent to make fraudulent use of any part thereof;

(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;

Penalties for
felonies.
372, 1886, s. 48.

- (f) erases or otherwise removes from any stamped material any name, sum, date or other matter or thing therein written with the intent that any fraudulent use should be made of the stamp upon the 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 a term of not less than one year and not more than seven years.

(2) Any person who causes to be done, or knowingly assists in doing, any of the acts mentioned in subsection (1) (a) to (h) shall be deemed to be guilty of the principal offence and shall be punishable accordingly.

Penalty for fraud.
372, 1886, s. 26
S. 109 amended
by 58, 1965, s. 17.

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 the stamp may be used again;
- (b) knowingly sells, 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;

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 one hundred dollars 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;
repealed by 42,
1952, s. 3 (2nd
Sched.).

* * * * *

Recovery of
penalties.
372, 1886, s. 49.

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.

(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.

Offences.
S. 110a inserted
by 56, 1968, s. 6.

110a. An offence against this Act or any provision thereof may be prosecuted either summarily or upon information in the Supreme Court, but a person shall not be liable to be punished more than once in respect of the same offence.

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 that person, executor or administrator and why it should not be forthwith paid to the Commissioner.

Remedy for misappropriation. 372, 1886, s. 50.

(2) The Court may make absolute such a 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 one hundred dollars for any breach thereof.

Regulations. 372, 1886, s. 51. Subsec. (1) amended by 58, 1965, s. 17.

(2) Every such regulation and form, when published in the *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.

(4) Regulations made under this section may prescribe any matters necessary or convenient to be prescribed or which are required or, expressly or by implication, authorized or permitted to be prescribed for the purposes of this Act.

Subsec. (4) inserted by 56, 1968, s. 7.

* * * * *

S. 113 inserted by 58, 1965, s. 18; repealed by 50, 1984, s. 3 (1) (6th Sched.).

114. (1) The Governor may, by proclamation, exempt¹ any body or authority established by statute from the payment of duty under this Act.

Exemption from stamp duty. S. 114 inserted by 27, 1978, s. 8.

(2) The Governor may, by subsequent proclamation, vary or revoke a proclamation under this section.

SCHEDULES

* * * * *

1st Sched.².

SECOND SCHEDULE

2nd Sched. amended by 58, 1965, s. 15 (a).

Nature of Instrument	Amount of Duty \$	
AFFIDAVIT OF DECLARATION when sworn or declared and subscribed before any competent authority, for each deponent or declarant	0.20	Section 28. Item amended by 58, 1965, s. 17; 71, 1971, s. 12 (a).
<i>Exemptions—</i>		
Every affidavit or declaration—		
1. Filed, read or used in any court or before any judge, master, registrar, clerk or officer of any court.		Exemption 1 amended by 50, 1984, s. 3 (1) (6th Sched.).

¹ The Adelaide Festival Centre Trust, the State Opera of South Australia, the State Planning Authority (now dissolved, but the South Australian Planning Commission has succeeded to its powers, functions, duties and obligations: see Planning Act, 1982, s. 5(4)), the Board of the Botanic Gardens and any Trusts created pursuant to the Regional Cultural Centres Act, 1976, exempted: see *Gaz.* 18 May 1978, p. 1736.

² First Schedule omitted pursuant to the Acts Republication Act, 1967, s. 7 (2).

Stamp Duties Act, 1923

Nature of Instrument	Amount of Duty \$	
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 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.		
Exemption 4 amended by 50, 1984, s. 3 (1) (6th Sched.).		
Exemption 8 repeated by 58, 1965, s. 15 (b).		
Section 29. Item amended by 58, 1965, s. 17; 71, 1971, s. 12 (b).	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	0.20
Exemption 2 amended by 1822, 1927, s. 9 (a); 48, 1941, s. 11 (1).	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 \$100, whether the same is only evidence of a contract or obligatory upon the parties from its being a written instrument, including every schedule, receipt or other matter put or endorsed thereon or annexed thereto. This exemption shall be construed subject to section 31. 3. Any agreement or memorandum made between a master and any mariner of any ship or vessel for wages on any coastal voyage 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 appended to this schedule or to like effect only. 6. Any agreement made before the thirtieth day of September, 1916, between any person, firm or company and the Government of the State or any Minister of the Crown authorizing the Government or any Minister of the Crown to handle and sell wheat on behalf of such person, firm or company.	
Sections 32-42aa. Item amended by 24, 1964, s. 9 (a); 58, 1965, s. 17; substituted by 42, 1970, s. 16 (a); 71, 1971, s. 12 (c).	ANNUAL LICENCE to be taken out by any company, person or firm of persons, whether corporate or unincorporate, which carries on or proposes to carry on in South Australia any life, personal accident, fire, fidelity, guarantee, livestock, plate glass, marine or other assurance or insurance business and whether the head office or principal place of business of that company, person or firm is in South Australia or elsewhere— (a) Where the company, person or firm has received, or in any manner charged in account, premiums of any kind, whether directly or by agents, within the period of twelve months preceding the year for which the annual licence is to be taken out— (i) for every \$100 or fractional part of \$100 of such of those premiums as relate to life insurance policies..... (ii) for every \$100 or fractional part of \$100 of such of those premiums as relate to policies of insurance complying with Part IV of the Motor Vehicles Act, 1959..... (iii) for every \$100 or fractional part of \$100 of such of those premiums as relate to any other kind of policies.....	1.50
Subpara. (i) amended by 90, 1974, s. 6 (a).		0.50
Subpara. (iii) amended by 90, 1974, s. 6 (b); 65, 1983, s. 3.		8.00

Nature of Instrument	Amount of Duty \$
(b) Where the company, person or firm has not, prior to applying for an annual licence, transacted any assurance or insurance business—	
(i) if the annual licence is required for the full period of twelve months	100.00
(ii) if the annual licence is required for a shorter period than twelve months, a proportionate part of	100.00

For the purposes of this item, subject to the exemptions mentioned hereunder—

- (1) a reference to life insurance policies shall be deemed not to include policies covering personal accident or workers compensation;
 - (2) the premiums referred to in paragraph (a) are net premiums and shall be counted so as to exclude any commission or discount and any portion of those premiums actually paid by way of reinsurance effected in South Australia with any other such company, person or firm;
 - (3) no premiums received by any such company, person or firm for insurance risks outside South Australia, except life and personal accident insurance risks outside South Australia, shall be counted;
- and
- (4) the duty in respect of any one licence under paragraph (a) shall not in any case be less than \$100.

Exemptions—

1. Premiums received or charged under any private guarantee fidelity insurance scheme promoted amongst and sustained solely for the benefit of the officers and servants of any particular public department, company, person or firm and not extended, either directly or indirectly, beyond such officers and servants.
2. Premiums received or charged under any scheme referred to in exemption 1 promoted amongst and sustained solely for the benefit of the officers and members of any registered friendly society or branch thereof and not extended, either directly or indirectly, beyond such officers and members.
3. Any portion of a premium received or charged under any life insurance policy, being an amount that is specified in, or directly ascertainable from, the policy and declared therein to be for investment purposes only and is not for, or in respect of, any insurance risk.
4. Any premium received or charged under a policy in respect of a life or personal accident insurance risk where the principal place of residence of the policy owner is in the Northern Territory and the policy is registered in a registry kept in the Northern Territory pursuant to the *Life Insurance Act 1945* of the Commonwealth.

Exemption 3
inserted by 111,
1980, s. 15 (a).

Exemption 4
inserted by 111,
1980, s. 15 (a).

APPLICATION to Register a Motor Vehicle or APPLICATION to Transfer the Registration of a Motor Vehicle—

Ss. 42a-42c.
Item inserted by
24, 1964, s. 9 (b);
amended by 58,
1965, s. 17;
substituted by 71,
1971, s. 13 (1);
amended by 80,
1971, s. 8 (a), (b);
90, 1974, s. 7 (c).

(A) *Component payable in respect of Registration*

Division (A)
substituted by 90,
1974, s. 7 (c).

Where the value of the motor vehicle (not being a motor tractor owned by a primary producer as defined in section 5 of the Motor Vehicles Act, 1959, and not being a commercial motor vehicle as defined in that section)—

(a) does not exceed \$1 000—for every \$100 or fractional part of \$100 of that value	1.00
(b) exceeds \$1 000, but does not exceed \$2 000	\$10.00 plus \$2.00 for every \$100 or fractional part of \$100 of the excess over \$1 000 of that value

Stamp Duties Act, 1923

	Nature of Instrument	Amount of Duty \$
Para. (c) substituted by 90, 1974, s. 7 (a).	(c) exceeds \$2 000, but does not exceed \$3 000	\$30.00 plus \$3.00 for every \$100 or fractional part of \$100 of the excess over \$2 000 of that value
Para. (ca) inserted by 90, 1974, s. 7 (a).	(ca) exceeds \$3 000	\$60.00 plus \$4.00 for every \$100 or fractional part of \$100 of the excess over \$3 000 of that value
	Where the value of the motor vehicle (being a motor tractor owned by a primary producer as defined in section 5 of the Motor Vehicles Act, 1959, or a commercial motor vehicle as defined in that section)—	
	(d) does not exceed \$1 000—for every \$100 or fractional part of \$100 of that value	1.00
Para. (e) substituted by 90, 1974, s. 7 (b).	(e) exceeds \$1 000, but does not exceed \$2 000	\$10.00 plus \$2.00 for every \$100 or fractional part of \$100 of the excess over \$1 000 of that value
Para. (f) inserted by 90, 1974, s. 7 (b).	(f) exceeds \$2 000	\$30.00 plus \$3.00 for every \$100 or fractional part of \$100 of the excess over \$2 000 of that value

The duty on an application by a person beneficially entitled under the will or on the intestacy of a deceased person to the motor vehicle to which the application relates shall, irrespective of the value of the motor vehicle, be \$4; but in any other case the duty in respect of any one application shall not be less than \$5.

Exemptions from payment of this component—

1. Any application to register a motor vehicle made by a person who carries on the business of selling motor vehicles if the application is made by that person for the purpose of selling the motor vehicle to which the application relates to another person in the ordinary course of that business or for the purpose of demonstrating such motor vehicle to prospective purchasers thereof and such motor vehicle has not been previously registered (whether in this State or elsewhere in the Commonwealth).
2. Any application to register a motor vehicle or any application to transfer the registration of a motor vehicle to a dealer if the application is being made by that dealer for the purpose of the resale by him to another person of the motor vehicle to which the application relates and the resale is in the ordinary course of the business of the dealer.
3. Any application to register a motor vehicle or to transfer the registration of a motor vehicle made by a person or body who or which is entitled to registration, without fee, of the vehicle to which the application relates.
4. Any application to register or to transfer the registration of a trailer.
5. Any application to register a motor vehicle or to transfer the registration of a motor vehicle made by the Crown or by any statutory body or authority which holds its assets for and on account of the Crown or by any person on behalf of the Crown or of any such body or authority.
6. Any application to register a motor vehicle or to transfer the registration of a motor vehicle to the extent that *ad valorem* stamp duty has already been paid on another instrument by which or by virtue of which the property in the motor vehicle was legally or equitably transferred to, or vested in, the applicant.
7. Any application to register or to transfer the registration of a motor vehicle made by an executor or administrator of, or by any person administering the estate of, a deceased person if the application is made only for the purpose of the transfer of the motor vehicle to a person beneficially entitled thereto or for the purpose of the sale of the motor vehicle in the course of winding up the estate.

Nature of Instrument	Amount of Duty §
8. Any application to transfer the registration of a motor vehicle made by an owner who has repossessed that motor vehicle pursuant to a hire-purchase agreement or made by an owner in pursuance of the return of the motor vehicle to that owner by the hirer voluntarily where the vehicle is the subject of a hire-purchase agreement or upon the termination of a hiring agreement (not being a hire-purchase agreement).	
9. Any application to register or to transfer the registration of a motor vehicle in which seating for not less than twelve adult passengers is provided and which is to be used solely or predominantly for the carriage of passengers for hire or reward.	Exemption 9 inserted by regulation and substituted by 26, 1968, s. 9 (a).
10. Any application to register a motor vehicle in, or to transfer the registration of a motor vehicle to, the name of a council as defined in the Planning and Development Act, 1966, or a controlling authority referred to in Part XIX of the Local Government Act, 1934, or the Metropolitan County Board constituted under the Food and Drugs Act, 1908.	Exemption 10 inserted by regulation and substituted by 26, 1968, s. 9 (a).
11. Any application to register a motor vehicle in, or to transfer the registration of a motor vehicle to, the name of a person entitled under section 38 of the Motor Vehicles Act, 1959, to have that motor vehicle registered at a reduced registration fee.	Exemption 11 inserted by regulation and substituted by 26, 1968, s. 9 (a).
12. Any application to register a motor vehicle in, or to transfer the registration of a motor vehicle to, the name of a person who satisfies the Registrar— <p data-bbox="427 835 1051 902">(a) that he is licensed under the law of another State or Territory of the Commonwealth to carry on the business of buying, selling or exchanging secondhand or used motor vehicles;</p> <p data-bbox="427 913 1051 981">(b) that the application is being made by that person for the purpose of the resale by him to another person of the motor vehicle to which the application relates;</p> <p data-bbox="427 992 464 1014">and</p> <p data-bbox="427 1025 1051 1070">(c) that such resale is in the ordinary course of the business of that person.</p>	Exemption 12 inserted by regulation and substituted by 26, 1968, s. 9 (a).
13. Any application to register a motor vehicle in, or to transfer the registration of a motor vehicle to, the name of a person who satisfies the Registrar— <p data-bbox="427 1167 858 1189">(a) that he is the owner of the motor vehicle;</p> <p data-bbox="427 1200 1051 1267">(b) that, in consequence of the loss by him of the use of one or both of his legs, he is permanently unable to use public transport;</p> <p data-bbox="427 1279 1051 1323">(c) that the motor vehicle will be wholly or mainly used for transporting himself;</p> <p data-bbox="427 1335 464 1357">and</p> <p data-bbox="427 1368 1051 1413">(d) that he is not enjoying the benefit of this exemption in respect of any other motor vehicle currently owned by him.</p>	Exemption 13 inserted by regulation and substituted by 26, 1968, s. 9 (a).
14. Any application to register a motor vehicle in, or to transfer the registration of a motor vehicle to, the name of a person who satisfies the Registrar— <p data-bbox="427 1520 1051 1543">(a) that the motor vehicle is the subject of a hire-purchase agreement;</p> <p data-bbox="427 1554 464 1576">and</p> <p data-bbox="427 1588 1051 1632">(b) that he is a person to whom the hirer's rights under the agreement have passed by assignment,</p>	Exemption 14 inserted by regulation and substituted by 26, 1968, s. 9 (a).
but, if <i>ad valorem</i> stamp duty has already been paid in respect of the assignment of such rights on the instrument by which, or by virtue of which, such rights were assigned, this exemption shall apply only to the extent of the amount of such duty so paid.	
15. Any application to register a motor vehicle where the applicant or applicants is or are the same person or persons in whose name or names the vehicle was registered (either under the law of this State or under the law of any other State or Territory of the Commonwealth) immediately before the date on which the application is made.	Exemption 15 inserted by regulation and substituted by 26, 1968, s. 9 (a); 63, 1975, s. 11 (a).
16. Any application to register a motor vehicle in, or to transfer the registration of a motor vehicle into, the name of the East Torrens County Board of Health constituted under the Health Act, 1935.	Exemption 16 inserted by regulation and substituted by 28, 1977, s. 5.

	Nature of Instrument	Amount of Duty \$
<p>Exemption 17 inserted by regulation: Gaz. 8 July 1982, p. 95.</p>	<p>17. Any application to transfer the registration of a motor vehicle made by a mortgagee— (a) who has, in accordance with the Consumer Transactions Act, 1972, taken possession of the motor vehicle in pursuance of a consumer mortgage; or (b) to whom the motor vehicle has been voluntarily returned by the mortgagor in pursuance of the Consumer Transactions Act, 1972.</p>	

<p>Division (B) inserted by 80, 1971, s. 8 (c); amended by 90, 1974, s. 7 (d), (e).</p>	<p>(B) <i>Component payable in respect of a Policy of Insurance</i></p> <p>Where the application is for registration of the vehicle for a period of twelve months</p> <p>Where the application is for registration of the vehicle for a period of six months</p>	<p>3.00</p> <p>1.50</p>
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Exemptions from payment of this component—

1. Policy of insurance where the application for registration is made by a person or body who or which is entitled to registration of the motor vehicle to which the application relates without fee.
2. Policy of insurance where the application is for registration of a trailer.
3. Policy of insurance where the application for registration is made by the Crown or by any statutory body or authority which holds its assets for and on account of the Crown or by any person on behalf of the Crown or of any such body or authority.
4. Policy of insurance where the application is for registration of a motor vehicle in which seating for not less than twelve adult passengers is provided and which is used solely or predominantly for the carriage of passengers for hire or reward.
5. Policy of insurance where the application for registration is made by a council as defined in the Planning and Development Act, 1966, or by a controlling authority referred to in Part XIX of the Local Government Act, 1934, or by the Metropolitan County Board constituted under the Food and Drugs Act, 1908.
6. Policy of insurance where the application for registration is made by a person entitled under section 38 of the Motor Vehicles Act, 1959, to have the motor vehicle in respect of which the application is made registered at a reduced fee.
7. Policy of insurance where the application for registration is made by a person who satisfies the Registrar of Motor Vehicles—
 - (a) that he is the owner of the motor vehicle;
 - (b) that, in consequence of the loss by him of the use of one or both of his legs, he is permanently unable to use public transport;
 - (c) that the motor vehicle will be wholly or mainly used for transporting himself;

and

 - (d) that he is not enjoying the benefit of this exemption in respect of any other motor vehicle currently owned by him.
8. Policy of insurance where the application for registration is made by a person who satisfies the Registrar of Motor Vehicles—

- (a) that he is the owner of the motor vehicle;
- (b) that he is entitled as the holder of—
 - (i) a State concession card issued by the Department of Community Welfare;

or

 - (ii) a pensioner entitlement card issued under any Act or law of the Commonwealth,

to travel on public transport in this State at reduced fares.

Para. (c) repeated by 89, 1978, s. 3.

Item re Bank Note amended by 58, 1965, s. 17; repeated by 111, 1980, s. 15 (b).

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Nature of Instrument	Amount of Duty \$	
BILL OF EXCHANGE payable on demand other than a cheque to which the following paragraph applies	0.25	Item amended by 1872, 1927, s. 9 (b); 2387, 1938, s. 4 (1); 55, 1952, s. 6; 8, 1956, s. 4; 32, 1962, s. 8; 58, 1965, s. 15 (c); 71, 1971, s. 13 (2); 90, 1974, s. 8; substituted by 63, 1975, s. 11 (b); amended by 70, 1981, s. 12 (a); substituted by 89, 1983, s. 10 (a).
BILL OF EXCHANGE, being a cheque drawn on a registered financial institution within the meaning of the Financial Institutions Duty Act, 1983, on the Reserve Bank of Australia or on a bank that does not carry on business in South Australia	0.10	Item inserted by 89, 1983, s. 10 (a); amended by 50, 1984, s. 3 (1) (6th Sched.).
* * * * *		Item re Bills of Exchange drawn in S.A., payable outside Australia, amended by 71, 1971, s. 12 (d); repealed by 63, 1975, s. 11 (b).
BILL OF EXCHANGE and PROMISSORY NOTE drawn or made out of South Australia and duly stamped with <i>ad valorem</i> duty under the law of another State of the Commonwealth of Australia	0.10	Item inserted by 63, 1975, s. 11 (b); amended by 70, 1981, s. 12 (b).
BILL OF EXCHANGE and PROMISSORY NOTE (not being a bill or note referred to in the paragraph immediately preceding this paragraph) which is expressed to be payable at a fixed period of not more than one hundred and twenty days after date or sight—		Item inserted by 63, 1975, s. 11 (b).
In respect of each ten days and also of any fractional part of ten days of that period (a period expressed by reference to a month being reckoned on the basis of thirty days for a month), for every \$100 and also for any fractional part of \$100 of the amount or value of the money for which the bill or note is drawn or made	0.01	
BILL OF EXCHANGE and PROMISSORY NOTE of any other kind (except a bank note)— For every \$100 and also for any fractional part of \$100 of the amount or value of the money for which the bill or note is drawn or made	0.12	Item amended by 71, 1971, s. 12 (e), as amended by 103, 1971, s. 2; substituted by 63, 1975, s. 11 (b).
Exemptions—		
1. Bill, note, bond, debenture, coupon or interest warrant issued by, or on behalf of, or guaranteed by, the Government of South Australia.		Exemption 1 amended by 63, 1975, s. 11 (c).
2. Draft or order for the payment of money issued by any duly authorized officer of the Government on account of the Public Service.		
3. Post office order or postal note.		
4. Any cheque drawn on an account maintained with a savings bank by a person permitted to draw cheques on such an account in accordance with the provisions of the Commonwealth (Savings Bank) Regulations, being Statutory Rules, 1960, No. 6, or any regulations amending or substituted for those regulations.		Exemption 4 substituted by 63, 1975, s. 11 (d).
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.		
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.		
7. Letter of credit granted in South Australia authorizing drafts to be drawn out of South Australia.		
8. Cheque drawn by any registered friendly society or by, or on behalf of, any community or subsidized hospital approved by the Chief Secretary.		Exemption 8 amended by 58, 1965, s. 15 (d), as amended by 59, 1966, s. 9 (1).
BILL OF LADING or SHIPPING NOTE for goods exported from the State	0.10	Section 53. Item amended by 58, 1965, s. 17; 71, 1971, s. 12 (f).

	Nature of Instrument								Amount of Duty \$	
Item re Certificate of Insurance lodged with application to register a motor vehicle inserted by 26, 1968, s. 9 (b); repealed by 80, 1971, s. 8 (d).	*	*	*	*	*	*	*	*	*	*
Items re Contract Notes for sale, etc., of stock, etc., amended by 1822, 1927, s. 9 (c), (d); 24, 1964, s. 9 (c)-(f); 58, 1965, s. 17; 14, 1967, s. 23 (a); repealed by 50, 1984, s. 3 (1) (6th Sched.).	*	*	*	*	*	*	*	*	*	*
Item re Contract with option to purchase etc., stock, etc., amended by 1822, 1927, s. 9 (e); 24, 1964, s. 9 (g), (h); 58, 1965, s. 17; 14, 1967, s. 23 (b); repealed by 50, 1984, s. 3 (1) (6th Sched.).	*	*	*	*	*	*	*	*	*	*
Item re Contract, etc., for repayment of money lent by money lender inserted by 24, 1964, s. 9 (j); amended by 59, 1966, s. 8 (a); repealed by 56, 1968, s. 8 (a).	*	*	*	*	*	*	*	*	*	*
Sections 60-71b. Item amended by 1822, 1927, s. 9 (f); 58, 1965, s. 17.	CONVEYANCE OF TRANSFER on sale of any property (not otherwise charged), including contract or agreement for sale—									
Para. (a) substituted by 48, 1941, s. 11 (2); amended by 24, 1964, s. 9 (i); 14, 1967, s. 23 (c); repealed by 50, 1984, s. 3 (1) (6th Sched.).	*	*	*	*	*	*	*	*	*	*
Para. (aa) inserted by 14, 1967, s. 23 (d); amended by 48, 1967, s. 6 (a), (b); 71, 1971, s. 13 (3) (a); 111, 1980, s. 15 (c); 95, 1982, s. 17 (a); 50, 1984, s. 3 (1) (6th Sched.).	(aa) In the case of the sale of any stock or marketable security (where any return lodged with the Commissioner pursuant to section 90d does not relate to such sale and not being a fixed interest security)—									
	Where the value of the stock or marketable security is less than \$100—for every \$25 and any fractional part of \$25								0.14	
	Where the value of the stock or marketable security is \$100 or more—for every \$100 and any fractional part of \$100								0.60	
Para. (aab) inserted by 111, 1980, s. 15 (d); amended by 95, 1982, s. 17 (b).	(aab) In the case of the sale of any fixed interest security—									
	For every \$100 or fractional part of \$100 of the value of the fixed interest security								0.10	
Para. (ab) inserted by 48, 1967, s. 6 (c); amended by 71, 1971, s. 12 (g); repealed by 89, 1983, s. 10 (b).	*	*	*	*	*	*	*	*	*	*
Para. (b) substituted by 59, 1966, s. 8 (b); amended by 71, 1971, s. 12 (h); substituted by 90, 1974, s. 9; 101, 1976, s. 7; amended by 95, 1982, s. 17 (c), (d).	(b) In any other case (not being a conveyance or transfer on sale of any stock or marketable security)—									
	Where the value of the property conveyed—									
	Does not exceed \$12 000, for every \$100 or fractional part of \$100 of such value								1.00	
	Exceeds \$12 000, but does not exceed \$20 000								\$120 plus \$2.00 for every \$100 or fractional part of \$100 of the excess over \$12 000 of that value	

Nature of Instrument	Amount of Duty \$	
Exceeds \$20 000, but does not exceed \$50 000	\$280 plus \$3.00 for every \$100 or fractional part of \$100 of the excess over \$20 000 of that value	
Exceeds \$50 000, but does not exceed \$100 000	\$1 180 plus \$3.50 for every \$100 or fractional part of \$100 of the excess over \$50 000 of that value	
Exceeds \$100 000	\$2 930 plus \$4.00 for every \$100 or fractional part of \$100 of the excess over \$100 000 of that value.	
<i>Exemption—</i>		
Conveyance or transfer of any mortgage, being a conveyance or transfer made on or after the first day of January, 1984.		Exemptions repealed by 30, 1953, s. 6 (a); inserted by 89, 1983, s. 10 (c).
* * * * *		
CONVEYANCE operating as a voluntary disposition <i>inter vivos</i> of any property—		Item re Conveyance, etc., of any share repealed by 1822, 1927, s. 9 (g).
Where the value of the property conveyed—		Item amended by 1822, 1927, s. 9 (h); substituted by 1860, 1928, s. 2 (a); amended by 58, 1965, s. 17; 59, 1966, s. 8 (c); 71, 1971, s. 12 (i); substituted by 90, 1974, s. 10; 101, 1976, s. 8.
Does not exceed \$12 000, for every \$100 or fractional part of \$100 of such value	1.00	
Exceeds \$12 000, but does not exceed \$20 000	\$120 plus \$2.00 for every \$100 or fractional part of \$100 of the excess over \$12 000 of that value	
Exceeds \$20 000, but does not exceed \$50 000	\$280 plus \$3.00 for every \$100 or fractional part of \$100 of the excess over \$20 000 of that value	
Exceeds \$50 000, but does not exceed \$100 000	\$1 180 plus \$3.50 for every \$100 or fractional part of \$100 of the excess over \$50 000 of that value	
Exceeds \$100 000	\$2 930 plus \$4.00 for every \$100 or fractional part of \$100 of the excess over \$100 000 of that value	
<i>Exemption—</i>		Exemption inserted by 30, 1944, s. 3.
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.		
CONVEYANCE for the partition or division of any property, being a conveyance of the kind referred to in section 71b (4), where the consideration for equality does not exceed \$200 or where there is no consideration for equality	4.00	Item inserted by 48, 1941, s. 11 (3); amended by 58, 1965, s. 17; 71, 1971, s. 12 (j); 95, 1982, s. 17 (e).
CONVEYANCE for effectuating the appointment of a new trustee or the retirement of a trustee, not being a conveyance operating as a voluntary disposition <i>inter vivos</i>	2.00	Item inserted by 48, 1941, s. 11 (3); amended by 58, 1965, s. 17; 71, 1971, s. 12 (k); 111, 1980, s. 15 (e).

	Nature of Instrument	Amount of Duty \$
Item inserted by 111, 1980, s. 15 (f).	CONVEYANCE to which section 71d applies	50.00
Item amended by 58, 1965, s. 17; 71, 1971, s. 12 (f).	CONVEYANCE of any other kind not before charged	4.00
Item amended by 58, 1965, s. 17; 71, 1971, s. 12 (a).	DEED (except as otherwise provided in this schedule)— For any deed where the consideration money therein expressed is not more than \$100	0.50
	For every additional \$100 up to a total of \$800, a further sum of	0.50
	For every deed or transfer of any kind not otherwise specified in this schedule	4.00
Item re Documents etc., for securing periodical payments by separate conveyance on sale amended by 58, 1965, s. 17; 71, 1971, s. 12 (m); repealed by 95, 1982, s. 17 (f).	* * * * *	* *
Item inserted by 90, 1974, s. 11.	INSTRUMENT of discharge or partial discharge of a mortgage or charge over land or an interest in land	4.00
	which duty may be denoted by an adhesive stamp.	
Item re Hire-purchase Agreement inserted by 45, 1959, s. 6 (a); substituted as item re Instalment Purchase Agreement by 59, 1966, s. 8 (d); 56, 1966, s. 8 (b); amended by 71, 1971, s. 12 (c); repealed by 50, 1984, s. 3 (1) (6th Sched.).	* * * * *	* *
Sections 72-74. Item amended by 58, 1965, s. 17; substituted by 71, 1971, s. 12 (b); amended by 111, 1980, s. 15 (g).	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— Where a rate or average rate of rent per annum can be ascertained or estimated— For every \$100 or fractional part of \$100 of one years rent calculated at that rate or, if an average rate can be ascertained or estimated, at that average rate	1.00
	Where a rate of rent per annum cannot be ascertained or estimated	4.00
	Exemption— 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 \$52 per annum.	
Item amended by 58, 1965, s. 17; 71, 1971, s. 12 (q).	LEASE made subsequently to and in conformity with a duly stamped agreement for a lease	0.50
Section 75. Item amended by 58, 1965, s. 15 (e); 71, 1971, s. 12 (r).	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	0.06
Sections 76-81. Item amended by 24, 1964, s. 9 (k); 58, 1965, s. 17; substituted by 48, 1967, s. 6 (d).	MORTGAGE, BOND, DEBENTURE, COVENANT or WARRANT OF ATTORNEY to confess and enter up judgment—	
Para. (a) amended by 71, 1971, s. 12 (s).	(a) Being a security for the payment or repayment of money, not being a security of a kind referred to in paragraph (c)— Where the money secured (excluding money to be advanced for the insurance of any property comprised in the security against damage by fire) does not exceed \$10 000—for every \$100 or fractional part of \$100 of that money	0.25

Nature of Instrument	Amount of Duty \$	
Where the money secured (excluding money to be advanced for the insurance of any property comprised in the security against damage by fire) exceeds \$10 000	\$25.00 plus \$0.35 for every \$100 or fractional part of \$100 of the excess over \$10 000 of that money	
(b) Where any further money is added to the money already secured	The same duty as a principal security for such further money	
(c) Being a mortgage of an existing mortgage of land used or to be used solely as a dwelling house constructed or in the course of construction on the land	4.00	Para. (c) amended by 71, 1971, s. 12 (t).
<i>Exemptions—</i>		
1. 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 chargeable with duty as a mortgage, bond, debenture, covenant or warrant of attorney to confess and enter up judgment and is duly stamped as such.		Heading amended by 101, 1976, s. 9 (a).
2. Every mortgage, bond, debenture or covenant securing the payment or repayment of an amount not exceeding four hundred dollars.		Exemption 2 inserted by 101, 1976, s. 9 (b).
POWER OF ATTORNEY or other instrument in the nature thereof—		
Any instrument not under seal	2.00	Item amended by 58, 1965, s. 17; 71, 1971, s. 12 (a).
Any instrument under seal	4.00	
<i>Exemptions—</i>		
1. Any 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.		
* * * * *		
RETURN lodged with the Commissioner by a company, person or firm of persons under section 42aa—		Item re Receipts amended by 29, 1954, s. 3; 58, 1965, s. 15 (f)-(k); 59, 1966, s. 8 (e)-(g); substituted by 32, 1968, s. 6; repealed by 50, 1984, s. 3 (1) (6th Sched.).
There shall be paid by the person lodging the return a duty at such rate per centum of the amount of the premiums paid or payable in respect of each class of assurance or insurance to which the return relates as would have been payable if the assurance or insurance had been effected under a policy issued in this State.		Section 42aa. Item inserted by 42, 1970, s. 16 (b).
RETURN lodged with the Commissioner by a South Australian dealer pursuant to section 90d—		Section 90d. Item inserted by 14, 1967, s. 23 (e); amended by 48, 1967, s. 6 (e), (f); 71, 1971, s. 13 (3) (b); 111, 1980, s. 15 (h).
There shall be paid by the dealer to the Commissioner a duty on each sale and each purchase to which the return relates in accordance with the following scale:		
(a) In the case of the sale or purchase of marketable securities other than fixed interest securities—		
Where the consideration for each sale or purchase is less than \$100—		
For every \$25 and any fractional part of \$25	0.07	
Where the consideration for each sale or purchase is \$100 or more—		
For every \$100 and any fractional part of \$100	0.30	
(b) In the case of the sale or purchase of fixed interest securities—		
For every \$100 or fractional part of \$100 of the consideration for each sale or purchase	0.05	
<i>Exemptions—</i>		
1. Any sale of marketable securities to which the return relates, which sale was made by a broker on his own account or behalf, where the marketable securities concerned were purchased by him on, or within two clear days (not including any day on which the Stock Exchange of which he is a member is closed) of, the day of the sale.		Exemption 1 amended by 48, 1967, s. 6 (f).

Exemption 2 amended by 48, 1967, s. 6 (f).

2. Any purchase of marketable securities to which the return relates, which purchase was made by a broker on his own account or behalf, where the marketable securities concerned were sold by him on, or within two clear days (not including any day on which the Stock Exchange of which he is a member is closed) of, the day of the purchase.

Item re Totalizator substituted by 1877, 1928, s. 9; amended by 58, 1965, s. 17; repealed by 104, 1976, s. 4 (2) (2nd Sched.).

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Item re Totalizator Agency Board inserted by 46, 1966, s. 12 (Sched.); repealed by 104, 1976, s. 4 (2) (2nd Sched.).

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GENERAL EXEMPTIONS FROM ALL STAMP DUTIES

Exemption 1 substituted by 111, 1980, s. 15 (f).

1. Wills, testamentary instruments and letters of administration and any instrument acknowledging, evidencing or recording any such instrument.
2. Certificates of title issued from the Lands Titles Office¹.
3. Customs bonds.
4. Administration bonds.
5. Bonds to the Crown.

Exemption 6 substituted by 101, 1976, s. 10; 30, 1982, s. 4; 95, 1982, s. 17 (g).

6. Conveyances of bills, bonds, debentures or other securities issued by a public statutory body constituted under a law of the Commonwealth or of this or any other State or of any Territory of the Commonwealth, not being a prescribed statutory body or a statutory body of a prescribed class.
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.

Exemption 11 amended by 48, 1941, s. 11 (4) (a).

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.

Exemption 13a inserted by 30, 1953, s. 6 (b).

13a. Grant of land from the Crown.

Exemption 13b inserted by 30, 1953, s. 6 (b).

13b. Conveyance, whether on sale or otherwise, to the Crown or to any person on behalf of the Crown (not being a surrender to the Crown, or any such person, of a lease or other interest in land in order that the Crown may grant to a person other than the surrenderor a lease of, or other interest in, the same land or any part thereof).

Exemption 14 amended by 58, 1965, s. 17.

14. Conveyance on sale of any goods, wares, merchandise, horses, cattle, sheep or other movable chattels when the value does not exceed \$40.

Exemption 14a inserted by 45, 1959, s. 6 (b); amended by 58, 1965, s. 17; repealed by 50, 1984, s. 3 (1) (6th Sched.).

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Exemption 14b inserted by 58, 1965, s. 15 (1); repealed by 50, 1984, s. 3 (1) (6th Sched.).

* * * * *

15. Any transfer of any fire, personal accident, fidelity, guarantee, livestock, plate glass or marine insurance or assurance policy.

¹ "Lands Titles Office" substituted for "Lands Titles Registration Office" pursuant to the Acts Replication Act, 1967, s. 7 (1).

16. Any cemetery leases.

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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. Exemption 17 inserted by 1822, 1927, s. 9 (i); amended by 48, 1941, s. 11 (4) (b), (c); repealed by 24, 1964, s. 9 (i).
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. Exemption 18 inserted by 1822, 1927, s. 9 (i).
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. Exemption 19 inserted by 1860, 1928, s. 2 (b); amended by 48, 1941, s. 11 (4) (d).
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. Exemption 20 inserted by 48, 1941, s. 11 (4) (e).
- * * * * *
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 two thousand four hundred dollars, but a conveyance, transfer or mortgage shall not be exempt under this paragraph unless the Commissioner is satisfied by such evidence as he requires— Exemption 21 inserted by 48, 1941, s. 11 (4) (f).
- (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— Exemption 22 inserted by 22, 1942, s. 4; repealed by 42, 1952, s. 3 (2nd Sched.).
- (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 Her Majesty's dominions, whether or not he is still so serving at the time when he claims exemption under this paragraph; Exemption 23 inserted by 30, 1944, s. 4; substituted by 32, 1945, s. 3; amended by 58, 1965, s. 17; 50, 1984, s. 3 (1) (6th Sched.).
- (b) a person who, during any such war, was employed in seagoing service on a ship registered in any territory under the dominion of Her Majesty the Queen, whether or not he is still so employed at the time when he claims exemption under this paragraph; Def. amended by 42, 1952, s. 3 (2nd Sched.); 58, 1965, s. 15 (a).
- (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. Para. (b) amended by 50, 1984, s. 3 (1) (6th Sched.).
- The expression “Korean war” in this paragraph means the war in Korea which commenced on the twenty-fifth day of June, 1950. For the purposes of this paragraph that 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; Para. (c) substituted 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; Para. (d) inserted by 5, 1952, s. 4.

Stamp Duties Act, 1923

Para. (d1) inserted by 58, 1965, s. 15 (m).

(d1) a person who (whether before or after the commencement of the Stamp Duties Act Amendment Act, 1965) has been on active service as a member of a naval, military or air force of the Commonwealth or of the United Kingdom or of any other part of Her Majesty's dominions in any area outside Australia or in any naval, military or air force operation that is proclaimed to be an area or (as the case may be) a naval, military or air force operation for the purposes of this paragraph, whether or not he is still on such service at the time when he claims exemption under this paragraph;

Para. (e) inserted by 5, 1952, s. 4; amended by 58, 1965, s. 15 (n).

(e) the widow of any deceased person who during his lifetime served or was employed as mentioned in paragraph (a), (b), (c), (d) or (d1).

For the purposes of paragraphs (a) and (b), 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. Notwithstanding the provisions of this paragraph, or of any proclamation made in pursuance thereof, the war which commenced on the third day of September, 1939, shall, for the purposes of any conveyance, transfer or mortgage executed or entered into after the commencement of the Stamp Duties Act Amendment Act, 1965, be deemed to have ceased on the thirty-first day of December, 1945:

"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 the 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

Section 33.

THIRD SCHEDULE

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, Livestock, Plate Glass, Marine or other Assurance or Insurance Business.

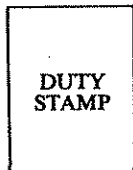
Name of company, person or firm of persons to whom licence granted Nature of business

Amount of net premiums of any kind received or in any manner charged in account by such company, person or firm of persons during the year ended 31 December, 19

Period over which licence extends year ending 31 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, livestock, 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 1 January next, as provided by the Stamp Duties Act, 1923.

4th Sched. amended by 1822, 1927, s. 10 (a), (b); 2312, 1936, s. 4; 2359, 1937, s. 11 (1), (2); repealed by 58, 1965, s. 16.

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