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## SCHEDULES

## STAMP DUTIES ACT, 1923-1975

being

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

as amended by

Stamp Duties Act, 1927, No. 1822 of 1927 [Assented to 21st December, 1927]<sup>1</sup>;  
 Stamp Duties Amendment Act, 1928, No. 1860 of 1928 [Assented to 17th October, 1928];  
 Lottery and Gaming Act Amendment Act, 1928, No. 1877 of 1928 [Assented to 1st November, 1928];  
 Statute Law Revision Act, 1935, No. 2246 of 1935 [Assented to 19th December, 1935];  
 Stamp Duties Act Amendment Act, 1936, No. 2312 of 1936 [Assented to 19th November, 1936];  
 Stamp Duties Act Amendment Act, 1937, No. 2359 of 1937 [Assented to 19th November, 1937];  
 Stamp Duties Act Amendment Act, 1938, No. 2387 of 1938 [Assented to 25th August, 1938];  
 Stamp Duties Act Amendment Act, 1941, No. 48 of 1941 [Assented to 27th November, 1941];  
 Stamp Duties Act Amendment Act, 1942, No. 22 of 1942 [Assented to 12th November, 1942];  
 Stamp Duties Act Amendment Act, 1944, No. 30 of 1944 [Assented to 14th December, 1944];  
 Stamp Duties Act Amendment Act, 1945, No. 32 of 1945 [Assented to 3rd January, 1946];  
 Stamp Duties Act Amendment Act, 1947, No. 41 of 1947 [Assented to 11th December, 1947];  
 Stamp Duties Act Amendment Act, 1950, No. 16 of 1950 [Assented to 2nd November, 1950];  
 Stamp Duties Act Amendment Act, 1952, No. 5 of 1952 [Assented to 2nd October, 1952];  
 Statute Law Revision Act, 1952, No. 42 of 1952 [Assented to 4th December, 1952];  
 Stamp Duties Act Amendment Act (No. 2), 1952, No. 55 of 1952 [Assented to 8th January, 1953]<sup>2</sup>;  
 Stamp Duties Act Amendment Act, 1953, No. 30 of 1953 [Assented to 10th December, 1953];  
 Stamp Duties Act Amendment Act, 1954, No. 29 of 1954 [Assented to 2nd December, 1954];  
 Stamp Duties Act Amendment Act, 1956, No. 8 of 1956 [Assented to 11th October, 1956];  
 Stamp Duties Act Amendment Act, 1959, No. 45 of 1959 [Assented to 17th December, 1959]<sup>3</sup>;  
 Stamp Duties Act Amendment Act, 1960, No. 7 of 1960 [Assented to 19th May, 1960];  
 Banks Statutory Obligations Amendment Act, 1962, No. 32 of 1962 [Assented to 1st 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 9th October, 1964]<sup>4</sup>;  
 Stamp Duties Act Amendment Act, 1965, No. 58 of 1965 [Assented to 23rd December, 1965] (as amended by Stamp Duties Act Amendment Act, 1966, No. 59 of 1966);  
 Lottery and Gaming Act Amendment Act (No. 2), 1966, No. 46 of 1966 [Assented to 13th October, 1966]<sup>5</sup>;  
 Stamp Duties Act Amendment Act, 1966, No. 59 of 1966 [Assented to 10th November, 1966]<sup>6</sup>;  
 Marketable Securities Transfer Act, 1967, No. 14 of 1967 [Assented to 6th April, 1967]<sup>7</sup>;  
 Stamp Duties Act Amendment Act, 1967, No. 48 of 1967 [Assented to 19th October, 1967];  
 Stamp Duties Act Amendment Act (No. 2), 1968, No. 26 of 1968 [Assented to 5th December, 1968]<sup>8</sup>;  
 Stamp Duties Act Amendment Act, 1968, No. 32 of 1968 [Assented to 12th December, 1968]<sup>9</sup> (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 19th December, 1968]<sup>10</sup>;  
 Stamp Duties Act Amendment Act, 1970, No. 42 of 1970 [Assented to 3rd December, 1970];  
 Stamp Duties Act Amendment Act, 1971, No. 71 of 1971 [Assented to 4th November, 1971]<sup>11</sup> (as amended by Stamp Duties Act Amendment Act, 1971, Amending Act, 1971, No. 103 of 1971 [Assented to 3rd December, 1971]<sup>12</sup>);  
 Stamp Duties Act Amendment Act (No. 2), 1971, No. 80 of 1971 [Assented to 18th November, 1971]<sup>13</sup>;  
 Statute Law Revision Act, 1973, No. 77 of 1973 [Assented to 6th December, 1973];  
 Statute Law Revision Act, 1974, No. 42 of 1974 [Assented to 11th April, 1974];  
 Stamp Duties Act Amendment Act, 1974, No. 90 of 1974 [Assented to 2nd December, 1974]<sup>14</sup>;

<sup>1</sup> Came into operation 24th December, 1927: *Gaz.* 22nd December, 1927, p. 1609.

<sup>2</sup> Sections 4, 5 and 6 of Act No. 55 of 1952 came into operation 22nd January, 1953: *Gaz.* 22nd January, 1953, p. 72.

<sup>3</sup> Came into operation 1st February, 1960: *Gaz.* 7th January, 1960, p. 1.

<sup>4</sup> Act No. 24 of 1964 (other than sections 1 and 2 and para. (a) of section 9) came into operation 19th October, 1964: *Gaz.* 15th October, 1964, p. 1203.

<sup>5</sup> Came into operation 8th December, 1966: *Gaz.* 8th December, 1966, p. 2152.

<sup>6</sup> Came into operation 21st November, 1966: *Gaz.* 10th November, 1966, p. 1882.

<sup>7</sup> Act No. 14 of 1967 came into operation 1st July, 1967: *Gaz.* 25th May, 1967, p. 1657. That Act was repealed by Act No. 11 of 1971, but the repeal did not affect the amendments to the Stamp Duties Act made by Act No. 14 of 1967. See Act No. 11 of 1971, s. 2.

<sup>8</sup> Came into operation 1st January, 1969: *Gaz.* 5th December, 1968, p. 2429.

<sup>9</sup> Came into operation 1st February, 1969: *Gaz.* 12th December, 1968, p. 2558.

<sup>10</sup> Came into operation 1st February, 1969: *Gaz.* 19th December, 1968, p. 2670.

<sup>11</sup> Act No. 71 of 1971 excluding subsection (3) of section 13 came into operation 1st December, 1971: *Gaz.* 11th November, 1971, p. 1928. S. 13 (3) came into operation 1st January, 1972: *Gaz.* 3rd December, 1971, p. 2298.

<sup>12</sup> Deemed to have had effect on 30th November, 1971, being the day before the day on which Act No. 71 of 1971 came into operation. See Act No. 103 of 1971, s. 1 (1).

<sup>13</sup> Came into operation 1st January, 1972: *Gaz.* 23rd December, 1971, p. 2627.

<sup>14</sup> Act No. 90 of 1974 (except s. 7) came into operation 16th December, 1974; and s. 7 came into operation 2nd January, 1975: *Gaz.* 2nd December, 1974, p. 3555.

Stamp Duties Act Amendment Act, 1975, No. 63 of 1975 [Assented to 4th September, 1975]<sup>1</sup>;

and

Statutes Amendment (Gift Duty and Stamp Duties) Act, 1975, No. 76 of 1975 [Assented to 16th October, 1975]<sup>2</sup>.

### An Act to consolidate certain Acts relating to stamp duties.

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

#### PART I

#### PART I

#### PRELIMINARY PROVISIONS

Short title.  
Citation  
amended by 76,  
1975, s. 6 (2).

1. This Act may be cited as the "Stamp Duties Act, 1923-1975".

Arrangement of  
Act.  
S. 2 amended by  
58, 1965, s. 4;  
14, 1967, s. 14<sup>3</sup>.

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

PART I—Preliminary Provisions:

PART II—General Provisions with respect to Stamp Duties:

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

PART IIIA—Sales and Purchases of Marketable Securities by Brokers  
and Duty thereon:

\* \* \* \* \*

PART V—Miscellaneous Provisions.

Acts  
consolidated  
and repealed.

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

Interpretation.  
372, 1886, s. 2.

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

Def. amended  
by 42, 1970,  
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:

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

"duty" includes every duty chargeable under this Act:

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

"forge" includes counterfeit:

"instrument" includes every written document:

"marketable security" includes—

Def. inserted by  
14, 1967,  
s. 15 (a)<sup>3</sup>.

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

<sup>1</sup> Came into operation 18th September, 1975: *Gaz.* 18th September, 1975, p. 1574.

<sup>2</sup> Deemed to have come into operation 14th July, 1975, see s. 2 of Act No. 76 of 1975.

<sup>3</sup> Act No. 14 of 1967 was repealed by Act No. 11 of 1971, but the repeal did not affect the amendments to the Stamp Duties Act made by Act No. 14 of 1967. See Act No. 11 of 1971, s. 2.

(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;

(c) any stock or other security whatsoever 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:

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

“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 such marketable security:

Def. inserted by 14, 1967<sup>1</sup>, s. 15 (b).

“Savings Bank” means any of the following banks namely:—

Def. inserted by 32, 1962, s. 2, as amended by 77, 1973, s. 5 (1).

Australia and New Zealand Savings Bank Limited, Bank of New South Wales Savings Bank Limited, C.B.C. Savings Bank Limited, E. S. & A. Savings Bank Limited, The Bank of Adelaide Savings Bank Limited, The Commercial Savings Bank of Australia Limited, The Commonwealth Savings Bank of Australia, The National Bank Savings Bank Limited, The Savings Bank of South Australia:

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

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

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

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

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

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), (b), (c).

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

1216, 1915, s. 15.

<sup>1</sup> Act No. 14 of 1967 was repealed by Act No. 11 of 1971, but the repeal did not affect the amendments to the Stamp Duties Act made by Act No. 14 of 1967. See Act No. 11 of 1971, s. 2.

372, 1886, s. 16.

(3) It shall not be necessary to stamp any instrument executed before the sixth day of December, 1886<sup>1</sup>.

Subsec. (4)  
inserted by 14,  
1967, s. 16<sup>2</sup>.

(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, such duty shall be a debt due to Her Majesty from such person, and shall be recoverable from such person in accordance with subsection (2) of this section as if it were duty chargeable upon an instrument executed by that person.

Power to  
appoint officers.  
372, 1886, s. 4.  
789, 1902, s. 38  
(part).

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.

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

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

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

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

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

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

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

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

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

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

Subsec. (4)  
inserted by 5,  
1952, s. 3.

(4) Subsection (3) of this section shall be deemed to have come into operation on the second day of November, 1950<sup>3</sup>, and the Treasurer may, out of the general revenue and without any further appropriation than this section, pay to any bank the commission allowed under subsection (3) of this section, in respect of all duty paid to the Treasurer as mentioned in subsection (3) of this section after the said day.

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

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

<sup>1</sup> Reference to the year eighteen hundred and eighty-six altered to 1886 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

<sup>2</sup> Act No. 14 of 1967 was repealed by Act No. 11 of 1971, but the repeal did not affect the amendments to the Stamp Duties Act made by Act No. 14 of 1967. See Act No. 11 of 1971, s. 2.

<sup>3</sup> Reference to the year nineteen hundred and fifty altered to 1950 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.



## PART II

## PART II

## GENERAL PROVISIONS WITH RESPECT TO STAMP DUTIES

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

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

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

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

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

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

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

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

789, 1902, s. 39.

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

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

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

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

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

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

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

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.

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

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

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

Instruments to be separately charged.

i. Any instrument containing or relating to several distinct matters shall be separately and distinctly charged with duty in respect of each of such matters, as if the portion of such instrument containing or relating to each such matter were a separate instrument;

372, 1886, s. 8.

ii. Any instrument made for any consideration in respect whereof it is chargeable with *ad valorem* duty, and also for any further or other

valuable consideration, shall, in addition to being charged with such *ad valorem* duty, be charged with duty in respect of such last-mentioned consideration, as if it were an instrument made for such consideration only.

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

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

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

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

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

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

Duplicates and counterparts.  
372, 1886, s. 9.

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

Duty on other instruments.  
372, 1886, s. 14.

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

All facts to be truly set forth.  
372, 1886, s. 11.  
1216, 1915, s. 4.

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.

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

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

(a) executes any instrument in which all the said facts and circumstances are not fully and truly set forth; or

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

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

Penalty for not duly stamping.  
372, 1886, s. 15.  
789, 1902, s. 40.  
Subsec. (1) amended by 58, 1965, ss. 5, 17.

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

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

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

\* \* \* \* \*

Para. III  
repealed by  
2246, 1935, s. 4  
(2nd Sched.).

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

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

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

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

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

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

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

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

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

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

Except as  
aforesaid no  
unstamped  
instrument to be  
received in  
evidence.  
372, 1886, s. 18.

Assessment of  
duty.  
372, 1886, s. 19.

**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—

I. Whether it is chargeable with any duty:

II. With what amount of duty it is chargeable.

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

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

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

(5) Notwithstanding anything contained in this section—

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

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

Appeal from  
assessment.  
372, 1886, s. 20.

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

(a) within fourteen days after the date of the Commissioner's assessment forward to the Treasurer a statement of the grounds of his objection to the assessment; or

(b) within twenty-one days after the date of the Commissioner's assessment, appeal to the Supreme Court.

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

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

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

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

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

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

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

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

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

Abstract of instrument to be furnished.  
372, 1886, s. 21.

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

Records open to inspection.  
372, 1886, s. 22.

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

No instrument to be enrolled or registered unless stamped.  
372, 1886, s. 23.  
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 such consideration, or such other facts as aforesaid.

Power of Commissioner to make certain inquiries.  
S. 27a enacted 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 enquired into, so far as they are known to such person, or may hear, receive, and examine evidence upon oath (which oath such Commissioner is hereby empowered to administer), and by summons under his hand, may require all such persons as he may think fit to appear personally before him, at a time and place to be fixed in and by such summons,

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

and to produce to him all such books, papers, and documents as may be relevant to such inquiry.

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

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

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

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

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

Inspection of  
documents, etc.  
S. 27c enacted  
by 32, 1968,  
s. 4, as amended  
by 42, 1974,  
s. 3 (1) (2nd  
Sched.).

**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 such authority is general or for any particular case), on showing such authority, 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 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 the same and take any extracts therefrom.

(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) of this section 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) of this section 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 enacted  
by 32, 1968,  
s. 4.

**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 subsections (3), (4) and (5) of section 23 and the provisions of section 24 of this Act shall apply to and in relation to any such assessment in all respects as if it were an

assessment under section 23 of this Act made pursuant to a requirement for an expression of opinion under that section.

**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 such powers or duties.

Commissioner not liable for acting *bona fide* in exercise of his powers or discharge of his duties.  
S. 27e enacted by 32, 1968, s. 4.

### PART III

### PART III

## SPECIAL PROVISIONS WITH RESPECT TO CERTAIN STAMP DUTIES

### *Affidavits and Declarations*

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

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

### *Agreements*

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

Adhesive stamp may be used for agreement not under seal.  
789, 1902, s. 7.

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

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

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

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

Subsec. (1) amended by 1822, 1927, s. 5 (a), (b); 30, 1953, s. 3 (a).

\* \* \* \* \*

Para. (b) struck out by 1822, 1927, s. 5 (b).

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

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

\* \* \* \* \*

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

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

Subsec. (2) amended by 48, 1941, s. 5 (b); 45, 1959, s. 4 (a).

agreement duly stamped, shall stamp such conveyance with a particular stamp denoting that it is duly stamped.

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

Subsec. (4)  
amended by 48,  
1941, s. 5 (b);  
45, 1959,  
s. 4 (a).

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

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

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

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

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

- (a) a contract or agreement in writing provides for the sale as a going concern of a pastoral holding, farm, orchard or other land used wholly or mainly for primary production, together with stock, implements and other chattels held or used in connection therewith; and
- (b) the contract or agreement sets out separately the consideration payable for the land and the consideration payable for stock, implements or other chattels; and
- (c) the Commissioner certifies in writing on the contract or agreement that he is of opinion that the consideration specified as being payable for the land represents the value of that land,

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

Heading enacted  
by 45, 1959,  
s. 5; substituted  
by 56, 1968,  
s. 3.

### *Credit and Rental Business*

Interpretation.  
S. 31b enacted  
by 45, 1959,  
s. 5; amended by  
7, 1960, s. 3;  
substituted by  
56, 1968, s. 3.

**31b.** (1) For the purposes of the provisions of this Act falling under the heading of "*Credit and Rental Business*", unless the contrary intention appears—

"bank" means The Savings Bank of South Australia, the State Bank of South Australia or a bank as defined in section 5 of the *Banking Act* 1959 of the Commonwealth, as from time to time amended:

"credit arrangement" means an arrangement for the provision of credit in relation to the sale of goods or the provision of services where any amount in excess of the cash price is charged for or in relation to the goods or services pursuant to the arrangement, but does not include any such arrangement where the only amount in excess of the cash price that is charged is an amount that does not exceed the amount that would have been chargeable if the arrangement required the payment of interest at the prescribed rate (or a rate equivalent thereto) on the amount of credit provided under the arrangement and from time to time outstanding:

Def. amended  
by 42, 1970,  
s. 3 (a); 71,  
1971, s. 3 (a).



“credit business” means the business of making loans or entering into credit arrangements or discount transactions but does not include—

(a) the business of a pawnbroker licensed under the Pawnbrokers Act, 1888-1965<sup>1</sup>;

or

(b) any business which is effected or evidenced by an instrument to which any provision of this Act falling under the heading of “*Instalment Purchase Agreements*” applies:

“discount transaction” means the purchase, acquisition, discounting or factoring of book debts or other things in action, not being marketable securities, for a consideration which is less than the amount of the book debt or the nominal or face value of the thing in action, but does not include the purchase, acquisition, discounting or factoring—

Def. amended by 42, 1970, s. 3 (b); 71, 1971, s. 3 (b).

(a) by a corporation of any book debt or other thing in action from or of any other corporation which is, by virtue of subsection (5) of section 6 of the Companies Act, 1962-1966, as amended<sup>2</sup>, deemed to be related to that first mentioned corporation where the consideration is not less than ninety-six per centum of the amount of the book debt or the nominal or face value of the other thing in action;

(b) of any book debt or other thing in action which relates solely to an amount due to any person in the Commonwealth for goods exported by that person from the Commonwealth;

or

(c) of any bill of exchange or promissory note at a discount, the amount of which, in relation to the amount expended in the purchase, acquisition, discounting or factoring of the bill or note, is equivalent to a rate not exceeding the prescribed rate on the amount so expended:

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

“guarantee” includes a contract or arrangement by which the performance of a contract or arrangement is guaranteed or secured by a third party or by which any of the parties to the contract or arrangement is indemnified, insured or secured against any loss that may be incurred by reason of a breach of the contract or arrangement by any of the parties thereto:

Def. inserted by 71, 1971, s. 3 (c).

“guarantor” means a person who carries on the business, whether in South Australia or elsewhere, of entering into or giving guarantees:

Def. inserted by 71, 1971, s. 3 (c).

“interest”, in relation to a loan or an amount of credit provided under a credit arrangement, includes any amount by whatsoever name called in excess of the principal amount of the loan or credit which amount has been or is to be paid or payable in consideration of or otherwise in respect of the loan or the granting of the credit, but does not include—

(a) any sum lawfully agreed to be paid on account of duties or fees payable under any Act;

<sup>1</sup> Now Pawnbrokers Act, 1888-1975.

<sup>2</sup> Now Companies Act, 1962-1974.

- (b) any sum lawfully payable to a legal practitioner or licensed land broker for costs necessarily incurred by the lender or the person providing the credit in relation to the loan or the credit;

or

- (c) any sum lawfully agreed to be paid in respect of the valuation of any land given as security for the repayment of the loan or of the amount of the credit to the extent only that such sum does not exceed the amount payable for such a valuation under the scale of fees, if any, for the time being fixed or recommended by the Commonwealth Institute of Valuers (Incorporated):

Def. amended  
by 42, 1970,  
s. 3 (c); 71,  
1971, s. 3 (d),  
(e).

“loan” includes—

- (a) any advance of money;
- (b) money paid for or on account of or on behalf of or at the request of any person;
- (c) a forbearance to require payment of money owing on any account whatsoever;

and

- (d) any transaction (whatever its terms or form) which in substance effects a loan of money,

but, subject to subsection (10) of this section, does not include—

- (e) any loan, advance, payment or forbearance or transaction where the interest payable in consideration or in respect thereof is at an annual rate not exceeding the prescribed rate, or the equivalent thereof;

and

- (f) any loan, advance or payment by a registered credit union to any of its members:

Def. inserted by  
71, 1971, s. 3 (f).

“prescribed rate” means the rate for the time being fixed by regulation as the prescribed rate for the purposes of the provisions of this Act falling under the heading of *Credit and Rental Business*:

“principal”, in relation to a loan or an amount of credit provided under a credit arrangement, means the actual amount of the loan or the actual amount credited under the arrangement, as the case may be:

“rate of interest”, in relation—

- (a) to a loan or a credit arrangement, the repayment of which loan or of the amount of credit provided under which credit arrangement is *bona fide* secured on any interest in land, means the rate of interest the lender or person providing the credit agrees to accept so long as the borrower or person who has obtained the credit duly observes and performs all his covenants and agreements including those relating to the payment of interest when due;

and

- (b) to any other loan or credit arrangement, means the actual rate of interest paid or payable in relation to the loan or the amount of credit provided under the credit arrangement:

“registered credit union” means a society—

Def. inserted by  
42, 1970,  
s. 3 (d).

- (a) registered under the Industrial and Provident Societies Act, 1923, as amended<sup>1</sup>;

- (b) composed of members having a common bond of association;

- (c) which does not engage in the business of buying and selling goods;

- (d) which has satisfied the Registrar of Industrial and Provident Societies that all objects fall within the following classes—

- (i) the promotion of thrift among its members by encouraging them to save regularly by purchasing shares in and making deposits with the society;

- (ii) the raising of money on loan in accordance with its rules;

- (iii) the making of loans to members of the society at reasonable rates of interest for the purposes set out in its rules;

- (iv) the guaranteeing of loans to members of the society for any of the purposes set out in its rules;

and

- (v) the investment of its funds for the benefit of its members in such manner as is authorized by its rules;

and

- (e) which makes loans to its members only at rates of interest not exceeding one per centum per month on balances of the loans from time to time outstanding:

“registered person” means a person registered under section 31e of this Act:

“related corporation”, in relation to a corporation, means a corporation that is, by virtue of subsection (5) of section 6 of the Companies Act, 1962, as amended<sup>2</sup>, deemed to be related to the first mentioned corporation:

Def. inserted by  
71, 1971,  
s. 3 (g).

“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 disponent under any agreement or arrangement for the letting, bailing or hiring of goods, other than books, or under any other

<sup>1</sup> Now Industrial and Provident Societies Act, 1923-1974.

<sup>2</sup> Now Companies Act, 1962-1974.

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).

(1a) The Governor may make regulations fixing from time to time a rate being a rate of not less than nine per centum per annum as the prescribed rate for the purposes of the provisions of this Act falling under the heading of *Credit and Rental Business*.

(2) In this section and in any other provision of this Act falling under the heading of "*Credit and Rental Business*" a reference to interest, on a loan or on an amount of credit provided under a credit arrangement, at an annual rate per centum is a reference to interest at an annual rate per centum (or the equivalent thereof) on the amount or the balance, as the case may be, of the loan or credit from time to time outstanding.

(3) For the purposes of subsection (2) of this section—

(a) where the interest on the amount of a loan or credit provided under a credit arrangement is charged at a monthly rate per centum, the annual rate per centum, which is the equivalent of that monthly rate shall be determined by multiplying the monthly rate by 12;

(b) where the interest on the amount of a loan or credit provided under a credit arrangement is charged at a weekly rate per centum, the annual rate per centum which is the equivalent of that weekly rate shall be determined by multiplying the weekly rate by 52;

and

(c) where the interest on the amount of a loan or credit provided under a credit arrangement is charged at a daily rate per centum, the annual rate per centum, which is the equivalent of that daily rate shall be determined by multiplying the daily rate by 365.

(4) Where no annual rate of interest per centum, or the equivalent thereof, payable on the amount or the balance of the loan or credit from time to time outstanding is agreed between the borrower or the person obtaining the credit and the lender or person providing the credit, the amount or amounts paid or payable to the lender or person last referred to in respect both of the principal amount of the loan or credit and interest shall be appropriated to principal and interest, respectively, in the proportion that the total amount of the principal bears to the total amount of the interest payable on the loan or amount of credit and, for the purposes of subsection (2) of this section, the annual rate per centum at which such interest is charged, on the amount of the loan or credit, shall be determined as provided in subsections (5), (6), (7) and (8) of this section.

(5) For the purposes of this Act, and unless the contrary intention appears—

(a) the amount or the balance outstanding at any time of the amount of the loan or credit shall be taken to be the balance remaining after deducting from the principal or the balance of the principal amount of the loan or credit the total of the payments appropriated to principal as provided in subsection (4) of this section;

(b) each amount taken to be outstanding by way of principal before a payment is due to be made on the date on which it falls due shall be multiplied by the number of months during which that amount

is so taken to be outstanding and the aggregate sum of the amounts so produced shall be ascertained;

and

- (c) the total amount appropriated to interest as provided in subsection (4) of this section shall be divided by one-twelfth part of the aggregate sum referred to in paragraph (b) of this subsection and the quotient, multiplied by 100, shall be taken to be the annual rate of interest per centum on the amount of such loan or credit.

(6) Where the intervals between the dates on which successive payments are due are complete weeks or multiples of weeks or complete quarters or multiples of quarters or complete years or multiples of years, the calculation of the rate of interest as provided in subsections (4) and (5) of this section shall be made by reference to weeks or quarters or years, as the case may require, and in such case subsection (5) shall have effect as if in paragraph (b) thereof the words "weeks", "quarters" or "years", as the case may require, were substituted for the word "months" and in paragraph (c) thereof the passage "one-fifty second part" or "one-fourth part" or "the whole", as the case may require, were substituted for the passage "one-twelfth part".

(7) Where any interval between the dates on which successive payments are due is not a number of complete months, subsection (5) of this section shall have effect, and the necessary calculations shall be made, as if one day were one-thirtieth part of a month.

- (8) For the purposes of subsections (6) and (7) of this section—

"week" means any period of seven days:

"month" means a calendar month or any period equivalent thereto:

"quarter" means a period of three months or any period equivalent thereto:

"year" means a period of twelve months.

(9) For the purposes of the definition of "discount transaction" in subsection (1) of this section, the reference to the amount of the book debt or the nominal or face value of the thing in action does not include any amount payable as interest or appropriated to interest with respect to that book debt or thing in action.

(10) Notwithstanding the definition of "loan" in subsection (1) of this section and in particular paragraph (e) of that definition, that expression shall, for the purposes of the provisions of this Act falling under the heading of *Credit and Rental Business*, be deemed to include—

Subsec. (10)  
inserted by 71,  
1971, s. 3 (b).

- (a) a loan in respect of which any amount that is paid or payable to a guarantor or any other person (not being the person making or receiving the loan) in respect of or in connection with the procuring or making of the loan or any guarantee of the repayment thereof together with the amount that is or may be payable by way of interest in consideration of or otherwise in respect of the loan exceeds the amount that would have been payable if the only amount payable in addition to the principal had been interest at the prescribed rate;

and

- (b) a loan that is one of a series of transactions any of which has effected a loan by a registered person or some other person with whom a registered person is in some way associated, whether under a legally binding contract or arrangement or under an

informal or unenforceable arrangement or understanding, at a rate of interest in excess of the prescribed rate.

Application of provisions dealing with credit and rental business.

S. 31c enacted by 45, 1959, s. 5; substituted by 56, 1968, s. 3.

**31c.** The provisions of this Act falling under the heading of "*Credit and Rental Business*" do not apply to or in relation to the transaction of any credit business with any bank other than—

(a) any loan which is not an overdraft on current account;

and

(b) any purchase, acquisition, discounting or factoring of a bill of exchange or promissory note at a rate of discount exceeding the prescribed rate of the amount expended on the purchase, acquisition, discounting or factoring of the bill or note.

Para. (b) amended by 42, 1970, s. 4; 71, 1971, s. 4.

Persons carrying on credit or rental business to be registered.

S. 31d enacted by 45, 1959, s. 5; substituted by 56, 1968, s. 3.

**31d.** (1) Subject to subsection (3) of this section, a person shall not carry on any credit business or 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.

(2) Any person who, in the course of any business—

(a) undertakes negotiations in South Australia with the object of transacting any credit business;

or

(b) enters into any discount transaction which relates to book debts or other things in action which are situated or enforceable in South Australia,

shall be deemed to carry on credit business in South Australia, and 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 in either case he has an established place of business in South Australia.

(3) Subsection (1) of this section 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) of this section, 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 subsection (1) of section 31f of this Act.

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

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

(2) A registered person who ceases to carry on credit business or rental business, or both, in South Australia may by notice in the prescribed form given to the Commissioner cancel his registration under this section.

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

Statement to be lodged by registered person.

S. 31f enacted by 56, 1968, s. 3.

(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—

(i) the total amount of all loans, other than short term loans and housing loans, made by him during the last preceding month;

(ii) an amount equal to \$1.80 per centum of the total amount referred to in subparagraph (i) of this paragraph as set out in the statement;

Subpara. (ii) amended by 71, 1971, s. 5 (a).

(iii) the sum of—

the total amount of all short term loans, other than housing loans, made by him in the last twelve months preceding the month in which the statement is required by this section to be lodged, where such loans were outstanding in whole or in part at the end of the last preceding month;

and

the total amount of all such short term loans, other than housing loans, made within the month immediately preceding the month in which the statement is required by this section to be lodged and repaid within that month;

(iv) an amount equal to \$0.15 per centum of the sum of the total amounts referred to in subparagraph (iii) of this paragraph;

Subpara. (iv) amended by 71, 1971, s. 5 (b).

(v) the total amount expended by him during the last preceding month in acquiring book debts and other things in action in the course of discount transactions, other than short term discount transactions;

(vi) an amount equal to \$1.80 per centum of the total amount referred to in subparagraph (v) of this paragraph as set out in the statement;

Subpara. (vi) amended by 71, 1971, s. 5 (a).

(vii) the sum of—

the total amounts expended by him in respect of short term discount transactions, whereby book debts or other things in action were purchased, acquired, discounted or factored by him during the last preceding twelve months, but to the extent only that they, at the end of the last preceding month, were not realized by collection, sale, disposal or any other form of realization;

and

the total amount expended by him in respect of short term discount transactions whereby book debts or other things in action were purchased, acquired, discounted or factored by him during the last preceding month but to the extent only that they, at the end of

that month, were fully realized by collection, sale, disposal or any other form of realization;

Subpara. (viii)  
amended by 71,  
1971, s. 5 (b).

(viii) an amount equal to \$0.15 per centum of the sum of the total amounts referred to in subparagraph (vii) of this paragraph as set out in the statement;

(ix) the sum of—

(A) the total amounts debited by him for the sale of goods or the provision of services during the last preceding month pursuant to,

and

(B) such amounts previously debited by him after the commencement of the Stamp Duties Act Amendment Act (No. 3), 1968, for the sale of goods or the provision of services as have not been included in any such statement previously lodged by him with the Commissioner pursuant to this section where and to the extent to which they have become part of, a debt which was owing to him and was outstanding during the last preceding month and which was contracted pursuant to,

any credit arrangement made by him with any person before or after the commencement of the Stamp Duties Act Amendment Act (No. 3), 1968, under which a debt owing to him in excess of four hundred dollars has become or remained outstanding during the last preceding month, less any amounts credited during the last preceding month in respect of goods returned or goods accepted in part consideration for goods supplied or goods and services not provided and in respect of which amounts have been debited and included in the statement or in any such statement previously lodged pursuant to this section;

(x) the total amount received by him as rent during the last preceding month in respect of his rental business;

Subpara. (xi)  
amended by 71,  
1971, s. 5 (a).

(xi) an amount equal to \$1.80 per centum of the sum of the total amounts referred to in subparagraphs (ix) and (x) of this paragraph as set out in the statement;

Subpara. (xii)  
amended by 42,  
1970, s. 5.

(xii) the total amount paid as duty pursuant to the item in the second schedule to this Act commencing "MORTGAGE, BOND, DEBENTURE, COVENANT"—

(A) in respect of every instrument executed during the last preceding six months;

or

(B) by reason of the provisions of subsection (2) of section 79 of this Act, in respect of every instrument deemed to be a new and separate



instrument bearing a date on a day within the last preceding six months—

which secures the repayment of the loans the amounts of which were included in the total amounts of loans referred to in subparagraph (i) or (iii) and in respect of which an amount has not been included under this subparagraph in any statement previously lodged by him with the Commissioner, but to the extent only to which the amounts so paid as duty are attributable to the loans the amounts of which are so included in the total amount of loans referred to in those subparagraphs;

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 the difference between the sum of the amounts referred to in subparagraphs (ii), (iv), (vi), (viii) and (xi) and the amount referred to in subparagraph (xii) of paragraph (a) of this subsection, as set out in the statement.

(2) Where—

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

- (a) a registered person has been carrying on rental business but not any credit 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,

the registered person may, in lieu of lodging a statement with the Commissioner under subsection (1) of this section, 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 paragraph (a) of subsection (1) of this section) and to pay to the Commissioner as duty on that statement an amount equal to \$1.80 per centum of such total amount.

(3) The registered person who has given to the Commissioner a notice of election under subsection (2) of this section 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) of this section 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.

Subsec. (4a)  
inserted by 71,  
1971, s. 5 (c).

(4a) The provisions of subsection (1) of this section as in force immediately before the commencement of the Stamp Duties Act Amendment Act, 1971, shall continue to apply and have effect after such commencement in relation to—

- (a) loans made by a registered person before such commencement;
- (b) amounts expended by a registered person before such commencement in the course or in respect of discount transactions;
- (c) amounts debited by a registered person before such commencement for the sale of goods or the provision of services pursuant to credit arrangements;

and

- (d) the amount received by a registered person before such commencement in respect of his rental business,

in all respects as if that Act had not been enacted.

Subsec. (4b)  
inserted by 71,  
1971, s. 5 (c).

(4b) For the purposes of subparagraph (iii) of paragraph (a) of subsection (1) of this section, any amount outstanding in respect of a short term loan shall, in relation to the registered person that is a corporation, be deemed to continue to be outstanding if the registered person has assigned the loan to a related corporation of the registered person except to the extent that the loan has been repaid to the assignee that is a corporation by or on behalf of a person other than a related corporation of the registered person or of the assignee.

Subsec. (4c)  
inserted by 71,  
1971, s. 5 (c).

(4c) For the purposes of subparagraph (vii) of paragraph (a) of subsection (1) of this section, the interest of a registered person that is a corporation in a short term discount transaction shall be deemed to have remained unrealized by the registered person if the registered person has transferred that person's interest in the transaction to a related corporation of the registered person except to the extent that the transaction has been completed by collection from sale to, disposal to or other form of release of a person other than a related corporation of the registered person or, where the assignee is a corporation, of the assignee.

(5) For the purposes of this section—

(a) "housing loan" means a loan—

- (i) which the borrower has declared by statutory declaration in the prescribed form to have been obtained for the purpose of defraying the whole or part of the cost of the construction, alteration, renovation or acquisition of or any addition to a house or flat that is occupied or is intended to be occupied by the borrower for residential purposes, or of defraying the whole or part of the cost of the construction, alteration or renovation of any improvements on or to any land occupied or intended to be occupied by the borrower for residential purposes or of defraying the whole or part of the cost of land on which the borrower intends to have constructed a house or flat to be occupied by him for residential purposes;

and

- (ii) the repayment of which is secured by a mortgage of that house or flat or of the land on which it is or is being

constructed, altered or renovated or on which the addition is or improvements are constructed, altered or renovated or on which the house or flat is intended to be constructed:

“short term discount transaction” means a discount transaction which the registered person has elected in the prescribed manner to treat as a short term discount transaction:

“short term loan” means—

(i) any loan which the registered person has elected in the prescribed manner to treat as a short term loan;

or

(ii) any loan which is a loan upon an account current;

(b) the amount of a loan upon an account current with a registered person in relation to any statement is the maximum amount of the principal appearing in the account as due to the registered person at any particular time during the last preceding month;

and

(c) a loan referred to in paragraph (b) of this subsection shall be deemed to have been made and repaid in that last preceding month.

(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 of this Act include—

Amounts to be included in statement.  
S. 31g enacted by 56, 1968, s. 3.

(a) in relation to loans, the amount of loans made by or on behalf of the registered person to persons resident or domiciled in South Australia or in respect of which any of the negotiations have taken place in South Australia;

(b) in relation to discount transactions, the amount of the consideration given by the registered person for book debts or other things in action situated or enforceable in South Australia;

(c) in relation to credit arrangements, the amount of credit provided by or on behalf of the registered person with respect to goods sold or services supplied in South Australia;

(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 enacted by 56, 1968, s. 3.

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

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

**31i.** (1) Nothing contained in section 31f of this Act 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, 1888-1965<sup>1</sup>;
- (b) a transaction effected or evidenced by an instrument to which any provision of this Act falling under the heading of "*Instalment Purchase Agreements*" applies;
- (c) a loan or discount transaction or grant of the right to use any goods made or entered into before the commencement of the Stamp Duties Act Amendment Act (No. 3), 1968;
- (d) that part of the amount of any loan the repayment of which is secured—

- (i) upon an interest in a loan or upon book debts or other things in action acquired in a discount transaction the amount of which loan or discount transaction was included by the borrower in a statement lodged with the Commissioner pursuant to that section;

- (ii) upon an interest in an instalment purchase agreement as defined in section 31m of this Act in respect of which duty has been paid under the item in the second schedule to this Act entitled "*INSTALMENT PURCHASE AGREEMENT*";

or

- (iii) upon an interest in a lease, bailment, licence or other agreement which confers on any person the right to use any goods in respect of which amounts are or have been included in statements lodged with the Commissioner pursuant to that section,

which is equal to the value of the interest upon which the repayment is secured;

- (e) any discount transaction to the extent that the discount transaction relates—

- (i) to a book debt or other thing in action the amount of which was included in a statement lodged with the Commissioner pursuant to that section;

or

- (ii) to an instalment purchase agreement as defined in section 31m of this Act in respect of which duty has been paid under the item in the second schedule to this Act entitled "*INSTALMENT PURCHASE AGREEMENT*";

or

<sup>1</sup> Now Pawnbrokers Act, 1888-1975.

(iii) to the acquisition by the registered person of the rights of a lessor, bailor or other disposer under an agreement or arrangement for the letting, bailing or hiring of goods or under any other similar agreement or arrangement if the registered person would be required to include in statements required to be lodged with the Commissioner pursuant to subparagraph (x) of paragraph (a) of subsection (1) of section 31f of this Act amounts received or receivable by him in relation to the rights so acquired;

Subpara. (iii)  
inserted by 71,  
1971, s. 6.

(f) an amount not exceeding forty 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 such lease, bailment, licence or agreement, being an amount equivalent to the cost of servicing such 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, such higher amount is properly attributable to the cost of servicing such goods;

(g) the grant by a corporation to another corporation which is, by virtue of subsection (5) of section 6 of the Companies Act, 1962-1966, as amended<sup>1</sup>, deemed to be related to that first mentioned 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.

**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 of this Act to be accurately calculated.

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

Penalty: Five hundred dollars.

(2) A registered person shall keep the books and records referred to in subsection (1) of this section 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.

<sup>1</sup> Now Companies Act, 1962-1974.

## PART III

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

**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 of this Act, 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) of this section, 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 of this Act;

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) of this section 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.

Registered  
person not to  
add duty to  
amount payable  
in respect of  
credit business.  
S. 31l enacted by  
56, 1968, s. 3.

**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 credit business or 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) of this section—

- (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

- (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.

(3) Where the amount of any loan has been included in a statement lodged with the Commissioner pursuant to section 31f and the loan is repaid prior to the date agreed upon, the stamp duty paid on the statement may be apportioned upon such basis as is agreed between the lender and the borrower and,

in the absence of agreement, the borrower shall pay to the lender such proportion of the stamp duty as bears to the total stamp duty paid the same proportion as the amount of the rebate of interest received by the borrower as a result of the early termination of the contract bears to the total amount of the interest provided in the contract.

*Instalment Purchase Agreements*

**31m.** For the purposes of the provisions of this Act falling under the heading of *Instalment Purchase Agreements* and the second schedule to this Act, unless the contrary intention appears—

Interpretation.  
S. 31m enacted  
by 56, 1968,  
s. 3.

“credit purchase agreement” means an agreement for the purchase of goods under which—

- (a) irrespective of the time at which the property in the goods passes or is to pass to the purchaser, the purchase price or any part thereof is paid or payable by not less than six instalments which are to be paid over a period of not less than six months;

and

- (b) any of the instalments are to be paid after the goods have been delivered to the purchaser,

whether such instalments are paid or payable by cash or by cheque, bill of exchange or promissory note payable on demand, or otherwise:

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

“hire-purchase agreement” means an agreement for the bailment of goods under which—

- (a) the bailee may buy the goods;
- (b) the property in the goods may pass to the bailee;

or

- (c) any provision for credit of payments is to be made in the event of a subsequent purchase of the goods,

and where, by virtue of two or more agreements (none of which by itself constitutes a hire-purchase agreement as herein defined) there is such a bailment of goods, the agreements shall be deemed to be and treated as a single agreement:

“instalment purchase agreement” means a credit purchase agreement, a hire-purchase agreement or a rental agreement:

“purchase price”—

- (a) in relation to a credit purchase agreement or a hire-purchase agreement, means the total amount payable under the agreement by the purchaser on any account whatsoever in respect of the goods, the subject-matter of the agreement, less the amount of the deposit or other money or consideration paid or given to the vendor at or before the making of the agreement and less the total amount payable under the agreement for or by way of interest or insurance or other charge;

or

(b) in relation to a rental agreement, means the price at which the goods, the subject-matter of the agreement, might have been purchased for cash at the time of entering into the rental agreement:

“purchaser” means the person to whom goods are bailed or sold or agreed to be bailed or sold under an instalment purchase agreement:

“rental agreement” means an agreement for the bailment of goods under which the bailee may, after a specified number of instalments of rent (being not less than two instalments) have been paid in respect thereof,

(a) continue the bailment;

or

(b) from time to time renew the bailment at a nominal rent or without any further payment or on the payment of a nominal periodical or other amount:

“vendor” means the person by whom goods are bailed or sold or agreed to be bailed or sold under an instalment purchase agreement.

Duty on instalment purchase agreements.  
S. 31n enacted by 56, 1968, s. 3.

**31n.** (1) Subject to this Act, there shall be chargeable upon every instrument constituting or evidencing an instalment purchase agreement entered into after the commencement of the Stamp Duties Act Amendment Act (No. 3), 1968, the duty specified in the second schedule to this Act under the item entitled “INSTALMENT PURCHASE AGREEMENT”.

(2) Except as provided in subsection (3) of this section, the duty shall be denoted by impressed stamp or adhesive stamps and shall be paid by the vendor who shall cancel the stamp in accordance with this Act.

(3) Where the vendor is a person not bound by the provisions of this section, the liability to pay the duty on the agreement shall fall on the purchaser and such duty shall be denoted by impressed stamp or adhesive stamp within fifteen days after the making of the agreement or the execution of the instrument constituting or evidencing the agreement, as the case may be, and either party may cancel the adhesive stamps in accordance with this Act.

Declaration of approved vendors and provision for payment of duty on monthly returns.  
S. 31o enacted by 56, 1968, s. 3.

**31o.** (1) The Commissioner may by instrument in writing declare any person carrying on business as a vendor to be an approved vendor for the purposes of this Act and may by subsequent instrument in writing served on such person revoke any such declaration.

(2) For the purposes of this Act, where a declaration of a person as an approved vendor under subsection (1) of this section has not been revoked as provided by that subsection, that person shall, for the purposes of this Act, be an approved vendor.

(3) A person who is or has been an approved vendor shall not be liable for the payment of duty denoted by impressed stamp or adhesive stamps as provided by section 31n of this Act in respect of instalment purchase agreements entered into while he is or was an approved vendor, but he shall be liable for the payment of duty in respect of all such agreements in accordance with and shall comply with the provisions of this section.

(4) A person who enters into an instalment purchase agreement while he is an approved vendor shall—

Para. (a) amended by 42, 1970, s. 6.

(a) lodge with the Commissioner, not later than the fourteenth day of each month, a statement in the prescribed form verified in the



prescribed manner setting out the sum of the purchase prices of all instalment purchase agreements, if any, entered into by him during the last preceding month and the sum of the purchase prices of all instalment purchase agreements, if any, entered into by him during the last preceding month which are exempt from duty under the item in the second schedule to this Act entitled "INSTALMENT PURCHASE AGREEMENT";

- (b) at the time of lodging the statement with the Commissioner with respect to instalment purchase agreements entered into before the commencement of the Stamp Duties Act Amendment Act, 1971, pay to the Commissioner as duty on that statement a sum equal to one and one-half per centum of the difference between the sums set out in the statement and at the time of lodging the statement with the Commissioner with respect to instalment purchase agreements entered into on or after the day of such commencement pay to the Commissioner as duty on that statement a sum equal to \$1.80 per centum of the difference between the sums set out in the statement;

Para. (b) amended by 71, 1971, s. 7 (a), (b).

and

- (c) keep or cause to be kept in South Australia sufficient books and records to enable all amounts required to be set out in the statements to be lodged by him with the Commissioner under this section to be accurately calculated.

Penalty: Five hundred dollars.

(5) The person referred to in subsection (4) of this section shall keep the books and records referred to in that subsection together with all working papers used in making such calculations available for inspection for a period of at least three years from the month 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.

(6) The duty paid by an approved vendor under paragraph (b) of subsection (4) of this section shall be denoted by cash register imprint on the statement or in such other manner approved by the Auditor-General as shall be notified by the Commissioner in the *Gazette*.

**31p.** (1) Except as provided in this section, a vendor of any goods or other person acting on his behalf shall not add the amount of any duty or of any part of the duty payable by the vendor as such under this Act to any amount payable by the purchaser of the goods, whether by agreement or otherwise, or otherwise demand or recover or seek to recover any such amount from the purchaser.

Vendor not to add duty to purchase price. S. 31p enacted by 56, 1968, s. 3.

Penalty: Two hundred dollars.

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

- (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 purchaser any such amount which has been paid by the purchaser;

or

- (b) the purchaser may recover any such amount from the vendor 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 vendor or person.

(3) Where a purchaser under an instalment purchase agreement completes the purchase or terminates the bailment of the goods before the last day on which the last instalment is payable under the agreement, the stamp duty paid on the agreement may be apportioned between the vendor and the purchaser on such basis as may be agreed between the vendor and purchaser but, in the absence of such agreement, the purchaser shall pay to the vendor such proportion of the stamp duty as bears to the total stamp duty paid on the instrument constituting or evidencing the agreement the same proportion as the amount of the rebate of interest, insurance and other charges received by the borrower as a result of the early termination of the agreement bears to the total amount of the interest, insurance and other charges provided in the agreement.

Preparation of  
instrument.  
S. 31q enacted  
by 56, 1968,  
s. 3.

**31q.** (1) The vendor of any goods under an instalment purchase agreement, whether he is an approved vendor or not, shall, where the purchase price of the goods exceeds twenty dollars, at or before the time of the making of the agreement, prepare an original instrument in relation to the agreement in accordance with this section.

(2) The original instrument—

(a) if the instalment purchase agreement is in writing, shall be the agreement as in writing;

and

(b) in any other case, shall be a memorandum in writing of the agreement prepared for the purposes of this section.

(3) An instrument to which this section relates shall not be prepared in accordance with this section unless it clearly and truly sets out—

(i) the names of the parties thereto;

(ii) the full name and address of the vendor, identified as the vendor or owner of the goods, the subject-matter of the agreement;

(iii) a description of the goods sufficient to indicate their nature;

(iv) the total amount payable under the agreement by the purchaser on any account whatsoever in respect of the goods;

(v) the amount of the deposit or other money or consideration paid or given to the vendor at or before the making of the agreement;

(vi) the total amount payable under the agreement for or by way of interest or insurance or any other charge;

and

(vii) the purchase price of the goods.

(4) An instrument to which this section relates—

(a) shall, not later than seven days after the agreement to which it relates is entered into, be stamped by the vendor as required by this Act;

or

(b) where the vendor is an approved vendor shall be endorsed on the front or first page thereof "Approved vendor: duty payable on monthly return".

(5) The vendor or, if the vendor's rights under the agreement are assigned to any other person, that other person shall keep every such original instrument readily available for inspection throughout the period during which goods are bailed or any rent or instalments of purchase price or other moneys are payable under the agreement and shall at any reasonable time during that period on demand produce it for inspection by the Commissioner or by an officer authorized in writing by the Commissioner for the purpose, whether generally or in a particular case.

(6) A person who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

**31r.** Notwithstanding anything in this Act, duty shall be payable on the assignment of any of the rights, powers and liabilities of the owner under a hire-purchase agreement at the rate of ten cents for every one hundred dollars or part of one hundred dollars comprised in the consideration for the assignment and the duty payable under this section shall be in addition to any duty payable under any other provision of this Act with respect to that assignment.

Duty on assignment of a hire-purchase agreement.  
S. 31r enacted by 56, 1968, s. 3; amended by 71, 1971, s. 8 (a), (b), (c).

**31s.** Notwithstanding anything in this Act, a duplicate or counterpart of an original instrument constituting or evidencing an instalment purchase agreement, which original instrument is chargeable with duty under this Act, shall not be chargeable with duty as an original instrument or as a duplicate or counterpart thereof.

Duplicates and counterparts not separately chargeable.  
S. 31s enacted by 56, 1968, s. 3.

**31t.** Notwithstanding the repeal by the Stamp Duties Act Amendment Act (No. 3), 1968, of sections 31b, 31c and 31d of this Act and the item in the second schedule to this Act entitled "HIRE-PURCHASE AGREEMENT", as in force prior to the commencement of that Act, the provisions of those sections and that item shall continue to apply to and in relation to every hire-purchase agreement, as defined therein, entered into before the commencement of that Act and the duty expressed therein to be chargeable thereon shall be payable, and shall be recoverable by the Commissioner, as if they are still in force and have not been repealed.

Transitional provision.  
S. 31t enacted by 56, 1968, s. 3.

### *Annual Licences*

#### **32. In this Act—**

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

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

"company" includes corporation and society, whether corporate or unincorporate:

"policy" means and includes as well any policy as any instrument in the nature of a policy, an open policy, an insurance cover, or any instrument in any manner covering any assurance or insurance:

"assurance or insurance business" means and includes—

(a) the granting or issuing of any life, personal accident, fire, fidelity, guarantee, live stock, plate glass, marine or other assurance or insurance policies;

(b) the acceptance, either directly or indirectly, of any premium, renewal premium, or consideration for or in respect of the granting or issuing or keeping alive or in force of any life, personal accident, fire, fidelity, guarantee, live stock, plate

glass, marine or other policy, whether issued before or after the passing of this Act;

(c) the receiving of any letter or declaration of interest attaching to any life, personal accident, fire, marine or other policy issued in South Australia or elsewhere at any time, whether before or after the passing of this Act; or

(d) the carrying out by means of assurance or insurance effected out of South Australia of any written, verbal, or implied contract or undertaking to effect assurance or insurance.

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

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

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

789, 1902, s. 23 (part).

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

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

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

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

**34a.** (1) Where a company, person or firm referred to in the item in the second schedule to this Act 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—

(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 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) of this section or fails to comply with a requirement made by the Commissioner under that subsection and such 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 such contravention or non-compliance continues.

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

Application for licence.  
789, 1902, s. 13.

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

and

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

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

Para. I amended  
by 2246, 1935,  
s. 4 (2nd  
Sched.).

I. as to any company—by the public officer appointed under the Taxation Act, 1927<sup>1</sup>, or by the chairman and the secretary, actuary, or other principal officer thereof:

II. as to any person—by such person:

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

789, 1902, s. 14.

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

789, 1902, s. 15.  
Subsec. (4)  
amended by 58,  
1965, s. 17.

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

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

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

shall be liable to a penalty of twenty dollars.

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

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

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

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

Penalty for  
refusing to  
attend.  
789, 1902, s. 18.  
Subsec. (2)  
amended by 58,  
1965, s. 17.

(2) If any person so summoned—

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

or

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

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

Questions to be  
settled by  
Commissioner  
subject to  
appeal.  
789, 1902, s. 19.

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

<sup>1</sup> The Taxation Act, 1927, so far as it relates to income tax, has been repealed and superseded by the Income Tax Assessment Act, 1936, and so far as it relates to land tax, has been repealed and superseded by the Land Tax Act, 1936 (now Land Tax Act, 1936-1975).

for appeal against an assessment of the Commissioner, and for the purposes of such appeal all the provisions of that section shall, *mutatis mutandis*, apply to an appeal under this section.

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

Effect of annual licences.  
789, 1902, s. 20.

\* \* \* \* \*

S. 40 repealed by 30, 1953, s. 4 (1)<sup>1</sup>.

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

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

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

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

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

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

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

789, 1902, s. 23 (part).

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

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

42Aa. (1) Every company, person or firm of persons which is not required to take out an annual licence under section 33 of this Act 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.

Duty on policies effected outside South Australia.  
S. 42Aa enacted by 42, 1970, s. 7.

<sup>1</sup> Section 4 of Act No. 30 of 1953 provides as follows:—

4. (1) Section 40 of the principal Act is repealed.

(2) The registration or incorporation of any company before the passing of this Act shall not be invalid or questioned in any way by reason only of the fact that section 40 of the principal Act was not complied with.

(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 return shall upon lodgement 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) of this section does not apply to any policy of life assurance.

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

### *Application for Motor Vehicle Registration*

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

#### **42a. In this Act—**

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

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

“application to register a motor vehicle” means an application to register a motor vehicle made under the Motor Vehicles Act, 1959, as amended<sup>1</sup>, and the regulations thereunder, and includes an application so made to renew the registration of a motor vehicle:

“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, 1959-1964<sup>1</sup>, and the regulations thereunder:

“dealer” means a person licensed as a second-hand dealer under the Second-hand Dealers Act, 1919-1963<sup>2</sup>, who is engaged in the business of buying, selling or exchanging second-hand motor vehicles:

“motor vehicle” and “trailer” have the same meanings as those expressions respectively have in the Motor Vehicles Act, 1959-1964<sup>1</sup>:

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

“policy of insurance” means a policy of insurance under Part IV of the Motor Vehicles Act, 1959, as amended<sup>1</sup>.

Value of motor  
vehicle.  
S. 42b enacted  
by 24, 1964,  
s. 4.

**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) of this section, 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.

<sup>1</sup> Now Motor Vehicles Act, 1959-1975.

<sup>2</sup> Now Second-hand Dealers Act, 1919-1971.



(1a) The amount of stamp duty—

Payment of  
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 to this Act as the component payable in respect of registration;

and

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

or

(b) payable upon an application to transfer the registration of a motor vehicle, shall be the amount prescribed by the second schedule to this Act 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.

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

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

(2a) The duty paid by any person—

Subsec. (2a)  
inserted by 26,  
1968, s. 5;  
amended by 80,  
1971, s. 4 (b).

(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.

(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—

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

(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.

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

(3a) The moneys placed to the credit of the Hospitals Fund in accordance with paragraph (b) of subsection (3) of this section 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<sup>1</sup>, 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.

(4) The Commissioner may, if he is not satisfied that the amount stated by an applicant under subsection (1) of this section is the value of the motor vehicle as at the time therein referred to, require such 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 subsection (6) of this section or may refund to an applicant any amount of duty overpaid by such 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 by the Registrar of Motor Vehicles at the request of the Commissioner be recorded on the application.

(8) The Commissioner may waive payment of the duty payable upon any application to register a motor vehicle or to transfer the registration of a motor vehicle where he is satisfied that the application together with the proper registration fee had, prior to the commencement of section 4, paragraph (b) of section 9 and sections 10 to 21 inclusive of the Statutes Amendment (Stamp Duties and Motor Vehicles) Act, 1964, been duly forwarded to the Registrar of Motor Vehicles.

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

**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.

<sup>1</sup> Now State Lotteries Act, 1966-1975.

**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 as the case may be the excess of duty so paid.

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

(1a) Without limiting the effect of subsection (1) of this section, 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 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.

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

(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.

**42e.** In addition to any power by any other section of this Act conferred on the Governor to make regulations as to any matter, the Governor may make any regulations which may be necessary or convenient for carrying out any of the provisions of sections 42a, 42b, 42c, 42d and this section of this Act or for the 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 to this Act commencing "APPLICATION to Register a Motor Vehicle".

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

### *Bank Notes*

#### **43. In this Act—**

Interpretation.  
372, 1886, s. 27.

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

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

**44.** There shall be paid quarterly to the Commissioner by every bank the duty specified in that behalf in the second schedule on the average amount of bank notes issued by such bank stated to be in circulation by the quarterly returns made by such bank pursuant to the Banking Companies Act<sup>1</sup>.

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

**45.** The above-mentioned duty shall become due and payable by quarterly payments on the fourth day of February, the fourth day of May, the fourth day of August, and the fourth day of November in each year, and each

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

<sup>1</sup> The Banking Companies Act (No. 25 of 1863) has been repealed and superseded by the Banking Companies Act, 1935 which was in turn repealed by the Banking Companies Act Repeal Act, 1946.

quarterly payment by each bank shall be computed upon the amount of notes shown to be in circulation by the returns of such bank for the last preceding quarter prepared in accordance with the provisions of the Banking Companies Act<sup>1</sup>.

Power to compound duty on bank notes. S. 45a enacted by 22, 1942, s. 2.

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

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

Interpretation. 372, 1886, s. 30.

**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.

Duty on bills, notes, etc., how denoted. 372, 1886, s. 31 (part), s. 32 (1), 1244, 1916, s. 26 (1), 789, 1902, s. 27.

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

<sup>1</sup> The Banking Companies Act (No. 25 of 1863) has been repealed and superseded by the Banking Companies Act, 1935 which was in turn repealed by the Banking Companies Act Repeal Act, 1946.

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 enacted by 55, 1952, s. 4; repealed by 71, 1971, s. 10.  
New s. 47a enacted 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.

47b. Notwithstanding any provision of this Act, the additional duty imposed by the Stamp Duties Act Amendment Act, 1965, shall not be payable on a cheque made out on a form issued by a bank or financial institution to a customer before the fourteenth day of February, 1966<sup>1</sup>: Provided that this section shall not apply to or in respect of any such cheque drawn after a day to be specified in a proclamation by the Governor being a day not earlier than one month after the making of such proclamation.

Additional duty on cheques imposed by Stamp Duties Act Amendment Act, 1965.  
S. 47b enacted by 58, 1965, s. 7.

47c. (1) Notwithstanding any provision of this Act but subject to subsection (2) of this section, any additional duty imposed by virtue of the operation of the Stamp Duties Act Amendment Act, 1971, shall not be payable on a cheque made out on a form issued by a bank as defined in section 48a of this Act to a customer before the commencement of that Act.

Additional duty on cheques imposed by Stamp Duties Act Amendment Act, 1971.  
S. 47c enacted by 71, 1971, s. 11.

(2) Subsection (1) of this section shall have no effect in relation to any cheque referred to in that section drawn after a day to be specified by proclamation for the purposes of this section, being a day not earlier than the thirtieth day after the publication of the proclamation in the *Gazette*.

47d. (1) Notwithstanding any provision of this Act but subject to subsection (2) of this section, any additional duty imposed by virtue of the operation of section 8 of the Stamp Duties Act Amendment Act, 1974, shall not be payable on a cheque made out on a form issued by a bank as defined in section 48a of this Act to a customer before the commencement of that section.

Additional duty on cheques imposed by Stamp Duties Act Amendment Act, 1974.  
S. 47d enacted by 90, 1974, s. 3.

(2) Subsection (1) of this section shall have no effect in relation to any cheque referred to in that section drawn after a day to be specified by proclamation for the purposes of this section, being a day not earlier than the thirtieth day after the publication of the proclamation in the *Gazette*.

<sup>1</sup> Reference to the year one thousand nine hundred and sixty-six altered to 1966 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

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.

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

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 such bill of exchange or promissory note duly stamped.

372, 1886,  
s. 32 (part).  
1244, 1916,  
s. 26 (1) (part).

(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 the same, cause it to be duly stamped: Provided that—

i. if, at the time when any such bill, note, coupon, or interest warrant comes into the hands of any *bona fide* holder thereof, there is affixed thereto an adhesive stamp appearing to be duly cancelled, such stamp shall, so far as it relates to such holder, be deemed to be duly cancelled, although it does not appear to be so affixed or cancelled by the proper person:

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

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

Licences for  
duty paid  
cheques.  
S. 48a enacted  
by 16, 1950,  
s. 3.  
Subsec. (1)  
amended by 32,  
1962, s. 7.

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

## (2) Every such licence—

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

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

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

Subsec. (3a) inserted by 55, 1952, s. 5; amended by 90, 1974, s. 5 (a), (b).

- (a) an adhesive or impressed stamp of the amount of the increase is attached to the cheque;

or

- (b) the Treasurer by writing signifies that he is satisfied that proper arrangements have been made for payment by the bank of the additional stamp duty payable on that cheque.

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

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

## (6) In this section “bank” means—

- (a) any bank carrying on the business of banking in the State, including any bank owned or carried on by the Crown in right of the Commonwealth or the State; and
- (b) any company or other corporation which holds money on current account on behalf of its customers or clients and pays such money on unconditional written orders payable on demand and addressed by such customers or clients to the company or corporation:

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

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

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

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, either in payment or as a security or by purchase or otherwise, shall not be entitled to recover thereon, or to make the same available for any purpose whatever, until the same is duly stamped.

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

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

#### *Bills of Lading*

When to be  
stamped.  
372, 1886, s. 36.

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

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

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

(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.

#### *Contract Notes and Options*

Provisions as to  
contract notes.  
1216, 1915,  
s. 16.  
Subsec. (1)  
amended by 14,  
1967, s. 17<sup>1</sup>.

**54.** (1) In this Act the term "contract note" means a note sent by a broker or agent to his principal advising him of the sale or purchase before the commencement of the Marketable Securities Transfer Act, 1967, of any stock or marketable security, but does not include a note sent by a broker or agent to a person who is acting as a broker or agent for a principal and is himself a member of a stock exchange in the Commonwealth of Australia.

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

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

<sup>1</sup> Act No. 14 of 1967 was repealed by Act No. 11 of 1971, but the repeal did not affect the amendments to the Stamp Duties Act made by Act No. 14 of 1967. See Act No. 11 of 1971, s. 2.



to that one of those transactions which would render the contract note chargeable with the greater amount of duty.

55. (1) The duty on a contract note may be denoted by an adhesive stamp.

Adhesive stamps may be used.  
1216, 1915, s. 17.

(2) Every adhesive stamp on a contract note shall be cancelled by the person by whom the note is executed.

(3) Any person who fails to comply with the provisions of subsection (2) hereof shall be liable to a penalty not exceeding twenty dollars.

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

56. (1) Any person who before the commencement of the Marketable Securities Transfer Act, 1967, had effected a sale or purchase of any stock or marketable security as a broker or agent, but had not made and executed a contract note in respect thereof and transmitted the same to his principal, shall forthwith make and execute a contract note, and transmit the same to his principal, and in default of so doing shall be liable to a penalty not exceeding forty dollars: Provided that this section shall not apply in the case of transactions, carried out in the course of their ordinary business relations, between brokers or agents who are members of any stock exchange in the Commonwealth of Australia.

Penalty for not making a stamped note.  
1216, 1915, s. 18 (1), (2).  
Subsec. (1) amended by 58, 1965, s. 17; 14, 1967, s. 18 (a), (b).<sup>1</sup>

(2) If any person makes or executes any contract note chargeable with duty which is not duly stamped, he shall be liable to a penalty not exceeding forty dollars.

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

56a. (1) Every person who effects a purchase of any stock or marketable security (other than a marketable security to which Part IIIA of this Act applies) as a member of a stock exchange in the Commonwealth of Australia may pay the duty upon a conveyance or transfer of the stock or marketable security by affixing thereto an adhesive stamp or adhesive stamps: Provided that where such person so pays the duty he shall make and sign a certificate upon the conveyance or transfer that the purchase was made through a stock exchange in the Commonwealth of Australia and that the conveyance or transfer has been duly stamped as required by this Act.

Certificate on conveyance or transfer.  
S. 56a enacted by 48, 1941, s. 6.  
Subsec. (1) substituted by 24, 1964, s. 5; amended by 14, 1967, s. 19<sup>1</sup>.

(2) Any person who fails to make or sign a certificate as required by subsection (1) shall be liable to a penalty not exceeding forty dollars.

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

57. The duty upon a contract note may be added to the charge for brokerage or agency, and shall be recoverable as part of such charge.

Duty may be added to brokerage.  
1216, 1915, s. 18 (4).

58. No broker, agent, or other person shall have any legal claim to any charge for brokerage, commission, or agency with reference to the sale or purchase of any stock or marketable security mentioned or referred to in any contract note unless such note is duly stamped.

Unstamped notes.  
1216, 1915, s. 18 (3).

59. The provisions of this Act as to contract notes shall apply to any contract entered into before the commencement of the Marketable Securities Transfer Act, 1967, under which an option is given or taken to purchase or sell any stock or marketable security at a future time at a certain price, in the same manner as it applies to the sale or purchase of any stock or marketable security: Provided that, if under the contract a double option is given or taken, the contract shall be deemed to be a separate contract in respect of each option.

Contracts for options.  
1216, 1915, s. 19.  
S. 59 amended by 14, 1967, s. 20<sup>1</sup>.

<sup>1</sup> Act No. 14 of 1967 was repealed by Act No. 11 of 1971, but the repeal did not affect the amendments to the Stamp Duties Act made by Act No. 14 of 1967. See Act No. 11 of 1971, s. 2.

## PART III

Power of  
Commissioner  
to require  
valuation.

S. 59a enacted  
by 24, 1964,  
s. 6.

**59a.** (1) Where in the opinion of the Commissioner the consideration in any contract note for or relating to the sale or purchase of any stock or marketable security, or in any contract giving or taking any option to purchase or sell any stock or marketable security, or in any conveyance or transfer on sale on any stock or marketable security does not represent the value of the stock or marketable security referred to or dealt with in such instrument, or the evidence of value is unsatisfactory, he may cause a valuation of the stock or marketable security to be made by some person appointed by him, and may assess the duty payable on the basis of such valuation.

(2) The Commissioner may, having regard to the merits of the case, charge the whole or any part of the expenses of or incidental to the making of the valuation to the person liable to pay the duty, and may recover the same from him as a debt due to Her Majesty.

*Conveyances and Conveyances on Sale*

**60.** In this Act—

Definition of  
“conveyance”,  
etc. 1216, 1915,  
s. 11 (part).  
Def. amended by  
30, 1953, s. 5.

“conveyance” includes—

- (a) every conveyance, assignment, transfer, or declaration of trust, and every application under The Real Property Act, 1886<sup>1</sup>;
- (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,

whereby or by virtue whereof, or by the operation whereof, whether upon registration or otherwise, or by the issue of a certificate of title in pursuance whereof, any real or personal property, or any estate or interest in any such property, is assured to or vested in any person; the term also includes a surrender to the Crown of any lease or other interest in land 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:

1216, 1915,  
s. 11 (part).

“to convey” has a meaning co-extensive with the meaning of the term “conveyance”, as extended by this section:

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

“conveyance on sale” includes—

- (a) every conveyance, assignment, transfer, or application under The Real Property Act, 1886<sup>1</sup>;
- (b) every decree or order of any court, judge, or commissioner;
- (c) every other application or request of any kind;
- and
- (d) every other assurance or instrument,

whereby, or by virtue whereof, any real or personal property upon the sale thereof is legally or equitably transferred to or vested in the purchaser or any other person on his behalf or by his direction: the term also includes—

- (e) every application for a foreclosure order under The Real Property Act, 1886<sup>1</sup>; and

<sup>1</sup> Now Real Property Act, 1886-1975.

- (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).

**60a.** (1) Subject to the provisions of this section, any instrument whereby property is conveyed or transferred to any person in contemplation of a sale of that property shall be deemed to be a conveyance on sale of that property for a consideration equal to the consideration for the contemplated sale or the value of that property whichever is the greater.

Conveyance in contemplation of sale.  
S. 60a enacted by 58, 1965, s. 9.

(2) If on a claim made to the Commissioner not later than one year after the making or execution of an instrument chargeable with duty in accordance with subsection (1) of this section, it is shown to his satisfaction—

- (a) that the sale in contemplation of which the instrument was made or executed has not taken place and the property has been re-conveyed or re-transferred to the person from whom it was conveyed or transferred or to a person to whom his rights have been transmitted on death or bankruptcy; or
- (b) that the sale has taken place for a consideration which is less than the amount in respect of which duty was paid on the instrument by virtue of subsection (1) of this section, but not less than the value of the property,

the Commissioner shall refund the duty paid by virtue of this section, in a case falling under paragraph (a) of this subsection, so far as it exceeds the stamp duty which would have been payable apart from this section and, in a case falling under paragraph (b) of this subsection, so far as it exceeds the stamp duty which would have been payable if the instrument had been charged with duty based upon the consideration for the sale or upon the value of the property whichever is the greater.

(3) A person who has paid duty under subsection (1) of this section and who is entitled to a refund of duty under subsection (2) shall be deemed to be possessed in respect of the amount of the refund of stamped material rendered useless by being inadvertently spoiled, within the meaning of section 106, and the provisions of that section shall apply accordingly.

(4) No instrument chargeable with duty in accordance with subsection (1) of this section shall be deemed to be duly stamped unless the Commissioner has been required to express his opinion thereon under section 23 of this Act and has expressed his opinion thereon in accordance with that section.

(5) The foregoing provisions of this section shall apply whether or not an instrument conveys or transfers other property in addition to the property in contemplation of the sale of which it is made or executed, but those provisions shall not affect the stamp duty chargeable on the instrument in respect of that other property.

**60b.** (1) Where a party to an instrument of a kind that is registrable under the Real Property Act, 1886-1972<sup>1</sup>, satisfies the Commissioner, upon application made to him not later than one year after execution of the instrument—

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

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

<sup>1</sup> Now Real Property Act, 1886-1975.

- (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 of this Act 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.

61. Where the consideration or part of the consideration upon which a conveyance is chargeable with *ad valorem* duty consists of shares or debentures to be issued by a company, or a contract to issue such shares or debentures, the market value of such shares or debentures shall be taken as the value of such consideration or part.

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

\* \* \* \* \*

Consideration in case of application for foreclosure order.  
789, 1902, s. 28 (part).

63. In the case of an application for a foreclosure order under The Real Property Act, 1886<sup>1</sup>, the value of the land in respect of which the application is made shall be deemed the consideration for the conveyance on sale.

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

64. In the case of a lease for which any consideration other than the rent reserved may be paid or agreed to be paid, the amount of such other consideration shall be deemed the consideration for the conveyance on sale.

Where consideration consists of real or personal property.  
372, 1886, s. 38.

65. Where the consideration, or any part of the consideration, for a conveyance on sale consists of any real or personal property other than money, such conveyance shall be chargeable with *ad valorem* duty in respect of the value of such real or personal property at the date of such conveyance.

Where consideration is payable in instalments.  
372, 1886, s. 39.

66. (1) Where the consideration, or any part of the consideration, for a conveyance on sale consists of money payable periodically for a definite period, so that the total amount to be paid can be previously ascertained, such conveyance shall be chargeable in respect of such consideration with *ad valorem* duty on such total amount.

(2) Where the consideration, or any part of the consideration, for a conveyance on sale consists of money payable periodically in perpetuity, or for any indefinite period not terminable with life, such conveyance shall be chargeable in respect of such consideration with *ad valorem* duty on the total amount which may, according to the terms of sale, be payable during the period of twenty years next after the day of the date of such instrument.

(3) Where the consideration, or any part of the consideration, for a conveyance on sale consists of money payable periodically during any life or lives, such conveyance shall be chargeable in respect of such consideration with *ad valorem* duty on the amount which may, according to the terms of sale, be payable during the period of twelve years next after the day of the date of such instrument.

(4) No conveyance on sale chargeable with *ad valorem* duty in respect of any periodical payments, and containing also provision for securing such periodical payments, shall be charged with any duty whatsoever in respect of such provision.

<sup>1</sup> Now Real Property Act, 1886-1975.

**66a.** (1) Where any goods, wares or merchandise is assigned to any purchaser at or about the time of the conveyance or transfer of any other property, whether by the same or another instrument or otherwise, in such circumstances that such assignment and the conveyance or transfer together form substantially one transaction, the consideration for such conveyance or transfer shall be deemed to include the consideration given in respect of the assignment of such goods, wares, or merchandise.

Mode of computing consideration in certain cases.

S. 66a enacted by 1822, 1927, s. 7; repealed by 2359, 1937, s. 4.

New s. 66a enacted 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) of this section applies 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 shall be a defence to a charge under subsection (2) of this section 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 of this Act.

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

Computation of duty in case of certain real property transactions.

S. 66ab enacted by 63, 1975, s. 8.

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

or

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

the conveyances shall be chargeable with *ad valorem* duty calculated upon the total consideration given for the whole of the property, and that duty shall be apportioned to the various conveyances as determined by the Commissioner.

(2) A person who executes or is otherwise engaged or concerned in the preparation or certification of a conveyance to which subsection (1) of this section applies who, upon submission of the conveyance 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 is executed shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

(3) It shall be a defence to a charge under subsection (2) of this section 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.

**66b.** (1) Where in the opinion of the Commissioner the consideration in any transfer or conveyance does not represent the value of the property referred to or dealt with in such instrument, or the evidence of value is unsatisfactory, he may cause a valuation of the property to be made by some person appointed by him, and may assess the duty payable on the basis of such valuation.

Valuation where consideration doubted.

S. 66b enacted by 1822, 1927, s. 7.

(2) The Commissioner may, having regard to the merits of the case, charge the whole or any part of the expenses of or incidental to the making of the valuation to the person liable to pay the duty, and may recover the same from him as a debt due to His Majesty.

## PART III

Where property  
is subject to  
debt.  
372, 1886, s. 40.

67. Where any property is conveyed to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or encumbrance upon the property or not, such debt, money, or stock shall be deemed the whole, or part, as the case may be, of the consideration in respect whereof the conveyance is chargeable with *ad valorem* duty.

Duty in certain  
cases.

372, 1886, s. 41.  
1216, 1915, s. 5.  
Subsec. (1)  
amended by 63,  
1975, s. 9 (a).

68. (1) Subject to section 66a and section 66ab of this Act, where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts or parcels by different instruments, the consideration shall be apportioned in such manner as the parties think fit, so that a distinct consideration for each separate part or parcel shall be set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration.

Subsec. (2)  
amended by 63,  
1975, s. 9 (b).

(2) Subject to section 66a and section 66ab of this Act, where any property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts or parcels by separate instruments, to the persons by or for whom the same has been purchased for distinct parts of the consideration, the conveyance of each separate part or parcel shall be chargeable with *ad valorem* duty in respect of the distinct part of the consideration specified therein.

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

(4) Where a person having contracted for the purchase of any property, but not having obtained a conveyance, contracts to sell the whole or any part or parts thereof to any other person, and the property is in consequence conveyed by the original seller to different persons in parts or parcels, the conveyance of each part or parcel shall be chargeable with *ad valorem* duty in respect of the consideration for the sale to the original purchaser, and also in respect of the consideration for the sale by the original purchaser to the sub-purchaser, in the same manner as if such considerations were specified in separate instruments. The consideration for the sale to the original purchaser in respect of each part or parcel shall, for the purposes of this 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.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration moving from him, and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with *ad valorem* duty in respect of the consideration for the sale to the original purchaser.

69. Subject to section 66a and section 66ab of this Act, where there are several instruments of conveyance for completing the purchaser's title to the property sold, the principal instrument of conveyance only shall be chargeable with *ad valorem* duty, and the other instruments shall be respectively chargeable with such other duty as they may be liable to, but such last-mentioned duty shall not exceed the *ad valorem* duty payable in respect of the principal instrument, and the parties, with the approval of the Commissioner, may decide which of such several instruments is the principal instrument.

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

70. Every mortgage, lease, or other instrument executed in order, either directly or indirectly, to avoid or evade the payment of duty payable on a conveyance on sale shall be void, except after *bona fide* transfer of the same to a third person, and shall then only be valid when the same has been duly stamped as a conveyance.

Instrument executed to evade duty.  
372, 1886, s. 43.

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.

Conveyance operating as a voluntary disposition *inter vivos*.  
1216, 1915, s. 29.

(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.

(3) Any conveyance which is not chargeable with duty as a conveyance on sale or which is not such a conveyance as is referred to in subsection (4) hereof shall, for the purposes of this Act, be deemed to be a conveyance operating as a voluntary disposition *inter vivos*.

1244, 1916, s. 25.

(4) A conveyance made for nominal consideration for the purpose of securing the repayment of an advance or loan, or made for effectuating the appointment of a new trustee or the retirement of a trustee (whether the trust is expressed or implied) and under which no beneficial interest passes in the property conveyed, or made to a trustee and under which no beneficial interest passes in the property conveyed, or made to a beneficiary by a trustee or other person in a fiduciary capacity under any trust (whether expressed or implied), or operating as a voluntary disposition of property for charitable or religious purposes, shall not be chargeable with duty as a conveyance operating as a voluntary disposition *inter vivos*.

1244, 1916, s. 25.  
Subsec. (4) amended by 24, 1964, s. 7.

(5) Where there is a conveyance, to which subsection (6) of this section applies, of an interest in a matrimonial home, the following principles operate:—

Subsec. (5) inserted by 76, 1975, s. 7.

(a) if the gross value of the matrimonial home does not exceed \$40 000, no duty is payable on the conveyance;

(b) if—

(i) the gross value of the matrimonial home exceeds \$40 000;

and

(ii) there is no mortgage over the matrimonial home subject to which the interest is conveyed,

there is to be a reduction of \$360 in the amount of duty payable on the conveyance;

and

(c) if—

(i) the gross value of the matrimonial home exceeds \$40 000;  
and

(ii) there is a mortgage over the matrimonial home subject to  
which the interest is conveyed,

there is to be a reduction in the amount of the duty payable on the  
conveyance ascertained by reference to the following formula:—

$$r = d \left[ \frac{20\,000 - 20\,000 \frac{m}{g}}{v} \right]$$

where—

r represents the reduction in the amount of duty payable on the  
conveyance

d represents the duty that would, apart from this subsection, be  
payable on the conveyance

m represents the outstanding principal of the debt secured by  
mortgage over the matrimonial home

g represents the gross value of the matrimonial home

v represents the net value of the interest subject to the  
conveyance.

Subsec. (6)  
inserted by 76,  
1975, s. 7.

(6) Where a person by a conveyance operating as a voluntary disposition  
*inter vivos* transfers to his spouse an interest in his matrimonial home with the  
intention that the matrimonial home should be held by that person and his  
spouse, in joint tenancy, or in tenancy in common in equal shares, and—

(a) no matrimonial home has been held jointly or in common by that  
person and his spouse either on the fourteenth day of July, 1975,  
or after that date but prior to the date of the conveyance;

(b) the conveyance is executed on or after the fourteenth day of July,  
1975, but before the fourteenth day of July, 1976;

and

(c) the conveyance is lodged for stamping before the fourteenth day of  
July, 1976,

this subsection applies to that conveyance.

Subsec. (7)  
inserted by 76,  
1975, s. 7.

(7) In this section—

“matrimonial home” of a person means a dwellinghouse (together with  
its curtilage) that constitutes in the opinion of the Commissioner the  
principal permanent home at which that person and his spouse live  
together as husband and wife:

“curtilage” in relation to a dwellinghouse means an area of land,  
determined by the Commissioner, not exceeding 0.2 hectare in area  
on which the dwellinghouse is situated:

“gross value” in relation to a matrimonial home means the value of the  
matrimonial home unencumbered by any mortgage.

Subsec. (8)  
inserted by 76,  
1975, s. 7.

(8) Where the Commissioner is satisfied by such evidence as he may  
require that two persons who are not married are living together as husband  
and wife the provisions of this section apply to those persons as if they were  
married.



71a. If any will or any instrument whereby any trust is declared contains a direction to convert any property into money and to pay the proceeds of such conversion to any beneficiary and, in lieu of such conversion into money and payment, the executor, administrator, or trustee, as the case may be, conveys the property *in specie* to the beneficiary, such conveyance shall not be chargeable with duty as a conveyance on sale or as a conveyance operating as a voluntary disposition *inter vivos*.

Provision where trust property distributed *in specie*.  
S. 71a enacted by 48, 1941, s. 8.

71b. 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 whereby the partition or division is effected shall be charged with the same *ad valorem* duty as a conveyance on sale for the consideration, and with that duty only.

Partition or division of property.  
Cf. U.K. 54 and 55 Vict., c. 39, s. 73.  
S. 71b enacted by 48, 1941, s. 8; amended by 58, 1965, s. 17.

### 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.

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.

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

(2) A lease made for any consideration in respect whereof it is chargeable with *ad valorem* duty, and in further consideration either of a covenant by the lessee to make, or of his having previously made, any substantial improvement of or addition to the property demised to him, or of any covenant relating to the subject-matter of the lease, shall not be chargeable with any duty in respect of such further consideration.

*Letters of Allotment, Scrip Certificates, and Scrip*

Penalty for not stamping letter of allotment, 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 or scrip certificate or scrip, before the same 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 enacted by 24, 1964, s. 8.

*Money-Lending Transactions*

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

\* \* \* \* \*

Transitional provision.

S. 75aa enacted by 56, 1968, s. 5.

75aa. Notwithstanding the repeal by the Stamp Duties Act Amendment Act (No. 3), 1968, of section 75a of this Act and the item in the second schedule to this Act commencing "CONTRACT or NOTE or MEMORANDUM of a Contract", as in force prior to the commencement of that Act, the provisions of those sections and that item shall continue to apply to and in relation to every contract or note or memorandum of a contract for the repayment of money lent by a money-lender before the commencement of that Act and the duty expressed therein to be chargeable thereon shall be payable, and shall be recoverable by the Commissioner, as if they are still in force and have not been repealed.

*Mortgages*

Interpretation of term.

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

76. In this Act the term "mortgage" means a security by way of mortgage for the payment of any definite and certain sum of money advanced and lent at the time when such security is executed or previously due and owing, or forborne to be paid (being payable), or for the repayment of money to be lent, advanced, or paid, or which may become due upon an account current, either alone or together with any sum already advanced or due, and includes—

- (a) any conveyance of any real or personal property whatsoever, or any estate or interest therein, in trust to be sold or otherwise converted into money, intended only as a security, and redeemable before the sale or other disposal thereof, either pursuant to express stipulation or otherwise, except where such conveyance is made for the benefit of creditors generally, or for the benefit of creditors specified who accept the provision thereby made for payment of their debts in full satisfaction thereof, or who exceed five in number;
- (b) any defeasance, declaration, or other instrument for defeating or making redeemable or explaining or qualifying any conveyance of any real or personal property whatsoever, or any estate or interest therein, apparently absolute but intended only as a security;
- (c) any agreement, contract, or bond, accompanied by a deposit of any muniments of title, to make a mortgage or any such conveyance or instrument as aforesaid, of or concerning any real or personal property comprised in such title deeds, or any estate or interest therein, or for pledging or charging the same as a security; and

- (d) any equitable mortgage, that is to say, any agreement or memorandum, under hand only, relating to the deposit of any title deeds or instruments constituting, or being evidence of, a title to any property whatever, or creating a charge on such property.

77. If several instruments are necessary to make a mortgage, and duty would, but for this section, be chargeable on more than one of such instruments, the duty shall be chargeable upon the principal instrument only, and the other instruments shall not be liable to any duty, and the parties, with the approval of the Commissioner, may decide which is the principal instrument.

Where mortgage consists of several instruments. 1216, 1915, s. 22.

78. A security for the transfer or re-transfer of any stock shall be chargeable with the same duty as a similar security for a sum of money equal in amount to the value of such stock; and a transfer or assignment of any such security shall be chargeable with the same duty as an instrument of the same description relating to a sum of money equal in amount to the value of such stock.

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

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 date on 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<sup>1</sup>, 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: Provided that an encumbrance to secure periodical payments during an indefinite period not terminable with life, or during any life or lives, shall be charged as a security for an amount calculated in accordance with the provisions of subsections (2) and (3) of section 66.

Security for repayment by periodical payments, how to be charged. 1216, 1915, s. 26.

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 such money or stock transferred or previously secured, or the interest or dividends thereon, or any new covenant, proviso, power, stipulation, or agreement in relation thereto, or any further assurance of the property comprised in the transferred or previous security.

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

<sup>1</sup> Now Real Property Act, 1886-1975.

*Receipts*

Interpretation.  
S. 82 amended  
by 58, 1965,  
s. 10; 59, 1966,  
s. 4; substituted  
by 32, 1968,  
s. 5.

**82.** (1) For the purposes of this Act, unless the contrary intention appears—

“cash sale docket” means an instrument or document issued, tendered or forwarded to a purchaser of goods by the proprietor of, or any salesman or other officer or employee employed in or by, any wholesale or retail establishment immediately on the occasion of the purchase, which denotes the amount then paid therefor but does not acknowledge the receipt of such amount:

“employee” means a person who receives or is entitled to receive wages:

“employer” means a person or body who or which pays or is liable to pay wages, and includes the Crown:

“money” includes a bill of exchange or promissory note for money:

“receipt” means any note, memorandum or writing whatsoever—

(a) whereby any money is acknowledged or expressed to have been received or deposited or paid;

(b) whereby any debt or demand, or any part of a debt or demand is acknowledged to have been settled, satisfied or discharged;

or

(c) which signifies or imports any such acknowledgement,

whether the same is or is not signed with the name of any person, and includes a cash sale docket:

“wages” means any wages, salary, commission, bonuses or allowances paid or payable in money to any employee as such.

(2) Where money is exchanged for money, a party to the exchange shall, for the purposes of this Act, be deemed to have received money only to the extent (if any) that he receives an amount of money which, or the nominal or face value of which, in the case of a bill of exchange or promissory note for money, is greater than the amount of money or the nominal or face value of money, in the case of a bill of exchange or promissory note for money, paid by him.

(3) For the purposes of sections 82a, 84 and 84c of this Act, a receipt shall be deemed to be a duly stamped receipt—

(a) if the duty chargeable thereon is denoted thereon by impressed or adhesive stamps;

or

(b) where the receipt is for money received by a person who has given notice of election to the Commissioner as provided in subsection (1) of section 84e of this Act and has not given a notice of revocation thereof, if the receipt is endorsed by that person with the endorsement “SD/” and the serial number assigned by the Commissioner to the notice of election given by him to the Commissioner.

82a. (1) Where a person deposits or causes to be deposited to the credit of a bank account in South Australia of another person any amount in respect of which duty would have been payable if the amount were paid in cash by the first-mentioned person into the hands of that other person, the amount so deposited shall, for the purposes of this Act, be deemed to have been received by the person to the credit of whose account the amount is deposited, and he shall, forthwith after having notice of the making of the deposit, give a duly stamped receipt therefor.

Receipts to be made out in respect of certain deposits, etc.

S. 82a enacted by 32, 1968, s. 5.

(2) Where a person authorizes his banker to debit his bank account with and—

(a) to transfer to the credit of that banker or to the credit of the bank account of another person with that banker;

(b) to transmit to the credit of the bank account of another person with another banker;

or

(c) to transmit to another banker (but not to the credit of the bank account of another person with that other banker),

any amount in respect of which duty would have been payable if the amount were paid in cash by the first-mentioned person into the hands of the banker referred to in paragraph (a) or the other person referred to in paragraph (a) or (b) or the other banker referred to in paragraph (c) of this subsection, the amount so transferred or transmitted shall, for the purposes of this Act, be deemed to have been received by the banker to whose credit or the person to the credit of whose account the amount is transferred or transmitted and he shall, forthwith after having notice of the transfer or transmission, give a duly stamped receipt therefor.

(3) A person who fails to comply with a requirement of subsection (1) or (2) of this section shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred dollars and to a penalty equal to double the amount of the duty that would have been payable if that requirement had been complied with.

(4) This section applies—

(a) whether the deposit, transfer or transmission is made on a single occasion or at regular or irregular intervals;

and

(b) whether or not any agreement or arrangement has been made for payment by means of such a deposit, transfer or transmission.

(4a) This section does not apply to any deposit, transfer or transmission made after the thirtieth day of September, 1970.

Subsec. (4a) inserted by 42, 1970, s. 10.

(5) In this section—

“banker” includes any person who receives money on deposit or holds money on current account for any other person:

“bank account” includes a current account of money held for a person by another person or deposited by a person with another person.

83. (1) Where a person resident or carrying on business in South Australia—

(a) receives outside South Australia money in payment;

Certain payments deemed to be made in South Australia.

S. 83 amended by 58, 1965, s. 11; substituted by 32, 1968, s. 5.

(b) has credited to his bank account outside South Australia any money in payment;

or

(c) accepts any money paid to any other person outside South Australia or credited to the bank account of any other person outside South Australia as payment,

for goods supplied or to be supplied in South Australia or services rendered or to be rendered wholly or partly in South Australia, the money so paid or credited shall, for the purposes of this Act, be deemed to have been received in South Australia if—

(d) the payment was received in a place other than a proclaimed State;

or

(e) the payment was received in a proclaimed State by a person declared by the Commissioner under subsection (2) of this section to be a person who operates a centralized accounting system.

(2) Where the Commissioner is satisfied that any person resident or carrying on business in South Australia is receiving in a proclaimed State payment for goods supplied or to be supplied or services wholly or partly rendered or to be rendered in South Australia in the course of operating a centralized system of accounting, the Commissioner may by instrument in writing declare that person to be operating a centralized accounting system.

(3) The Commissioner shall forthwith cause any instrument made under subsection (2) of this section to be served, personally or by post, upon the person to whom it relates.

(4) In this section—

“centralized accounting system” means a system of accounting which requires payments in respect of business carried on both within and outside South Australia to be made at a central place, office or address outside South Australia:

“proclaimed State” means a State or Territory of the Commonwealth that is declared by proclamation to be a proclaimed State for the purposes of this section and section 84f of this Act.

S. 83a enacted by 48, 1941, s. 10; repealed by 58, 1965, s. 12.

\* \* \* \* \*

Offences.  
S. 84 amended by 58, 1965, s. 13 (1) (a), (b); 59, 1966, s. 5 (a), (b), (c); substituted by 32, 1968, s. 5.

84. (1) Except as provided in this Act, a person who receives or is deemed to receive any money in South Australia shall give a receipt therefor.

(2) A person shall not give a receipt that is chargeable with duty and is not duly stamped.

(3) A person who has received or is paid or is deemed to have received or to have been paid in South Australia any money—

(a) shall not refuse or, without reasonable excuse, (proof whereof shall lie on him) fail to give or tender a duly stamped receipt for that money;

(b) shall not give a receipt for an amount which is not the amount of money received or paid or deemed to have been received or to have been paid;

and

- (c) shall not separate or divide the amount of money received or paid or deemed to have been received or paid with intent to evade the duty payable under this Act or any part thereof.

(4) A person who contravenes any provision of subsection (1), (2) or (3) of this section shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars and, where the case requires, to a penalty equal to double the amount of the duty, if any, that should have been paid if the provision had not been contravened.

(5) The obligation imposed by the provisions of subsection (1) or (2) of section 82a of this Act or subsection (2) or (3) of this section to give or tender a duly stamped receipt shall not be affected or diminished in any way by any commercial practice or by any acquiescence, intimation or indication, expressed or implied, by the payer relating to the giving or tendering or non-giving or non-tendering of any such receipt but the provisions of this section and section 82a of this Act shall not be construed as—

- (a) requiring a receipt to be given or tendered by a person who has given notice of election to the Commissioner pursuant to subsection (1) of section 84e of this Act and has not given a notice of revocation thereof;

or

- (b) requiring a receipt to be given or tendered by a person for money a receipt for which is exempt from duty,

unless that person is requested by the payer to give a receipt.

(6) Where a receipt for any money has not been requested, a duly stamped receipt shall be deemed to have been given for the purposes of this section or section 82a of this Act if a receipt is made out and duly stamped, notwithstanding that the receipt is not sent or delivered to any person.

(7) Where a receipt is made out and duly stamped but not sent or delivered, the person making out the receipt shall retain possession of that receipt for three years after the receipt has been made.

(8) An instrument which acknowledges the receipt of the consideration therein expressed and to which any provision of this Part (other than sections 82 to 84j of this Act) applies is not chargeable with duty specified in the second schedule to this Act as a receipt for any amount of money, but any obligation imposed by subsection (2) or (3) of this section to give or tender a duly stamped receipt is not discharged by the making of that instrument.

(9) An instrument which acknowledges the receipt of the consideration therein expressed and to which any provision of this Part (other than sections 82 to 84j of this Act) does not apply is not chargeable with duty specified in the second schedule to this Act as a receipt for an amount of money if the Commissioner is satisfied that the duty so specified has been paid in respect of the payment of that consideration.

- (10) For the purposes of this section—

- (a) “receipt” includes any endorsement made on any document and evidencing the receipt of money;

and

- (b) where any document containing any endorsement evidencing the receipt of money is stamped as a receipt, it shall be deemed to be a duly stamped receipt.

Subsec. (11)  
inserted by 42,  
1970, s. 11.

(11) Notwithstanding the foregoing provisions of this section, this section does not apply to any money received, or deemed to have been received, after the thirtieth day of September, 1970.

Complaint or  
information  
may be laid  
within three  
years.

S. 84a enacted  
by 58, 1965,  
s. 13 (2);  
substituted by  
32, 1968, s. 5.

**84a.** A complaint or an information for any offence under sections 82a, 84 or 84g of this Act may be laid at any time within three years from the date on which the offence was committed.

Denoting duty  
by adhesive  
stamp.

S. 84b enacted  
by 58, 1965,  
s. 13 (2);  
amended by 59,  
1966, s. 6;  
substituted by  
32, 1968, s. 5.

**84b.** If the duty upon a receipt is not denoted by an impressed stamp, such duty may be denoted by an adhesive stamp which shall forthwith be cancelled in accordance with this Act by the person by whom the receipt is made out or given.

As to certain  
receipts by  
solicitors or  
agents.

S. 84c enacted  
by 58, 1965,  
s. 13 (2);  
amended by 59,  
1966, s. 7;  
substituted by  
32, 1968, s. 5.

**84c.** (1) Where money has been received by a solicitor or agent as such from his client or principal for payment to another person, or as reimbursement of a payment previously made by the solicitor or agent out of his own funds on behalf of his client or principal, the receipt to be given by the solicitor or agent to the client or principal shall be exempt from duty but, if the money is received by the solicitor or agent from his client or principal for payment to another person who is also a client or principal of the solicitor or agent, the money shall be deemed to have been received by the solicitor or agent on behalf of the last-mentioned client or principal.

(2) Where money has been received by a solicitor or agent on behalf of his client or principal, and a duly stamped receipt has been given by such solicitor or agent to the person by whom the payment was made, or the amount of the money so received is required to be included in a statement to be lodged with the Commissioner by the solicitor or agent pursuant to paragraph (a) of subsection (1) of section 84f of this Act—

(a) any receipt for such money given to the solicitor or agent by his client or principal upon payment of such money to him;

(b) any receipt for such money given to the solicitor or agent by any other solicitor or agent who receives such money from him for transmission to the client or principal of the first-mentioned solicitor or agent;

and

(c) any receipt for such money given by the client or principal of the first-mentioned solicitor or agent to the solicitor or agent who transmits such money to such client or principal,

shall be exempt from duty.

(3) A solicitor or agent is not obliged to pay duty on or affix a stamp to a receipt for an amount of money or to include that amount in a statement lodged or to be lodged with the Commissioner pursuant to paragraph (a) of subsection (1) of section 84f of this Act where the amount is received by the solicitor or agent on behalf of a client or principal who has given notice of election in writing to the Commissioner pursuant to subsection (1) of section 84e of this Act and has not given a notice of revocation thereof and has requested the solicitor or agent in writing not to pay duty in respect of such amount or in respect of moneys generally received by the solicitor or agent on his behalf; and, where a duly stamped receipt for the amount is not given by the solicitor or agent and the amount is not included in the statement (if any)



of the solicitor or agent lodged or to be lodged with the Commissioner pursuant to paragraph (a) of subsection (1) of section 84f of this Act, the client or principal shall include that amount in the statement, relating to the period during which he received notice of the receipt of that amount by the solicitor or agent, which is to be lodged by him with the Commissioner pursuant to that paragraph.

(4) The provisions of this section apply and have effect where money has been received by a solicitor or agent from or on behalf of his client or principal notwithstanding that the whole or part of the money so received is to be retained by the solicitor or agent, and, where the solicitor or agent transfers any amount held by him on behalf of his client or principal to his own account, he shall, for the purposes of this Act, be deemed to have received that amount in cash at the time of the transfer.

(5) No provision of this Act shall be construed as requiring a society to which this subsection applies which has received money in the course of its business, from any of its members, or from the storage, sale, disposal or distribution of any commodity or animal owned by any of its members or acquired by it from or for any of its members, or for resale to any of its members, or from the marketing of any such commodity, whether packed by it or not, or of any product derived from the processing of any commodity owned by any of its members, or acquired by it from or for any of its members, or for resale to any of its members, to pay duty under this Act on the receipt of such money or to include the amount so received in a statement to be lodged by the society with the Commissioner pursuant to paragraph (a) of subsection (1) of section 84f of this Act.

(6) For the purposes of subsection (5) of this section—

(a) “society” means a society as defined in the Industrial and Provident Societies Act, 1923-1966, as amended<sup>1</sup>—

(a) the members of which are—

(i) persons engaged in the business of primary production as defined in the Land Tax Act, 1936-1967, as amended<sup>2</sup>, or in the fishing industry;

or

(ii) societies defined in the Industrial and Provident Societies Act, 1923-1966, as amended<sup>1</sup>, the members of which are engaged in the business of primary production as so defined, or in the fishing industry;

and

(b) the primary object or one of the primary objects of which is—

(i) the sale, disposal or distribution of commodities owned by it or acquired by it from or for any of its members or from or for members of such societies as are members thereof;

or

(ii) the processing, packing or marketing of commodities owned by it, or acquired by it from or for

<sup>1</sup> Now Industrial and Provident Societies Act, 1923-1974.

<sup>2</sup> Now Land Tax Act, 1936-1975.

any of its members or from or for members of such societies as are members thereof or products derived therefrom;

and

- (b) a reference to a society to which that subsection applies is a reference to a society as defined in paragraph (a) of this subsection in the ordinary course of whose business, commodities and animals owned by any of its members, or acquired by it from or for any of its members, or for resale to any of its members, are stored, sold, disposed of or distributed by it or such commodities or products derived therefrom are packed and marketed where the receipts from the storage, sale, disposal or distribution of such commodities and animals so stored, sold, disposed of or distributed or the amount of its receipts from the marketing of such commodities whether packed by it or not or of any such products derived from the processing of any such commodities of its members is not less, respectively, than ninety per centum of the total value of commodities and animals sold, disposed of or distributed by the society, or of its receipts from the sale, disposal, processing, packing, storing, distribution or marketing of such commodities or products.

(7) Subject to any agreement between the persons concerned, a person who, while acting as the solicitor or agent of another person, has paid out of his own moneys duty in respect of money received or deemed to have been received by him on behalf of that other person, shall, if he has not been paid the amount of that duty by that other person, be entitled to recover from that other person by action in a court of competent jurisdiction the amount of such duty or so much thereof as has not been paid by that other person.

As to stamping receipts given without stamp. S. 84d enacted by 32, 1968, s. 5.

**84d.** (1) A receipt that is chargeable with duty and given without being stamped may be stamped with an impressed stamp—

- (a) within one month after the receipt has been given—on payment of the duty payable thereon and a penalty of twenty-five dollars;
- (b) after one month but within two months after the receipt has been given—on payment of the duty payable thereon and a penalty of fifty dollars;

or

- (c) after two months after it has been given—on payment of the duty payable thereon and a penalty of one hundred dollars,

but this section shall not apply to receipts executed at any place outside South Australia which may be stamped after execution as provided in section 20 of this Act.

(2) Where a statement required by or under the provisions of section 84f or 84h of this Act to be lodged with the Commissioner is not so lodged within the prescribed time, that statement may be lodged or made—

- (a) within one month after the expiration of the prescribed time—on payment of the duty payable thereon and a penalty of twenty-five dollars;

(b) after one month but within two months after the expiration of the prescribed time—on payment of the duty payable thereon and a penalty of fifty dollars;

or

(c) after two months after the expiration of the prescribed time—on payment of the duty payable thereon and a penalty of one hundred dollars.

(3) The Commissioner may, at any time after the giving of a receipt or the preparation of a statement referred to in this section, remit any penalty or any part thereof incurred in respect thereof but the Commissioner shall not remit the whole of the penalty prescribed by paragraph (c) of subsection (1) or paragraph (c) of subsection (2) of this section, nor shall he remit any part of that penalty if the effect of such remission is to reduce that penalty to an amount less than ten dollars.

84e. (1) A person referred to in subsection (4) of this section to whom this section applies may give notice in writing in the prescribed form to the Commissioner that he elects to pay duty under section 84f of this Act and a person who has given such a notice in accordance with this subsection may revoke the notice by giving notice of revocation thereof in the prescribed form to the Commissioner.

Power to pay receipt duty on statement.  
S. 84e enacted by 32, 1968, s. 5.

(2) The Commissioner shall assign a serial number to every notice of election given to him under subsection (1) of this section.

(3) Where a person has given notice of election to the Commissioner as provided in subsection (1) of this section and has not given a notice of revocation thereof, such person shall not be liable to pay stamp duty by impressed or adhesive stamps in respect of any receipt given by him after that notice of election but before the notice of revocation has been given, but he shall be liable for the payment of, and shall pay, duty in accordance with the provisions of section 84f of this Act.

(4) The persons to whom this section applies are—

(a) any person who carries on a trade, business or profession otherwise than as an employee;

(b) any body corporate or unincorporate;

(c) any person of a class declared by the Treasurer by notice published in the *Gazette* to be a class of persons to which this section applies;

and

(d) any person declared, on the application of that person, by the Treasurer by notice in writing published in the *Gazette* to be a person to whom this section applies.

84f. (1) Where a person has given notice of election to the Commissioner as provided in subsection (1) of section 84e of this Act and has not given a notice of revocation thereof, that person shall—

As to payment of duty on statement.  
S. 84f enacted by 32, 1968, s. 5.

(a) lodge with the Commissioner in such circumstances, at such intervals and in respect of such periods as are prescribed, or as the Commissioner directs in writing in any particular case, a statement in the prescribed form verified in the prescribed manner of the total of all amounts received in South Australia or deemed to have been received in South Australia by or paid in South Australia or

deemed to have been paid in South Australia to such person during the period to which the statement relates, other than amounts or payments a receipt for which would have been exempt from duty under this Act;

- (b) at the time of lodging each statement, pay in cash to the Commissioner as duty on that statement an amount calculated at the rate of one cent (\$0.01) for every ten dollars (\$10.00) and for any fractional part of ten dollars (\$10.00) of the total of the amounts required to be included in that statement;

and

- (c) endorse every receipt given by him that is chargeable with duty with the endorsement "SD/" and the serial number assigned by the Commissioner to the notice given by that person to the Commissioner.

Subsec. (1a)  
inserted by 42,  
1970, s. 12.

(1a) Subsection (1) of this section does not apply to any amount of money received in South Australia, or deemed to have been received in South Australia, or paid in South Australia, or deemed to have been paid in South Australia, after the thirtieth day of September, 1970.

(2) The duty paid by any person in accordance with subsection (1) of this section shall be denoted on the statement by cash register imprint or in such other manner approved by the Auditor-General as shall be notified by the Commissioner in the *Gazette*.

(3) Where the Commissioner is satisfied that any person—

- (a) carries on business both in South Australia and in a proclaimed State;

and

- (b) in the course of operating a centralized accounting system receives payment in South Australia for goods supplied or to be supplied or for services wholly or partly rendered or to be rendered in a proclaimed State,

he may authorize that person to omit from the statement required to be lodged by him pursuant to subsection (1) of this section any amount or amounts which in the opinion of the Commissioner is or are properly attributable to the supply of goods or the rendering of services in the proclaimed State.

(4) For the purposes of subsection (3) of this section the Commissioner may impose any condition subject to which the authorization referred to in that subsection is granted and any such condition may specify the manner in which any amount to be omitted from a statement is to be calculated and any such authorization may be cancelled by notice in writing under the hand of the Commissioner given to that person.

(5) In this section—

"centralized accounting system" means a system which requires payments in respect of business carried on both within and outside South Australia to be made at a central place, office or address within South Australia:

"proclaimed State" means a proclaimed State within the meaning of section 83 of this Act.

**84g.** (1) A person who has given notice of election to the Commissioner as provided in subsection (1) of section 84e of this Act but fails to comply with any of the provisions of section 84f of this Act that are required to be complied with by him at any time before he gives to the Commissioner a notice of revocation of such first-mentioned notice shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars and to a penalty equal to double the amount of the duty that would have been payable if such provisions had been complied with by him.

Offences.  
S. 84g enacted  
by 32, 1968,  
s. 5.

(2) A person who endorses a receipt with "SD/" and a serial number or with "Stamp Duty Paid" or with any similar endorsement in any case where he has not given notice of election to the Commissioner as provided in subsection (1) of section 84e of this Act or, having given notice of election to the Commissioner as so provided, he has given to the Commissioner notice of revocation thereof, shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars or to imprisonment for a term not exceeding six months, or to both.

**84h.** Where the Commissioner is satisfied that it is not reasonably practicable for any person, or that it would be unreasonably expensive or onerous for a solicitor or agent, to calculate precisely any total amount which is to be set out in a statement to be lodged by him with the Commissioner as required by paragraph (a) of subsection (1) of section 84f of this Act, the Commissioner may accept from him a statement or statements in which that total amount or some other amount is calculated in such manner or on such basis as the Commissioner thinks fit.

Alternative  
basis for  
calculation of  
amounts  
included in  
statements.  
S. 84h enacted  
by 32, 1968,  
s. 5.

**84i.** (1) Where the Commissioner is satisfied that a person who has given notice of election to the Commissioner as provided in subsection (1) of section 84e of this Act and has not given to the Commissioner a notice of revocation thereof—

Rebate of duty  
in certain cases.  
S. 84i enacted by  
32, 1968, s. 5.

(a) has paid any money received by him, in respect of the receipt of which he has paid or is liable to pay duty under this Act, to any person or fund for the purpose of equalizing payments to producers under any prescribed marketing scheme;

(b) has refunded any money received by him, in respect of the receipt of which he has paid or is liable to pay duty under this Act, pursuant to a prescribed marketing scheme, to the person or fund from which he received the money;

or

(c) has refunded any money received by him as a deposit in respect of a tender or in relation to a contract or proposed contract and in respect of the receipt of which money he has paid or is liable to pay duty,

the Commissioner shall allow a rebate to that first-mentioned person of an amount equal to one cent (\$0.01) for every ten dollars (\$10.00) and for every fractional part of ten dollars (\$10.00) of the amount so paid or refunded.

(2) In this section—

"prescribed marketing scheme" means any scheme for the marketing of primary products constituted under any Act of the Commonwealth or a State or declared by the Minister of Agriculture by notice published in the *Gazette* to be a prescribed marketing scheme for the purposes of this Act.

Transitional provisions.  
S. 84j enacted by 32, 1968, s. 5.

**84j.** (1) Subject to this section, the provisions of this Act relating to money received, to receipts, and to stamp duty in respect thereof, as in force immediately before the commencement of the Stamp Duties Act Amendment Act, 1968, (in this section referred to as "the former provisions"), shall continue to apply to and have effect in relation to money received before the commencement of that Act and, notwithstanding the repeal of the former provisions by that Act and notwithstanding any other provision in this Act, for the limited purposes of such application and this subsection, the former provisions shall be deemed to remain in force after the commencement of that Act except that—

(a) paragraph (a) of subsection (1) of section 84b of this Act, as in force immediately before such commencement, shall be read and construed as if any person, who would have been obliged pursuant to that paragraph, as then in force, to have forwarded to the Commissioner a statement in respect of a period ending after the date of such commencement shall, in lieu of complying with that paragraph, within twenty-one days after that date, forward to the Commissioner a statement in the prescribed form verified in the prescribed manner summarizing the transactions referred to therein whereunder moneys were received by that person during the period that commenced on the day after the day to which his last statement was made up and ended on the day of the commencement of that Act or, if no statement had previously been forwarded by such person to the Commissioner under the former provisions, during the period that commenced on the day on which that person had given to the Commissioner notice under subsection (1) of section 84a of this Act as then in force and ended on the day of the commencement of that Act;

(b) paragraph (b) of subsection (1) of section 84b of this Act, as in force immediately before such commencement, shall be read and construed in relation to transactions to which it relates as if the application of that paragraph or any reference in that paragraph to transactions that occur or have occurred during any period ending after such commencement were an application or a reference to transactions that have occurred during the period that commenced on the day after the end of the last period in respect of which duty was assessed under that paragraph by the Commissioner and ended on the day of such commencement;

and

(c) subsection (2) of section 84b, as then in force, shall, *mutatis mutandis*, apply and have effect accordingly.

Subsec. (2) amended by 42, 1970, s. 13.

(2) Except as provided in this section, this Act, as amended by the Stamp Duties Act Amendment Act, 1968, shall apply to and have effect in relation to money received or deemed to have been received in South Australia after the commencement of that Act but not after the thirtieth day of September, 1970.

(3) Where, before the commencement of the Stamp Duties Act Amendment Act, 1968, a person had given notice to the Commissioner pursuant to subsection (1) of section 84a of this Act, as in force immediately before such commencement, and had not given a notice of revocation thereof, that person shall be deemed to have given notice of election on the commencement of that Act to the Commissioner as provided in subsection (1) of section 84e of this Act as enacted by section 5 of that Act and such notice may be revoked by him in accordance with that subsection.

*Totalizators*

85. In this Act the term "racing club" includes a trotting club and a dog racing club.

Racing club to include trotting club and dog racing club.  
789, 1902, s. 37.  
S. 85 amended by 42, 1970, s. 14.

86. There shall be payable upon the gross takings of every totalizator, or other instrument or machine of a like nature and conducted upon the like principle, the duty specified in the second schedule.

Duty on takings of totalizator.  
789, 1902, s. 34 (part); 1216, 1915, s. 8.

87. (1) Payment of any such duty shall be made to the Commissioner.

Payment of stamp duty shall be made to the Commissioner.  
789, 1902, s. 34 (part).

(2) No such payment shall be deemed to be a discharge for the duty payable upon the gross takings of any totalizator until a formal receipt therefor has been given by the Commissioner, who shall in each case, prior to giving a receipt, satisfy himself that the full amount of duty has been paid.

88. For the purpose of ascertaining the amount of the duty hereby imposed, it shall be the duty of each racing club, racing committee, and racing association to forward to the Commissioner, within fourteen days after the holding of any race meeting held or conducted by such club, committee, or association at which any totalizator is used, a full statement in writing showing the total amount of the takings of each totalizator used at such meeting, and the particulars of such amount.

Statement of takings to be forwarded to the Commissioner.  
789, 1902, s. 34 (part).  
S. 88 amended by 2246, 1935, s. 4 (2nd Sched.).

89. If any racing club, committee or association—

Penalty on failure to deliver such statement.  
789, 1902, s. 35.  
S. 89 amended by 58, 1965, s. 17.

(a) neglects to make out and deliver such full statement as aforesaid within one month after the holding of any race meeting held or conducted by such club, committee, or association at which any totalizator is used;

or

(b) wilfully delivers any such statement which is false in any particular, such club, committee, or association, and every officer thereof respectively who has taken an active part in the holding or conduct of any such race meeting, shall be liable to a penalty of forty dollars.

89a. (1) Subject to subsection (3) of this section, where the Treasurer is satisfied that any racing club, racing committee or racing association intends to apply the whole of the profits derived by it from any race meeting (including any commission retained by it under section 28 of the Lottery and Gaming Act, 1936<sup>1</sup>) to charitable purposes, or purposes which the Treasurer considers should be regarded as charitable for the purpose of this section, the Treasurer may authorize the club, committee or association to apply towards such purposes the amount of any duty which would apart from this section be payable to the Commissioner on the gross takings of any totalizator used at the race meeting so held.

Exemption from totalizator duty.  
S. 89a enacted by 2359, 1937, s. 5.

(2) If the club, committee or association satisfies the Treasurer that the amount of such duty has been so applied, the club, committee or association shall be exempt from the obligation to pay such duty to the Commissioner.

<sup>1</sup> Now Lottery and Gaming Act, 1936-1975.

## PART III

Subsec. (3)  
substituted by  
42, 1970, s. 15.

(3) In each year this section shall apply only in relation to—

(a) four horse race meetings (not being trotting meetings) that are held during that year by racing clubs and are determined by the governing body of the South Australian Jockey Club Incorporated;

Para. (b)  
amended by 42,  
1974, s. 3 (2nd  
Sched.).

(b) not more than four trotting meetings that are held during that year by trotting clubs and are determined by the Trotting Control Board established under the Lottery and Gaming Act, 1936, as amended<sup>1</sup>;

and

(c) not more than four dog race meetings that are held during that year by dog racing clubs and are determined by the National Coursing Association of South Australia Incorporated.

Subsec. (4)  
struck out by 42,  
1970, s. 15.

\* \* \* \* \*

Subsec. (5)  
struck out by 42,  
1970, s. 15.

\* \* \* \* \*

Regulations.  
789, 1902, s. 36.

**90.** (1) In addition to any power by any other section of this Act conferred on the Governor to make regulations as to any matter, the Governor may make regulations—

(a) for arranging with any racing club for the collection and payment of the duty payable by any other racing club, committee, or association in the same district;

(b) for prescribing the form of any statement, affidavit, declaration, bond, or other instrument required in connection with the payment of duty upon the gross takings of any totalizator: Provided that any statement required shall be verified by an affidavit or declaration sworn or made before a justice; and

(c) generally for facilitating or compelling payment of duty upon the gross takings of any totalizator.

(2) Subsections (2) and (3) of section 112 shall apply to regulations made under this section.

## PART IIIA

Part IIIA and  
Heading enacted  
by 14, 1967,  
s. 21<sup>2</sup>.

## PART IIIA

### SALES AND PURCHASES OF MARKETABLE SECURITIES BY BROKERS AND DUTY THEREON.

Interpretation.  
S. 90a enacted  
by 14, 1967,  
s. 21<sup>2</sup>.

**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

<sup>1</sup> Now Lottery and Gaming Act, 1936-1975.

<sup>2</sup> Act No. 14 of 1967 was repealed by Act No. 11 of 1971, but the repeal did not affect the amendments to the Stamp Duties Act made by Act No. 14 of 1967. See Act No. 11 of 1971, s. 2.



proclamation to be a corresponding Act for the purposes of this Part of this Act:

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

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

**90b.** This Part and the duty chargeable in accordance with the second schedule to this Act on the return referred to in section 90d of this Act applies and has effect to, and in relation to, a sale or purchase of a marketable security only where—

Application of this Part.  
S. 90b enacted by 14, 1967, s. 21<sup>1</sup>.

- (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 that is a prescribed Stock Exchange for the purposes of paragraph (h) of subsection (6) of section 374 of the Companies Act, 1962-1966<sup>2</sup>;

and

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

**90c.** (1) Subject to subsections (3) and (4) of this section, 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 enacted by 14, 1967, s. 21<sup>1</sup>.

- (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—

- (i) the date of the sale or the purchase;
- (ii) the name of the principal (if any) for whom such sale or purchase was made;
- (iii) the name of the dealer (if any) with whom the sale or purchase was effected;
- (iv) the quantity and full description of the marketable security sold or purchased;
- (v) 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;

<sup>1</sup> Act No. 14 of 1967 was repealed by Act No. 11 of 1971, but the repeal did not affect the amendments to the Stamp Duties Act made by Act No. 14 of 1967. See Act No. 11 of 1971, s. 2.

<sup>2</sup> Now Companies Act, 1962-1974.

Subpara. (vi)  
amended by 48,  
1967, s. 3 (a),  
(b).

(vi) the amount of stamp duty chargeable in accordance with the second schedule to this Act in respect of that sale or purchase on the return referred to in section 90d of this Act which relates to that sale or purchase;

and

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

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

(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 such 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 such security pursuant to an order to purchase lodged with him in the State by the person to whom he made the sale.

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

(a) in respect of the 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;

or

(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.

(4) Subsection (1) of this section 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) of this section, incorporate therein additional information for his own use.

(6) Such 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 enacted by 14, 1967, s. 21<sup>1</sup>.

(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 to this Act.

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 of this Act, 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 of this Act 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 any 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 subsection (1) of section 90c of this Act or on the making of a sale or purchase to which subsection (1) of that section does not apply by virtue of the operation of subsection (4) of that section, 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.

Endorsement of instrument of transfer as to payment of duty.

S. 90e enacted by 14, 1967, s. 21<sup>1</sup>.

(2) A South Australian dealer who affixes his stamp under such an endorsement without making the appropriate record provided for in subsection

<sup>1</sup> Act No. 14 of 1967 was repealed by Act No. 11 of 1971, but the repeal did not affect the amendments to the Stamp Duties Act made by Act No. 14 of 1967. See Act No. 11 of 1971, s. 2.

(1) of section 90c of this Act, 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 enacted by 14, 1967, s. 21<sup>1</sup>; amended by 48, 1967, s. 5.

**90f.** Any South Australian dealer who, on lodging with the Commissioner a return pursuant to section 90d of this Act, 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 such 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.

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#### PART V

#### PART V

### MISCELLANEOUS PROVISIONS

Spoiled or unused stamps.  
372, 1886, s. 45.  
S. 106 amended by 2359, 1937, s. 10.

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

Transfers of marketable securities not to be registered unless duly stamped.  
S. 106a enacted by 14, 1967, s. 22<sup>1</sup>.

**106a.** (1) A transfer of a marketable security to which Part IIIA of this Act 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 wherein, 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.

<sup>1</sup> Act No. 14 of 1967 was repealed by Act No. 11 of 1971, but the repeal did not affect the amendments to the Stamp Duties Act made by Act No. 14 of 1967. See Act No. 11 of 1971, s. 2.

(2) A transfer of a marketable security to perfect a sale or purchase to which Part IIIA of this Act 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 subsection (3) of section 90e of this Act, 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 such 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 deemed guilty of a misdemeanour, and shall be liable to imprisonment for any 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 such 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:

(f) erases or otherwise removes from any stamped material any name, sum, date, or other matter or thing whatsoever therein written, with the intent that any fraudulent use should be made of the stamp upon such material:

(g) knowingly sells or exposes for sale, or utters or uses, any forged stamp:

(h) knowingly and without lawful excuse (the proof of which lawful excuse shall lie on the person accused) has in his possession any forged die or stamp, or any stamp or part of a stamp, which has been fraudulently cut, torn, or otherwise removed from any

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

material, or any stamp which has been fraudulently mutilated, or any stamped material out of which any name, sum, date, or other matter or thing has been fraudulently erased or otherwise removed,

shall be guilty of felony, and liable to imprisonment, with or without hard labour, for any term not less than one year and not exceeding seven years.

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

Penalty for fraud.  
372, 1886, s. 26.  
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 such stamp may be used again;

(b) knowingly sells or offers for sale or utters any adhesive stamp which has been removed from any instrument, or utters any instrument having thereon any adhesive stamp which to his knowledge has been so removed as aforesaid; or

(c) practises or is concerned in any fraudulent act, contrivance, or device, with intent to evade any duty under this Act,

shall be liable to a penalty of one hundred dollars, and in the last case shall also forfeit the amount of the duty sought to be evaded.

S. 109a enacted 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 enacted 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.

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

**111. (1)** The Supreme Court may, upon application by or on behalf of the Commissioner, grant a rule requiring any person who has received money payable by way of duty or penalty under this Act, or the executor or administrator of any such person, to show cause why he should not deliver to the Commissioner an account upon affidavit of any duty or sum of money received by such person, or executor or administrator, and why the same should not be forthwith paid to the Commissioner.

(2) The Court may make absolute such rule, and enforce by attachment or otherwise the payment of any such duty or sum of money as appears to be due, together with costs.

112. (1) The Governor may make such regulations and may authorize such forms as may be necessary from time to time for carrying this Act into effect, and may, by any such regulation, impose a penalty not exceeding 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 *Government Gazette*, shall have the force of law.

(3) Every such regulation shall be laid before both Houses of Parliament forthwith, if Parliament is sitting, and, if not, then within thirty days after the commencement of the next session.

(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.

113. Any instrument which on or after the fourteenth day of February, 1966<sup>1</sup>, is stamped under this Act shall be deemed to be duly stamped for the purposes of this Act if, on or before such day as the Governor by proclamation determines, that instrument is stamped by an impressed or adhesive stamp or stamps denoting an amount of duty expressed in terms of the currency provided for by the *Coinage Act* 1909-1947 of the Commonwealth corresponding to or greater than the amount of duty chargeable on that instrument under this Act calculated on the basis of the equivalents specified in subsection (4) of section 8 of the *Currency Act* 1965, of the Commonwealth.

Use of old  
currency stamps  
after  
introduction of  
decimal  
currency.  
S. 113 enacted  
by 58, 1965,  
s. 18.

## SCHEDULES

### THE FIRST SCHEDULE

Section 3.

Reference to Acts	Short Titles of Acts
No. 372 of 1886.....	Stamp Act, 1886
No. 789 of 1902.....	The Stamp Act Amendment Act, 1902
No. 837 of 1903.....	Stamp Act Further Amendment Act, 1903
No. 849 of 1904.....	The Stamp Act Further Amendment Act, 1904
No. 885 of 1905.....	The Stamp Act Further Amendment Act, 1905
No. 1216 of 1915.....	Stamp Act Further Amendment Act, 1915
No. 1244 of 1916.....	Stamp Act Further Amendment Act, 1916
No. 1277 of 1917.....	Stamp Act Further Amendment Act, 1917
No. 1374 of 1919.....	Stamp Act Further Amendment Act, 1919

<sup>1</sup> Reference to the year one thousand nine hundred and sixty-six altered to 1966 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

Second sched.  
amended by 58,  
1965, s. 15 (a)  
and as indicated  
hereinafter.

Reference to  
sections of this  
Act.

## THE SECOND SCHEDULE

	Nature of Instrument	Amount of Duty \$
Section 28. Amended by 58, 1965, s. 17; 71, 1971, s. 12 (a).	AFFIDAVIT OR DECLARATION when sworn or declared and subscribed before any competent authority, for each deponent or declarant.....	0.20
	<i>Exemptions—</i>	
	Every affidavit or declaration—	
	1. Filed, read, or used in any Court, or before any Judge, Registrar, Clerk, or officer of any Court.	
	2. Required to be made by any officer of the Government in respect of any matters relating to the duties of his office.	
	3. Made before a notary or other authority as to the execution of any instrument, and any certificate by such notary or authority that such declaration has been duly made.	
	4. Required by the Banking Companies Act <sup>1</sup> , or in proof of death or identity.	
	5. Required to be made under the Acts relating to the registration of births, deaths, and marriages, or relating to vaccination.	
	6. Relating to military or naval pensions.	
	7. Relating to any bonus for the destruction of wild dogs, foxes, or other vermin, or with respect to any vermin rate.	
Exemption 8 struck out by 58, 1965, s. 15 (b).	* * * * *	
Section 29. 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
	<i>Exemptions—</i>	
	1. Any agreement or memorandum for the hire of any labourer, artificer, manufacturer, or menial servant.	
Exemption 2 amended by 58, 1965, s. 9 (a); 48, 1941, s. 11 (1).	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 on 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 of this Act.	
	3. Any agreement or memorandum made between a master and any mariner of any ship or vessel for wages on any voyage coastwise, from port to port, in the State of South Australia.	
	4. Any life, fire, personal accident, fidelity, guarantee, live stock, plate glass, or marine insurance or assurance policy or cover note.	
	5. Storage notes for wheat in the Form A hereto appended, or to like effect only.	
	6. Any agreement made before the thirtieth day of September, 1916 <sup>2</sup> , between any person, firm, or company and the Government of the State, or any Minister of the Crown, authorizing the said Government, or any Minister of the Crown, to handle and sell wheat on behalf of such person, firm, or company.	
Sections 32-42Aa. Amended by 24, 1964, s. 9 (a); 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, live stock, plate glass, marine, or other assurance or insurance business whatever, 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 whatsoever, whether	

<sup>1</sup> The Banking Companies Act (No. 25 of 1863) has been repealed and superseded by the Banking Companies Act, 1935, which was in turn repealed by the Banking Companies Act Repeal Act, 1946.

<sup>2</sup> Reference to the year nineteen hundred and sixteen altered to 1916 pursuant to s. 7 (1) of the Acts Republishation Act, 1967, as amended.



Nature of Instrument	Amount of Duty \$	Reference to sections of this Act.
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 .....	1.50	Subpara. (i) amended by 90, 1974, s. 6 (a).
(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, as amended <sup>1</sup> ....	0.50	
(iii) for every \$100 or fractional part of \$100 of such of those premiums as relate to any other kind of policies .....	6.00	Subpara. (iii) amended by 90, 1974, s. 6 (b).
(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 workmen's compensation;		
(2) the premiums referred to in paragraph (a) of this item 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 re-insurance 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) of this item 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.

**APPLICATION to Register a Motor Vehicle or Application to transfer the Registration of a Motor Vehicle—**

[Ss. 42a-42e.]  
 Inserted by 24,  
 1964, s. 9 (b);  
 amended by 58,  
 1965, s. 17; 71,  
 1971, s. 13 (1)<sup>2</sup>;  
 80, 1971,  
 s. 8 (a), (b), (c);  
 90, 1974,  
 s. 7 (a)-(e); 63,  
 1975, s. 11 (a).

**(A) Component payable in respect of Registration**

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, as amended<sup>1</sup>, 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<br>for every \$100,<br>or fractional part<br>of \$100, of the<br>excess over<br>\$1 000 of that<br>value |

<sup>1</sup> Now Motor Vehicles Act, 1959-1975.

<sup>2</sup> Subsection (1) of section 13 of Act No. 71 of 1971 came into operation 1st December, 1971: See *Gaz.* 11th November, 1971, p. 1928. See also 71, 1971, s. 2 (2).

	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, as amended <sup>1</sup> , 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

Substituted by  
90, 1974,  
s. 7 (c).

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 whereby or by virtue of which the property in the motor vehicle was legally or equitably transferred to or vested in the applicant.

<sup>1</sup> Now Motor Vehicles Act, 1959-1975.

Nature of Instrument	Amount of Duty \$
7. Any application to register or 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.	Exemption 9 inserted by regulation. Gaz. 23rd September, 1965, p. 1138; substituted by 26, 1968, s. 9 (a).
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 10 inserted by regulation. Gaz. 23rd September, 1965, p. 1138; 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, 1966-1967 <sup>1</sup> , or a controlling authority referred to in Part XIX of the Local Government Act, 1934-1967 <sup>2</sup> , or the Metropolitan County Board constituted under the Food and Drugs Act, 1908-1967 <sup>3</sup> .	
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, 1959-1968, as amended <sup>4</sup> , to have that motor vehicle registered at a reduced registration fee.	Exemption 11 inserted by regulation. Gaz. 23rd September, 1965, p. 1138; 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—	
(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 second-hand or used motor vehicles;	Exemption 12 inserted by regulation. Gaz. 23rd September, 1965, p. 1138; substituted by 26, 1968, s. 9 (a).
(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;	
and	
(c) that such resale is in the ordinary course of the business of that person.	
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—	Exemption 13 inserted by regulation. Gaz. 23rd September, 1965, p. 1138; substituted by 26, 1968, s. 9 (a).
(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.	
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—	Exemption 14 inserted by regulation. Gaz. 20th October, 1966, p. 1730; substituted by 26, 1968, s. 9 (a).
(a) that the motor vehicle is the subject of a hire-purchase agreement;	
and	
(b) that he is a person to whom the hirer's rights under the agreement have passed by assignment:	

<sup>1</sup> Now Planning and Development Act, 1966-1975.<sup>2</sup> Now Local Government Act, 1934-1975.<sup>3</sup> Now Food and Drugs Act, 1908-1972.<sup>4</sup> Now Motor Vehicles Act, 1959-1975.

	Nature of Instrument	Amount of Duty \$
	But if <i>ad valorem</i> stamp duty has already been paid in respect of the assignment of such rights on the instrument whereby or by virtue whereof such rights were assigned, this exemption shall apply only to the extent of the amount of such duty so paid.	
Exemption 15 inserted by regulation. Gaz. 12th October, 1967, p. 1718; substituted by 26, 1968, s. 9 (a); 63, 1975, s. 11 (a).	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 16 inserted by regulation. Gaz. 5th April, 1973, p. 1292.	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, 1935-1972 <sup>1</sup> .	
Inserted by 80, 1971, s. 8 (c); amended by 90, 1974, s. 7 (d), (e).	(B) <i>Component payable in respect of a Policy of Insurance</i>	
	Where the application is for registration of the vehicle for a period of twelve months .....	3.00
	Where the application is for registration of the vehicle for a period of six months.....	1.50
	<i>Exemptions from payment of this component—</i>	
	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, 1966-1971 <sup>2</sup> , or by a controlling authority referred to in Part XIX of the Local Government Act, 1934-1970 <sup>3</sup> , or by the Metropolitan County Board constituted under the Food and Drugs Act, 1907-1967 <sup>4</sup> .	
	6. Policy of insurance where the application for registration is made by a person entitled under section 38 of the Motor Vehicles Act, 1959-1971 <sup>5</sup> , 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;	

<sup>1</sup> Now Health Act, 1935-1975.<sup>2</sup> Now Planning and Development Act, 1966-1975.<sup>3</sup> Now Local Government Act, 1934-1975.<sup>4</sup> This must be a reference to the Food and Drugs Act, 1908-1967 (now Food and Drugs Act, 1908-1972).<sup>5</sup> Now Motor Vehicles Act, 1959-1975.

Nature of Instrument	Amount of Duty \$	Reference to sections of this Act.
(b) that he is in receipt of a pension paid or payable under any Act or law of the Commonwealth;		
and		
(c) that he is, by virtue of being in receipt of such a pension, entitled to travel in any public transport in South Australia at concession fares under any Act, regulation or by-law for the time being in force.		
BANK NOTE—A duty to be paid by each bank quarterly on bank notes issued by it—		Sections 43 to 45a. Amended by 58, 1965, s. 17.
For every \$200, and also for the fractional part of \$200 of the average amount of such notes stated to be in circulation by the quarterly returns made by the bank pursuant to the Banking Companies Act <sup>1</sup> .....	1.00	
* * * * *		Sections 46 to 52. Items re Bills of Exchange, etc. and certain exemptions amended by 1822, 1927, s. 9 (b); 2387, 1938, s. 4 <sup>2</sup> ; 55, 1952, ss. 6, 7 <sup>3</sup> ; 8, 1956, ss. 4-6 <sup>4</sup> ; 32, 1962, s. 8; 58, 1965, ss. 15 (c), 17; 71, 1971, ss. 12 (d), (e), 13(2) <sup>5</sup> ; 103, 1971, s. 2; 90, 1974, s. 8; struck out and new items inserted by 63, 1975, s. 11 (b).
BILL OF EXCHANGE (Cheque, Order, etc.) payable on demand COUPON, INTEREST WARRANT .....	0.08	New item inserted 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 .....	0.08	New item inserted by 63, 1975, s. 11 (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—		New 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 whatsoever (except a Bank Note)—		New item inserted by 63, 1975, s. 11 (b).
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	
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).

<sup>1</sup> The Banking Companies Act (No. 25 of 1863) has been repealed and superseded by the Banking Companies Act, 1935, which was in turn repealed by the Banking Companies Act Repeal Act, 1946.

<sup>2</sup> S. 4 (2) of Act 2387 of 1938 provides as follows:—

(2) The amendment made by this section shall come into operation on the sixteenth of January, nineteen hundred and thirty-nine.

<sup>3</sup> S. 7 of Act 55 of 1952 provides as follows:—

7. The additional duty imposed by this Act shall not be payable on a cheque made out on a form issued by a bank or financial institution to a customer before the twentieth day of November, nineteen hundred and fifty-two.

<sup>4</sup> Ss. 5 and 6 of Act No. 8 of 1956 provide as follows:—

5. The additional duty imposed by this Act shall be payable on all bills of exchange, cheques, orders payable on demand, coupons and interest warrants drawn or made on or after the third day of December nineteen hundred and fifty-six.

6. (1) Notwithstanding any law or regulation, the Commissioner may, without duty being paid in advance, impress one penny duty stamps on any cheque forms which at the time of the passing of this Act are in the possession of a bank holding a licence under section 48a of the principal Act.

(2) A bank for whom cheque forms are so impressed shall pay to the Commissioner the value of the stamps so impressed at the respective times fixed by the said licence for payment of the cheque duty in respect of those cheque forms.

(3) This section shall be deemed to have come into operation on the tenth day of September, 1956.

<sup>5</sup> Subsection (2) of section 13 of Act No. 71 of 1971 came into operation 1st December, 1971: See Gaz. 11th November, 1971, p. 1928. See also 71, 1971, s. 2 (2).

Reference to sections of this Act.	Nature of Instrument	Amount of Duty \$
	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.	
Exemption 4 substituted by 63, 1975, s. 11 (d).	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.	
	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.	
Exemption 8 amended by 58, 1965, s. 15 (d); 59, 1966, s. 9 (1) <sup>1</sup> .	8. Cheque drawn by any registered friendly society or by or on behalf of any community or subsidized hospital approved by the Chief Secretary.	
Section 53. Amended by 58, 1965, s. 17; 71, 1971, s. 12 (f).	BILL OF LADING or SHIPPING NOTE for goods exported from the State.....	0.10
Item "Certificate of Insurance" and Exemptions inserted by 26, 1968, s. 9 (b); struck out by 80, 1971, s. 8 (d).	* * * * *	* *
Sections 54 to 59a. Amended by 1822, 1927, s. 9 (c); 24, 1964, s. 9 (e), (f); 58, 1965, ss. 15 (a), 17; 14, 1967, s. 23 (a).	CONTRACT NOTE (not otherwise charged) for or relating to the sale or purchase before the commencement of the Marketable Securities Transfer Act, 1967, of any stock or marketable security.  For every \$400, or fractional part of \$400 of the value of such stock or marketable security.....	0.10
Amended by 1822, 1927, s. 9 (d); 24, 1964, s. 9 (e), (f); 58, 1965, s. 17; 14, 1967, s. 23 (a).	CONTRACT NOTE for or relating to the sale or purchase before the commencement of the Marketable Securities Transfer Act, 1967, of any stock or marketable security, which note is made or executed in pursuance and in consequence of the exercise of an option given or taken under a contract duly stamped, and bears on its face a certificate by the broker, agent, or other person referred to in section 56 of this Act to the effect that it is made or executed in the exercise of an option for which a duly stamped contract note has been rendered on the date mentioned in the certificate—  For every \$400, or fractional part of \$400, of the value of such stock or marketable security.....	0.05
Amended by 1822, 1927, s. 9 (e); 24, 1964, s. 9 (g), (h); 58, 1965, s. 17; 14, 1967, s. 23 (b).	CONTRACT, made before the commencement of the Marketable Securities Transfer Act, 1967, giving or taking any option to purchase or sell any stock or marketable security at a future time at a certain price—  For every \$400, or fractional part of \$400, of the value of such stock or marketable security in respect of each option .....	0.05
Item re Contract, note, etc. for repayment of money lent by money-lender inserted by 24, 1964, s. 9 (j); amended by 59, 1966, s. 8 (a); struck out by 56, 1968, s. 8 (a).	* * * * *	* *

<sup>1</sup> S. 9 (2) of Act No. 59 of 1966 provides as follows:—

(2) The amendment made by subsection (1) of this section shall be deemed to have come into operation on the commencement of the Stamp Duties Act Amendment Act, 1965.

Nature of Instrument	Amount of Duty \$	Reference to sections of this Act.
CONVEYANCE OR TRANSFER on sale of any property (not otherwise charged), including contract or agreement for sale—		Sections 60 to 71b. Amended by 1822, 1927, s. 9 (f) and as indicated hereinafter.
(a) In the case of any stock or marketable security sold before the com- mencement of the Marketable Securities Transfer Act, 1967—		Para. (a) substituted by 48, 1941, s. 11 (2); amended by 24, 1964, s. 9 (g) (i); 58, 1965, s. 17; 14, 1967, s. 23 (c).
For every \$80, or fractional part of \$80, of the value of such stock or marketable security.....	0.30	
(aa) In the case of the sale of any stock or marketable security sold after the commencement of the Marketable Securities Transfer Act, 1967 (where any return lodged with the Commissioner pursuant to section 90d of this Act does not relate to such sale)—		Para. (aa) inserted by 14, 1967, s. 23 (d); amended by 48, 1967, s. 6 (a), (b); 71, 1971, s. 13 (3) (a) <sup>1</sup> .
Where the consideration for the sale is less than \$100—For every \$25 and any fractional part of \$25.....	0.14	
Where the consideration for the sale is \$100 or more—For every \$100 and any fractional part of \$100.....	0.60	
(ab) In the case of a conveyance or transfer of any mortgage of land used or to be used solely as a dwelling house constructed or in course of construction on the land .....	4.00	Para. (ab) inserted by 48, 1967, s. 6 (c); amended by 71, 1971, s. 12 (g).
(b) In any other case (not being a conveyance or transfer on sale of any stock or marketable security)—		Para. (b) substituted by 59, 1966, s. 8 (b); amended by 71, 1971, s. 12 (h); substituted by 90, 1974, s. 9.
Where the amount or value of the consideration for the sale—		
Does not exceed \$12 000, for every \$100, or fractional part of \$100, of such amount or value.....	1.25	
Exceeds \$12 000, but does not exceed \$18 000 .....	\$150 plus \$2.50 for every \$100, or fractional part of \$100, of the excess over \$12 000 of that amount or value	
Exceeds \$18 000 but does not exceed \$50 000 .....	\$300 plus \$3.00 for every \$100, or fractional part of \$100, of the excess over \$18 000 of that amount or value	
Exceeds \$50 000 but does not exceed \$100 000.....	\$1 260 plus \$3.50 for every \$100, or fractional part of \$100, of the excess over \$50 000 of that amount or value	
Exceeds \$100 000.....	\$3 010 plus \$4.00 for every \$100, or fractional part of \$100, of the excess over \$100 000 of that amount or value	
* * * * *		Exemptions struck out by 30, 1953, s. 6 (a).
* * * * *		Item re Conveyance etc. of any share repealed by 1822, 1927, s. 9 (g).

<sup>1</sup> Subsection (3) of section 13 of Act No. 71 of 1971, came into operation 1st January, 1972: See *Gaz.* 3rd December, 1971, p. 2298. See also 71, 1971, s. 2 (2).

Reference to sections of this Act.	Nature of Instrument	Amount of Duty \$
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.	CONVEYANCE operating as a voluntary disposition, <i>inter vivos</i> , of any property.	
	Where the value of the property conveyed—	
	Does not exceed \$12 000, for every \$100, or fractional part of \$100, of such value. ....	1.25
	Exceeds \$12 000, but does not exceed \$18 000 .....	\$150 plus \$2.50 for every \$100, or fractional part of \$100, of the excess over \$12 000 of that value
	Exceeds \$18 000, but does not exceed \$50 000 .....	\$300 plus \$3.00 for every \$100, or fractional part of \$100, of the excess over \$18 000 of that value
	Exceeds \$50 000, but does not exceed \$100 000 .....	\$1 260 plus \$3.50 for every \$100, or fractional part of \$100, of the excess over \$50 000 of that value
	Exceeds \$100 000 .....	\$3 010 plus \$4.00 for every \$100, or fractional part of \$100, of the excess over \$100 000 of that value
Exemption inserted by 30, 1944, s. 3.	Exemption— Conveyance operating as a voluntary disposition <i>inter vivos</i> by an employer of any property for the purpose of providing individual personal benefits, pensions or retiring allowances for his employees.	
Inserted by 48, 1941, s. 11 (3); amended by 58, 1965, s. 17; 71, 1971, s. 12 (j).	CONVEYANCE for the partition or division of any property where the consideration for equality does not exceed \$200 or where there is no consideration for equality .....	4.00
Inserted by 48, 1941, s. 11 (3); amended by 58, 1965, s. 17; 71, 1971, s. 12 (k).	CONVEYANCE for effectuating the appointment of a new trustee or the retirement of a trustee .....	2.00
Amended by 58, 1965, s. 17; 71, 1971, s. 12 (l).	CONVEYANCE of any other kind not before charged .....	4.00
Section 66. Amended by 58, 1965, s. 17; 71, 1971, s. 12 (m).	DOCUMENT or other INSTRUMENT made for the purpose of securing periodical payments provided for by a separate conveyance on sale, in respect of which provision for periodical payments such conveyance on sale is chargeable with <i>ad valorem</i> duty, of whatever description and howsoever otherwise chargeable .....	No sum higher than \$2.00
Amended by 58, 1965, s. 17; 71, 1971, s. 12 (n).	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 whatsoever not otherwise specified in this schedule .....	4.00
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.	



Nature of Instrument	Amount of Duty \$	Reference to sections of this Act.
<b>INSTALMENT PURCHASE AGREEMENT—</b>		[Sections 31m-31t.] Inserted by 45, 1959, s. 6 (a); substituted by 59, 1966, s. 8 (d); 56, 1968, s. 8 (b); amended by 71, 1971, s. 12 (o).
Duty payable on each instrument constituting or evidencing an instalment purchase agreement—		
1.8% of the purchase price as set out in the original instrument within the meaning of section 31q of this Act.		
<i>Exemptions—</i>		
1. Any instalment purchase agreement where the purchase price does not exceed \$20.		
2. Any instalment purchase agreement under which the purchaser is a person who is engaged in the trade or business of selling goods of the same nature or description as the goods to which the agreement relates.		
3. Any rental agreement for the bailment of goods together with—		
(a) real property;		
(b) any estate or interest in real property;		
or		
(c) any business or interest in a business.		
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—		Sections 72 to 74. Amended by 58, 1965, s. 17; substituted by 71, 1971, s. 12 (p).
Where a rate of rent per annum can be ascertained or estimated—for every \$100 or fractional part of \$100 of one year's rent calculated at that rate .....	1.00	
Where a rate of rent per annum cannot be ascertained or estimated.....	4.00	
<i>Exemption—</i>		
Lease or agreement for a lease, or any written document for the tenancy or occupancy of any lands, tenements or hereditaments for a term not exceeding one year where the rent reserved does not exceed the rate of \$52 per annum.		
LEASE made subsequently to and in conformity with a duly stamped agreement for a lease .....	0.50	Amended by 58, 1965, s. 17; 71, 1971, s. 12 (q).
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	Section 75. Amended by 58, 1965, ss. 15 (e), 17; 71, 1971, s. 12 (r).
MORTGAGE, BOND, DEBENTURE, COVENANT, WARRANT OF ATTORNEY to confess and enter up judgment—		Sections 76 to 81. Amended by 24, 1964, s. 9 (k); substituted by 48, 1967, s. 6 (d); amended by 71, 1971, s. 12 (s), (t).
(a) Being a security for the payment or repayment of money not being a security of a kind referred to in paragraph (c) of this item—		
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	
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	

Reference to  
sections of this  
Act.

Nature of Instrument

Amount of Duty  
\$

*Exemption—*

Every collateral or auxiliary or additional or substituted security or security by way of further assurance for the abovementioned purpose, where the principal or primary security is 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.

Amended by 58,  
1965, s. 17; 71,  
1971, s. 12 (u).

POWER OF ATTORNEY or other instrument in the nature thereof—

Any instrument not under seal.....	2.00
Any instrument under seal .....	4.00

*Exemptions—*

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.

[Sections  
82-84j.]  
Item and  
Exemptions  
amended by 29,  
1954, s. 3; 58,  
1965, s. 15 (f) to  
(k); 59, 1966,  
s. 8 (e) to (g);  
substituted by  
32, 1968, s. 6.

RECEIPTS—

Receipt for an amount of money not exceeding \$10.00.....	0.01
Receipt for an amount of \$10.00 or more— for every \$10.00 of the amount.....	0.01
and for any fractional part of \$10.00 remaining .....	0.01

*Exemptions—*

1. Receipt for any payment to a department of the government of the Commonwealth or of this State or any other State or to the South Australian Housing Trust.
2. Receipt for any payment to a council as defined in the Planning and Development Act, 1966-1967<sup>1</sup>.
3. Receipt for any payment made to or received from any person of the amount of the principal of a deposit or loan where the deposit or loan was at call or for a term not exceeding twelve months.
4. Receipt given by a banker for money deposited in a bank for the credit of a depositor.
5. Receipt given by a depositor for money withdrawn from a bank.
6. Receipt for money paid to any person to be applied for any charitable purpose.
7. Receipt for any money on payment or delivery thereof by one banker to another in the ordinary course of banking business.
8. Receipt for any money paid to or by a person licensed under Part IV of the Lottery and Gaming Act, 1936, as amended<sup>2</sup>, for or as a result of any bet on any racecourse, trotting ground, place where a coursing meeting is being held or premises registered under that Part of that Act made during the holding of a race-meeting for horse races or trotting races or a coursing meeting.
9. Receipt for any money paid to or by any person for or as a result of any bet on a totalizator operated by any racing or trotting club licensed under Part III of the Lottery and Gaming Act, 1936, as amended<sup>2</sup>, or by any person authorized by law to operate or conduct a totalizator.
10. Receipt for any subscription for, or for any money received on redemption, purchase or sale of—
  - (a) any stock, debentures or Treasury bonds, Treasury notes or Treasury bills of the government of the United Kingdom or of the Commonwealth or the State of South Australia or any other State of the Commonwealth or any other part of Her Majesty's dominions;

<sup>1</sup> Now Planning and Development Act, 1966-1975.

<sup>2</sup> Now Lottery and Gaming Act, 1936-1975.

Nature of Instrument	Amount of Duty \$
(b) any Savings Bank of South Australia Deposit Stock issued by the Trustees of the Savings Bank of South Australia;	
or	
(c) stock, debentures, bonds or other securities of any council as defined in the Planning and Development Act, 1966-1967 <sup>1</sup> , or of any public statutory body of the Commonwealth or of the State of South Australia or any other State of the Commonwealth.	
11. Receipt for any money delivered to or by any carrier approved by the Commissioner for the purposes of delivering money from or to any bank.	
12. Receipt for any money paid by any friendly or benefit society directly to a member thereof or to his personal representative for sick pay or for funeral, hospital or medical benefits.	
13. Receipt for money paid to the representative in Australia of the government of another country, a foreign consul or a trade commissioner of any part of the British Commonwealth of Nations in his capacity as such representative, consul or trade commissioner.	
14. Receipt for any payment of compensation payable under the Workmen's Compensation Act, 1932, as amended <sup>2</sup> , to a person who is entitled to compensation under that Act and to whom or for whose benefit compensation is paid thereunder.	
15. Receipt solely for accounting or office purposes for any payment made by any person, in the course of the internal administration of any business of that person, to any of his employees or servants, or by any of his employees or servants to him or to any other employee or servant of his.	
16. Receipt upon the refund of a deposit lodged in relation to a tender or a contract or proposed contract or upon the refund of any overpaid rates, taxes, duties or other similar charges.	
17. Receipt for any payment to a person directly entitled to a benefit—	
(a) under the <i>Social Services Act</i> 1947-1966 of the Commonwealth, as amended from time to time;	
(b) under the <i>Repatriation Act</i> 1920-1966 of the Commonwealth, as amended from time to time;	
(c) under the <i>Tuberculosis Act</i> 1948 of the Commonwealth, as amended from time to time;	
or	
(d) under the <i>Commonwealth Employees' Compensation Act</i> 1930-1967 of the Commonwealth, as amended from time to time.	
18. Receipt for any payment or any payment of a class made to any person under any Act of the Commonwealth or of a State of the Commonwealth which payment or class of payment is declared by proclamation to be a payment or class of payment, as the case may be, for the purposes of this exemption.	
19. Receipt for any payment made by way of superannuation, pension or retiring allowance.	
20. Receipt—	
(a) for any payment for relief or assistance granted by or on behalf of any government or by or on behalf of any charitable institution, organization or fund;	
or	
(b) given to the Director or Department of Social Welfare <sup>3</sup> for or in respect of any payment of relief or maintenance or for or in respect of any moneys paid out of any trust fund held by or on behalf of the Director or Department of Social Welfare <sup>3</sup> .	
21. Receipt for any money not exceeding \$10.00 received by or paid to any person who is not a person to whom section 84e of this Act applies.	

<sup>1</sup> Now Planning and Development Act, 1966-1975.

<sup>2</sup> The Workmen's Compensation Act, 1932, and its amendments were repealed by the Workmen's Compensation Act, 1971. (Now Workmen's Compensation Act, 1971-1974).

<sup>3</sup> For interpretation of references to Director of Social Welfare and Department of Social Welfare see proclamations under the Public Service Act, 1967, as amended (*Gaz.* 25.2.71, p. 823 and *Gaz.* 29.6.72, p. 2688). See also s. 5 of Community Welfare Act, 1972, as amended.

Reference to sections of this Act.	Nature of Instrument	Amount of Duty \$
	22. Receipt for a payment made by an employer to an employee by way of wages or reimbursement of expenses incurred by the employee in the employment of the employer.	
	23. Receipt for any money paid to any marketing or equalization board, committee or other body under or pursuant to any prescribed marketing scheme within the meaning of section 84i of this Act.	
	24. Receipt by a solicitor or agent for money received on behalf of a client or principal who is not resident and does not carry on business in South Australia.	
	25. Receipt for any money paid to a member of The Stock Exchange of Adelaide Ltd. on the sale of marketable securities by him on his own account or behalf where the marketable securities in question were purchased by him within two clear days (not including any day on which that stock exchange is closed) immediately prior to that sale.	
	26. Receipt for any payment to a solicitor or agent on behalf of a client or principal where a receipt, if given by the client or principal for that payment, would be exempt from duty.	
	27. Receipt for any money paid by the Government of South Australia, pursuant to any subsisting Housing Agreement between the Commonwealth and the State, to a building society or to an institution approved under that agreement.	
	28. Receipt for a payment made by a company to a director of the company as such by way of director's fees payable by that company to that director.	
	29. Receipt for any payment of membership contributions made to a society as defined in the Friendly Societies Act, 1919-1966, as amended <sup>1</sup> , or to an organization registered or deemed to be registered under Part VI of the <i>National Health Act</i> 1953, as amended, of the Commonwealth or for any payment of membership subscriptions made to any association, society or trade union composed or representative of employees or for furthering or protecting the interests of employees.	
	30. Receipt for any payment of membership subscription by a member of an association composed or representative of employers as such or of persons who carry on the business of primary production as defined in the Land Tax Act, 1926-1967 <sup>2</sup> where—	
	(a) the Treasurer is satisfied that the sole or principal objects of the association are to further or protect, or to further and protect the interests of its members;	
	and	
	(b) the Treasurer has, by notice published in the <i>Gazette</i> , which notice he has not subsequently cancelled by a like notice, declared the association to be one to which this exemption applies;	
	But where the amount of subscription received by the association from any member in any year exceeds fifty dollars, this exemption shall apply and have effect in respect only of the first fifty dollars so received in each year.	
	31. Receipt for any payment by an insurance company to the beneficiary under a policy of insurance on his own life taken out by him with the company where the payment is made under the policy on or after such beneficiary has attained the age of sixty-five years.	

[Section 42Aa.] RETURN lodged with the Commissioner by a company, person or firm of persons under section 42Aa of this Act—  
 Inserted by 42,  
 1970, s. 16 (b).

There shall be paid by the person lodging the return a duty at such rate per centum of the amount of the premiums whatsoever 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.

<sup>1</sup> Now Friendly Societies Act, 1919-1975.

<sup>2</sup> This must be a reference to the Land Tax Act, 1936-1967 (now Land Tax Act, 1936-1975).

Nature of Instrument	Amount of Duty \$	Reference to sections of this Act.
RETURN lodged with the Commissioner by a South Australian dealer pursuant to section 90d of this Act. 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:—		[Section 90d.] Inserted by 14, 1967, s. 23 (e); amended by 48, 1967, s. 6 (e), (f); 71, 1971, s. 13 (3) (b) <sup>1</sup> .
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	
<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).
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.		Exemption 2 amended by 48, 1967, s. 6 (f).
TOTALIZATOR—There shall be payable for each day on which any totalizator is used by any racing club a duty calculated according to the gross takings of all the totalizators or other like machines used by the club on that day in accordance with the following scale:—		[Sections 85-89a.] Substituted by 1877, 1928, s. 9; amended by 58, 1965, s. 17.
Where the said gross takings do not exceed \$4 000 the duty shall be: 1¼ per centum of the gross takings.		
Where the said gross takings exceed \$4 000 but do not exceed \$6 000 the duty shall be: 2¼ per centum of the gross takings.		
Where the said gross takings exceed \$6 000 but do not exceed \$8 000 the duty shall be: 3¼ per centum of the gross takings.		
Where the said gross takings exceed \$8 000 but do not exceed \$10 000 the duty shall be: 4¼ per centum of the gross takings.		
Where the said gross takings exceed \$10 000 the duty shall be: 5¼ per centum of the said gross takings.		
TOTALIZATOR AGENCY BOARD. Subject to sections 31q and 31r of the Lottery and Gaming Act, 1936-1966 <sup>2</sup> , there shall be paid by the Totalizator Agency Board a duty at the rate of 5¼ per centum of the amount invested with the Board by way of off-course totalizator betting on any day.		Inserted by 46, 1966, s. 12 (Sched.).
GENERAL EXEMPTIONS FROM ALL STAMP DUTIES.		
1. Wills and testamentary instruments.		
2. Certificates of title issued from the Lands Titles Registration Office.		
3. Customs bonds.		
4. Administration bonds.		
5. Bonds to the Crown.		
6. Bills, bonds, debentures, and other securities issued by the Government of the Commonwealth in connection with any loan raised by the said Government for any of the purposes of the recent war, and any coupons or interest warrants issued in connection with any such security.		
7. Bond on appointment of a special bailiff.		
8. Memorandum of association, articles of association, and rules and regulations of any incorporated company, association, or society.		
9. Marriage settlements.		
10. Mortgage bonds guaranteed by the Government of South Australia.		
11. Articles or indentures of apprenticeship and assignments of articles or indentures of apprenticeship.		Exemption 11 amended by 48, 1941, s. 11 (4) (a).
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.		

<sup>1</sup> Subsection (3) of section 13 of Act No. 71 of 1971 came into operation 1st January, 1972: See *Gaz.* 3rd December, 1971, p. 2298. See also 71, 1971, s. 2 (2).

<sup>2</sup> Now Lottery and Gaming Act, 1936-1975.

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.

14a. Hire-purchase Agreement where the net cash price does not exceed \$20.

Exemption 14b  
inserted by 58,  
1965, s. 15 (l).

14b. Hire-purchase Agreement made or entered into by the Minister of Aboriginal Affairs.

15. Any transfer of any fire, personal accident, fidelity, guarantee, live stock, plate glass, or marine insurance or assurance policy.

16. Any cemetery leases.

Exemption 17  
inserted by  
1822, 1927,  
s. 9 (i); amended  
by 48, 1941,  
s. 11 (4) (b), (c);  
struck out by 24,  
1964, s. 9 (l).

\* \* \* \* \*

Exemption 18  
inserted by  
1822, 1927,  
s. 9 (i).

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 19  
inserted by  
1860, 1928,  
s. 2 (b);  
amended by 48,  
1941, s. 11 (4)  
(d).

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 20  
inserted by 48,  
1941, s. 11 (4)  
(e).

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 21  
inserted by 48,  
1941, s. 11 (4)  
(f).

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 22  
inserted by 22,  
1942, s. 4;  
struck out by 42,  
1952, s. 3, 2nd  
Sched.

\* \* \* \* \*

Exemption 23  
inserted by 30,  
1944, s. 4;  
substituted by  
32, 1945, s. 3<sup>1</sup>;  
amended by 58,  
1965, s. 17; and  
as indicated  
hereinafter.

23<sup>1</sup>. 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: Provided that a conveyance transfer or mortgage shall not be exempt under this paragraph unless the Commissioner is satisfied by such evidence as he requires—

(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.

<sup>1</sup> S. 4 of Act No. 32 of 1945, as amended by s. 3 of Act No. 41 of 1947 provides as follows:—

4. (1) Section 3 of this Act shall be deemed to have come into force on the third day of September nineteen hundred and thirty-nine.

(2) Where any sum being the whole or a part of any duty paid after the second day of September nineteen hundred and thirty-nine, would not have been payable as duty if this Act had been in force at the time of payment, the Treasurer on application by or on behalf of the person who paid that sum may refund it to him out of money appropriated by Parliament for the purpose.

In this paragraph—

“prescribed person” means—

- (a) a person who, during any war in which the Commonwealth is or was engaged, has served as a member of a naval, military, or air force of the Commonwealth or of the United Kingdom or of any part of His Majesty's Dominions, whether or not he is still so serving at the time when he claims exemption under this paragraph;
- (b) a person who, during any such war, was employed in sea-going service on a ship registered in any territory under the dominion of His Majesty the King whether or not he is still so employed at the time when he claims exemption under this paragraph;
- (c) a person who has been on active service in the Korean war as a member of a naval, military, or air force of the Commonwealth or of the United Kingdom or of any other part of Her Majesty's Dominions whether or not he is still on such service at the time when he claims exemption under this paragraph:

Para. (c) substituted by 5, 1952, s. 4.

The expression “Korean war” in this paragraph of this definition means the war in Korea which commenced on the twenty-fifth day of June, 1950<sup>1</sup>. For the purposes of this paragraph of this definition the said war shall be deemed to end on the day on which a proclamation is issued by the Governor declaring that the Korean war has ceased;

- (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;
- (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 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;
- (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) of this definition.

Para. (d) inserted by 5, 1952, s. 4.

Para. (d1) inserted by 58, 1965, s. 15 (m).

Para. (e) inserted by 5, 1952, s. 4; amended by 58, 1965, s. 15 (n).

For the purposes of paragraph (a) and paragraph (b) of this definition, a war shall be deemed to continue from the commencement thereof until the day declared by the Governor by proclamation to be the day on which the war shall be deemed to cease. 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<sup>2</sup> 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<sup>3</sup>.

Amended by 42, 1952, s. 3, 2nd Sched; and by 58, 1965, s. 15 (o).

“Land” includes the fee simple of any land and the estate and interest of a lessee of land held under a Crown lease, and of a purchaser of land held under an agreement for sale and purchase granted by the Crown.

#### FORM A

No. ....19 .

We have this day received from , of bags of wheat, containing bushels lbs., to be stored subject to the following conditions:—

We claim to have the offer, at market price, of all wheat stored with us. Should we purchase, our terms are twelve months' storage free. After that time a charge will be made of per bushel per month. Should we not purchase, we will deliver to the storer or his order, wheat of a quality equal to that originally received, either at station where wheat was stored, or at the nearest shipping port, at our option, the storer paying all charges thereon, which can be ascertained from the agent at the time of delivery.

For..... Agent

<sup>1</sup> Reference to the year nineteen hundred and fifty altered to 1950 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

<sup>2</sup> Reference to the year one thousand nine hundred and thirty-nine altered to 1939 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

<sup>3</sup> Reference to the year One thousand nine hundred and forty-five altered to 1945 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

Reference to  
sections of this  
Act.  
Section 33.

## THE 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, Live Stock, Plate Glass, Marine, or other Assurance or Insurance Business.*

Name of company, person, or firm of persons to whom licence granted .....

Nature of business.....

Amount of net premiums of any kind whatsoever, received or in any manner charged in account by such company, person, or firm of persons during the year ended 31st December, 19 ..

Period over which licence extends ..... year ending 31st December, 19 ..

This is to certify that ..... is a company [*person or firm of persons*] duly licensed under the provisions of the Stamp Duties Act, 1923, to carry on in South Australia [*life, personal accident, fire, fidelity, guarantee, live stock, plate glass, marine, or other*] assurance and insurance business during the abovenamed period.

Dated at the office of the Commissioner of Stamps at Adelaide, this ..... day of ....., nineteen hundred and

DUTY  
STAMP

A.B., Commissioner

NOTICE—This licence must be given up and a fresh licence applied for before the 1st January next, as provided by the Stamp Duties Act, 1923.

4th Sched.  
amended by  
1822, 1927,  
s. 10; 2312,  
1936, s. 4; 2359,  
1937, s. 11 (1),  
(2); struck out  
by 58, 1965,  
s. 16.

\* \* \* \* \*