



ANNO VICESIMO

ELIZABETHAE II REGINAE

A.D. 1971

No. 71 of 1971

An Act to amend the Stamp Duties Act, 1923-1970.

[Assented to 4th November, 1971]

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

1. (1) This Act may be cited as the "Stamp Duties Act Amendment Act, 1971". Short titles.

(2) The Stamp Duties Act, 1923-1970, as amended by this Act, may be cited as the "Stamp Duties Act, 1923-1971".

(3) The Stamp Duties Act, 1923-1970, is hereinafter referred to as "the principal Act".

2. (1) Subject to subsection (2) of this section, this Act shall come into operation on a day to be fixed by proclamation. Commencement.

(2) Each of the subsections of section 13 of this Act shall come into operation on such day as is fixed by proclamation as the day on which that subsection shall come into operation.

3. Section 31b of the principal Act is amended—

(a) by striking out from the definition of "credit arrangement" in subsection (1) the passage "such annual rate as may from time to time be prescribed" and inserting in lieu thereof the passage "the prescribed rate";

Amendment of principal Act, s. 31b—
Interpretation.

(b) by striking out from paragraph (c) of the definition of "discount transaction" in subsection (1) the passage "such annual rate as may from time to time be prescribed" and inserting in lieu thereof the passage "the prescribed rate";

(c) by inserting after the definition of "goods" in subsection (1) the following definitions:—

"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:

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

(d) by inserting in the definition of "loan" in subsection (1), after the word "but" the passage ", subject to subsection (10) of this section,";

(e) by striking out from paragraph (e) of the definition of "loan" in subsection (1) the passage "such rate as may from time to time be prescribed" and inserting in lieu thereof the passage "the prescribed rate";

(f) by inserting in subsection (1) after the definition of "loan" the following definition:—

"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*::

(g) by striking out from subsection (1) the definition of "rental business" and inserting the following definitions in its place:—

"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, deemed to be related to the first mentioned corporation:

"rental business" means the business of—

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

or

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

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

(h) by inserting after subsection (1) the following subsection:—

(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*.;

and

(i) by inserting after subsection (9) the following subsection:—

(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—

(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.

Amendment of principal Act, s. 31c—
Application of provisions dealing with credit and rental business.

4. Section 31c of the principal Act is amended by striking out from paragraph (b) the passage “such annual rate as may from time to time be prescribed” and inserting in lieu thereof the passage “the prescribed rate”.

Amendment of principal Act, s. 31f—
Statement to be lodged by registered person.

5. Section 31f of the principal Act is amended—

(a) by striking out from subparagraphs (ii), (vi) and (xi) of paragraph (a) of subsection (1) the passage “one and one-half” wherever occurring and inserting in lieu thereof in each case the passage “\$1.80”;

(b) by striking out from subparagraphs (iv) and (viii) of paragraph (a) of subsection (1) the passage “one-eighth of one” wherever occurring and inserting in lieu thereof in each case the passage “\$0.15”;

and

(c) by inserting after subsection (4) the following subsections:—

(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.

(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.

(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.

6. Section 31i of the principal Act is amended by inserting after subparagraph (ii) of paragraph (e) of subsection (1) the following passage:—

Amendment of principal Act, s. 31i—

Matters not required to be included in statement.

“or

(iii) to the acquisition by the registered person of the rights of a lessor, bailor or other disponent 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;”.

7. Section 31o of the principal Act is amended—

Amendment of principal Act, s. 31o—

(a) by inserting after the word “Commissioner” firstly occurring in paragraph (b) of subsection (4) the passage “with respect to instalment purchase agreements entered into before the commencement of the Stamp Duties Act Amendment Act, 1971;”;

Declaration of approved vendors and provisions for payment of duty on monthly returns.

and

- (b) by inserting after the word "statement" lastly occurring in paragraph (b) of subsection (4) the passage "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".

Amendment of principal Act, s. 31r—

Duty on assignment of hire-purchase agreement.

8. Section 31r of the principal Act is amended—

- (a) by striking out the passage "the duty" and inserting in lieu thereof the passage "duty shall be";

- (b) by striking out the passage "shall be";

and

- (c) by inserting after the word "assignment" lastly occurring the passage "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".

Enactment of s. 34a of principal Act—

Duty payable upon acquisition of undertaking of insurance company.

9. The following section is enacted and inserted in the principal Act immediately after section 34 thereof:—

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.

Repeal of
s. 47a of
principal Act.

10. Section 47a of the principal Act is repealed.

Enactment of
s. 47c of
principal Act—

11. The following section is enacted and inserted in the principal Act immediately before section 48 thereof:—

Additional
duty on
cheques
imposed by
Stamp Duties
Act Amend-
ment Act,
1971.

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.

(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*.

Amendment of
second
schedule of
principal Act.

12. The second schedule to the principal Act is amended—

- (a) by striking out from the item commencing "AFFIDAVIT OR DECLARATION" the passage "0.10" and inserting in lieu thereof the passage "0.20";
- (b) by striking out from the item commencing "AGREEMENT or any MEMORANDUM of any AGREEMENT" the passage "0.10" and inserting in lieu thereof the passage "0.20";
- (c) by striking out the whole item commencing "ANNUAL LICENCE" (including the *Exemptions* thereto) and inserting in lieu thereof the following item:—

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 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 1.00
 - (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 0.50
 - (iii) for every \$100 or fractional part of \$100 of such of those premiums as relate to any other kind of policies.. 5.00
- (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.;

(d) by striking out from the item commencing "BILLS OF EXCHANGE of any kind whatsoever drawn in South Australia" the passage "\$200" and inserting in lieu thereof the passage "\$100";

(e) by striking out from the item commencing "BILL OF EXCHANGE of any kind whatsoever, and PROMISSORY NOTE" the passage "0.05" and inserting in lieu thereof the passage "0.10";

(f) by striking out from the item commencing "BILL OF LADING or SHIPPING NOTE" the passage "0.05" and inserting in lieu thereof the passage "0.10";

(g) by striking out from paragraph (ab) of the item commencing "CONVEYANCE OR TRANSFER on sale of any property" the passage "3.00" and inserting in lieu thereof the passage "4.00";

(h) by striking out from paragraph (b) of the item commencing "CONVEYANCE OR TRANSFER on sale of any property" the passage—

"Exceeds \$12,000 but does not exceed \$15,000	\$150 plus \$2.50 for every \$100 or fractional part of \$100 of the excess over \$12,000 of such amount or value.
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Exceeds \$15,000, for every \$100 or fractional part of \$100 of such amount or value	1.50"
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and inserting in lieu thereof the following passage:—

Exceeds \$12,000, but does not exceed \$30,000	\$150 plus \$2.50 for every \$100, or fractional part of \$100, of the excess over \$12,000 of that amount or value.
Exceeds \$30,000, but does not exceed \$100,000	\$600 plus \$2.75 for every \$100, or fractional part of \$100, of the excess over \$30,000 of that amount or value.
Exceeds \$100,000	\$2,525 plus \$3.00 for every \$100, or fractional part of \$100, of the excess over \$100,000 of that amount or value.

(i) by striking out from the item commencing "CONVEYANCE operating as a voluntary disposition" the passage—

"Exceeds \$12,000, but does not exceed \$15,000	\$150 plus \$2.50 for every \$100 or fractional part of \$100 of the excess over \$12,000 of such value.
Exceeds \$15,000, for every \$100 or fractional part of \$100 of such value	1.50"

and inserting in lieu thereof the following passage:—

Exceeds \$12,000, but does not exceed \$30,000	\$150 plus \$2.50 for every \$100, or fractional part of \$100 of the excess over \$12,000 of that value.
Exceeds \$30,000, but does not exceed \$100,000	\$600 plus \$2.75 for every \$100, or fractional part of \$100, of the excess over \$30,000 of that value.
Exceeds \$100,000	\$2,525 plus \$3.00 for every \$100, or fractional part of \$100, of the excess over \$100,000 of that value.

- (j) by striking out from the item commencing "Conveyance for the partition" the passage "2.00" and inserting in lieu thereof the passage "4.00";
- (k) by striking out from the item commencing "Conveyance for effectuating the appointment of a new trustee" the passage "1.00" and inserting in lieu thereof the passage "2.00";
- (l) by striking out from the item commencing "CONVEYANCE of any other kind" the passage "2.00" and inserting in lieu thereof the passage "4.00";
- (m) by striking out from the item commencing "DOCUMENT or other INSTRUMENT" the passage "1.00" and inserting in lieu thereof the passage "2.00";
- (n) by striking out from the item commencing "DEED"—
- (i) the passage "\$200" twice occurring and inserting in lieu thereof in each case the passage "\$100";
- and
- (ii) the passage "2.00" and inserting in lieu thereof the passage "4.00";
- (o) by striking out from the item commencing "INSTALMENT PURCHASE AGREEMENT" the passage "1½%" and inserting in lieu thereof the passage "1.8%";
- (p) by striking out the whole of the item commencing "LEASE (not being a lease made subsequently to and in conformity with a duly stamped agreement for a lease)" and inserting in lieu thereof the following item:—

LEASE (not being a lease made subsequently to and in conformity with a duly stamped agreement for a lease) or AGREEMENT for a LEASE, or any written document for the tenancy or occupancy of any lands, tenements or hereditaments—

Where a rate 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
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Where a rate of rent per annum cannot be ascertained or estimated	4.00
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Exemption—

Lease or agreement for a lease, or any written document for the tenancy or occupancy of any lands, tenements or hereditaments for a term not exceeding one year where the rent reserved does not exceed the rate of \$52 per annum.;

(q) by striking out from the item commencing "LEASE made subsequently" the passage "0.25" and inserting in lieu thereof the passage "0.50", and by striking out the *Exemption* to that item;

(r) by striking out from the item commencing "LETTER OF ALLOTMENT" the passage "0.05" and inserting in lieu thereof the passage "0.06";

(s) by striking out from paragraph (a) of the item commencing "MORTGAGE, BOND, DEBENTURE," the passage—

"For every \$200 or fractional part of \$200 (not reckoning any money to be advanced for the insurance of any property comprised in the security against damage by fire)..... 0.50"

and inserting in lieu thereof the following passage:—

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.;

(t) by striking out from paragraph (c) of the item commencing "MORTGAGE, BOND, DEBENTURE," the passage "3.00" and inserting in lieu thereof the passage "4.00";

and

(u) by striking out from the item commencing "POWER OF ATTORNEY"—

(i) the passage "1.00" and inserting in lieu thereof the passage "2.00";

and

(ii) the passage "2.00" and inserting in lieu thereof the passage "4.00".

Further amendment of second schedule of principal Act.

13. (1) The second schedule to the principal Act is amended by striking out from the item commencing "APPLICATION to Register a Motor Vehicle" the passage commencing "For every \$200" and ending "irrespective of the value of the motor vehicle." and inserting in lieu thereof the following passage:—

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, and not being a commercial motor vehicle as defined in that section)

(a) does not exceed \$1,000—

for every \$100 or fractional part of \$100
of that value 1.00

(b) exceeds \$1,000, but does not exceed \$2,000....

\$10.00 plus \$2.00 for every \$100, or fractional part of \$100, of the excess over \$1,000 of that value

(c) exceeds \$2,000.....

\$30.00 plus \$2.50 for every \$100, or fractional part of \$100, of the excess over \$2,000 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, 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

(e) exceeds \$1,000.....

\$10 plus \$2.00 for every \$100, or fractional part of \$100, of the excess over \$1,000 of that value.

The duty in respect of any one application shall not in any case be less than \$4.

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.

(2) The second schedule to the principal Act is amended by striking out from the item commencing "BILL OF EXCHANGE, CHEQUE, ORDER" the passage "0.05" and inserting in lieu thereof the passage "0.06".

(3) The second schedule to the principal Act is amended—

(a) by striking out from paragraph (aa) of the item commencing "CONVEYANCE OR TRANSFER on sale of any property"—

(i) the passage "0.10" and inserting in lieu thereof the passage "0.14";

and

(ii) the passage "0.40" and inserting in lieu thereof the passage "0.60";

and

(b) by striking out from the item commencing "RETURN lodged with the Commissioner by a South Australian dealer pursuant to section 90d of this Act"—

(i) the passage "0.05" and inserting in lieu thereof the passage "0.07";

and

(ii) the passage "0.20" and inserting in lieu thereof the passage "0.30".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

J. M. NAPIER, Lieutenant-Governor