

South Australia



STAMP DUTIES (MISCELLANEOUS) AMENDMENT ACT 1996

No. 18 of 1996

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ANNO QUADRAGESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1996

No. 18 of 1996

An Act to amend the Stamp Duties Act 1923.

[Assented to 24 April 1996]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Stamp Duties (Miscellaneous) Amendment Act 1996*.
- (2) The *Stamp Duties Act 1923* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 4—Interpretation

3. Section 4 of the principal Act is amended—

(a) by inserting after the definition of "Commissioner" the following definition:

"CUFS" means an interest, issued by or on behalf of CHESSE Depository Nominees Pty Ltd, that provides beneficial ownership in respect of—

- (a) shares in a corporation incorporated outside Australia; or
- (b) units in a unit trust scheme,

being shares or units that are quoted on the market operated by the Australian Stock Exchange Limited;;

(b) by inserting after paragraph (d) of the definition of "marketable security" the following paragraph and word:

- (da) a CUFS; and.

Amendment of s. 71—Instruments chargeable as conveyances operating as voluntary dispositions *inter vivos*

4. Section 71 of the principal Act is amended by striking out subsection (4a) and substituting the following subsection:

- (4a) A reference in subsection (4) to a unit trust scheme does not include—
- (a) an arrangement made by a deed approved for the purposes of Division 5 of Part 7.12 of the *Corporations Law* or the corresponding provisions of a law in force in another State or a Territory; or
 - (b) an approved deposit fund or a pooled superannuation trust within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cwlth).

Amendment of s. 71CC—Exemption from duty in respect of conveyance of a family farm

5. Section 71CC of the principal Act is amended—

- (a) by inserting after paragraph (a) of subsection (1) the following paragraph:
 - (ab) that the sole or principal business of the natural person who, or whose trustee, is the transferor is (immediately before the instrument) the business of primary production; and;
- (b) by striking out from paragraph (b) of subsection (1) "that immediately before" and substituting "that for a period of 12 months immediately before";
- (c) by striking out from paragraph (b) of subsection (1) "(otherwise than in relation to the transfer)";
- (d) by inserting in subsection (5) immediately before the definition of "relative" the following:

"natural person" or "person" does not include a person who is deceased (as at the time of execution of the relevant instrument);.

Amendment of s. 71E—Transactions otherwise than by dutiable instrument

6. Section 71E of the principal Act is amended—

- (a) by striking out subparagraph (ii) of paragraph (a) of subsection (1) and substituting the following subparagraph:
 - (ii) —
 - (A) a business situated in the State; or
 - (B) a part of a business (being a business situated in the State), excluding goods that are stock-in-trade of a business where the transaction occurs in the ordinary course of business, where the transaction is associated with, or is for the purposes of, a change in the ownership of a legal or equitable interest in the business (including a case where a business is being divided up into separate parts and then those parts are being transferred to one or more persons as part of one transaction or one series of transactions); or;

(b) by inserting in subsection (1)(b)(i) ", or not wholly effected," after "is not effected";

(c) by inserting after subsection (1) the following subsection:

(1a) For the purposes of this section (and for the calculation of the value of any property), a change in the ownership of a legal or equitable interest in a business will be taken to include a transfer of the goodwill of the business.

Amendment of s. 81—Transfers and further charges

7. Section 81 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) However, subsection (1) does not apply if the security is over, or relates to, land that is subject to the provisions of the *Real Property Act 1886*.

Amendment of s. 90H—Application of Division

8. Section 90H of the principal Act is amended—

(a) by inserting in paragraph (c)(i) "or CUFS" after "a right";

(b) by inserting in paragraph (c)(ii) ", or a CUFS in respect of a unit of a unit trust scheme," after "unit trust scheme";

(c) by inserting in paragraph (c)(iii) ", or a CUFS in respect of a unit of a unit trust scheme," after "unit trust scheme".

Amendment of s. 91—Interpretation

9. Section 91 of the principal Act is amended by striking out paragraph (a) of the definition of "private scheme" or "scheme" and substituting the following paragraph:

(a) that is not—

(i) the subject of a deed approved for the purposes of Division 5 of Part 7.12 of the *Corporations Law* or the corresponding provisions of a law in force in another State or in a Territory; or

(ii) an approved deposit fund or a pooled superannuation trust within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cwlth);.

Amendment of second schedule

10. The second schedule of the principal Act is amended—

(a) by inserting "(not being a CUFS)" at the end of item 22 under the heading "GENERAL EXEMPTIONS FROM ALL STAMP DUTIES";

(b) by inserting after item 24 under the heading "GENERAL EXEMPTIONS FROM ALL STAMP DUTIES" the following item:

24AA. A conveyance or transfer of a marketable security to or from CHESSE Depository Nominees Pty Ltd solely for the purpose of facilitating settlement of transactions relating to a CUFS entered into in the ordinary course of business.

Transitional provision

11. The amendments made by this Act do not affect the amount of duty chargeable on an instrument executed before the commencement of this Act.

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

ROMA MITCHELL Governor