



ANNO TRICESIMO OCTAVO

# ELIZABETHAE II REGINAE

A.D. 1989

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No. 52 of 1989

An Act to amend the Stamp Duties Act, 1923.

[Assented to 14 September 1989]

The Parliament of South Australia enacts as follows:

## Short title

1. (1) This Act may be cited as the *Stamp Duties Act Amendment Act (No. 2), 1989*.
- (2) The *Stamp Duties Act, 1923*, is referred to in this Act as "the principal Act".

## Commencement

2. (1) Subject to this section, this Act will come into operation on a day to be fixed by proclamation.
- (2) Sections 3 and 7 will be taken to have come into operation on 9 August, 1989.
- (3) Sections 4 and 5 will come into operation on 1 October, 1989.

## Substitution of s. 5ab

3. Section 5ab of the principal Act is repealed and the following section is substituted:

### Refund of tax overpaid

5ab. Where the Commissioner finds that as a consequence of amendments effected to this Act tax has been overpaid, the Commissioner may, on the Commissioner's own initiative, refund to the person who paid the tax the amount of the overpayment.

## Statement to be lodged by registered person

4. Section 31f of the principal Act is amended—
  - (a) by striking out from paragraph (b) of subsection (1) "\$1 250" and substituting "\$2 000";
  - (b) by striking out from subsection (2) "\$15 000" twice occurring and substituting, in each case, "\$24 000";
  - (c) by striking out from subsection (3) "\$15 000" and substituting "\$24 000";
  - and
  - (d) by striking out from subsection (4) "\$25 000" and substituting "\$40 000".

## Matter not required to be included in statement

5. Section 31i of the principal Act is amended by striking out from subsection (1a) "\$1 250 per month" and substituting "\$2 000 per month".

**Returns to be lodged by companies****6. Section 59b of the principal Act is amended—**

(a) by striking out subsection (1) and substituting the following subsection:

(1) In this section—

“exempt entry” means—

(a) an entry made in a prescribed register;

or

(b) an entry made in a register to give effect to an instrument of transfer which is a sufficient instrument of transfer under Division 8 of Part IV of the *Companies (South Australia) Code* or the corresponding provision of a corresponding law of a proclaimed State or Territory of the Commonwealth and which is deemed, under section 90e (3), to be duly stamped:

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

(b) by striking out subsection (3) and substituting the following subsection:

(3) A company must, not later than the fourteenth day of each month, lodge with the Commissioner in such manner and form as the Commissioner may require a return setting out—

(a) if the principal register of the company is in South Australia—particulars of all entries in a register of the company (other than exempt entries) copies of which have been received by the company during the preceding calendar month under section 262 (5) of the *Companies (South Australia) Code*;

(b) if the principal register of the company is not in South Australia—particulars of all entries in a register of the company (other than exempt entries) relating to a transfer of shares executed or registered outside South Australia during the preceding calendar month.;

and

(c) by inserting after subsection (5) the following subsection:

(5a) Where duty has already been paid under this Act on a transfer with respect to which a return has been lodged under this section, an amount equal to the amount of duty already paid on the transfer will not be chargeable on the return.

**Concessional rates of duty in respect of the purchase of a first home, etc.****7. Section 71c of the principal Act is amended—**

(a) by inserting after “Where upon an application made” in subsection (1) “on or after 9 August, 1989,”;

(b) by striking out subsection (2) and substituting the following subsection:

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

(a) where the amount by reference to which the duty would, apart from this section, be calculated does not exceed \$80 000—no duty will be payable;

or

(b) where the amount by reference to which the duty would, apart from this section, be calculated exceeds \$80 000—the duty payable will be the amount payable apart from this section less the amount of duty payable on a conveyance of property the value of which is \$80 000.;

(c) by inserting after subsection (2a) the following subsection:

(2b) A person who makes a statement in, or in connection with, an application under this section knowing the statement to be false or misleading in a material respect is guilty of an offence.

Penalty: \$5 000.;

and

(d) by striking out subsection (4) and substituting the following subsection:

(4) This section applies to a conveyance first lodged with the Commissioner for stamping on or after 9 August, 1989.

### Interpretation

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

(a) by striking out “The Stock Exchange of Adelaide Limited” from the definition of “broker” and substituting “the Australian Stock Exchange Limited”;

and

(b) by striking out “The Stock Exchange of Adelaide Limited” from the definition of “odd lot specialist” and substituting “the Australian Stock Exchange Limited”.

### Transactions in South Australian marketable securities on the Stock Exchange of the United Kingdom and Ireland

9. Section 90g of the principal Act is amended—

(a) by striking out the definition of “jobber” and substituting the following definition:

“market maker” means a person, firm or corporation who or which is recognized as a market maker according to the rules and practices of the U.K. and Ireland Stock Exchange.;

(b) by striking out the definition of “the U.K. Stock Exchange” and substituting the following definition:

“the U.K. and Ireland Stock Exchange” means The International Stock Exchange of the United Kingdom and the Republic of Ireland.;

(c) by striking out “the U.K. Stock Exchange” wherever it occurs and substituting, in each case, “the U.K. and Ireland Stock Exchange”;

(d) by striking out from paragraph (c) of subsection (6) “jobber” and substituting “market maker as agent”;

(e) by striking out from paragraph (d) of subsection (6) “jobber” and substituting “market maker as agent”;

(f) by striking out paragraph (f) of subsection (6) and substituting the following paragraph:

(f) is made or effected by a market maker as agent to another market maker as agent.;

and

(g) by striking out from paragraph (a) of subsection (7) "jobber" twice occurring and substituting, in each case, "market maker as agent".

**Amendment of second schedule**

10. The second schedule to the principal Act is amended by inserting after paragraph 23 of the item commencing "GENERAL EXEMPTIONS FROM ALL STAMP DUTIES" the following paragraph:

24. A conveyance or transfer of an interest in a marketable security to or from a South Australian dealer who is dealing with the interest as trustee as part of the Flexible Accelerated Security Transfer System operated by the Australian Stock Exchange Limited (but this exemption does not affect the imposition of duty on the sale or purchase of a marketable security).

In this paragraph—

"South Australian dealer" means a South Australian dealer as defined in Part IIIA.

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

D. B. DUNSTAN, Governor