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**ELIZABETHAE II REGINAE**

A.D. 1978

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**No. 27 of 1978**

An Act to amend the Stamp Duties Act, 1923-1977.

[Assented to 30th March, 1978]

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

Short titles.

1. (1) This Act may be cited as the "Stamp Duties Act Amendment Act, 1978".
- (2) The Stamp Duties Act, 1923-1977, is hereinafter referred to as "the principal Act".
- (3) The principal Act, as amended by this Act, may be cited as the "Stamp Duties Act, 1923-1978".

Commence-  
ment.

2. (1) Subject to subsection (2) of this section, this Act shall come into operation on the day on which it is assented to.
- (2) Sections 3, 4, 5, 6 and 9 shall not come into operation unless a proclamation declaring them to be in operation is made, and in the event of such a proclamation being made, they shall be deemed to have come into operation on the first day of January, 1978.

Amendment of  
principal Act,  
s. 32—  
Definitions and  
application.

3. Section 32 of the principal Act is amended—
  - (a) by striking out from the definition of "assurance or insurance business" the word "life" wherever it occurs in paragraphs (a), (b) and (c) of that definition;

and

  - (b) by inserting after the present contents, as amended by this section (which are hereby designated subsection (1) thereof) the following subsection:—

(2) The provisions of sections 33 to 42Aa of this Act (inclusive) do not apply to or in relation to a company in so far as it carried on business in pursuance of the *Life Insurance Act* 1945 of the Commonwealth.

4. Section 33 of the principal Act is amended by striking out from subsection (1) the word "life".

Amendment of principal Act, s. 33—  
Yearly licences required for carrying on insurance business.

5. Section 42Aa of the principal Act is amended by striking out subsection (5).

Amendment of principal Act, s. 42Aa—  
Duty on policies effected outside South Australia.

6. The following heading and section are enacted and inserted in the principal Act before the heading preceding section 42a thereof:—

Enactment of heading and s. 42ab of principal Act—

*Duty in respect of Premiums on Policies of Life Insurance*

42ab. (1) This section applies to—

(a) any policy of life insurance, continuous disability insurance contract, or sinking fund policy, issued or made in the course of life insurance business carried on in this State;

and

(b) any policy of life insurance, continuous disability insurance contract, or sinking fund policy, issued or made in respect of a person who was, at the time of the issue or making of the policy or contract, resident in this State.

Duty in respect of premiums on policies of life insurance.

(2) Every company that receives, or has received, during a relevant calendar year, premiums upon policies of insurance to which this section applies shall lodge with the Commissioner a return in the prescribed form containing such information as may be prescribed—

(a) in relation to the calendar year commencing on the first day of January, 1977—on or before a date fixed by the Treasurer and published in the *Gazette*;

or

(b) in relation to any subsequent calendar year—on or before the twenty-eighth day of February next following the end of that calendar year.

(3) If the information contained in any such return is not, in the opinion of the Commissioner, sufficiently explicit to enable him to determine what amount of duty is payable, he may require the company to furnish such further information as he considers necessary for that purpose.

(4) The company shall, upon lodging a return under this section, pay to the Commissioner—

(a) duty of 1.5 per centum upon the aggregate net premiums received by the company under policies of life insurance to which this section applies during the calendar year to which the return relates;

and

(b) duty of 6 per centum upon the aggregate net premiums received by the company under—

(i) continuous disability insurance contracts to which this section applies;

and

(ii) sinking fund policies to which this section applies, during the calendar year to which the return relates.

(5) Where a return is not furnished as required by this section, or the information furnished by a company under this section is not, in the opinion of the Commissioner, such as to enable him to determine the amount of duty payable by the company under this section, the Commissioner may estimate the amount of duty, and the company shall pay the amount so estimated forthwith upon service of notice of the estimation upon the company.

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

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

and

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

(7) The Commissioner may remit wholly or in part the penalty referred to in subsection (6) of this section.

(8) The Commissioner may, within twelve months after duty is paid under this section, without further authority than this section, refund any amount overpaid.

(9) In this section—

“company” means any body corporate whether it carries on business in this State or not:

“continuous disability insurance contract” means a contract that is a continuous disability insurance contract for the purposes of the *Life Insurance Act 1945* of the Commonwealth:

“life insurance business” means business that constitutes life insurance business for the purposes of the *Life Insurance Act 1945* of the Commonwealth:

“net premium” in relation to a policy of insurance means the gross premium less—

(a) all commissions or discounts actually paid or allowed; and

(b) any amount paid by way of re-insurance effected in South Australia:

“policy of insurance” means—

- (a) a policy of life insurance;
- (b) a continuous disability insurance contract;
- or
- (c) a sinking fund policy:

“policy of life insurance” means—

- (a) a life policy;
- or
- (b) a superannuation policy,

within the meaning of the *Life Insurance Act 1945* of the Commonwealth:

“relevant calendar year” means the calendar year commencing on the first day of January, 1977, or any subsequent calendar year:

“sinking fund policy” means a policy that is a sinking fund policy for the purposes of the *Life Insurance Act 1945* of the Commonwealth.

7. The following heading and section are enacted and inserted in the principal Act after section 59a thereof:—

Enactment of heading and s. 59b of principal Act—

*Duty on Transactions on Branch Registers*

59b. (1) In this section—

Returns to be lodged by companies.

“exempt entry” means—

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

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

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

(3) A company shall not later than the fourteenth day of each month lodge with the Commissioner a return containing such particulars and information as may be prescribed of all entries in a branch register of the company (other than exempt entries) relating to the transfer of shares copies of which entries have been received by it during the preceding calendar month pursuant to subsection (4) of section 157 of the *Companies Act, 1962-1974*.

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

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

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

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

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

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

and

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

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

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

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

Enactment of  
s. 114 of  
principal Act—

8. The following section is enacted and inserted in the principal Act after section 113 thereof:—

Exemption  
from stamp  
duty.

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

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

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

Amendment of  
second schedule  
of principal  
Act.

(a) by striking out from the item commencing with the passage "ANNUAL LICENCE" the word "life" first occurring;

(b) by striking out subparagraph (i) of paragraph (a) of that item;

(c) by striking out from that item the following paragraph:—

(1) a reference to life insurance policies shall be deemed not to include policies covering personal accident or workmen's compensation;;

and

(d) by striking out from paragraph (3) of that item the passage "except life and personal accident insurance risks" and inserting in lieu thereof the passage "except personal accident insurance risks".

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

K. SEAMAN, Governor