



ANNO QUINTO

**GEORGII VI REGIS.**

A.D. 1941.

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**No. 48 of 1941.**

An Act to amend the Stamp Duties Act, 1923-1938.

[Assented to 27th November, 1941.]

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, 1941".

(2) The Stamp Duties Act, 1923-1938, as amended by this Act, may be cited as the "Stamp Duties Act, 1923-1941".

(3) The Stamp Duties Act, 1923-1938, is hereinafter referred to as "the principal Act".

Amendment of s. 15 of principal Act—  
Calculation of duty in Australian currency.

**2.** Section 15 of the principal Act is amended—

(a) by striking out the words "foreign or colonial" in the second line thereof and by inserting in lieu thereof the words "currency other than Australian";

(b) by striking out the word "British" in the fourth line thereof and by inserting in lieu thereof the word "Australian".

Amendment of principal Act—

**3.** The principal Act is amended by inserting therein after section 15 thereof the following section :—

Ascertainment of value of property subject to powers, etc.  
Cf. N.S.W. 13, 1931, s. 7 (a).

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.

4. Section 27 of the principal Act is amended by striking out the words "public officer" in the first line thereof and by inserting in lieu thereof the word "person".

Amendment of  
s. 27 of  
principal Act—  
Enrolment of  
instruments.

5. Section 31 of the principal Act is amended—

Amendment of  
s. 31 of  
principal Act—  
Hire purchase  
agreements.

(a) by inserting therein after subsection (1) thereof the following subsection :—

(1a) If any contract or agreement in writing is made whereby any person agrees to hire any goods, wares or merchandise and the contract or agreement provides that such person may buy the goods, wares or merchandise or that the property in the goods, wares or merchandise will or may pass to such person, the contract or agreement shall, unless the goods, wares or merchandise is agreed to be hired as aforesaid in the ordinary course of trade by a party whose principal business is the sale or hiring as aforesaid of such goods, wares or merchandise, be charged with the same *ad valorem* duty as if it were an actual conveyance on sale of the goods, wares or merchandise.

(b) by inserting after the figure "(1)" occurring in the second line of subsection (2) thereof and in the second line of subsection (4) thereof, in each case, the passage "or (1a)" and by striking out the word "that" in the third line of subsection (2) thereof and by inserting in lieu thereof the word "such".

6. The principal Act is amended by inserting therein after section 56 the following section :—

Amendment of  
principal Act—

56a. (1) Every person who effects a sale or purchase of any stock or marketable security as a broker or agent shall make and sign a certificate upon the conveyance or transfer of the stock or marketable security that any contract note required by this Act to be given in respect of the sale or purchase, as the case may be, has been duly stamped as required by this Act.

Certificate on  
conveyance  
or transfer.

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

Amendment of  
principal Act—

7. The principal Act is amended by inserting therein after section 66 the following section :—

Mode of  
computing  
consideration  
in certain  
cases.

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 all moneys paid in respect of the assignment of such goods, wares, or merchandise.

(2) Any person who executes and any person engaged or concerned in the preparation or certification of any such conveyance or transfer as mentioned in subsection (1) hereof which does not disclose the true consideration paid or agreed to be paid for 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 five hundred pounds: Provided that no person shall be convicted of an offence under this subsection if he proves that he did not know and could not reasonably have had knowledge that the conveyance or transfer did not disclose the true consideration required to be disclosed as aforesaid.

(3) This section shall be construed subject to the provisions of section 31a of this Act.

Amendment of  
principal Act—

8. The principal Act is amended by inserting therein after section 71 the following sections :—

Provision  
where trust  
property  
distributed  
*in specie*.

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*.

Partition or  
division of  
property.  
Cf. U.K. 54 and  
55 Vict., c. 39,  
s. 73.

71b. Where upon the partition or division of any property any consideration exceeding in amount or value one hundred pounds 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.

9. Section 79 of the principal Act is amended by adding at the end of subsection (2) thereof the words "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".

Amendment of  
s. 79 of  
principal Act—  
Security for  
future  
advances.

10. The principal Act is amended by inserting therein after section 83 the following section :—

Amendment of  
principal Act—

83a. (1) The duty payable upon any receipts for salaries or wages paid by any person to persons employed by him may, subject to subsection (2) of this section but notwithstanding section 83, be denoted by an impressed stamp to the amount of the whole of the duty payable in respect of all the said receipts and impressed on any pay sheet or summary of a pay sheet.

Receipts for  
salaries or  
wages.

(2) The Commissioner may, in any case he thinks fit, by notice in writing given to any such employer, approve of the payment of duty as provided by subsection (1). Any such approval may be given subject to such conditions thought fit by the Commissioner and may at any time be revoked by the Commissioner by notice in writing.

11. The second schedule to the principal Act is amended as follows :—

Amendment of  
principal Act—  
Second  
schedule.

(1) The word "sterling" is struck out of subparagraph 2 of the list of exemptions appended to the paragraph commencing "Agreement or any Memorandum of any Agreement".

(2) The paragraph commencing "Conveyance or Transfer on sale of any property (not otherwise charged)" is amended by striking out subparagraph (a) thereof and by inserting in lieu thereof the following subparagraph :—

(a) In the case of any stock or marketable security—

For every £50, or fractional part of £50,  
of the face value of such stock or  
marketable security . . . . . 2s.

(3) The following paragraphs are inserted in the said schedule after the paragraph commencing "Conveyance operating as a voluntary disposition, *inter vivos*, of any property" :—

£ s. d.

Conveyance for the partition or division of  
any property where the consideration for  
equality does not exceed £100 or where  
there is no consideration for equality .. 1 0 0

	£	s.	d.
Conveyance for effectuating the appointment of a new trustee or the retirement of a trustee .....	0	10	0

(4) The paragraph headed "General Exemptions from all Stamp Duties" is amended—

(a) by adding at the end of subparagraph 11 thereof the words "and assignments of articles or indentures of apprenticeship";

(b) by inserting after the words "capital of" in subparagraph 17 thereof the words "or of any debenture or debentures or bond or bonds issued by";

(c) by adding at the end of subparagraph 17 thereof the words "if such sale is made through a broker or agent who is a member of a stock exchange in the Commonwealth of Australia";

(d) by inserting after the word "of" in the second line of subparagraph 19 thereof the words "or of any debenture or debentures or bond or bonds issued by" and by inserting after the word "shares" in the penultimate line of subparagraph 19 thereof the words "or debenture or debentures or bond or bonds";

(e) by adding at the end thereof the following subparagraph:—

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;

(f) by adding at the end thereof the following subparagraph:—

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.

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

G. J. R. MURRAY, Deputy Governor.