



ANNO QUADRAGESIMO

**ELIZABETHAE II REGINAE**

**A.D. 1991**

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**No. 74 of 1991**

**An Act to amend the Stamp Duties Act 1923.**

*[Assented to 12 December 1991]*

The Parliament of South Australia enacts as follows:

**Short title**

1. (1) This Act may be cited as the *Stamp Duties (Assessments and Forms) Amendment Act 1991*.

(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.

**Statement to be lodged by registered person**

3. Section 31f of the principal Act is amended by striking out paragraph (a) of subsection (1) and substituting the following paragraph:

(a) not later than the twenty-first day of each month, lodge with the Commissioner a statement in the prescribed form setting out the total amount received during the preceding month in respect of his or her rental business;.

**Amounts to be included in statement**

4. Section 31g of the principal Act is amended by inserting after paragraph (d) the following paragraph:

(e) amounts that, although not constituting payments in respect of the use of goods, are received by, or on behalf of, the registered person in respect of his or her rental business.

**Matter not to be included in statement**

5. Section 31*i* of the principal Act is amended by inserting after paragraph (*a*) the following paragraph:

- (*b*) the sale of any goods (other than where there is an agreement, arrangement or understanding that the person to whom the goods are sold may, at a later time, sell the goods back to the registered person);

**Substitution of s. 31m**

6. Section 31m of the principal Act is repealed and the following section is substituted:

**Default assessments**

31m. (1) Where the Commissioner has reason to believe or suspect that a person—

- (*a*) has failed to lodge a statement as required by section 31f or by an agreement under section 31k;

or

- (*b*) has failed to pay any duty, or has paid insufficient duty, in respect of a rental business as required by this Act,

the Commissioner may, on the basis of estimates if necessary, make an assessment of the amount that, in the Commissioner's opinion, represents the duty that is payable in respect of the relevant rental business during the relevant period.

(2) Where the Commissioner makes an assessment under this section—

- (*a*) the Commissioner must cause notice in writing of the assessment to be served on any registered person who is in default;

and

- (*b*) the person is, subject to any determination made on an objection or appeal under section 24, liable to pay any duty determined by the Commissioner under the assessment to be payable together with any further duty specified in the notice as being payable by way of penalty pursuant to subsection (4).

(3) A person liable to pay duty as a result of an assessment under this section who fails to pay the amount specified in the notice of assessment on or before the date specified in the notice is guilty of an offence.

Penalty: \$2 000 plus an amount equal to twice the amount of the Commissioner's assessment under subsection (1).

(4) Where a person is liable to pay duty by virtue of an assessment under this section, the person is liable to pay further duty, by way of penalty, of an amount equal to twice the amount of that duty.

(5) The Commissioner may, at any time, remit any further duty, or part of any further duty, payable by way of a penalty under this section.

**Unregistered persons**

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

- (*a*) by striking out from paragraph (*b*) of subsection (3) "rent to that person under an agreement between them for the use of goods" and substituting "an amount to that person under an agreement that relates to the use of goods";

and

- (*b*) by striking out from paragraph (*a*) of subsection (6) "of rent".

**Interpretation**

8. Section 32 of the principal Act is amended by inserting after the definition of “policy” the following definition:

“premium” means any amount paid or payable in respect of any assurance or insurance, and includes—

- (a) any levy charged to a policy holder;
- (b) an instalment of premium.

**Further duty by way of penalty**

9. Section 41 of the principal Act is amended by inserting in subsection (1) “twice” after “an amount equal to”.

**Stamp duty on application for motor vehicle registration**

10. Section 42b of the principal Act is amended by inserting after subsection (6) the following subsections:

(6a) Where additional duty is payable on an assessment under subsection (4), the applicant is liable to pay further duty, by way of penalty, of an amount equal to twice the amount of any additional duty payable.

(6b) The Commissioner may, at any time, remit any further duty, or part of any further duty, payable by way of penalty under this section.

**Insertion of s. 42c**

11. The following section is inserted after section 42b of the principal Act:

**Default assessments**

42c. (1) Where the Commissioner has reason to believe or suspect that a person—

(a) has failed to lodge an application for registration, or transfer of registration, of a motor vehicle as and when required by this Act;

or

(b) has failed to pay any duty, or has paid insufficient duty, in respect of the registration, or transfer of registration, of a motor vehicle as required by this Act,

the Commissioner may, on the basis of estimates if necessary, make an assessment of the amount that, in the Commissioner’s opinion, represents the duty that is payable under this Act.

(2) Where the Commissioner makes an assessment under this section—

(a) the Commissioner must cause notice in writing of the assessment to be served on any person who is in default;

and

(b) the person is, subject to any determination made on an objection or appeal under section 24, liable to pay any duty determined by the Commissioner under the assessment to be payable together with any further duty specified in the notice as being payable by way of penalty pursuant to subsection (4).

(3) A person liable to pay duty as a result of an assessment under this section who fails to pay the amount specified in the notice of assessment on or before the date specified in the notice is guilty of an offence.

Penalty: \$2 000 plus an amount equal to twice the amount of the Commissioner's assessment under subsection (1).

(4) Where a person is liable to pay duty by virtue of an assessment under this section, the person is liable to pay further duty, by way of penalty, of an amount equal to twice the amount of that duty.

(5) The Commissioner may, at any time, remit any further duty, or part of any further duty, payable by way of penalty under this section.

#### Transactions otherwise than by dutiable instrument

12. Section 71e of the principal Act is amended by inserting after subsection (4) the following subsection:

(4a) A statement under this section will, for the purposes of this Act, be taken to be an instrument executed by the person required to lodge the statement on the date of the change in legal or equitable ownership of property effected by the transaction to which the statement relates.

#### Regulations

13. Section 112 of the principal Act is amended—

(a) by striking out from subsection (1) “one hundred dollars” and substituting “\$2 000”;  
and

(b) by inserting after subsection (4) the following subsection:

(5) Without limiting the generality of subsection (4), the regulations may—

(a) be of general or limited application;

(b) require the use of forms approved by the Commissioner for documents required or authorized to be used for the purposes of this Act or the regulations;

(c) leave any other matter to be determined, varied or regulated according to the discretion of the Commissioner;

and

(d) make different prescriptions according to prescribed circumstances.

#### Amendment of second schedule

14. The second schedule to the principal Act is amended by inserting after paragraph 24 of the item headed “GENERAL EXEMPTIONS FROM ALL STAMP DUTIES” the following paragraph:

25. A declaration of trust by the Public Trustee for the benefit of a child under the age of 18 years who has received a payment under the *Criminal Injuries Compensation Act 1978*.

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

ROMA MITCHELL Governor