

South Australia

## **Stamp Duties Regulations 2002**

under the *Stamp Duties Act 1923*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Stamp Duties Regulations 2002*.

### 4—Interpretation

In these regulations, unless the contrary intention appears—

*Act* means the *Stamp Duties Act 1923*.

## Part 2—Recognised financial markets

### 5—Recognised financial markets

The following financial markets are brought within the ambit of the definition of *recognised financial market* in section 2 of the Act:

- (a) financial markets operated by the National Stock Exchange of Australia Limited;
- (b) financial markets operated by the Bendigo Stock Exchange Limited;
- (c) financial markets operated by stock exchanges that are members of the World Federation of Exchanges;
- (d) financial markets operated by the Australia Pacific Exchange Limited.

## Part 3—Stamps

### 6—Impressed stamps

- (1) Unless the Commissioner otherwise determines, a person requiring an impressed stamp must—
  - (a) lodge with the Commissioner the instrument or other material to be stamped together with a requisition to the Commissioner; and
  - (b) pay in advance to the Commissioner the value of the stamp to be impressed.
- (2) The Commissioner may determine the manner in which the value of a stamp must be paid.

### 11—Application for allowance for spoiled or unused stamps

- (1) For the purposes of section 106 of the Act, an application for allowance for spoiled or unused stamps must be made in a form approved by the Commissioner and be accompanied by a statutory declaration setting out such information as the Commissioner may reasonably require to determine the application.

### 12—Grant of application and deduction

- (1) Subject to subregulations (2) and (3), on the grant of an application under regulation 11, the Commissioner must—
  - (a) pay the amount allowed to the person entitled to the allowance; or

- (b) give other stamps to the equivalent value to the allowance in lieu of payment.
- (2) The Commissioner may, at his or her discretion, deduct 5 per cent or any lesser amount from—
  - (a) the payment; or
  - (b) the value of the stamps given in lieu of payment.
- (3) The minimum amount which will be paid or given as stamps in lieu of payment under this regulation is \$4.

### **13—Disposal of spoiled or unused stamps**

- (1) After the grant of an application for allowance for any spoiled or unused stamp or stamped material, the Commissioner must—
  - (a) cancel and retain or destroy the stamp or stamped material; or
  - (b) at his or her discretion, in the case of a spoiled stamp affixed to an instrument, cancel or remove the spoiled stamp and return the instrument to the applicant.

### **14—Disallowed applications for spoiled stamps or material**

Where the Commissioner refuses to grant an application for allowance for spoiled stamps or stamped material, the spoiled stamp or material on which it is affixed or impressed must be marked with the word "Disallowed" and the date on which it is disallowed, and be returned to the applicant.

## **Part 4—Rental business**

### **15—Exempted business under section 31B**

For the purposes of section 31B of the Act, the following class of business is exempted from the ambit of the definition of *rental business*:

The business of providing floor plan financing where each item of trading stock covered by a floor plan financing agreement is identified by a unique number.

### **16—Election and statements under section 31F**

- (1) For the purposes of section 31F(2) of the Act—
  - (a) an election to lodge an annual statement must be notified in a form approved by the Commissioner; and
  - (b) an annual statement lodged by a person who has made an election must be in a form approved by the Commissioner.
- (2) For the purposes of section 31F(4) of the Act, a cancellation of election must be in a form approved by the Commissioner.

### **17—Monthly statement of rent received where alternative calculation is accepted**

For the purposes of section 31K of the Act, where the Commissioner agrees to accept a statement—

- (a) in which an amount is calculated on a basis different from that required under section 31F of the Act; or

- (b) at a time, or relating to a period, otherwise than in accordance with that section,

the statement must be in a form approved by the Commissioner.

## Part 5—Annual licences

### 18—Time for application for annual licence

For the purposes of section 34 of the Act, an application for an annual licence must be lodged not later than 31 January in each year, or within any further period, not exceeding one month, allowed by the Commissioner.

## Part 7—Conveyances

### 28—Computation of duty where instruments are interrelated

- (1) For the purposes of section 67(2)(d) of the Act, an instrument is excluded from the operation of section 67 of the Act if—
- (a) it is one of a series of separate conveyances under which rights or interests in a hotel, motel, resort or managed apartment complex are conveyed in separate parcels to different persons, each of whom is or becomes a member of the same managed investment scheme; and
  - (b) the Commissioner is satisfied that, apart from any arrangement or understanding entered into for the purposes of the managed investment scheme, no arrangement or understanding exists between the members under which the parcels of property conveyed are to be used otherwise than separately and independently from each other.

- (2) In this regulation—

*managed investment scheme* and *member* of a managed investment scheme have the same respective meanings as in the *Corporations Act 2001* of the Commonwealth.

### 29—Certain transactions excluded for the purposes of section 71E

For the purposes of section 71E(2)(e) of the Act, the vesting of property or a right (whether certain or contingent) in a registered co-operative by virtue of a merger or transfer of engagements under Part 12 Division 1 or Part 14 Division 3 of the *Co-operatives Act 1997* is a transaction of a prescribed class.

### 29A—Special Acts (section 71F)

Pursuant to paragraph (c) of the definition of *special Act* in section 71F(6) of the Act, the following Acts are prescribed for the purposes of that section:

- (a) *Financial Sector Reform (ACT) Act 1999* of the Australian Capital Territory (repealed);<sup>1</sup>
- (b) *Financial Sector Reform (New South Wales) Act 1999* of New South Wales;
- (c) *Financial Sector Reform (Northern Territory) Act* of the Northern Territory;
- (d) *Financial Sector Reform (Queensland) Act 1999* of Queensland;
- (e) *Financial Sector Reform (Tasmania) Act 1999* of Tasmania;

- (f) *Financial Sector Reform (Victoria) Act 1999* of Victoria;
- (g) *Acts Amendment and Repeal (Financial Sector Reform) Act 1999* of Western Australia.

**Note—**

- 1 The *Financial Sector Reform (ACT) Act 1999* (ACT) was repealed by the *Statute Law Amendment Act 2002* (ACT) and was declared by that Act to be a law to which section 88 of the *Legislation Act 2001* (ACT) applies. Section 88 of the *Legislation Act 2001* (ACT) provides that the effect of a declared law does not end only because of its repeal.

## **Part 7A—Stamp duties and exemptions**

### **30—Concession card holders**

For the purposes of subparagraph (i) of paragraph (b) of exemption 8 of clause 2(4) of Schedule 2 of the Act, a State concession card issued by the administrative unit of the Public Service that is, under a Minister, responsible for the administration of the *Family and Community Services Act 1972* is a State concession card of a prescribed class.

## **Part 8—General**

### **31—Offences**

A person who contravenes or fails to comply with a provision of these regulations is guilty of an offence.

Maximum penalty: \$2 000.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Legislation revoked by principal regulations

The *Stamp Duties Regulations 2002* revoked the following:

*Stamp Duties Regulations 1991*

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2002	157	<i>Gazette 15.8.2002 p3070</i>	1.9.2002: r 2
2003	162	<i>Gazette 10.7.2003 p2914</i>	1.8.2003: r 2
2008	4	<i>Gazette 24.1.2008 p314</i>	24.1.2008: r 2
2008	211	<i>Gazette 17.7.2008 p3381</i>	17.7.2008: r 2
2008	304	<i>Gazette 11.12.2008 p5571</i>	1.1.2009: r 2
<b>2010</b>	<b>11</b>	<b><i>Gazette 28.1.2010 p356</i></b>	<b>Pt 16 (r 18)—1.2.2010: r 2</b>

### Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
<i>rr 2 and 3</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>24.1.2008</i>
Pt 2	substituted by 162/2003 r 4	1.8.2003
r 5	varied by 211/2008 r 4(1)—(3)	17.7.2008
Pt 3		
<i>rr 7—10</i>	<i>deleted by 304/2008 r 4</i>	<i>1.1.2009</i>
r 11		
<i>r 11(2)</i>	<i>deleted by 304/2008 r 5</i>	<i>1.1.2009</i>
r 13		
r 13(1)	varied by 304/2008 r 6(1)	1.1.2009

<i>r 13(2)</i>	<i>deleted by 304/2008 r 6(2)</i>	<i>1.1.2009</i>
<i>Pt 6</i>	<i>deleted by 304/2008 r 7</i>	<i>1.1.2009</i>
<i>Pt 7</i>		
<i>r 29A</i>	<i>inserted by 4/2008 r 4</i>	<i>24.1.2008</i>
<b>Pt 7A</b>	<b>inserted by 11/2010 r 18</b>	<b>1.2.2010</b>
<i>Pt 8</i>		
<i>r 30</i>	<i>deleted by 304/2008 r 8</i>	<i>1.1.2009</i>
<i>Sch</i>	<i>deleted by 304/2008 r 9</i>	<i>1.1.2009</i>

### Historical versions

1.8.2003  
24.1.2008  
17.7.2008  
1.1.2009