



ANNO SEXTO

GEORGI V REGIS.

A.D. 1915.

No. 1216.

An Act to amend the Stamp Act, 1886, and the Stamp Act Amendment Act, 1902, and for other purposes.

[Assented to, December 18th, 1915.]

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

1. (1) This Act may be cited alone as the "Stamp Act Further Amendment Act, 1915." Short title.

(2) The Stamp Act, 1886, the Stamp Act Amendment Act, 1902, the Stamp Act Further Amendment Act, 1903, the Stamp Act Further Amendment Act, 1904, the Stamp Act Further Amendment Act, 1905, and this Act may be cited together as the Stamp Acts, 1886 to 1915. No. 372 of 1886.
No. 789 of 1902.
No. 837 of 1903.
No. 649 of 1904.
No. 886 of 1905.

(3) The Stamp Act, 1886, is hereinafter referred to as "the principal Act," and the Stamp Act Amendment Act, 1902, as "the amending Act of 1902."

2. This Act is incorporated with the other Acts mentioned in section 1 of this Act, and those Acts and this Act shall be read as one Act. Incorporation with other Acts.

3. This Act shall come into operation on a day to be fixed by the Governor by proclamation published in the *Government Gazette*. Coming into operation of Act.

AMENDMENTS.

4. Section 11 of the principal Act is amended by striking out the words "*ad valorem*" wherever they occur therein. Amendment of section 11 of principal Act—All facts to be truly set forth.

5. Section

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Amendment of section 41—Duty where property re-sold.

5. Section 41 of the principal Act is amended as follows:—

- (a) by striking out all the words in subsection (3) thereof after the word “duty” in the fifth line, and substituting in lieu thereof the words “in respect of the consideration for the sale to the original purchaser, and also in respect of the consideration for the sale by the original purchaser to the sub-purchaser, in the same manner as if such considerations were specified in separate instruments”:
- (b) by striking out all the words in subsection (4) thereof after the word “respect” in the seventh line and substituting in lieu thereof the words “of the consideration for the sale to the original purchaser, and also in respect of the consideration for the sale by the original purchaser to the sub-purchaser, in the same manner as if such considerations were specified in separate instruments. The consideration for the sale to the original purchaser in respect of each part or parcel shall, for the purposes of this subsection, be ascertained by determining the ratio which the value of the part or parcel in question bears to the value of the whole property, and shall be specified in the instrument of conveyance”:
- (c) by striking out all the words in subsection (5) thereof after the word “seller” in the sixth line and substituting in lieu thereof the words “shall be chargeable with *ad valorem* duty in respect of the consideration for the sale to the original purchaser.”

Amendments of sections 8 and 9 of amending Act of 1902—Duty payable by insurance companies.

6. (1) The definition of “assurance or insurance business” in section 8 of the amending Act of 1902 is amended by substituting the words “marine, or other” for the words “or marine” wherever the last mentioned words occur in the said definition.

(2) Section 9 of the amending Act of 1902 is amended by substituting for the words “or marine” in the fourth line thereof the words “marine, or other”.

Amendment of section 33 of amending Act—Penalty for offences in reference to receipts.

7. Section 33 of the amending Act of 1902 is amended by substituting for the last line thereof the following passage:—

“In no other case shall a receipt be stamped with an impressed stamp: Provided that a receipt may be written upon a form which has been stamped before signature with an impressed stamp.”

Amendment of section 34 of amending Act—Duty on takings of totalizator.

8. Section 34 of the amending Act of 1902 is amended by substituting for the words “two and a half” in the fourth line thereof the word “five”.

Amendment of Second and Third Schedules to amending Act.

9. The Second and Third Schedules to the amending Act of 1902 are amended in manner set out in the Schedule to this Act.

ADDITIONAL

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ADDITIONAL PROVISIONS.

Miscellaneous.

10. The stamp duty chargeable upon any instrument shall be calculated according to the rates in force at the time when such instrument is produced to the Commissioner for the purpose of being stamped.

Duty in force when instrument produced for stamping to apply.

11. In the Stamp Acts, 1886 to 1915, the term "conveyance" includes—

Definition of "conveyance".

- (a) every conveyance, assignment, transfer, or declaration of trust, and every application under the Real Property Act, 1886, and
- (b) every decree or order of any Court, Judge, or Commissioner, and
- (c) every other application or request of any kind, and
- (d) every other assurance or instrument of any kind,

whereby, or by virtue whereof, or by the operation whereof, whether upon registration or otherwise, or by the issue of a certificate of title in pursuance whereof, any real or personal property, or any estate or interest in any such property, is assured to or vested in any person; the term also includes a surrender to the Crown of any lease or other interest in land, with a view to the granting of another lease or any other interest in any land to the person surrendering or to a person nominated by him.

In the said Acts the verb to convey has a meaning co-extensive with the meaning of the term "conveyance", as extended by this section.

12. Where the consideration or part of the consideration upon which a conveyance is chargeable with *ad valorem* duty consists of shares or debentures to be issued by a company, or a contract to issue such shares or debentures, the face value of such shares or debentures shall be taken as the value of such consideration or part: Provided that when upon the reconstruction of any company any conveyance is made to a new company in consideration, wholly or in part, of any share or shares issued or to be issued by such new company, the value of such share or shares shall for the purpose of determining the amount of duty payable on such conveyance be deemed to be the market value, if any, of such share or shares, or if there be no market value such value as the Commissioner shall deem fair and reasonable under the circumstances.

Method of estimating value of consideration where consideration consists of shares.

Cf. N.S.W. 3, 1914, s. 21.

13. (1) The duty chargeable on a conveyance of any share or shares in the stock, funds, or capital of any corporation, company, or society may be denoted by an adhesive stamp, which shall be cancelled by the person by whom such conveyance is first executed, before he delivers it out of his hands, custody, or power.

Duty on transfer of shares.

(2) Where

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(2) Where any share or shares in the stock, funds, or capital of any Corporation, Company, or Society are conveyed by the personal representative of a deceased person to any beneficiary who is entitled by virtue of the provisions of the will of such deceased person, or upon his intestacy, to have such share or shares conveyed to him, no stamp duty shall be charged on the conveyance.

Penalty for not stamping letter of allotment.

W.A. 6, 1882, s. 56.

14. Every person who executes, grants, issues, or delivers out, any instrument chargeable with duty as a letter of allotment or scrip certificate or scrip, before the same is duly stamped, shall be liable to a penalty not exceeding Twenty Pounds.

Stamp duty to be recoverable as a debt.

Cf. N.Z. 182, 1908, s. 51.

15. The duty chargeable upon any instrument shall be a debt due to His Majesty from every party who executes such instrument, and shall be recoverable in the name of the Commissioner on behalf of His Majesty from any such party or parties in any court of competent jurisdiction.

Contract Notes.

Provisions as to contract notes.

N.S.W. 3, 1914, s. 17.

16. (1) In this Act the term "contract note" means a note sent by a broker or agent to his principal advising him of the sale or purchase of any stock or marketable security, but does not include a note sent by a broker or agent to a person who is acting as a broker or agent for a principal and is himself a member of a stock exchange in the Commonwealth of Australia.

(2) Where a contract note advises the sale or purchase of more than one description of stock or marketable security, the note shall be deemed to be as many contract notes as there are descriptions of stock or marketable securities sold or purchased.

(3) Where a contract note is a continuation or carrying-over note made for the purpose of continuing or carrying over any transaction for the sale or purchase of stock or marketable securities, the contract note, although it is made in respect of both a sale and a purchase, shall be charged with duty under this Act as if it related to one of those transactions only, and if different amounts are chargeable as duty in respect of those transactions, as if it related to that one of those transactions which would render the contract note chargeable with the greater amount of duty.

Adhesive stamps may be used.

Ibid., s. 18.

17. (1) The duty on a contract note may be denoted by an adhesive stamp.

(2) Every adhesive stamp on a contract note shall be cancelled by the person by whom the note is executed.

(3) Any person who fails to comply with the provisions of subsection (2) hereof shall be liable to a penalty not exceeding Ten Pounds.

Penalty for not making a stamped note.

Ibid., s. 19.

18. (1) Any person who effects a sale or purchase of any stock or marketable security as a broker or agent shall forthwith make and execute a contract note, and transmit the same to his principal, and in default of so doing shall be liable to a penalty not exceeding
Twenty

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Twenty Pounds: Provided that this section shall not apply in the case of transactions, carried out in the course of their ordinary business relations, between brokers or agents who are members of any stock exchange in the Commonwealth of Australia.

(2) If any person makes or executes any contract note chargeable with duty which is not duly stamped, he shall be liable to a penalty not exceeding Twenty Pounds.

(3) No broker, agent, or other person shall have any legal claim to any charge for brokerage, commission, or agency with reference to the sale or purchase of any stock or marketable security mentioned or referred to in any contract note unless such note is duly stamped.

(4) The duty upon a contract note may be added to the charge for brokerage or agency, and shall be recoverable as part of such charge.

19. (1) The provisions of this Act as to contract notes shall apply to any contract under which an option is given or taken to purchase or sell any stock or marketable security at a future time at a certain price, in the same manner as it applies to the sale or purchase of any stock or marketable security, but the stamp duty on such a contract shall be one-half only of that chargeable on a contract note: Provided that, if under the contract a double option is given or taken, the contract shall be deemed to be a separate contract in respect of each option.

Contracts for options.
Ibid., s. 20.

(2) Any contract note made or executed in pursuance and in consequence of the exercise of an option given or taken under a contract duly stamped in accordance with the provisions of this section shall be charged with one-half only of the duty which would otherwise have been chargeable thereon under this Act: Provided that it bears on its face a certificate by the broker, agent, or other person referred to in section 18 to the effect that it is made or executed in the exercise of an option for which a duly stamped contract note has been rendered on the date mentioned in the certificate.

Agreements.

20. (1) Any contract or agreement in writing for the sale of any estate or interest in any property whatsoever, except—

Certain contracts to be chargeable as conveyances on sale.

(a) property which cannot vest in the purchaser except upon registration of a conveyance, or

Cf. *ibid.*, s. 8.

(b) goods, wares, or merchandise, or

(c) stock or marketable securities, or shares in the stock, funds, or capital of any corporation, company, or society,

shall be charged with the same *ad valorem* duty as if it were an actual conveyance on sale of the estate or interest contracted or agreed to be sold or exchanged.

(2) Where duty has been duly paid in conformity with the provisions of subsection (1) hereof on any such contract or agreement

as

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as mentioned in that subsection, any conveyance made to the purchaser in pursuance of such contract or agreement shall not be chargeable with any duty; and the Commissioner, upon application and upon the production of such contract or agreement, duly stamped, shall mark such conveyance as duly stamped.

(3) For the purposes of this section a receipt for the payment, in pursuance of any contract or agreement, of any purchase-money shall, in the absence of any further or other instrument being or evidencing such contract or agreement, be charged with *ad valorem* duty as hereinbefore provided.

(4) If any such contract or agreement as mentioned in subsection (1) hereof is afterwards rescinded or annulled, or for any other reason is not substantially performed or carried into effect so as to operate as, or to be followed by, a conveyance, the person who paid the *ad valorem* duty upon such contract or agreement shall be deemed to be possessed, in respect of such contract or agreement, of stamped material rendered useless by being inadvertently unused, within the meaning of section 45 of the principal Act, and the provisions of that section shall apply accordingly.

Mortgages.

As to mortgages, &c.
Interpretation of
term.

W.A. 6, 1882, s. 57.

21. In this Act the term “mortgage” means a security by way of mortgage for the payment of any definite and certain sum of money advanced and lent at the time when such security is executed or previously due and owing, or forborne to be paid (being payable), or for the repayment of money to be lent, advanced, or paid, or which may become due upon an account current, either alone or together with any sum already advanced or due, and includes—

- (a) any conveyance of any real or personal property whatsoever, or any estate or interest therein, in trust to be sold or otherwise converted into money, intended only as a security, and redeemable before the sale or other disposal thereof, either pursuant to express stipulation or otherwise, except where such conveyance is made for the benefit of creditors generally, or for the benefit of creditors specified who accept the provision thereby made for payment of their debts in full satisfaction thereof, or who exceed five in number;
- (b) any defeasance, declaration, or other instrument for defeating or making redeemable, or explaining or qualifying any conveyance of any real or personal property whatsoever, or any state or interest therein, apparently absolute but intended only as a security;
- (c) any agreement, contract, or bond, accompanied with a deposit of any muniments of title, to make a mortgage or any such conveyance or instrument as aforesaid, of or concerning any real or personal property comprised in such title deeds, or any estate or interest therein, or for pledging or charging the same as a security.

22. If

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22. If several instruments are necessary to make a mortgage, and duty would, but for this section, be chargeable on more than one of such instruments, the duty shall be chargeable upon the principal instrument only, and the other instruments shall not be liable to any duty, and the parties, with the approval of the Commissioner, may decide which is the principal instrument.

Where mortgage consists of several instruments.

23. No money to be advanced for the insurance of any property comprised in any security against damage by fire shall be reckoned as forming part of the amount in respect whereof the security is chargeable with *ad valorem* duty.

Provision where money advanced for fire insurance.

Ibid., s. 59 (3).

24. A security for the transfer or re-transfer of any stock is to be charged with the same duty as a similar security for a sum of money equal in amount to the value of such stock; and a transfer or assignment of any such security shall be charged with the same duty as an instrument of the same description relating to a sum of money equal in amount to the value of such stock.

Security for stock, how to be charged.

Ibid., s. 58.

25. (1) A security by way of mortgage for the payment or repayment of money to be lent, advanced, or paid, or which may become due upon an account current, either alone or together with money previously due, is to be charged, where the total amount secured or to be ultimately recoverable is in any way limited, with the same duty as a security for the amount so limited.

Security for future advances, how to be charged.

Cf. Ibid. s. 59.

(2) Where such total amount is unlimited, the security is to be available for such an amount only as the *ad valorem* duty denoted thereon extends to cover.

(3) Notwithstanding any provision of the Real Property Act, 1886, no reconveyance or discharge of any mortgage given for an unlimited amount shall be registered unless the duty payable upon the highest amount advanced upon the security has been paid.

26. A security for the payment of any rentcharge, annuity, or other periodical payment, by way of repayment or in satisfaction or discharge of any loan, advance, or payment intended to be so repaid, satisfied, or discharged, shall be charged with the same duty as a similar security for the payment of the sum of money so lent, advanced, or paid: Provided that an encumbrance to secure periodical payments during an indefinite period not terminable with life, or during any life or lives, shall be charged as a security for an amount calculated in accordance with the provisions of subsections (2) and (3) of section 39 of the principal Act.

Security for repayment by periodical payments, how to be charged.

Cf. ibid., s. 60.

27. No transfer of a duly stamped security, and no security by way of further charge for money or stock added to money or stock previously secured by a duly stamped instrument, is to be charged with any duty, by reason of containing any further or additional security for such money or stock transferred or previously secured, or the interest or dividends thereon, or any new covenant, proviso, power,

As to transfers and further charges.

Ibid., s. 61.

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power, stipulation, or agreement in relation thereto, or any further assurance of the property comprised in the transferred or previous security.

Conveyance or Transfer on Sale.

Duty on conveyance or transfer on sale doubled.

28. The duties chargeable under the heading "CONVEYANCE OR TRANSFER on sale of any property" in the Second Schedule to the amending Act of 1902 shall be double those specified in that Schedule: Provided that this section shall not apply to a conveyance of any stock or marketable security, nor to a conveyance where the amount or value of the consideration for the sale does not exceed Five Hundred Pounds, and the conveyance contains a statement certifying that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration exceeds Five Hundred Pounds.

Duty on conveyance or transfer operating as a voluntary disposition *inter vivos*.

Cf. U.K., 10, Ed. 7, c. 8, s. 74.

29. (1) Any conveyance operating as a voluntary disposition *inter vivos* shall be chargeable with one-half of the duty which would be payable if it were a conveyance or transfer on sale, with the substitution in each case of the value of the property conveyed for the amount or value of the consideration for the sale. The value for the purposes of this section shall be declared in the conveyance: Provided that the duty chargeable on a conveyance by virtue of this section shall in no case be less than One Pound.

(2) Notwithstanding anything in section 19 of the principal Act, the Commissioner may be required to express his opinion under that section on any conveyance operating as a voluntary disposition *inter vivos*, and no such conveyance shall be deemed to be duly stamped unless the Commissioner has expressed his opinion thereon in accordance with that section.

(3) Any conveyance which is not a disposition made in favor of a purchaser or encumbrancer or other person in good faith and for valuable consideration, shall, for the purposes of this section, be deemed to be a conveyance operating as a voluntary disposition *inter vivos*; and the consideration for any conveyance shall not, for this purpose, be deemed to be valuable consideration where the Commissioner is of opinion that, by reason of the inadequacy of the sum paid as consideration or other circumstances, the conveyance confers a substantial benefit on the person to whom the property is conveyed.

(4) A conveyance made for nominal consideration for the purpose of securing the repayment of an advance or loan, or made for effectuating the appointment of a new trustee or the retirement of a trustee (whether the trust is expressed or implied), or under which no beneficial interest passes in the property conveyed, or made to a beneficiary by a trustee or other person in a fiduciary capacity under any trust (whether expressed or implied), or operating as a voluntary disposition of property for charitable or religious purposes, shall not be chargeable with duty under this section.

Temporary

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Temporary Exemption of Wheat Agreements.

30. An agreement made before the thirtieth day of September, nineteen hundred and sixteen, between any person, firm, or company and the Government of the State, or any Minister of the Crown, authorising the said Government, or any Minister of the Crown, to handle and sell wheat on behalf of such person, firm, or company, shall be exempt from all duties chargeable upon agreements under the principal Act or any amendment thereof.

Exemption of certain agreements with the Government as to wheat.

31. This Act shall expire at the close of the period of twelve months next after the notification by the Governor in the *Government Gazette* of the signing, on behalf of the United Kingdom, of a treaty of peace terminating the war now existing in Europe.

Duration of Act.

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

H. L. GALWAY, Governor.

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THE SCHEDULE.

Section 9.

A. The Second Schedule to the amending Act of 1902 is amended as follows:—

(1) In the paragraph beginning "AFFIDAVIT OR DECLARATION" the words "any competent authority, for each deponent or declarant" are substituted for the words "a Special Magistrate, Justice of the Peace, Commissioner for Taking Affidavits, or Notary Public."

(2) In the sixth line of the first column of the paragraph beginning "STAMP ON ANNUAL LICENCE" the words "marine, or other" are substituted for the words "or marine".

(3) In the paragraph beginning "BILL OF EXCHANGE, CHEQUE," after the word "CHEQUE" the words "COUPON, INTEREST WARRANT" are inserted.

(4) After the paragraph beginning "BILL OF LADING" the following new paragraphs are inserted:—

CONTRACT NOTE for or relating to the sale or purchase of any stock or marketable security—	
For every £100, or fractional part of £100, of the face value of such stock or marketable security	0 0 6
CONVEYANCE OR TRANSFER of any share or shares in the stock, funds, or capital of any corporation, company, or society whatever—	
For every £50, or fractional part of £50, of the face value of the share or shares	0 0 6
In cases to which the proviso to section 12 of the Stamp Act Further Amendment Act, 1915, applies, for every £50, or fractional part of £50, of the market value of the share or shares	0 0 6

(5) In the paragraph beginning "CONVEYANCE OR TRANSFER on sale of any property"—

(a) the passage "(not otherwise charged), including contract or agreement for sale" is inserted after the word "property" in the first line; and

(b) in lieu of the item beginning "For every £100" the following item is substituted:—

Exceeds £100, but does not exceed £500, for every £100, or fractional part of £100, of such amount or value . . .	0 10 0
Exceeds £500, for every £100, or fractional part of £100, of such amount or value	1 0 0

(c) the exemption reading "Conveyance on transfer of any share or shares in the stock, funds, or capital of any corporation or society whatsoever" is struck out.

(6) After the paragraph beginning "CONVEYANCE OR TRANSFER on sale" the following new paragraph is inserted:—

CONVEYANCE operating as a voluntary disposition *inter vivos* of any property—
One-half of the duties payable in the case of conveyance or transfer on sale, but substituting the value of the property conveyed for the amount or value of the consideration for the sale, but the duty in no case to be less than One Pound.

(7) In the paragraph beginning "LEASE OR AGREEMENT for a LEASE," in lieu of the item beginning "Above £100," the following item is substituted:—

Over £100, for every £50 or fractional part of £50	0 5 0
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(8) After the paragraph beginning "LEASE OR AGREEMENT for a LEASE" the following new paragraphs are inserted:—

LETTER OF ALLOTMENT or any other document having the effect of a letter of allotment of any share, or part of any share, in any company or proposed company; and SCRIP CERTIFICATE, scrip, or other document entitling any person to become the proprietor of any share, or part of any share, in any company or proposed company	0 0 1
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MORTGAGE,

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MORTGAGE, BOND, DEBENTURE, COVENANT, WARRANT OF ATTORNEY TO confess and enter up judgment—

Being the only or principal or primary security for the payment or repayment of money—

For every £100 or fractional part of £100 0 2 6

Where any further money is added to the money already secured .

{ The same
duty as a
principal
security for
such further
money.

Exemption.

Every collateral or auxiliary, or additional or substituted security, or security by way of further assurance for the above-mentioned purpose, where the principal or primary security is duly stamped.

(9) In the paragraph beginning "RECEIPT"—

(a) The first and second lines thereof are struck out and the following passage is substituted therefor:—

RECEIPT—Every receipt for Forty Shillings or upwards . . 0 0 2

(b) The exemption numbered 1 is amended so as to read "Every payment of municipal or district council rates."

(c) In the exemption numbered 4:—

I. the words "for money paid" are inserted after the word "or" in the first line; the words "by any member of such Society on account of subscriptions" are inserted after the word "Society" in the second line; and the words "for money paid" are inserted after the word "or" the second time it occurs in the second line;

II. the words "marine, or other" are substituted for the words "or marine" in the fourth line;

III. the words "on deposit" are added after the word "Act" in the sixth line.

(10) In the paragraph beginning "TOTALIZATOR" the word "Five" is substituted for the words "two and a half."

(11) In the passage headed "GENERAL EXEMPTION FROM ALL STAMP DUTIES" the exemptions numbered 11, 16, and 17 are struck out.

B. The Third Schedule to the amending Act of 1902 is amended by substituting the words "marine, or other" for the words "or marine" wherever they occur therein.