

South Australia

# Stamp Duties Regulations 2013

under the *Stamp Duties Act 1923*

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## Legislative history

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### 1—Short title

These regulations may be cited as the *Stamp Duties Regulations 2013*.

### 3—Interpretation

In these regulations—

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

### 4—Financial products (section 2 of Act)

An interest in a unit trust scheme listed on a recognised financial market is brought within the ambit of the definition of ***financial product*** in section 2 of the Act.

### 5—Recognised financial markets (section 2 of Act)

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 stock exchanges that are members of the World Federation of Exchanges;
- (c) financial markets operated by the Asia Pacific Exchange Limited;

- (d) financial markets operated by NZX Limited.

## **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.

## **7—Application for allowance for spoiled or unused stamps (section 106 of Act)**

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.

## **8—Grant of application and deduction**

- (1) Subject to subregulation (2), on the grant of an application under regulation 7, 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 minimum amount which will be paid or given as stamps in lieu of payment under this regulation is \$4.

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

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.

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

If 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.

**10A—Exemption for certain heavy vehicles**

- (1) Pursuant to section 42E of the Act, an application to register a motor vehicle that is a heavy vehicle is exempt from the component of duty payable in respect of registration under Schedule 2 clause 2(1) of the Act if—
  - (a) the vehicle is, immediately before the date on which the application is made, registered in the name of the applicant (and not in the name of any other person) under the *Interstate Road Transport Act 1985* of the Commonwealth (the **Commonwealth Act**); and
  - (b) the registration of the vehicle under the Commonwealth Act expires during the period commencing on 1 July 2018 and ending on 30 June 2019.
- (2) In this regulation—

**heavy vehicle** has the same meaning as in the *Heavy Vehicle National Law (South Australia)*.

**10B—Variation of exemptions for electric vehicles**

- (1) Pursuant to section 42E of the Act, the following exemptions do not apply to an application relating to an electric vehicle in respect of which the registration fee is remitted in accordance with regulation 90(3a) of the *Motor Vehicles Regulations 2010*:
  - (a) exemption number 3 in Schedule 2 clause 2(2) of the Act;
  - (b) exemption number 1 in Schedule 2 clause 2(4) of the Act.
- (2) In this regulation—

**electric vehicle** has the same meaning as in regulation 90(3a) of the *Motor Vehicles Regulations 2010*.

**11—Computation of duty where instruments are interrelated (section 67 of Act)**

- (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 1 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.

## 12—Certain transactions excluded (section 71E of Act)

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.

## 13—Special Acts (section 71F of Act)

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 1999* 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.

## 14—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 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.

## 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 2013* revoked the following:

*Stamp Duties Regulations 2002*

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2013	209	<i>Gazette 22.8.2013 p3574</i>	22.8.2013: r 2
2018	171	<i>Gazette 28.6.2018 p2627</i>	28.6.2018: r 2
<b>2022</b>	<b>85</b>	<b><i>Gazette 29.9.2022 p6266</i></b>	<b>29.9.2022: 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
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>28.6.2018</i>
r 10A	inserted by 171/2018 r 4	28.6.2018
<b>r 10B</b>	<b>inserted by 85/2022 r 3</b>	<b>29.9.2022</b>
<i>Sch 1</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>28.6.2018</i>

### Historical versions

28.6.2018