

Queensland



STAMP ACT 1894

**Reprinted as in force on 1 March 2002
(includes amendments up to Act No. 45 of 2001)**

Warning—see last endnote for uncommenced amendments

This is the reprint current on the repeal date

Reprint No. 3A

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Information about this reprint

This Act is reprinted as at 1 March 2002. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

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STAMP ACT 1894

[as amended by all amendments that commenced on or before 1 March 2002]

An Act about the assessment and payment of stamp duties

1 Short title

This Act may be cited as the *Stamp Act 1894*.

2 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

2AA Attachment

(1) The attachment to this Act contains definitions of words that have the same meaning in this Act as they have in the Corporations Act.

(2) The attachment is not part of this Act.

(3) The attachment must be revised so that it is an accurate copy of the definitions as amended from time to time.

(4) The revision must happen in the first reprint of this Act after an amendment of any of the definitions.

2AB Effect of stamping duplicate instruments

(1) Where an instrument is charged with duty under this Act and duty has been paid and stamped on—

- (a) in the case where that instrument is the original instrument—a duplicate or a copy or a representation thereof; or
- (b) the original of that instrument; or
- (c) in respect of the original of that instrument—a duplicate or a copy or a representation thereof; or

- (d) in respect of a duplicate of that instrument—a copy or a representation thereof; or
- (e) in respect of a copy of the original or a duplicate thereof or of that instrument—a representation thereof;

that instrument is to be taken to be stamped to the extent that other instrument has been so stamped and obligations under this Act in respect of that firstmentioned instrument are to be taken to have been complied with to the extent that they have been complied with in respect of that other instrument.

(2) Where the commissioner is unable to ascertain whether or not an instrument—

- (a) is the original instrument; or
- (b) is of a particular kind referred to in the definition “instrument”;

the commissioner may determine these matters on the basis of the information known to the commissioner and, unless the contrary is proven, these matters are in the relevant case to be taken to be as the commissioner so determines.

2A Meaning of “full unencumbered value”

(1) Subject to subsections (2) to (10), in this Act—

“full unencumbered value”, in respect of property, means the full value of the property without regard to any encumbrance to which the property is subject, whether certainly or contingently.

(2) Where property is held or is to be held pursuant to a trust, other than a public unit trust scheme (in this section **“trust property”**)—

“full unencumbered value” means the full unencumbered value of the trust property held or to be held by the trustee for the trust, without regard to the debts or liabilities of the trustee of the trust.

(3) Where property is an estate or interest in trust property (other than a marketable security or right in respect of shares)—

“full value” means the value of that proportion of the full unencumbered value of the trust property that the property which is the estate or interest in the trust property bears to the aggregate of the estates or interests which comprise all of the estates or interests in the trust property.

(4) In calculating the full unencumbered value of trust property which comprises or includes an estate or interest in other trust property, the value of that estate or interest shall be the full unencumbered value of that estate or interest calculated in accordance with this section and the value of the other trust property shall be the full unencumbered value of the trust property that is the other trust property calculated in accordance with this section.

(5) Where property represents an interest in a partnership held by or acquired by a person (in this section “**partnership interest**”)—

“**full unencumbered value**” means—

- (a) the amount which bears to the full unencumbered value of all of the property of the partnership to which the partnership interest relates (in this section “**partnership property**”) without regard to the debts and liabilities of the partnership, the same proportion as the profit-sharing proportion attaching to the partnership interest expressed as a fraction bears to 1; or
- (b) the consideration (if any) given for the acquisition or in respect of the transaction relating to the partnership interest; or
- (c) the total capital amount represented by the partnership interest;

whichever is the greatest.

(6) In determining the profit-sharing proportion for the purposes of subsection (5), definition “full unencumbered value”, paragraph (a), adjustments as agreed between the parties in respect of interest on capital and compensation for partners engaged in personal exertion for the partnership may, at the discretion of the commissioner, be disregarded and where the profit-sharing proportion can not be presently determined from the partnership agreement the proportion shall be that provided for by the *Partnership Act 1891*.

(7) For the purposes of subsection (5), definition “full unencumbered value”, paragraph (b), the commissioner may in the commissioner’s discretion, in calculating the value of the consideration, disregard the partnership debts and liabilities.

(8) For the purposes of subsection (5), definition “full unencumbered value”, paragraph (c), the total capital amount represented by the partnership interest shall include all proprietorship of property and assets, by whatever name called, attaching to the partnership interest and in calculating the total capital amount, the commissioner shall take into

account, whether as additions to or subtractions from the total capital amount, as the case requires, capital, drawings, advances and loans.

(9) Where for the purposes of determining the full unencumbered value of any property (other than any stock, marketable security or right in respect of shares) it is necessary to determine the value of any trust property or an estate or interest in trust property or a partnership interest, the value of that trust property, estate or interest in trust property or partnership interest shall (except where its value is being determined for the purpose of determining the value of any stock, marketable security or right in respect of shares) be the full unencumbered value of that property, estate, interest or partnership interest calculated in accordance with this section.

(10) Where for the purpose of calculating duty it is necessary to calculate the full unencumbered value of property to the extent that it is located in Queensland, only trust property (or, as the case may be, partnership property) located in Queensland, shall be included in that calculation and where the trust property (or, as the case may be, partnership property) consists wholly or in part of a business—

- (a) that is conducted on or from any place in Queensland; or
- (b) the conduct of which consists wholly or partly of offering to supply land or any interest therein, money, credit or goods or any interest therein or to render any service, by way of offers directed to persons (generally as a class or individually) ordinarily resident in Queensland;

only the business to the extent that it is carried on in Queensland shall be included in that calculation and, should the case require it, a true apportionment shall be made of the value of all of the trust property (or, as the case may be, partnership property) which is located both in and outside Queensland.

2B Special directions where property comprises certain shares

(1) For the purposes of this Act, a reference to property in Queensland includes shares in a company of the kind to which section 56C applies, and where, for the purposes of calculating duty, it is necessary to determine the full unencumbered value of those shares that value shall be deemed to be the value that they would have under section 56C if they were disposed of.

(2) For the purposes of this Act—

- (a) a reference to property in Queensland; and

- (b) a reference in section 54AB to real property in Queensland or land in Queensland held under a lease from the Crown;

includes shares in a corporation to which the prescribed provisions, as defined in section 56F, apply, where the owner of those shares, if the owner and all persons related to the owner in the terms of section 56FA(3) were to newly acquire all of the shares in the corporation which he, she or they own, would have made a relevant acquisition, as defined in section 56FM, and where, for the purposes of calculating duty, it is necessary to determine the full unencumbered value of those shares, that value shall be deemed to be the value that is equal to—

- (c) the amount which bears to the full unencumbered value of land in Queensland to which the corporation is entitled, as provided in section 56FK(4), at the relevant time, the same proportion as the value of the property of the corporation to which the shares would entitle the holder, if the corporation were wound-up at that time, bears to the value of all of the distributable property of the corporation if the corporation were wound-up at that time; or
- (d) the value of those shares on which duty would otherwise be calculated if they were transferred;

whichever is the greater.

(3) Subsection (2) does not apply to shares in a corporation that were acquired before the commencement of the *Stamp Act Amendment Act 1988*, section 1.

2C Mining claims, leases etc.

(1) In this Act property, land and real property includes—

- (a) mining claims; and
- (b) mineral development licences; and
- (c) mining leases;

as defined in the *Mineral Resources Act 1989*.

(2) For the purposes of this Act, property, land or real property which comprises or includes a claim, licence or lease referred to in subsection (1), is to that extent to be taken to be situated where the land to which that claim, licence or lease relates is situated.

3 Administration

The Minister shall be charged with the administration of this Act and the chief control of all matters relating to the imposition of stamp duties.

4 Charge of duties

(1) Stamp duties shall be charged for the use of Her Majesty upon the several instruments specified for the time being in schedule 1.

(1A) Subject to the exemptions contained in this or any other Act—

- (a) such duties shall be the several duties for the time being specified in schedule 1; and
- (b) such duties shall be levied and collected by the officers specified in this Act.

(2) Save where the contrary is expressed in this Act, an instrument shall be chargeable with duty and shall be stamped in accordance with the law in force at the time—

- (a) in the case of an instrument which relates to property situated or to any matter or thing done or to be done in Queensland—
 - (i) where the instrument (or, if the instrument is a document that is not executed, the original thereof) is executed outside Queensland before the commencement of the *Stamp Act and Another Act Amendment Act 1982*—when the instrument (or, as the case may be, the document) was first brought (whether before or after that commencement) into Queensland;
 - (ii) where the instrument (or, if the instrument is a document that is not executed, the original thereof) is executed outside Queensland after the commencement of the *Stamp Act and Another Act Amendment Act 1982*—when the instrument (or, as the case may be, the original) was executed;
- (b) in the case of an instrument (or, if the instrument is a document that is not executed, the original thereof) executed in Queensland—when the instrument (or, as the case may be, the original) was executed.

(3) If, in any case, the commissioner is unable to ascertain the date when an instrument or the original of a document was executed the commissioner may determine that it was executed on a date which in the

Stamp Act 1894

circumstances known to the commissioner it could be expected that the instrument or the original had been executed whereupon, unless the contrary is proved, that date shall be deemed for the purposes of this section and section 26 to be the date of execution of that instrument or, as the case may be, the original of that document.

(4) Subject to subsections (7) and (8) and for the purposes of this Act, where an instrument or transaction relates to a trust or to property the subject of a trust or any estate or interest in a trust or any right, obligation or power in respect of a trust and that trust—

- (a) whatever law may be applicable to that trust;
- (b) wherever the trust deed may be located or executed;
- (c) wherever the trustee is registered or resides;
- (d) where the trustee is a corporation—wherever that trustee’s governing body may be situated;

relates or is to relate, directly or indirectly, to property in Queensland or provides, directly or indirectly, for any matter or thing done or to be done in Queensland, it shall be deemed that—

- (e) the law of Queensland is applicable to that trust; and
- (f) the trust deed is located in and was executed in Queensland; and
- (g) the trustee is a Queensland company or resides in Queensland; and
- (h) where the trustee is a corporation—the governing body of the trustee is situated in Queensland.

(5) Subject to subsection (8) and for the purposes of this Act, where—

- (a) an instrument relates to a right, obligation, matter or thing arising from or in respect of a second instrument or a transaction (in this subsection the “**second transaction**”) which gives rise to a liability to create a dutiable statement under this Act; or
- (b) a transaction (which would, if it related to property in Queensland or any matter or thing done or to be done in Queensland, give rise to a liability to create a dutiable statement under this Act) relates to a right, obligation, matter or thing arising from or in respect of a second transaction which gives rise to such liability or an instrument (in this subsection the “**second instrument**”);

and the second instrument, wherever executed, or second transaction, wherever it took place or is to take place or was entered into, relates or is to relate, directly or indirectly, to property in Queensland or any matter or thing to be done in Queensland, the right, obligation, matter or thing arising from or in respect of the second instrument or second transaction is deemed, as the case may require, to have been, to be or in the future to be located, performed, done, enforced, administered or undertaken in Queensland.

(6) For the purposes of this section, a trust, an instrument or a transaction is deemed to relate to property in Queensland where it relates to rights, obligations, matters or things arising from an instrument or a transaction which relates to property in Queensland and in determining whether the secondmentioned instrument or transaction relates to property in Queensland the secondmentioned instrument or transaction shall be deemed to relate to property in Queensland where it would, if it were the firstmentioned instrument or transaction, be deemed to relate to property in Queensland under this subsection.

(7) For the purposes of subsection (4), a reference to a trust that relates to property in Queensland is deemed to include a reference to a trust the trustee of which on behalf of the trust owns an interest (vested or contingent) in property in Queensland through the trustee's interest in another trust and in determining whether that trustee through the trustee's interest in that other trust has an interest in property in Queensland that other trust shall be deemed to relate to property in Queensland where it would, if it were the firstmentioned trust, be deemed to relate to property in Queensland under this subsection.

(8) Where the commissioner is of the opinion that the connection between a trust, an instrument or a transaction, directly or indirectly, and property in Queensland or any matter or thing done or to be done in Queensland is inconsiderable, subsections (4) and (5) shall not apply.

(9) Where the commissioner is satisfied—

- (a) that duty is chargeable under this Act on an instrument or in respect of a transaction by virtue of the operation of subsection (4) or (5) or section 2B; and
- (b) that ad valorem duty is payable and has or will be paid on the instrument or in respect of the transaction in any other State or a Territory;

the commissioner may in the commissioner's discretion, having regard to the matters specified in subsection (8), allow against the duty chargeable on

the instrument or in respect of the transaction under this Act an offset of the duty paid or payable in the other State or Territory.

4A Restriction on effect of unstamped instruments

(1) An instrument chargeable with stamp duty (whether under this Act or under any prior Act) shall not, except in criminal proceedings, be given in evidence, or be available for any purpose whatever, unless it is duly stamped.

(2) However—

- (a) when any such unstamped instrument is tendered as evidence in any court in any proceeding (except criminal proceedings)—the judge, or presiding magistrate, or justice of such court may admit the same in evidence on the party producing the same in evidence or the party's solicitor giving such security or written undertaking as may be prescribed to pay the whole or the deficiency of the stamp duty and any penalty that may be imposed;
- (b) when any copy of an instrument chargeable with stamp duty in Queensland is tendered as evidence in any court in any proceeding (except criminal proceedings)—the judge, or presiding magistrate, or justice of such court may admit the same in evidence on the party producing the same in evidence or the party's solicitor giving such security or written undertaking as may be prescribed to produce the original or duplicate thereof and to pay the whole of the deficiency of the stamp duty thereon and any penalty that may be imposed.

4B Duty a debt recoverable by commissioner

(1) When duty becomes payable it shall be a debt due to the Crown and payable to the commissioner in the manner and at the place prescribed.

(2) Any duty unpaid at the time by which it is required to be paid under this Act may be demanded by the commissioner to be paid to the commissioner at the commissioner's office in Brisbane and may, in any court of competent jurisdiction determined by the commissioner, be sued for and recovered by the commissioner, suing in the commissioner's official name or by an officer engaged in the administration of this Act and authorised to sue for and recover duty on behalf of the commissioner, suing in the official name of the commissioner.

(3) For the purposes of this section and section 78A(1)—
“**duty**” includes any duty assessed or penalty imposed and interest or other amount payable under this Act.

5 Appointment of commissioner, deputies, and other officers

The Governor in Council may from time to time appoint an officer to be called the Commissioner of Stamp Duties, and may appoint an Assistant Commissioner of Stamp Duties and such Deputy Commissioners of Stamp Duties as may be deemed necessary.

6 Branch offices may be opened

The Governor in Council may establish at any town or city in Queensland a branch of the office of the commissioner, and may appoint a fit and proper person, to be called a deputy commissioner, in any such town or city.

7 Duties and powers of assistant commissioner and deputy commissioners

Subject to the commissioner, the Assistant Commissioner of Stamp Duties and each Deputy Commissioner of Stamp Duties shall have and may exercise all of the powers and perform all of the duties of the commissioner under this Act.

7A Delegation

(1) The commissioner may delegate all or any of the commissioner’s powers and duties under this Act, except this power of delegation or the commissioner’s power to issue a certificate under section 78A(4A), to a specified officer or specified class of officer engaged in the administration of this Act and may make such number of delegations of the same power or duty concurrently as the commissioner considers appropriate.

(2) A power or duty delegated under this section may be exercised or performed by the delegate in accordance with the delegation and when exercised or performed shall be deemed, for the purposes of this Act, to have been exercised or performed by the commissioner.

(3) A delegation made under this section is revocable at the commissioner's will and does not derogate from the commissioner's power to act personally in a matter.

(4) A person purporting to exercise a power or to perform a duty pursuant to a delegation given under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with a delegation made under this section.

(5) A delegation under this section may be made or given subject to such conditions or such limitations as to the exercise or performance of any of the powers or duties delegated, or as to time or circumstances.

7B Commissioner's opinion

Where the exercise or performance by the commissioner of a power or duty under this Act or the operation of a provision of this Act is dependent upon the opinion, belief, or state of mind of the commissioner in relation to a matter, that power or duty may be exercised or performed by the Assistant Commissioner of Stamp Duties, or by a Deputy Commissioner of Stamp Duties or another officer acting as a delegate of the commissioner in relation to that matter, or that provision may operate, as the case may be, upon the opinion, belief, or state of mind of the assistant commissioner or such a deputy commissioner or officer so acting.

8 Commissioner to supervise branch offices

The commissioner shall supervise and direct the working and management of the branch offices to be established under this Act, and every deputy commissioner shall carry out the directions given to the deputy commissioner by the commissioner, and shall at all times supply to the commissioner such returns or other information as the commissioner may require.

10 Disclosure of information

(1) Except as provided in this section and the *Revenue Laws (Reciprocal Powers) Act 1988*, a person shall not disclose information or publish a record obtained by that or another person in connection with the administration of this Act, unless the disclosure or publication is made—

- (a) with the consent (express or implied) of the person to whose affairs the information or record relates; or

- (b) in connection with the administration of this Act; or
- (c) for the purpose of any legal proceedings (including any report thereon) arising out of this Act.

Maximum penalty—100 penalty units or imprisonment for 6 months.

(2) The commissioner may, if the commissioner is of the opinion that it is necessary to do so for the purpose of enforcing a law which is designed to protect the public revenue, disclose information or publish a record referred to in subsection (1) to such persons as necessary for the purpose of enforcing that law so as to enable those persons to exercise or perform a power or duty conferred or imposed on those persons by law.

(3) A person shall not disclose information or publish a record communicated to the person under subsection (2) unless the disclosure or publication—

- (a) is made with the consent of the commissioner; and
- (b) is to enable a person to exercise or perform, for a purpose referred to in subsection (2), a power or duty conferred or imposed on the person by law.

Maximum penalty—100 penalty units or imprisonment for 6 months.

(4) Neither the commissioner nor an officer engaged in the administration of this Act nor a person authorised by the commissioner to represent him or her shall be required to produce in court any return, declaration, valuation, statement, requisition, assessment, notice or any other document or disclose to a court the fact that he or she has received any information or the nature thereof or the name of the person who gave such information or any matter or thing coming under his or her notice in the performance of his or her duties under this Act, except when it is necessary to do so for the purposes of the administration of this Act.

(5) Subsection (1) does not apply to information or a record obtained for the purposes of this Act under a corresponding law within the meaning of the *Revenue Laws (Reciprocal Powers) Act 1988*.

(6) Subject to subsection (5), this section applies to information and records obtained (whether before or after the commencement of the *Stamp Act Amendment Act 1988*, section 1) by a person in connection with the administration of this Act.

13 All duties to be paid according to this Act

All stamp duties for the time being chargeable by law upon any instruments are to be paid and denoted according to this Act, and are to be denoted by impressed stamps only except where a provision of this Act or of any regulation expressly provides for denoting the same otherwise than by impressed stamps.

13A Duty accounted for by returns

(1) In this section—

“**approved person**” means a person or firm approved of or required by the commissioner in writing to account for stamp duty on instruments according to this section during such time as the approval of or requirement by the commissioner remains in force.

(1A) In this section—

“**firm**” means an unincorporated body of persons.

(1B) In this section (other than subsection (1C)) a reference to a person includes a reference to a firm.

(1C) If a firm is an approved person, each member of the firm at the relevant time—

- (a) must ensure that every obligation of the approved person under this Act is duly performed; and
- (b) is jointly and severally liable to pay any amount required to be paid by the approved person under this Act.

(1D) It is a defence to a prosecution for an offence against this Act constituted by a contravention of subsection (1C)(a) if the member concerned proves that—

- (a) the contravention happened without the member’s knowledge or connivance; and
- (b) the member took all reasonable steps necessary to ensure that the obligation concerned was duly performed.

(2) Notwithstanding any other provision of this Act to the contrary, this section applies to the accounting for stamp duty on instruments by return to the commissioner.

(3) The commissioner may by notice in writing—

- (a) approve of or refuse a request by a person to pay and account for stamp duty in respect of an instrument or class of instrument in accordance with this section; or
- (b) require a person to pay and account for stamp duty in accordance with this section on any instrument or class of instrument.

(4) For the purpose of determining whether it is necessary or desirable that a person be approved or required to account for stamp duty on instruments in accordance with this section, the commissioner may require that person to furnish copies or abstracts of any instrument or instrument of any class the commissioner may specify and information regarding that instrument executed by or in favour of that person or which the person regularly receives or acts on in the course of the person's business.

(5) The commissioner shall give notice in writing to each approved person of—

- (a) the date on which the relevant approval or requirement under subsection (3) comes into force; and
- (b) the instruments or class of instruments to which the relevant approval or requirement of the commissioner relates; and
- (c) the records to be maintained by the approved person of instruments to which the approval or the requirement of the commissioner relates and to be made available for inspection by the commissioner and the period for which those records are to be retained and made available for inspection; and
- (d) the endorsements to be made on instruments to which the approval or requirement of the commissioner relates.

(6) Each approved person shall—

- (a) lodge a return in respect of instruments to which the approval or requirement of the commissioner relates in respect of the periods, in the form, verified in the manner, containing the particulars and at the time as may be notified to that person in writing by the commissioner; and
- (b) pay to the commissioner, at the time of lodgment of the return, as stamp duty an amount equal to the total amount of stamp duty that would but for this section have been payable in respect of all instruments to which the return relates.

(7) Where stamp duty that would but for this section have been payable on an instrument depends on the commissioner's opinion, belief or state of mind in respect of a matter, the approved person may (in calculating the amount of duty which the approved person is required to pay on the return under subsection (6) in respect of any such instrument) have regard to the commissioner's instructions as to his or her opinion, belief or state of mind in that regard in respect of that instrument or class of instrument.

(8) Each approved person may, in addition to the requirements of subsection (6), be required to include in returns lodged by the approved person under this section such information, as may be prescribed by regulation, regarding the stamp duty or the instruments or relating to the instruments or matters in respect of the transactions contained in the instruments to which the return relates.

(9) Each approved person shall endorse on each instrument or instrument of a class to which the approval or requirement of the commissioner relates the words 'Queensland stamp duty paid' together with such other words, expressions or particulars (or any 1 or more of them) as may be notified to the approved person in writing by the commissioner.

(10) Notwithstanding any other section of this Act to the contrary, an instrument endorsed in accordance with subsection (9) shall be deemed to be duly stamped.

(11) Compliance by an approved person with the requirements of the commissioner under this section concerning instruments to which section 68(3) and (3A) would otherwise apply shall be sufficient compliance with that section.

(12) An approved person who fails to comply with this section or who submits a return which is false in any material particular commits an offence against this Act.

Maximum penalty—50 penalty units and where the offence relates to a return required to be lodged under subsection (6), an amount equal to twice the duty payable on the return required to be lodged under that subsection.

(13) Notwithstanding subsection (12)—

- (a) where a person fails to lodge a return as required by this section;
or
- (b) where the stamp duty on a return lodged under this section has not been paid or fully paid within the time required by this section;

the commissioner, or an officer authorised by the commissioner, may demand and receive by way of penalty such amount as the commissioner considers appropriate (being not less than \$10 nor more than the maximum penalty which would be recoverable pursuant to proceedings under subsection (12)).

(14) A person who—

- (a) endorses on an instrument any notation indicating or implying that the instrument is duly stamped under this section; and
- (b) is not an approved person or an agent or employee of an approved person acting in pursuance of subsection (9);

commits an offence against this Act.

Maximum penalty—100 penalty units and an amount equal to twice the duty payable on that instrument.

(15) The commissioner may, by notice in writing, cancel the commissioner's approval or requirement applying to an approved person under this section on application by the approved person or for any reason the commissioner considers sufficient and shall specify in such notice the date on and from which the approval or requirement ceases to be in force.

(16) A payment by an approved person of duty in respect of an instrument under this section shall (where the approved person is not a party to the instrument) be deemed to be a payment on behalf of the parties to that instrument and may be deducted by the approved person from any money payable to those parties by the approved person or recovered from the parties in any court of competent jurisdiction as a debt due and owing to the approved person.

(17) The commissioner may approve a Commonwealth or State government department as an approved person, but may not require such a department to become an approved person.

(18) For the purposes of sections 55A and 80, an instrument in relation to which duty has been paid under this section is taken to be—

- (a) assessed with that amount of duty; and
- (b) an instrument on which that amount of duty has been paid.

14 How instruments are to be written and stamped

(1) Every instrument written upon stamped material is to be written in such manner, and every instrument partly or wholly written before being

stamped is to be so stamped, that the stamp may appear on the face of the instrument, and can not be used for or applied to any other instrument written upon the same piece of material.

(2) If more than 1 instrument is written upon the same piece of material, every 1 of the instruments is to be separately and distinctly stamped with the duty with which it is chargeable.

15 Instruments to be separately charged with duty in certain cases

Except where express provision to the contrary is made by this or any other Act—

- (a) an instrument containing or relating to several distinct matters is to be separately and distinctly charged as if it were a separate instrument, with duty in respect of each of the matters;
- (b) an instrument made for any consideration in respect whereof it is chargeable with ad valorem duty, and also for any further or other valuable consideration or considerations, is to be separately and distinctly charged as if it were a separate instrument, with duty in respect of each of the considerations.

16 Facts and circumstances affecting duty to be disclosed

(1) A person who—

- (a) being a party to an instrument or acting on behalf of a party to an instrument, if the instrument does not specify all the facts and circumstances affecting the liability of the instrument to duty or the amount of the duty with which it is chargeable, lodges the instrument pursuant to section 26 for assessment and does not, at the time of lodgment of the instrument lodge a statutory declaration declaring those facts and circumstances; or
- (b) being a party to an instrument—
 - (i) does not lodge the instrument pursuant to section 26; and
 - (ii) does not, where the instrument comes into the possession of the commissioner, a deputy commissioner or an investigating officer, produce within 21 days of a request by the commissioner a statutory declaration disclosing all the facts and circumstances affecting the liability of the

instrument to duty or affecting the amount of the duty with which it is chargeable; or

- (c) in respect of the facts and circumstances affecting the liability of an instrument to duty or the amount of the duty with which it is chargeable—makes, signs or is concerned in the preparation of a statutory declaration or instrument which is false or misleading in a material particular;

commits an offence against this Act.

Maximum penalty—100 penalty units and an amount equal to twice the difference between—

- (a) the amount of duty that would have been payable on the instrument if all the facts and circumstances affecting the liability of the instrument to duty or the amount of the duty with which it is chargeable had been set forth therein; and
- (b) the amount of duty which was required to be paid in reliance on the facts and circumstances set out in the instrument and supporting declaration (if any) which was or were relied on or which would have been required to have been paid if it or they had been relied on.

(2) A statutory declaration furnished in satisfaction of subsection (1), may, at the discretion of the commissioner, be read with the instrument and taken into account in determining the liability of the instrument to duty as if the facts and circumstances disclosed in the statutory declaration were set forth in the instrument.

(3) Where a body corporate commits an offence under subsection (1), each of the chairperson of directors, managing director or other governing officer, by whatever name called, and every member of the governing body, by whatever name called, shall be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly.

(4) Subsection (3) applies so as not to limit or affect in any way the liability of a body corporate to be proceeded against and punished for such an offence committed by it.

(5) It is a defence to a charge of an offence against this section brought against a person specified in subsection (3) to prove that the offence was committed without that person's knowledge or connivance and that the person could not by due diligence have prevented the commission of the offence.

(6) Payment by a person of a penalty incurred under this section shall not relieve that person from the payment of duty or any other penalties incurred under this Act.

(7) In any legal proceedings for an offence under this section an averment concerning an instrument made by or on behalf of the commissioner—

- (a) that a person lodged the instrument or made a statutory declaration in respect of the instrument; and
- (b) that the instrument or supporting statutory declaration does not contain the full facts and circumstances affecting the liability of the instrument to duty or the amount of duty to which it is chargeable;

shall be prima facie evidence of the matters averred.

(8) It shall be a defence to a charge of an offence against subsection (1) for a person to prove that the fact or circumstance giving rise to the complaint was not within the person's knowledge after all inquiries which ought reasonably to have been made by the person for the purpose of ensuring compliance with the section were made or would not have come within the person's knowledge if all those inquiries had been made.

(9) This section shall not affect any of the provisions of the Criminal Code.

(10) However, a person shall not be liable to be proceeded against and punished both under this section and under the Criminal Code.

17 Mode of calculating ad valorem duty in certain cases

(1) Where an instrument is chargeable with ad valorem duty in respect of—

- (a) any money in any currency other than that of the Commonwealth; or
- (b) any stock, marketable security or right in respect of shares;

the duty shall be calculated on the value on the day of the date of the instrument of the money in currency of the Commonwealth, according to the rate of exchange obtainable on that day from a bank in Queensland as chosen by the commissioner or, if such rate is not so obtainable from any bank in Queensland on that day then according to the rate of exchange obtainable on the last preceding day on which such rate was so obtainable

in Queensland, or of the stock, security or right according to the average price thereof.

(2) Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with that statement, it is, so far as regards the subject matter of the statement, to be deemed duly stamped, unless or until it is shown that the statement is untrue, and that the instrument is in fact insufficiently stamped.

18 General direction as to the cancellation of adhesive stamps

(1) An instrument the duty upon which is required or permitted by law to be denoted by an adhesive stamp is not to be deemed duly stamped with an adhesive stamp unless the person required by law to cancel the adhesive stamp cancels the same by writing on or across the stamp the person's name or initials, or the name or initials of the person's firm, together with the true date of his or her so writing, or unless it is otherwise proved that the stamp appearing on the instrument was affixed thereto at the proper time.

(1A) Notwithstanding any other section of this Act to the contrary, the person who affixes adhesive stamps pursuant to subsection (1) shall, in the manner provided in that subsection, cancel those stamps.

(2) Where 2 or more adhesive stamps are used to denote the stamp duty upon an instrument, each or every stamp is to be cancelled in the manner aforesaid.

(3) Every person who, being required by law to cancel an adhesive stamp, neglects or refuses duly and effectually to do so in the manner aforesaid, shall incur a penalty not exceeding \$20.

20 Appropriated stamps

(1) A stamp which by any word or words on the face of it is appropriated to any particular description of instrument is not to be used, or if used is not to be available, for an instrument of any other description.

(2) An instrument falling under the particular description to which any stamp is so appropriated as aforesaid is not to be deemed duly stamped unless it is stamped with the stamp so appropriated.

21 Denoting stamps

Where the duty with which an instrument is chargeable depends in any manner upon the duty paid upon another instrument, the payment of the lastmentioned duty shall, upon application to the commissioner and production of both the instruments, be denoted upon the firstmentioned instrument in such manner as the commissioner thinks fit.

22 Assessment of duty by commissioner

(1) Where an instrument—

- (a) has come into the possession of the commissioner, a deputy commissioner or an investigating officer; or
- (b) has been lodged pursuant to section 26(3); or
- (c) has been lodged for the commissioner to determine whether or not, in the commissioner's opinion, it is chargeable with duty;

the commissioner may require an abstract of the instrument and such evidence as the commissioner considers necessary to show to the commissioner's satisfaction whether all the facts and circumstances affecting the liability of the instrument to duty, or the amount of duty chargeable thereon, are fully and truly set forth therein.

(2) Where the commissioner is of the opinion that an instrument—

- (a) is not chargeable with any duty—it is to be stamped with a particular stamp denoting that it is not chargeable with duty;
- (b) is chargeable with duty—the commissioner is to assess the duty with which, in the commissioner's opinion, it is chargeable.

(2A) Where the instrument is an instrument which has been lodged and subsequently stamped in the manner described in subsection (2)(a), it is not to be released to the person who lodged the instrument until the prescribed fee is paid.

(3) The commissioner may waive the prescribed fee payable under subsection (2) where the commissioner considers it appropriate in view of the nature of the instrument and the circumstances of its lodgment.

(4) Where in respect of a duplicate or a copy of an instrument the commissioner is satisfied that the instrument represented by that duplicate or copy has been duly stamped, the commissioner may, on request, denote that duplicate or copy in respect of that stamping and subsection (2A) is not to apply.

Stamp Act 1894

(5) Every instrument stamped with the particular stamp, denoting either that it is not chargeable with any duty or is duly stamped, shall be admissible in evidence and available for all purposes, notwithstanding any objection relating to duty.

(6) However—

- (a) an instrument upon which the duty has been assessed by the commissioner shall not, if it is unstamped or insufficiently stamped, be stamped otherwise than in accordance with the assessment;
- (b) nothing in this section shall extend to any instrument chargeable with ad valorem duty and made as a security for money or stock without limit, or shall authorise the stamping after the execution thereof of any instrument which by law can not be stamped after execution.

(7) A stamp duty assessment may be notified—

- (a) by post; or
- (b) by delivery; or
- (c) by facsimile transmission; or
- (d) by endorsement of the assessment on, or attachment of the assessment to, the approved form.

(8) Subsection (7)(c) applies if—

- (a) a person requests notification in that way; and
- (b) the person nominates a facsimile number for the notification of stamp duty assessments either generally or in relation to a particular assessment.

(9) If a stamp duty assessment is notified by facsimile transmission, the commissioner must record the day on which, and the number to which, notification of the assessment is transmitted.

(10) A stamp duty assessment notified by facsimile transmission is taken to be notified on the day recorded by the commissioner, unless the contrary is proved.

(11) Subsection (7)(d) applies only to an instrument that is lodged for the purpose of stamp duty assessment.

(12) Notification of a stamp duty assessment under subsection (7)(d)—

- (a) is given on the day the person lodging the instrument has notice of the assessment; or
- (b) is taken to have been given on the day 7 days after the assessment was endorsed on or attached to the approved form;

whichever is earlier.

(13) Subsection (12)(b) does not apply if—

- (a) the approved form is not available for inspection at the office at which it was presented at any time during office hours for 30 days after the day mentioned in subsection (12)(b); or
- (b) the person who lodged the instrument requested notification of the stamp duty assessment in a way mentioned in subsection (7)(a), (b) or (c).

(14) In this section—

“notified” means—

- (a) in the case of an instrument that is lodged for the purpose of stamp duty assessment—notified to the person who lodged the instrument or a party to the instrument; or
- (b) in the case of an instrument that comes into the possession of the commissioner other than by way of lodgment for the purpose of stamp duty assessment—notified to a party to the instrument.

22AA Rounding down amounts of duty etc.

If an amount payable under this Act is not a multiple of 5c, the commissioner may reduce the amount to the nearest amount that is a multiple of 5c.

22A Default assessments of duty

(1) Where a person fails to deliver or lodge, as and when the person is required to do so by or under this Act, a statement, return or other document on which duty is chargeable under this Act, the commissioner may assess the duty which in the commissioner’s opinion ought to be charged on the statement, return or other document that has not been delivered to or lodged with the commissioner, as if it had been delivered to or lodged with the commissioner.

Stamp Act 1894

(2) Where the commissioner is not satisfied with a statement, return or other document delivered to or lodged with the commissioner and on which duty is chargeable under this Act, the commissioner may—

- (a) alter the statement, return or other document so that, in the commissioner's opinion, it satisfies the requirements of this Act; and
- (b) assess the duty which in the commissioner's opinion is chargeable under this Act on the statement, return or other document (altered by the commissioner pursuant to paragraph (a)) with which the commissioner was not satisfied.

(3) Where a person has failed to lodge with the commissioner an instrument which is a "registrable charge" under the Corporations Act, part 2K.1, as and when required to do so by or under this Act, the commissioner may (where information in respect of that charge is communicated in writing to the commissioner or an officer engaged in the administration of this Act by an officer or authority administering a law corresponding with this Act or in pursuance of a corresponding law for the purposes of the *Revenue Laws (Reciprocal Powers) Act 1988*) assess the duty which in the commissioner's opinion, on the basis of such information, is chargeable on the instrument that has not been lodged with the commissioner.

(4) An assessment made under subsection (1), (2) or (3) shall be deemed to be an assessment in respect of an instrument and shall be subject to objection or appeal, as provided by this Act, by a person dissatisfied with that assessment.

(5) Upon the making of an assessment under this section the commissioner shall cause notice in writing of the assessment and assessed amount to be given to—

- (a) in the case referred to in subsection (1)—the person required by or under this Act to deliver to or lodge with the commissioner the statement, return or other document to which the assessment relates;
- (b) in the case referred to in subsection (2)—the person who has delivered to or lodged with the commissioner the statement, return or other document to which the assessment relates;
- (c) in the case referred to in subsection (3)—the company over the assets of which the charge to which the assessment relates is

taken and the chargee of the charge to which the assessment relates.

(6) The assessed amount for an assessment is taken to be stamp duty charged on an instrument and payable by each person to whom notice is required by subsection (5) to be given; and section 26(9), (10) and (11) shall apply as if the assessment were an assessment duly made after lodgment of an instrument as required by section 26(3) to (17).

(6A) If an assessment is made under subsection (1), (2) or (3), the commissioner or deputy commissioner may impose a penalty of—

- (a) if the assessment is made within 1 month (the “**first month**”) after the end of the period in which the statement, return or other document was required to be delivered or lodged—3% of the assessed amount; or
- (b) if the assessment is not made within the first month—an amount equal to the sum of—
 - (i) 3% of the assessed amount; and
 - (ii) 2% of the assessed amount for each additional month, or part of an additional month, after the first month, until the assessment is made.

(6B) However, if the penalty calculated under subsection (6A) would be less than \$10, the penalty is \$10.

(6C) After considering the circumstances, the commissioner may waive or reduce the penalty.

(6D) If a penalty is imposed under subsection (6A) in relation to an assessment, the commissioner must give written notice to the person, or each person, to whom notice of the assessment was required to be given under subsection (5) of—

- (a) the imposition of the penalty; and
- (b) the amount of the penalty.

(6E) A penalty may be imposed under subsection (6A) in relation to an assessment only if a proceeding has not been taken for an offence constituted by an act or omission for which the assessment was made.

(7) Where an assessment has been made under this section, an offence against this Act in respect of a failure to deliver to or lodge with the commissioner the statement, return or other document to which the

assessment relates shall be deemed to have ceased on the date on which the commissioner makes an assessment.

(8) Nothing in this section shall prevent the commissioner from proceeding for an offence against this Act in respect of—

- (a) a particular contained in or omitted from a statement, return or other document to which the assessment under this section relates and with which the commissioner is not satisfied; or
- (b) the failure of a person to deliver or lodge an instrument, statement, return or other document.

(9) In this section—

“assessed amount” means the duty the commissioner assesses under this section as the duty that ought to be charged, or is chargeable, on a statement, return or other document, but does not include any amount payable under this section by way of a penalty.

23 Commissioner may require information

(1) The commissioner may, for the purpose of—

- (a) ascertaining whether there is any liability on a person to pay an amount or stamp duty under this Act, and if so, the amount of the liability; or
- (b) ascertaining whether a person is required to comply with this Act or whether the Act has been contravened or not complied with by a person in any respect; or
- (c) inquiring into any matter connected with the administration of this Act;

by notice in writing, require a person—

- (d) to give information of a kind and in a form or manner specified in the notice or to produce records (or copies thereof) of a kind specified in the notice (being information or records believed to be within the knowledge, in the custody or under the control of the person) at a place and within a time specified in the notice, to the commissioner or an officer authorised by the commissioner and specified in the notice; or
- (e) to attend before the commissioner or an officer authorised by the commissioner and specified in the notice at a time and place specified in the notice and there to give information and to

produce records of a kind specified in the notice (being information or records believed to be within the knowledge, in the custody or under the control of the person) and to answer questions or to do all or any of those things.

(2) The commissioner or an officer authorised by the commissioner pursuant to subsection (1) may require information sought under this section to be given, verbally on oath or in writing by statutory declaration, as the case may be, and for that purpose the commissioner, that officer or any justice may administer an oath or take a declaration.

(3) The commissioner or an officer authorised by the commissioner pursuant to subsection (1) may cause to be made copies of or extracts from the whole or part of the information or records produced in accordance with subsection (1).

(4) A notice pursuant to subsection (1) which requires a person to give information to, to attend before or to produce records to an officer authorised by the commissioner pursuant to subsection (1) may specify that officer by name or by the office that the officer holds.

(5) Notwithstanding that a notice issued pursuant to subsection (1) requires a person to give information to, to attend before or to produce records to an officer whose name or office is specified in the notice, the commissioner may at any time (without notice to the person to whom the notice was given) authorise another officer for that purpose to exercise any power or perform any duty that the other officer would be able to exercise or perform if the other officer were authorised pursuant to subsection (1).

(6) The regulations may prescribe scales of expenses to be allowed to persons whose attendance is required under this section.

23A Offence not to comply with s 23

(1) A person who fails to comply with a requirement made of the person under section 23(1) commits an offence against this Act.

Maximum penalty—40 penalty units.

(2) A person shall not be convicted of an offence defined in subsection (1), if the court hearing the charge is satisfied—

- (a) that the defendant could not, by the exercise of reasonable diligence, have complied with the requirement to which the charge relates; or

- (b) that the defendant complied with that requirement to the extent of the defendant's ability to do so.

(3) A person is not excused from complying with a requirement under section 23 to give information or answer a question on the ground that the information or answer might tend to incriminate the person or make the person liable to a penalty.

(4) Information given or an answer made by a person in complying with a requirement under section 23, which might tend to incriminate the person or make the person liable to a penalty, is not admissible against the person in any proceedings brought against the person in a court in Queensland with a view to the person's punishment for an alleged offence except—

- (a) proceedings in respect of an offence under this Act; or
(b) proceedings in respect of an offence in connection with verification of the information or answer by oath or affirmation.

(5) Where a person commits an offence defined in subsection (1)—

- (a) the offence shall be a continuing offence and be deemed to continue for as long as the requirement in respect of which the offence was committed is not complied with; and
(b) the court may, upon convicting the person of the offence, in addition to any penalty that it may impose under subsection (1), order the person to pay a penalty of 2 penalty units for each day on which the offence is, pursuant to paragraph (a), deemed to have continued to the date of the person's conviction of the offence.

(6) Subsection (5) applies notwithstanding that the failure or conduct alleged against a defendant related to a particular time or a particular period.

(7) Where a person has been convicted of an offence against subsection (1), the court may, in addition to imposing a penalty that it may impose under subsection (1) and, where applicable, subsection (5), order the person to comply with the requirement in respect of which the offence was committed.

(8) Where a court makes an order under subsection (7), it shall specify therein a place where and a time or period by or within which the order is to be complied with.

(9) A person who fails to comply with an order made by a court pursuant to subsection (7) commits an offence against this Act.

Maximum penalty—100 penalty units or imprisonment for 12 months.

(10) A person who after conviction of an offence defined in subsection (1) or this subsection (in this subsection the “**previous conviction**”) continues to fail to comply with the requirement in respect of which the person incurred the previous conviction commits an offence against this Act.

Maximum penalty—2 penalty units for each day on which the person has continued to fail to comply with the requirement from the date of the last occurring previous conviction to the date of the person’s conviction for the offence under this subsection last committed by the person.

(11) When a person is convicted of an offence as defined in subsection (1) and the court makes an order under subsection (7), the person shall not be punished under subsection (10) for continuing to fail to comply with the requirement to which the order relates.

23B False or misleading statements

(1) A person shall not give an answer, whether orally or in writing, that is false or misleading in a material particular to a question put to the person under section 23.

Maximum penalty—100 penalty units or imprisonment for 12 months.

(2) A person shall not, in providing information in accordance with section 23, make a statement or representation that is false or misleading in a material particular.

Maximum penalty—100 penalty units or imprisonment for 12 months.

(3) It is a defence to a charge under subsection (1) or (2) to prove that the defendant believed on reasonable grounds that the answer, statement or representation was neither false nor misleading.

23C Penalty duty when s 23 not complied with

(1) Where a person, in respect of a notice directed to the person under section 23, commits an offence under section 23A or 23B and—

- (a) the instrument or statement to which the notice related is later assessed or reassessed; or

- (b) the total amount of the person's liability to duty on a statement, return or other document to which the notice related is later ascertained; or
- (c) the statement, return, other document or instrument to which the notice related is later default assessed under section 22A;

the commissioner shall, subject to subsection (2), when making such assessment, reassessment, default assessment or demand for duty (in addition to any other penalty which the commissioner may demand under the Act) demand and receive by way of penalty from the person who has committed the offence, an amount equal to—

- (d) in the case of an assessment of an instrument or statement—the amount of duty so assessed or reassessed;
- (e) in the case of a default assessment or demand for duty in respect of any instrument, statement, return or other document—the amount of duty ascertained to be liable on that instrument, statement, return or other document.

(2) The commissioner may in the commissioner's absolute discretion, when demanding an amount by way of penalty under subsection (1), remit in any particular case for reasons the commissioner thinks sufficient the additional duty or part thereof.

23D Objection against assessment

(1) A person who is dissatisfied with an assessment of the commissioner may, within 30 days of being notified of the assessment or within such further period as the commissioner allows, object in writing to the commissioner.

(2) The objection is to set out fully the grounds of the objection.

(3) The person must provide further particulars in relation to the grounds of the objection if required to do so by the commissioner by written notice given to the person.

(4) The commissioner may appoint a person to determine the objection either alone or with the commissioner.

(5) Subsection (4) does not limit the powers the commissioner has, apart from that subsection, to determine the matter.

(6) As soon as practicable after the objection is determined, the commissioner must notify the person, in writing, of the commissioner's decision on the objection and the reasons for the decision.

(7) The making of an objection does not relieve the person of liability to pay the duty assessed as required by this Act.

23E Notification to agent is notification to principal

For the purposes of this Act, notification of a stamp duty assessment to the agent of a person is taken to be notification to the person.

24 Persons dissatisfied may appeal

(1) A person who is dissatisfied with the determination of an objection may, within 30 days of being notified of the commissioner's decision on the objection, appeal against the assessment to the Supreme Court.

(1A) The appeal is not effective unless—

- (a) written notice of the appeal is served on the commissioner within 30 days of the person being notified of the commissioner's decision on the objection; and
- (b) the duty assessed and \$200 for costs are paid on or before the serving of notice of the appeal.

(1B) Notice of the appeal is to require the commissioner to state and sign a case setting out the questions upon which the commissioner's opinion was required and the assessment made by the commissioner.

(2) The commissioner shall thereupon state and sign a case and deliver the same to the person by whom it is required, and such person shall within 7 days thereafter cause the said case to be set down for hearing before the next sittings of the court, at which the same can be heard.

(3) Upon the hearing of the case the court shall determine the questions submitted, and, if the instrument in question is in the opinion of the court chargeable with any duty, shall assess the duty with which it is chargeable.

(4) If it is decided by the court that the assessment of the commissioner is erroneous, any excess of duty which may have been paid in conformity with the erroneous assessment, together with any fine or penalty which may have been paid in consequence thereof, shall be ordered by the court to be repaid to the appellant, and with such costs or without costs as the court may, as hereinafter provided, determine.

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(4A) Where the commissioner is required to refund any duty, fine or penalty under subsection (4) in respect of an appeal brought under this section on or after the commencement of the *Stamp Act Amendment Act 1989*, section 4, the commissioner shall pay interest at the prescribed rate on the amount to be refunded for the period from the date of payment of the duty, fine or penalty to which the refund relates until the date the refund is made.

(5) If the assessment of the commissioner is confirmed the court may make an order for the retention by the commissioner of the amount paid to the commissioner as security for costs and with such other costs or without costs, as the court may, as hereinafter provided, determine.

(6) However, the court shall have power to make such order for costs as it in its discretion thinks fit, or it may in its discretion make no such order as to costs.

(6A) In addition, the court in its discretion, in awarding costs, whether to the appellant or the commissioner, shall have regard to the evidence furnished to the commissioner before the assessment is made.

(6B) Moreover, the court in awarding costs shall have regard to the extent to which the assessment of the commissioner exceeds the amount of duty admitted by the appellant and the extent to which the assessment of the commissioner is sustained or otherwise.

(6C) Also, if the court in its discretion orders that no costs shall be paid in respect of such appeal, the court may make an order that the amount paid to the commissioner by the appellant as security for costs shall be returned by the commissioner to the appellant.

(6D) Further, if the court awards costs against an appellant in any appeal the amount paid by the appellant as security for costs shall be taken into account by the court.

(7) If at any time after the payment of a sum as security for costs to the commissioner—

- (a) the appeal is withdrawn or is not proceeded with after the commissioner has entered upon the preparation of the case stated to which the payment is relevant; or
- (b) the case stated by the commissioner to which the payment is relevant is not set down for hearing as prescribed by subsection (2); or

- (c) the appeal to which the case stated by the commissioner is relevant is withdrawn or is not proceeded with;

then, subject to the commissioner's agreement to the contrary and, in the case referred to in paragraph (c), to any order of the court duly made to the contrary, such sum shall first be applied towards payment of costs incurred by the commissioner in connection with the case stated or, as the case may be, the appeal and subject thereto shall be refunded to or on account of the person who paid the same to the commissioner.

25 Evidence of parties to instruments

(1) In every case where 1 or more instruments evidence a concluded agreement or comprise a memorandum of a concluded agreement, the same shall be deemed to have been signed or executed by or on behalf of each and every party to such agreement who is legally bound thereby.

(2) For the purposes of this Act and unless the contrary intention appears, where an instrument is not the original instrument it is to be deemed—

- (a) to have been signed or executed by or on behalf of every party to the original instrument who is legally bound thereby;
- (b) to be signed or executed on the same date and in the same manner as the original instrument.

26 Liability in respect of stamp duties payable upon instruments

(1) Subject to subsection (2), stamp duty charged upon any instrument under this Act shall be payable by—

- (a) any and every person who signs or executes the instrument in question; or
- (b) any and every person by or on behalf of whom the instrument in question is to be deemed, pursuant to section 25, to have been signed or executed;

and accordingly if in respect of any instrument the amount of such duty is not paid in full as prescribed any and every such person is guilty of an offence against this Act and is liable, if no other specific penalty is prescribed, to a penalty of not more than 10 penalty units.

(2) Where a provision of this Act, other than subsection (1), prescribes that the stamp duty charged upon any instrument under this Act is not

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payable by a specified party to that instrument then, in respect of that instrument, subsection (1) does not apply to the person who is that specified party.

(3) Subsections (4) to (17) do not apply to the following instruments, namely—

- (a) instruments the stamp duty charged whereon under this Act may, pursuant to a provision of this Act or of any regulation, be accounted for or paid to the commissioner otherwise than by stamping the instrument for denoting the payment of the duty;
- (b) bills of exchange which, pursuant to the regulations made under section 83(2), may be stamped with impressed stamps for denoting the stamp duty charged thereon under this Act;
- (c) other instruments the stamp duty charged whereon under this Act may, pursuant to a provision of this Act or of any regulation be denoted by adhesive stamps and which are duly stamped with adhesive stamps denoting the duty so charged;

but, except for the instruments specified in paragraphs (a), (b) and (c), subsections (4) to (17) apply to all instruments whereon stamp duty is charged under this Act.

(4) For the purpose of the assessment of the amount of duty charged thereon every instrument charged with stamp duty under this Act, accompanied by the approved form for the instrument, shall be lodged in the Stamp Duties Office at Brisbane, Rockhampton, Townsville or Cairns within 1 month after the execution thereof or, in the case of any particular such instrument, such extended time longer than 1 month as the commissioner or a deputy commissioner, where he or she considers there are special circumstances warranting an extension, may allow.

(5) An instrument is not required to be lodged under subsection (4) where—

- (a) in the case where that instrument is the original instrument—a duplicate or a copy or a representation thereof; or
- (b) the original of that instrument; or
- (c) in respect of the original of that instrument—a duplicate or a copy or a representation thereof; or
- (d) in respect of a duplicate of that instrument—a copy or a representation thereof; or

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- (e) in respect of a copy of the original or a duplicate thereof or of that instrument—a representation thereof;

has been lodged.

(6) If an instrument accompanied by the approved form is not lodged in compliance with the requirements of subsection (4) every person by whom the stamp duty charged under this Act upon the instrument is payable shall be guilty of a continuing offence against this Act and liable—

- (a) to a penalty not exceeding 100 penalty units; and
(b) to a further penalty of not more than twice the duty upon the instrument charged under this Act less any amount imposed on any other person under this paragraph (a) in respect of that instrument.

(7) Where an instrument is altered, that alteration is to be taken to have been executed on the date when it was so altered by every person who executed the instrument or where the instrument is not the original instrument, who is taken to have executed that original instrument.

(8) The commissioner or deputy commissioner may, where an instrument is not lodged before the expiration of the time within which it is required by subsection (4) to be lodged, instead of proceeding for an offence against subsection (6), demand and receive by way of penalty an amount equal to 3% of the amount of duty chargeable on the instrument in respect of the first month or any part thereof after 1 month after the execution thereof and an additional 2% of the amount of duty chargeable on the instrument in respect of each additional month or part thereof until the instrument comes into the commissioner's possession or \$10 whichever is the greater.

(9) Where a person fails to pay to the commissioner or a deputy commissioner stamp duty charged under this Act (upon any instrument or statement) by the expiration of 1 month after he or she has due notice of the stamp duty assessed under this Act upon the instrument or statement, the commissioner may demand and receive by way of penalty until the duty and any penalty imposed pursuant to this Act on the instrument or statement have been paid in full an amount equal to—

- (a) where it is paid within 1 month after the expiration of that time—3% of the amount of that duty;
(b) where it is not paid within 1 month after the expiration of that time—3% of the amount of that duty in respect of the first month

and an additional 2% of the duty in respect of each further month or part of a month during which the duty is not paid;

or \$10 whichever is the greater.

(10) The commissioner in a particular case, for reasons which in the commissioner's discretion the commissioner considers sufficient, may reduce or remit the penalty, or any part thereof, which the commissioner has demanded or would otherwise demand under subsection (8) or (9).

(11) All penalties referred to in subsections (6), (8) and (9) shall be calculated to the next highest dollar.

(12) Where a person who is not a party to an instrument stores the instrument or part of the instrument on another person's behalf or acts on the authority of or in reliance on or in pursuance of that instrument or part of the instrument, and that instrument has not been lodged in compliance with subsection (4), that person shall be required to notify the commissioner forthwith in the approved form.

(13) A person who fails to comply with subsection (12) commits a continuing offence and is liable to a penalty under subsection (6) as if the person were a person who is required to and has not lodged the instrument for stamping in compliance with subsection (4).

(14) For the purposes of subsection (12), a part of an instrument means writing which is executed and which comprises part of the instrument.

(15) It is a defence to a charge of an offence under subsection (13)—

- (a) that a person did not know and could not reasonably have been expected to have known that the relevant instrument was an instrument chargeable with duty under this Act; or
- (b) that the relevant instrument has been lodged in compliance with this section or bears an endorsement entitling the person to regard it as having been duly stamped.

(16) For the purposes of subsection (15), the expectation that a person or that person's agent would comply with this Act in respect of an instrument is not a reasonable ground for the purpose of being satisfied that the relevant original instrument would have been duly stamped.

(17) Where in respect of an instrument a person to whom subsection (12) applies stores a duplicate or copy of that instrument or acts on the authority of or in reliance on or in pursuance of a duplicate or copy of that instrument, that person is entitled to regard that instrument as not

having been duly stamped unless the duplicate or copy is marked by the commissioner pursuant to section 22(4).

27 Instrument not to be stamped until penalty paid

No unstamped instrument in respect of the execution or making of which any penalty has been imposed upon any person shall be stamped until the amount of the penalty and costs (if any awarded) has been paid by or on behalf of the person convicted.

28 Instrument not to be delivered up till duty and penalty paid

(1) When any instrument chargeable with stamp duty, and which is unstamped or insufficiently stamped, has come into the possession of the commissioner, any deputy commissioner, or investigating officer, he or she shall retain possession of such instrument until the amount of stamp duty due thereon, together with any penalty and costs imposed in respect of the making of such unstamped instrument, shall have been paid.

(2) The payment of any penalty on stamping is to be denoted on the instrument by a particular stamp.

(3) A person engaged in the administration of this Act is entitled to regard a duplicate or copy of an instrument as if the original thereof is unstamped unless that person is satisfied that the original instrument represented by that duplicate or copy has been duly stamped.

29 Powers of investigation

(1) The commissioner may, for the purposes of this Act, authorise in writing an officer engaged in the administration of this Act to be an investigating officer.

(2) An investigating officer may—

- (a) conduct inquiries for the purposes specified in subsection (3); and
- (b) exercise the powers specified in subsection (4) when conducting those inquiries.

(3) An investigating officer may conduct inquiries—

- (a) into any matter arising in connection with the administration of this Act;

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- (b) for the purposes of ascertaining the amount of duty chargeable in respect of an instrument or the amount (including any penalty) otherwise payable in accordance with this Act, or both;
- (c) for the purposes of ascertaining facts in order to determine whether there is, in respect of any transaction, any liability—
 - (i) to pay duty or another amount (including a penalty) under this Act, or both; or
 - (ii) to deliver to or lodge with the commissioner any statement, return or other document;
- (d) for the purposes of ascertaining whether a person is required to comply with this Act in any respect or has complied with this Act in every respect.

(4) The powers that may be exercised by an investigating officer, at all reasonable times, when conducting inquiries for a purpose specified in subsection (3) are—

- (a) to enter upon any land and into any place, building or premises in Queensland and to remain thereon or therein for as long as is necessary for those purposes; and
- (b) to have full and free access to all records in Queensland and to inspect those records; and
- (c) to require a person, whom the investigating officer reasonably believes to have custody or control of records, to produce all records of any description over which that person has custody and control; and
- (d) to require a person to furnish the investigating officer with such information, orally or in writing, that the investigating officer reasonably believes to be within the knowledge or possession of that person; and
- (e) if any record to which an investigating officer has access or any record or information produced or furnished to the investigating officer or required by the investigating officer under paragraph (c) or (d) to be produced or furnished to the investigating officer—
 - (i) is not in writing on paper; or
 - (ii) is not written in the English language; or
 - (iii) is not decipherable on sight;

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to require the person who has knowledge, custody or control of that information or that record, to produce a statement on paper in the English language and decipherable on sight setting out the information or the contents of that record; and

- (f) to make and take away copies of or take extracts from the whole or any part of a record produced or information furnished in accordance with paragraph (b), (c) or (d) or a statement produced in accordance with paragraph (e); and
- (g) to require a person to answer any question relating to—
 - (i) any records inspected or produced, or required to be produced, in accordance with paragraph (b) or (c); or
 - (ii) any information furnished or required to be furnished in accordance with paragraph (d); or
 - (iii) any statement produced or required to be produced in accordance with paragraph (e); and
- (h) to require any person having relevant connection with the investigation to provide the investigating officer and all persons acting in aid of the investigating officer with all reasonable facilities and assistance for the effective conduct of the investigation.

(4A) If an investigating officer is entering land, or a place, building or premises, to conduct inquiries, a valuer may, if asked by the officer, enter the land, place, building or premises with the officer to help the officer conduct the inquiries.

(5) An investigating officer is entitled to inspect and take copies of or extracts from any public record kept under an Act or law without payment of any fee that would be payable but for this section.

(6) Where an instrument produced to or coming into the hands of an investigating officer, appears to the investigating officer to be chargeable with stamp duty and to be unstamped or insufficiently stamped, that officer may take possession of the instrument and shall refer the instrument to the commissioner for assessment or reassessment, as the case may require.

(7) In this section—

“**valuer**” means a person appointed by the commissioner under section 51C(1) or 56FC(3)¹ to make a valuation of property.

29A Restriction on entry to investigate

(1) An investigating officer who has entered upon land or into any place, building or premises in the exercise of a power conferred by section 29(4) is not authorised to remain thereon or therein if, on request by the occupier thereof, that officer does not produce a certificate purporting to be issued by the commissioner stating that the officer is an officer authorised by the commissioner, pursuant to section 29(1), to exercise the powers specified in section 29(4) for the conduct of inquiries for the purposes specified in section 29(3).

(2) An investigating officer and any other person acting in aid of the investigating officer shall not enter into a dwelling house for the purposes of an investigation under this Act unless—

- (a) the occupier thereof has consented to the entry; or
- (b) the officer or other person has first obtained and produces upon the occupier’s request a warrant that authorises the entry.

(3) Upon the information of an investigating officer that the investigating officer reasonably suspects that there are in any dwelling house records or other things that make it desirable that entry be made into the dwelling house for the purposes of an investigation under this Act, a stipendiary magistrate may issue a warrant, in the approved form, directed to the informant and all persons acting in aid of the investigating officer authorising him, her and them to enter into the dwelling house at all reasonable times for the purpose of conducting his, her or their inquiries under this Act.

(4) A person to whom a warrant issued under subsection (3) is directed is authorised to enter from time to time the dwelling house specified in the warrant as often as the person thinks such entry to be necessary or desirable for the purposes of the investigation under this Act for which the warrant was issued.

¹ Section 51C (Valuation in certain circumstances) or 56FC (Valuation of property)

(5) In this section—

“**dwelling house**” includes any part of a building used exclusively as a dwelling but does not include the curtilage of any building.

29B Obstruction etc. of an investigating officer

A person who—

- (a) obstructs or hinders an investigating officer, or any person properly assisting such an officer, exercising a power specified in section 29; or
- (b) fails to comply with a requirement made under section 29; or
- (c) knowingly fails to comply with section 29(5);

commits an offence against this Act.

Maximum penalty—40 penalty units or imprisonment for 3 months.

29C False or misleading statements

(1) A person shall not give an answer, whether orally or in writing, to a question put to the person by an investigating officer, that is false or misleading in a material particular.

Maximum penalty—100 penalty units or imprisonment for 12 months.

(2) A person shall not, in furnishing information to an investigating officer, make any statement or representation that is false or misleading in a material particular.

Maximum penalty—100 penalty units or imprisonment for 12 months.

(3) It is a defence to a charge under subsection (1) or (2) to prove that, when the answer, statement or representation was given or made, the defendant believed on reasonable grounds that it was neither false nor misleading.

(4) Where a requisition made under section 29(4) is directed to a body corporate, which fails to comply with it, each of the chairperson of directors, managing director or other governing officer, by whatever name called, and every member of the governing body, by whatever name called, shall be deemed to have failed to comply with that requisition and to have committed an offence against this Act and shall be liable to be proceeded against and punished accordingly.

(5) It is a defence to a charge of an offence against this Act brought against a person specified in subsection (4) to prove that the offence was committed without that person's knowledge or connivance and that the person could not by due diligence have prevented the commission of the offence.

30 Penalty for registering instrument not duly stamped

(1) If any person whose office it is to register or enter in or upon any books or records any instrument chargeable with duty or any transaction evidenced by any such instrument produced to the person, enrolls, registers, or enters any such instrument, or transaction before the instrument has been duly stamped, the person shall incur a penalty not exceeding \$100.

(1AA) However, any instrument, upon which evidence appears that the instrument has been produced for stamp duty purposes to the proper State officer, shall be deemed to be duly stamped for the purposes of this section.

(1A) Subsection (1) does not apply to the chief executive (of the department in which the *Land Act 1994* is administered) where that chief executive records in the register maintained by the chief executive particulars in respect of the issue of a deed of grant in respect of unallocated State land granted in trust for a public purpose under the *Land Act 1994*.

(1B) A registrar or person of the kind referred to in section 49(1), definitions "conveyance" and "transfer", paragraph (d) may refer an instrument lodged with him or her to the commissioner for determination as to whether it is an instrument whereby property is vested as provided for in that definition, paragraph (b) or (d).

(2) The registrar of titles may accept a caveat for lodgment only if it is properly stamped or exempt from duty.

(3) A person to whom subsection (1) applies is entitled to regard an instrument (where it is not known to that person whether or not it is charged with duty or has been duly stamped) as if it were charged with duty and is not duly stamped unless evidence appears thereon that it has been produced to a proper State officer or it purports to be endorsed pursuant to section 13A.

31A Transfers of marketable securities and share rights

(1) A transfer of any marketable security or right in respect of shares to which sections 31C, 31D, 31E and 31F do not apply shall be wholly void and inoperative, whether at law or in equity, unless the name of the purchaser is written therein in ink at the time of delivery by the seller to the purchaser or by the broker or agent of the seller before delivery out of his or her hands to the purchaser.

(1A) Moreover, any such transfer which does not contain the name of the purchaser at the time of delivery as aforesaid shall not be made available by the insertion of such name afterwards; and the person transferring such stock, marketable security or right in respect of shares shall not be divested of the person's interest therein, but shall remain liable thereon as if the person had not sold the same.

(2) A broker acting either on the broker's own behalf or on behalf of another purchaser of any marketable security or right in respect of shares shall not make on the instrument of transfer of such marketable security or right any endorsement with respect to the payment of duty before the name of the purchaser has been written in ink in such instrument.

(3) A person who contravenes the provisions of subsection (1), (1A) or (2) shall be guilty of an offence against this Act and liable to a penalty of not more than \$100.

(3A) Upon convicting a broker of an offence under subsection (3), the adjudicating court may, whether or not it imposes any penalty, order that sections 31C, 31D, 31E and 31F not apply in respect of that broker.

(3B) In subsection (3A)—

“**broker**” has the meaning assigned to it by section 31B(1).

(4) In this section—

“**transfer**” means and includes every transfer on sale, and every instrument of sale whatsoever.

(5) This section does not apply in the case of transactions in connection with Queensland government stock or Commonwealth stock.

(6) This section does not apply to an SCH-regulated transfer or a transfer made after 30 June 2001 of a quoted security.

31AB Transfer to company of shares bought back by company is dutiable

(1) This section applies if shares in a company are bought back, or agreed to be bought back, by the company under the Corporations Act, part 2J.1, division 2.

(2) The share buy back, or an agreement for buying back the shares, is chargeable with duty as if it were a transfer that gives effect to a sale to and purchase of the shares by another person.

31B Interpretation

(1) In sections 31A to 31Y and in schedule 1—

“**broker**” means a person who is a member of a prescribed stock exchange.

“**CHESS provisions**” means sections 31K to 31X.

“**CHESS transfer document**” means a transfer document for an SCH-regulated transfer.

“**corresponding Act**” means a law corresponding with this Act in a declared State.

“**corresponding broker**” means a broker (other than a Queensland broker) to whom provisions in a corresponding Act which correspond with sections 31C and 31D apply—

- (a) who has nominated a declared State to be that broker’s home State pursuant to the articles of the Australian Stock Exchange Limited; or
- (b) whose principal place of business is located in another State or a Territory prescribed for the purposes of this paragraph.

“**dealer**” means a Queensland broker or a corresponding broker.

“**declared State**” means a State or a Territory declared under a regulation for the purposes of this section to be a declared State.

“**error transaction**” means—

- (a) an SCH-regulated transfer made to reverse an SCH-regulated transfer that was made mistakenly not more than 7 days earlier; and
- (b) the SCH-regulated transfer that was reversed.

“foreign company” has the meaning given by the Corporations Act, section 9.

“identification code”, for an SCH participant, means a code that, under the SCH business rules, is the SCH participant’s identification code or 1 of the SCH participant’s identification codes.

“odd lot” means a parcel of marketable securities or rights in respect of shares which is, under the rules of the stock exchange on which the sale or purchase is effected, required to be bought or sold through an odd lot specialist.

“odd lot specialist” means a broker who is approved by the commissioner on the recommendation of the stock exchange of which the broker is a member as an odd lot specialist.

“prescribed stock exchange” means—

- (a) the Australian Stock Exchange Limited;
- (b) any other stock exchange prescribed under a regulation.

“proper SCH transfer” has the meaning given by the Corporations Act, section 9.

“Queensland broker” means a member of a prescribed stock exchange—

- (a) who has nominated Queensland as that member’s home State pursuant to the articles of the Australian Stock Exchange Limited;
- (b) in any other case (other than the case of a member who has nominated a declared State to be that member’s home State pursuant to those articles)—whose principal place of business is located in Queensland.

“Queensland registered company” means—

- (a) a Queensland company; or
- (b) a foreign company that has a registered office, under the Corporations Act, in Queensland.

“relevant SCH participant”, for an SCH-regulated transfer, means—

- (a) the SCH participant that, under the CHESSE provisions, is liable to pay duty chargeable on the transfer; or
- (b) if no duty is chargeable—the SCH participant that would be liable to pay duty on the transfer if duty were chargeable.

“**SCH**” means the securities clearing house registered by the commissioner under section 31T.

“**SCH business rules**” has the meaning given by the Corporations Act, section 9.

“**SCH participant**” has the meaning given by the Corporations Act, section 9.

“**SCH-regulated CHESST transfer**” means an SCH-regulated transfer to which the CHESST provisions apply.

“**SCH-regulated transfer**” has the meaning given by the Corporations Act, section 9.

“**transfer document**” has the meaning given by the Corporations Act, section 1097.

“**transfer identifier**”, for an SCH-regulated transfer, means the distinctive code assigned to the transfer as required by SCH.

“**transfer value**”, for an SCH-regulated transfer, means—

- (a) for a transfer on sale—the greater of—
 - (i) the total consideration for the sale; or
 - (ii) the full unencumbered value of the security at the date of the sale; or
- (b) in any other case—the full unencumbered value of the security at the date of the transfer.

Application of ss 31C to 31F

(2) The provisions of sections 31C, 31D, 31E and 31F and the charge for duty on the return referred to therein shall apply to and have effect only in the case of a sale or purchase of a marketable security or right in respect of shares for a consideration in money or money’s worth of not less than the unencumbered value of the marketable security or right in respect of shares and if such marketable security or right in respect of shares is listed on a prescribed stock exchange.

31BAA Application of ss 31C, 31E, 31G, 31GA and 31H

Sections 31C, 31E, 31G, 31GA and 31H do not apply to any sale, purchase or transfer made after 30 June 2001 of a quoted security.

31BA Options—marketable securities and share rights

(1) This section applies to a sale or purchase of a marketable security or right in respect of shares under the exercise of an option.

(2) For section 31B(2), the unencumbered value of the marketable security or right is taken to be the greater of—

- (a) the premium paid on the option; or
- (b) the consideration for the sale or purchase of the marketable security or right.

(3) Sections 31C to 31F apply to the sale or purchase of the marketable security or right as if an instruction to a broker to lodge a notice to exercise an option, or the receipt by a broker of the notice, were an order for purchase or sale.

(4) In this section—

“**option**” means an option over issued marketable securities or rights in respect of shares listed on the Australian Stock Exchange Limited, but does not include an option or a class of options excluded from the operation of sections 31C to 31F under a regulation.

31C Sales and purchases to be recorded

(1) Subject to subsections (3), (4), (4A) and (5), a broker shall forthwith on a sale or purchase of any marketable security or right in respect of shares being made, or being deemed to have been made, whether within or without Queensland—

- (a) pursuant to an order lodged with that broker in Queensland; and
- (b) where that broker is a Queensland broker—
 - (i) on that broker’s own account; or
 - (ii) pursuant to an order lodged with that broker outside Queensland and all declared States;

make a record of the sale or purchase showing—

- (c) the date of the sale or the purchase;
- (d) the name of the principal (if any) for whom the sale or the purchase was effected;
- (e) the name of the dealer (if any) with whom the sale or the purchase was effected;

- (f) the quantity and full description of the marketable security or right in respect of shares;
- (g) the selling or purchasing price of such marketable security or right in respect of shares per unit and in total;
- (h) the amount of stamp duty chargeable.

(2) For the purposes of subsection (1)—

- (a) a broker who makes a purchase to which subsection (1) applies, whether on the broker's own account or on behalf of another person, from any person who is not a dealer shall notwithstanding that no order to sell was in fact lodged with the broker be deemed to have also made a sale pursuant to an order to sell lodged with the broker in Queensland by the person from whom the broker made the purchase;
- (b) a broker who makes a sale to which subsection (1) applies, whether on the broker's own account or on behalf of another person, to any person who is not a dealer shall notwithstanding that no order to purchase was in fact lodged with the broker be deemed to have also made a purchase pursuant to an order to purchase lodged with the broker in Queensland by the person to whom the broker made the sale.

(3) Subsection (1) does not apply to require a broker to make a record—

- (a) in respect of a sale—where the sale referred to in that subsection is made pursuant to an order to sell lodged with the broker by or on behalf of another dealer; or
- (b) in respect of a purchase—where the purchase referred to in that subsection is made pursuant to an order to purchase lodged with the broker by or on behalf of another dealer.

(4) Subsection (1) does not apply to any sale or purchase of marketable securities or rights in respect of shares—

- (a) of any public statutory body constituted under the law of this or any other State or of any Territory;
- (c) by Her Majesty in right of the Commonwealth or the State.

(4A) Subsection (1) does not apply to any sale or purchase of any corporate debt security.

(5) Subsection (1) does not apply to any sale or purchase of an odd lot by an odd lot specialist.

(6) A broker keeping such a record may incorporate therein additional information for the broker's own use.

(7) Such record shall be kept in a permanent form for a period of at least 5 years from the date of the sale or the purchase.

(8) The commissioner may require a broker to keep such additional records of such sales or purchases as the commissioner considers necessary.

(9) A broker who fails to make or keep such a record or such additional records as required by the commissioner shall be guilty of an offence against this Act.

Maximum penalty—10 penalty units.

(10) A broker shall at reasonable times permit the commissioner or any inspector or other officer authorised by the commissioner to enter on premises to inspect papers, records, documents and proceedings for or relating to the sale or purchase of any such marketable security or right in respect of shares.

Maximum penalty—10 penalty units.

31D Returns to be lodged and duty paid

(1) A broker shall—

- (a) not later than Thursday of each week lodge with the commissioner a return in duplicate of the sales and purchases made during the last preceding calendar week to which section 31C(1)(a) or (b)(ii) applies in the approved form containing a certificate that the record required by section 31C(1) has been duly made and such other particulars as are prescribed under a regulation; and
- (aa) where the broker is a Queensland broker—not later than the 14th day of each month, lodge in the approved form a return in duplicate of the sales and purchases made by the broker on the broker's own account during the last preceding month and to which section 31C(1) applies containing—
 - (i) a certificate that the record required by section 31C(1) has been duly made; and
 - (ii) such other particulars as are prescribed under a regulation; and

- (b) upon the lodgment of a return required to be lodged by this section, pay to the commissioner as stamp duty in respect of the sales and purchases included in the return except any sale or purchase made by that broker, where that broker is a Queensland broker, on the broker's own account where, in the case of a sale the marketable securities concerned were purchased by the broker on or within 10 clear days (not including any day upon which the stock exchange of which the broker is a member is closed) of the day of the sale, and, in the case of purchase, where the marketable securities concerned were sold by the broker on or within 10 clear days (not including any day upon which the stock exchange of which the broker is a member is closed) of the purchase, 15c for each \$100, or part of \$100, of the sale price or the purchase price.

(1AA) However, where there has been no sale or purchase the return to be lodged shall be a 'nil' return.

(1A) Subsection (1)(a) does not apply to sales and purchases made by a Queensland broker on the broker's own account.

(2) A broker shall not by reason of any of the exemptions set out in schedule 1, under the heading 'Conveyance or transfer' be exempted in any respect from compliance with the requirements of subsection (1).

(3) A broker who fails to lodge such a return or who lodges a return which is false in any material particular shall be guilty of an offence against this Act and liable to a penalty of not more than 10 penalty units and in addition shall be liable to pay an amount equivalent to twice the duty which would have been payable had a return been lodged in accordance with the requirements of this Act.

(4) A broker who fails to pay the duty chargeable on a return lodged by the broker shall be guilty of an offence against this Act and liable to a penalty of not more than 10 penalty units and in addition shall be liable to pay an amount equivalent to twice the duty which was payable in accordance with the requirements of this Act.

31E Endorsement of transfer as to payment of duty

(1) On recording the details of a sale or purchase as set out in section 31C(1) or on the making of a sale or purchase to which section 31C(1) does not apply by virtue of the operation of section 31C(4),

(4A) or (5) and if the transfer on the sale or purchase is not an SCH-regulated transfer—

- (a) a Queensland broker or a corresponding broker may endorse the transfer with a statement that stamp duty (if any) will be paid by that broker and affix that broker's stamp and the date of the endorsement;
- (b) a broker (other than a Queensland broker or a corresponding broker) may endorse the transfer as specified in paragraph (a) where the commissioner approves that broker may do so on such terms and conditions as the commissioner considers appropriate.

(2) A broker who so endorses the transfer before the record provided for in section 31C(1) is made shall be guilty of an offence against this Act and liable to a penalty not exceeding 20 penalty units.

(3) The instrument of transfer on being endorsed in respect of the sale and the purchase in accordance with the provisions of this section or in accordance with any corresponding Act shall be deemed to be duly stamped.

(4) Where the commissioner is not satisfied that a broker will only endorse a transfer in the manner referred to in subsection (1) or in a corresponding provision of a corresponding Act or in such other circumstances as may be prescribed—

- (a) the commissioner is to notify that broker in writing not to endorse transfers in the manner referred to in subsection (1); and
- (b) that broker is not thereafter to endorse transfers in that manner.

31F Power to dealer to recover duty paid by dealer

Any broker who pays any amount to the commissioner under this Act may recover from the seller or the purchaser for whom the broker has or is deemed to have made the sale or purchase the duty in relation to the sale or purchase respectively and without enlarging the right of recovery so given the broker may—

- (a) retain the same out of any moneys in the broker's hands belonging to the seller or the purchaser of the marketable security or a right in respect of shares; or
- (b) recover such amount from the said seller or purchaser by action as for a debt in a court of competent jurisdiction.

31G Transfers of marketable securities not to be registered unless duly stamped

(1) A transfer of any marketable security or right in respect of shares shall not be registered recorded or entered in the books of the corporation company or society—

- (a) in the case of a transfer (other than an SCH-regulated transfer) to which sections 31C, 31D, 31E and 31F do not apply and which is liable to duty under this Act—
 - (i) unless a proper instrument of transfer has been delivered to the corporation company or society wherein, in the case of a transfer by way of sale, the consideration therefor is expressed in terms of money and the actual date of sale and the date or dates of execution by the transferor and transferee are set out; and
 - (ii) unless the instrument is duly stamped or is deemed to have been duly stamped under section 31J; and
- (b) in the case of a transfer (other than an SCH-regulated transfer) to perfect a sale or purchase to which sections 31C, 31D and 31E apply—
 - (i) unless a proper instrument of transfer has been delivered to the corporation company or society; and
 - (ii) unless the transfer is under section 31E(3) deemed to have been duly stamped.

(1A) Subsection (1) does not apply to a transfer if, under section 31H(3A), section 31H does not apply to the transfer.

Saving of title of transferee or subsequent holder after registration of unstamped transfer etc.

(2) The right or title of any transferee or subsequent holder of any marketable security or right in respect of shares shall not be invalidated by reason only that the transfer of such security or right was registered recorded or entered in contravention of the provisions of this section in the books of any corporation company or society.

31GA Retention of transfer instrument

(1) Subject to section 31G, a corporation or company that registers, records or enters a transfer (other than an SCH-regulated transfer) of any

stock, marketable security or right in respect of shares in its records in Queensland shall retain the instrument of transfer in Queensland for the prescribed period from the date on which it registers, records or enters the transfer.

(2) Where in respect of shares of a Queensland company, a transfer (other than an SCH-regulated transfer) of any stock, marketable security or right is registered, recorded or entered in a record lawfully kept at a place outside Queensland and the law of that place—

- (a) does not require the instrument of transfer to be retained in that place; or
- (b) requires the instrument of transfer to be retained in that place for a period of less than the prescribed period from the date on which the company registers, records or enters the transfer;

the company shall retain the transfer in that place for the prescribed period from the date on which it registers, records or enters the transfer.

(3) A corporation or company that fails to comply with a requirement made of it under subsection (1) or (2) commits an offence against this Act.

Maximum penalty—100 penalty units.

(4) Where a corporation or a company commits an offence under subsection (3), each of the chairperson of directors, managing director or other governing officer, by whatever name called, and every member of the governing body thereof, by whatever name called, shall be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly.

(5) It is a defence to a charge of an offence brought against a person specified in subsection (4) to prove that the offence was committed without that person's knowledge or connivance and that the person could not by due diligence have prevented the commission of the offence.

(6) Subsection (4) applies so as not to limit or affect in any way the liability of a corporation or company to be proceeded against and punished for an offence under subsection (3) committed by it.

(7) In this section—

“prescribed period” means—

- (a) 5 years; or

- (b) for a transfer made before 1 July 2001 of a quoted security for which a lesser period is prescribed under a regulation—the lesser period.

31H Duty on transactions on registers of Queensland companies

(1) A Queensland company shall, not later than the 14th day of each month, lodge a return in the approved form in respect of all entries made in the preceding month on a register kept by the company, whether inside or outside the State, for a transfer, including an SCH-regulated transfer, of a marketable security or right in respect of shares of the company if—

- (a) there is an instrument of transfer and the instrument is not duly stamped; or
- (b) the transfer is an SCH-regulated transfer and the duty payable under this Act on the transfer has not been paid.

(2) A return lodged by a company under subsection (1) is chargeable with duty equal to the duty, in aggregate, payable under schedule 1, under the heading ‘Conveyance or transfer’, paragraph (3) on the transfers mentioned in subsection (1).

(2A) The company must pay the amount of duty chargeable on the return under subsection (2) when it lodges the return.

(3) This section shall not apply in relation to an entry in respect of a transfer—

- (a) which is pursuant to a sale or purchase of a marketable security or right in respect of shares effected by a member of a stock exchange in this State or any State, Territory or country declared under subsection (6); or
- (b) which is for the purpose of carrying into effect any distribution under a will or on intestacy.

(3A) Also, subject to subsection (3B), this section, other than subsections (10) and (11), does not apply to an entry for a transfer of a share, or right in respect of a share, if—

- (a) the share or right is listed on an approved stock exchange; and
- (b) the transfer relates to a sale and purchase of the share or right effected on the approved stock exchange; and
- (c) the share or right is recorded on an overseas register of legal or beneficial title; and

(d) the transfer is to be recorded on the overseas register.

(3B) Subsection (3A) does not apply if the company knows the transfer mentioned in subsection (3A) is to a person who is an Australian resident.

(4) A company that is required to lodge a return under subsection (1) shall furnish the commissioner with such other evidence and information as the commissioner may in any case require to enable the commissioner to verify the correctness of the duty paid on the return.

(5) A payment by a company of duty under this section shall be deemed to be a payment on behalf of the transferees to whom the entries in the return relate and the amount of duty attributable to any entry may be deducted by the company from any money payable by the company to such transferee or recovered in any court of competent jurisdiction as a debt due and owing by the transferee.

(6) A regulation may declare a State or Territory or any country to be a State, Territory or country for this section.

(9) A company which—

- (a) neglects or fails to lodge a return as required by this section; or
- (b) lodges a return which is false in any material particular; or
- (c) lodges a return which is not accompanied by the duty chargeable under this section;

shall be guilty of a continuing offence and liable to a penalty not exceeding 100 penalty units, and in addition shall be liable to pay by way of additional penalty an amount equivalent to double the duty that would have been payable had a return been lodged and duty paid in accordance with the provisions of this section.

(10) A company shall at all reasonable times permit the commissioner or an investigating officer to enter on premises to inspect and take copies of papers, records and documents for or relating to the entries made in a branch register.

(11) A company or any director or employee of a company who fails or refuses to comply with any of the provisions of subsection (10) shall be guilty of a continuing offence and liable to a penalty not exceeding 10 penalty units.

(12) In this section—

“approved stock exchange” see schedule 1, heading ‘Conveyance or transfer’, exemption 20(2).

“Australian resident” means a person who is not a foreign resident under schedule 1, heading ‘Conveyance or transfer’, exemption 20(2).

31I Transitional provision—ss 31H and 31I

Sections 31H and 31I, as they were in force on 31 August 1994, continue to apply to transfers made before 1 September 1994.

31IA Transitional provision—contract or agreement for sale and transfer of marketable security or right in respect of shares

(1) A contract or agreement for the sale of a marketable security or right in respect of shares may be stamped under this Act as in force on 1 September 1994 if—

- (a) the contract or agreement was executed before 1 September 1994; and
- (b) a transfer in relation to the contract or agreement is executed on or after 1 September 1994.

(2) The contract or agreement is not chargeable with duty if ad valorem duty has been, or will be, paid on the contract or agreement in another State where the transfer in relation to it is chargeable with duty.

(3) A transfer in relation to a contract or agreement is not chargeable with duty if ad valorem duty has been paid on the contract or agreement under another State’s laws applying before 1 September 1994.

(4) A contract, agreement or transfer is taken to be duly stamped under this Act if it is stamped under this section or not chargeable with duty under this section.

31J Duty on certain transactions on the Stock Exchange of the United Kingdom

(1) In this section—

“broker” means a person who is a member of the London Stock Exchange.

“London Stock Exchange” means the International Stock Exchange of the United Kingdom and the Republic of Ireland Limited.

“market maker” means a broker who is acting as a market maker according to the rules and practices of the London Stock Exchange.

“prescribed corporation” means a corporation which is declared, pursuant to subsection (2), to be a prescribed corporation.

“relevant transaction” means a disposition of a marketable security or right in respect of shares of a corporation, company or society which is incorporated in or, in the case of a corporation incorporated outside Australia is registered in Queensland, made or effected by a prescribed corporation as trustee for a person to the prescribed corporation as trustee for another person.

(2) A regulation may declare a person who is a trustee and who is incorporated in Queensland or taken to be incorporated in Queensland or recognised in Queensland or carries on business in Queensland to be a prescribed corporation.

(3) Where a prescribed corporation—

- (a) is notified of a disposition to a person of a right or interest in a marketable security or right in respect of shares which the prescribed corporation holds as trustee on behalf of another person; or
- (b) is directed to hold a marketable security or right in respect of shares on behalf of a person other than the person on behalf of whom the prescribed corporation holds that security or right;

it shall be deemed to have made or effected a relevant transaction.

(4) A prescribed corporation shall on or before the 14th day of each month—

- (a) furnish to the commissioner a statement in the approved form showing particulars of relevant transactions made or effected or deemed to have been made or effected by it during the preceding month; and
- (b) pay to the commissioner as stamp duty on the statement a sum equal to the total amount of stamp duty that would have been payable if each such relevant transaction had been made or effected by an instrument of transfer of a marketable security in respect of which duty is payable at the rate specified in schedule 1, under the heading ‘Conveyance or transfer’, subparagraph (3)(a).

(5) A prescribed corporation which fails to comply with a provision of this section shall be guilty of an offence and for each and every offence shall be liable to a penalty not exceeding 10 penalty units and in addition a penalty of not more than double the amount of the duty that would have been payable if this section had been complied with.

(6) Subsection (4) shall not apply to or in respect of a relevant transaction where the disposition to which the relevant transaction relates—

- (a) would, if that disposition had been made or effected by an instrument of transfer of a marketable security—
 - (i) be exempt as—
 - (A) a conveyance or transfer of a corporate debt security; or
 - (D) a conveyance or transfer of stock, debentures or bonds of a public statutory body constituted under the law of Queensland or another State or a Territory; or
 - (ii) not attract duty because it would have been a conveyance or transfer for the sole purpose of—
 - (A) carrying into effect any distribution under a will or in intestacy; or
 - (B) correcting an error in a previous conveyance or transfer of the same stock or marketable security or right in respect of shares where no additional consideration in money or money's worth is paid or payable and such instrument has the effect of altering the beneficial interest or interests to such extent only as may be necessary to effect the correction of the error; or
- (b) is made by way of security or in consequence of such security no longer being required provided that duty at an ad valorem rate has been paid in Queensland or in another State or a Territory in respect of the loan or other security document pursuant to which the transfer by way of security is made; or
- (c) is, in accordance with the rules and practices of the London Stock Exchange, a stock loan transaction; or
- (d) is made or effected by a market maker to a broker who acquired the marketable security or right in respect of shares as principal where, within 10 clear days (not including any day on which the

London Stock Exchange is closed for business) after acquisition, the broker disposed of the broker's beneficial interest in that security or right; or

- (e) is made or effected by a broker as principal within 10 clear days (not including any day on which the London Stock Exchange is closed for business) after the broker acquired that marketable security or right in respect of shares as principal—
 - (i) to a market maker; or
 - (ii) to another broker as principal where, within 10 such clear days after the acquisition, the other broker disposed of his or her beneficial interest in that security or right; or
- (f) is made or effected by a person who is a Queensland broker or a corresponding broker within the meaning of section 31B; or
- (g) is made or effected by a market maker to another market maker; or
- (h) is made after 30 June 2001 for a quoted security.

(7) Where a relevant transaction is made—

- (a) by a prescribed corporation as trustee for a broker to itself as trustee for a market maker; or
- (b) by a prescribed corporation as trustee for a market maker to itself as trustee for a broker; or
- (c) by a prescribed corporation as trustee for a broker to itself as trustee for another broker who acquired the marketable security or right in respect of shares as principal where, within 10 clear days (not including any day on which the London Stock Exchange is closed for business) after acquisition, the other broker disposed of his or her beneficial interest in that marketable security or right; or
- (d) by a prescribed corporation as trustee for a broker as principal within 10 such clear days after acquisition to itself as trustee for another broker;

the amount payable under subsection (4)(b) in respect of that relevant transaction will be one-half of the amount that would otherwise be payable.

(8) A prescribed corporation shall keep such books and records as are necessary to give a true indication of the relevant transactions made or effected by it and shall retain those books and records for the prescribed

period after the completion of the transactions to which they relate and at any time make them available to the commissioner.

(9) Where a transfer of a marketable security or right in respect of shares to or by a prescribed corporation is exempt under schedule 1, under the heading ‘Conveyance or transfer’, exemption 14, it may be endorsed by the prescribed corporation on the transfer that no stamp duty is payable in Queensland on the transfer and upon that endorsement being made the transfer shall be deemed to be duly stamped.

(10) The prescribed corporation shall keep records of transfers endorsed pursuant to subsection (9) and in respect of a transfer so endorsed, the prescribed corporation shall at the request of the commissioner furnish to the commissioner information and documents for the purpose of satisfying the commissioner that the transfer so endorsed is exempt under schedule 1, under the heading ‘Conveyance or transfer’, exemption 14.

(11) If the commissioner is not satisfied that a transfer endorsed by a prescribed corporation pursuant to subsection (9) is exempt under schedule 1, under the heading ‘Conveyance or transfer’, exemption 14, the transfer shall be deemed to have been assessed at an insufficient amount and the transfer shall be assessed correctly pursuant to section 80 and the commissioner may in addition to duty so reassessed demand and receive by way of penalty an amount equal to the total amount of duty so reassessed.

(12) In this section—

“prescribed period” means—

- (a) 3 years; or
- (b) for a disposition made before 1 July 2001 of a quoted security for which a lesser period is prescribed under a regulation—the lesser period.

31K Application of CHES provisions

(1) The CHES provisions only apply to SCH-regulated transfers of marketable securities or rights in respect of shares registered by a body approved as the securities clearing house under the Corporations Act, section 779B and registered by the commissioner under section 31T if—

- (a) the transfer is a proper SCH transfer; and
- (b) the transfer is made other than on a sale or purchase to which sections 31C to 31F apply; and

(c) the security is—

- (i) a share, or a right in respect of a share, in a Queensland registered company; or
- (ii) a unit of a unit trust scheme, or a CUFS in a unit in a public unit trust scheme, the register of which is situated in Queensland.

(2) However, the CHESSE provisions do not apply to a transfer mentioned in subsection (1) made after 30 June 2001 of a quoted security.

31L Transfer documents treated as instruments of conveyance

A CHESSE transfer document is chargeable with the same duty as if it had been effected by an instrument of transfer.

31M SCH participant liable to pay duty

(1) If duty is chargeable on an SCH-regulated transfer, the SCH participant party to the transfer, or, if there is more than 1, the SCH participant who is the transferee or controls the transferee's holding, is liable to pay the duty.

(2) If the SCH participant liable to pay duty on an SCH-regulated transfer is not the transferee under the transfer, the participant may recover from the transferee the amount of the duty paid as a debt by action in a court having jurisdiction for the amount and may keep, in reimbursement of the amount, an amount in the participant's hands belonging to the transferee.

31N Record of SCH-regulated transfers

(1) A record must be made immediately after an SCH-regulated CHESSE transfer is made.

(2) The record must be made by the relevant SCH participant.

(3) The record must show the following information—

- (a) the date of the transfer;
- (b) the transfer identifier of the transfer;
- (c) the name of the transferee and, unless another SCH participant controls the transferor's holding, the name of the transferor;

- (d) the identification code of the participant making the record and the identification code of the other SCH participant party to the transfer;
- (e) the quantity and full description of the marketable security or right in respect of shares transferred;
- (f) the transfer value of the marketable security or right in respect of shares;
- (g) the amount of duty chargeable under schedule 1 on the transfer;
- (h) if ad valorem duty is not chargeable on the transfer—the reason why ad valorem duty is not chargeable;
- (i) if an error transaction is made to reverse an earlier transfer that was made mistakenly—the transfer identifier of the earlier transfer;
- (j) the other particulars prescribed by regulation.

(4) If a relevant SCH participant keeps information mentioned in subsection (3)(h), the participant must keep records to substantiate the claim that ad valorem duty is not chargeable on the transfer.

(5) An SCH participant may, in a record made under this section, incorporate additional information for the participant's own use.

(6) The record must be kept by the SCH participant—

- (a) in a legible written form, or in a way readily convertible into a legible written form; and
- (b) for at least 5 years from the day of the transfer or, for a transfer made before 1 July 2001 of a quoted security for which a lesser period is prescribed under a regulation, for the lesser period.

(7) An SCH participant who does not make or keep a record as required by this section commits an offence.

Maximum penalty—10 penalty units.

310 Particulars to be included by relevant participant in transfer document

The relevant SCH participant must include in the CHES transfer document the particulars required by the commissioner under the conditions of registration of the SCH.

Maximum penalty—10 penalty units.

31P Exemption if duty paid on instrument

(1) If duty has been paid on a contract or agreement for sale, or on an instrument of transfer of a marketable security or right in respect of shares, and a subsequent SCH-regulated transfer of the same security or right is made to or for the benefit of the same transferee in the same capacity, the subsequent SCH-regulated transfer is not liable for duty.

(2) If duty has been paid under subsection (1), the relevant SCH participant must endorse a copy of the stamped instrument with the relevant transfer identifier.

(3) If the copy of the stamped instrument is endorsed with the relevant transfer identifier, a person required to take notice of whether or not duty has been paid on the transfer is entitled to regard the duty as having been paid.

(4) The relevant SCH participant must retain a copy of an instrument endorsed under subsection (2) for not less than 5 years from the day of the transfer or, for a transfer made before 1 July 2001 of a quoted security for which a lesser period is prescribed under a regulation, for the lesser period.

Maximum penalty for subsection (4)—10 penalty units.

31Q Statement to be made and duty paid

(1) The relevant SCH participant must, not more than 7 days after the end of a month in which the participant has been party to an SCH-regulated CHES transfer—

- (a) make a statement to the SCH on the transfer in the approved form containing the particulars required under the conditions of registration of the SCH; and
- (b) if duty is chargeable on the transfer—pay the duty to the SCH.

Maximum penalty—100 penalty units.

(2) If the commissioner has reason to believe that a relevant SCH participant has contravened subsection (1), the commissioner may, on the basis of estimates if necessary, make an assessment of the amount, in the commissioner's opinion, payable under subsection (1).

(3) If the commissioner makes an assessment under subsection (2)—

- (a) the commissioner must serve written notice of the assessment on the defaulting participant; and
- (b) the participant is liable to pay to the commissioner any duty assessed together with any further duty stated in the notice as payable by way of penalty under subsection (4), less any amounts already paid to the commissioner.

(4) If an SCH participant is liable to pay duty because of an assessment under subsection (2), the participant is also liable to pay penalty duty equal to double the amount of the duty assessed.

(5) An SCH participant liable to pay duty because of an assessment under this section who does not pay the amount stated in the assessment notice on or before the day stated in the notice commits an offence.

Maximum penalty—100 penalty units.

31R Failure to pay duty

(1) If an SCH participant does not pay duty under section 31Q, the commissioner may, by written notice, direct the SCH participant not to pay duty under the CHESS provisions for the period stated in the notice.

(2) The notice must state the reasons for giving the direction.

(3) A direction made under this section does not affect the liability of the SCH participant to pay duty that is chargeable under this Act.

(4) If the commissioner gives a direction under this section, the commissioner must at the same time notify the SCH of the direction.

(5) If a direction is in force for an SCH participant, the SCH must not allow the participant to make an SCH-regulated transfer for which duty is chargeable under this Act.

(6) The SCH and an SCH participant are jointly and severally liable for the payment of duty if—

- (a) a direction is in force for an SCH participant; and
- (b) the participant makes an SCH-regulated transfer for which duty is chargeable under this Act; and
- (c) the transfer is made more than 7 days after the SCH has received notice under subsection (4).

31S Refund for error transaction

On being satisfied that ad valorem duty has been paid to the commissioner for an error transaction to which the CHESS provisions apply, the commissioner must—

- (a) refund the amount of the duty paid; or
- (b) retain and credit the amount against other duty payable by the SCH participant for an SCH-regulated transfer.

31T Registration as the securities clearing house

(1) On application by a body approved as the securities clearing house under the Corporations Act, section 779B, the commissioner must register the body under this section if the commissioner is satisfied it will comply with the Act.

(2) The registration is subject to terms decided by the commissioner and notified to the SCH by writing.

(3) Subject to subsection (5), the commissioner, by written notice, may suspend the registration for a stated time if the SCH contravenes a condition of the registration.

(4) Before suspending the registration, the commissioner must give the SCH 7 days written notice stating the reasons why the commissioner proposes to suspend the registration for the proposed time.

(5) Within 7 days of receiving the notice, the SCH may apply to the commissioner for a review of the proposed decision.

(6) The commissioner may suspend the registration only—

- (a) at the end of the 7 days mentioned in subsection (4); and
- (b) if the SCH has been given an opportunity to make submissions about the suspension.

(7) Registration continues in force until it is cancelled on the application of the body registered.

31U Monthly return

(1) On or before the 15th day of each month, the SCH must—

- (a) lodge a return in the approved form; and

- (b) pay to the commissioner on the return any duty paid to the SCH under this Act on an SCH-regulated transfer made in the previous month.

Maximum penalty—100 penalty units.

(2) If the commissioner has reason to believe that the SCH has contravened subsection (1), the commissioner may, on the basis of estimates if necessary, make an assessment of the amount, in the commissioner's opinion, payable under the subsection.

(3) If the commissioner makes an assessment under subsection (2)—

- (a) the commissioner must give written notice of the assessment to the SCH; and
- (b) the SCH is liable to pay to the commissioner any duty assessed together with any further duty stated in the notice as payable by way of penalty under subsection (4), less any amounts already paid to the commissioner.

(4) If SCH is liable to pay duty because of an assessment under subsection (2), the SCH is also liable to pay penalty duty equal to the amount of the duty assessed.

(5) If SCH is liable to pay duty because of an assessment under this section and does not pay the amount stated in the assessment notice on or before the day stated in the notice, the SCH commits an offence.

Maximum penalty—100 penalty units.

31V Particulars stated by participants to be kept by SCH

The particulars stated to the SCH by an SCH participant under section 31Q must be kept by SCH in a legible written form, or in a way readily convertible into legible written form, for at least 5 years from the day on which the statement is made or, for a transfer made before 1 July 2001 of a quoted security for which a lesser period is prescribed under a regulation, for the lesser period.

31W Disclosure to the SCH of information

This Act does not prevent the disclosure to the SCH by the commissioner of information acquired in or for the administration of the CHES provisions.

31X Liability to account for duty for a security loan or security lending scheme for more than 1 year

(1) This section applies if—

- (a) a marketable security or a right in respect of shares is transferred (including a transfer by an SCH-regulated transfer) to perform obligations under a securities loan or a securities lending scheme mentioned in schedule 1, under the heading ‘Conveyance or transfer’, exemption 16; and
- (b) the transfer of the marketable security or right in respect of shares is not reversed within 1 year.

(2) The transferee (including a transferee of an SCH-regulated transfer) must, within 1 month after 1 year after the making of the transfer mentioned in subsection (1), lodge a statement, in the approved form, for the transfer made under the loan or scheme.

Maximum penalty—100 penalty units plus an amount equal to double the amount of the duty payable under subsection (3) if the statement had been made.

(3) The statement is chargeable with duty under schedule 1 as if it were a transfer of the marketable security or right in respect of shares to which the statement relates for a consideration equal to the greater of—

- (a) the full unencumbered value of the security or right at the time of the making of the transfer mentioned in subsection (1); or
- (b) the amount paid on the transfer of the security or right.

(4) The transferee is liable to pay the duty under subsection (3) and penalty duty equal to the amount of the duty.

(5) The transferee is liable to pay to the commissioner the amounts mentioned in subsection (4) when the statement is lodged.

31Y Relevant SCH participant’s identification code equivalent to stamping

(1) If an SCH participant’s identification code is included in a CHESST transfer document, a person required to take notice of whether or not duty has been paid on the transfer is entitled to regard the duty as having been paid.

(2) Subsection (1) does not affect a relevant SCH participant's liability to pay duty chargeable on the transfer document or the liability of a broker on a sale or purchase to which sections 31C to 31F apply.

32A Instalment-purchase agreements

(1) For the purposes of this section—

“credit-purchase agreement” means an agreement for the purchase of goods under which irrespective of the time at which the property in the goods passes or is to pass to the purchaser the purchase price or any part thereof is paid or payable by a number of instalments (not being less than 6 instalments) which are to be paid over a period of not less than 6 months and under which any of the instalments are to be paid after the goods have been delivered to the purchaser and whether such instalments are paid or payable by cash or by cheque, bill of exchange or promissory note payable on demand or otherwise.

“goods” includes all chattels personal other than money, livestock, books and things in action, and includes any fixture severable from the realty.

“GST component”, for a credit-purchase agreement or hire purchase agreement, means the amount of GST paid or payable by the vendor on the supply constituted by the agreement.

“hire-purchase agreement” means agreement for the bailment of goods under which the bailee may buy the goods or under which the property in the goods may pass to the bailee or under which any provision for credit of payments is to be made in the event of a subsequent purchase of the goods, and where by virtue of 2 or more agreements (none of which by itself constitutes a hire-purchase agreement) there is such a bailment of goods the agreements shall be treated as a single agreement.

“instalment-purchase agreement” means a credit-purchase agreement, a hire-purchase agreement or a rental agreement.

“notional GST component”, for a rental agreement, means the amount of GST that would have been payable on the supply constituted by the purchase mentioned in the definition “purchase price”, paragraph (b).

“purchase price” means—

- (a) in the case of a credit-purchase agreement or a hire-purchase agreement—the total amount payable under the agreement by the

purchaser on any account whatsoever in respect of the goods the subject matter of the agreement less the GST component, less the amount of the deposit or other money or consideration paid or given to the vendor at or before the making of the agreement and less the total amount payable under the agreement for or by way of interest, maintenance, freight, vehicle registration fees, insurance or any other charges whatsoever included in the total amount payable; and

- (b) in the case of a rental agreement—the price at which the goods the subject matter of the agreement might have been purchased for cash at the time of entering into the rental agreement less the notional GST component.

“purchaser” means the person to whom goods are bailed or sold or agreed to be bailed or sold under an instalment-purchase agreement.

“rental agreement” means an agreement for the bailment of goods under which the bailee may after a specified number of instalments of rent (not being less than 2 instalments) have been paid in respect thereof continue the bailment or from time to time renew the bailment at a nominal rent or without any further payment or on the payment of a nominal periodical or other amount.

“vendor” means the person by whom goods are bailed or sold or agreed to be bailed or sold under an instalment-purchase agreement.

(2) Subject to this section there shall be charged and paid for the use of Her Majesty upon every instrument of instalment-purchase relating to any instalment-purchase agreement entered into after the commencement of the *Stamp Acts Amendment Act 1965*, the duty specified in schedule 1, under the heading ‘Instalment-purchase agreement’.

(3) Notwithstanding anything in section 4B, the stamp duty upon any instrument of instalment-purchase relating to any instalment-purchase agreement shall be payable by and shall constitute a debt due and owing to Her Majesty from the vendor and not from the purchaser.

(3A) However, in any case where the vendor is not bound by the provisions of this Act, the said duty shall be payable by and shall constitute a debt due and owing to Her Majesty from the purchaser.

(4) When in the opinion of the commissioner it would be practicable or expedient the commissioner may enter into an agreement in the approved form with any vendor for the delivery to the commissioner during any

period mentioned in the agreement of monthly accounts in respect of all instalment-purchase agreements made or entered into by that vendor.

(5) Every account in pursuance of such agreement shall be delivered in duplicate to the commissioner within 14 days after the last day of the month in respect of which that account is deliverable.

(5A) Every such account shall be a full and true account of all unstamped instalment-purchase agreements made or entered into by the vendor during the month for which the same is delivered and shall contain such particulars as may be prescribed.

(5B) After an agreement has been entered into between the commissioner and any vendor, and during the period for which such agreement is in force, no instrument shall be liable to be stamped with the stamp duty chargeable in respect of any instalment-purchase agreement covered by such agreement, but in lieu of such stamping the duty chargeable in respect of each and every such instalment-purchase agreement shall become payable upon the due date for the delivery of the account in respect of that instalment-purchase agreement and shall be paid to the commissioner upon the delivery of that account in duplicate.

(5C) The aggregated amount of the duty upon instalment-purchase agreements paid upon the delivery of an account shall be denoted by stamps to that amount impressed upon the original declaration prescribed by subsection (4) to accompany that account.

(5D) Any amount of duty payable to the commissioner upon the delivery of any account and not paid on or before the due date for delivery of that account shall be a debt due to Her Majesty from the person by or on whose behalf the account is deliverable, and may be recovered accordingly.

(5E) If default is made in delivering any account or in paying any amount of duty in compliance in every respect with the requirements of subsections (4) to (5H), the person in default shall be liable to pay to Her Majesty by way of penalty a sum equal to 10% upon the amount of duty payable, and a like penalty for every month after the first month during which default continues; and every such sum shall be a debt due to Her Majesty, and may be recovered accordingly.

(5F) Every such account shall be accompanied by a declaration in duplicate under the *Oaths Act 1867*, verifying the particulars set out in the account, which particulars shall comprise in respect of each instalment-purchase agreement—

- (a) the name and address of the vendor; and

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- (b) the name of the purchaser; and
- (c) the purchase price; and
- (d) the amount of duty payable.

(5G) The declaration and account so stamped—

- (a) shall be returned to the person lodging same; and
- (b) shall be retained by the person for a period of at least 3 years; and
- (c) shall at any reasonable time during the said period be produced by the person for inspection by the commissioner or by an officer authorised by the commissioner for that purpose.

(5H) Any agreement entered into by the commissioner under the provisions of the *Stamp Act 1894*, section 32A(6) prior to and in force at the date of the passing of the *Stamp Acts Amendment Act 1965*, shall be deemed to be an agreement entered into by the commissioner under subsection (4) of this section for the balance of the period thereof still to run at that date and every such agreement shall continue in force under, subject to and in accordance with the provisions of this section accordingly, and for that purpose shall be read and construed with and subject to all necessary adaptations, including by substituting for the expression ‘hire-purchase agreement’ wheresoever appearing therein the expression ‘instalment-purchase agreement’.

(6) The vendor of any goods under an instalment-purchase agreement shall, where the purchase price is not less than \$20, at or before the time of the making of the agreement prepare an original instrument in relation to the agreement in accordance with the requirements of this section.

(6A) Such original instrument shall be—

- (a) if the instalment-purchase agreement is in writing—the agreement as in writing;
- (b) in any other case—a memorandum in writing of the agreement prepared for the purposes of this section.

(6B) An instrument shall not be in accordance with the requirements of this section unless—

- (a) it clearly and truly sets out—
 - (i) the names of the parties thereto;
 - (ii) the full name and address of the vendor within the meaning of this section (identified as vendor or as owner);

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- (iii) a description of the goods sufficient to indicate their nature;
 - (iv) the total amount payable under the agreement by the purchaser on any account whatsoever in respect of the goods the subject matter of the agreement;
 - (v) the amount of the deposit or other money or consideration paid or given to the vendor at or before the making of the agreement;
 - (vi) the total amount payable under the agreement for or by way of interest, maintenance, freight, vehicle registration fees, insurance or any other charges whatsoever included in the total amount payable;
 - (via) the GST component or notional GST component for the agreement;
 - (vii) the purchase price within the meaning of this section; and
- (b) it is boldly marked 'Original instrument' on the front or page 1; and
 - (c) it is stamped in accordance with the provisions of this Act and within the time prescribed herein; and
 - (d) where the vendor has entered into an agreement with the commissioner for monthly accounting pursuant to the provisions of subsection (4) to (5H)—the vendor shall have boldly marked on the front or page 1 'Stamp duty accounted for on monthly account by agreement with the Commissioner of Stamp Duties'.

(6C) The vendor or, if the vendor's rights under the agreement are assigned to any other person, that other person shall keep every such original instrument readily available for inspection throughout the period during which goods are bailed or any rent or instalment of purchase price or other moneys is or are payable under the agreement and shall at any reasonable time during the said period on demand produce it for inspection by the commissioner or by an officer authorised in writing by the commissioner for the purpose whether generally or in a particular case.

(7) Notwithstanding anything in this Act, a counterpart of an original instrument of instalment purchase, which original instrument is chargeable with duty under this section, shall not be chargeable with duty as an original instrument or counterpart of an instrument.

(8) Every person who contravenes or fails to comply with any of the provisions, other than the provisions of subsections (4) to (5H), shall be guilty of an offence and liable to a penalty of not more than 4 penalty units.

35 Credit and rental business

(1) For the purposes of this section and sections 35A, 35B, 35C, 35D, 35E and 35H—

“authorised dealer in the short-term money market” means an eligible money market dealer within the meaning of the Corporations Act.

“credit arrangement” means any arrangement for the provision of credit in relation to the sale of goods or the provision of services where any amount in excess of the cash price is or may be charged for or in relation to the goods or services pursuant to the arrangement.

“credit business” means the business of making loans or entering into credit arrangements or discount transactions but does not include—

- (a) the business of a pawnbroker carried on in accordance with the provisions of the *Pawnbrokers Act 1984*; or
- (b) any business which is effected or evidenced by an instrument of the kind referred to in section 32A; or
- (c) the business, carried on by a credit union, of making loans to its members.

“credit union” means—

- (a) a financial institution that was, immediately before the transfer date, a credit union under—
 - (i) the Financial Institutions (Queensland) Code; or
 - (ii) the law of another State corresponding to the Financial Institutions (Queensland) Code; or
- (b) a financial institution—
 - (i) that operates on the principle that membership in the institution should be open to all within the accepted common bond of association; and
 - (ii) whose objects include—
 - (A) raising funds by subscription or deposit; and

- (B) applying the funds in the provision of financial accommodation to its members; and
 - (C) encouraging savings among its members; and
 - (D) promoting co-operative enterprise, and providing programs and services to its members, to assist its members to meet their financial needs; and
- (iii) that is declared under a regulation to be a credit union for this section.

“dealer in the unofficial short-term money market” means a body corporate declared by the commissioner to be a dealer in the unofficial short-term money market.

“discount transaction” means the purchase acquisition discounting or factoring of book debts or other things in action (not being the purchase acquisition discounting or factoring of marketable securities) for a consideration which is less than the amount of the book debt or the nominal or face value of the thing in action but does not include the purchase acquisition discounting or factoring of—

- (a) any book debt or other thing in action from a corporation by any other corporation which is a related body corporate under the Corporations Act to that firstmentioned corporation where the consideration is not less than 96% of the amount of the book debts or the nominal or face value of the other thing in action; or
- (b) any book debt or other thing in action which relates solely to an amount due to any person in the Commonwealth for goods or other chattels personal which have been exported by that person from the Commonwealth.

“Financial Institutions (Queensland) Code” means the provisions applying before the transfer date because of the *Financial Institutions (Queensland) Act 1992*, section 4.²

“goods” includes all chattels personal other than money, livestock and things in action and includes any fixture severable from the realty or, in the case of land held from the Crown for a leasehold estate, from such land.

“loan” includes—

² *Financial Institutions (Queensland) Act 1992*, section 4 (Application in Queensland of the Financial Institutions Code).

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- (a) an advance; and
- (b) money paid for or on account of or on behalf of or at the request of any person; and
- (c) a forbearance to require payment of money owing on any account whatsoever; and
- (d) any transaction (whatever its terms or form) which in substance effects a loan of money;

but does not include any forbearance evidenced by extension of time for payment of the amount or value of an existing loan (including a loan that has matured but is still outstanding and any part thereof) that has been included in a statement complying with section 35B and delivered in accordance with that section if such extension does not by any means, including capitalisation of interest, result in an increase in the amount or value of the loan payable upon its maturity at the expiration of the extended time, whether such extension is granted before the date on which the existing loan would have matured but for the extension of time or after the date on which the existing loan has matured.

“principal” means in relation to a loan the amount actually lent.

“registered person” means a person who is registered under the provisions of section 35A.

“rental business” means the business of granting to any person rights to use any goods other than books whether pursuant to a lease bailment or licence or otherwise, but does not include the business of granting to any person the right to use goods in conjunction with a lease of or licence to occupy or use any real property or, in the case of land held from the Crown for a leasehold estate, such land.

“required person” means a person who is required to be registered under the provisions of section 35A.

“transfer date” means the date that, under the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* (Cwlth), section 3(16), is specified as the transfer date for the purposes of that Act.

(3) This section and sections 35A, 35B, 35C, 35D and 35E do not apply to the transaction of any credit business with a bank other than to—

- (a) a loan which is not an overdraft on current account; or
- (b) a purchase acquisition discounting or factoring of bills of exchange or promissory notes; or

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- (c) credit business that relates to transactions in connection with which a credit card within the meaning of section 42B is produced.

(4) This section and sections 35A, 35B, 35C, 35D and 35E do not apply to—

- (a) a discount transaction, the parties to which are incorporated persons and which consists of the purchase, acquisition, discounting or factoring of a bill of exchange that is—
 - (i) drawn, accepted or endorsed by a bank, an authorised dealer in the short-term money market or a dealer in the unofficial short-term money market; and
 - (ii) drawn for a term not exceeding 180 days; and
 - (iii) drawn for an amount or value of not less than \$50 000;
- (aa) a discount transaction the parties to which are incorporated persons and which consists of the purchase, acquisition, discounting or factoring of a promissory note that is made by a corporation for a term not exceeding 180 days for an amount or value not less than \$50 000 where the only security provided to the person who discounts the promissory note is the note, unless security in addition to the note comprises, in respect of the note—
 - (i) a guarantee by or on behalf of the Parliament or the government of the Commonwealth or any State or Territory; or
 - (ii) the guarantee, not otherwise secured, of a company which is a related body corporate under the Corporations Act to the company making the note; or
 - (iii) a letter of credit from a bank; or
 - (iv) such other security or class of security as may be prescribed;
- (b) a loan made for a term not exceeding 180 days, the parties to which are incorporated persons and the principal of which is not less than \$50 000 and which is—
 - (i) a loan to a bank; or
 - (ii) a loan to or by an authorised dealer in the short-term money market; or

- (iii) a loan to or by a dealer in the unofficial short-term money market; or
- (iv) a loan by one incorporated person to another incorporated person by way of temporary investment of surplus funds.

(4A) This section and sections 35A, 35B, 35C, 35D and 35E do not apply in respect of a loan advanced on the security of a debenture or inscribed stock to Brisbane City Council or a local government or to any Crown corporation or instrumentality representing the Crown or to any corporation or instrumentality created by statute which a regulation has approved for exemption purposes under schedule 1, under the heading ‘Mortgage, bond, debenture, and covenant’, exemption 3.

(4B) This section and sections 35A, 35B, 35C, 35D and 35E do not apply in respect of the transaction of any credit business with the Queensland Treasury Corporation except in respect of any transaction or class of transaction to which a regulation declares that this section and those sections shall apply.

(4C) This section and sections 35A, 35B, 35C, 35D and 35E do not apply in respect of the transaction of any credit business with—

- (a) the government of the Commonwealth or of any State or Territory; or
- (b) any Crown corporation or instrumentality representing the Crown (whether in right of the Commonwealth or any State or Territory) which a regulation has approved generally or in respect of that transaction for exemption purposes under this subsection.

(5) A person is not required to register under section 35A by reason only of the fact that the person acts as agent for or is the employee of a person who carries on any credit business or rental business and who is registered under section 35A.

(6) In the interpretation of “discount transaction” the reference to the amount of the book debt or the nominal or face value of the thing in action shall be read and construed as not including a reference to any amount payable as interest or appropriated to interest with respect to that book debt or thing in action.

35A Persons carrying on credit or rental business to be registered

(1) A person shall not in Queensland carry on any credit business or any rental business (whether or not the person carries on any other business) or advertise or hold himself or herself out in any way as carrying on any such business whether the head office or principal place of business of that person is in Queensland or elsewhere unless—

- (a) the person is registered under this section; or
- (b) (i) the credit business carried on by the person is comprised only of—
 - (A) entering into credit arrangements; or
 - (B) forbearing to require payment of money owing in relation to the sale of goods or the provision of services by the person; or
 - (C) entering into credit arrangements and forbearing to require the payment of money owing in relation to the sale of goods or the provision of services by the person; and
- (ii) the sum of the total amounts debited by the person pursuant to all credit arrangements and of the total amounts of all forbearances by the person during the period of the last preceding 12 months did not exceed \$400 000; and
- (iii) the person does not carry on any rental business.

(1A) Any person who contravenes the provisions of subsection (1) is guilty of an offence against this Act and is liable to a penalty of not more than 100 penalty units, and additionally to a penalty of not more than 10 penalty units for each and every day on which the person continues the offence after the person is convicted therefor.

(2) Any person who, in the course of any business—

- (a) undertakes negotiations in Queensland with the object of transacting any credit business or rental business; or
- (b) enters into discount transactions which relate to book debts or other things in action which are situated or enforceable in Queensland;

shall be deemed to carry on credit business or rental business, as the case may be, in Queensland whether the person has an established place of business in Queensland or not.

(3) The commissioner shall register any person who applies, in the approved form, for registration under this section.

(3A) If it appears to the commissioner that a registered person on any occasion—

- (a) has not delivered to the commissioner an accurate statement of the matters specified in section 35B(1)(a); or
- (b) has not paid the whole amount of stamp duty, calculated in accordance with section 35B(1)(b), that is payable in respect of a statement delivered to the commissioner of such matters;

the commissioner, if the commissioner considers the case to be one in which it is appropriate so to do, may cancel the registration of that registered person under this section whereupon the person concerned shall become and be a person who is not a registered person.

(5) Notwithstanding subsections (1) to (4), where 2 or more persons propose that any credit business or any rental business be carried on in Queensland by a firm in which they are associated they shall join in 1 application to the commissioner for registration of that firm, in the name in which such business is to be carried on in Queensland, as a registered person and it is competent to the commissioner to accept and act upon that application as prescribed as if such firm were a person.

(6) For as long as a firm is a registered person—

- (a) a reference to registered person in this Act shall be construed to include such firm;
- (b) each person who is for the time being a member of the firm shall perform or cause to be performed every obligation of the firm under this Act as a registered person, save where another such person has duly performed or caused to be duly performed the obligation in question;
- (c) the persons who are for the time being members of the firm shall be jointly and severally liable to pay any sum required by this Act to be paid to the commissioner by the firm as a registered person;
- (d) if any requirement of this Act is not complied with in respect of the business of the firm each person who is at the time of such noncompliance a member of the firm shall be deemed to be guilty of the offence against this Act constituted by such failure to comply and shall be liable to the penalties prescribed in relation thereto as if he or she were the registered person.

(6A) However, a penalty shall not be recovered more than once in respect of the one offence.

(7) In this section—

“**firm**” means an unincorporated body of persons (whether consisting of individuals or of corporations or partly of individuals and partly of corporations) associated together for the purpose of carrying on business.

35AA Certificates of registration of persons carrying on credit or rental business in Queensland

(1) The commissioner must issue to a person registered under section 35A (a “**registered person**”) a certificate of registration.

(2) If a registered person carries on a credit business or rental business in more than 1 place in Queensland, the commissioner must issue a copy of the certificate for each additional place.

(3) If a registered person starts carrying on a credit business or rental business at a place in Queensland for which the commissioner has not issued a certificate under subsection (2)—

- (a) the person must give the commissioner written notice of the carrying on of the credit business or rental business at the place having started; and
- (b) the commissioner must, after receiving the notice, issue a copy of the certificate for the place.

(4) If a registered person stops carrying on a credit business or rental business at a place for which the commissioner has issued a certificate, the person must—

- (a) give the commissioner written notice that the carrying on of the credit business or rental business at the place has stopped; and
- (b) return to the commissioner the certificate or copy of the certificate for the place.

(5) A notice under subsection (3)(a) or (4)(a) must be in the approved form.

(6) A notice—

- (a) under subsection (3)(a) must be given within 14 days after the day the carrying on of the credit business or rental business at the place started; or
 - (b) under subsection (4)(a) must be given within 14 days after the day the carrying on of the credit business or rental business at the place stopped.
- (7) A registered person must—
- (a) keep a certificate or copy of the certificate at each place in Queensland where the person carries on a credit business or rental business; and
 - (b) if asked by a person seeking to transact credit business or rental business with the registered person, produce the certificate or copy of the certificate for the person's inspection.

Maximum penalty—10 penalty units.

(8) If a person seeking to transact credit business or rental business with another person asks the other person a question about whether or not the other person is a registered person the other person must honestly answer the question.

Maximum penalty for subsection (8)—10 penalty units.

35B Statements to be lodged by required persons with the commissioner

(1) A required person shall not later than the 21st day of each calendar month—

- (a) deliver to the commissioner a statement in the approved form showing—
 - (i) particulars in respect of and the total amount of all loans made by the required person during the last preceding month except short-term loans and housing loans;
 - (ii) an amount equal to 0.03% of the total amount referred to in subparagraph (i) or alternatively, at the option of the required person, where an amount of a loan to which subparagraph (i) applies exceeds \$1 000 000, the amount equal to the sum of—
 - (A) the amount calculated as prescribed in subsections (1A) and (1AAA) in respect of that loan

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or, where there is more than 1 such loan, the sum of the amounts calculated as prescribed in subsections (1A) and (1AAA) in respect of each such loan whereof the required person exercises his or her option under this sub-subparagraph; and

- (B) the amount equal to 0.03% of the amount of the difference between the total amount referred to in subparagraph (i) and the amount or sum of the amounts of the loan or loans in respect of which an amount has been calculated pursuant to sub-subparagraph (A);

Provided that in any case where an amount under subparagraph (ii) includes a fraction of a cent the amount shall be increased by an amount equal to the difference between that fractional part of a cent and 1c;

- (iii) the particulars prescribed under a regulation in respect of and the sum of the total amount of all short-term loans (except housing loans) made by the required person during the last preceding 12 months, which were outstanding in whole or in part at the end of the last preceding month and the total amount of all such short-term loans (except housing loans) made within the last preceding month and repaid within that month;
- (iv) an amount equal to 0.0025% of the sum referred to in subparagraph (iii) or alternatively, at the option of the required person, where an amount of any short-term loan to which subparagraph (iii) applies exceeds \$1 000 000, the amount equal to the sum of—
- (A) the amount calculated as prescribed in subsection (1B) in respect of that short-term loan or, where there is more than 1 such loan, the sum of the amounts calculated as prescribed in subsections (1B) and (1C) in respect of each such loan whereof the required person exercises his or her option under this sub-subparagraph; and
- (B) the amount equal to 0.0025% of the amount of the difference between the sum referred to in subparagraph (iii) and the amount or sum of the amounts of the short-term loan or short-term loans in

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respect of which an amount has been calculated pursuant to sub-subparagraph (A);

Provided that in any case where an amount calculated under subparagraph (iv) includes a fraction of a cent the amount shall be increased by an amount equal to the difference between that fractional part of a cent and 1c;

- (v) the total amount expended by the required person during the last preceding month in discount transactions other than short-term discount transactions and other than discount transactions in respect of which the required person has, pursuant to section 4, paid the amount of duty mentioned in schedule 1, under the heading 'Conveyance or transfer';
- (va) particulars in respect of discount transactions referred to in subparagraph (v);
- (vi) an amount equal to 0.03% of the amount referred to in subparagraph (v) or alternatively, at the option of the required person, where an amount expended by him or her in any discount transaction to which subparagraph (v) applies exceeds \$1 000 000, the amount equal to the sum of—
 - (A) the amount calculated as prescribed in subsections (1A) and (1AAA) in respect of that discount transaction or, where there is more than 1 such discount transaction, the sum of the amounts calculated as prescribed in subsections (1A) and (1AAA) in respect of each such transaction whereof the required person exercises his or her option under this sub-subparagraph; and
 - (B) the amount equal to 0.03% of the amount of the difference between the amount referred to in subparagraph (v) and the amount or sum of the amounts of the discount transaction or discount transactions in respect of which an amount has been calculated pursuant to sub-subparagraph (A);

Provided that in any case where an amount calculated under subparagraph (vi) includes a fraction of a cent the amount shall be increased by an amount equal to the difference between that fractional part of a cent and 1c;

- (vii) the sum of total amounts expended by the required person in respect of short-term discount transactions to the extent that they, at the end of the last preceding month, remained unrealised (whether by collection sale disposal or any other form of realisation) where the book debts or other things in action purchased acquired discounted or factored by the required person were so purchased acquired discounted or factored during the last preceding 12 months other than short-term discount transactions in respect of which the required person has, pursuant to section 4, paid the amount of duty under schedule 1, under the heading ‘Conveyance or transfer’ and the total amount expended by the required person in respect of short-term discount transactions entered into and completed by collection sale disposal or other form of realisation within the last preceding month other than short-term discount transactions in respect of which the required person has, pursuant to section 4, paid the amount of duty under schedule 1, under the heading ‘Conveyance or transfer’;
- (viiia) the particulars prescribed under a regulation in respect of short-term discount transactions referred to in subparagraph (vii);
- (viiib) an amount equal to 0.0025% of the sum referred to in subparagraph (vii) or alternatively, at the option of the required person, where an amount expended by him or her in respect of any short-term discount transaction to which subparagraph (vii) applies exceeds \$1 000 000, the amount equal to the sum of—
- (A) the amount calculated as prescribed in subsections (1B) and (1C) in respect of that short-term discount transaction or, where there is more than 1 such transaction, the sum of the amounts calculated as prescribed in subsection (1B) in respect of each such transaction whereof the required person exercises his or her option under this sub-subparagraph; and
- (B) the amount equal to 0.0025% of the amount of the difference between the sum referred to in subparagraph (vii) and the amount or sum of the amounts of the short-term discount transaction or short-term discount transactions in respect of which an

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amount has been calculated pursuant to sub-subparagraph (A);

Provided that in any case where an amount calculated under subparagraph (viii) includes a fraction of a cent the amount shall be increased by an amount equal to the difference between that fractional part of a cent and 1c;

- (ix) the particulars prescribed under a regulation in respect of credit arrangements made by the required person—
 - (A) under which credit in excess of \$200 is obtained in the last preceding month; or
 - (B) in respect of which the required person exercises or has exercised his or her option to show an amount in accordance with sub-subparagraph (x)(B) and the maximum balance outstanding during the last preceding month is in excess of \$200;
- (ixa) the total of the maximum amounts outstanding during the preceding month in respect of credit arrangements referred to in subparagraph (ix) in respect of which the required person exercises, or, at any time, has exercised the option to show an amount in accordance with subparagraph (x)(B);
- (ixb) the total of all amounts debited by the required person pursuant to a credit arrangement referred to in subparagraph (ix) (other than a credit arrangement referred to in subparagraph (ixa)) during the last preceding month less any amounts credited against amounts so debited in respect of goods returned or services not provided;
- (x) an amount equal to the sum of—
 - (A) an amount equal to 0.03% of the total amount debited by the required person pursuant to all credit arrangements referred to in subparagraph (ix) other than—
 - (1) credit arrangements (if any) whereof amounts are calculated as provided in sub-subparagraph (B) or (C); and
 - (2) credit arrangements (if any) whereof the total of amounts debited by the required person pursuant to each such credit arrangement during the

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preceding month exceeded \$1 000 000 and the required person exercises his or her option to calculate an amount in respect of each such credit arrangement as provided in sub-subparagraph (D); and

- (B) where an amount debited by the required person pursuant to any credit arrangement referred to in subparagraph (ix) is the first amount so debited pursuant to that credit arrangement, at the option of the required person, an amount equal to—
- (1) in respect of each such credit arrangement, other than any credit arrangement whereof the maximum amount outstanding during the preceding month exceeded \$1 000 000 and the required person exercises his or her option under sub-sub-subparagraph (2)—0.0025% of the maximum amount outstanding during the preceding month; and
 - (2) in respect of each such credit arrangement whereof the maximum amount outstanding during the preceding month exceeded \$1 000 000 and the required person exercises his or her option under this sub-sub-subparagraph—an amount calculated as prescribed in subsections (1B) and (1C) upon the maximum amount outstanding during the preceding month; and
- (C) where the required person had, for the purposes of any previous statement calculated an amount pursuant to sub-subparagraph (B) in respect of any credit arrangement, an amount equal to—
- (1) in respect of each such credit arrangement, other than any credit arrangement whereof the maximum amount outstanding during the preceding month exceeded \$1 000 000 and the required person exercises his or her option under sub-sub-subparagraph (2)—0.0025% of the maximum amount outstanding during the preceding month; and

(2) in respect of each such credit arrangement whereof the maximum amount outstanding during the preceding month exceeded \$1 000 000 and the required person exercises his or her option under this sub-sub-subparagraph—an amount calculated as prescribed in subsections (1B) and (1C) upon the maximum amount outstanding during the preceding month; and

(D) in respect of each credit arrangement whereof the required person has debited a total amount exceeding \$1 000 000 during the preceding month and exercises his or her option under this sub-subparagraph—an amount calculated as prescribed in subsections (1A) and (1AAA) in respect of that total amount;

Provided that in any case where the amount calculated under subparagraph (x) includes a fraction of a cent the amount shall be increased by an amount equal to the difference between that fractional part of a cent and 1c;

(xi) the total amount received by the required person during the last preceding month in respect of his or her rental business for or in relation to the granting of the right to use or of the use of goods (other than books) including amounts received in respect of delivery, erection, installation, insurance, cleaning, repair and other charges but excluding the GST component;

(xii) the amount equal to 0.43% of the amount worked out under subparagraph (xi);

Provided that in any case where the amount calculated under subparagraph (xii) includes a fraction of a cent the amount shall be increased by an amount equal to the difference between that fractional part of a cent and 1c; and

(b) pay in cash to the commissioner as stamp duty on that statement a sum equal to the sum of the amounts referred to in paragraph (a)(ii), (iv), (vi), (viii), (x) and (xii) but where any loan has been included pursuant to paragraph (a)(i) in a statement lodged with the commissioner and that loan is repaid within 10 months of the making of the loan the required person may deduct from the amount to be paid pursuant to this paragraph an

amount equal to one-twelfth of the amount calculated pursuant to paragraph (a)(ii) in respect of the amount of that loan so repaid for each complete month between the repayment of the loan and the expiration of 12 months from the making of the loan.

(1AA) However, where—

- (a) a required person carries on rental business and does not carry on any credit business; and
- (b) the total amount received by the required person during the period of the last preceding 12 months in respect of his or her rental business for or in relation to the granting of the right to use or of the use of goods (other than books) including amounts received in respect of delivery, erection, installation, insurance, cleaning, repair and other charges but excluding the GST component did not exceed \$100 000;

the provisions of subsection (1)(a) and (b) shall not apply to that required person in respect of that period.

(1AB) In addition, where—

- (a) a required person carries on credit business comprised only of—
 - (i) entering into credit arrangements; or
 - (ii) forbearing to require payment of money owing in relation to the sale of goods or the provision of services by the required person; or
 - (iii) entering into credit arrangements and forbearing to require the payment of money owing in relation to the sale of goods or the provision of services by the required person; and
- (b)—
 - (i) the required person does not carry on any rental business; or
 - (ii) the total amount received by the required person during the period of the last preceding 12 months in respect of the rental business carried on by the required person for or in relation to the granting of the right to use or of the use of goods (other than books) including amounts received in respect of delivery, erection, installation, insurance, cleaning, repair and other charges but excluding the GST component did not exceed \$100 000; and

- (c) the sum of the total amounts debited by the required person pursuant to all credit arrangements and of the total amounts of all forbearances by the required person during the period of the last preceding 12 months did not exceed \$400 000;

subsection (1)(a) and (b) shall not apply to that required person in respect of that period.

(1AC) In subsections (1) to (1AH)—

“GST component”, for the granting of rights for the use of goods, means the amount of GST paid or payable by the required person on the supplies constituted by the granting of the rights.

“housing loan” means a loan which the borrower has declared by statutory declaration in the approved form—

- (a) to have been obtained solely for the purpose of defraying directly—
- (i) the whole or part of the cost of constructing a house, flat or home unit; or
 - (ii) the whole or part of the cost of acquiring a house, flat, or home unit; and
- (b) to have not been obtained for the purpose of defraying, directly or indirectly, the whole or part of the cost of acquiring land only.

“short-term discount transaction” means a discount transaction which the required person has elected in the way prescribed under a regulation to treat as a short-term discount transaction.

“short-term loan” means a loan which the required person has elected in the way prescribed under a regulation to treat as a short-term loan or any loan which is a loan upon an account current other than a loan upon an account current which the required person has declared in the way, and within the period, prescribed under a regulation to be a special account current.

(1AD) For the purpose of declaring as specified in subsection (1AC), definition “housing loan”, paragraph (b) in respect of a loan it is immaterial, where the loan has been obtained for the purpose of defraying, directly or indirectly, the whole or part of the cost of acquiring land only, that it is intended to erect residential premises on the land.

(1AE) For the purposes of subsections (1) to (1AH) the amount of a loan upon an account current other than a special account current with a required person in relation to any statement is the maximum amount of

principal due to the required person on the account at any time during the last preceding month and any such loan shall be deemed to have been made and repaid in that last preceding month and the amount of a loan upon a special account current in relation to any statement is the total amount of the loans made upon that account by the required person in that last preceding month.

(1AF) For the purposes of subsection (1)(a)(ix), (ixa), (ixb) and (x), where a credit arrangement provides that no amount in excess of the cash price is or may be charged for or in relation to the sale of goods or provision of services if the cash price is paid within a period specified under the credit arrangement (not exceeding 60 days) then the amount of the cash price is not an amount debited under the credit arrangement but if at any time any amount in excess of the cash price is or may be charged the amount of the cash price that has not been paid shall be taken to be an amount debited under the credit arrangement at that time.

(1AG) Notwithstanding the provisions of subsection (1)(a)(x) a required person who prior to the commencement of that subparagraph as substituted by the *Stamp Act Amendment Act 1984* had pursuant to any credit arrangement debited any amount may, in the first return delivered by the required person pursuant to subsections (1) to (1AH) after that commencement, calculate an amount in respect of that credit arrangement pursuant to subsection (1)(a)(x)(C) and, if the required person does so, the required person shall in that statement and in all subsequent statements be deemed to have calculated an amount in a previous statement pursuant to subsection (1)(a)(x)(B) in respect of that credit arrangement.

(1AH) However, for the purpose of determining the maximum amount outstanding from time to time in respect of the credit arrangement during any month there shall be deducted from that amount the amount outstanding at the material time in respect of any amounts debited pursuant to that credit arrangement prior to the commencement of subsection (1)(a)(x) as substituted by the *Stamp Act Amendment Act 1984* and for that purpose all amounts credited after that commencement (other than amounts credited against amounts debited after that commencement in respect of goods returned or services not provided) shall be taken to have been applied in reduction of the amount debited prior to that commencement.

(1A) Amounts calculated for the purposes of subsection (1)(a)(ii), (vi) and (x)(D) in respect of—

- (a) each loan to which subsection (1)(a)(i) applies the amount of which exceeds \$1 000 000 and in respect of which loan the

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required person exercises his or her option under subsection (1)(a)(ii) to calculate the amount in accordance with this subsection;

- (b) each discount transaction to which subsection (1)(a)(v) applies the amount of which exceeds \$1 000 000 and in respect of which transaction the required person exercises his or her option under subsection (1)(a)(vi) to calculate the amount in accordance with this subsection;
- (c) each credit arrangement to which subsection (1)(a)(ix) applies pursuant to which the total amounts debited by the required person exceed \$1 000 000 and in respect of which credit arrangement the required person exercises his or her option under subsection (1)(a)(x)(D) to calculate the amount in accordance with this subsection;

shall be calculated as—

- (d) \$2 500; or
- (e) the sum of \$300 and 0.015c for each and every dollar by which the amount of the loan, discount transaction or, as the case may be, total amounts debited exceeds \$1 000 000;

whichever is the less.

(1AAA) However, in any case where an amount calculated under subsection (1A) includes a fraction of a cent the amount shall be increased by an amount equal to the difference between that fractional part of a cent and 1c.

(1B) Amounts calculated for the purposes of subsection (1)(a)(iv), (viii) or (x)(B) or (C) in respect of—

- (a) each short-term loan to which subsection (1)(a)(iii) applies the amount of which exceeds \$1 000 000 and in respect of which short-term loan the required person exercises his or her option under subsection (1)(a)(iv) to calculate the amount in accordance with this subsection;
- (b) each short-term discount transaction to which subsection (1)(a)(vii) applies the amount of which exceeds \$1 000 000 and in respect of which transaction the required person exercises his or her option under subsection (1)(a)(viii) to calculate the amount in accordance with this subsection;

- (c) each credit arrangement to which subsection (1)(a)(ix) applies in respect of which arrangement the required person exercises or has exercised his or her option under subsection (1)(a)(x)(B)(2) or (C)(2) to calculate the amount in accordance with this subsection;

shall be calculated as—

- (d) \$208.33; or
- (e) the sum of \$25 and 0.00125c for each and every dollar by which—
- (i) in the case of a short-term loan made during the preceding 12 months, any amount of which is outstanding at the end of the month to which the statement delivered by the required person relates—the amount of the loan;
 - (ii) in the case of a short-term loan made and repaid during the month to which that statement relates—the amount of the loan;
 - (iii) in the case of a short-term discount transaction—that part of the total amount shown on the statement delivered by the required person in relation to subsection (1)(a)(vii) as relates to the short-term discount transaction to which this subsection applies;
 - (iv) in the case of a credit arrangement—the maximum amount outstanding during the month to which the statement relates;

exceeds \$1 000 000;

whichever is the less.

(1C) However, in any case where an amount calculated under subsection (1B) includes a fraction of a cent the amount shall be increased by an amount equal to the difference between that fractional part of a cent and 1c.

(2) The amounts referred to in subsection (1)(a) include—

- (a) in relation to loans—the amount of loans made by or on behalf of the required person to persons resident or domiciled in Queensland or in respect of which any of the negotiations have taken place in Queensland; and

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- (b) in relation to discount transactions—the amount of the consideration given by the required person for book debts or other things in action situated or enforceable in Queensland; and
- (c) in relation to credit arrangements—the amount of credit provided by or on behalf of the required person with respect to goods sold or services provided in Queensland; and
- (d) in relation to rental business—amounts received by or on behalf of the required person in respect of the use of goods where—
 - (i) the right to use the goods was granted in Queensland; or
 - (ii) any of the negotiations by or on behalf of the required person with respect to the grant of the right to use the goods were undertaken in Queensland; or
 - (iii) the goods were delivered in Queensland to the grantee of the right to use those goods.

(3) The duty paid by the required person shall be denoted on the statement.

(4) The stamp duty payable upon delivery of any statement referred to in subsection (1) shall from and after the due date of delivery constitute a debt due and owing to Her Majesty from the person on whose account the statement is deliverable and any unpaid amount thereof shall be recoverable from such person in any court of competent jurisdiction by the commissioner on behalf of the Crown by action or other proceedings in the commissioner's official name.

(5) Nothing in this section shall require a required person to include in the statement required to be submitted to the commissioner by subsection (1) an amount in respect of—

- (a) any transaction entered into by the required person in the course of any business carried on by the required person in accordance with the provisions of the *Pawnbrokers Act 1984*;
- (b) any transaction effected or evidenced by an instrument to which section 32A applies;
- (c) any loan, discount transaction, or debit pursuant to a credit arrangement, or grant of the right to use any goods, made given or entered into before the date of the coming into force of the *Stamp Acts Amendment Act 1968*, section 6;
- (d) such part of the amount of any loan which is secured upon—

- (i) an interest in a loan or upon book debts or other things in action acquired in a discount transaction the amount of which loan or discount transaction was included by the borrower in a statement forwarded to the commissioner pursuant to subsection (1)(a); or
- (ii) an interest in an instalment-purchase agreement in respect of which, pursuant to section 32A, the duty specified in schedule 1, under the heading 'Instalment-purchase agreement' has been paid;

as is equal to the value of the interest upon which the loan is secured;

- (e) any discount transaction to the extent that the discount transaction relates—
 - (i) to a book debt or other thing in action the amount of which was included in a statement forwarded to the commissioner pursuant to subsection (1)(a); or
 - (ii) to an instalment-purchase agreement in respect of which, pursuant to section 32A, the duty specified in schedule 1, under the heading 'Instalment-purchase agreement' has been paid;
- (f) any business transacted by the required person outside Queensland if—
 - (i) none of the negotiations leading to the transaction of the business took place in Queensland; and
 - (ii) the amounts obtained or the goods obtained by the other party to the transaction were obtained for the purpose of being expended or used exclusively outside Queensland;

but a required person shall supply to the commissioner such particulars of the matters referred to in this subsection as are prescribed or as are in any particular case required by the commissioner.

(6) A required person, in calculating the total amount of all loans and short-term loans (other than on accounts current) made by that required person for the purpose of subsection (1), may, in respect of each relevant loan or short-term loan, disregard the amount (if any) on account of duty chargeable under—

- (a) this section in respect of that loan or short-term loan; or

- (b) schedule 1, under the heading ‘Mortgage, bond, debenture, and covenant’ on the instrument securing that loan or short-term loan.

(7) If a required person has not carried on any rental or credit business during a calendar month, the person must, by the 21st day of the following month, give to the commissioner a statement in the approved form showing the rental or credit business as ‘Nil’.

35C Required persons to keep records

(1) A required person shall keep or cause to be kept in Queensland sufficient books and records to enable the required person to calculate accurately the amounts which are to be set out in the monthly statements required to be submitted to the commissioner under section 35B; and shall keep such books and records as well as all working papers used in such calculations available for inspection for a period of at least 3 years from the month to which each such return relates or for such lesser period as the commissioner determines in any particular case.

(1A) Any person who contravenes or fails to comply with any of the provisions of subsection (1) is guilty of an offence against this Act and liable to a penalty of not more than 10 penalty units.

(2) If, in the commissioner’s opinion, it is not reasonably practicable to calculate precisely an amount to be stated in the statement of a required person, the amount is the amount calculated by the commissioner in the way the commissioner considers appropriate.

(2AA) In calculating an amount under subsection (2), the commissioner may have regard to any information or representations given or made to the commissioner by the required person for the calculation.

(2AB) Subsection (2AA) does not limit the matters the commissioner may have regard to for making the calculation.

(2A) Where the commissioner is of the opinion that it would be unreasonable to require a required person to deliver statements—

- (a) within the time specified in section 35B(1)—the commissioner may, by notice in writing, vary the time within which that required person is required to deliver statements in pursuance of that subsection;

- (b) relating to each month—the commissioner may, by notice in writing, authorise that required person to deliver statements relating to such periods as may be specified in the notice;

and the required person shall, while that notice remains unrevoked, deliver statements accordingly.

(3) The commissioner may, at any time, by notice in writing, revoke a notice given in pursuance of subsection (2A).

35D Penalties

(1) A required person who fails to comply with any of the requirements of section 35B is guilty of an offence against this Act and liable to a penalty of 10 penalty units, and additionally to a penalty of 1 penalty unit for each and every day on which the required person continues the offence after he or she is convicted therefor and liable to pay a penalty equal to double the amount of any duty that would have been payable if that section had been complied with.

(3) A person who by statutory declaration falsely declares a loan to be a housing loan is guilty of an offence against this Act and is liable to a penalty of not more than 10 penalty units and liable to pay a penalty equal to double the amount of any increase in duty that would have been payable by the lender under section 35B by reason of an increase in the total amount of loans made by the person shown on the statement delivered by the person to the commissioner under that section being the statement in which the amount of that loan should have been included had the false declaration not been made.

35E As to transactions with unregistered persons

(1) Where any person domiciled or resident in Queensland transacts or offers to transact any business with a person carrying on any credit business or rental business (whether within or outside Queensland) who is not a registered person the person shall forthwith make a note or memorandum in writing of the transaction or offer in the approved form.

(2) A note or memorandum made for the purposes of subsection (1) shall be chargeable with duty for the use of Her Majesty—

- (a) in the case of a note or memorandum relating to—
- (i) a credit arrangement or a loan where the amount of credit provided or, as the case may be, of the loan—

- (A) is \$1 000 000 or less—at the rate of 0.03% of that amount;
- (B) exceeds \$1 000 000—calculated as prescribed in section 35B(1A) and (1AAA) in respect of that amount;
- (ii) a discount transaction where the amount of the consideration for the purchase, acquisition, discounting or factoring of the book debts or other things in action—
 - (A) is \$1 000 000 or less—at the rate of 0.03% of that amount;
 - (B) exceeds \$1 000 000—calculated as prescribed in section 35B(1A) and (1AAA) in respect of that amount; and
- (b) at the rate of 0.43% of, in the case of a note or memorandum relating to any rental business, the amount that is or will be payable for the granting of the right to use or of the use of the goods including amounts paid for delivery, erection, installation, insurance, cleaning, repair and other charges but where the amount is not capable of being determined the person making the note or memorandum shall be liable in lieu of paying duty as aforesaid to pay a duty of 10c on the note or memorandum and to pay not later than 31 March in each year further duty on the note or memorandum of an amount equal to 0.43% of the amount paid by the person in respect of the granting of the right to use or of the use of the goods including amounts paid for delivery, erection, installation, insurance, cleaning, repair and other charges during the year ending on 31 January then last past.

(2A) However, in any case where an amount of duty calculated under subsection (2) includes a fraction of a cent the amount shall be increased by an amount equal to the difference between that fractional part of a cent and 1c.

(3) The duty referred to in subsections (2) and (2A) shall be paid by the person liable to make the note or memorandum within 7 days of the making of the note or memorandum.

(4) A note or memorandum which is not stamped as required by this section may be stamped on payment of a penalty of double the amount of duty that should have been paid and a penalty of \$50.

(5) Any person who fails to comply with subsection (1) shall be liable to pay a penalty equal to double the amount of the duty that would have been payable if the person made a note or memorandum in writing of the transaction or offer in compliance with the requirements of subsection (1).

(6) Notwithstanding anything in this section a person domiciled or resident in Queensland need not make a note or memorandum of any business transacted or offered to be transacted—

- (a) if the business relates to a loan for an amount of less than \$20 000, which is obtained from a person other than a bank carrying on business in Queensland and is not secured by a mortgage or charge over property in Queensland; or
- (b) if the business is an arrangement for the provision of credit in relation to the sale of goods or the provision of services other than a loan or a discount transaction; or
- (c) if the business relates to the grant of a right to use any goods and the total amount that is or will be payable for the granting of the right to use or of the use of the goods including amounts paid for delivery, erection, installation, insurance, cleaning, repair and other charges does not exceed \$100 or the grant of the right to the use of the goods is for a period of 14 days or less; or
- (d) with a person carrying on business outside Queensland if—
 - (i) none of the negotiations leading to the transaction of or to the offer to transact the business were carried out in Queensland; and
 - (ii) the amount obtained or the goods obtained by the person were obtained for the purpose of being expended or used exclusively outside Queensland; or
- (e) with the Crown or any person acting on behalf of the Crown whether in right of the Commonwealth or any State except a body corporate carrying on the business of banking; or
- (f) which is not a credit arrangement, a discount transaction a loan or the grant of the right to use goods.

(7) Where a person who pays duty in compliance with this section shows to the satisfaction of the commissioner that the same duty has been or will be accounted for on a return in accordance with the provisions of section 35B that person shall be entitled to a refund in respect of the duty paid by him or her.

35F Exemption from credit duty of certain loans by registered persons

(1) A regulation may either generally or in the specific case exempt from payment duty which but for the operation of this section would be liable pursuant to section 35B to be paid in respect of a loan made or a discount transaction entered into by a registered person to the extent that the loan or discount transaction utilises moneys borrowed by the registered person the amount of which is required—

- (a) by section 35B to be included in an amount to be disclosed in a statement delivered or to be delivered to the commissioner; or
- (b) by section 35E to be disclosed in a note or memorandum made by the registered person.

(2) Where under section 35B or 35E duty is liable to be paid or has been paid in respect of a loan made or discount transaction entered into and the commissioner is satisfied that the whole or part of the amount of the loan or discount transaction has been utilised for the provision of housing loans (as defined in section 35B) or for business which is effected or evidenced by an instrument of the kind referred to in section 32A and that, in any case where duty is liable to be paid or has been paid pursuant to section 35B, the registered person, pursuant to the terms of the loan or, as the case may be, discount transaction, has paid or will pay the amount of the duty, the registered person may deduct from the amount to be paid pursuant to section 35B(1)(b) upon a statement lodged by the registered person an amount equal to the duty paid or payable and attributable to that part of the loan or discount transaction so utilised.

(3) However, upon that deduction being once made, no further deduction may be made in respect of that part of the loan or discount transaction.

35H Undertaking by financial institutions

(1) A financial institution that is not a registered person and is not required to be so registered may give an undertaking in the approved form and in the way prescribed under a regulation to the commissioner to make such payments to the commissioner in respect of such amounts of duty and at such times as it would be required to make if it were required to be registered under section 35A.

(2) Where the commissioner receives an undertaking under subsection (1), the commissioner shall determine whether or not to accept the undertaking.

(3) Where the commissioner accepts an undertaking from a financial institution under subsection (1), the financial institution shall be deemed to be registered under section 35A during the period during which the undertaking has effect in accordance with subsection (4).

(4) An undertaking accepted by the commissioner under this section has effect from the date on which the commissioner accepts the undertaking until—

- (a) the financial institution by notice in writing given to the commissioner withdraws the undertaking; or
- (b) the commissioner by notice in writing given to the financial institution, withdraws the commissioner's acceptance of the undertaking.

36 Stamp duty not chargeable on certain orders

Stamp duty is not chargeable on an order for the payment of money directed to—

- (a) a sugar-milling company; or
- (b) a dairy company; or
- (c) an association registered under the *Primary Producers' Cooperative Associations Act 1923*; or
- (d) a board constituted under a law dealing with the destruction of dingoes, marsupials or pests generally; or
- (e) a board, association or other authority prescribed by the Governor in Council by regulation.

42B Stamp duty on credit card business

(1) In this section—

“active account” means an account kept by a cardholder's bank for a cardholder on whose account the cardholder's bank has, during the billing period specified in subsection (3), made a payment pursuant to an obligation accepted by it upon the issue of a credit card to or at the direction of the cardholder.

“billing period” means a period in relation to which a statement of account or of transactions is issued to a cardholder or to any other person with a view to recoupment of the cardholder's bank in respect

of payments made by it pursuant to an obligation accepted by it upon the issue of a credit card to or at the direction of the cardholder.

“cardholder” means a person ordinarily resident in Queensland for whom a cardholder’s bank keeps an account in connection with which there may be made payment pursuant to an obligation accepted by the cardholder’s bank upon the issue of a credit card to or at the direction of that person.

“cardholder’s bank” means the person which or who has issued a credit card and in the ordinary course of business may make payment pursuant to an obligation accepted by it or the person upon the issue of the credit card.

“credit card” means a card or other writing (by whatever name called) such that in respect of transactions in connection with which the card or other writing is produced any person, whether the cardholder’s bank or not, agrees, whether subject to conditions or not, to make payment to a merchant.

“merchant” means a person who supplies goods, services, money or money’s worth and for payment or recoupment in respect thereof relies, wholly or in part, on a credit card produced to the person in connection with such supply.

“payment” means the transference of money or money’s worth and includes the adjustment of credits or debits and the giving of credit.

(1A) For the purposes of this section a person shall be taken to be ordinarily resident in Queensland if the person’s address last known to the cardholder’s bank whose credit card is issued to the person or at his or her direction is an address in Queensland.

(2) Within 28 days after the close of each month every cardholder’s bank that carries on business in Queensland shall furnish to the commissioner a return in the approved form, in respect of all active accounts kept by the cardholder’s bank.

(2A) Each such return—

- (a) shall show the amount of stamp duty with which it is chargeable pursuant to this section; and
- (b) shall be accompanied by the payment to the commissioner of that amount.

(3) The return furnished pursuant to subsection (2) shall be chargeable with an amount of stamp duty, in relation to each active account, equal to the amount expressed in the formula—

SD – 10c

where—

“SD” means—

- (a) if the cardholder’s bank is a prescribed cardholder’s bank—the amount calculated by multiplying 10c by the number of merchants with whom there was a transaction, during the relevant billing period, in which a relevant credit card was used; or
- (b) if the cardholder’s bank is not a prescribed cardholder’s bank—the amount calculated by multiplying 10c by the number of transactions, during the relevant billing period, in which a relevant credit card was used.

(3A) For the purposes of subsection (3), a regulation may approve a cardholder’s bank to be a prescribed cardholder’s bank where—

- (a) the cardholder’s bank is a company which is principally engaged in supplying goods or services and the credit card issued by it is principally for use in connection with transactions had with the company in connection with the supply of goods or services by it; or
- (b) the cardholder’s bank is—
 - (i) a company the issued share capital of which is beneficially owned (directly or indirectly) wholly or to a prescribed extent by another company which is principally engaged in the supply of goods or services; or
 - (ii) a company which is the beneficial owner (directly or indirectly), wholly or to a prescribed extent, of the issued share capital of a company which is principally engaged in the supply of goods or services; or
 - (iii) a company the issued share capital of which is beneficially owned (directly or indirectly) wholly or to a prescribed extent by a third company which is the beneficial owner (directly or indirectly) wholly or to a prescribed extent of

the issued share capital of another company which is principally engaged in the supply of goods and services; or

- (iv) a company which the commissioner is satisfied should be approved for the purposes of this subsection having regard to the nature and degree of direct or indirect control or association existing between the company and another company which is principally engaged in the supply of goods or services and to any other matter that the commissioner considers relevant;

and the credit card issued by the cardholder's bank is principally for use in connection with transactions had with the other company in connection with the supply of goods or services by that other company.

(3AA) In subsection (3)—

“relevant billing period” means the billing period that ended in the month the close of which started the period of 28 days within which the return concerned is required to be given.

“relevant credit card” means a credit card issued to or at the direction of the cardholder for whom the account concerned is kept.

(4) If—

- (a) a cardholder's bank that is required to furnish a return referred to in subsection (2)—
- (i) fails to furnish such a return within the prescribed period; or
 - (ii) furnishes such a return that is false in a material particular; or
 - (iii) fails to make payment as prescribed of the amount of stamp duty with which the return furnished by it is chargeable; or
- (b) a cardholder's bank other than one referred to in paragraph (a)—
- (i) does not furnish a return referred to in subsection (2) within the prescribed period; or
 - (ii) furnishes a return referred to in subsection (2) that is false in a material particular; or
 - (iii) does not make payment to the commissioner with the return furnished by it of an amount equivalent to the amount of stamp duty with which the return furnished by it would be

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chargeable were it a return furnished by a cardholder's bank referred to in paragraph (a);

a regulation may declare such cardholder's bank to be a noncompliant cardholder's bank and until the declaration is repealed the cardholder's bank in question shall be and continue to be a noncompliant cardholder's bank for the purposes of this section.

(4A) A declaration under subsection (4) may be advertised for the information of the public in such manner and to such extent as the Minister thinks fit and no person shall be liable for any injury claimed to arise by reason of such advertisement.

(5) Every person who is a cardholder accountable to a cardholder's bank that is for the time being a noncompliant cardholder's bank shall, within 14 days after the close of each billing period in which the person's cardholder's account was an active account, furnish to the commissioner a return in the approved form, accompanied by a declaration under the *Oaths Act 1867*, verifying the particulars set out in the return in respect of his or her cardholder's account kept by that cardholder's bank.

(5A) Each such return—

- (a) shall show the amount of stamp duty with which it is chargeable pursuant to this section; and
- (b) shall be accompanied by the payment to the commissioner of that amount.

(6) The return furnished by a cardholder pursuant to subsection (5) shall be chargeable with stamp duty as if it were a return furnished pursuant to subsection (2) in respect of the cardholder's account of that cardholder alone by a cardholder's bank to which subsection (2) applies.

(7) A person required by subsection (5) to furnish a return who—

- (a) fails to furnish a return within the prescribed period; or
- (b) furnishes a return that is false in a material particular; or
- (c) fails to make payment as prescribed of the amount of stamp duty with which the return furnished by the person is chargeable;

shall be liable to a penalty not exceeding 4 penalty units.

44 Bills of sale etc.

A bill of sale, mortgage of livestock, lien on wool, or lien on crops is not to be registered under any Act for the time being in force relating to the registration thereof unless the original, duly stamped, is produced to the proper officer.

45 Payment of duties on documents registered with clerk of petty sessions, warden etc.

(1) If duties imposed by this Act are paid on documents required to be registered at the office of a clerk of the court, warden or mining registrar, the person or officer whose duty it is to receive or register such document shall, in manner prescribed, indicate upon the document the correct amount of such duty and the date on which the same has been paid, and such document shall thereupon be deemed to be duly and sufficiently stamped.

(2) Any document in respect of which any such duty ought to be paid in pursuance of this Act shall not be received or registered unless or until such duty has been duly paid.

45A Collection of duties by the chief executive (of the department in which the Land Act 1994 is administered)

(1) Where—

- (a) any contract or agreement for sale of unallocated State land; or
- (b) any deed of grant;

is required to be received at or issued from the office of that chief executive, the payment of duties chargeable on the relevant instrument shall be taken by the person or officer whose duty it is to receive or issue that instrument.

(2) The person or officer referred to in subsection (1), upon receipt of the whole of the amount of duty properly payable, shall, in the manner and form directed by the commissioner, denote the amount of the duty and the date on which that duty was paid upon the relevant instrument.

(3) Where an instrument has been denoted in accordance with subsection (2), it shall be deemed to be duly stamped.

(4) An instrument in respect of which duty is chargeable by this Act and required to be paid in accordance with this section shall not be accepted for any purpose or issued unless or until the instrument is duly stamped.

(5) Where an instrument in respect of which duty is chargeable under this Act has been accepted or issued without the instrument being duly stamped, the correct amount of duty, or any unpaid part thereof, shall be deemed to be a debt due and owing to the Crown from the date of the acceptance or issue of the relevant instrument.

(6) The debt referred to in subsection (5) shall be recoverable by the commissioner in any court of competent jurisdiction in accordance with section 4B.

(7) The chief executive (of the department in which the *Land Act 1994* is administered) shall remit to the commissioner all amounts of duty referred to in this section and received by it.

46 Policies executed outside Queensland

(1) Without limiting the operation of section 4, every policy of insurance executed outside Queensland relating to a risk in Queensland or the life of a person resident in Queensland shall, subject to subsection (2), be charged with the stamp duty specified in schedule 1 to apply to a policy of that kind in accordance with the law in force at the time of execution.

(2) A policy of insurance executed outside Queensland and charged with ad valorem duty under this Act shall be chargeable with duty specified in subsection (1) to the extent that, it relates to—

- (a) a risk in Queensland; or
- (b) a life of a person resident in Queensland; or
- (c) property in Queensland;

or any 2 or all of them.

(3) Where a policy of insurance executed outside Queensland is chargeable with ad valorem duty under this section or section 4 (solely because it relates in part to a risk, life or property, of the kind specified in subsection (2)(a), (b) or (c) or any 2 or all of them) the duty chargeable shall be an amount which bears to the total amount of duty that would apply if the policy related, as the case may be, wholly to a risk, life or property of the kind specified in subsection (2)(a), (b) or (c), the same proportion as that part of the sum insured relating to, risks, lives, or property of the kind specified in subsection (2)(a), (b) or (c) or any 2 or all of them bears to the total sum insured.

46A Policies executed in Queensland

(1) Where a policy of insurance is executed in Queensland and it relates to—

- (a) a risk, other than a risk in Queensland; or
- (b) a life of a person resident outside Queensland; or
- (c) property outside Queensland;

duty chargeable under this Act on the policy may be reduced to the extent to which it relates to any risk, life or property specified in paragraph (a), (b) or (c) or any 2 or all of them, provided that ad valorem duty is payable in respect of the policy to the extent to which it relates to such risk, life or property in the State or Territory where, as the case may be that risk, life or property is located.

(2) Where a policy of insurance to which subsection (1) applies also relates to—

- (a) a risk in Queensland; or
- (b) a life of a person resident in Queensland; or
- (c) property in Queensland or any matter or thing done or to be done in Queensland;

or any 2 or more of them, the duty otherwise chargeable under this Act shall not be reduced below the amount of duty that would be payable had a policy relating to such risk, life, property, matter or thing been executed outside Queensland.

(3) Where duty chargeable under the Act is to be reduced pursuant to subsection (1), to the extent that it relates to a risk, life or property in another State or Territory, duty chargeable under this Act shall, subject to subsection (2), be reduced by the amount which bears to the total amount of duty that would be chargeable if such reduction were not allowed, the same amount as the sum insured attributable to the risk, life or property outside Queensland bears to the total sum insured.

46B Risk of consequential loss or damage

(1) Subject to subsection (2), (3) and (4), where a policy of insurance is chargeable with duty under this Act, for the purposes of determining—

- (a) the extent to which a policy executed outside Queensland relates to a risk in Queensland; or

- (b) the extent to which a policy executed in Queensland relates to a risk outside Queensland;

in addition to any other matters that may be relevant for those purposes, to the extent that the policy relates to the risk of loss or damage as a consequence of the happening of an event or contingency, the State or Territory where the loss or damage may arise shall be had regard to and not the State or Territory where the event or contingency that would give rise to that consequence might arise.

(2) Where the State or Territory where the risk of loss or damage that may arise under the policy is not Queensland—

- (a) subsection (1) only applies where the risk of loss or damage is located in that State or Territory because of the impact of the event or contingency in a practical and physical sense in that State or Territory through its consequential effect on property in that State or Territory or a business undertaking being or to be carried out in that State or Territory or any other matter or thing of a kind prescribed; and
- (b) subsection (1) shall not apply where the risk of loss or damage is located in that State or Territory because it emanates from an instrument which was executed in that State or Territory or a transaction which took place or is to take place or was entered into in that State or Territory.

(3) Notwithstanding subsection (1), where the State or Territory where the risk of loss or damage that may arise under the policy is not Queensland and the policy is not liable for ad valorem duty in that State or Territory, in addition to any other matters that may be relevant for the purposes referred to in subsection (1), the State or Territory where the event or contingency giving rise to the loss or damage might arise may be had regard to.

(4) Where the extent to which the risk of loss or damage under a policy of insurance is attributable to the various States or Territories can not reasonably be ascertained, subsection (1) shall not apply and for the purposes outlined in subsection (1), in addition to any other matters that may be relevant for those purposes, the State or Territory where the event or contingency giving rise to the risk of loss or damage may occur or arise may be had regard to.

46C Insurance with no executed policy

- (1) Where insurance is effected—

- (a) in Queensland; or
- (b) outside Queensland relating to a risk in Queensland or a life of a person resident in Queensland or property in Queensland or matter or thing done or to be done in Queensland;

and there is not an executed instrument constituting a policy of insurance in respect of that insurance then upon the happening of the event which makes the insurance binding between the parties—

- (c) any policy of insurance or any document, whether executed or not, referring to the insurance which has passed between the insurer and another person, shall be deemed to be—
 - (i) a policy of insurance executed by the insurer and the person who has taken out the insurance and the broker or agent acting for either of them in respect of the effecting of the insurance; and
 - (ii) executed at the time and place where the insurance is effected; or
- (d) where there is no document of the kind specified in paragraph (c)—each of the insurer, the person who has taken out the insurance and the broker or agent (if any) acting for either of them in respect of the effecting of the insurance shall be liable to create a statement in the approved form and lodge it with the commissioner within 30 days of the insurance becoming binding and such statement shall be chargeable as if it were, in respect of the insurance which has been effected, a policy of insurance executed by each of those persons at the time and place where the insurance is effected.

(1A) This section does not apply to reinsurance by one insurer with another insurer.

(2) Where more than 1 statement prepared under subsection (1)(d) is lodged in respect of the same insurance, the commissioner may elect which one of those statements shall be stamped.

(3) A person who—

- (a) fails to create and lodge a statement required under subsection (1)(d); or
- (b) creates or lodges a statement that is false or misleading in a material particular;

commits an offence against this Act.

Maximum penalty—100 penalty units and an amount equal to twice the duty that would have been chargeable on the statement if it had been prepared as required by this section.

(4) A person who is an approved insurer under section 46F or who is a person to whom section 46F(9)(a) applies shall not be liable for prosecution under subsection (3) for failure to lodge a statement under subsection (1)(d).

(5) A person who takes out insurance with an approved insurer or uses an approved insurer or a person to whom section 46F(9)(a) applies as his or her agent in the taking out of that insurance shall not be liable for prosecution for failure to prepare or lodge a statement under subsection (1)(d).

(6) Where a corporation commits an offence under subsection (3) each of the chairperson of directors, managing director or other governing officer by whatever name called, and every member of the governing body, by whatever name called, shall be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly.

(7) Subsection (6) applies so as not to limit or affect in any way the liability of the corporation to be proceeded against and punished for such offence committed by it.

(8) It is a defence to a charge of an offence under this Act brought against a person specified in subsection (6) to prove that the offence was committed without that person's knowledge or connivance and that the person could not by due diligence have prevented the commission of the offence.

46D Relief from duty where duty also chargeable in other States or Territories

Where—

- (a) a policy of insurance is chargeable with duty under this Act and under a corresponding law of another State or a Territory; and
- (b) the sum of the formula—

$$\frac{QD1}{QD2} + OSD$$

where—

“QD1” is the amount of duty chargeable on the policy in Queensland;

“**QD2**” is the amount of duty that would be chargeable if the policy were wholly dutiable in Queensland;

“**OSD**” is, in respect of all other States and Territories where duty is also payable on the policy, the sum of the fractions calculated, in respect of each other State or Territory where duty is also payable on the policy, in accordance with the formula—

$$\frac{\text{OSD1}}{\text{OSD2}}$$

where—

“**OSD1**” is the amount of duty payable on the policy in that other State or Territory;

“**OSD2**” is the total amount of duty that would be payable in that other State or Territory if the policy were wholly dutiable in that other State or Territory;

exceeds 1;

the commissioner may, in the commissioner’s discretion, having regard to facts and circumstances in respect of the insurance including the nature of the insurance and the extent of its connection with Queensland and with the other State or Territory, allow as an offset against the duty chargeable under this Act on the policy, an amount not exceeding the duty paid in the other State or Territory where the duty is also payable.

46E Liability for duty on a policy and lodgment

(1) The insurer, the person taking out the insurance and the broker for either of them (if any) in respect of the taking out of a policy of insurance charged with duty under this Act whether or not a party to the policy, shall be liable for the duty so charged in respect of the policy.

(2) A person who has custody or control or possession of a policy of insurance chargeable with duty under this Act or document deemed to constitute a dutiable policy of insurance which is or are not duly stamped shall be liable to lodge the policy or document for stamping as if the person were a party liable for duty on the instrument.

(3) A person to whom subsection (2) applies who fails to lodge a policy or document referred to in subsection (2) for stamping as required by this Act commits an offence against this Act.

Maximum penalty—100 penalty units.

46F Approved insurers to pay duty by return

(1) Where a person carries on any insurance business in Queensland (whether or not the person carries on any other business) or advertises or holds himself or herself out in any way as carrying on an insurance business in Queensland, whether the head office or principal place of business of that person is in Queensland or elsewhere, the person is required to apply in the approved form to the commissioner for approval as an approved insurer for the purposes of this section.

(2) A person to whom subsection (1) does not apply who in the course of any insurance business carried on by the person effects or has effected with the person insurance in respect of—

- (a) a risk in Queensland; or
- (b) a life of a person resident in Queensland; or
- (c) property in Queensland or any matter or thing done or to be done in Queensland;

or any 2 or more of them, may apply in the approved form to the commissioner for approval as an approved insurer.

(3) A person who fails to comply with subsection (1) commits an offence against this Act.

Maximum penalty—100 penalty units and 10 penalty units for each day on which the offence continues to the date of the person's conviction for the offence.

(4) A person who after conviction for an offence defined in subsection (3) or this subsection (in this subsection the “**previous conviction**”) continues to fail to comply with subsection (1) commits an offence against this Act.

Maximum penalty—10 penalty units for each day on which the person has continued to fail to comply with subsection (1) from the date of the person's last occurring previous conviction to the date of the person's conviction for an offence under this subsection last committed by the person.

(5) For the purposes of this section, a person who, in the course of business whether as a principal or as an agent—

- (a) grants or issues policies of insurance, other than policies of a kind prescribed; and

- (b) accepts directly or indirectly any premium, renewal or reinstatement premium or consideration for, or in respect of, the granting or issuing or keeping in force any policy of insurance of the kind specified in paragraph (a); and
- (c) carries out any written, verbal or implied contract or undertaking to effect any insurance;

carries on an insurance business.

(6) For the purposes of section 13A(5) to (14)—

- (a) an approved insurer shall be deemed to be an approved person; and
- (b) documents constituting policies of insurance under section 46C(1)(c) and statements required to be created under section 46C(1)(d) shall be deemed to be instruments of a kind to which an approval or requirement under section 13A relates.

(6A) An approved insurer in accounting for duty pursuant to subsection (6) may, where the relevant rate of duty is expressed in schedule 1 as a specified amount in dollars per dollar amount (and fractional part of that dollar amount) of the net premium, pay duty calculated as the percentage of net premium represented by P in the following formula—

$$P = S \times 100$$

where—

“S” is the specified amount.

(6B) Where an amount of duty calculated pursuant to subsection (6A) includes a fraction of a cent, that amount is to be increased by an amount equal to the difference between that fractional part of 1c and 1c.

(7) Where an approved insurer ceases to carry on insurance business in Queensland or ceases to have effected with the approved insurer insurance of the kind specified in subsection (2), the approved insurer shall notify the commissioner and his or her approval shall be cancelled.

(8) Where the commissioner is satisfied that it will not result in administrative inconvenience and that an alternative means of collection of duty is more suitable for—

- (a) policies of insurance chargeable with duty; and
- (b) documents dutiable under section 46C(1)(c); and

(c) statements required to be created under section 46C(1)(d);
in respect of insurance effected in the course of a person's insurance business, the commissioner may, where the commissioner considers it appropriate to do so, in writing authorise that person not to be required to be approved under this section.

(9) A person who carries on insurance business—

- (a) shall not be required to be approved where, in carrying on that business, the person only acts as agent for a principal who is an approved insurer; or
- (b) where the person acts as agent for insurers including an approved insurer—the person shall only be required to lodge returns in respect of policies, documents and statements other than those in respect of which the person has acted as agent for an approved insurer.

47 Policy of temporary insurance

(1) A policy of insurance—

- (a) which is to provide temporary insurance and is to be replaced or superseded by another policy of insurance; and
- (b) for which no premium is payable;

shall be exempt from duty.

(2) If—

- (a) a premium is payable on a policy of insurance which is to provide temporary insurance for a period of not longer than 3 months; and
- (b) it is clear from the policy that it is intended to be replaced or superseded by another policy; and
- (c) the subsequent policy when issued is in respect of the same risk, life, property or matter or thing and is for a sum insured not less than that provided for under the policy of temporary insurance and is for a term including the period of cover of the temporary insurance; and
- (d) full credit is given under the subsequent policy for the premium paid on the temporary insurance;

duty on the subsequent policy shall be calculated (including in respect of the premium on the policy of temporary insurance) and credit against that duty, not exceeding that duty, shall be given for duty paid on the policy of temporary insurance.

47A Policies of marine insurance in sets

(1) Any number of policies of marine insurance forming part of one set or series according to the custom of insurers shall be held to be one such policy for the purposes of this Act, provided that 1 of the number is duly stamped.

(2) Upon proof of the loss or destruction of a duly stamped policy of marine insurance forming 1 of a set or series, any other policy of the set may, although unstamped, be admitted in evidence to prove the contents of the lost or destroyed policy.

47B Workers' compensation insurance

(1) WorkCover Queensland must, for each calendar month, give the commissioner a return specifying the total of the premiums charged for accident insurance policies under the *WorkCover Queensland Act 1996* in the relevant month.

(1A) Every return is liable to duty at the rate specified in schedule 1 to apply to the policies.

(2) Every return furnished pursuant to subsection (1) shall be delivered to the commissioner within 14 days or such further time as agreed by the commissioner after the last day of the month in respect of which that return is required to be furnished.

(3) In subsection (1)—

“premiums charged” means all amounts charged during the relevant month to holders of accident insurance policies under the *WorkCover Queensland Act 1996* in respect of premiums after allowing for any adjustments made during that month in respect of any previous period and after deducting any bonuses allowed to policy holders during that month.

48 Continuous insurance

(1) Where a policy of insurance (other than a policy of insurance chargeable with duty under schedule 1, under the heading ‘Policies of life insurance’) is for an indefinite period, the policy shall, on issue or execution and at the expiration of each successive period of 12 months until its termination, be deemed to be a new or separate policy of insurance for a definite period of 12 months and chargeable with duty as such under this Act.

(2) In calculating duty chargeable on a policy of insurance or deemed new policy of insurance under subsection (1), so much of the premium as the commissioner is satisfied is reasonably attributable to the relevant period of 12 months shall be deemed to be the premium for the policy or deemed new policy.

48A Assessment of duty where premium unascertainable

(1) Where it is necessary to determine the premium to calculate the duty chargeable on a policy of insurance, and the premium is not ascertainable from the policy or if ascertainable, may be varied, the insurer and the person taking out the policy shall furnish to the commissioner an estimate of the net premium (as defined in schedule 1, under the heading ‘Policies of insurance (other than policies of life assurance and policies of accident insurance issued under the *WorkCover Queensland Act 1996*)’, provision (5)) payable on the policy together with evidence to the commissioner’s satisfaction in support of that estimate and the commissioner may for the purposes of making an assessment in respect of the duty chargeable on that policy calculate the duty chargeable having regard to that estimate and evidence.

(2) Where in respect of a policy of insurance chargeable with duty under schedule 1, under the heading ‘Policies of insurance (other than policies of life assurance and policies of accident insurance issued under the *WorkCover Queensland Act 1996*)’ or as a temporary or term policy under the heading ‘Policies of life insurance’, the term of the policy has expired or is deemed to have expired by section 48 (or in the case of a temporary or term assurance policy, the first year has expired)—

- (a) in a case where the premium payable in respect of the term of the policy (or in the case of a temporary or term assurance policy, the first year’s premium) exceeds the premium upon which duty was calculated in respect of that policy—the policy is deemed to be a new and separate policy of insurance (in this subsection the

“**deemed policy**”) chargeable with duty calculated on the premium payable and duty paid in respect of the firstmentioned policy is to be allowed as a credit against the duty chargeable on the deemed policy; or

- (b) in a case where the commissioner is satisfied that the premium payable or the first year’s premium, as the case may be, referred to in paragraph (a) is less than the premium upon which duty was calculated and paid in respect of that policy and an application for a refund of duty is lodged within 12 months of the date of the expiration or deemed expiration of the policy—the commissioner is, in respect of only 1 application, to reassess the amount of duty chargeable in respect of the policy on the basis of that premium payable or that first year’s premium, as the case may be, and is, subject to subsection (4), to refund an amount equal to the difference between the duty paid on the policy and the duty reassessed.

(3) An application under subsection (2)(b) may be made—

- (a) by the person who met the cost of the duty; or
- (b) on behalf of that person, by the person who paid the duty to the commissioner.

(4) Where an approved insurer under section 46F makes application under subsection (2)(b) and the duty on the policy was accounted for by return—

- (a) the approved insurer is—
 - (i) to make the application in the manner and form; and
 - (ii) to provide such particulars, information and evidence; and
 - (iii) to maintain such records in respect of the application, as the commissioner may require; and
- (b) the commissioner may credit against the approved insurer’s liability to account for duty in respect of policies of insurance by return, an amount equal to the amount the commissioner would have refunded under subsection (2).

48B Increase in premium

Where the premium for a policy of insurance, other than one to which section 48A applies, is increased during the term of the policy, the policy

(in this section the “**original policy**”) shall at that time be deemed to be a new and separate policy of insurance (in this section the “**deemed policy**”) for the same term and commencing on the same date as the original policy and duty paid on the original policy shall be allowed as a credit against the duty chargeable on the deemed policy.

48C Certain insurance policies need not be produced

A policy of insurance that is exempt from duty under this Act and conforms to a standard form of a policy of insurance (including terms and conditions set out therein) approved by the commissioner in relation to the person who issues that policy, need not be produced to the commissioner for assessment of duty.

48D Establishment of true premium

(1) Where—

- (a) a number of policies is taken out with one insurer or separate insurers between whom there is an arrangement in respect of the insurance; and
- (b) the premiums under those policies are conditional (expressly or implicitly) on other policies being taken out or are part of an arrangement that only applies if other policies are taken out; and
- (c) 1 or more of those policies attracts duty at a different rate or on a different basis to the other policy or those other policies; and
- (d) the commissioner is not satisfied that the premium under 1 of those policies truly reflects the relative risk of that policy;

the commissioner may, for the purpose of calculating duty, attribute a portion of the total premiums payable under those policies to each of the policies, as the commissioner considers appropriate.

(2) For the purposes of being satisfied or otherwise as to whether the premium under a policy reflects the relative risk or attributing a portion of total premium payable for the purposes of subsection (1), the commissioner may require an approved insurer under section 46F to provide information in respect of such matters.

49 Meaning of “conveyance or transfer” and provisions affecting the same

(1) For the purposes of this Act—

“**conveyance**” and “**transfer**” include every instrument and every decree or order of a court—

- (a) whereby property is conveyed, transferred or assigned to or is vested in a person; or
- (b) whereby property is vested, without an instrument of conveyance, transfer or assignment, in any person upon notification to or registration or recording by the registrar or other person having the duty under an Act of noting, registering or recording a vesting or dealing in property; or
- (c) whereby property is vested, without an instrument of conveyance, transfer or assignment, whether by operation of law or otherwise; or
- (d) whereby a vesting of the kind specified in paragraph (c) is notified to or registered or required to be noted, registered or recorded by the registrar or other person having the duty under an Act of noting, registering or recording vestings or dealings in property;

but do not include an instrument referred to in paragraph (b), (c) or (d) which—

- (e) notifies a transmission by death; or
- (f) relates solely to goods, wares, livestock or merchandise; or
- (g) notifies a vesting of property in the Official Receiver of Bankruptcy or a registered trustee pursuant to the *Bankruptcy Act 1966* (Cwlth), section 58; or
- (h) notifies a vesting by statute of a prescribed class or any other instrument of a prescribed class.

“**transferee**”, in respect of a conveyance or transfer, means the person to whom property is conveyed, transferred or assigned or in whom property is vested.

“**transferor**”, in respect of a conveyance or transfer, means the person who conveys, transfers, assigns or vests the property to which the instrument relates.

(1A) Where 2 or more instruments would but for this subsection be a conveyance or transfer within the meaning of subsection (1) in respect of the same vesting of the same property in the same person and any one of those instruments has been stamped in respect of that vesting, the other instrument or instruments is or are to be taken to be stamped to that extent.

(2) For the purposes of this Act a conveyance or transfer of property shall be taken to include all livestock and movable chattels included in the transaction to which the conveyance or transfer relates notwithstanding that the same are not referred to in the instrument of conveyance or transfer but pass upon or by delivery or by or pursuant to another instrument or in any other manner and notwithstanding that the same are not, at the date of execution of the instrument of conveyance or transfer, on the property to which that instrument refers.

(3) The true consideration for or value of all property included in a transaction (including livestock and movable chattels referred to in subsection (2)) shall—

- (a) be specified in the instrument of transfer or conveyance of property made pursuant to the transaction; and
- (b) be declared by declaration made under the *Oaths Act 1867*.

(3A) However, only the true consideration mentioned in subsection (3) need be specified in the instrument of conveyance or transfer if—

- (a) the conveyance or transfer of property includes real property situated in Queensland; and
- (b) the consideration for all of the property (including livestock and movable chattels) included in the transaction to which the conveyance or transfer relates equals, or is more than, the full unencumbered value of all the property.

(4) Where more instruments than 1 are made for the purpose of transferring to or vesting in any person property or any estate or interest in property pursuant to a transaction that includes livestock or movable chattels, the conveyer or transferor or, if there be more than 1, the conveyors or transferors shall apportion the true consideration for or value of such livestock or movable chattels among such instruments and in default thereof the commissioner may make such apportionment as the commissioner thinks fit and the commissioner's apportionment shall be conclusive.

(5) The commissioner may refuse to stamp a conveyance or transfer of real property if a combined form, completed in all respects, has not been produced.

(6) In this section—

“**combined form**” means an approved form providing information required under the following Acts—

- (a) this Act;
- (b) the *Land Tax Act 1915*;
- (c) the *Local Government Act 1993*;
- (d) the *Foreign Ownership of Land Register Act 1988*;
- (e) the *Valuation of Land Act 1944*.

49A Collection of duty in cases of property vested by Act or purchased under statutory power

(1) Where on or after 1 November 1918, by virtue of any Act whether passed before or after this Act, any property is acquired or taken by or on behalf of any constructing authority, in pursuance of the powers vested in such authority or in any person acting on behalf of such authority by such Act, so that such property is divested from the late owner thereof and becomes vested in such authority, and whether such acquiring or taking of such property was effected by agreement or by a proclamation, notification, or other instrument made in pursuance of such Act, such authority shall within 2 months from the date of the vesting of such property in it (or if the assessment of the purchasing price or compensation is to be fixed by any tribunal within 14 days after the final assessment of such price or compensation) produce a copy of such Act or such proclamation, notification, or instrument to the commissioner, who shall forthwith cause the same to be stamped as a conveyance on sale made in consideration of the price or compensation paid or to be paid to the late owner of such property.

(2) And in default of such production the duty shall be a debt due to Her Majesty from such authority.

(3) For the purposes of this section—

“**constructing authority**” shall mean and include a constructing authority, and any body, whether corporate or unincorporate, and any person

authorised or empowered by any such Act to take or acquire property, whether compulsorily or under an agreement.

(4) However, where any property is conveyed or transferred to any constructing authority as herein defined by any instrument of conveyance or transfer under an agreement in that behalf, whether such constructing authority in acquiring such property purported to act under any such Act as aforesaid or under its general powers, such instrument of conveyance or transfer shall be regarded as a conveyance or transfer within the meaning of section 49, and shall be stamped accordingly.

(5) To the extent aforesaid, this enactment shall have retrospective operation.

49B Nature of conveyance upon winding-up of company

For the purposes of this Act, a conveyance, transfer or assignment of property, otherwise than on sale for a full consideration, executed by a liquidator of a company in the course of and for the purposes of the winding-up of the company shall be taken to be a conveyance, transfer or assignment on sale of the property for a consideration equal to the value of the property at the date of the conveyance, transfer or assignment.

49C Relief from conveyance and transfer duty upon company reconstruction or amalgamation

(1) Where in connection with a scheme for the reconstruction of a company or the amalgamation of companies it is shown to the satisfaction of the commissioner that—

- (a) a company with limited liability (in this section the “**transferee company**”) has been incorporated having as one of its objects the acquisition of 90% at the least of the issued share capital of a company or of each of 2 or more companies (in this section a “**specified existing company**”); and
- (b) where there are 2 or more specified existing companies—such companies were associated companies prior to the acquisition referred to in paragraph (c); and
- (c) the transferee company has acquired 90% at the least of the issued share capital of a specified existing company; and
- (d) the consideration for such acquisition consists as to not less than 90% thereof in the issue of shares in the transferee company to

the holders of shares in the specified existing company in exchange for the shares held by them in that company; and

- (e) each shareholder in the specified existing company whose shares are acquired under an acquisition referred to in paragraph (c) receives consideration equal in value to the value of those shares; and
- (f) the issued share capital of the transferee company immediately following the acquisition consists as to not less than 90% thereof in shares issued in consideration for the acquisition of shares in the specified existing company or, where shares in 2 or more specified existing companies have been acquired, for the acquisition of shares in all those companies;

and the commissioner gives notice in writing to the transferee company and to the specified existing company that the commissioner is satisfied as prescribed by this subsection, then, subject to the provisions of this section, stamp duty prescribed in schedule 1, under the heading 'Conveyance or transfer' shall not be chargeable on any instrument made for or in connection with the transfer of the shares acquired by the transferee company in the specified existing company.

(2) Where it is shown to the satisfaction of the commissioner that—

- (a) either of the following circumstances exist—
 - (i) the effect of an instrument produced to the commissioner is to convey, transfer or assign a beneficial interest in property from a company (the “**transferor**”) to another company (the “**transferee**”); or
 - (ii) an instrument has been executed in connection with a conveyance, transfer or assignment of a beneficial interest in property from a company (also the “**transferor**”) to another company (also the “**transferee**”); and
- (b) the companies concerned are associated companies; and
- (c) where the means whereby the companies concerned have become associated companies do not—
 - (i) in the case where the companies concerned together are a transferee company and a specified existing company—exhibit all of the particulars specified in subsection (1)(a) to (f); or

- (ii) in any other case—consist of 1 such company, not being a transferee company, being a company whose issued share capital has been, from its incorporation to the time of the conveyance, transfer or assignment, owned as to not less than 90% thereof by the other such company;

the companies have been associated companies—

- (iii) for the whole of the time during which—

- (A) in the case where the property or an interest of not less than 90% therein has been owned prior to the transferor by other owners being companies associated with the transferor—the property or an interest of not less than 90% therein has been continuously owned by the transferor and by all such other owners; or

- (B) in any other case—the property or an interest of not less than 90% therein has been owned by the transferor; or

- (iv) for the whole of the time since the property came into the ownership of the transferor or of a company associated with the transferor by way of a conveyance, transfer or assignment in respect of which there has been paid stamp duty prescribed in schedule 1, under the heading ‘Conveyance or transfer’ or such duty reduced as prescribed by subsection (3); and

- (d) the instrument was not made pursuant to or in connection with an arrangement whereunder—

- (i) the consideration, or any part thereof, for the conveyance, transfer or assignment was to be provided or received, directly or indirectly, by a person other than the transferor, transferee or a company which at the time the instrument was made was associated with either the transferor or transferee; or

- (ii) the property to which the instrument relates was previously conveyed, transferred or assigned, directly or indirectly, by such a person; or

- (iii) the transferor and the transferee were to cease to be associated other than by reason of an eligible liquidation of one of them; and

- (e) the instrument is made in connection with a scheme for the reconstruction of a company or amalgamation of companies;

stamp duty prescribed in schedule 1, under the heading 'Conveyance or transfer' shall not be chargeable on the instrument.

(3) Where the commissioner is satisfied that stamp duty prescribed under the heading referred to in subsection (2) would not be chargeable on an instrument but for the provisions of subsection (2)(c) there shall be deducted from the stamp duty chargeable under that heading on the instrument the amount which the commissioner is satisfied has been paid previously in Queensland in respect of stamp duty chargeable under that heading on transfers of shares made for the purpose of the transferor and transferee becoming associated companies if ownership of the shares has at all times since the making of those transfers remained in the company to which the shares were then transferred.

(3A) An amount deducted pursuant to subsection (3) shall not be deducted again from the stamp duty chargeable on any other instrument.

(4) Where a claim under this section for exemption (total or partial) from payment of stamp duty has been allowed and—

- (a) it is subsequently discovered that any declaration or other evidence furnished to the commissioner in support of the claim was untrue in a material particular; or
- (b) in the case of a claim under subsection (2), the transferor and transferee have ceased to be associated (other than by reason of an eligible liquidation of one of them) within 5 years after the date on and from which the conveyance, transfer or assignment in question operated;

the claim shall be deemed to have been disallowed and an amount equal to the duty remitted or deducted shall become payable forthwith upon such discovery or, as the case may be, cessation and may be recovered in any court of competent jurisdiction from either the transferor or the transferee as a debt due to Her Majesty together with interest thereon at the rate of 20% per annum for the period commencing on the date the instrument in question was made and continuing until payment of the amount is made.

(4A) Where a claim under this section for exemption (total or partial) from payment of stamp duty has been allowed and, within 5 years after the date on and from which the conveyance, transfer or assignment in question operated, any of the matters set out in subsection (2)(d) which the commissioner was satisfied would not occur in allowing that exemption,

does occur, each company which was a party to that instrument shall, within 28 days of the date of that occurrence, notify the commissioner of the circumstances of that occurrence.

(4B) Where a company fails to notify the commissioner in compliance with subsection (4A) it shall be guilty of an offence, and liable for a penalty equal to the amount of duty remitted or deducted when the claim under this section for exemption (total or partial) was allowed, less any amount of penalty received—

- (a) under this subsection from any company; or
- (b) from any person under subsection (4C).

(4C) Where a company commits an offence under subsection (4B), each of the chairperson of directors, managing director or other governing officer, by whatever name called, of that company and every member of the governing body thereof, by whatever name called, shall be deemed to have committed the offence and shall be liable to be proceeded against and liable for the penalty specified in that subsection.

(4D) Subsection (4C) applies so as not to limit the liability of a company to be proceeded against under subsection (4B) and penalised for such an offence committed by it.

(4E) Where a company fails to notify the commissioner in compliance with subsection (4A) and the commissioner is unable, for any reason, to recover any duty or interest for which that company is liable under subsection (4), each of the chairperson of directors, managing director or other governing officer, by whatever name called, of that company and every member of the governing body thereof, by whatever name called, shall be liable for such duty or interest, or both, as the case may be.

(4F) Where a person can prove that the offence under subsection (4B) was committed without the person's knowledge or connivance the person shall not be liable under subsection (4C) or (4E).

(4G) Where any evidence or declaration has been produced by a person for the purposes of a claim under this section for exemption (total or partial) and that evidence or declaration is untrue or misleading or omits a material particular, that person shall be guilty of an offence and liable to a penalty of—

- (a) 100 penalty units; and
- (b)—

- (i) where the claim has not been allowed—an amount equal to the amount of duty sought to be remitted or deducted; or
- (ii) where the claim has been allowed—an amount equal to the amount of duty remitted or deducted and interest thereon pursuant to subsection (4);

less any amount of penalty received under this subsection from any other person in respect of that claim.

(4H) It shall be a defence to a charge of an offence under subsection (4G) brought against a person to prove that the person did not know and could not have known, if all inquiries that reasonably ought to have been made by the person had been made, the evidence or declaration to be untrue or misleading or that it omitted a material particular.

(5) An instrument to which subsection (2) applies shall be deemed not to be duly stamped unless—

- (a) it is stamped with the duty with which, but for that subsection, it would be chargeable; or
- (b) it is stamped by the commissioner with an endorsement that it is exempt from duty referred to in that subsection or that such duty has been accounted for.

(6) For the purposes of this section—

- (a) without limiting the purview of subsection (2)(d), an arrangement shall be within the purview of that paragraph if it is one whereunder the transferor or transferee or a company associated as therein referred to with either of them is to be enabled to provide any of the consideration referred to in that paragraph or is to dispose of any of such consideration by or in consequence (wholly or partially) of the carrying out of a transaction involving a payment or other disposition by a person other than the transferor, transferee or such associated company;
- (b) a company shall be taken to be associated with another company if it is shown that—
 - (i) the one company is beneficial owner (directly or indirectly) of 90% at the least of the issued share capital of the other company and has voting control over that other company; or
 - (ii) a third company is beneficial owner (directly or indirectly) of 90% at the least of the issued share capital of each company and has voting control over each company.

(6AA) For the purposes of this section—

“**company**” means a body corporate other than a corporation sole.

“**eligible liquidation**” means a liquidation, other than a liquidation under an arrangement a significant purpose of which was to avoid the requirement that the transferor and transferee remain associated for the 5 years mentioned in subsection (4)(b).

“**shares**” includes stock.

(6A) For the purposes of this section, other than subsection (1)—

“**issued share capital**” means issued share capital which carries the right to unlimited participation in the distribution of income and capital of a company.

“**voting control**” means being in a position to cast or control the casting of 90% or more of the maximum number of votes that might be cast at a general meeting of a company (excluding any power to vote by any person by virtue of the provisions of any debentures or a trust deed securing the issue of such debentures).

(7) Where it is proposed that a company should be party to an instrument to be made to give effect to a scheme that may attract the application of the provisions of subsection (1), (2) or (3) any person acting on behalf of that company may, before the instrument is made, apply to the commissioner for the commissioner’s determination whether the instrument, if made, would be exempt (wholly or partially) from the payment of stamp duty as prescribed by those subsections or would be outside the purview and application of those provisions.

(7A) Every such application shall be in writing and shall accurately and fully disclose the scheme to effect which the instrument is to be made and shall be accompanied by written evidence in detail of such matters as are relevant to the making of the determination sought.

(7B) Upon being furnished with evidence sufficient to enable the commissioner so to do, the commissioner shall make a determination with respect to the application of the provisions of subsections (1), (2) and (3) to any instrument proposed to be made and if the commissioner determines that the instrument would be exempt (wholly or partially) from liability to stamp duty as prescribed by those subsections or any of them the commissioner shall do all things necessary to give effect to the relevant provisions of those subsections.

(7C) A determination made by the commissioner under subsection (7B) shall be binding upon the commissioner and all other persons concerned save where the instrument, the subject of the determination, or the scheme to effect which the instrument is made differs in any material particular from the details furnished to the commissioner with or in connection with the relevant application.

(8) The commissioner may call for the production to the commissioner of such evidence as the commissioner requires for the determination of any matter of which the commissioner is to be satisfied for the purposes of this section and, if so called for by the commissioner, such evidence shall be furnished by way of statutory declaration made under the *Oaths Act 1867* or under legislation that provides for the form or the taking of statutory declarations in any other State or Territory or in any other country.

(9) The provisions of subsection (4) apply with respect to an instrument made consequent upon a determination made under subsection (7) as if the instrument were the subject of a claim under this section for exemption (total or partial) from the payment of stamp duty.

49D Duty and penalty on conveyance or transfer in certain cases

(1) If it appears to the commissioner—

- (a) that an instrument of conveyance or transfer purporting to have been made for the sole purpose of effecting the retirement of a trustee or the appointment of a new or additional trustee, and stamped with duty under schedule 1, under the heading ‘Conveyance or transfer’, paragraph 3(b) or 4(b), proviso, provision (v) was not made for the sole purpose of effecting the retirement of a trustee or the appointment of a new or additional trustee, having regard to—
 - (i) any alteration to the terms (including the addition of beneficiaries or alteration of beneficial interests) of the trust; or
 - (ii) any change of beneficial interest from the time of appointment of a retiring trustee or continuing trustee, in respect of which ad valorem duty chargeable under schedule 1, under the heading ‘Conveyance or transfer’, ‘Declaration of trust’ or ‘Settlement, deed of gift or voluntary conveyance’ has not been paid on an instrument; or

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- (iii) in respect of a unit trust scheme—any alteration that has been made to the beneficial ownership of the trust property (whether by sale, issue, transfer or redemption of units or any other manner); or
 - (iv) where the trustee or remaining trustee is a corporation—any alteration that has been made to the ownership of the stock or shares in that corporation; or
- (b) that an instrument of conveyance or transfer was the means or part of the means whereby a benefit has been conferred upon a new, additional or remaining trustee, or another person, whether by operation of law or otherwise;

then the amount of duty chargeable in respect of that instrument shall be the amount chargeable as if the instrument were not for the sole purpose of effecting the retirement of a trustee or the appointment of a new or additional trustee and thereupon section 80 applies as if the amount of duty assessed in the first instance had been assessed at an insufficient amount.

(2) Where a person who—

- (a) is a party to an instrument which is executed on or after the date of commencement of this section and which has been assessed pursuant to schedule 1, under the heading ‘Conveyance or transfer’, paragraph 3(b) or 4(b), proviso, provision (v); or
- (b) was or is a trustee of a trust in respect of which an instrument was executed on or after the date of commencement of this section and which has been assessed in the manner described in paragraph (a);

the person shall, within 28 days of the happening of any of the circumstances specified in subsection (1)(a) and (b) or such longer time as the commissioner in the commissioner’s discretion in the particular case allows, notify the commissioner of those circumstances.

(3) Where a person fails to notify the commissioner in compliance with subsection (2), the commissioner, when reassessing duty payable pursuant to subsection (1), shall demand and receive by way of penalty an amount equal to the total amount of duty so reassessed less any amount of penalty received from any other person under this subsection for failure to notify the commissioner of the circumstance that resulted in the reassessment.

49E Duty and penalty on declaration of trust in certain cases

(1) If it appears to the commissioner—

- (a) that an instrument executed on or after 9 April 1985 and stamped with duty under schedule 1, under the heading ‘Declaration of trust’, proviso, declaring that property vested or to be vested in the person executing the same is or shall be held in trust, was not consequential upon the retirement of a trustee or upon the appointment of a new or additional trustee and for no other purpose, having regard to—
 - (i) any alteration to the terms (including the addition of beneficiaries or alteration of beneficial interests) of the trust; or
 - (ii) any change of beneficial interest from the time of appointment of a retiring trustee or continuing trustee, in respect of which ad valorem duty chargeable under schedule 1, under the heading ‘Conveyance or transfer’, ‘Declaration of trust’ or ‘Settlement, deed of gift or voluntary conveyance’ has not been paid on an instrument; or
 - (iii) in respect of a unit trust scheme—any alteration that has been made to the beneficial ownership of the trust property (whether by sale, issue, transfer or redemption of units or any other manner); or
 - (iv) where the trustee or remaining trustee is a corporation—any alteration that has been made to the ownership of the stock or shares in that corporation; or
- (b) that an instrument executed on or after 9 April 1985, declaring that property vested or to be vested in the person executing the same is or shall be held in trust, was the means or part of the means whereby a benefit has been conferred upon a new, additional or remaining trustee, or another person, whether by operation of law or otherwise;

then the amount of duty chargeable in respect of that instrument shall be the amount chargeable as if the instrument were not for the sole purpose of effecting the retirement of a trustee or the appointment of a new or additional trustee and thereupon section 80 applies as if the amount of duty assessed in the first instance had been assessed at an insufficient amount.

(2) Where a person who, on or after 9 April 1985—

- (a) is a party to an instrument assessed pursuant to schedule 1, under the heading 'Declaration of trust', proviso; or
- (b) was or is a trustee of a trust in respect of which an instrument was assessed in the manner described in paragraph (a);

the person shall, within 28 days of the date of assent to the *Stamp Act and Another Act Amendment Act 1985* or the happening of any of the circumstances specified in subsection (1)(a) and (b) whichever is the later period to expire or such longer time as the commissioner in the commissioner's discretion in the particular case allows, notify the commissioner of those circumstances.

(3) Where a person fails to notify the commissioner in compliance with subsection (2), the commissioner, when reassessing duty payable pursuant to subsection (1), shall demand and receive by way of penalty an amount equal to the total amount of duty so reassessed less any amount of penalty received from any other person under this subsection for failure to notify the commissioner of the circumstance that resulted in the reassessment.

50 How ad valorem duty to be calculated in respect of stock, marketable securities and share rights

(1) Where the consideration, or any part of the consideration, for a conveyance on sale consists of any stock, marketable security or right in respect of shares, the conveyance is to be charged with ad valorem duty in respect of the value of the stock, security or right.

(2) Where the consideration, or any part of the consideration, for a conveyance on sale consists of any security not being a marketable security or right in respect of shares, the conveyance is to be charged with ad valorem duty in respect of the amount due on the day of the date thereof for principal and interest upon the security or right.

(3) However, where such consideration or part of such consideration consists of shares or debentures issued or to be issued by a company, the market or actual value of the shares or debentures shall be taken as the value of such consideration or part of the consideration.

51 How consideration consisting of periodical payments to be charged

(1) Where the consideration or part of the consideration for a conveyance on sale consists of money payable periodically for a definite

period, so that the total amount to be paid can be previously ascertained, the conveyance shall be charged with ad valorem duty on such total amount or on the full unencumbered value of the property conveyed, whichever is greater.

(2) Where the consideration or any part of the consideration, for a conveyance on sale consists of money payable periodically in perpetuity, or for an indefinite period not terminable with life, or payable periodically during any life or lives, the conveyance shall be charged with ad valorem duty on the value of the property conveyed.

(3) A conveyance on sale chargeable with ad valorem duty in respect of any periodical payments, and containing also provision for securing such periodical payments, shall not be charged with any duty whatsoever in respect of such provision.

51A Voluntary disposition to a company deemed to be a voluntary conveyance

Where any person, on or after 1 November 1918, makes a voluntary disposition of any property to or for the benefit of a company formed or to be formed, the instrument by which such disposition is made shall, for the purpose of this Act, be deemed a voluntary conveyance of such property; and to that extent this enactment shall have retrospective operation.

51B Valuation of property passing under voluntary conveyance

(1) The person making a settlement, deed of gift, or voluntary conveyance (not being the appointment merely of a new trustee) of any property, or any declaration of trust having the effect of such settlement, deed, or conveyance, shall, within 30 days after making the same, or after it has first been received in Queensland, in case it is first executed at any place out of Queensland, lodge with the commissioner an affidavit by some competent person stating to the best of the person's knowledge, information, and belief the value of such property, together with the instrument or a true copy thereof.

(1A) The commissioner shall thereupon assess the duty payable in respect of the instrument.

(2) If the person making such instrument fails to comply with this section within the prescribed period, it shall be lawful for the Supreme Court or a judge thereof, on application made by the commissioner, to order the said person to lodge the affidavit or the instrument, or a true copy

thereof, within the time and as directed by such order; and the costs of and incidental to the order shall be paid as the court or judge may direct.

51C Valuation in certain circumstances

(1) If, in a case of an instrument transferring or conveying property or in the case of an instrument on which the amount of stamp duty chargeable depends upon the value of or the consideration paid or given for property conveyed, transferred, assigned or otherwise dealt with by or in the instrument—

- (a) there is no consideration; or
- (b) the commissioner is of the opinion that the consideration does not represent the full unencumbered value of the property; or
- (c) the commissioner is not satisfied with the evidence of value of the property;

the commissioner may—

- (d) cause a valuation of the property to be made by some person appointed by the commissioner; or
- (e) accept a valuation of the property made by another person, whether the valuation is tendered by or for a party or comes into or to the commissioner's possession or knowledge in another way;

and the commissioner may assess the duty payable on the footing of such valuation.

(2) The commissioner may, having regard to the merits of the case, charge the whole or any part of the expenses of or incidental to the making of a valuation caused by the commissioner to be made to the person liable to pay the duty, and may recover the same from the person as a debt due to Her Majesty.

(3) However, the commissioner may, in the commissioner's discretion, adopt as the value of any shares or stock in any company or corporation such sum as, in the opinion of the commissioner, the holder thereof would receive in the event of the company being voluntarily wound-up on the date when the instrument of transfer or conveyance was executed took effect.

51D Improvements effected by transferee

(1) In assessing the ad valorem duty payable under this Act upon a conveyance or transfer of any land (whether in fee simple or for some lesser estate under the Crown) whereon there are improvements claimed by the transferee to have been effected by the transferee, or at his or her own expense, the commissioner may exclude from the total amount or value to be assessed such an amount or value as seems reasonable to the commissioner in respect of the value as at the date of the execution of the conveyance or transfer of the improvements the subject of the aforesaid claim.

(2) However, in respect of a conveyance or transfer—

- (a) the commissioner shall not be bound to make an exclusion as aforesaid; and
- (b) if the commissioner makes such an exclusion, the commissioner shall be the sole judge of the amount or value thereof; and
- (c) if such an exclusion as made by the commissioner is disputed or protested—the commissioner may revoke the exclusion and thereupon ad valorem duty shall be payable as if the exclusion had never been made.

51E Minimum value of certain shares or stock

(1) For the purposes of this section—

“share” means a share or stock of a company, corporation or society that is not listed on a stock exchange.

(2) Notwithstanding any other provision of this Act, the shares which comprise all of the issued capital of a company, corporation or society shall be deemed to have an aggregate minimum value of \$800.

(3) For the purpose of assessing the stamp duty payable upon a transfer of a share or shares referred to in subsection (2), the full unencumbered value of each share included in the transfer shall be deemed to be not less than that part of \$800 equivalent to the proportion of the total issued share capital of the company, corporation or society represented by the share.

52 How conveyance, in consideration of a debt etc. to be charged

Where any property is conveyed to any person in consideration, wholly or in part, of any debt due to the person, or subject either certainly or

contingently to the payment or transfer of any money or stock, whether being or constituting a charge or encumbrance upon the property or not, the debt, money, or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the conveyance is chargeable with ad valorem duty.

53 Directions as to duty in certain cases

(1) For the purposes of this section—

“**convey**” has a meaning, as the case may require, corresponding to the dealing in property which is effected by or evidenced by an instrument of conveyance as defined in this subsection.

“**instrument of conveyance**” includes a conveyance, transfer, assignment, settlement, deed of gift, voluntary conveyance, declaration of trust, contract or agreement or any instrument or statement which is charged as if it were a conveyance or is charged at the same ad valorem rates of duty as a conveyance.

“**transferee**” has a meaning, as the case may require, corresponding to the person to or on whom or for the benefit of whom property is under the instrument of conveyance, as defined in this subsection, conveyed, transferred, assigned, settled, gifted, declared to be held or that it is to be held on trust or contracted, agreed or otherwise acquired.

“**transferor**” has a meaning, as the case may require, corresponding to the person who under the instrument of conveyance, as defined by this subsection, conveys, transfers, assigns, settles, gifts, declares the trust, contracts, agrees or otherwise disposes of property to which the instrument relates.

(2) Subject to subsections (4), (5) and (6), if there are 2 or more instruments of conveyance, whether involving the same or different parties—

- (a) that arise from a single agreement (whenever made) to convey property; or
- (b) that together form, or arise from, substantially one transaction or one series of transactions;

the instruments are chargeable with ad valorem duty—

- (c) calculated on the sum of the amounts by reference to which ad valorem duty on each of the instruments would but for this section have been calculated; and

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(d) apportioned between the instruments as determined by the commissioner.

(3) Without limiting subsection (2), if—

(a) a person conveys, by 2 or more instruments of conveyance that were or appear to the commissioner to have been executed within 12 months of each other, property to the same person whether alone or with the same or different persons; or

(b) there are 2 or more instruments of conveyance—

(i) whether or not involving the same transferee or different transferees and the same transferor or different transferors and the instruments arise from 1 or more agreements, 1 or more of which is or are conditional on the making or completion of any other of those agreements; or

(ii) whereby property is conveyed or transferred to the same transferee by different transferors within 12 months of one another and the properties have in the 12 months preceding either or any of the instruments been used otherwise than separately and independently of one another by the transferors;

it shall be presumed, unless the commissioner is satisfied to the contrary, that the instruments arose from the one transaction or one series of transactions.

(4) Subsection (2) does not apply to 2 or more instruments of conveyance of property where interests in the property are conveyed by separate instruments to different transferees and the commissioner is satisfied—

(a) that there is not an arrangement or understanding between any of those transferees under which the interests are to be used otherwise than separately and independently from each other; and

(b) that the instruments arise from 2 or more agreements to convey property made independently of each other; and

(c) none of those transferees required as a condition of any of those agreements, the making or completion of any other of those agreements.

(5) Subsection (2) does not apply to 2 or more instruments of conveyance whereby property is conveyed by separate instruments by different transferors and the commissioner is satisfied—

- (a) the property the subject of the conveyance has not been used by the transferors otherwise than separately and independently from each other; and
- (b) that the instruments arise from 2 or more agreements to convey property made independently of each other.

(6) For the purposes of subsection (2)—

- (a) an instrument of conveyance of property and another instrument of conveyance which other instrument effects a disposition by the transferee under the firstmentioned instrument of that property (or a different interest in that property);
- (b) instruments of conveyances to the extent that they relate to the partition or division of property or an exchange of property;
- (c) instruments of conveyance of classes prescribed in respect of one another;

are not in relation to one another conveyances or transfers which satisfy subsection (2)(a) or (b).

(7) Where there are 2 or more instruments for completing or giving effect to the same conveyance, the commissioner may set-off against duty charged on any of those instruments duty paid on any of those instruments in respect of that conveyance.

(8) Where—

- (a) a person, on or after 1 November 1918, enters into an agreement or arrangement with another person under which that other person or any other person (either of which other persons is in this subsection the “**original purchaser**”) becomes entitled or may, provided that the terms or conditions of such agreement or arrangement are met, become entitled to the conveyance or transfer of any property; and
- (b) consequent upon any agreement or arrangement entered into by the original purchaser with another person and upon all other agreements or arrangements (if any) entered into by other persons (in this subsection, each of which person and other persons is the “**subpurchaser**”) the property is conveyed or transferred to a person (in this subsection the “**transferee**”) other

than the original purchaser without a conveyance of that property to the original purchaser;

the conveyance or transfer shall, for the purposes of this Act be deemed to be separate conveyances or transfers of the property to the original purchaser and to each subpurchaser including the transferee and shall be chargeable with ad valorem duty on the consideration or the full unencumbered value of the property whichever is the greater in respect of each such conveyance or transfer.

(8A) In every such case, without prejudice to the operation of section 26, the original purchaser and each subpurchaser of the property shall be liable to pay the ad valorem duty payable in respect of the purchase of the property by him or her and such duty may be recovered from him or her by the commissioner or by the person who has paid it.

(9) A transfer to which this subsection applies is a transfer where the commissioner is satisfied that the transferor is a person who at the time that he or she purchased the property was acting in the purchase evidenced by a contract or agreement for sale as agent for the transferee (either as a general agent or in relation to the particular transaction) and was so acting under an authority given to him or her by such person in writing executed prior to the execution of the contract or agreement for sale.

(10) The commissioner shall not be satisfied for the purposes of subsection (9) solely on the basis of a document which purports to be an authority given to the transferor by the transferee in writing executed prior to the execution of the contract or agreement for sale pursuant to which the transferor became proprietor of the property.

(11) No instrument of conveyance or transfer executed on or after 1 November 1918, of any estate or interest in any property whatsoever shall be valid, either at law or in equity, unless the name of the purchaser or transferee is written therein in ink at the time of the execution thereof.

(12) Any such instrument so made shall be absolutely void and inoperative, and shall in no case be made available by the insertion of a name or any other particulars afterwards.

(13) Moreover, for any breach of subsection (11) a penalty not exceeding 1 penalty unit shall be incurred by each party executing the instrument.

(14) However, subsection (11) shall not apply to a transfer or conveyance of any marketable security or right in respect of shares to

which sections 31C, 31D, 31E and 31F apply or to an SCH-regulated transfer.

53A Further provisions re stock or marketable security

(1) Any company recording a transfer of stock or marketable security, and acting bona fide and without notice that the name of the transferee is not written in such transfer in ink at the time of the execution thereof by the transferor, shall not be liable for any criminal or civil liability arising solely in respect of the recording of such transfer.

(2) Where any transfer of stock or marketable security is deposited with the relative script certificate with any banking company or financial institution carrying on business in Queensland by way of security for accommodation extended by such company or institution to any broker or agent or customer in the ordinary course of business, and the name of the transferee is not written in such transfer in ink at the time of the execution thereof by the transferor, such transfer of stock or marketable security shall not be affected by section 53(11) to (14) in so far as such transfer of stock or marketable security is intended to be held as a security for such accommodation only by any such company or institution or to be dealt with, should occasion arise, by any such company or institution in the exercise of the power of sale under such security.

(3) Moreover, it shall be lawful for any company to record the fact that such company holds the certificates for any stock or marketable security to be disposed of in whole or in part and included in any transfer or transfers signed by a vendor and held by a broker in which the name of the purchaser shall not have been written in in ink at the time of the execution thereof by such vendor, and any company subsequently registering such transfer or transfers of such stock or marketable security in which the name of the purchaser shall have subsequently been written in in ink shall not be liable for any criminal or civil liability arising solely in respect of the recording of such transfer or transfers.

(4) Save as is herein provided, nothing in this section shall be construed as to limit or in anywise affect the provisions of this Act as to the liability of any company, institution, or person concerned for the payment of the proper duty in respect of the transfer of stock or marketable security, or as to the liability of the selling broker to have the name of the purchaser written in in ink before delivery of any transfer of stock or marketable security out of the selling broker's hands, or the powers and authorities of the commissioner under this Act.

53B Calculation of value where property subject to a lease

(1) Where land which is conveyed or transferred is subject to a lease or agreement for a lease in favour of the transferee or a person related to the transferee (whether or not the conveyance or transfer is expressed to be so subject) the full unencumbered value of that land may be determined by the commissioner without regard to the existence of the lease or agreement for lease.

(2) In making a determination as provided in subsection (1), the commissioner shall have regard to the term of the lease, the adequacy of the rental payable and the times and manner in which the rental is payable.

(3) Where the commissioner makes a determination under subsection (1) in respect of an instrument, the commissioner may, in assessing duty on the instrument, allow a rebate of any stamp duty paid on the lease to which the conveyance or transfer is subject and which was disregarded in determining the value of the land to which the conveyance or transfer relates.

(4) For the purposes of this section, persons are related where they are associated persons, as defined in section 56FA(2), or related, within the meaning of section 56FA(3).

54 Certain contracts to be chargeable as conveyances

(1) Any contract or agreement for sale of any property or any contract or agreement whereby a person becomes entitled or may, provided the terms and conditions thereof are met, become entitled to the conveyance or transfer of any property shall be charged with the same duty as if it were an instrument of conveyance of the property.

(2) Subsection (1) does not apply to a contract or agreement for sale of any property (other than any equitable estate or interest in any property) which is property outside Queensland or which is solely comprised of any goods, livestock, wares or merchandise.

(3) Where an agreement which creates an option or right of purchase of any property provides that such property, or any part thereof, shall be conveyed or transferred to any person pending the exercise of the option or right of purchase, or where, in connection with such an agreement, such property, or any part thereof, shall be, or be agreed in any other manner to be, so conveyed or transferred, the agreement creating the option or right of purchase shall, for the purposes of this section, be deemed to be an

agreement for the sale of the whole of the property the subject of the option or right of purchase.

(3A) The determination of such option or right of purchase shall be deemed to be a rescission of an agreement for sale.

(3B) In order to obtain a refund of the duty on the rescission of any such agreement, the application for the refund of duty may be made at any time within the time limited by subsection (7A) or within 6 months after the date of such rescission whichever period is last to expire.

(3C) Where any property has been conveyed or transferred pursuant to, or in connection with, the agreement, no refund of duty shall be made pursuant to subsection (7A) unless evidence is produced, satisfactory to the commissioner, that the property has been reconveyed or retransferred to the person by whom it was so conveyed or transferred and there shall be deducted from any such refund of duty, the duty which would have been paid on the consideration for such option or right of purchase but for the provisions of subsections (3) to (3B).

(4) If a Queensland company acquires for a consideration in money or money's worth any property in Queensland and a contract or an agreement for the sale or an instrument of conveyance of the property is not executed or, being executed, is not duly stamped with ad valorem duty, the certificate of registration shall be deemed to be the instrument of conveyance of such property and, for the purposes of section 4B to have been signed or executed by the company and shall be chargeable accordingly with ad valorem conveyance duty.

(5) Where any property locally situate in Queensland is acquired for a consideration in money or money's worth, and the whole or any part of the conditions of such sale are set out or referred to in any instrument executed subsequently by any of the parties thereto, such instrument shall, unless a contract of sale or other instrument relating to the acquisition of the property, duly stamped, is produced, be chargeable with ad valorem conveyance duty in respect of the said sale, in addition to any other duty payable on the said instrument.

(6) Where duty has been duly paid in conformity with the foregoing provisions, the conveyance or transfer or conveyances or transfers made to the purchaser shall upon production of the contract or agreement or contracts or agreements, duly stamped not be chargeable with any duty, and the commissioner, upon application, either shall denote the payment of the ad valorem duty upon the conveyance or transfer or conveyances or transfers, or shall transfer the ad valorem duty thereto.

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(6A) Subsection (6) does not apply in respect of a conveyance or transfer made to a person other than the person named as purchaser in the contract or agreement for sale to which the conveyance or transfer is intended to be pursuant unless the commissioner is satisfied that at the time the contract or agreement for sale was executed the person named therein as purchaser was acting in the transaction evidenced by such contract or agreement as agent for the person to whom the conveyance or transfer is made (either as a general agent or in relation to the particular transaction) and was so acting under authority given to him or her by such person in writing executed prior to the execution of the contract or agreement for sale.

(6B) The commissioner shall not be satisfied for the purposes of subsection (6A) solely on the basis of a document which purports to be an authority given to the purchaser by the transferee in writing executed prior to the execution of the contract or agreement for sale.

(6C) Where the purchaser under a contract or agreement for sale is expressed to be a named person or his or her nominee, then for the purposes of subsection (6A) the purchaser named therein shall be taken to be such named person.

(7) Ad valorem duty with which a contract or agreement would otherwise be chargeable shall not be claimed in any case where there is produced to the commissioner evidence satisfactory to the commissioner that such contract or agreement was rescinded within 30 days after its execution.

(7A) If ad valorem duty has been paid on a contract or agreement which is at any time afterwards rescinded such duty shall be refunded to the person entitled thereto if—

- (a) there is produced to the commissioner evidence satisfactory to the commissioner that the contract or agreement has been so rescinded; and
- (b) the application for the refund of duty paid is made—
 - (i) in the case of a contract or agreement executed prior to the commencement of the *Stamp Act Amendment Act 1975*—within 12 months after the date of execution of the contract or agreement;
 - (ii) in the case of a contract or agreement executed after the commencement of the *Stamp Act Amendment Act 1975*—within 6 months after the date of such rescission or within such extended period as the commissioner allows

in a particular case (the commissioner being empowered to allow such extension of time if the commissioner is satisfied that there are special circumstances that warrant such extension).

(8) For the purposes of subsections (7) and (7A) and without limiting their meaning, a contract or an agreement which has been rescinded includes a contract or agreement under which all rights and obligations are at an end and the parties to the contract or agreement have been returned to the original positions in respect of the property the subject of the contract or agreement which they held prior to the execution of the contract or agreement.

(9) However, subsections (7) and (7A) do not apply to a contract or agreement (the **“first contract or agreement”**) if—

- (a) there is 1 or more arrangements, contracts or agreements resulting in any of the property the subject of the first contract or agreement being conveyed, or agreed to be conveyed, other than by the first contract or agreement; and
- (b) the purchaser under the first contract or agreement receives a direct or indirect financial benefit under the arrangements, contracts or agreements.

(10) In subsection (9)—

“financial benefit” does not include a benefit arising merely because the purchaser under the first contract or agreement—

- (a) is released from the purchaser’s obligations under the first contract or agreement; or
- (b) acquires a right or benefit in respect of all or part of the property the subject of the first contract or agreement.

54A Liability to account for duty upon transfer of business

(1) An acquisition or an agreement to acquire a business shall, for the purposes of this section, be deemed to include all goods, livestock, vehicles and other movable chattels, and all leases, tenancies and licences, and the goodwill appertaining to the business, which are acquired or agreed to be acquired from the owner of the business whether the same are included in the transaction by which the business is acquired or agreed to be acquired or are the subject of another transaction or other transactions.

(2) Every person who acquires or agrees to acquire a business that exists in Queensland shall, within 1 month after the person does so, deliver to the commissioner a statement in duplicate in the approved form.

(3) Where subsequent to delivering to the commissioner a statement under subsection (2) in respect of a business the person acquiring or agreeing to acquire the business enters into another transaction or other transactions referred to in subsection (1) then the person shall, within 1 month after the person enters into that transaction or those transactions, deliver to the commissioner a statement in duplicate in the approved form.

(4) A person who fails to deliver to the commissioner a statement in duplicate in compliance with the requirements of subsection (2) or (3) shall be guilty of a continuing offence against this Act and liable—

- (a) to a penalty not exceeding 100 penalty units; and
- (b) to a further penalty of not more than twice the duty upon the statement less any amount imposed under this paragraph on any other person who failed to so deliver the statement in duplicate.

(4AA) Upon convicting a person for an offence under this section the court shall, in addition to any penalty it may impose, order the person to pay the duty payable pursuant to this section in respect of the statement the subject of the conviction.

(4A) If proceedings for an offence are not taken against a person referred to in subsection (4) a penalty may be imposed by the commissioner.

(4B) Subject to subsection (4C), the penalty is—

- (a) 3% of the duty chargeable on the statement in relation to the first month, or part of the first month, after the end of the period during which the statement was required to be lodged; and
- (b) 2% for each subsequent month or part of a month until the statement is lodged.

(4C) If, apart from this subsection, the penalty would be less than \$10, the penalty is \$10.

(4D) The commissioner, after considering the circumstances, may reduce or waive the penalty.

(5) A statement under subsection (2) or (3) shall be charged with duty under this Act as if it were a conveyance or transfer of the property to which the statement relates for a consideration equal to the full unencumbered value of such property and the person delivering that statement shall be liable accordingly.

(5A) For the purposes of calculating the duty to be charged upon a statement under subsection (2) or (3), sections 55B and 55C apply as if the statement were an instrument conveying or transferring the property to which the statement relates.

(6) The commissioner shall set-off against the duty charged upon any statement under this section any amount of that duty which has been paid in respect of some other instrument.

(7) For the purposes of this section—

“acquisition of a business” and **“agreement to acquire a business”** include any transaction or transactions by which, although the whole of the assets of a business are not acquired or agreed to be acquired, sufficient of those assets are acquired or agreed to be acquired to enable the person acquiring the same to carry on the business.

“business” includes—

- (a) any business, profession, calling, vocation or other occupation carried on by a person on his or her own behalf or in partnership with any other person; and
- (b) any interest or any part of an interest held by a partner in a business; and
- (c) any interest or any additional interest acquired as a partner in a business.

(8) Where, other than by reason of the acquisition or agreement to acquire the whole of a business or any interest or any additional interest as a partner in the whole of a business, any real property or in the case of any land held from the Crown for a leasehold estate, any such leasehold estate, any lease, any tenancy or any licence appertaining to a business is acquired or agreed to be acquired then such real property, leasehold estate, lease, tenancy or licence and, if any other property appertaining to the business is acquired or agreed to be acquired therewith, such other property shall be deemed to be a business for the purposes of this section.

(9) Where any real property, or in the case of any land held from the Crown for a leasehold estate, any such leasehold estate is acquired by 1 or more persons and, at the time of or prior to or subsequent to the acquisition of such real property, or leasehold estate, any other property (real or personal) that, in the hands of the person from whom it is acquired, is or was being used in a business conducted on such real property, or land held from the Crown, is acquired by any person or persons such that there exists a relationship between the firstmentioned person or persons and the

lastmentioned person or persons or there exists any circumstance which in either case makes it likely that such other property acquired will be used in conducting a business on such real property or land held from the Crown, being a business that is of the same or substantially the same description as the business conducted thereon by the person from whom such other property is acquired, then it shall be deemed that such real property, or, as the case may be, leasehold estate and all such other property is a business for the purposes of this section.

(9A) However, if such other property is acquired prior to the acquisition of the real property or the leasehold estate in land held from the Crown on which was being conducted the business in which such other property was being used and the commissioner is satisfied that the acquisition of such other property is a transaction unrelated to the acquisition of the real property or leasehold estate, subsection (9) shall not apply.

(9B) In a case to which subsection (9) applies, the person or persons who acquire or agree to acquire the real property or leasehold estate in land held from the Crown shall be the person or persons who acquire or, as the case may be, agree to acquire the business, for the purposes of subsections (2), (3) and (4).

(10) For the purposes of this section a business shall be deemed to exist in Queensland if—

- (a) it is conducted on or from any place in Queensland; or
- (b) its conduct consists wholly or partly of offering to supply land or any interest therein, money, credit, or goods or any interest therein or to render any service, by way of offers directed to persons (generally as a class or individually) ordinarily resident in Queensland.

(11) Where a business acquired consists partly of a business that, pursuant to subsection (10), is to be deemed to exist in Queensland the provisions of subsection (2) shall be taken to apply only in respect of the acquisition of that part of the business that is to be so deemed to exist in Queensland and for the purpose of that application, should the case require it, a true apportionment shall be made of the value of all things, which pursuant to subsection (1) are deemed to be included in an acquisition of such business, and of the consideration for the acquisition, between the value of such things as are held in connection with the part of the business so deemed to exist in Queensland and the consideration therefor, and the value of such things as are held in connection with the part of the business not so deemed to exist in Queensland and the consideration therefor.

54AB Duty payable where no dutiable instrument

(1) This section applies to—

- (a) a transaction or acquisition, other than an acquisition of a business where the acquirer of the business is obliged to make up a statement under section 54A, which results in a person obtaining an estate or interest in any real property in Queensland or any land in Queensland held under a lease from the Crown or any livestock or moveable chattels acquired in the same transaction or acquisition whereby the person acquired that estate or interest in real property or leasehold estate;
- (b) a transaction which results in a person obtaining a tenancy or occupancy of land, tenements or hereditaments in Queensland in respect of which there is a written offer;
- (c) a transaction that—
 - (i) involves a person who has an estate or interest in property of a kind mentioned in paragraph (a); and
 - (ii) results in a trust restriction being imposed on, or removed from, the person in relation to the property.

(1AA) This section does not apply to the following—

- (a) the disposition of units in a public unit trust scheme (within the meaning given by section 56B);
- (b) the acquisition of an interest in property by the beneficiary of a trust if the trustee, in acquiring that property for the trust, paid duty under schedule 1, under the heading ‘Conveyance or transfer’;
- (c) an acquisition that is a relevant acquisition (within the meaning given by section 56FM).

(1A) For the purposes of subsection (1), a person is deemed to have obtained an estate or interest in property of the kind specified in subsection (1) where—

- (a) that person acquires an estate or interest, vested or contingent, in a trust the trustee of which owns an estate or interest, vested or contingent, in that property; or
- (b) the trustee of a trust in which that person has an estate or interest, vested or contingent, acquires an estate or interest, vested or contingent, in that property.

(1AB) For subsection (1)(c), a trust restriction is imposed on a person in relation to property in which the person has an estate or interest if—

- (a) the person's estate or interest is held otherwise than as trustee and the person starts to hold the estate or interest as trustee; or
- (b) the person's estate or interest is held as trustee of a trust and the person starts to hold the estate or interest as trustee of another trust.

(1AC) For subsection (1)(c), a trust restriction is removed from a person in relation to property in which the person has an estate or interest if the person's estate or interest is held as trustee of a trust and the person stops holding the estate or interest as trustee of the trust.

(1B) For the purposes of subsection (1A)—

- (a) a trustee is deemed to own an estate or interest in property of the kind specified in subsection (1), where in the trustee's capacity as trustee he or she beneficially owns that estate or interest, vested or contingent, through the trustee's interest in another trust; and
- (b) a trustee is deemed to acquire an estate or interest in property of the kind specified in subsection (1), where the trustee of another trust in which the trustee has an estate or interest, vested or contingent, has acquired that estate or interest;

and in determining whether the trustee of that other trust owns or has acquired that estate or interest, that other trust shall be deemed to own or to have acquired that estate or interest where it would, if it were the firstmentioned trust, have been deemed to own or have acquired that estate or interest.

(2) Where a person is a party to a transaction or acquisition to which this section applies or is a person who has obtained an estate or interest in property of the kind specified in subsection (1) and that transaction or acquisition is not effected or evidenced by an instrument which is chargeable—

- (a) in the case of a transaction or acquisition of the kind specified in subsection (1)(a)—with duty under schedule 1, under the heading 'Conveyance or transfer', paragraph (4); or
- (b) in the case of a transaction of the kind specified in subsection (1)(b)—with duty under schedule 1, under the heading commencing with the words 'Lease or agreement for lease';

- (c) in the case of a transaction of the kind specified in subsection (1)(c)—with duty under schedule 1, under the heading ‘Conveyance or transfer’, paragraph (4) on the full unencumbered value of the estate or interest mentioned in paragraph (c)(i) of the subsection;

that person shall, where the person would have been liable to pay that duty had the transaction or acquisition been effected or evidenced by an instrument chargeable with duty and had that instrument been executed, or where the person is a person who has obtained an estate or interest in property of the kind specified in subsection (1) or is a person involved in a transaction mentioned in subsection (1)(c), prepare and lodge with the commissioner, within 1 month of entering into that transaction or acquisition a statement in the approved form.

(3) A statement prepared under subsection (2) in respect of a transaction or acquisition specified in subsection (1)(a) or (b) shall be deemed for the purposes of this Act to be an instrument of conveyance or an instrument of lease, as the case may be, of the property comprised therein and every person who is liable to prepare a statement in respect of that transaction or acquisition shall be deemed to have executed that instrument.

(3A) For a statement prepared under subsection (2) for a transaction specified in subsection (1)(c) (the “**trust transaction**”)—

- (a) the statement is taken for this Act to be an instrument of conveyance of the estate or interest mentioned in subsection (1)(c), to the extent to which subsection (3) does not apply to the property comprising the estate or interest because of the transaction, or a transaction of which the trust transaction forms a part; and
- (b) the instrument is taken to have been signed by each person required to prepare a statement for the trust transaction.

(4) Where more than 1 statement prepared under subsection (2) is lodged in respect of the same transaction or acquisition the commissioner may elect which statement shall be stamped.

(4A) Where the commissioner in particular circumstances considers it appropriate, in view of the extent of a person’s connection with the transaction or acquisition, the commissioner may determine the person not to be liable, in whole or in part, under subsection (3) or (3A) on a statement lodged under subsection (2).

(5) A regulation may, whether before or after a particular transaction or acquisition has taken place, exempt from the operation of this section a particular transaction or acquisition or a particular class of transaction or acquisition.

(6) The commissioner shall set-off against the duty charged upon a statement prepared under subsection (2) any amount of duty which has been or, in the opinion of the commissioner, will be paid under this Act on any other instrument which effects or evidences the transaction or acquisition to which that statement relates.

(7) A person who—

- (a) fails to prepare and lodge with the commissioner a statement as required by subsection (2); or
- (b) makes or lodges a statement which is misleading or false in a material particular or omits a material particular;

shall be guilty of an offence against this Act and liable to a penalty not exceeding 100 penalty units and to a further penalty of not more than twice the duty that would have been chargeable on the statement if it had been prepared as required by this section.

(8) It is a defence to a charge of an offence under subsection (7) brought against a person to prove that the offence was committed without that person's knowledge or connivance and that the person could not by due diligence have prevented the commission of the offence.

54AC Duty payable on change of beneficial ownership of marketable securities and rights in respect of shares

(1) An instrument effecting or evidencing a change in the beneficial ownership of a marketable security or right in respect of shares is chargeable with duty as if it were a transfer of the security or right.

(2) Subsection (3) applies if the change in the beneficial ownership of a marketable security or right in respect of shares—

- (a) is not effected or evidenced by an instrument chargeable with ad valorem duty; and
- (b) would have been chargeable with ad valorem duty if it had been effected or evidenced by an instrument chargeable with ad valorem duty.

(3) A person who is a party to a transaction or acquisition involving a change in beneficial ownership must, not more than 1 month after the transaction or acquisition, make a statement to the commissioner in the approved form.

(3A) Subsection (3) does not apply to a change in beneficial ownership of a quoted security under a transaction or acquisition after 30 June 2001.

(4) A person must not intentionally or recklessly make a statement that is misleading or false in a material particular or omits a material particular.

Maximum penalty for subsections (3) and (4)—100 penalty units plus an amount equal to double the amount of the duty that would have been chargeable on the statement if the statement had been correctly made under this section.

(5) The statement is taken to be an instrument under this Act and chargeable with duty as if it were a transfer of the marketable security or right in respect of shares to which the statement relates.

(6) Each person liable to make the statement is taken to have executed the instrument.

(7) If more than 1 statement is made about the same transaction or acquisition, the commissioner may elect which statement is to be stamped.

(8) The commissioner may decide that a person is not liable to make the statement because of the person's connection with the transaction or acquisition.

(9) If duty chargeable under subsection (5) is to be paid under section 13A, the commissioner may waive the requirement to make the statement, but section 13A applies to each change of beneficial ownership as if the statement had been made.

(10) A regulation, whether made before or after a transaction or acquisition has taken place, may exempt the transaction or acquisition from the operation of this section.

54AD Statutory business licences

(1) This section applies if a person (the **“licence holder”**) acquires or agrees to acquire a statutory business licence that is property situated in Queensland.

(2) An acquisition of, or agreement to acquire, a statutory business licence is taken to have happened on the grant, extension or renewal of the

licence only if the former holder of the licence agreed to surrender or relinquish the licence, or agreed not to apply for an extension or renewal of the licence, so that the licence, an extension or renewal of the licence, or another licence for the same type of activity could be issued or given to the licence holder.

(3) This section does not apply to the acquisition of, or agreement to acquire, a statutory business licence effected or evidenced by an instrument chargeable with duty under schedule 1, Conveyance or transfer, paragraph (4) on the conveyance or transfer of the licence.

(4) For this section, a statutory business licence is property situated in Queensland if the licence relates to, or is held in connection with—

- (a) a business taken to exist in Queensland because of section 54A(10); or
- (b) Queensland or a part of Queensland.

(5) The licence holder must, within 1 month after acquiring, or agreeing to acquire, the statutory business licence (whichever happens first), make a statement to the commissioner in the approved form.

Maximum penalty—100 penalty units plus an amount equal to double the amount of the duty that would have been chargeable on the statement if the statement had been made under this section.

(6) If proceedings for an offence are not taken against a licence holder, the commissioner may impose a penalty of—

- (a) 3% of the duty chargeable on the statement for the first month, or part of the month, after the end of the period during which the statement was required to be made; and
- (b) 2% for each subsequent month or part of the month, until the statement is made.

(7) However, if the penalty calculated under subsection (6) would be less than \$10, the penalty is \$10.

(8) After considering the circumstances, the commissioner may waive or reduce the penalty.

(9) The statement mentioned in subsection (5) is taken to be an instrument under this Act executed by the licence holder and is chargeable with duty as if it were a conveyance or transfer of the statutory business licence to which the statement relates.

(10) However, subsection (11) applies if a statutory business licence mentioned in subsection (4) also relates to, or is also held in connection with—

- (a) for a licence mentioned in subsection (4)(a)—a business carried on in, or from, another State or Territory; or
- (b) for a licence mentioned in subsection (4)(b)—another State or Territory.

(11) If subsection (10) applies, duty chargeable on the statement is to be calculated as if the consideration for, or the full unencumbered value of, the licence were an amount that bears to the full amount of the consideration for, or full unencumbered value of, the licence the same proportion as the part of the full unencumbered value of the licence derived from—

- (a) the business undertaking of the licensee conducted in Queensland; or
- (b) the business undertaking of the licensee conducted from Queensland; or
- (c) the relationship of the licence to Queensland;

whichever is the greatest, bears to the full unencumbered value of the licence.

(12) In this section—

“statutory business licence” means a licence, permit or authority issued or given under a law of the Commonwealth or Queensland that is required by the law to be held by a person carrying out an activity for gain or reward.

54AE Water entitlements

(1) This section applies if a person (the **“entitlement holder”**) acquires, or agrees to acquire, a water entitlement.

(2) However, this section does not apply to—

- (a) an acquisition of a water entitlement if the acquisition results from a conversion that is exempt from stamp duty under the *Water Act 2000*, section 1008;³ or
- (b) an acquisition of, or agreement to acquire, a water entitlement if—
 - (i) the water entitlement replaces and represents, or substantially represents, a previous entitlement to water held by the entitlement holder immediately before the repeal of the *Water Resources Act 1989*; or
 - (ii) the acquisition or agreement is effected or evidenced by an instrument chargeable with duty under schedule 1, Conveyance or transfer, paragraph (4) on the conveyance or transfer of the water entitlement.

(3) Within 1 month after acquiring, or agreeing to acquire, the water entitlement, whichever happens first, the entitlement holder must make a statement to the commissioner in the approved form.

Maximum penalty—100 penalty units plus an amount equal to double the amount of the duty that would have been chargeable on the statement if the statement had been made under this section.

(4) If a proceeding for an offence against subsection (3) is not taken against an entitlement holder, the commissioner or deputy commissioner may impose a penalty of—

- (a) if the statement is made within 1 month (the “**first month**”) after the end of the period in which it was required to be made—3% of the duty chargeable on the statement; or
- (b) if the statement is not made within the first month—an amount equal to the sum of—
 - (i) 3% of the duty chargeable on the statement; and
 - (ii) 2% of the duty chargeable on the statement for each additional month, or part of an additional month, after the first month, until the statement is made.

3 *Water Act 2000*, section 1008 (Exemption of conversions of water allocations from stamp duty)

(5) However, if the penalty calculated under subsection (4) would be less than \$10, the penalty is \$10.

(6) After considering the circumstances, the commissioner may waive or reduce the penalty.

(7) The statement mentioned in subsection (3)—

- (a) is taken to be an instrument under this Act executed by the entitlement holder; and
- (b) is chargeable with duty as if it were a conveyance or transfer of the water entitlement.

(8) In this section—

“conversion” means a conversion under the *Water Act 2000*, section 121⁴ of a water licence or an interim water allocation to a water allocation.

“previous entitlement to water” means—

- (a) an entitlement to water under—
 - (i) a licence or permit under the *Water Resources Act 1989*; or
 - (ii) an agreement under that Act, section 15;⁵ or
- (b) another entitlement, granted by the State, to take water.

“water entitlement” see *Water Act 2000*, schedule 4.⁶

55 Partition or division

(1) An agreement for the partition or division of any real or personal property shall be charged with the same duty as if it were an actual conveyance or transfer by way of partition or division of the property comprised in the instrument.

(1A) Where 2 or more persons (in this subsection the **“proprietors”**) hold or have interests in real or personal property and by instrument convey or transfer that property or part thereof by way of partition or division to 1 or more of those persons (in this subsection the **“transferee”**)

4 *Water Act 2000*, section 121 (Converting water entitlements)

5 *Water Resources Act 1989*, section 15 (Power to supply water by agreement)

6 *Water Act 2000*, schedule 4 (Dictionary)—

“water entitlement” means a water allocation, interim water allocation or water licence.

then for the purpose of assessing the duty payable under this Act upon that instrument the full unencumbered value of the property conveyed or transferred shall be deemed to be equal to an amount that bears to the actual full unencumbered value of the property being transferred or conveyed the same proportion that the total of shares and interests of the proprietors less the share or interest of the transferee in the total property being partitioned or divided bears to that total.

Agreement for exchange to be charged as an actual conveyance or transfer by way of exchange

(2) An agreement for the exchange of any real or personal property shall be charged with the same duty as if it were an actual conveyance or transfer by way of exchange of the property comprised in the instrument.

Duty on subsequent instrument

(3) Any instrument of conveyance or transfer subsequently executed for the partition, division, or exchange of the property concerned, and actually in conformity with any instrument (being an agreement for the partition, division, or exchange of the property concerned or any other instrument of conveyance or transfer of that property) in respect of which ad valorem duty has been paid in compliance with this Act, shall not be charged with further duty.

55A Duty relating to principal place of residence and first principal place of residence

(1) For the purposes of this section—

“**acquirer’s interest**” means an interest acquired by a person in a property comprising or including a place or places of residence where the property is acquired by that person and another person or other persons as co-owners and where if that firstmentioned person were the only acquirer and one place of residence only was contained in the property acquired the commissioner would have been satisfied that the place of residence was in respect of that acquirer a prescribed principal place of residence.

“**curtilage**” means an area of land immediately adjacent to a place of residence not exceeding in any case 0.5 ha.

“**first acquirer’s interest**” means an acquirer’s interest in respect of which the commissioner is satisfied that—

- (a) the person acquiring that interest does not hold and at any time prior to that acquisition has not held an estate or interest in any property that consists or consisted of or includes or included any other place of residence in Queensland or elsewhere; and
- (b) there is consideration for the acquisition of property which includes the acquisition of the interest which is equal to or greater than the full unencumbered value of the property acquired by the firstmentioned acquisition; and
- (c) the value of the entire property acquired is not more than \$160 000.

“first acquirer’s share”, in relation to the share of a person who acquires a first acquirer’s interest, means the proportion that the share of that person in the whole of the property acquired bears to the total of the shares of the co-owners of the property immediately following the acquisition, expressed as a fraction.

“place of residence” means—

- (a) in the case of property that consists of or includes a dwelling house—the dwelling house; or
- (b) in the case of property that consists of or includes a block of flats, a double-unit dwelling house or a multiple-unit dwelling house—a flat, unit or part designed for human habitation by a single family unit; or
- (c) in the case of property that consists of or includes a structure containing shop, factory or similar premises—a part of the structure designed for human habitation by a single family unit;

and includes the land comprising the curtilage of the place of residence.

“prescribed first principal place of residence” means a prescribed principal place of residence about which the commissioner is satisfied—

- (a) the person acquiring the premises does not hold, and at any time before acquiring the premises has not held, an interest in a property that consists of, consisted of, includes or included another place of residence in Queensland or elsewhere; and
- (b) the value of the entire property acquired that consists of or includes the prescribed principal place of residence is not more than \$160 000.

“prescribed principal place of residence” means a place of residence in respect to which the commissioner is satisfied that—

- (a) the premises are being acquired for the purpose (wholly or in part) of occupation as and for the principal place of residence of the person acquiring the same; and
- (b) the person acquiring the premises shall enter into and remain in continuous occupation thereof as and for the person’s principal place of residence for a period of not less than 6 months immediately following the delivery of possession of the premises or within such further time thereafter not exceeding 6 months as the commissioner in the exercise of the commissioner’s discretion shall allow.

“relevant rebate” means—

- (a) for property consisting of a prescribed principal place of residence—
 - (i) if the property is valued at \$80 000 or less—\$800;
 - (ii) if the property is valued at more than \$80 000 but not more than \$150 000—\$500;
 - (iii) if the property is valued at more than \$150 000 but not more than \$155 000—\$300;
 - (iv) if the property is valued at more than \$155 000 but not more than \$160 000—\$200; and
- (b) for property including a prescribed principal place of residence—the rebate that would have been available if the property consisted of the residence less an amount that bears to the rebate the same proportion as the value of the property not attributable to the prescribed principal place of residence bears to the value of the property.

“second acquirer’s interest” means an acquirer’s interest not being a first acquirer’s interest.

“second acquirer’s share”, in relation to the share of a person who acquires a second acquirer’s interest, means the proportion that the share of that person in the whole of the property acquired bears to the total of the shares of the co-owners of the property immediately following the acquisition, expressed as a fraction.

(2) Subject to subsections (3) and (3A), where ad valorem duty is chargeable under schedule 1, under the heading ‘Conveyance or transfer’

in respect of an instrument effecting the acquisition of any prescribed principal place of residence, such duty in the first instance shall be—

- (a) in the case of a prescribed principal place of residence that is a prescribed first principal place of residence—as specified for a prescribed first principal place of residence;
- (b) in the case of any other prescribed principal place of residence—as specified for a prescribed principal place of residence;

in schedule 1 and no other.

(2A) For the purposes of this section—

“FAD1” means the amount obtained by applying the provisions for calculating duty on the acquisition of property which is or includes a prescribed first principal place of residence in schedule 1, under the heading ‘Conveyance or transfer’, paragraph (4) (in this section the **“first principal place of residence provisions”**) to PRV, as if PRV were the amount or value of consideration for a conveyance upon a sale to which those provisions applied and as if the whole of the property to which the conveyance relates were attributable to a place of residence.

“FAD2” means the amount obtained by applying the first principal place of residence provisions to PRV, as if PRV were the amount or value of consideration for a conveyance upon a sale to which those provisions applied and the whole of the property to which the conveyance relates were attributable to a place of residence.

“FAD3” in respect of all persons acquiring first acquirers’ interests, means the sum of the amounts which, in respect of each first acquirer’s interest, is obtained by multiplying the fraction represented by the first acquirer’s share by the amount obtained by applying the first principal place of residence provisions to FPRV, as if FPRV were the amount or value of consideration for a conveyance upon a sale to which those provisions applied and the whole of the property were attributable to a place of residence.

“FAS” means the fraction represented by the first acquirer’s share or the sum of the fractions which represent the shares of all acquirers who have first acquirers’ interests.

“FPRV”, in respect of a first acquirer’s interest, means that part of TV that is reasonably attributable to the place of residence which the commissioner, in determining that the person had acquired that

interest, was satisfied would be occupied by the person having that interest.

“**NAD1**” means the amount obtained by applying the provisions for calculating duty according to schedule 1, under the heading ‘Conveyance or transfer’, paragraph (4)(a), (in this section the “**ordinary conveyance rate provisions**”) to TV, as if TV were the amount or value of consideration for a conveyance upon a sale to which those provisions applied.

“**NAD2**” means the amount obtained by applying the ordinary conveyance rate provisions to the amount calculated in accordance with $(FAS \times PRV) + (SAS \times PRV)$ as if that amount were the amount or value of consideration for a conveyance upon a sale to which those provisions applied.

“**NAD3**” means the amount obtained by applying the ordinary conveyance rate provisions to NPRV, as if NPRV were the amount or value of consideration for a conveyance upon a sale to which those provisions applied.

“**NPRV**”, in relation to all acquirers’ interests, means the total of the amounts which in respect of each acquirer’s interest is obtained by multiplying the fraction that is represented by the first acquirer’s share or second acquirer’s share, as the case may be, of that acquirer by the amount which in respect of that acquirer’s interest is FPRV or SPRV, as the case may be.

“**PRV**” means that part of TV up to \$250 000 that would be reasonably attributable to a place of residence, if the commissioner were satisfied that the residence was a prescribed principal place of residence of the person occupying that place of residence.

“**SAD1**” means the amount obtained by applying the provisions for calculating duty on the acquisition of property which is or includes a prescribed principal place of residence, that is not a prescribed first principal place of residence, in schedule 1, under the heading ‘Conveyance or transfer’, paragraph (4) (in this section the “**principal place of residence provisions**”) to PRV, as if PRV were the amount or value of consideration for a conveyance upon a sale to which those provisions applied and as if the whole of the property to which the conveyance relates were attributable to a place of residence.

“**SAD2**” means the amount obtained by applying the principal place of residence provisions to PRV, as if PRV were the amount or value of consideration for a conveyance upon a sale to which those provisions

applied and the whole of the property to which the conveyance relates were attributable to a place of residence.

“SAD3”, in respect of all persons acquiring second acquirers’ interests, means the sum of the amounts which, in respect of each second acquirer’s interest, is obtained by multiplying the fraction represented by the second acquirer’s share by the amount obtained by applying the principal place of residence provisions to SPRV, as if SPRV were the amount or value of consideration for a conveyance upon a sale to which those provisions applied and the whole of the property were attributable to a place of residence.

“SAS” means the fraction represented by the second acquirer’s share or the sum of the fractions which represent the shares of all acquirers who have second acquirers’ interests.

“SPRV”, in respect of a second acquirer’s interest, means that part of TV up to \$250 000 that is reasonably attributable to the place of residence which the commissioner, in determining that the person had acquired that interest, was satisfied would be occupied by the person having that interest.

“TD” means the total duty chargeable on an instrument.

“TV” means the amount which (in respect of an acquisition to which an instrument relates) is the greater of the amount of, and the value of, the consideration for the acquisition of the whole property acquired and the full unencumbered value of the whole of the property acquired.

(2AB) Subject to subsections (2B) and (2E)—

- (a) if a person acquires an interest or a further interest in a property consisting of or including a place of residence; and
- (c) had the person acquired the entire interest in the property under the transaction, the commissioner would be satisfied that the place of residence is a prescribed principal place of residence or a prescribed first principal place of residence;

the duty payable on the person’s acquisition is an amount equal to the duty that would be payable if the person were acquiring the entire interest in the property multiplied by the fraction that represents the person’s acquisition.

(2B) Notwithstanding the provisions of schedule 1, where ad valorem duty is chargeable under schedule 1, under the heading ‘Conveyance or transfer’ in respect of an instrument which effects the acquisition of a first

acquirer's interest or a second acquirer's interest, or both, in property consisting of a place of residence, duty in the first instance shall be calculated in accordance with the formula—

$$\mathbf{TD = (FAS \times FAD1) + (SAS \times SAD1) + NAD1 - NAD2}$$

(2C) Notwithstanding the provisions of schedule 1, where ad valorem duty is chargeable under schedule 1, under the heading 'Conveyance or transfer' in respect of an instrument which effects the acquisition of a first acquirer's interest or a second acquirer's interest, or both, in property consisting of a place of residence and of property not being a place of residence, duty in the first instance shall be calculated in accordance with the formula—

$$\mathbf{TD = (FAS \times FAD2) + (SAS \times SAD2) + NAD1 - NAD2}$$

(2D) Notwithstanding the provisions of schedule 1, where ad valorem duty is chargeable under schedule 1, under the heading 'Conveyance or transfer' in respect of an instrument which effects the acquisition of a first acquirer's interest or a second acquirer's interest, or both, in a property comprising 2 or more places of residence each of which will be occupied by 1 or more of the acquirers so that every acquirer will so occupy a residence, duty in the first instance shall be the sum of the amounts calculated, in respect of each place of residence as if that place of residence were being acquired by the acquirer who is to occupy the residence and as if the acquirer were the only person acquiring the residence and as if that residence were the only property acquired.

(2E) Notwithstanding the provisions of schedule 1, where—

- (a) subsection (2D) would apply to an instrument if the instrument did not relate to property in addition to a place of residence; or
- (b) ad valorem duty is chargeable under schedule 1, under the heading 'Conveyance or transfer' in respect of an instrument which effects the acquisition of a first acquirer's interest or a second acquirer's interest, or both, in property comprising or including 2 or more places of residence and with or without other property not being a place of residence, where 1 or more of the places of residence will be occupied by 1 or more of the acquirers and 1 or more of which will not be so occupied;

duty in the first instance shall be calculated in accordance with the formula—

$$\mathbf{TD = FAD3 + SAD3 + NAD1 - NAD3}$$

(2F) Where—

- (a) (i) in respect of the acquisition of property (which includes land) by a person on or after 7 September 1989 but before the commencement of the *Revenue Laws Amendment Act 1993*, section 22(15)—ad valorem duty, without reference to schedule 1, under the heading ‘Conveyance or transfer’, paragraph (4)(a), provisos, has been paid under paragraph (4); and
- (ii) that person erects a place of residence on the land included in that acquisition; and
- (iii) that person takes up occupation of the residence as that person’s principal place of residence within 6 months of the completion of the erection of that residence and remains in continuous occupation of that residence as that person’s principal place of residence for a period of not less than 6 months thereafter; or
- (b) (i) in respect of the acquisition of property (which includes land) by a person (in this subsection and subsection (2G) the “**part purchaser**”) with another person as co-owner on or after 7 September 1989 but before the commencement of the *Revenue Laws Amendment Act 1993*, section 22(15)—ad valorem duty, without reference to schedule 1, under the heading ‘Conveyance or transfer’, paragraph (4)(a), provisos, has been paid under paragraph (4); and
- (ii) the part purchaser (whether or not with a co-owner) erects a place of residence on the land included in that purchase; and
- (iii) that part purchaser takes up occupation of the residence within the period and for the duration specified in paragraph (a)(iii);

the person referred to in paragraph (a) or the part purchaser referred to in paragraph (b) may, within 6 months (or such longer period as the commissioner in the commissioner’s discretion allows) after the person or part purchaser has been in continuous occupation of the residence for a period of 6 months, apply in the approved form for a refund of duty.

(2G) Where in respect of an application made under subsection (2F) the commissioner is satisfied of the matters referred to in subsection (2F)(a) or (b), as the case may be, the commissioner may refund to the applicant—

- (a) where the commissioner is satisfied that the person making the application does not and has not at any time up until the date of the application held an interest in property (including property referred to in subsection (2F)) which consists or consisted of or includes or included a place of residence other than the residence to which the application relates—
 - (i) in the case where the full unencumbered value of the whole of the property on which duty referred to in subsection (2F)(a)(i) or (b)(i) was calculated is \$30 000 or less and—
 - (A) the application is made under subsection (2F)(a)—an amount equal to FD; or
 - (B) the application is made under subsection (2F)(b)—an amount equal to (FD x PS);
 - (ii) in any other case—
 - (A) where the application is made under subsection (2F)(a)—an amount equal to (FD – DL1);
 - (B) where the application is made under subsection (2F)(b)—an amount equal to [(FD – DL1) x PS];
- (b) in any other case—
 - (i) where the application is made under subsection (2F)(a)—an amount equal to (FD – DL2);
 - (ii) where the application is made under subsection (2F)(b)—an amount equal to [(FD – DL2) x PS];

where—

“**FD**”, as the case may require, is that part of the duty paid on the instrument referred to in subsection (2F)(a)(i) or (b)(i) that was attributable to the relevant land;

“**PS**” is the fraction represented by the part purchaser’s share in the relevant land;

“**DL1**” is an amount equal to the difference between—

- (a) 1% of the full unencumbered value (at the time of execution of the instrument referred to in subsection (2F)(a)(i) or (b)(i), as the case may require) of the relevant land; and
- (b) half of the amount calculated in accordance with paragraph (a) or \$150 whichever is the lesser;

“**DL2**” is the amount calculated in accordance with paragraph (a) of DL1.

(2H) For the purposes of subsection (2G)—

“**relevant land**” means the land on which the place of residence referred to in subsection (2F)(a)(ii) or (b)(ii), as the case may require, was erected and the curtilage thereof.

(2I) For the purposes of subsection (2G), duty attributable to relevant land is to be an amount which bears to the total amount of duty paid on the instrument referred to in subsection (2F)(a)(i) or (b)(i), as the case may require, that was attributable to land only (without regard to structural improvements thereon) (in this subsection “**all of the land**”) the same proportion that the full unencumbered value of the relevant land (without regard to structural improvements thereon) bears to the full unencumbered value of all of the land.

(3) If it appears to the commissioner—

- (a) that the premises, in respect of which ad valorem duty had been paid on an instrument at the rate specified as for a prescribed principal place of residence or a prescribed first principal place of residence in schedule 1, were not acquired for the purpose of occupation as the principal place of residence of the person acquiring the same; or
- (b) the person acquiring such premises has not entered into occupation of the premises as the person’s principal place of residence upon taking possession of the premises or within such further time as the commissioner in the exercise of the commissioner’s discretion has allowed; or
- (c) the person acquiring such premises, having entered into occupation, has not thereafter remained in occupation as and for the person’s principal place of residence for a continuous period of 6 months;

then the amount of duty chargeable in respect of the instrument effecting the acquisition of the premises shall be the amount chargeable as if the premises were not acquired as a prescribed principal place of residence and

section 80 applies as if the amount of duty assessed in the first instance has been assessed at an insufficient amount.

(3A) If it appears to the commissioner that the person acquiring the premises in respect of which ad valorem duty had been paid on an instrument at the rate specified as for a prescribed first principal place of residence in schedule 1 at the time of or at any time before the acquisition by the person of those premises held an estate or interest in any property that consists or consisted of or includes or included a place of residence in Queensland or elsewhere then the amount of duty chargeable in respect of the instrument effecting the acquisition of the premises shall be the amount chargeable as if the premises were not acquired as a prescribed first principal place of residence and section 80 applies as if the amount of duty assessed in the first instance has been assessed at an insufficient amount.

(3B) If it appears to the commissioner that a person acquiring an acquirer's interest in premises in respect of which ad valorem duty has been paid on an instrument in accordance with a calculation set out in subsection (2B), (2C), (2D) or (2E) has not—

- (a) acquired the interest for the purpose of occupying the relevant place of residence as the person's principal place of residence; or
- (b) entered into occupation of the premises as the person's principal place of residence upon taking possession of the premises or within such further time as the commissioner in the exercise of the commissioner's discretion has allowed; or
- (c) having entered into occupation of the premises, thereafter remained in occupation as and for the person's principal place of residence for a continuous period of 6 months;

then the amount of duty chargeable in respect of the instrument effecting the acquisition of the acquirer's interest shall be the amount chargeable as if that person had not acquired an acquirer's interest; and section 80 applies as if the amount of duty assessed in the first instance had been assessed at an insufficient amount.

(3C) If it appears to the commissioner that a person whom the commissioner was satisfied, for the purpose of calculating duty in accordance with subsection (2B), (2C), (2D) or (2E), acquired a first acquirer's interest at the time of or at any time before the acquisition by the person of that interest held an estate or interest in any property that consists or consisted of, includes or included a place of residence in Queensland or elsewhere then the amount of duty chargeable in respect of the instrument effecting the acquisition of the interest shall be the amount chargeable as if

the interest were not acquired as a first acquirer's interest; and section 80 applies as if the amount of duty assessed in the first instance had been assessed at an insufficient amount.

(3D) If it appears to the commissioner that a person acquiring a partial interest in property consisting of or including a place of residence for which ad valorem duty has been paid on an instrument under subsection (2AB)—

- (a) has not acquired the interest for the purpose of occupying the place of residence as the person's principal place of residence; or
- (b) has not entered into occupation of the premises as the person's principal place of residence on taking possession of the premises or within any further time that the commissioner has allowed; or
- (c) having entered into occupation of the premises—has not remained in occupation as the person's principal place of residence for a continuous period of 6 months;

then—

- (d) the duty payable on the person's acquisition is the amount that would have been payable if the commissioner had not been satisfied under subsection (2AB)(c) that the place of residence was a prescribed principal place of residence; and
- (e) section 80 applies as if the amount of duty assessed in the first instance had been assessed at an insufficient amount.

(3E) If—

- (a) for the purpose of calculating duty for a partial interest in property under subsection (2AB), the commissioner was satisfied under subsection (2AB)(c) that the place of residence concerned was a prescribed first principal place of residence; and
- (b) it now appears to the commissioner that, at the time the person acquired the partial interest or at any time before acquiring the interest, the person held an interest in a property that consisted of or included a place of residence in Queensland or elsewhere;

then—

- (c) the duty payable on the person's acquisition is the amount that would have been payable if the commissioner had not been satisfied under subsection (2AB)(c) that the place of residence was a prescribed first principal place of residence; and

(d) section 80 applies as if the amount of duty assessed in the first instance had been assessed at an insufficient amount.

(4) A person who—

- (a) pays duty in respect of an instrument assessed pursuant to subsection (2), (2AB), (2B), (2C), (2D) or (2E); and
- (b) fails to occupy the premises to which the instrument relates as the commissioner was satisfied the premises would be occupied when assessing the instrument pursuant to subsection (2), (2AB), (2B), (2C), (2D) or (2E);

shall, within 28 days of that failure or such longer time as the commissioner in the commissioner's discretion in the particular case allows, notify the commissioner of the failure.

(5) Where a person fails to notify the commissioner in compliance with subsection (4), the commissioner, when reassessing duty payable pursuant to subsection (3), (3B) or (3D), may demand and receive by way of penalty an amount equal to the total amount of duty so reassessed with allowance for any amount paid in respect of the original assessment.

(5A) The commissioner may, in a particular case and for reasons which in the commissioner's discretion the commissioner considers sufficient, reduce or waive the penalty which the commissioner has demanded or would otherwise demand under subsection (5).

(6) A person who makes a false statutory declaration for the purpose of having an instrument effecting the acquisition of any place assessed at the amount and rate specified as for an instrument effecting the acquisition of a prescribed first principal place of residence or first acquirer's interest commits an offence against this Act and is liable to a penalty of 6 penalty units and liable to pay a penalty equal to double the amount of any increase in duty that would have been payable on an instrument effecting the acquisition of the place if the false declaration had not been made.

(7) A person who—

- (a) makes an application under subsection (2F) for a refund to which that person is not entitled; or
- (b) in making an application under subsection (2F) for a refund—makes a statement which is false or misleading in a material particular;

commits an offence against this Act.

Maximum penalty—6 penalty units and an amount equal to twice the amount of money unlawfully sought to be refunded.

55B Duty in respect of prescribed family rural properties

(1) For the purposes of this section—

“business of primary production” means a business that the commissioner is satisfied is a business of agriculture, pasturage or dairy farming.

“child” includes stepchild and spouse of a child or stepchild.

“family company”, in relation to a prescribed descendant, means an exempt proprietary company where the commissioner is satisfied that the shares of which owned by persons who are lineal ascendants of the prescribed descendant and by persons who are prescribed descendants of those lineal ascendants or any of them together have a value of not less than 50% of the value of all the issued shares of that company.

“family partnership”, in relation to a prescribed descendant, means a partnership which the commissioner is satisfied is comprised of lineal ascendants of the prescribed descendant and persons who are prescribed descendants of those lineal ascendants or any of them, with or without other persons, and that the lineal ascendants and prescribed descendants who are partners together hold an interest of not less than 50% in the capital and profits of the partnership.

“family unit trust scheme”, in relation to a prescribed descendant, means a unit trust scheme where the commissioner is satisfied that the beneficiaries under the scheme comprise lineal ascendants of the prescribed descendant and persons who are prescribed descendants of those lineal ascendants or any of them, with or without other persons, and that the lineal ascendants and prescribed descendants who are beneficiaries hold or are entitled to interests aggregating not less than 50% of all beneficial interests in that trust.

“grandchild” means child of a child.

“land” means freehold land or land subject to a lease granted by the Crown.

“lineal ascendant”, in relation to a prescribed descendant, means a person in respect of whom the prescribed descendant is a child or grandchild.

“prescribed descendant” means a child or a grandchild.

“prescribed family property” means property that the commissioner is satisfied is the subject (wholly or in part) of a gift by or at the direction of a lineal ascendant to a prescribed descendant and that the commissioner is satisfied—

- (a) comprises land or an estate or interest in land which is primarily used (or is capable of being used) and was acquired for use, whether solely or in conjunction with others, by or on behalf of the lineal ascendant in the business of primary production which land is intended to be used by the prescribed descendant (whether solely or in conjunction with others) in the business of primary production and chattels and other personal property used in relation to the carrying on of that business on that land and includes land that is within or adjacent thereto used for residential purposes; or
- (b) comprises land, an estate or interest in land or chattels or other personal property specified in paragraph (a), where such land, estate or interest in land, chattels and other personal property are held on trust (not being under a unit trust scheme) and the trusts were established for the benefit of the lineal ascendant, prescribed descendant and any child or children of the prescribed descendant or any of them (whether solely or in conjunction with other persons) and which property has been settled on or acquired by the trustee upon the trusts by or at the direction of a lineal ascendant of the prescribed descendant; or
- (c) comprises an interest in a family partnership to the extent that the property of the partnership consists of land, an estate or interest in land or chattels or other personal property specified in paragraph (a); or
- (d) comprises shares in or a right in respect of shares in a family company that holds property consisting of land, an estate or interest in land or chattels or other personal property specified in paragraph (a); or
- (e) comprises any right or interest of a beneficiary under a family unit trust scheme that holds property consisting of land, an estate or interest in land or chattels or other property specified in paragraph (a).

(1A) Where it is necessary for the commissioner, for the purposes of subsection (1), definition “family company”, to determine the value of any share of a company, the commissioner shall take into account, in such

manner as the commissioner considers appropriate, the respective rights and obligations pertaining to the share and the other shares issued by that company.

(2) Where ad valorem duty is chargeable under schedule 1, under the heading ‘Conveyance or transfer’, ‘Declaration of trust’ or ‘Settlement, deed of gift or voluntary conveyance’ in respect of any instrument—

- (a) effecting the conveyance, transfer or assignment of or agreeing to convey, transfer or assign (or charged with duty by reason of section 56B as if it were a conveyance) wholly or partly by way of gift from or upon the direction of a lineal ascendant any property that comprises or includes any prescribed family property to a prescribed descendant who does not take that property as an agent, nominee or trustee for any other person or to a person as trustee for an identifiable prescribed descendant who is a minor and for no other person other than a person who may only become a beneficiary under that trust upon the death of that prescribed descendant; or
- (b) declaring that prescribed family property vested or to be vested in the person executing the instrument is or shall be held in trust for an identifiable prescribed descendant of that person (the prescribed descendant being a minor) and for no other person other than a person who may only become a beneficiary under that trust upon the death of that prescribed descendant;

then, upon application made to the commissioner, for the purposes of calculating the amount of such duty payable in respect of that instrument—

- (c) in the case where any of the property the subject of the gift is prescribed family property consisting of shares in or a right in respect of shares in a family company which also has assets other than assets that are prescribed family property—for the purpose of determining the full unencumbered value of the shares, the assets of the company that, if held by that lineal ascendant and given to the prescribed descendant, would be prescribed family property shall be deemed to have no value and the company shall be deemed to have no liabilities;
- (d) in the case where any of the property the subject of the gift is prescribed family property consisting of any right or interest of a beneficiary under a family unit trust scheme that holds property that is not prescribed family property—the right or interest the

subject of the gift to the prescribed descendant shall to the extent that—

- (i) the right or interest is the subject of the gift; and
 - (ii) the right or interest relates to prescribed family property; be deemed to have no value;
- (e) in any other case—the prescribed family property, to the extent that that property is the subject of the gift to the prescribed descendant shall be deemed to have no value.

(3) A person who makes a false statutory declaration for the purpose of having the amount of duty in respect of an instrument calculated upon the basis that any property is prescribed family property commits an offence against this Act and is liable to a penalty of 100 penalty units plus an amount equal to double the amount of the duty or of any increase in duty that would have been payable on the instrument if the false declaration had not been made.

55C Transactions involving certain family businesses

(1) For the purposes of this section—

“**child**” includes stepchild and spouse of a child or stepchild.

“**family company**”, in relation to a prescribed descendant, means an exempt proprietary company where the commissioner is satisfied that the shares of which owned by persons who are lineal ascendants of the prescribed descendant and by persons who are prescribed descendants of those lineal ascendants or any of them together have a value of not less than 50% of the value of all the issued shares of that company.

“**family partnership**”, in relation to a prescribed descendant, means a partnership which the commissioner is satisfied is comprised of lineal ascendants of the prescribed descendant and persons who are prescribed descendants of those lineal ascendants or any of them, with or without other persons, and that the lineal ascendants and prescribed descendants who are partners together hold an interest of not less than 50% in the capital and profits of the partnership.

“**family unit trust scheme**”, in relation to a prescribed descendant, means a unit trust scheme where the commissioner is satisfied that the beneficiaries under the scheme comprise lineal ascendants of the prescribed descendant and persons who are prescribed descendants of those lineal ascendants or any of them, with or without other persons,

and that the lineal ascendants and prescribed descendants who are beneficiaries hold or are entitled to interests aggregating not less than 50% of all beneficial interests in that trust.

“grandchild” means child of a child.

“land” means freehold land or land subject to a lease granted by the Crown.

“lineal ascendant”, in relation to a prescribed descendant, means a person in respect of whom the prescribed descendant is a child or grandchild.

“prescribed business activities” means those activities carried on on land which is registered in the name of a lineal ascendant, family company, family partnership or trustee and which are activities of a class prescribed by regulation to be business activities to which this section applies.

“prescribed descendant” means a child or a grandchild.

“prescribed family business” means a business which is or any interest in which is the subject (wholly or in part) of a gift by or at the direction of a lineal ascendant to a prescribed descendant and that the commissioner is satisfied—

- (a) is wholly owned and operated by the lineal ascendant or by the lineal ascendant and other natural persons in partnership, or by a family company in which company the lineal ascendant holds shares; and
- (b) is managed personally by the lineal ascendant or, as the case may be, the directors, solely or in conjunction with other natural persons; and
- (c) is not a subsidiary of or does not form part of a larger business or enterprise; and
- (d) carries on prescribed business activities; and
- (e) is a class of business that has been declared by regulation to be a class of business to which this section may apply; and
- (f) is not a class of business that has been declared by regulation to be a class of business to which this section does not apply.

“prescribed family property” means property that the commissioner is satisfied is the subject (wholly or in part) of a gift by or at the direction of a lineal ascendant to a prescribed descendant and that the commissioner is satisfied—

- (a) comprises land or an estate or interest in land which is primarily used and was acquired for use, whether solely or in conjunction with others, by or on behalf of the lineal ascendant in a prescribed family business together with all chattels and other personal property necessary to carry on a prescribed activity carried on by the prescribed family business; or
- (b) comprises land, an estate or interest in land together with the chattels and other personal property specified in paragraph (a), where such land, estate or interest in land, chattels and other personal property are held on trust (not being under a unit trust scheme) and the trusts were established for the benefit of the lineal ascendant, prescribed descendant and any child or children of the prescribed descendant or any of them (whether solely or in conjunction with other persons) and which property has been settled on or acquired by the trustee upon the trusts by or at the direction of a lineal ascendant of the prescribed descendant; or
- (c) comprises an interest in a family partnership to the extent that the property of the partnership consists of land, an estate or interest in land together with the chattels and other personal property specified in paragraph (a); or
- (d) comprises shares in or a right in respect of shares in a family company that holds property consisting of land, an estate or interest in land together with the chattels and other personal property specified in paragraph (a); or
- (e) comprises any right or interest of a beneficiary under a family unit trust scheme that holds property consisting of land, an estate or interest in land together with the chattels and other property specified in paragraph (a).

(1A) Where it is necessary for the commissioner, for the purposes of subsection (1), definition “family company”, to determine the value of any share of a company, the commissioner shall take into account, in such manner as the commissioner considers appropriate, the respective rights and obligations pertaining to the share and the other shares issued by that company.

(2) Where ad valorem duty is chargeable under schedule 1, under the heading ‘Conveyance or transfer’, ‘Declaration of trust’ or ‘Settlement, deed of gift or voluntary conveyance’ in respect of any instrument—

- (a) effecting the conveyance, transfer or assignment of or agreeing to convey, transfer or assign (or charged with duty by reason of

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section 56B as if it were a conveyance) wholly or partly by way of gift from or upon the direction of a lineal ascendant any property that comprises or includes any prescribed family property to a prescribed descendant who does not take that property as an agent, nominee or trustee for any other person or to a person as trustee for an identifiable prescribed descendant who is a minor and for no other person other than a person who may only become a beneficiary under that trust upon the death of that prescribed descendant; or

- (b) declaring that prescribed family property vested or to be vested in the person executing the instrument is or shall be held in trust for an identifiable prescribed descendant of that person (the prescribed descendant being a minor) and for no other person other than a person who may only become a beneficiary under that trust upon the death of that prescribed descendant;

then, upon application made to the commissioner, for the purposes of calculating the amount of such duty payable in respect of that instrument—

- (c) in the case where any of the property the subject of the gift is prescribed family property consisting of shares in or a right in respect of shares in a family company which also has assets other than assets that are prescribed family property—for the purpose of determining the full unencumbered value of the shares, the assets of the company that, if held by that lineal ascendant and given to the prescribed descendant, would be prescribed family property shall be deemed to have no value and the company shall be deemed to have no liabilities;
- (d) in the case where any of the property the subject of the gift is prescribed family property consisting of any right or interest of a beneficiary under a family unit trust scheme that holds property that is not prescribed family property—the right or interest the subject of the gift to the prescribed descendant shall to the extent that—
 - (i) the right or interest is the subject of the gift; and
 - (ii) the right or interest relates to prescribed family property; be deemed to have no value;
- (e) in any other case—the prescribed family property, to the extent that that property is the subject of the gift to the prescribed descendant shall be deemed to have no value.

(2A) However, where the prescribed family property, to the extent that it is the subject of the gift, would, but for the operation of subsection (2)(c) to (e), have a value that, together with the value of all previous gifts of prescribed family property (if any) made after the commencement of the *Stamp Act Amendment Act 1984 (No. 2)* by the lineal ascendant to the prescribed descendant, is in excess of \$500 000, the firstmentioned prescribed family property shall be deemed to have a full unencumbered value equivalent to that excess.

(3) A person who makes a false statutory declaration for the purpose of having the amount of duty in respect of an instrument calculated upon the basis that any property is prescribed family property commits an offence against this Act and is liable to a penalty of 100 penalty units plus an amount equal to double the amount of the duty or of any increase in duty that would have been payable on the instrument if the false declaration had not been made.

56 As to sale of an annuity or right not before in existence

Where, upon the sale of any annuity or other right not before in existence, such annuity or other right is not created by actual grant or conveyance, but is only secured by bond, warrant of attorney, covenant, contract, or otherwise, the bond or other instrument, or some 1 of such instruments if there be more than 1, is to be charged with the same duty as an actual grant or conveyance, and is, for the purposes of this Act, to be deemed an instrument of conveyance on sale.

56A Certain instruments of annuity need not be produced

An instrument of annuity that is exempt from duty under this Act and conforms to a standard form of an instrument (including terms and conditions set out therein) of annuity approved by the commissioner in relation to the person who sells that annuity need not be produced to the commissioner for assessment of duty.

56B Unit trust schemes

(1) For the purposes of this section—

“**contracted property**” means property the subject of a purchase or sale contract.

“**disposition**” in relation to a unit includes—

- (a) a transfer or other disposition (including declaration of trust, settlement or agreement to dispose) of the unit; and
- (b) the allotment or issue of the unit; and
- (c) the redemption, surrender or cancellation of the unit; and
- (d) the variation, abrogation or alteration of a right pertaining to the unit with respect to the property of the unit trust scheme; and
- (e) any other circumstance where, on a determination under subsection (5), there is an increase, whether from no proportion or otherwise, in the proportion of the total issued units under the unit trust scheme represented by the unit.

“manager” means the manager of a unit trust scheme and any person authorised to accept, give effect to, recognise, register, record or enter in the books or records of a unit trust scheme a disposition in relation to a unit.

“public unit trust scheme” means a unit trust scheme as defined in schedule 2—

- (a) the units of which are listed on a stock exchange; or
- (b) until the end of the transitional period defined in section 61B(1)—for which there is an approved deed under the Corporations Law, part 7.12, division 5 (as in force on 30 June 1998); or
- (c) that is a registered scheme under the Corporations Law, part 5C; or
- (d) for which there is a deed of a class approved under a regulation; but does not include a unit trust scheme mentioned in paragraph (b), (c) or (d) under which—
- (e) no units have been issued to the public; or
- (f) fewer than 50 persons are beneficially entitled to units under the scheme or 20 or fewer persons are beneficially entitled to 75% or more of the total issued units under the scheme before or after a disposition of a unit or a series of dispositions of units which are pursuant to one transaction or arrangement (or what is substantially one transaction or arrangement) or a series of transactions or arrangements having a mutuality of purpose, whether or not in the case of a series of dispositions they involve the same or different persons.

“purchase contract” means an uncompleted contract or agreement (whether or not conditional) for the purchase or acquisition of property by a unit trustee as trustee of a unit trust scheme.

“sale contract” means an uncompleted contract or agreement (whether or not conditional) for the sale or transfer of property by a unit trustee as trustee of a unit trust scheme.

“stock exchange” means the Australian Stock Exchange Limited.

“transfer” means a conveyance, transfer or instrument chargeable as a conveyance or transfer.

“unit” means any right or interest, whether described as a unit or subunit or otherwise of a beneficiary under a unit trust scheme and includes an interest in a unit.

“unit trust scheme” means a unit trust scheme as defined in schedule 2, where any property the subject of the unit trust scheme is located in Queensland or any business of the scheme is carried on in Queensland, but does not include a unit trust scheme—

- (a) which is a public unit trust scheme or in respect of which there is a deed of a class approved under a regulation; or
- (b) which, on or after 12 December 1984, is an approved deposit fund for the purposes of the *Income Tax Assessment Act 1936* (Cwlth), section 27A, which has been offered to the public and, in respect of which the trustee is an approved trustee for the purposes of that section and in respect of which there has issued a prospectus under the Corporations Act.

“unit trustee” means a trustee of a unit trust scheme.

(1A) If the commissioner is satisfied—

- (a) units in a unit trust scheme (the **“start up units”**) will be issued to the public to an extent and with the entitlements set out in the definition “public unit trust scheme” in subsection (1) within 1 year after the first issue of units to the public; and
- (b) the start up units are the only units in the unit trust scheme to be issued from and including the first issue to the public until the unit trust scheme becomes a public unit trust scheme (the **“start-up period”**);

the unit trust scheme is taken to be a public unit trust scheme during the start-up period.

(1AA) If the start-up units are not issued in the way mentioned in subsection (1A)(a) or are not the only units issued in the unit trust scheme in the start-up period (the “**disqualifying circumstances**”), all of the following apply—

- (a) the scheme is taken not to have been a public unit trust scheme under subsection (1A);
- (b) if because of the application of paragraph (a) duty becomes payable, interest, at the rate of 10% per annum and computed from 60 days after the disposition giving rise to the liability to the duty until payment of the duty, is payable on the amount of the duty;
- (c) after considering the circumstances, the commissioner may waive or reduce the interest;
- (d) the trustee must, within 28 days after the disqualifying circumstances occur, give the commissioner written notice that the start-up units were not issued in the way mentioned in subsection (1A)(a) or were not the only units issued in the unit trust scheme in the start-up period;
- (e) section 80 applies as if the amount of any duty assessed in the first instance, on the basis that the unit trust scheme was a public unit trust scheme, has been assessed at an insufficient amount.

Maximum penalty for subsection (1AA)(d)—100 penalty units plus an amount equal to double the amount of any additional duty payable because of the application of subsection (1AA)(a).

(1AB) If the trustee is a corporation, the executive officers of the corporation must ensure the corporation complies with subsection (1AA)(d).

(1AC) If the corporation commits an offence against subsection (1AA)(d), each of the corporation’s executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with subsection (1AA)(d).

Maximum penalty for subsection (1AC)—the same as the maximum penalty for an offence against subsection (1AA)(d).

(1AD) Evidence that the corporation has been convicted of an offence under subsection (1AA)(d) is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complied with subsection (1AA)(d).

(1AE) However, it is a defence for an executive officer to prove—

- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with subsection (1AA)(d); or
- (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

(1AF) If proceedings for an offence against subsection (1AA)(d) are not taken against the trustee, the commissioner may impose a penalty of—

- (a) 3% of the additional duty payable because of the application of subsection (1AA)(a) for the first month, or part of the month, after the period mentioned in subsection (1AA)(d); and
- (b) 2% of the additional duty payable because of the application of subsection (1AA)(a) for each subsequent month or part of the month, until the additional duty is paid.

(1AG) However, if the penalty calculated under subsection (1AF) would be less than \$10, the penalty is \$10.

(1AH) After considering the circumstances, the commissioner may waive or reduce the penalty.

(1AI) In this section—

“executive officer”, of a corporation, means a person who is concerned with, or takes part in, the corporation’s management, whether or not the person is a director or the person’s position is given the name of executive officer.

(1B) Where a unit trust scheme is not a public unit trust scheme, as defined in subsection (1), because it is a unit trust scheme under which as a result of a disposition or series of dispositions of the kind referred to in that definition fewer than 50 persons are beneficially entitled to units under the scheme or 20 or fewer persons are beneficially entitled to 75% or more of the total issued units under the scheme, the unit trust scheme shall, for the purposes of that definition, be deemed not to be a public unit trust scheme from the time immediately preceding that disposition or the first disposition in that series of dispositions, as the case may be.

(1C) For the purposes of subsection (1), definition “public unit trust scheme”, a person shall be treated as beneficially entitled to all units held by that person and a related person, as defined by section 56FA(3).

(1D) For the purposes of subsection (1), definition “unit trust scheme”, a trustee owns property in Queensland where the trust of which it is trustee would under section 4 be deemed to so relate.

(2) A unit trustee or manager shall not make, accept, give effect to, recognise, register, record, or enter in the books or records of a unit trust scheme a disposition in relation to a unit unless—

- (a) a transfer or an instrument effecting or evidencing the disposition is duly executed and delivered to him or her; and
- (b) the transfer or the instrument, as the case may be, is duly stamped under this Act.

(2A) The disporor and the disponee of a unit in a unit trust scheme to which this section applies shall prepare and execute a transfer or other instrument effecting or evidencing the disposition.

(3) A person who contravenes or fails to comply with a provision of subsection (2) or (2A) commits an offence against this Act and is liable to a penalty of 100 penalty units plus an amount equal to double the amount of duty that would have been payable if an appropriate transfer or instrument had been executed and duly stamped under this Act.

(3A) Where a body corporate commits such an offence each of the chairperson of directors, managing director or other governing officer by whatever name called and every member of the governing body thereof by whatever name called shall be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly.

(3B) Subsection (3A) applies so as not to limit or affect in any way the liability of a body corporate to be proceeded against and punished for such an offence committed by it.

(3C) It is a defence to a charge of an offence against this Act brought against a person specified in subsection (3A) to prove that the offence was committed without that person’s knowledge or connivance and that the person used due diligence to prevent the commission of the offence.

(4) Subject to subsection (5), an instrument transferring a unit or effecting or evidencing a disposition in relation to a unit shall be chargeable with duty as if it were a conveyance free of encumbrances of an undivided share, equivalent to the proportion of the total issued units under the unit trust scheme represented by the unit, in the property held by the unit trustee as trustee without regard to the debts or liabilities of the unit trust scheme.

(4AA) For the purposes of subsection (4), property held by the unit trustee does not include an amount of cash paid or payable to the unit trustee or manager to the extent that it is for the allotment which represents the subject disposition.

(4AB) Where, for the purpose of determining the value of the property held by the unit trustee as trustee of the unit trust it is necessary to determine the value of the issued units in any other unit trust scheme, such units shall be deemed to have a value equivalent to the value of the property held by the trustee of that other unit trust scheme without regard to its debts or liabilities.

(4AC) The duty payable in respect of a disposition made for the sole purpose of carrying into effect the terms of a settlement or transferring to a beneficiary his or her entitlement under the terms of a declaration of trust where it is shown to the satisfaction of the commissioner that duty has been paid at the ad valorem rate under schedule 1, under the heading 'Settlement, deed of gift or voluntary conveyance' or 'Declaration of trust' on an instrument relating to units and, for the purpose of determining the value, the provisions of section 55B or 55C have not been applied, and whereby the units became subject to those terms shall not exceed \$4.

(4AD) Where the property the subject of a unit trust scheme consists both of property in Queensland and property outside Queensland, subsections (4) to (4AB) apply in respect of the property to the extent that it is located in Queensland.

(4AE) Where property the subject of a unit trust scheme consists of or includes a business, the business is carried on in Queensland if—

- (a) it is conducted on or from any place in Queensland; or
- (b) its conduct consists wholly or partly of offering to supply land or any interest therein, money, credit, or goods or any interest therein or to render any service, by way of offers directed to persons (generally as a class or individually) ordinarily resident in Queensland.

(4AF) Where property the subject of a unit trust scheme consists of a business that is carried on in Queensland, subsections (4) to (4AB) shall be taken to apply only in respect of and to the extent of that part of the business that is carried on in Queensland and for the purpose of that application, should the case require it, a true apportionment shall be made of the value of all things subject to the unit trust scheme which are located both within and outside Queensland.

(4AG) Subsection (4AH) applies for applying subsection (4) to a disposition in relation to a unit that is a disposition under subsection (1), definition “disposition”, paragraph (e).

(4AH) The reference in subsection (4) to the proportion of the total issued units under the unit trust scheme represented by the unit is a reference to the increase in the proportion resulting from the disposition.

(4A) Where the commissioner is satisfied—

- (a) that a disposition of units has the effect—
 - (i) that the persons who are the beneficiaries immediately prior to the disposition are the only persons who are the beneficiaries of the unit trust scheme immediately after the disposition and, where any such person is insofar as the beneficial ownership is concerned a trustee or nominee, that such person continues to hold that interest on the same trusts or as nominee for the same person as the case may be, as the interest has immediately theretofore been held; and
 - (ii) that the proportions in which such persons are the beneficiaries under the unit trust scheme immediately prior to the making of the disposition are the proportions in which such persons are the beneficiaries under the unit trust scheme immediately after the making of the disposition; and
- (b) that such disposition does not have the effect of varying or altering the rights or obligations of any person who is a beneficiary under the unit trust scheme as against the rights of any other person who is a beneficiary under the unit trust scheme in respect of the unit trust scheme;

this section shall not apply to the disposition of units.

(5) The commissioner shall, where it is necessary to determine, for the purposes of subsections (4) to (4AF), the proportion of the total issued units under a unit trust scheme represented by a unit, take into account, in such manner as the commissioner considers appropriate, the respective rights and obligations pertaining to the unit and the other units under the unit trust scheme.

(6) Each of the holders of a unit as at the date of disposition and thereafter under a unit trust scheme is liable to pay the duty with which a transfer of the unit or an instrument effecting or evidencing a disposition in relation to the unit is chargeable.

(7) A unit trustee or manager shall, where a transfer of a unit or an instrument effecting or evidencing a disposition in relation to a unit has been delivered to him or her, retain the transfer or instrument, as the case may be, for not less than 5 years after the day on which it is delivered to him or her.

(8) A person who contravenes or fails to comply with subsection (7) commits an offence against this Act and is liable to a penalty of 100 penalty units.

(9) A right or obligation arising out of a disposition in relation to a unit shall not be invalidated by reason only that the unit trustee or manager made, accepted, gave effect to or recognised the disposition or registered, recorded or entered the disposition in the books or records of the unit trust scheme in contravention of subsection (2).

(10) Where in respect of a disposition in relation to a unit, a transfer or an instrument effecting or evidencing a disposition is not executed and a unit trustee or manager fails to comply with subsection (2), the trust deed in respect of the unit trust scheme is chargeable with the amount of duty with which the instrument transferring a unit or effecting or evidencing a disposition of a unit would have been charged under subsections (4) to (4AF) had subsection (2) been complied with and the unit trustee or manager and each of the holders of a unit as at the date of the disposition and thereafter under a unit trust scheme is liable for such duty on the trust deed.

(11) Without limiting the way this section applies to property, property is taken to be the subject of a unit trust scheme, or to be held by a unit trustee as trustee, if the property is contracted property.

(12) For taking contracted property into account for subsection (4)—

- (a) any sale contract is taken not to have been made; and
- (b) any purchase contract is taken to have been completed.

(13) If contracted property is taken into account for subsection (4) and either the sale contract for the property is subsequently completed, or the purchase contract for the property is subsequently rescinded—

- (a) the contracted property is to be disregarded for subsection (4); and
- (b) the commissioner must make any necessary reassessments and refunds of duty.

56C Companies involving trusts

(1) For the purposes of this section—

“company” means a corporation within the meaning of the Corporations Act but does not include—

- (a) a corporation which is an authorised trustee corporation within the meaning of the Corporations Act; or
- (b) a corporation or class of corporation prescribed to be exempt from the provisions of this section; or
- (c) a company that is listed on a prescribed stock exchange.

“contracted property” means property the subject of a purchase or sale contract.

“disposition”, in relation to a share, includes—

- (a) a transfer or other disposition (including any declaration of trust, settlement or agreement to dispose) of the share; or
- (b) the allotment or issue of the share; or
- (c) the redemption, surrender or cancellation of the share; or
- (d) the variation, abrogation or alteration of a right pertaining to the share with respect to voting, whether at meetings of the company or the directors or otherwise; or
- (e) any other circumstance where, on a determination under subsection (9), there is an increase, whether from no proportion or otherwise, in a prescribed undivided share;

whether or not the disposition is documented or evidenced or recorded in writing but does not include a disposition by which the personal representative of a deceased person disposes of a share to a beneficiary in the administration of the estate of the deceased person.

“officer”, in relation to a company, has the same meaning as in the Corporations Act.

“purchase contract” means an uncompleted contract or agreement (whether or not conditional) for the purchase or acquisition of property by a trustee of a trust, as trustee of the trust.

“sale contract” means an uncompleted contract or agreement (whether or not conditional) for the sale or transfer of property by a trustee of a trust, as trustee of the trust.

“share” means a share or stock of a company and includes an interest in a share.

“stock exchange” has the same meaning as it has in the Corporations Act, chapter 6 by reason of section 9, definition “stock exchange” of that Act.

(2) This section applies to—

- (a) a company which is the trustee of a trust and in that capacity carries on business in Queensland or owns property located in Queensland; and
- (b) a company which has an interest in shares in a company of the kind specified in paragraph (a).

(3) For the purpose of this section, a company is a company which has an interest in the shares of a company if—

- (a) it owns those shares (whether as trustee or in its own right); or
- (b) it owns shares in a company which (whether as a trustee or in its own right) owns or is entitled to those shares.

(3A) For the purposes of this section, a trustee owns property in Queensland where the trust of which he or she is trustee would under section 4 be deemed to so relate.

(4) Without limiting the meaning of “entitled”, a company is entitled to shares to the extent that a subsidiary of that company is entitled to those shares and whether that subsidiary is entitled to those shares shall be determined as if it were a company to which this section applies and for the purposes of this section a subsidiary of a corporation is a subsidiary of a corporation within the meaning of the Corporations Act, section 9.

(5) A company to which this section applies, and an officer of that company, shall not make, accept, give effect to, recognise or register, record or enter in the books or records of the company a disposition in relation to a share unless—

- (a) a transfer or an instrument effecting or evidencing the disposition is executed and delivered to the company; and
- (b) the transfer or the instrument, as the case may be, is duly stamped under this Act.

(6) The disponent and the disponentee of a share in a company to which this section applies shall be liable to prepare and execute a transfer or other instrument effecting or evidencing the disposition.

(7) A person who contravenes or fails to comply with subsection (5) or (6) commits an offence against this Act.

Maximum penalty—100 penalty units and an amount equal to twice the amount of duty that would have been payable if an appropriate transfer or instrument had been prepared, executed and duly stamped under this Act.

(7A) It is a defence to a charge of an offence against this Act brought against a person specified in subsection (7) where the court is satisfied that the person did not know and could not reasonably have known that the disposition was one of a kind to which this provision relates.

(7B) Where a body corporate commits an offence under subsection (7), each of the chairperson of directors, managing director and other governing officer, by whatever name called, and every member of the governing body thereof, by whatever name called, shall be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly.

(7C) Subsection (7B) applies so as not to limit or affect in any way the liability of a body corporate to be proceeded against and punished for such an offence committed by it.

(7D) It is a defence to a charge of an offence against this Act brought against a person specified in subsection (7B) to prove that the offence was committed without that person's knowledge or connivance and that the person could not by due diligence have prevented the commission of the offence.

(8) Notwithstanding section 31G, an instrument effecting or evidencing a disposition in relation to a share in a company to which this section applies shall be chargeable with duty, in addition to any other duty payable under this Act, calculated as if it were a conveyance free of encumbrances of a prescribed undivided share in all of the trust property held by the trustee of the trust which, as the case may be, is the trust of which the company (or a company in which the company has an interest within the terms of subsection (2)) is trustee.

(8A) For the purposes of this section—

“prescribed undivided share” means—

- (a) in the case of a company described in subsection (2)(a)—the proportion of the value of the total issued capital of the company which the commissioner determines is represented by the share;
- or

- (b) in the case of a share in a company to which this section applies by virtue of it having an interest in another company in the terms of subsection (2)(b)—the proportion which the commissioner, having regard to such matters as the commissioner considers appropriate, determines that the share represents of the interest which the company has in that other company.

(8B) Where the property the subject of a trust consists of both property in Queensland and property outside Queensland, subsection (8) applies in respect of the property to the extent that it is located in Queensland.

(8C) Where property the subject of a trust consists of or includes a business, the business is carried on in Queensland if—

- (a) it is conducted on or from any place in Queensland; or
- (b) its conduct consists wholly or partly of offering to supply land or any interest therein, money, credit, or goods or any interest therein or to render any service by way of offers directed to persons (generally as a class or individually) ordinarily resident in Queensland.

(8D) Where the property the subject of the trust consists both of a business that is carried on in Queensland and outside Queensland, subsection (8) applies only in respect of the relevant part of the business that is carried on in Queensland and for the purposes of that application, should the case require it, a true apportionment shall be made of the value of all things subject to the trust which are located both in and outside Queensland.

(8E) Subsections (8F) and (8G) apply for deciding, for subsection (8), the prescribed undivided share in trust property held by the trustee of a trust, in applying subsection (8) to a disposition in relation to a share that is a disposition under subsection (1), definition “disposition”, paragraph (e).

(8F) The reference in subsection (8A), definition “prescribed undivided share”, paragraph (a) to the proportion of the value of the total issued capital of a company is a reference to the increase in the proportion resulting from the disposition.

(8G) The reference in subsection (8A), definition “prescribed undivided share”, paragraph (b) to the proportion a share represents of the interest a company has in another company is a reference to the increase in the proportion resulting from the disposition.

(9) The commissioner shall (where it is necessary to determine, for the purposes of subsections (8) to (8D), the proportion of the total issued

capital of a company represented by a share) take into account, in the manner the commissioner considers appropriate, the respective rights and obligations pertaining to the share and the other shares in the capital of the company.

(10) Where a company is a company to which this section applies in respect of more than 1 trust the value of a prescribed undivided share in the trust property of each trust shall be aggregated.

(11) The disponor and donee of a share in a company to which this section applies as at the date of disposition are liable to pay the duty with which a transfer of the share or an instrument effecting or evidencing a disposition in relation to the share is chargeable.

(12) A company to which this section applies shall, where a transfer of a share or an instrument effecting or evidencing a disposition in relation to a share has been delivered, retain the transfer or instrument, as the case may be, for not less than 5 years after the day on which the transfer or instrument is delivered to it.

(13) A company that contravenes or fails to comply with subsection (12) commits an offence against this Act.

Maximum penalty—100 penalty units.

(14) A right or obligation arising out of a disposition in relation to a share shall not be invalidated because the company or an officer of the company—

- (a) made, accepted, gave effect to or recognised the disposition; or
- (b) registered, recorded or entered the disposition in the books or records of the company;

in contravention of subsection (5).

(15) Where in respect of a disposition in relation to a share in a company to which this section applies which is a trustee, a transfer or an instrument effecting or evidencing the disposition is not executed and an officer of a company which is a trustee fails to comply with subsection (5), the trust deed in respect of the trust is chargeable with the amount of duty with which the instrument transferring or effecting or evidencing the disposition of a share would have been charged under subsection (8) had subsection (5) been complied with and the trustee and the donee and disponor shall be liable to pay the duty on the trust deed.

(15A) Where the commissioner is satisfied—

- (a) that the donee of a share in a company to which this section applies is also acquiring as part of the same transaction a unit in a unit trust scheme of which that company is trustee; and
- (b) that the same amount of duty under schedule 1, under the heading 'Conveyance or transfer' has been paid or will be paid on the acquisition of the unit as would have been payable on the transfer of the share but for the operation of this subsection;

the commissioner may determine duty not to apply under this section in respect of the disposition of the share.

(16) Where the commissioner is satisfied that a disposition in respect of a share in a company to which this section applies was not made in the contemplation of the donor disposing or the donee acquiring, directly or indirectly, for himself, herself or any person any benefit in relation to property held in trust, the commissioner may determine duty not to apply under this section in respect of the disposition.

(17) Where the commissioner is satisfied of the matters under subsection (16) and the commissioner determines that duty under this section does not apply in respect of a disposition, the commissioner shall notify the company and the donor and the donee of the matters and circumstances of which the commissioner was satisfied in making that determination.

(18) If it appears to the commissioner that a disposition in respect of which the commissioner has made a determination under subsection (16) was made in the contemplation of the matters outlined in that subsection and the commissioner is no longer satisfied of the matters and circumstances of which the commissioner was satisfied in making that determination, the transfer or instrument evidencing the disposition shall be chargeable with duty in accordance with this section as if the commissioner had not made a determination under subsection (16); and thereupon section 80 applies as if the amount of duty assessed in the first instance had been assessed at an insufficient amount.

(19) Where—

- (a) the company, donor or donee has been notified by the commissioner in accordance with subsection (17) of matters or circumstances of which the commissioner was satisfied for the purposes of making a determination under subsection (16); and
- (b) any of the matters or circumstances which the commissioner was satisfied would occur do not occur or any of those matters or

circumstances which the commissioner was satisfied would not occur, do occur;

the company, disponsor and disponee shall be obliged to notify the commissioner of the happening or non-happening, as the case may be, of the matter or circumstance, within 28 days of that happening or non-happening, or such longer time which the commissioner in the commissioner's discretion in a particular case allows.

(20) A person who—

- (a) fails to notify the commissioner in accordance with subsection (19); or
- (b) makes a false statement or representation for the purpose of satisfying the commissioner of the matters under subsection (16);

commits an offence against this Act.

Maximum penalty—100 penalty units and an amount equal to twice the amount of the duty chargeable on the transfer or instrument effecting or evidencing the disposition.

(21) Without limiting the way this section applies to property, property is taken to be the subject of a trust, or to be owned or held by a trustee of a trust, if the property is contracted property.

(22) For taking contracted property into account for subsection (8)—

- (a) any sale contract is taken not to have been made; and
- (b) any purchase contract is taken to have been completed.

(23) If contracted property is taken into account for subsection (8) and either the sale contract for the property is subsequently completed, or the purchase contract for the property is subsequently rescinded—

- (a) the contracted property is to be disregarded for subsection (8); and
- (b) the commissioner must make any necessary reassessments and refunds of duty.

56D Conveyance of land by way of security

(1) Notwithstanding the provisions of section 65, a conveyance or transfer by way of security of land, or an estate or interest in land, is chargeable with ad valorem duty on the full unencumbered value of the land or estate or interest in land, as the case may require, as if it were a

conveyance or transfer upon a sale and the consideration for such sale is an amount equal to the full unencumbered value of the land or the estate or interest in the land.

(2) Where the commissioner is satisfied—

- (a) that there has been a conveyance or transfer by way of security of land or an estate or interest in land; and
- (b) that duty has been paid in accordance with subsection (1) on such conveyance or transfer; and
- (c) that the land or estate or interest in land has been retransferred or reconveyed to the person who transferred the land or the estate or interest in land by way of security or to a person to whom the land or an estate or interest in land of the firstmentioned person has been transmitted by death or bankruptcy;

the commissioner shall refund the ad valorem duty paid on the conveyance or transfer by way of security, less the amount of duty that would have been payable on the conveyance or transfer if it had been charged with duty as a conveyance or transfer by way of security under schedule 1, under the heading ‘Conveyance or transfer’, paragraph (2).

56E Conveyance of other property by way of security

Where a conveyance or transfer by way of security of property other than land, has been assessed to or exempted from duty under this Act or another Act and the transferee or any subsequent assignee thereafter, attains ownership of the property, free from any interest or equity of the transferor or any subsequent assignee thereafter—

- (a) in the case where—
 - (i) the property conveyed or transferred by way of security comprises shares in a corporation which, at the time when the transferee or subsequent assignee attained that ownership, is a corporation to which the prescribed provisions, within the meaning of section 56F apply; and
 - (ii) the owner would, if the owner and all persons related, within the meaning of section 56FA(3), to the owner were to newly acquire all of the shares in the corporation which he, she or they own, have made a relevant acquisition within the meaning of section 56FM;

the prescribed provisions shall apply as if the transferee or assignee who attained that ownership and all persons related, within the meaning of section 56FA(3), to him or her were to newly acquire all of the shares of the corporation owned by them and duty chargeable under those provisions shall be reduced by the amount of duty (if any) paid on the conveyance or transfer by way of security; or

- (b) in any other case—an instrument by which that transferee or subsequent assignee attains that ownership or the instrument of conveyance or transfer, in the absence of that instrument, shall be chargeable with duty as if it were a conveyance or transfer upon a sale and the consideration for that sale is an amount equal to the full unencumbered value of the property at the time when the transferee or subsequent assignee attained that ownership and duty shall be reduced by the amount of duty (if any) paid on the conveyance or transfer by way of security.

56F Meaning of “prescribed provisions”

In sections 56FA to 56FO—

“prescribed provisions” means sections 56FA to 56FO.

56FA Interpretation

(1) In the prescribed provisions—

“acquire”, in relation to an interest in a corporation to which the prescribed provisions apply, includes, without limiting the generality of the expression, to acquire an interest by virtue of—

- (a) the purchase, gift, allotment or issue of any share, (not being the initial allotment of shares on incorporation of a corporation);
- (b) the redemption, surrender or cancellation of any share;
- (c) the variation, abrogation or alteration of a right pertaining to any share;
- (ca) any circumstance, whether involving an acquisition of a shareholding or not, where there is an increase, whether from no interest or otherwise, in an interest in a corporation;

but does not include an acquisition—

- (d) that is an issue of shares to all the shareholders of a corporation if—
 - (i) the proportions in which the shareholders hold the shares after the issue are, as near as practicable, the same as the proportions in which they held the shares before the issue; and
 - (ii) the rights among the shareholders have not changed significantly because of the issue of the shares;
- (da) that is an issue of shares to a person who at the time of the issue is the only shareholder of the corporation;
- (e) that is a transfer by way of security (chargeable with duty under schedule 1, under the heading ‘Mortgage, bond, debenture, and covenant’) where the commissioner is satisfied that the instrument has not been executed with an intention of avoiding ad valorem duty (calculated in accordance with the provisions in schedule 1, under the heading ‘Conveyance or transfer’);
- (f) that occurs solely as the result of—
 - (i) the appointment of a receiver or trustee in bankruptcy;
 - (ii) the appointment of a liquidator;
 - (iii) the making of a compromise or arrangement under the Corporations Act, part 5.1 which has been approved by the court;
 - (iv) the distribution of the estate of a deceased person, including an acquisition that occurs as the result of—
 - (A) a will, a codicil or an order of a court varying or modifying the provisions of a will or codicil; or
 - (B) an intestacy or an order of a court varying or modifying the application, in relation to the estate of a deceased person, of the provisions of a law relating to the distribution of the assets of persons who die intestate;
- (g) that is an issue of shares by a corporation if—
 - (i) the issue is to a person in consideration of the transfer of land to the corporation by that person; and
 - (ii) duty under schedule 1, under the heading ‘Conveyance or transfer’ has been paid or is payable in relation to the acquisition of the land by the corporation; and

(iii) the land is the only land held by the corporation; and

(iv) the person is the only shareholder of the corporation.

“contracted land” means land the subject of a purchase or sale contract.

“corporation” has the same meaning as in the Corporations Act.

“director” has the same meaning as in the Corporations Act.

“discretionary trust” means—

(a) a trust under which the vesting of the whole or part of the capital of the trust property, or the whole or part of the income from that capital, or both—

(i) is required to be determined by a person either in respect of the identity of the beneficiaries, or the quantum of interest to be taken, or both; or

(ii) will occur in the event that a discretion conferred under the trust is not exercised; or

(b) a trust which is, under a regulation, declared to be a discretionary trust for the purposes of the prescribed provisions;

but does not include—

(c) a trust that is solely a charitable trust; or

(d) a trust that is, under a regulation, declared not to be a discretionary trust for the purposes of the prescribed provisions.

“entitled” means beneficially entitled.

“interest” includes a majority interest and a further interest as defined in section 56FN.

“land” includes—

(a) any estate in land; and

(b) anything fixed to the land that is or may be taken to be the subject of ownership separate from the ownership of the land;

but does not include—

(c) the interest of a mortgagee in land; or

(d) units relating to land in a public unit trust scheme (within the meaning given by section 56B).

“purchase contract” means an uncompleted contract or agreement (whether or not conditional) for the purchase or acquisition of land by a corporation or subsidiary.

“related corporation”, of a corporation, means a corporation that is a related body corporate under the Corporations Act to the other corporation.

“rules”, of a corporation, means 1 or more of the following—

- (a) the corporation’s constitution;
- (b) replaceable rules applying to the corporation under the Corporations Act;
- (c) internal management rules applying to the corporation under the Corporations Act.

“sale contract” means an uncompleted contract or agreement (whether or not conditional) for the sale or transfer of land by a corporation or subsidiary.

“share” means a share or stock of a corporation and includes an interest in a share.

“subsidiary”, in respect of a corporation (in this definition the **“corporation”**), means—

- (a) a corporation that is deemed to be a subsidiary of the corporation under the Corporations Act, section 9; or
- (b) the trustee of any trust where the corporation or a subsidiary (referred to in paragraph (a)) of the corporation—
 - (i) is entitled to a share or interest in the trust, whether vested or contingent; or
 - (ii) in the case of a discretionary trust—may benefit from the trust; or
- (c) any corporation, where the trustee of a trust (of the kind to which paragraph (b) applies) would be entitled, if that corporation were to be wound-up immediately after the making of a relevant acquisition, to participate (otherwise than as a creditor or other person to whom the corporation is liable) in a distribution of the property of that corporation to an extent greater than 50% of the value of the property distributable to all of the holders of shares in that corporation; or

- (d) any corporation or the trustee of a trust that would by the application of this definition be a subsidiary of a corporation that is a subsidiary of the corporation.

For the purposes of this definition, a reference to a trust includes any other trust if the property of the firstmentioned trust—

- (e) includes a share or interest, whether vested or contingent, or direct or indirect, in that other trust; or
- (f) in the case of a discretionary trust—may comprise or be augmented by a benefit from that other trust.

“trust” includes a unit trust scheme.

(2) For the purposes of section 56FL(4)(c), the following—

- (a) are associated persons in relation to a corporation—
 - (i) a related corporation;
 - (ii) a related person within the meaning in subsection (3);
 - (iii) a director or secretary of the corporation or a related corporation;
 - (iv) a person who is entitled to any shareholding in the corporation or a related corporation;
 - (v) a relative of any natural person referred to in subparagraph (ii), (iii) or (iv);
 - (vi) a corporation in which the corporation or any person referred to in subparagraph (iii), (iv) or (v) is entitled to any shareholding;
- (b) are relatives of a person for the purposes of paragraph (a)(v)—
 - (i) a child or remoter lineal descendant of the person or the person’s spouse;
 - (ii) a parent or remoter lineal ancestor of the person or the person’s spouse;
 - (iii) a brother or a sister of the person or the person’s spouse;
 - (iv) the person’s spouse and a spouse of any person referred to in subparagraph (i), (ii) or (iii).

(3) For the purposes of the prescribed provisions, the following persons are related—

- (a) natural persons who are spouses of each other or between whom the relationship is that of parent and child;
- (b) related corporations;
- (c) a trustee and another trustee if there is any beneficiary common to the trusts of which they are trustees, whether the beneficiary has a vested share or is contingently entitled or may benefit from a discretionary trust;
- (d) a natural person and a corporation if the natural person is a majority shareholder, director or secretary of the corporation or a related corporation;
- (e) a natural person and a trustee if the natural person is a beneficiary under the trust of which the trustee is a trustee, whether the person has a vested share or is contingently entitled or may benefit from a discretionary trust;
- (f) a corporation and a trustee if—
 - (i) the corporation, a majority shareholder, director or secretary of the corporation is a beneficiary of the trust of which the trustee is a trustee; or
 - (ii) a related corporation to the corporation is a beneficiary of the trust of which the trustee is a trustee;whether any such beneficiary has a vested share or is contingently entitled or may benefit from a discretionary trust;
- (g) persons who acquire interests in a corporation by virtue of acquisitions that together form substantially one acquisition or one series of acquisitions.

(4) For the purposes of subsection (3), a majority shareholder, in relation to a corporation, is a person who, under the Corporations Act, would have a substantial holding in the corporation if the reference to 5% in the definition “substantial holding” in that Act were a reference to 50%.

(5) For the purposes of the prescribed provisions, the entitlement of a person to participate (otherwise than as a creditor or other person to whom the corporation is liable) in the distribution of the property of a corporation on a winding-up of the corporation is an entitlement to an amount calculated—

- (a) as if the winding-up were carried out in accordance with the rules of the corporation and any law relevant to the winding-up, as the rules and law exist at the time of the winding-up; or

- (b) as if the person had, immediately prior to the winding-up, exercised all powers and discretions exercisable by the person—
- (i) to effect or compel an alteration to the rules of association; or
 - (ii) to vary the rights conferred by shares in the corporation; or
 - (iii) to effect or compel the substitution or replacement of shares in the corporation with other shares in the corporation;
- in such manner as to maximise that amount;

whichever of the amounts under paragraph (a) or (b) results in the greater amount, unless the commissioner determines, after consideration of the circumstances of the case, and where the calculation under paragraph (b) results in the greater amount, that the amount of the entitlement should be calculated under paragraph (a).

(6) For the purposes of the prescribed provisions, the entitlement of a person on the distribution of a trust shall be determined as the greatest entitlement that the person could derive at any time from the trust whether by the fulfilment of any condition, the outcome of any contingency or the exercise of any power or discretion or otherwise, and in particular a person that may benefit from, or the trust property of another trust that may comprise or be augmented by a benefit from, a discretionary trust shall be deemed to be entitled to or comprise or be augmented by—

- (a) the property the subject to the discretionary trust unless the commissioner determines otherwise; or
- (b) such part of that property as the commissioner determines.

56FB Lodgment of statements where trust acquires interest

(1) Where a person by a relevant acquisition acquires a majority interest or a further interest in a corporation to which the prescribed provisions apply in the capacity of a trustee, the liability to prepare and lodge a statement under section 56FH, 56FI or 56FJ, as the case may require, is not affected by the fact that the acquisition is not made by the person beneficially, and the prescribed provisions shall apply as if the acquisition had been made beneficially.

(2) Notwithstanding subsection (1), where the commissioner considers that—

- (a) any person beneficially entitled to a share or interest in the trust property (whether the person has a vested share or is contingently entitled or may benefit from a discretionary trust) is related to any person within the meaning in section 56FA(3), who has acquired an interest in the corporation; and
- (b) the beneficial interest of the beneficiary in the corporation, when taken with that of any such related person, amounts to a greater interest than the interest of the trustee and any person who is related to the trustee;

on payment of the duty payable on the statement required to be lodged under section 56FH by the beneficiary any duty paid by the trustee in respect of the acquisition giving rise to the requirement for that statement to be lodged shall be refunded to the trustee.

56FC Valuation of property

(1) The commissioner may—

- (a) require a person who is required to, or the commissioner believes on reasonable grounds should, lodge a statement under section 56FH, 56FI or 56FJ to furnish the commissioner with a statement in the approved form concerning the full unencumbered value of any property, or such other evidence of that value as the commissioner considers appropriate; and
- (b) assess duty having regard to the evidence of value referred to in paragraph (a).

(2) The commissioner shall, if required by any person, express the commissioner's opinion as to the value of any specified property at a specified time for the purposes of section 56FL(2), and for the purposes of the prescribed provisions the commissioner is bound by any opinion the commissioner expresses in terms of such a requirement but subject to any qualification that the commissioner may make to the commissioner's opinion.

(3) Where the commissioner is not satisfied with evidence of value furnished under subsection (1) or is required to express an opinion as to the value of property under subsection (2), the commissioner may—

- (a) cause a valuation of the property to be made by some person appointed by the commissioner; or

- (b) accept a valuation of the property made by another person, whether the valuation is tendered by or for a party or comes into or to the commissioner's possession or knowledge in another way;

and for the purpose of assessing duty payable or determining any liability to prepare a statement under sections 56FA to 56FO, the commissioner may have regard to that valuation.

(4) The commissioner may, having regard to the merits of the case, charge the whole or any part of the expenses of or incidental to the making of a valuation under subsection (3) to the person liable to pay the duty, and may recover the same from the person as a debt due to the Crown.

56FD Charge may be recorded on title

(1) Where the commissioner has reason to believe that duty calculated in accordance with section 56FK is chargeable or a penalty is payable on or in respect of a statement required to be made under section 56FH, 56FI or 56FJ or on a default assessment made in respect of such statement on the value of land to which a corporation is entitled or where any such duty has been assessed or default assessed but not paid, the commissioner may, if the corporation or a subsidiary is the registered proprietor of the land, deliver to the registrar of titles a request in the approved form relating to the duty or any penalty, or both, that is or may be payable under this Act, and the registrar of titles shall record particulars of that request on the register in respect of that land.

(2) After the request is recorded, the registrar of titles may register an instrument affecting the land only if the commissioner consents in writing to the registration of the instrument.

(3) The commissioner shall consent in writing to the recording of an instrument where—

- (a) the instrument relates to a security interest in the property arising under an agreement entered into before the request was recorded or that was lodged with the registrar of titles within 5 business days after the request was recorded; or
- (b) the instrument is a duly stamped conveyance—
 - (i) that was executed under an agreement entered into before the request was recorded; or

- (ii) made as a result of a sale of real property under section 56FF; or
- (iii) made as a result of a sale of real property by the holder of a security interest referred to in paragraph (a); or
- (c) the instrument is to record a security interest or further charge on the property; or
- (d) the land ceases under subsection (7) to be subject to this subsection.

(4) An instrument recorded in accordance with subsection (3)(a) has effect, in relation to the request recorded under subsection (1), as if it had been registered before the request was recorded.

(5) If an instrument referred to in subsection (3)(b) affecting real property is registered by the registrar of titles, the request recorded in accordance with subsection (1) shall be deemed to be cancelled upon the registration of the instrument and the registrar of titles shall make the appropriate entries to give effect to the cancellation.

(6) Forthwith upon—

- (a) payment of the duty and any penalty, in respect of which a request is recorded under this section; or
- (b) the commissioner being satisfied that no duty is payable; or
- (c) the commissioner determining that the commissioner will not exercise the commissioner's powers under section 56FF in respect of that land;

the commissioner shall deliver to the registrar of titles a notice to that effect.

(7) The registrar of titles shall record particulars of the notice under subsection (6) on the register in respect of that land and thereupon it shall cease to be subject to subsection (2).

(8) The commissioner shall deliver a copy of the request referred to in subsection (1) to the relevant corporation or a subsidiary.

56FE Charge on land

Where a request has been recorded under section 56FD in respect of any land, any duty and any penalty to which the request relates that has become payable is a charge on the land and the charge continues in force

notwithstanding any disposition of the land until the duty and any penalty is paid.

56FF Power of sale

(1) Where—

- (a) a corporation or subsidiary is liable for duty on a statement required to be made under section 56FI or 56FJ; and
- (b) the duty and any penalty have not been paid in respect of the relevant acquisition to which that statement relates pursuant to section 56FH, 56FI or 56FJ at the expiration of 1 year from the date on which the corporation or subsidiary was determined to be so liable; and
- (c) a request is recorded under section 56FD in respect of land to which the corporation or subsidiary is entitled;

the commissioner may, notwithstanding any judgment against any person liable to pay the duty and penalty, cause to be published in the government gazette, a notice specifying the land, and the amount of duty and any penalty for which the corporation or subsidiary is liable, and stating that if such amount is not paid within 6 months from the publication of the notice the commissioner intends to apply to the Supreme Court for an order for the sale of the land.

(2) A copy of a notice under subsection (1) shall be served on the registered proprietor of the land, which service may be effected by posting the document on the land if service can not reasonably be effected in Queensland by other means.

(3) The commissioner may apply to the Supreme Court for an order to sell so much of the land described in the notice as may be necessary, and the court or judge, on being satisfied by affidavit or otherwise that the amount is lawfully due and that all things required by this Act to be done by the commissioner have been done, shall order the sale of the land and that the proceeds be applied in accordance with section 56FG(a).

56FG Application of proceeds of sale

Where any land has been sold under the authority of an order to sell granted under section 56FF—

- (a) the proceeds of the sale shall be applied—

- (i) firstly, in payment of all costs, charges and expenses properly incurred as incidental to the sale, or any attempted sale; and
- (ii) secondly, in payment of any mortgage or encumbrance being a charge on the land earlier in time to the charge referred to in section 56FE, unless the land is sold subject to that charge; and
- (iii) thirdly, in payment of the duty and penalty;

and after such advertisement as the Supreme Court directs the balance thereof shall be applied as the Supreme Court may consider appropriate for the benefit of the parties interested therein;

- (b) a transfer in accordance with the requirements of the *Land Title Act 1994* shall be executed in favour of the purchaser by an officer of the Supreme Court nominated by the Supreme Court for that purpose; and
- (c) the transfer shall vest the land, estate, or interest sold in the purchaser as completely and effectually as if the transfer had been executed by the registered proprietor of the land, estate or interest; and
- (d) the registrar of titles shall, upon production to the registrar of the transfer and request for substitute title, record particulars thereof on the register, and issue a new instrument of title for the land notwithstanding the instrument of title to the land is not produced.

56FH When statement to be lodged

(1) Where by a relevant acquisition a person acquires a majority interest or a further interest in a corporation to which the prescribed provisions apply, the person shall prepare and lodge a statement in respect of that acquisition within 30 days of the acquisition.

(2) If a requirement under subsection (1) arises in circumstances where a person acquires a majority interest or a further interest by reason of acquisitions by the person and a related person or related persons being aggregated, each related person must, within 30 days of the acquisition of a majority interest or further interest, prepare and lodge a statement under that subsection of all acquisitions on behalf of all such persons.

(3) Where an acquisition is a relevant acquisition by virtue of a person and any related person acquiring an interest in a corporation, the commissioner may, if requested, relieve a person from the obligation to prepare a statement required under subsection (1) where the commissioner is satisfied that another person has in respect of the same acquisition lodged a statement under subsection (1).

(4) A statement prepared under subsection (1) shall be in the approved form.

(5) A statement prepared under subsection (1) shall be deemed, for the purposes of this Act, to be an instrument executed on the day on which the relevant acquisition occurs.

(6) A person who is required to lodge a statement under subsection (1) or who has been relieved under subsection (3) from lodging a statement is liable to pay the duty chargeable under the prescribed provisions on the statement.

(7) Where an acquisition is a relevant acquisition by virtue of a person and any related person acquiring an interest in a corporation, all those persons are jointly and severally liable for the duty chargeable under the prescribed provisions on the statement.

(8) A person who fails to prepare a statement under subsection (1) commits a continuing offence against this Act.

Maximum penalty—100 penalty units and an amount equal to twice the duty for which the statement would, if prepared, have been liable.

(9) Where a person who commits an offence under subsection (8) is a corporation, each of the chairperson of directors, managing director or other governing officer, by whatever name called, and every member of the governing body thereof, by whatever name called, shall be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly.

(10) Subsection (9) applies so as not to limit or affect in any way the liability of the corporation to be proceeded against and punished for such an offence committed by it.

(11) It is a defence to a charge of an offence under this section brought against a person specified in subsection (9) to prove that the offence was committed without that person's knowledge or connivance and that the person could not by due diligence have prevented the commission of the offence.

(12) It is a defence to a charge of an offence under subsection (8) brought against a corporation to prove that the offence was committed without the knowledge or connivance of each of the chairperson of directors, managing director and other governing officer, by whatever name called, of the governing body of the corporation and that each of those persons could not by due diligence have prevented the commission of the offence.

56FI Corporation to lodge a statement

(1) Where by a relevant acquisition a person acquires a majority interest or a further interest in a corporation to which the prescribed provisions apply, the corporation shall prepare and lodge a statement in the approved form.

(2) A statement prepared under subsection (1) shall be lodged within 30 days of the occurrence of the relevant acquisition.

(3) Where a corporation lodges with the commissioner a statement as required by subsection (1) and a person acquiring the majority interest or further interest to which that statement relates has not lodged a statement under section 56FH or duty on a statement lodged under that section has not been duly paid, the commissioner may, where in the particular circumstances the commissioner considers it appropriate, determine the statement lodged by the corporation to be a statement chargeable with duty of—

- (a) where a statement under section 56FH has been lodged and duty thereon has not been paid—an amount equal to the amount of that duty; or
- (b) where a statement under section 56FH has not been lodged—an amount equal to the amount of duty that would have been chargeable on the statement under section 56FH had it been lodged as required by that section.

(4) A statement lodged pursuant to this section and determined by the commissioner to be a statement chargeable with duty shall be deemed, for the purposes of this Act, to be an instrument executed on the day on which the relevant acquisition occurs and the corporation required to lodge the statement under this section is liable to pay the duty chargeable on the statement pursuant to subsection (3).

(5) A corporation that does not prepare or lodge a statement in compliance with sections (1) and (2), commits a continuing offence against this Act.

Maximum penalty—100 penalty units and an amount equal to twice the duty that would have been chargeable on the statement, if it had been prepared and lodged, and if the commissioner were to determine the statement to be chargeable with duty under subsection (3).

(6) Where a corporation commits an offence under subsection (5), each of the chairperson of directors, managing director or other governing officer, by whatever name called, and every member of the governing body thereof, by whatever name called, shall be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly.

(7) Subsection (6) applies so as not to limit or affect in any way the liability of the corporation to be proceeded against and punished for such an offence committed by it.

(8) It is a defence to a charge of an offence under this section brought against a person specified in subsection (6) to prove that the offence was committed without that person's knowledge or connivance and that the person could not by due diligence have prevented the commission of the offence.

(9) It is a defence to a charge of an offence under subsection (5) brought against a corporation to prove that the offence was committed without the knowledge or connivance of each of the chairperson of directors, managing director and other governing officer, by whatever name called, of the governing body of the corporation and that each of those persons could not by due diligence have prevented the commission of the offence.

(10) The commissioner may, on request, relieve a company from the obligation to make a statement under subsection (1) where the commissioner is satisfied that a person has in respect of the same acquisition complied with section 56FH.

56FJ Subsidiary to lodge a statement

(1) Where by a relevant acquisition a person acquires a majority interest or further interest in a corporation which is a land-holder under section 56FL(2)(a) then each subsidiary, the land of which the corporation is entitled to, shall be required to notify the commissioner of the acquisition and to prepare a statement in the approved form.

(2) A statement prepared under subsection (1) shall be lodged within 30 days of the occurrence of the relevant acquisition.

(3) Where a subsidiary lodges with the commissioner a statement as required by subsection (1) and—

- (a) a person acquiring the majority interest or further interest to which that statement relates has not lodged a statement under section 56FH or duty on a statement lodged under that section has not been paid; and
- (b) the corporation in which the majority or further interest is acquired has not lodged a statement under section 56FI or duty on a statement lodged under that section has not been paid;

the commissioner may, where in the particular circumstances the commissioner considers it appropriate, determine a statement lodged by a subsidiary to be a statement chargeable with duty of—

- (c) where a statement under section 56FH has been lodged and duty thereon has not been paid—an amount equal to the amount of that duty; or
- (d) where a statement under section 56FH has not been lodged—an amount equal to the amount of duty that would have been chargeable on the statement under section 56FH had it been lodged as required by that section.

(4) Subject to subsection (5), a statement lodged pursuant to this section and determined by the commissioner to be a statement chargeable with duty shall be deemed, for the purposes of this Act, to be an instrument executed on the day on which the relevant acquisition occurs; and a subsidiary required to lodge a statement under this section is liable to pay duty chargeable on the statement required to be lodged by it pursuant to subsection (3).

(5) Where the commissioner in particular circumstances considers it appropriate, the commissioner may reduce the duty for which a subsidiary is liable having regard to the amount of duty which the commissioner considers not to be attributable to the value of land to which the subsidiary is entitled including its entitlement through its interests in other subsidiaries.

(6) Where a statement is not prepared under subsection (1) or is not lodged in compliance with subsection (2), the subsidiary commits a continuing offence against this Act.

Maximum penalty—100 penalty units and an amount equal to twice the amount of duty that would have been chargeable on the statement if it had been prepared and lodged and if the commissioner were to determine the statement to be chargeable with duty under subsection (3).

(7) Where a corporation commits an offence under subsection (6) each of the chairperson of directors, managing director or other governing officer by whatever name called, and every member of the governing body thereof, by whatever name called, shall be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly.

(8) Subsection (7) applies so as not to limit or affect in any way the liability of the corporation to be proceeded against and punished for such offence committed by it.

(9) It is a defence to a charge of an offence under this section brought against a person specified in subsection (7) to prove that the offence was committed without that person's knowledge or connivance and that the person could not by the use of due diligence have prevented the commission of the offence.

(10) It is a defence to a charge of an offence under subsection (6) brought against a corporation to prove that the offence was committed without the knowledge or connivance of each of the chairperson of directors, managing director and other governing officer, by whatever name called, of the governing body of the corporation and that each of those persons could not by due diligence have prevented the commission of the offence.

(11) The commissioner may, on request relieve a subsidiary from the obligation to make a statement under subsection (1) where the commissioner is satisfied that a person, a corporation or a subsidiary which is entitled to the land of the firstmentioned subsidiary has in respect of the same acquisition complied with section 56FH, 56FI or this section, as the case may be.

56FK Statement chargeable with duty

(1) A statement lodged under section 56FH is chargeable with duty—

- (a) where the statement relates to a relevant acquisition within section 56FM(1)(a)—equal to the amount calculated in accordance with the provisions of schedule 1, under the heading 'Conveyance or transfer', paragraph (4)(a), applied to the

dutiable value determined under subsection (2), as if that value were the value of the consideration; and

- (b) where the statement relates to a relevant acquisition within section 56FM(1)(b)—equal to the amount which is the difference between—
 - (i) the amount calculated in accordance with the paragraph referred to in paragraph (a) applied to the dutiable value determined under subsection (3)(a), as if that value were the value of the consideration; and
 - (ii) the amount of duty calculated in accordance with the paragraph referred to in paragraph (a) applied to the dutiable value calculated under subsection (3)(b), as if that value were the value of the consideration.

(2) Where, by a relevant acquisition a person acquires a majority interest in a corporation, the dutiable value is the amount which bears to the full unencumbered value of the land in Queensland to which the corporation is entitled, as provided by subsection (4), at the time of the acquisition, the same proportion as the value of the property of the corporation to which the person, or the person and any related persons, would be entitled, bears to the value of all the distributable property of the corporation if the corporation were to be wound-up, immediately after the acquisition.

(3) Where the relevant acquisition is within section 56FM(1)(b), the dutiable value—

- (a) for the purposes of subsection (1)(b)(i)—is the amount which bears to the value of the land in Queensland to which the corporation is entitled, as provided by subsection (4), at the time of the acquisition, the same proportion as the value of the property of the corporation to which the person, or the person and any related persons, would be entitled, bears to the value of all the distributable property of the corporation if the corporation were to be wound-up, immediately after the relevant acquisition;
- (b) for the purposes of subsection (1)(b)(ii)—is the amount which bears to the value of the land in Queensland to which the corporation is entitled, as provided by subsection (4), at the time of the acquisition, the same proportion as the value of the property of the corporation to which the person, or the person and any related persons, would have been entitled, bears to the value of all the distributable property of the corporation if the

corporation were to be wound-up, at the time immediately preceding the relevant acquisition.

(4) Subject to subsection (5) and for the purposes of subsections (2) and (3), the full unencumbered value of the land to which a corporation is entitled at any time is the sum of—

- (a) in the case of land to which the corporation is entitled without applying section 56FLA(3)—the full unencumbered value of the land at that time; and
- (b) in the case of land to which a subsidiary is entitled—the amount to which, if the property of a subsidiary or of all subsidiaries in the chain of relationships were to be distributed at that time (in the case of a corporation, on the basis of a winding-up), without having regard to any liabilities of the same, the corporation would be entitled in respect of the full unencumbered value at that time of land to which the subsidiary is, or all subsidiaries are, entitled.

(5) Where, for the purposes of the prescribed provisions, the corporation is a land-holder but is not a land-holder under section 56FL(2)(a), the dutiable value shall be calculated having regard only to land and property to which the corporation is entitled without applying section 56FLA(3).

(6) If an issue of shares by a corporation to a person is a relevant acquisition and—

- (a) the issue is to a person in consideration of the transfer of land to the corporation by the person; and
- (b) duty under schedule 1, under the heading ‘Conveyance or transfer’ has been paid or is payable in relation to the acquisition of the land by the corporation; and
- (c) the land is not the only land held by the corporation; and
- (d) the person is not the only shareholder of the corporation;

the dutiable value is to be calculated having regard only to land and property to which the corporation is entitled other than the land mentioned in paragraph (a).

(7) The duty chargeable under this section is reduced by the duty paid under section 56C on a disposition of a share in a corporation to which section 56C applies if—

- (a) land held in trust by the corporation, or by a corporation in which the corporation has an interest under section 56C(2), has been included in calculating the dutiable value under this section; and
- (b) the land was held by the corporation, or by a corporation in which the corporation has an interest under section 56C(2), at the time of the disposition.

(8) The reduction of duty mentioned in subsection (7) applies only to the extent that the duty relates to—

- (a) land held in trust by the corporation, or by a corporation in which the corporation has an interest under section 56C(2), at the time of the disposition; and
- (b) the land that was included in calculating the dutiable value.

(9) The duty chargeable under this section is reduced by the duty paid under section 56B on a disposition of a unit in a trust to which section 56B applies if—

- (a) the land held by the trustee as trustee of a unit trust scheme has been included in calculating the dutiable value under this section; and
- (b) the land was held by the trustee as trustee for a unit trust scheme at the time of the disposition.

(10) The reduction in duty mentioned in subsection (9) applies only to the extent that the duty relates to—

- (a) land held by the trustee as trustee of the unit trust scheme at the time of the disposition; and
- (b) the land that was included in calculating the dutiable value.

(11) Subsection (12) applies if—

- (a) land to which the corporation or a subsidiary is entitled at the time of a relevant acquisition includes contracted land; and
- (b) either—
 - (i) the sale contract for the land is subsequently completed; or
 - (ii) the purchase contract for the land is subsequently rescinded.

(12) In the circumstances mentioned in subsection (11)—

- (a) the contracted land is to be disregarded—

- (i) for deciding, under section 56FL, whether the corporation is a land-holder for the purposes of the prescribed provisions; and
 - (ii) in calculating the dutiable value; and
- (b) the commissioner must make any necessary reassessments and refunds of duty.

(13) However, in circumstances involving the completion of a sale contract, subsection (12) applies only if the commissioner is satisfied the contract was not entered into, or was not part of a scheme or arrangement entered into, for the purpose of defeating the object of the prescribed provisions.

56FL Corporations to which the prescribed provisions apply

- (1) The prescribed provisions apply to a corporation that is—
- (a) a corporation other than a corporation shares in the capital of which are listed on a stock exchange that is such for the purposes of the Corporations Act, chapter 7, or a corporation shares in the capital of which are listed on a prescribed stock exchange; and
 - (b) a land-holder within the meaning in subsection (2).
- (2) A corporation is a land-holder for the purposes of the prescribed provisions if at the time of a relevant acquisition—
- (a) it is entitled to land in Queensland or it is entitled to land in Queensland as a co-owner, or both, and the full unencumbered value of the land or land in which it is a co-owner, or both, is not less than \$1 000 000, and the full unencumbered value of all land to which the corporation is entitled, whether in Queensland or elsewhere, is 80% or more of the full unencumbered value of all property to which it is entitled, other than property directed to be excluded by subsection (4); or
 - (b) it is entitled to land in Queensland (excluding subsidiary land) or it is entitled to land in Queensland as a co-owner, or both, and the full unencumbered value of the land or land in which it is a co-owner, or both, is not less than \$1 000 000, and the full unencumbered value of all land to which the corporation is entitled (excluding subsidiary land) whether in Queensland or elsewhere, is 80% or more of the full unencumbered value of all

property to which it is entitled (excluding subsidiary property) other than property directed to be excluded by subsection (4).

(3) For the purposes of subsection (2), in determining the value of land or a lesser estate in land, or the value of property to which a corporation is entitled, where the relevant acquisition of shares is one to which section 55B or 55C applies, assets which are deemed to have no value under subsection (2) of either of those sections shall be deemed to have no value for the purposes of subsection (2).

(4) The following property of a corporation or of a subsidiary shall not be included in the value of property to which the corporation is entitled for the purpose of calculating the value of property under subsection (2)—

- (a) cash or money in an account at call;
- (b) negotiable instruments, and money on deposit with any person;
- (c) money lent by the corporation or a subsidiary to—
 - (i) a person who in relation to the corporation is an associated person; or
 - (ii) a person at call or on terms that require or allow full repayment to the corporation within 12 months after the money is lent;
- (d) for a sale contract—any amount paid or payable to the corporation or subsidiary under the contract;
- (e) amounts owing to the corporation for its issued shares or amounts owing to the subsidiary for its issued shares;
- (f) where the corporation or subsidiary is a holding company within the meaning in the Corporations Act, section 9—the shareholding of that corporation or subsidiary in a subsidiary corporation within the meaning of that section;
- (g) property consisting of a share or interest in a trust the trustee of which is a subsidiary;
- (h) any other property, whether of the same nature as or a different nature from the foregoing, in respect of which it is not shown to the commissioner's satisfaction that a reason for the corporation's ownership is not for the purpose of defeating the object of the prescribed provisions.

(7) A corporation that is a co-owner of land is not a co-owner for the purposes of subsection (2) if the commissioner is satisfied that to regard it

as not being a co-owner will not defeat the intention of the prescribed provisions.

(8) In this section—

“subsidiary land”, for a corporation, means land to which the corporation is taken to be entitled under section 56FLA(3).

“subsidiary property”, for a corporation, means property to which the corporation is taken to be entitled under section 56FLA(3).

56FLA Land or property to which corporation or subsidiary entitled

(1) This section applies to a corporation and a subsidiary for sections 56FK and 56FL.

(2) However, this section does not limit the way section 56FK or 56FL applies to a corporation or subsidiary.

(3) The corporation is taken to be entitled to land or property to the extent that a subsidiary is entitled to the land or property.

(4) The corporation or a subsidiary is taken to be entitled to land that is contracted land.

56FLB Calculating value of land or property of corporation or subsidiary

(1) This section applies for calculating, for sections 56FK and 56FL—

- (a) the full unencumbered value of land to which a corporation or subsidiary is entitled; and
- (b) the value of property to which a corporation or subsidiary is entitled.

(2) However, this section does not limit the way section 56FK or 56FL applies to a corporation or subsidiary.

(3) A sale contract is taken not to have been made.

(4) A purchase contract is taken to have been completed.

(5) The value of land to which the corporation or subsidiary is entitled (the **“corporate land”**) includes the value of rights held by the corporation or subsidiary if the rights—

- (a) relate to, or affect, the use of the corporate land and other land; and
- (b) are not land; and
- (c) enhance the value of the corporate land.

56FM Meaning of “relevant acquisition”

(1) For the purposes of the prescribed provisions, an acquisition is a relevant acquisition—

- (a) if a person—
 - (i) by that acquisition acquires a majority interest in a corporation; or
 - (ii) by that acquisition of an interest in a corporation, when taken with each previous acquisition of an interest in the corporation made by the person during the 3 years immediately preceding the day on which that acquisition occurs, acquires a majority interest in the corporation; or
- (b) if by the acquisition a person who has a majority interest in the corporation (and in acquiring that majority interest the person was required to prepare a statement under section 56FH(1)) acquires a further interest in the corporation.

(2) For the purposes of subsection (1)(a)(ii), if a person acquires an interest in a corporation and within 3 years before or after that acquisition the person became or becomes entitled to a right to acquire a further shareholding in the corporation, and that right is exercised, the person is deemed to acquire that further shareholding in the corporation within the period of 3 years after the firstmentioned acquisition, notwithstanding that the right is exercised after the expiration of that period.

(3) A previous acquisition referred to in subsection (1)(a)(ii) does not include an acquisition that occurred before the commencement of the *Stamp Act Amendment Act 1988*, section 1.

56FN Meaning of “interest”, “majority interest” and “further interest”

(1) For the purposes of the prescribed provisions, a person has an interest in a corporation if the person, or the person and any related person, has a shareholding in the corporation that would entitle the person, or the

person and any related person (if the corporation were to be wound-up immediately after) to participate (otherwise than as a creditor or other person to whom the corporation is liable) in a distribution of the property of the corporation.

(1A) For the prescribed provisions, if a person acquires an interest in a corporation under an agreement, subject to subsection (1D), the person is taken to have acquired the interest at the time the agreement is made.

(1B) If the transfer of shares under an agreement mentioned in subsection (1A) can not proceed, the interest is then taken not to have been acquired.

(1C) If subsection (1A) has applied and subsection (1B) then applies, the commissioner must make the necessary reassessments and refunds of duty.

(1D) However, if the corporation in which a person acquires an interest is not, at the time the agreement is made, a corporation to which the prescribed provisions apply but would be a corporation to which the prescribed provisions apply if the time the agreement was completed were the time of the acquisition, then the person is taken to have acquired the interest on completion of the agreement.

(2) For the purposes of the prescribed provisions, a person has a majority interest in a corporation if the person, or the person and any related person, has a shareholding in the corporation that would entitle the person, or the person and any related person, if the corporation were to be wound-up immediately to participate (otherwise than as a creditor or other person to whom the corporation is liable) in a distribution of the property of the corporation to an extent greater than 50% of the value of the property distributable to the holders of shares in the corporation.

(3) For the purposes of the prescribed provisions, a person has a further interest in a corporation if the person, or the person and any related person—

- (a) has a majority interest in the corporation; and
- (b) in acquiring that majority interest the person, or the person and any related person, became subject to section 56FH; and
- (c) has a shareholding in the corporation that would entitle the person, or the person and any related person, if the corporation were to be wound-up immediately to participate further (otherwise than as a creditor or other person to whom the corporation is liable) in a distribution of the property of the corporation.

(4) A person's interest in a corporation is the person's entitlement calculated under section 56FA(5) and expressed as a percentage of the value of all the corporation's distributable property if the corporation were to be wound-up immediately.

56FO Special directions as to duty

(1) A statement lodged under section 56FH, 56FI or 56FJ shall not be liable for duty where the commissioner is satisfied, having regard to the circumstances of the case, that—

- (a) if the person making the relevant acquisition of the majority interest or further interest in a corporation to which the prescribed provisions apply, had acquired the land or lesser estate in land to which the corporation is entitled directly by way of conveyance—the instrument of conveyance would not have been liable for ad valorem duty under schedule 1, under the heading 'Conveyance or transfer'; and
- (b) the instrument would not have been prepared with an intention to avoid that duty.

(2) Where the prescribed provisions apply in respect of a relevant acquisition and in absence of this subsection, the instrument giving effect to the relevant acquisition would be chargeable with duty under schedule 1, under the heading 'Mortgage, bond, debenture, and covenant', the instrument shall not be chargeable with that duty to the extent to which it so relates.

57 What is to be deemed a conveyance on any occasion not being a sale or mortgage

(1) If in an instrument of trust there is no provision for variation of the beneficiaries or classes of beneficiaries under the trusts therein contained and either a variation is made in such beneficiaries or such classes of beneficiaries or provision is made for a variation in such beneficiaries or such classes of beneficiaries, any instrument whereby such variation or provision is made and the instrument of trust itself shall each be deemed to be a conveyance of the property affected by the trusts and shall be chargeable with ad valorem duty as a conveyance on sale for a consideration equal to the full value of the property affected by the trusts.

(1A) However, in no case shall both an instrument as aforesaid and an instrument of trust be charged with duty under this Act in respect of the variation or provision for variation so made.

(2) Every instrument by which any property is, on any occasion, except that of a sale or mortgage, transferred to or vested in any person and every decree or order of any court by which any property is so transferred or vested is chargeable with duty as a conveyance or transfer of such property.

57A Motor vehicles

(1) The duty on an application for registration or an application for transfer of registration in respect of a motor vehicle shall be denoted in the prescribed manner and shall be paid at the time of lodgment of the application.

(1A) Where an application is an application for the transfer of registration of a motor vehicle, both the transferor and the transferee shall be liable for the payment of duty on that application.

(1B) Where the full amount of duty is not paid in accordance with subsection (1), the commissioner may, in lieu of proceedings for an offence under section 26(1), impose a penalty not exceeding 2 penalty units and recover that amount as a debt due to the Crown, which penalty will be in addition to any penalty payable under subsection (6).

(2) The value of a motor vehicle for the purposes of assessing the duty payable under this Act shall be the market value of the motor vehicle at the time that application for registration is made or, in the case of an application for transfer of registration, at the time when the transaction to which the application relates was made.

(2AA) However, in the case of a motor vehicle which has not been previously registered (whether in this State or elsewhere in the Commonwealth) and for which there is a list price, the value for the purpose of assessing the duty payable under this Act shall be the aggregate of—

- (a) the list price; and
- (b) the price or prices of any item or items of optional equipment of the motor vehicle in question not included in the list price;

at the time specified in subsection (2).

(2AB) In addition, in the case of a motor vehicle which has been previously registered (whether in this State or elsewhere in the

Commonwealth) or for which there is no list price, the value for the purpose of assessing the duty payable under this Act shall be—

- (a) the total consideration in monetary terms payable by the purchaser including any deposit, trade-in allowance, and the consideration for all additions by way of optional or additional equipment regardless of when or by whom supplied or fitted; or
- (b) the price at which the motor vehicle, including all equipment and fittings might reasonably have been sold, free from encumbrances, in the open market;

whichever is the greater.

(2A) In subsections (2AA) and (2AB)—

“list price”, of a motor vehicle, means the recommended retail price (or, if there is more than 1 recommended retail price, the highest recommended retail price) of the manufacturer, importer or principal distributor at Brisbane of—

- (a) for a motor vehicle other than a motor truck—the motor vehicle; or
- (b) for a motor truck—the relevant make and model of the cab-chassis.

“optional equipment” means all equipment not included in the list price which is an integral part of the motor vehicle, and, without limiting the meaning thereof, includes all features actually fitted by the manufacturer or usually fitted by a manufacturer including airconditioning.

(3) The applicant or, in the case of an application for transfer of registration, the transferee and the transferor shall make a declaration in the approved form as to the value of the motor vehicle in question for the purpose of assessing the duty payable under this Act.

(3A) Where a person, who is required under subsection (3) to make a declaration as to the value of a motor vehicle, does not state the true market value of that motor vehicle as defined in this section, that person commits an offence against this Act.

Maximum penalty—20 penalty units and an amount equal to twice the amount of duty that would have been payable if the true market value of that motor vehicle had been stated in the declaration.

(4) Every application for registration or application for transfer of registration in respect of a motor vehicle shall be accompanied by the

declaration mentioned in subsection (3) and the prescribed amount of the duty on the application.

(5) If the commissioner is not satisfied that the amount declared is the true market value of the motor vehicle in question the commissioner, by notice in writing served upon the person in question, may require the person who made the declaration to supply the commissioner, within the time specified in the notice, with such evidence as the case requires as to the market value of the motor vehicle in question, in the case of an application for registration at the date when the application was made or, in the case of an application for transfer of registration at the date when the transaction to which the application relates was made.

(5AA) Any person who fails in any respect to comply with the requirements of a notice under subsection (5) shall be guilty of an offence and liable to a penalty not exceeding 20 penalty units.

(5AB) Payment of such penalty shall not relieve a person from any liability to pay any duty referred to in this section.

(5AC) A notice referred to in subsection (5) may be served upon the person to whom it is directed personally or by post or by giving it to the person in a prescribed manner.

(5A) Where, in the opinion of the commissioner, the amount of the market value of a motor vehicle declared in accordance with subsection (3) by a person required to declare that value in respect of the motor vehicle is less than the true market value of the motor vehicle, the commissioner may make an assessment of the further duty payable on the basis that the value of the motor vehicle was—

- (a) the amount of the consideration paid for the acquisition of the motor vehicle by the applicant; or
- (b) such other amount as in the opinion of the commissioner is the true market value of the motor vehicle; or
- (c) if the applicant satisfies the commissioner that the value of the motor vehicle was some other amount—that other amount.

(5B) Where the commissioner makes an assessment under subsection (5A)—

- (a) the application for registration or the application for transfer of registration is chargeable with the additional duty payable as a result of the assessment; and

- (b) the assessment may be served upon the person to whom it is directed personally or by post or by giving it to the person in a prescribed manner.

(5C) Where a motor vehicle has been acquired by a licensed motor dealer, and an exemption applies under schedule 1, under the heading ‘Application for registration or application for transfer of registration of a motor vehicle’, exemption 2, the licensed motor dealer shall, in respect of that motor vehicle—

- (a) maintain in Queensland for a period of 5 years a record, as may be prescribed, of its acquisition and disposal; and
- (b) issue an account or statement to the purchaser showing the full consideration paid and payable including the value of any trade-in, and retain in Queensland a true copy of that account or statement for a period of 5 years; and
- (c) maintain in Queensland for a period of 5 years a true copy of the application for registration or the application for transfer of registration, as the case may be.

(5D) A person who contravenes or fails to comply with subsection (5C) commits an offence against this Act.

Maximum penalty—for each motor vehicle in respect of which an offence under this subsection was committed—an amount equal to twice the amount of duty which would have been payable had the exemption in respect of that motor vehicle not applied.

(5E) Where the duty which would have been payable by way of penalty pursuant to subsection (5D) is not able to be calculated, the penalty shall be 10 penalty units in respect of each motor vehicle in respect of which an offence under that subsection was committed.

(5F) For the purposes of subsection (5E), in calculating the number of vehicles acquired by a licensed motor dealer, regard shall be had to whatever records are available but the number as averred by the commissioner shall be accepted as final in the absence of conclusive evidence to the contrary.

(6) Where stamp duty charged upon an application for registration or an application for transfer of registration under this section, in the opinion of the commissioner, exceeds the amount of duty which accompanied it, the commissioner may make an assessment of duty of an amount equal to the amount by which, in the commissioner’s opinion, duty has been underpaid

and may serve the assessment (personally or by post or by giving it in a prescribed manner) upon the person to whom it is directed.

(6A) Where an applicant for registration or transfer of registration of a motor vehicle satisfies the commissioner—

- (a) that ad valorem duty chargeable under schedule 1, under the heading ‘Conveyance or transfer’ has been paid or will be paid on another instrument; and
- (b) that such duty was calculated by including a sum representing the value of that motor vehicle or a part of the value of that motor vehicle; and
- (c) that the application for registration or transfer of registration is in respect of or pursuant to that other instrument;

the commissioner shall allow by way of refund or set-off that part of the amount of duty paid to the administering chief executive on that application for registration or transfer of registration of a motor vehicle as does not exceed the amount calculated in accordance with the following formula—

$$\frac{a \times b}{c}$$

where—

“**a**” = an amount calculated by applying the ad valorem rates of duty specified under schedule 1, under the heading ‘Conveyance or transfer’, paragraph (4)(a), to the amount of difference calculated in c;

“**b**” = the sum representing the value of the motor vehicle or, in the case where the duty referred to in paragraph (b) was calculated on part of the value of the motor vehicle, the sum representing the value of that part;

“**c**” = the difference between the total value upon which duty was calculated on the other instrument and any part of that value which did not attract duty at those ad valorem rates of duty.

(7) The administering chief executive must pay to the commissioner all amounts of duty mentioned in this section received by the administering chief executive.

(8) If duty has been paid on an application for registration or an application for the transfer of registration and the transaction of acquisition or disposal is cancelled within a period of 3 months from that acquisition or

disposal, that duty may be refunded by the responsible authority upon evidence satisfactory to the responsible authority to verify the cancellation of that transaction.

(9) In this section—

“administering chief executive” means the chief executive of the department in which the *Transport Operations (Road Use Management) Act 1995* is administered.

“responsible authority” means—

- (a) the commissioner; or
- (b) if the commissioner has authorised the administering chief executive to make refunds of duty for this section and the authorisation is in force—the administering chief executive.

59 As to settlement of policy or security

(1) Where any money which may become due or payable upon any policy of life insurance or upon any security not being a marketable security is settled or agreed to be settled, the instrument whereby the settlement is made or agreed to be made is to be charged with ad valorem duty in respect of that money.

(2) However—

- (a) where it is a provision of any such settlement that the person or persons beneficially entitled to the proceeds of the policy shall keep up the said policy—the ad valorem duty is to be charged only on the value of the policy at the date of the instrument;
- (b) if in any such case the instrument contains a statement of the said value, and is stamped in accordance with the statement—it is so far as regards the policy to be deemed duly stamped unless or until it is shown that the statement is untrue and that the instrument is in fact insufficiently stamped.

59A Matrimonial arrangements—interpretation

(1) For the purposes of this section and of section 59B—

“Commonwealth Act” means the *Family Law Act 1975* (Cwlth).

“curtilage” means an area of land immediately adjacent to a place of residence not exceeding in any case 0.5 ha.

“**marriage**” includes a void marriage.

“**matrimonial property**” means property of the parties to a marriage or of either of them.

“**place of residence**” means—

- (a) in the case of property that consists of or includes a dwelling house—the dwelling house; or
- (b) in the case of property that consists of or includes a block of flats, a double-unit dwelling house or a multiple-unit dwelling house—a flat, unit or part designed for human habitation by a single family unit; or
- (c) in the case of property that consists of or includes a structure containing shop, factory or similar premises—a part of the structure designed for human habitation by a single family unit;

and includes the land comprising the curtilage of the place of residence.

(2) In this section and in section 59B a reference to a party to a marriage includes reference to a person who was a party to a marriage that has been dissolved or annulled in Australia or elsewhere.

59B Matrimonial instruments

An instrument that—

- (a) is an agreement registered or approved under the Commonwealth Act; or
- (b) is an order of a court under the Commonwealth Act; or
- (c) is made—
 - (i) for the purposes of and in accordance with an agreement registered or approved or an order of a court made under the Commonwealth Act; or
 - (ii) in connection with and subsequently to the commencement of proceedings for dissolution or annulment of marriage;

and makes provision for or with respect to the conveyance from one party to the marriage concerned to the other party to the marriage (and to no other person) of property, being matrimonial property, that is—

- (d) a place of residence for use as the principal place of residence of the person to whom it is to be or is being conveyed; or
- (e) a motor vehicle for use for private purposes by the person to whom it is to be or is being conveyed; or
- (f) a policy of life assurance upon the life of the person to whom it is to be or is being conveyed;

becomes to that extent a matrimonial instrument for the purposes of section 59C and 59D when the marriage concerned—

- (g) has been dissolved by a decree that has become absolute or is otherwise final; or
- (h) has been annulled by a decree that is final.

59C Nominal duty on matrimonial instruments

Subject to section 59D but notwithstanding any other provision of this Act, the stamp duty payable upon an instrument, shall, to the extent that it is a matrimonial instrument, be the sum of \$4 without affecting the liability for stamp duty payable upon the instrument to the extent that it is not a matrimonial instrument.

59D Refund of excess duty

(1) Where stamp duty has been paid upon an instrument made after 24 December 1981 on the basis that at the time of payment the instrument was not a matrimonial instrument to any extent whatever and the instrument was at that time or subsequently becomes a matrimonial instrument, wholly or to a less extent, the commissioner shall, upon application in writing made to the commissioner within 6 months of the instrument being made or, as the case may be, becoming a matrimonial instrument and production to the commissioner of such relevant instruments and information as the commissioner requires, if the commissioner is satisfied that there is not, in relation to the instrument, a scheme to deliberately avoid payment of stamp duty, refund the difference between the amount of stamp duty paid (disregarding any penalty paid in respect of the instrument and denoted thereon by means of stamp) and the amount of stamp duty that would have been payable upon the instrument had it been made at the date of the application.

(2) However, a refund shall only be made in relation to any instrument that became a matrimonial instrument before 6 April 1982 if application therefor had been made before 1 November 1982.

59E Conveyance duty exemption for educational, religious and other institutions

(1) Where the commissioner is satisfied that a conveyance or transfer is to—

- (a) (i) the University of Queensland, Griffith University, Queensland University of Technology, James Cook University, the Bond University Limited or an institution declared under a regulation for the purposes of this subparagraph to be a university; or
- (ii) a constituent college of a university referred to in subparagraph (i); or
- (iii) a tertiary educational institution which is or is of a class approved under a regulation for the purposes of this subparagraph; or
- (b) a public benevolent institution or the trustees thereof; or
- (c) an institution or the trustees thereof, the principal object and pursuit of which is—
 - (i) the education of students in primary or secondary schools, or both; or
 - (ii) the conduct of a rural training school; or
 - (iii) the conduct of a kindergarten or preschool; or
 - (iv) the relief of poverty; or
 - (v) the care of sick, aged, infirm, afflicted or incorrigible persons or of children; or
 - (vi) more than 1 of those objects and pursuits specified in subparagraphs (i), (ii), (iii), (iv) and (v); or
- (d) an institution, or the trustees thereof, declared by the Minister in the Minister's discretion to be an institution to which this paragraph applies, the principal object and pursuit of which is the fulfilling of a charitable object or an object promoting the public good (not being an object or pursuit that is a sporting, recreational, leisure or social pursuit or object or an object or

pursuit declared under a regulation for the purposes of this paragraph); or

- (e) an institution in Queensland determined pursuant to subsection (5) to be a religious institution or associated religious body of that institution or to the trustees of that institution or body;

the commissioner may determine the conveyance or transfer to be exempt from duty where the commissioner is satisfied that the property conveyed or transferred, or to be conveyed or transferred, has been acquired for and is to be used solely or almost solely for—

- (f) educational purposes; or
- (g) a public benevolent purpose; or
- (h) the purpose of conducting a kindergarten or preschool; or
- (i) the purpose of the relief of poverty; or
- (j) the purpose of care of sick, aged, infirm, afflicted or incorrigible persons or of children; or
- (k) the purpose of activities of a religious nature; or
- (l) more than 1 of the purposes specified in paragraphs (f) to (k); or
- (m) in the case of an institution declared by the Minister under paragraph (d)—
 - (i) the purpose of that charitable object or that object of public good which the Minister was satisfied was that institution's principal object and pursuit when declaring it under that paragraph; or
 - (ii) the purpose referred to in subparagraph (i) and any 1 or more of the purposes specified in paragraphs (f) to (k);

within 6 months (or such later time as the commissioner may in the commissioner's discretion in a particular case allow) and for a duration of 12 months (or such longer period as the commissioner may in the commissioner's discretion in a particular case require for the purpose of being satisfied that the property has been acquired for that purpose); and the commissioner is, when determining an instrument to be exempt under this subsection, to advise the institution or body of the time within and the duration for which the commissioner was satisfied the property would be so used for that purpose when determining the exemption.

(2) An institution is not an institution of the kind described in subsection (1)(b) or (c)(i), (ii), (iii), (iv), (v) or (vi), unless the constitution, by whatever name called, of the institution provides—

- (a) that the income and property of the institution is to be used and applied solely for the promotion of the objects of the institution and that no portion of the income or property will be distributed, paid or transferred by way of dividend, bonus or otherwise amongst its members; and
- (b) that on dissolution the assets of the institution remaining after satisfaction of all debts and liabilities shall be transferred to some institution having similar objects.

(2A) An institution may not be approved for the purposes of subsection (1)(a)(iii) unless it is a public institution or its constitution by whatever name called provides for those matters set out in subsection (2)(a) and (b).

(3) For the purposes of subsection (1)—

- (a) the care of sick, aged, infirm, afflicted or incorrigible persons means the care which relates directly to and is necessary because of the persons so cared for being sick, aged, infirmed, afflicted or incorrigible; and
- (b) the care of children means being responsible for children on a full-time basis and providing them with all necessary food, clothing and shelter and providing for their general wellbeing and protection; and
- (c) the Minister may, in exercising discretion under subsection (1)(d), have regard to the commercial activities of the particular body.

(4) The commissioner shall be entitled not to be satisfied that an institution is a religious institution for the purposes of subsection (1) unless the members or followers of the institution subscribe to common articles of faith or beliefs which are formally documented.

(5) The commissioner may, having regard to—

- (a) whether the institution is formally constituted; and
- (b) the number of members or followers of that institution in Queensland; and
- (c) the period of time during which the institution has been established; and

- (d) whether the institution has a ministry, by whatever name called, which is devoted to the propagation or practice of the faith or beliefs of the institution and regularly conducts religious services for members or followers of the institution for religious worship or meditation; and
- (e) whether it is usual for members of the institution to meet at a place clearly identifiable as a place at which such persons meet to engage in religious worship or meditation; and
- (f) whether members of the institution's ministry have undergone a formal training program to qualify for that ministry;

determine an institution to be or not to be a religious institution for the purposes of subsection (1).

(6) For the purposes of subsection (1), the provision of a residence for a minister or members of a religious order who are engaged in activities of a religious or public benevolent nature or pursuits of the kind specified in subsection (1)(c)(i), (ii), (iii), (iv), (v) or (vi) shall be deemed to be a religious activity.

(7) For the purposes of subsection (1), a body—

- (a) which appertains to or is controlled by an institution which the commissioner is satisfied is a religious institution of the kind referred to in that subsection; and
- (b) whose principal object and pursuit is the conduct of activities of a religious nature;

is an associated religious body.

(8) Where the commissioner is not, at the time when a conveyance or transfer referred to in subsection (1) is lodged with the commissioner, satisfied—

- (a) that an institution or body is an institution or body of the kind referred to in subsection (1); or
- (b) that the property conveyed or transferred, or which is to be conveyed or transferred, is to be used solely or almost solely for a purpose listed in subsection (1)(f) to (m);

the commissioner may determine the instrument not to be exempt from duty; but may, by notice to the institution or body, specify a later time or period when the commissioner will determine according to the facts and circumstances known to the commissioner at that later time, whether those facts and circumstances, if known when the instrument was first lodged,

would have allowed the commissioner to determine the instrument to be exempt; and where the commissioner at that later time so determines the commissioner may refund the duty paid on the relevant conveyance or transfer.

(9) Where the commissioner is of the opinion that property conveyed or transferred by an instrument which the commissioner has determined to be exempt under subsection (1)—

- (a) has been used for a purpose other than a purpose of the kind specified in subsection (1)(f) to (m); or
- (b) has not been used solely or almost solely for a purpose of the kind specified in subsection (1)(f) to (m); or
- (c) has not been used solely or almost solely for a purpose of a kind specified in subsection (1)(f) to (m) within the time or for the duration which the commissioner advised the institution or body under subsection (1) that the commissioner was satisfied that it would be used;

then the amount of duty chargeable in respect of the instrument shall be the amount chargeable as if the instrument were not an instrument of a kind which the commissioner may determine as exempt under subsection (1); and thereupon section 80 applies as if the amount of duty assessed in the first instance had been assessed at an insufficient amount; and the commissioner may, in addition, charge interest at the rate of 20% from the date which is 60 days after the execution of the instrument until the date when payment of the duty in accordance with this section is made.

(10) The commissioner may, in the commissioner's discretion, defer reassessing an instrument under subsection (9) where the commissioner is satisfied that the property—

- (a) has not been used for a purpose other than a purpose of a kind specified in subsection (1)(f) to (m); and
- (b) will within a further time and for a duration nominated by the commissioner be used solely or almost solely for a purpose of the kind specified in subsection (1)(f) to (m);

and where the property is so used in that time and for that duration, the commissioner shall not reassess the instrument under subsection (9).

(11) Where a conveyance or transfer has been exempted from duty under subsection (1) and the institution or body—

- (a) uses the property conveyed or transferred for a purpose other than a purpose of the kind specified in subsection (1)(f) to (m); or
- (b) does not use the property so conveyed or transferred for the purpose for which the commissioner was satisfied it would be used on the basis of representations by the institution or body when the commissioner determined the instrument to be exempt from duty; or
- (c) has not used the property transferred for that purpose within the time or for the duration within and for which the commissioner was satisfied it would be used and of which the commissioner advised the institution or body at the time the commissioner determined the exemption;

the institution or body shall, within 28 days of the occurrence described in paragraph (a), (b) or (c) or such later time as the commissioner, in the commissioner's discretion, allows, notify the commissioner of that occurrence.

(12) Where an institution or body fails to notify the commissioner in compliance with subsection (11), the commissioner when reassessing duty payable pursuant to subsection (9), may demand and receive by way of penalty an amount equal to the total amount of duty so reassessed.

59F Listed companies and trusts

(1) This section applies to sections 56B, 56C and the prescribed provisions, as defined in section 56F.

(2) In this section—

“**stock exchange**” has the same meaning as it has in the Corporations Act, chapter 7.

(3) Where—

- (a) (i) section 56B would apply in respect of a disposition of a unit if that unit was not listed on a stock exchange; or
- (ii) section 56C would apply in respect of a disposition of a share if it were not listed on a stock exchange; or
- (iii) the prescribed provisions (within the meaning given in section 56F) would apply to an acquisition of a share if it were not listed on a stock exchange; or

- (iv) a unit in a unit trust scheme holding land would be included as land for the purposes of an acquisition under the prescribed provisions (within the meaning given in section 56F) if the unit was not listed on the stock exchange; and
- (b) the commissioner is of the opinion that the units in the relevant unit trust scheme or the shares in the relevant company, as the case may be, were listed principally in contemplation of ensuring that section 56B, 56C or the prescribed provisions, as defined in section 56F, do not apply in respect of that disposition (or the series of dispositions of which that disposition is a disposition) or acquisition, as the case may be;

the commissioner is, at any time, entitled to disregard the listing and thereupon section 56B, 56C or the prescribed provisions, as defined in section 56F, as the case may be, is to apply as if the unit or share was not listed.

(4) A person contemplating a disposition or acquisition of the kind referred to in subsection (3)(a) may apply to the commissioner for a determination as to whether or not the commissioner would apply subsection (3) in respect of that disposition or acquisition and the commissioner is, to the extent that the undertakings or declarations made by the applicant are true and disclose all of the relevant facts and circumstances, bound thereby.

60 Settlements when not to be charged as securities

An instrument, chargeable with ad valorem duty as a settlement in respect of any money, stock, or security, is not to be charged with any further duty by reason of containing provision for the payment or transfer of the money, stock, or security, or by reason of containing, where the money, stock, or security is in reversion or is not paid or transferred upon the execution of the instrument, provision for the payment by the person entitled in possession to the interest or dividends of the money, stock, or security during the continuance of such possession of any annuity or yearly sum not exceeding interest at the rate of 4% per annum upon the amount or value of the money, stock, or security.

61 Where several instruments, 1 only to be charged with ad valorem duty

(1) Where several instruments are executed for effecting the settlement of the same property, 1 only of the instruments is to be charged with ad valorem duty.

(2) Where a settlement is made in pursuance of a previous agreement upon which ad valorem settlement duty had been paid in respect of any property, the settlement is not to be charged with ad valorem duty in respect of the same property.

61A Duty upon instruments relating to variation or reconstitution of superannuation schemes

(1) For the purposes of this section—

“superannuation scheme” means a fund or scheme established for the sole purpose of making provision, by way of superannuation, for any payment, annuity, pension, gratuity, allowance, benefit, assistance or the like for the directors, officers, servants or employees of any employer or employers on the termination of their office or service with such employer whether by death or otherwise or on their withdrawal from membership of the scheme or during their incapacity for work attributable to illness or accident or for the widowers, widows or children or dependants or legal personal representatives of any such directors, officers, servants or employees or for any persons duly selected or nominated for that purpose pursuant to the provisions of the scheme.

(2) Where the commissioner is satisfied that an instrument that, wholly or in part, effects a reconstitution of a superannuation scheme or a variation in the terms or operations of the scheme such that upon that reconstitution or variation having effect, the superannuation scheme is of a type for the time being approved by the Governor in Council for the purposes of this section, the amount of duty chargeable in respect of that instrument shall, notwithstanding the other provisions of this Act, be the amount specified in schedule 1, under the heading ‘Instrument reconstituting or varying superannuation schemes’.

(2A) The approval of the Governor in Council under subsection (2) may be expressed to take effect on a date specified (whether such date be before or after the approval) and in that respect shall have retrospective operation where the case requires it.

(3) This section only applies in respect of instruments where the commissioner issues an assessment or reassessment of duty on or after 19 November 1982.

61B Instrument amending a trust deed constituting a public unit trust scheme

(1) For this section—

“approved deed” means a deed approved under the Corporations Law, part 7.12, division 5 (as in force on 30 June 1998).

“excluded issue” means an issue under the Corporations Law, section 66(2).

“public unit trust scheme” means a unit trust scheme that—

- (a) until the end of the transitional period—
 - (i) has been offered to the public and has an approved deed; or
 - (ii) complies with the conversion conditions and is not required to have an approved deed because all issues of units in the scheme were excluded issues when the issues were made; or
- (b) is a registered scheme under the Corporations Act, part 5C.

“transitional period” means the period from 1 July 1998 to the later of the following—

- (a) 30 June 2000;
- (b) the last day permitted by the Corporations Act or Australian Securities and Investments Commission for the transition of a prescribed interest scheme to a registered scheme.

(1A) For subsection (1), definition **“public unit trust scheme”**, the conversion conditions are—

- (a) the unit trust scheme must convert to a registered scheme in the transitional period; and
- (b) the scheme must convert under an instrument signed in the transitional period; and
- (c) any variation of the terms or manner of operation of the trust must be—
 - (i) for giving effect to the conversion; and

- (ii) made in the transitional period.
- (2) Where the commissioner is satisfied—
- (a) in the case of an instrument of settlement—
 - (i) that the instrument is made for the sole purpose of effecting a variation of the terms or the manner of operation of a public unit trust scheme; and
 - (ii) that the instrument does not effect a conveyance or transfer of property or represent an agreement or arrangement to convey or transfer property; and
 - (iii) that the rights of unit holders in respect of a trust fund of the public unit trust scheme and the interests of unit holders in the trust fund (as they were immediately prior to the date of the execution of the instrument) are preserved and are not diminished or intended to be diminished under the variation; or
 - (b) in the case of an instrument declaring that property vested or to be vested in the person executing the same is or shall be held in trust—
 - (i) that the instrument is made—
 - (A) for the sole purpose of effecting a variation of the terms or the manner of operation of a public unit trust scheme; or
 - (B) consequential upon the making of another instrument made for the sole purpose of effecting a variation of the type specified in subparagraph (A); and
 - (ii) that neither the instrument nor the other instrument (if any) effecting the variation effects a conveyance or transfer of property or represents an agreement or arrangement to convey or transfer property; and
 - (iii) that the rights of unit holders in respect of a trust fund of the public unit trust scheme and the interests of unit holders in the trust fund (as they were immediately prior to the execution of the instrument or the other instrument (if any) effecting the variation, whichever is the earlier in time) are preserved and are not diminished or intended to be diminished under the variation;

the amount of duty chargeable in respect of the instrument shall, notwithstanding the other provisions of this Act, be the amount specified in schedule 1, under the heading 'Instrument amending a trust deed constituting a public unit trust scheme'.

62 Agreement for lease

(1) An agreement for a lease in respect of the letting of any lands, tenements or hereditables subjects for any definite or indefinite term is to be charged with duty as if it were a lease made for the term and consideration mentioned in the agreement.

(2) Where duty has been paid pursuant to subsection (1) on an agreement for a lease and, subsequent to that agreement, a lease is granted which is in conformity, or substantially in conformity, with the agreement, the commissioner shall allow, as an offset against duty chargeable on the lease, an amount up to but not exceeding the duty paid on that agreement.

(3) For the purposes of this Act, a lease granted for a fixed term and thereafter until determined shall—

- (a) where the lessor and lessee are not related—be deemed to be a lease for a definite term equal to the fixed term together with that further period that must elapse before the earliest date at which the lease can be determined (other than through noncompliance with the terms of the lease);
- (b) where the lessor and lessee are related—be deemed to be a lease for an indefinite term.

(4) For the purpose of this section—

“**related**” has the same meaning as in section 56FA(3).

63 Leases, how to be charged in respect of produce etc.

(1) Where the consideration or any part of the consideration for which a lease is granted or agreed to be granted consists of any produce or other goods, the value of the produce or goods is to be deemed a consideration in respect of which the lease or agreement is chargeable with ad valorem duty.

(2) Where it is stipulated that the value of the produce or goods is to amount at least to, or is not to exceed, a given sum, or where the lessee is specially charged with or has the option of paying after any permanent rate

of conversion, the value of the produce or goods is, for the purpose of assessing the ad valorem duty, to be estimated at the given sum, or according to the permanent rate.

(3) A lease or agreement for a lease made either wholly or partially for any such consideration, if it contains a statement of the value thereof, and is stamped in accordance with the statement, is, so far as regards the subject matter of the statement, to be deemed duly stamped, unless or until it is otherwise shown that the statement is incorrect, and that the lease or agreement is in fact not duly stamped.

64 Directions as to duty in certain cases

(1) A lease or agreement for a lease or with respect to any letting is not to be charged with any duty in respect of any penal rent or increased rent in the nature of a penal rent, thereby reserved or agreed to be reserved or made payable, or by reason of being made in consideration of the surrender or abandonment of any existing lease or agreement of or relating to the same subject matter.

(2) A lease or agreement for a lease shall, so far as the consideration therefor consists of any premium, fine, or other consideration whatsoever other than rent, be charged with ad valorem stamp duty, computed on that consideration and also on the consideration paid for or the value of any moveable chattels taken over by the lessee from the lessor or the outgoing lessee, as if it were an instrument of conveyance of sale for the amount of that consideration.

(2A) However, when in a lease or agreement for a lease of any lands, tenements, or hereditaments on which is being carried on or on which it is intended to carry on any trade, profession, business, or other undertaking—

- (a) the only consideration for such lease or agreement for a lease is expressed to be by way of rental; or
- (b) where the consideration for such lease or agreement for a lease is expressed to be by way of rental and also consists of any premium, fine, or other consideration whatsoever other than rent;

but where the consideration expressed to be by way of rental is in the opinion of the commissioner in excess of the rent which would be payable annually by a lessee if no such trade, profession, business, or other undertaking were being carried on on the said lands, lease duty shall be chargeable in respect of so much only of such rent as in the opinion of the commissioner would be payable annually by a lessee if no such trade,

profession, business, or other undertaking were being carried on the said lands; and the balance of such rent to be paid for the duration of the lease together with the consideration other than rent (if any), and also the consideration paid for or the value of any movable chattels taken over by the lessee from the lessor or the outgoing lessee shall be chargeable with ad valorem conveyance duty.

(3) For the purposes of subsection (2) the value of development work required by the provisions of a prescribed lease or agreement for lease to be undertaken, carried out or performed by the lessee shall not be taken to be consideration for the lease or agreement, as the case may be.

(3A) In subsection (3)—

“prescribed lease or agreement for lease” means—

- (a) a lease granted or an agreement for lease made by the Crown in right of Queensland or by a body corporate or corporation sole whose constitution and functions are provided for by an Act of Queensland and whose primary purpose is other than to make a profit from a business undertaking; or
- (b) a lease granted or an agreement for lease made by a body declared under a regulation to be a public body for the purposes of subsection (3), being a lease or agreement for lease to which this subsection applies by reason of such prescription and the provisions of subsection (4).

(4) A regulation may declare a body to be a public body for the purposes of subsection (3) without limitation, in which case subsection (3) shall apply to all leases granted or agreements for lease made by that body while it is so declared, or in relation to 1 or more leases or agreements for lease specified in the regulation, in which case subsection (3) shall apply to the lease or leases and the agreement or agreements specified.

(5) An instrument whereby the rent, reserved by any other instrument chargeable with duty as a lease, is increased, is chargeable with duty as a lease in consideration of the additional rent thereby made payable.

64A Provisions affecting the term of leases

(1) For the purposes of this section, any lease for a fixed term and then for a further term or other terms conditional upon the exercise of a right given by the lease or any other document to a lessee shall be deemed to be for an indefinite term.

(2) A lease deemed by subsection (1) to be for an indefinite term shall be chargeable with stamp duty in respect of a term that is deemed to be a definite term equal to—

- (a) where the sum of the fixed term and any other possible term is less than 6 years—that sum of years;
- (b) where the sum of the fixed term and any other possible term is for 6 years or more—6 years or the fixed term, whichever is the greater.

(3) A lease that is an indefinite lease for the purposes of this Act by virtue of section 62(3)(b) or is indefinite for any reason other than as provided by subsection (1) shall be chargeable with stamp duty—

- (a) in the case of a lease under section 62(3)(b)—in respect of a term that is deemed to be for the fixed term or for 6 years, whichever is the greater; and
- (b) in all other cases—6 years.

(4) For the purposes of this Act, a lease—

- (a) referred to in subsection (2)(b) or (3); and
- (b) chargeable with duty under this subsection;

shall, on the expiration of all terms for which duty is or has been chargeable under this Act in respect of any further remaining term of the lease, be chargeable with duty in respect of a term that is 6 years or such lesser term as the commissioner may be satisfied is the final term of the lease.

64B Provisions affecting the payment of duty on leases

(1) Where a lease provides for the payment of rent at a rate that can be ascertained but may be varied during its term, stamp duty chargeable shall be calculated on the highest ascertainable total rent for the relevant term of the lease.

(2) Where a lease, at the time it is produced to the commissioner, provides for payment of rent the total amount of which can not, disregarding any consumer price index variation, be ascertained from the terms of the relevant instrument, the parties to the instrument shall furnish to the commissioner—

- (a) an estimate of the total rent payable over the term or deemed term of the lease; and

(b) evidence, to the satisfaction of the commissioner, supporting that estimate.

(3) The commissioner may at any time require, by notice in writing, the parties to a lease to furnish—

- (a) information in the approved form; and
- (b) such further information or evidence as the commissioner may require.

(4) Where, in respect of any expired term of a lease, the amount of duty assessed is less than the duty that would have been assessed had the total rent payable for the expired term been known at the time of assessment, duty chargeable on the lease in respect of the expired term shall be the amount that would be assessed on the total rent payable for the expired term; and section 80 applies as if the amount of duty assessed in the first instance had been assessed at an insufficient amount.

(5) The commissioner may make an assessment of the duty charged under subsection (4) and serve the assessment upon the person to whom it is directed personally or by post or by giving it to the person in a prescribed manner.

64C Refund of duty

Where duty has been paid on a lease for the whole or part of a term which was conditional upon the exercise of a right given by the lease or other document to a lessee, the commissioner shall upon application in writing made to the commissioner within 6 months after the forfeiture of the right to a lease for that term—

- (a) make an adjustment of the stamp duty paid on the relevant instrument; and
- (b) refund to the lessee or (where the lease has been transferred or assigned by the lessee) to the transferee or assignee;

an amount of money equal to the difference between the duty actually paid and the duty which would have been payable if the lease had terminated at the date of that forfeiture.

64D Licence to occupy premises

(1) This section applies if, under a contract or agreement that is in writing or for which there is a written offer—

- (a) a person (the “**occupier**”) acquires or agrees to acquire a right to occupy premises; and
- (b) the occupier uses or will use the premises as a place of business; and
- (c) the occupier does not obtain exclusive possession of the premises; and
- (d) it would be reasonable to conclude that the occupier’s enjoyment of the premises as a place of business during the term of the contract or agreement is not, or will not be, adversely affected by the absence of the right to exclusive possession having regard to—
 - (i) the periods during which the occupier’s occupation of the premises is not exclusive; and
 - (ii) the times when the occupier’s right to have access to, or to occupy, the premises may be interrupted or denied.

(2) This section does not apply to a contract or agreement for the right to occupy premises in any of the following circumstances—

- (a) the term of the right of occupation is less than 1 month and it would be reasonable to conclude that there is no arrangement by which the term may be extended or renewed so that the total term will be longer than 1 month;
- (b) the term of the right of occupation is at least 1 month but less than 1 year and the consideration paid or payable by the occupier for the right of occupation (other than reasonable outgoings for the premises) adjusted for a term of 1 year is not more than \$10 000;
- (c) the term of the right of occupation is for at least 1 year and the annual consideration paid or payable by the occupier for the right of occupation (other than reasonable outgoings for the premises) is not more than \$10 000.

(3) The person (the “**grantor**”) who has given, or agreed to give, the occupier the right to occupy the premises must, within 1 month after the occupier acquires, or agrees to acquire, the right of occupation for a premises (whichever happens first), make a statement to the commissioner in the approved form.

Maximum penalty—100 penalty units plus an amount equal to double the amount of the duty that would have been chargeable on the statement if the statement had been made under this section.

(4) If proceedings for an offence are not taken against a grantor, the commissioner may impose a penalty of—

- (a) 3% of the duty chargeable on the statement for the first month, or part of the month, after the end of the period during which the statement was required to be made; and
- (b) 2% for each subsequent month or part of the month, until the statement is made.

(5) However, if the penalty calculated under subsection (4) would be less than \$10, the penalty is \$10.

(6) After considering the circumstances, the commissioner may waive or reduce the penalty.

(7) A proceeding against a grantor under subsection (3) may not be taken, and the commissioner may not impose a penalty under subsection (4), for the grantor not having made a statement before the consideration for the right of occupation was ascertainable if—

- (a) the amount of the annual consideration payable could not be ascertained for the contract or agreement; and
- (b) within 1 month of acquiring or agreeing to acquire the right of occupation, the grantor reasonably estimated that the annual consideration would be not more than \$10 000; and
- (c) the actual annual consideration paid did not exceed the grantor's estimate by more than 15%.

(8) The statement mentioned in subsection (3) is taken to be an instrument under this Act executed by the grantor and is chargeable with duty as if—

- (a) the statement were an instrument of lease of the premises; and
- (b) the consideration paid or payable under the contract or agreement (other than reasonable outgoings for the premises) were rental paid or payable by the occupier under the lease; and
- (c) the term and any conditional term of the right of occupation were the term and conditional term of the lease.

(9) In this section—

“premises” means—

- (a) a building, or a part of a building, in Queensland; or
- (b) a building, or a part of a building, in Queensland, together with the land, or a part of the land, on which the building is situated.

65 Meaning of “mortgage”

(1) For the purposes of this Act—

“mortgage” means a security by way of mortgage for the payment of any definite and certain sum of money advanced or lent at any time, or previously due and owing or forborne to be paid, being payable, or for the repayment of money to be thereafter lent, advanced, or paid, or which may become due upon an account current, together with any sum already advanced or due, or without, as the case may be, and includes—

- (a) any conveyance of any lands, estate, or property whatsoever 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 by express stipulation or otherwise, except where the conveyance is made for the benefit of creditors generally or for the benefit of creditors specified who accept the provision made for payment of their debts, in full satisfaction thereof; and
- (b) any defeasance, declaration, or other deed or writing for defeating, or making redeemable, or explaining, or qualifying any conveyance, transfer, or disposition of any lands, estate, or property whatsoever, apparently absolute, but intended only as a security; and
- (c) any agreement, contract, or bond, accompanied with a deposit of title deeds for making a mortgage, or any other security or conveyance as aforesaid, of any lands, estate, or property comprised in the title deeds, or for pledging or charging the same as security and any instrument by which any property whatsoever is charged with or rendered liable as a security for the payment or the repayment of any sum of money; and
- (d) any instrument operating as a mortgage of any stock or marketable security and any power or letter of attorney given upon the occasion of or relating to the deposit of any title deeds or instruments constituting or being evidence of the title to any property whatsoever or creating a charge on such property; and

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- (e) any deed of mortgage and trust for the purpose of securing debenture holders.

(1A) However, any legal mortgage afterwards executed in pursuance thereof shall be treated as collateral thereto.

(2) For the purposes of this Act, where a security is given, wholly or in part, to secure an obligation on default arising under or in respect of a bill of exchange or promissory note, drawn or made or to be drawn or made or which may be drawn or made or a series of such bills or notes—

- (a) it shall be deemed to be a security for the payment or repayment of money lent or to be lent; and
- (b) it shall be deemed that the loan which it secures is or is to be or may be made on the date on which the funds are first provided in exchange for the bill or note or the first bill or note in the series; and
- (c) it shall be deemed that the amount of the loan which it secures is the face value of the bill or note or the total face value of the bills or notes to which the security relates which is or are or is to be or are to be current or outstanding at any time; and
- (d) it shall be deemed that the amount of the loan at a particular time is the face value of the bill or note or the total face value of bills or notes to which the security relates which is or are current or outstanding at that time.

(2A) Subject to subsection (2B), where a security has been executed prior to the commencement of the *Stamp Act Amendment Act 1988*, section 1 (in this subsection “**that commencement date**”) and there is an underlying agreement or arrangement in respect of the bills or notes with respect to which the obligations secured by that security relate which was also executed or entered into prior to that commencement date and—

- (a) that underlying agreement or arrangement can be shown to relate to a fixed term and a fixed amount; or
- (b) pursuant to the agreement or arrangement a term and amount to which the obligation is for the time being to relate was approved in writing before that commencement date;

subsection (2) shall not apply to render the provisions of section 68 or schedule 1 operative in respect of such security.

(2B) Where in the case of a security of the kind referred to in subsection (2A), the underlying agreement or arrangement referred to in

subsection (2A) or an approval pursuant thereto is varied or a new approval provided in so far as it relates to the term of the arrangement or agreement or the amount of bills or notes to which it relates, the security is deemed to be a new and separate instrument bearing the date on which funds are provided in exchange for the first bill or note issued after that variation or new approval.

(3) An instrument creating or agreeing to create a charge over property for the payment of any definite and certain sum of money advanced or lent at any time, or previously due and owing or forborne to be paid, being payable, or for the repayment of money to be thereafter lent, advanced, or paid, or which may become due upon an account current, together with or without any sum already advanced or due, as the case may be, shall be chargeable with ad valorem duty as if it were a mortgage.

66 Agreement to grant mortgage

(1) An agreement for the deposit of title deeds to secure the payment or the repayment of a sum of money or an agreement to grant a mortgage shall be charged with the same duty as if it were an actual mortgage.

(2) Where the commissioner is satisfied that a mortgage has been executed in pursuance of an agreement to grant a mortgage and that agreement has been stamped with ad valorem duty, the mortgage is to be taken to be stamped to the extent that the agreement is stamped in respect of the granting of the mortgage.

66A Caveats

(1) A caveat under the *Land Title Act 1994* claiming an estate or interest in land pursuant to—

- (a) a mortgage; or
- (b) an instrument of a kind referred to in section 65(3) or 66; or
- (c) an arrangement whereby title deeds are deposited to secure the payment or repayment of a sum of money advanced or lent at any time, or previously due and owing or forborne to be paid, being payable, or for the repayment of money to be thereafter lent, advanced, or paid, or which may become due upon an account current, together with or without any sum already advanced or due, as the case may be;

shall be chargeable with duty of the same amount as is chargeable on a mortgage or charge to secure the payment or repayment of the same sum of money as is secured by the mortgage or the instrument or pursuant to the arrangement, unless the commissioner is satisfied that ad valorem duty chargeable under schedule 1, under the heading 'Mortgage, bond, debenture, and covenant' on an amount no less than that sum, has or will be paid—

- (d) in the case of a mortgage or an instrument of the kind referred to in paragraph (b)—on that mortgage or instrument or some other instrument pursuant to the arrangement in relation to which the mortgage or instrument was executed; or
- (e) in the case of an arrangement of a kind referred to in paragraph (c)—on some other instrument pursuant to that arrangement.

(2) Where the commissioner is satisfied that a caveat chargeable with duty under subsection (1) has been stamped with ad valorem duty, a mortgage or charge under which an interest in land is claimed in that caveat is to be taken to be stamped to the extent that the caveat is stamped.

67 Directions as to duty in certain cases

(1) 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 the stock; and a transfer, assignment, or disposition of any such security, and a reconveyance, release, discharge, surrender, or renunciation of any such security is to 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 the stock.

(2) A security for the payment of any annuity or periodical payments, by way of repayment or in satisfaction or discharge of any loan, advance, or payment intended to be so repaid, satisfied, or discharged, is to be charged with the same duty as a similar security for the payment of the sum of money so lent, advanced, or paid.

(3) A transfer of a duly stamped security, and a security by way of further charge for money or stock added to money or stock previously secured by a duly stamped instrument, is not to be charged with any duty by reason of its containing any further or additional security for the money or stock transferred or previously secured, or the interest or dividends thereof, or any new covenant, proviso, power, stipulation, or agreement in

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

(4) An instrument chargeable with ad valorem duty as a mortgage is not to be charged with any further duty by reason of the equity of redemption in the mortgaged property being thereby conveyed or limited in any other manner than to a purchaser, or in trust for or according to the direction of a purchaser.

(5) When calculating ad valorem duty chargeable on an instrument under schedule 1, under the heading ‘Mortgage, bond, debenture, and covenant’, that part (if any) of the amount secured that represents an amount on account of duty chargeable under—

- (a) that heading on that instrument; or
- (b) section 35B in respect of the loan or short-term loan (other than where it is on an account current) secured by that instrument;

may be disregarded.

(6) For the purposes of subsection (5)—

“**loan**” and “**short-term loan**” have the same meanings as they have in sections 35 and 35B.

67A Loan application or offer to be dutiable in certain circumstances

(1) For the purposes of this section—

“**loan**” includes—

- (a) an advance; and
- (b) money paid for or on account of or on behalf of or at the request of a person; and
- (c) a forbearance to require payment of money owing on any account whatsoever; and
- (d) a transaction (whatever its terms or form) which in substance effects a loan of money.

(2) Where an instrument is executed either within or outside Queensland for the purpose of making an application for a loan or offering to make a loan and—

- (a) any of the negotiations in respect of the loan take place in Queensland; or

- (b) any of the repayments in respect of the loan are proposed or arranged to be made in Queensland; or
- (c) the loan moneys are obtained for the purpose of being expended or used wholly or in part in Queensland; or
- (d) the application or offer is made by or on behalf of a person resident in Queensland or a Queensland company;

upon a loan being made pursuant to the application or offer, the instrument, if the application or offer is not accepted in writing, shall be chargeable with duty as if the application or offer were accepted by execution of the instrument at the time at which the loan was made.

(2A) However, the instrument shall not be chargeable as provided in subsection (2) where the commissioner is satisfied that—

- (a) another instrument in respect of the making of the loan is chargeable with ad valorem duty on the amount of the loan under schedule 1, under the heading ‘Bond, covenant, or instrument of any kind whatsoever’ or ‘Mortgage, bond, debenture, and covenant’ or in accordance with a corresponding provision of a corresponding Act in another State or Territory; and
- (b) duty on that other instrument has or will be paid.

(3) Where the commissioner is satisfied that—

- (a) an instrument chargeable in accordance with this section is also chargeable with ad valorem duty in another State or Territory and that duty has or will be paid in that other State or Territory; and
- (b) the instrument executed for the purpose of making an application for a loan or an offer to make a loan was made by or on behalf of a person other than a Queensland resident, a Queensland company or a foreign company under the Corporations Act that has its registered office under that Act in Queensland;

the commissioner may stamp the instrument as not being chargeable with duty in Queensland.

68 Security for future advances, how to be charged

(1) A security for the payment or repayment of money lent or to be lent, advanced, or paid, or which has or may become due upon an account current either with or without 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.

(2) Where such total amount is unlimited, the security is to be available for such amount only as the ad valorem duty impressed thereon extends to cover; 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 the day on which the advance or loan is made.

(3) The holder of the security shall, on or before 1 June in each year, make and deliver to the commissioner a declaration stating the highest amount further advanced on such security during the preceding 12 months, accompanied by the duty payable thereon, and the holder shall be entitled to receive a certificate duly stamped in such form as the commissioner may think fit, which said certificate shall be affixed to the security by the holder, and shall be evidence that duty on such amount has been paid; and the holder thereof shall not be liable for any penalty for not having paid duty on such further advances at the time when the same were respectively made.

(3A) However, in any case of an instrument executed by way of security for further advances, the mortgagee or person entitled to the moneys secured thereby shall, when the amount due on such instrument is paid off, or if the same expires by effluxion of time, make and deliver to the commissioner a declaration stating the total advances made since the execution of such instrument, and pay the duty (if any) due thereon.

(4) No money to be advanced for the insurance of any property comprised in the security against damage by fire, or for keeping up any policy of life insurance comprised in the security, or for effecting in lieu thereof any new policy, or for the renewal of any grant or lease of any property comprised in the security upon the dropping of any life whereon the property is held, shall be reckoned as forming part of the amount in respect whereof the security is chargeable with ad valorem duty.

(5) If the mortgagee or person entitled to the moneys secured by any instrument as aforesaid is absent from Queensland, the declaration may be made by his or her agent or attorney who is able to depose of his or her own knowledge, or, in the case of a company or corporation, by its manager or some other officer who is able so to depose.

(6) Any mortgagee or other person for the time being entitled to the moneys secured by any instrument securing an unlimited sum, who neglects or omits to make or deliver the declaration mentioned herein, and

to pay the duty (if any) due thereon, shall be liable to a penalty not exceeding 4 penalty units; and in the case of any company or corporation every director, manager, or other officer thereof shall be liable to the same penalty.

(7) However, any security executed prior to 1 November 1918, which was not at the time of the execution thereof subject to ad valorem mortgage duty shall be subject to the operation of this section in so far only as relates to any advances made thereunder on or after 1 November 1918.

68AA Security of third party

(1) This section applies if—

- (a) a loan (the “**primary loan**”) is made by a person to another person; and
- (b) under an arrangement (whether or not the arrangement involves the primary loan), a security is used, or is capable of being used, (either directly or indirectly) to recover an amount (the “**recoverable amount**”), or part of an amount (also the “**recoverable amount**”), payable, or that may become payable, under a declared instrument by a guarantor, indemnifier or another person; and
- (c) there is a connection (whether direct or indirect) between the security and the primary loan.

(2) The security—

- (a) is taken to be a security for the payment or repayment of money lent or to be lent, advanced or paid; and
- (b) is chargeable with the same duty as if the recoverable amount were a separate advance made under the security.

(3) In the application of subsection (2), the recoverable amount—

- (a) is limited to the amount of the primary loan to the extent it is included in the recoverable amount; and
- (b) does not include any contingent liability apart from the contingent liability constituted by the recoverable amount.

(4) Nothing in this section requires duty to be paid more than once in relation to a loan.

(5) This section does not limit the operation of section 68(1) or (2).

(6) In this section—

“**declared instrument**” means—

- (a) a guarantee; or
- (b) an indemnity; or
- (c) another instrument creating a contingent liability.

“**loan**” includes advance.

68A Trust deed in respect of debentures

(1) Where, in respect of the offer by a corporation of debentures to the public for subscription, a trust deed is executed in Queensland or, if executed outside Queensland, such trust deed or a copy thereof (executed or unexecuted) is brought into Queensland for the purpose of registration or other purpose associated with the offer the trust deed or, as the case may be, copy is to be charged with stamp duty at the rate specified in schedule 1, under the heading ‘Mortgage, bond, debenture, and covenant’ as if the trust deed were a debenture (being the only or principal or primary security) securing the payment of an amount equal to the total amount of such debentures (other than prescribed short-term debentures) subscribed for from time to time by the public in Queensland.

(1A) Subsection (1) applies so that a trust deed referred to therein shall not, in respect of any debenture in relation where to such trust deed has been charged with stamp duty, be again charged with stamp duty in respect of any reissue or renewal of such debenture in relation to which stamp duty would not be chargeable upon the debenture if the duty charged on the trust deed had been charged on the debenture.

(1B) A trustee shall make and forward to the commissioner in respect of every debenture referred to in subsection (1) the declaration prescribed by subsection (1C).

(1C) In the month of July in each year the trustee under such a trust deed shall forward to the commissioner a declaration under the *Oaths Act 1867* setting forth—

- (a) the total amount of debentures in respect of which it is reasonable to expect that the commissioner would be satisfied that they are prescribed short-term debentures; and
- (b) the total amount of all other debentures;

subscribed for by the public in Queensland during the 12 months preceding that month and account for the duty thereon.

(1D) Except as prescribed by subsection (1C) or section 68B, such a trust deed shall not be liable to duty under this Act.

(1E) Any debenture in respect of which such a trust deed has been duly stamped as prescribed by subsection (1C), shall not be liable to duty under this Act.

(2) For the purposes of this section—

“**debentures**” includes debenture stock, bonds, notes, and other securities of a corporation, whether constituting a charge on its assets or not.

68B Prescribed short-term debenture

(1) For the purposes of this section, section 68A and the provisions in schedule 1, under the heading ‘Mortgage, bond, debenture and covenant’—

“**prescribed short-term debenture**” means a debenture within the meaning of section 68A(2) issued by a public company within the meaning of the Corporations Act in respect of which the commissioner is satisfied that—

- (a) the payment or repayment of money is secured for a term or, if the debenture is reissued or renewed, a combined term not exceeding 6 months; and
- (b) the debenture is not part of any scheme or other arrangement the effect of which scheme or arrangement is the securing of the payment or repayment of money for a period or, where the scheme or arrangement includes a number of debentures or the reissuing or renewal thereof, a combined period (whether or not the period is continuous) exceeding 6 months.

(1AA) For the purposes of subsection (1)(a) or (b), unless, in the particular case, the commissioner determines otherwise, debentures subscribed for or taken-up (whether upon the issuing, reissuing or renewal thereof) by a corporation shall be taken to have been subscribed for by that corporation together with any debentures subscribed for or taken-up (whether upon the issuing, reissuing or renewal thereof) by all other corporations (if any) that are related to the firstmentioned corporation.

(1AB) The question whether corporations are related to each other shall be determined in the manner in which it is to be determined under the Corporations Act whether bodies corporate are related to each other.

(1A) Where in respect of a debenture—

- (a) the commissioner is not or has not been satisfied of the matters specified in subsection (1) because the term for which the debenture secures the payment or repayment of money is not fixed or certain; and
- (b) moneys secured by the debenture are subsequently paid or repaid within 6 months of the debenture being issued; and
- (c) the commissioner is satisfied of the matters specified in subsection (1)(b);

the debenture shall be a prescribed short-term debenture for the purposes of this section, section 68A and the provisions in schedule 1, under the heading ‘Mortgage, bond, debenture, and covenant’.

(1B) For the purposes of subsection (1A)—

“**debenture**” means a debenture executed or issued after the commencement of the *Stamp Act Amendment Act 1986*.

(1C) Where a debenture which secures the payment or repayment of money is not for a fixed or certain term and the debenture pursuant to subsection (1A) subsequently becomes a prescribed short-term debenture and ad valorem duty specified in schedule 1, under the heading ‘Mortgage, bond, debenture, and covenant’ has been paid on the debenture or on a trust deed securing the debenture or pursuant to section 68A upon an amount including the amount of the debenture the commissioner may refund or rebate the amount of the duty on the debenture or in the case of duty being paid on the trust deed or pursuant to section 68A the amount by which the duty payable would have decreased if the amount in respect of the debenture had not been included.

(2) If it appears to the commissioner that a debenture in respect of which no duty has been paid upon the amount secured thereunder (whether upon the debenture or the trust deed under which the debenture is or has been offered to the public) for the reason that duty is not chargeable as the debenture is a prescribed short-term debenture or in respect of which duty has been refunded or rebated pursuant to subsection (1C) is not in fact a prescribed short-term debenture then the amount of duty chargeable in respect of the debenture upon that debenture or, as the case may be, trust deed shall be the amount chargeable as if the debenture was not a prescribed short-term debenture and section 80 applies as if the amount of duty assessed in the first instance has been assessed at an insufficient amount.

(3) A person who makes a false statutory declaration for the purpose of having a debenture assessed as a prescribed short-term debenture commits an offence against this Act and is liable to a penalty of 20 penalty units and liable to pay a penalty equal to double the amount of duty or, in the case of a trust deed upon which an amount of duty has been paid, double the amount of the increase in duty that would have been payable on the debenture or, as the case may be, trust deed if the false declaration had not been made.

(4) A person who makes a false declaration for the purpose of having duty in respect of a debenture refunded or rebated pursuant to subsection (1C) commits an offence against this Act and is liable to a penalty of 20 penalty units and is liable to a penalty equal to double the amount of duty refunded or rebated or sought to be refunded or rebated on or in respect of the debenture.

68C No duty on financial corporation debentures

(1) Duty under schedule 1, under the heading ‘Mortgage, bond, debenture and covenant’, does not apply to—

- (a) a debenture issued by a financial corporation or related corporation—
 - (i) under an instrument of trust—
 - (A) to which the financial corporation or related corporation is a party; and
 - (B) that protects the interests of the holder of the debentures; or
 - (ii) if the repayment of the debenture is secured by a mortgage, bond or covenant executed by the financial corporation or related corporation; or
- (b) an instrument of trust—
 - (i) to which a financial corporation or related corporation is a party; and
 - (ii) that protects the interests of the holders of debentures issued by the financial corporation or related corporation under the instrument; or

- (c) a mortgage, bond or covenant executed by a financial corporation or related corporation to secure the repayment of debentures issued by the financial corporation or related corporation.

(2) Subsection (1) applies to a debenture issued, or an instrument of trust, or a mortgage, bond or covenant executed, by a related corporation only to the extent that the debenture is issued, or the instrument of trust or mortgage, bond or covenant is executed, to raise funds to be used by the financial corporation.

(3) In this section—

“financial corporation” means a corporation whose sole or principal business is the provision of finance to the public.

“related corporation”, of a financial corporation, means a corporation that is taken to be related to the financial corporation because of the Corporations Act, section 50.

69 Commutation of duty on debentures etc. of local bodies

The commissioner may, in the commissioner’s discretion, upon application by any local government or by any other public authority, approved under a regulation, desiring to issue debentures or inscribed stock, commute the duty payable on the issue and the subsequent transfer of any such debentures or stock, and so soon as the sum payable has been determined and payment of the commuted duty has been made, all debentures and stock certificates and all transfers of debentures or stock relating to such issue shall be exempt from duty.

69A Securities for loans to or debts of educational, charitable or religious bodies

(1) Where the commissioner is satisfied that—

- (a) a security is given for a loan to or a debt of an institution or body or the trustees of an institution or body of the kind specified in section 59E(1); and
- (b) the loan is or the debt is incurred solely, or almost solely, for a purpose of the kind specified in section 59E(1)(f) to (m);

the commissioner may determine the security to be exempt from stamp duty.

(2) Where the commissioner is not, at the time at which a security referred to in subsection (1) is lodged with the commissioner, satisfied that—

- (a) the relevant institution or body is an institution or body of the kind referred to in subsection (1)(a); or
- (b) the relevant loan or debt was incurred solely, or almost solely, for a purpose of the kind referred to in subsection (1)(b);

the commissioner may determine the instrument not to be exempt from duty; but may, by notice to the institution or body, specify a later time or period when the commissioner will determine according to the facts and circumstances known to the commissioner at that later time, whether those facts and circumstances if known when the instrument was first lodged, would have allowed the commissioner to determine the instrument to be exempt; and where the commissioner at that later time so determines the commissioner may refund the duty paid on the relevant security.

(3) Where an instrument has been exempted under subsection (1) and—

- (a) the loan moneys, or part of them, secured by that instrument are used for a purpose other than a purpose referred to in subsection (1)(b); or
- (b) the instrument is used to secure any other loan or further advance made for a purpose, other than a purpose referred to in subsection (1)(b);

then the instrument shall be chargeable with duty on the amount of such loan or further advance; and section 80 applies as if the instrument had been assessed in the first instance with stamp duty of an insufficient amount.

(4) Where a person is a party to an instrument which has been exempted from duty under subsection (1), the person shall within 28 days of the happening of any of the circumstances specified in subsection (3), or within such longer time as the commissioner in the commissioner's discretion in the particular case allows, notify the commissioner of those circumstances.

(5) Where a person fails to notify the commissioner in compliance with subsection (4), the commissioner, when reassessing duty payable pursuant to subsection (3), shall demand and receive by way of penalty an amount equal to the total amount of duty so reassessed.

69B Restriction on exemption on instruments securing advances to certain boards and cooperatives

(1) If a cooperative registered under the *Cooperatives Act 1997* whose members are primary producers has obtained exemption from stamp duty on an instrument, under schedule 1, under the heading 'Mortgage, bond, debenture, and covenant', exemption 5 and—

- (a) the advance made under that instrument or part of the advance is used for a purpose which would not have qualified the instrument for exemption under that provision; or
- (b) the instrument is used to secure any other advance or further advance made for a purpose which would not have qualified the instrument for exemption under that provision;

then the instrument shall be chargeable with duty on the amount of such advance or other advance or further advance; and section 80 applies as if the instrument had been assessed in the first instance with stamp duty of an insufficient amount.

(2) Where a person is a party to an instrument which has been exempted from duty under the provision referred to in subsection (1), the person shall within 28 days of the happening of any of the circumstances specified in subsection (1)(a) and (b), or within such longer time as the commissioner in the commissioner's discretion in the particular case allows, notify the commissioner of those circumstances.

(3) Where a person fails to notify the commissioner in compliance with subsection (2), the commissioner, when reassessing duty payable pursuant to subsection (1), shall demand and receive by way of penalty an amount equal to the total amount of duty so reassessed.

69C Purpose and application of exempting provisions

(1) The purpose of the exempting provisions is to reduce the duty payable by a person who borrows money to—

- (a) buy or build the person's principal home; or
- (b) refinance an existing loan over the person's principal home and gives the person's principal home as security when refinancing.

(2) The exempting provisions apply whether or not it is the person's first home.

69D Definitions for exempting provisions

In sections 69C to 69M and in schedule 1, under the heading ‘Mortgage, bond, debenture, and covenant’, exemptions 4 and 4A—

“**exempting provisions**” means sections 69C to 69M and schedule 1, under the heading ‘Mortgage, bond, debenture, and covenant’, exemptions 4 and 4A.

“**exemption**” means exemption 4 or 4A mentioned in schedule 1, under the heading ‘Mortgage, bond, debenture, and covenant’.

“**first borrower**”, for a home, means a home borrower for whom the home is, or is to be, a first home.

“**first home**” see section 69E.

“**home**” means a place of residence under section 55A(1).⁷

“**home borrower**” see section 69F.

“**home mortgage**” means an instrument, or a number of instruments, a borrower gives to secure an advance of money for the borrower to buy or build the borrower’s principal home.

“**home refinance borrower**” see section 69G.

“**home refinance mortgage**” see section 69H.

“**previous mortgage**”, for a home refinance mortgage, see section 69H.

“**principal home**”, of a person, means the person’s principal place of residence.

69E Meaning of “first home”

A home is a person’s “**first home**” if—

- (a) the home is, or is to be, the person’s principal home; and
- (b) the home is being bought or built by the person; and
- (c) the person does not hold, and has not previously held, an interest in another home in Queensland or elsewhere.

⁷ Section 55A (Duty relating to principal place of residence and first principal place of residence)

59F Meaning of “home borrower”

- (1) A person is a **“home borrower”** for a home if—
- (a) the person is the borrower under a home mortgage for the home; and
 - (b) the person is to occupy the home, and remain in continuous occupation of it, as the person’s principal home for a period of at least 6 months starting—
 - (i) if the home is being bought—within 6 months of the delivery of the possession of the home to the person; or
 - (ii) if the home is being built—within 1 year of the earliest signing by the person of any instrument constituting or forming part of the home mortgage.
- (2) A home borrower can be a first borrower.

69G Meaning of “home refinance borrower”

A person is a **“home refinance borrower”** for a home if the person is the borrower under a home refinance mortgage for the home and the home has been the person’s principal home—

- (a) if the home has been owned by the person for more than 6 months before the date of the earliest of any instrument constituting or forming part of the mortgage—for the 6 months before the date of the instrument; or
- (b) in any other case—since the person owned the home.

69H Meaning of “home refinance mortgage” and “previous mortgage”

A **“home refinance mortgage”** is an instrument securing, or a number of instruments of which at least 1 secures, a borrower’s principal home when all or part of the amount advanced under the instrument or instruments is, or is to be, used to repay the balance owing under a mortgage given by the borrower that secures, or previously secured, the borrower’s principal home (the **“previous mortgage”**).

69I Limited exemptions for certain owners

(1) This section applies if a home mortgage or home refinance mortgage is given by more than 1 owner of the home but the home is not—

- (a) the first home for all the owners; or
- (b) the principal home for all the owners.

(2) For a home mortgage if all the owners are not first borrowers, the amount of the exemption is to be calculated by allowing for each owner who is a first borrower an amount that bears to the following appropriate amount the same proportion as the value of the first borrower's interest in the home bears to the home's value—

- (a) if the amount of the mortgage is less than \$100 000—the amount of the mortgage;
- (b) in any other case—\$100 000.

(3) For a home mortgage if all the owners are not home borrowers, the amount of the exemption is to be calculated by allowing for each owner who is a home borrower, but not a first borrower, an amount that bears to the following appropriate amount the same proportion as the value of the home borrower's interest in the home bears to the home's value—

- (a) if the amount of the mortgage is less than \$70 000—the amount of the mortgage;
- (b) in any other case—\$70 000.

(4) For a home refinance mortgage if all the owners are not home refinance borrowers, the amount of the exemption is to be calculated by allowing for each owner who is a home refinance borrower an amount that bears to the following appropriate amount the same proportion as the value of the home refinance borrower's interest in the home bears to the home's value—

- (a) if the balance owing under the previous mortgage is less than \$100 000—the balance;
- (b) in any other case—\$100 000.

(5) For this section, if a person's interest in a home is a joint tenancy, the person is taken to have an equal interest with the other joint tenant or tenants.

69J Failure to meet exemption criteria

(1) This section applies to a person who received the benefit of exemption 4 for an instrument for a principal home, but who did not occupy, or remain in continuous occupation of, the home as the person's principal home for a period of at least 6 months starting—

- (a) if the home was bought—within 6 months of the delivery of the possession of the home to the person; or
- (b) if the home was built—within 1 year of the earliest signing by the person of any instrument constituting or forming part of the home mortgage.

(2) Within 28 days after this section applies to a person, the person must give written notice to the commissioner that the person did not occupy, or remain in continuous occupation of, the home as mentioned in subsection (1).

Maximum penalty—10 penalty units.

(3) Instead of prosecuting the person for an offence against subsection (2), the commissioner may demand and receive, by way of penalty, an amount equal to the additional duty reassessed for the instrument under subsection (5).

(4) However, the commissioner may reduce or waive the penalty the commissioner has demanded or could demand, if the commissioner considers it is equitable to do so.

(5) The instrument is chargeable with the duty that would have been charged if the instrument had been assessed in the first instance without the person receiving the benefit of exemption 4 for the instrument.

(6) For subsection (5), section 80⁸ applies as if the amount of duty assessed in the first instance had been assessed at an insufficient amount.

69L Duty chargeable on certain home refinance mortgages

(1) If a home refinance mortgage is exempt under exemption 4A and, when the mortgage is entered into, the amount, or the total of the amounts, secured under the mortgage (the “**total secured amount**”) is more than the

8 Section 80 (Amendment of assessments)

balance owing under the previous mortgage, duty is chargeable on the home refinance mortgage for the amount calculated by using the formula—

$$A - B$$

where—

“**A**” means—

- (a) the amount by which the total secured amount is more than the balance owing for the previous mortgage; or
- (b) if the balance owing is more than \$100 000—the amount by which the total secured amount is more than \$100 000.

“**B**” means—

- (a) if there is a positive amount by which the amount on which duty has been paid under the previous mortgage is more than the balance owing for the previous mortgage—the amount; or
- (b) in any other case—zero.

(4) If the amount calculated under subsection (1) for an instrument is negative, duty is not chargeable on the instrument.

(5) For subsection (1), a mortgage made up of more than 1 instrument is entered into when any of the instruments is entered into.

(6) In subsection (1)—

“**balance owing**”, for a previous mortgage, means the amount owing under the mortgage immediately before the home refinance mortgage secures the total secured amount.

69M More than 1 instrument for home mortgage or home refinance mortgage

If a home mortgage or home refinance mortgage is made up of more than 1 instrument, the commissioner may apply the exemption among the instruments in an equitable way.

70 Ex-Queensland securities

(1) Where the money to be paid or repaid under an instrument chargeable with duty under schedule 1, under the heading ‘Mortgage, bond, debenture, and covenant’ is secured both on property in Queensland

and on property in another State or a Territory, and the commissioner is satisfied that ad valorem duty under a corresponding provision relating to mortgages or other securities has been paid or will be paid to that other State or Territory in respect of the same money the commissioner shall allow a credit against the duty that would otherwise be payable of an amount equal to the lesser of—

- (a) the same proportion of the duty otherwise payable in Queensland as the full unencumbered value of the property situated in that other State or Territory bears to the aggregate full unencumbered value of all property upon which the money to be paid or repaid is secured; and
- (b) the amount of duty paid or to be paid to that other State or Territory.

(2) Where the money to be paid or repaid under an instrument chargeable with duty under schedule 1, under the heading ‘Mortgage, bond, debenture, and covenant’ is secured wholly on property within another State or a Territory, and the commissioner is satisfied that ad valorem duty under a corresponding provision relating to mortgages or other securities has been or will be paid to that other State or Territory, the commissioner shall allow a credit against the duty that would otherwise be payable of an amount equal to the lesser of—

- (a) the duty otherwise payable in Queensland; and
- (b) the amount of duty paid or to be paid to that other State or Territory.

(3) Where an instrument secures money to be paid or repaid and the money lent has been or is to be applied, wholly or partly in Queensland, the instrument shall be deemed to relate to a matter or thing done or to be done in Queensland.

(4) Where the commissioner is satisfied that ad valorem duty under provisions corresponding with the provisions under schedule 1, under the heading ‘Mortgage, bond, debenture, and covenant’ has been or will be paid on an instrument which secures the payment or repayment of money to another State or a Territory—

- (a) in which the property, on which the money is secured, is located;
or
- (b) in which that money has been or will be partly applied;

the commissioner shall allow a credit, against the duty that would otherwise be payable, of an amount equal to—

- (c) in the case of an instrument chargeable with duty in that other State or Territory only because the money paid or to be repaid under the instrument has been or is to be applied in that other State or Territory—the amount which is the lesser of—
 - (i) the same proportion of the duty otherwise payable in Queensland as the amount of money which has been or is to be applied in that other State or Territory bears to the total amount of money to be paid or repaid; and
 - (ii) the amount of duty paid or to be paid to that other State or Territory; or
- (d) in any other case—the amount of the duty paid or to be paid to that other State or Territory.

71 Securities over certain shares and units

(1) A security under schedule 1, under the heading ‘Mortgage, bond, debenture, and covenant’ shall be deemed to be secured on property in Queensland where the property on which it is secured is or includes—

- (a) shares in a Queensland company; or
- (b) shares in a company of a kind to which section 56C applies; or
- (c) shares in a corporation to which the prescribed provisions, within the meaning of section 56F, apply where the owner of those shares, if the owner and all persons related, within the meaning of section 56FA(3), to the owner were to newly acquire all of the shares in the corporation which the owner and they own, would have made a relevant acquisition within the meaning of section 56FM; or
- (d) units in a unit trust scheme within the meaning of section 56B.

(2) Where the calculation of duty on a security of the kind referred to in subsection (1) requires a determination of the value of the property in Queensland on which it is secured—

- (a) shares of the kind referred to in subsection (1)(b) shall have a full unencumbered value equal to—
 - (i) the value that they would be regarded as having under section 56C if they were disposed of; or

- (ii) where it is also a share of the kind referred to in subsection (1)(a)—the full unencumbered value of that share; or
 - (iii) where the share is registered on a register in Queensland—the full unencumbered value of that share;
- whichever is the greater; and
- (b) shares in a corporation of the kind referred to in subsection (1)(c) shall have a full unencumbered value equal to—
 - (i) the amount which bears to the full unencumbered value of land in Queensland to which the corporation is entitled, as provided in section 56FK(4), at the time at which the security is executed, the same proportion as the value of the property of the corporation to which the shares would entitle the holder of those shares if the corporation were wound-up at that time bears to the value of all of the distributable property of the corporation if the corporation were to be wound-up at that time; or
 - (ii) where it is also a share of the kind referred to in subsection (1)(a)—the full unencumbered value of that share; or
 - (iii) where the share is registered on a register in Queensland—the full unencumbered value of that share;
- whichever is the greater; and
- (c) units of the kind referred to in subsection (1)(d) shall have the same full unencumbered value which they would be regarded as having under section 56B if they were disposed of.

(3) Where the commissioner is satisfied that ad valorem duty has been paid in another State or a Territory (having regard to the whole of the money lent or advanced or to be lent or advanced) the commissioner may determine the security of the kind referred to in subsection (1) as not chargeable with duty in Queensland.

(4) Subject to subsection (3), where—

- (a) a security is chargeable with duty under this Act by virtue of this section and under a corresponding law of another State or a Territory; and

(b) the sum of the formula—

$$\frac{QD1}{QD2} + OSD$$

where—

“**QD1**” is the amount of duty chargeable on the security in Queensland;

“**QD2**” is the amount of duty that would be chargeable if the security were wholly dutiable in Queensland;

“**OSD**” is, in respect of all other States and Territories where duty is also payable on the security, the sum of the fractions calculated, in respect of each other State or Territory where duty is also payable on the security, in accordance with the formula—

$$\frac{OSD1}{OSD2}$$

where—

“**OSD1**” is the amount of duty payable on the security in that other State or Territory;

“**OSD2**” is the total amount of duty that would be payable in that other State or Territory if the security were wholly dutiable in that other State or Territory;

exceeds 1;

the commissioner may in the commissioner’s discretion allow as an offset against the duty chargeable under this Act on the security an amount not exceeding the duty paid in the State or Territory where the duty is also payable.

72 Exemptions for charitable institutions

(1) An exemption in schedule 1 which is specified to apply to an instrument because of its connection with an exempt charitable institution is subject to this section.

(2) An application for an exemption referred to in subsection (1) is to be in a form acceptable to the commissioner.

(3) The commissioner is not to allow—

- (a) an exemption under schedule 1, under the heading 'Application for registration or application for transfer of registration of a motor vehicle', exemption 5(e) unless satisfied that the relevant motor vehicle is to be used for the relevant qualifying exempt purpose immediately or almost immediately upon registration or transfer of registration and then for a period of at least 12 months;
- (b) an exemption under schedule 1, under the heading 'Declaration of trust', exemption 4 or 'Settlement, deed of gift or voluntary conveyance', exemption unless satisfied that the property is to be used for a qualifying exempt purpose within 6 months (or such longer period as the commissioner in the commissioner's discretion allows) for a period of at least 12 months;
- (c) an exemption under schedule 1, under the heading 'Hiring agreement', exemption 2 or 'Instalment-purchase agreement', exemption 3 unless satisfied that the relevant goods are to be used immediately or almost immediately for a qualifying exempt purpose and then for a period of at least 12 months (or the life of the goods or the term of the hiring or instalment-purchase agreement, where that life or term is a period shorter than 12 months);
- (d) an exemption under schedule 1, under the heading 'Lease', exemption 2 unless satisfied that the property is to be used for a qualifying exempt purpose immediately or almost immediately and then for a period of at least 12 months (or the term of the lease where this is a shorter period);
- (e) an exemption under schedule 1, under the heading commencing with the words 'Policies of insurance', exemption 3(a) unless satisfied the property is to be used immediately or almost immediately for a qualifying exempt purpose and then for a period of at least 12 months;

and the commissioner may when being satisfied for the purposes of paragraph (b) advise the exempt charitable institution of the time within and duration for which the commissioner was satisfied the property would be so used for the qualifying exempt purpose when determining the exemption.

(4) Where the commissioner is not satisfied, at the time when an application for exemption referred to in subsection (1) is lodged with the commissioner—

- (a) that an institution or body is an exempt charitable institution;
- (b) of the matters specified in subsection (3); or
- (c) that the property the subject of the instrument is to be used solely or almost solely or principally, as the relevant exemption may require, for a qualifying exempt purpose;

the commissioner may determine the instrument not to be exempt from duty; but may, by notice to the exempt charitable institution, specify a later time or period when the commissioner will determine according to the facts and circumstances, known to the commissioner at that later time, whether those facts and circumstances if known when the instrument was first lodged, would have allowed the commissioner to determine the instrument to be exempt; and where the commissioner at that later time so determines the commissioner may refund, to the relevant extent, duty paid on the instrument.

(5) Where the commissioner is of the opinion that property which is the subject of an instrument which the commissioner has determined to be exempt under an exemption specified in subsection (1)—

- (a) has not been used solely or almost solely or principally, as the relevant exemption may require, for a qualifying exempt purpose; or
- (b) has not been used solely or almost solely or principally, as the relevant exemption may require, for a qualifying exempt purpose within the time or for the duration which the commissioner was satisfied that it would be used, when being satisfied for the purpose of subsection (3);

the amount of duty chargeable in respect of the instrument is to be the amount chargeable as if the instrument were not an exempt instrument and thereupon section 80 applies as if the amount of duty assessed in the first instance had been assessed at an insufficient amount; and the commissioner may, in addition, charge interest at the rate of 20% per annum from the date which is 60 days after the execution of the instrument until the date when payment of the duty in accordance with this section is made.

(6) The commissioner may, in the commissioner's discretion, defer the reassessment of an instrument under subsection (5) where the commissioner is satisfied that the property will, within a further time and for a duration nominated by the commissioner, be used solely or almost solely or principally, as the relevant exemption may require, for a qualifying exempt purpose, and where the property is so used in that time

and for that duration, the commissioner is not to reassess the instrument under subsection (5).

(7) Where an instrument has been exempted from duty under an exemption specified in subsection (1) and the exempt charitable institution—

- (a) does not use that property for the purpose for which the commissioner was satisfied it would be used on the basis of representations by that exempt charitable institution when the commissioner determined the instrument to be exempt from duty; or
- (b) has not used that property for the purpose within the time or for the duration within and for which the commissioner was satisfied it would be used under subsection (3) at the time the commissioner determined the exemption, the exempt charitable institution is, within 28 days of the occurrence described in paragraph (a) or (b) or such later time as the commissioner in the commissioner's discretion allows, to notify the commissioner of that occurrence.

(8) Where an exempt charitable institution fails to notify the commissioner, in compliance with subsection (7), the commissioner when reassessing duty payable pursuant to subsection (5), may demand and receive by way of penalty an amount equal to the total amount of duty so reassessed.

(9) A reference in this section to a heading means the corresponding heading in schedule 1.

72A De facto relationship instruments exempt from duty

(1) A de facto relationship instrument is exempt from stamp duty.

(2) In this section—

“de facto relationship instrument” means an instrument, to the extent the instrument is, or is made under, an order of a court under the *Property Law Act 1974*, part 19.⁹

⁹ *Property Law Act 1974*, part 19 (Property (de facto relationships))

73 Licences to sell stamps

The commissioner may, in the commissioner's discretion, grant a licence to any person to sell stamps at any place to be named in the licence; and such person shall be allowed such commission on the value of such stamps purchased by the person for sale as may from time to time be provided by regulations under this Act.

74 Stamps to be provided

The commissioner shall provide, for denoting the several duties hereby imposed, such proper and sufficient stamp dies or plates as may from time to time be required for the purposes of this Act, and do all other acts which the commissioner may deem necessary for effectually collecting the said duties.

75 Allowance in certain circumstances

(1) For the purposes of this section—

“**stamp**” means either—

- (a) an adhesive stamp; or
- (b) an impressed stamp; or
- (c) an amount of stamp duty accounted for by any means authorised by this Act.

(2) Where a person has possession of a stamp which the person, directly or indirectly, purchased or paid for and that stamp—

- (a) is unused, useless to the applicant or superfluous to the person's requirements; or
- (b) has been inadvertently physically spoiled; or
- (c) is attached to an instrument which never has been of any legal effect;

the person may (within 12 months after the happening of an event referred to in paragraph (a), (b) or (c)) apply to the commissioner in the approved form for allowance to be made in respect to that stamp.

(2A) In considering an application, the commissioner may, by written notice given to the applicant, require the applicant to give to the commissioner, within the reasonable time stated in the notice, further

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information about the application the commissioner considers is necessary and reasonable to help the commissioner decide the application.

(3) If the commissioner is satisfied about the matters mentioned in subsection (3A) in relation to an application, the commissioner may make an allowance referred to in subsection (2) by—

- (a) issuing other stamps to the value of the stamps which have become spoiled or useless, less 5% thereof; or
- (b) where the applicant will have no use within a reasonable period for stamps issued in substitution—paying to the applicant the value of the stamps which have become spoiled or useless, less 5% thereof.

(3A) For subsection (3), the matters relating to an application about which the commissioner is required to be satisfied are—

- (a) that the stamp to which the application relates satisfies a requirement mentioned in subsection (2)(a), (b) or (c); and
- (b) that the application was made within the time mentioned in subsection (2); and
- (c) that the circumstances for making an allowance for a stamp composed by at least 1 of the paragraphs of subsection (5) apply in relation to the application.

(4) If an allowance is made under subsection (3), the relevant stamp for which the allowance is made or the paper or document to which it is attached, if it is so attached, or both, shall be dealt with by the commissioner in the prescribed manner.

(5) The circumstances for making an allowance for a stamp are as follows—

- (a) where a stamp is inadvertently, mistakenly and undesignedly spoiled, torn, obliterated, defaced or by any means rendered unfit for the purpose intended;
- (b) where a document to which a stamp has been attached is inadvertently, mistakenly, and undesignedly spoiled, torn, obliterated, defaced or by any means rendered unfit for the purpose intended, prior to its having any legal effect, notwithstanding that the stamp attached thereto may be unaffected;

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- (c) where an instrument is found, prior to its having any legal effect, to be unfit for the purpose intended because of any error or mistake therein;
- (d) where an instrument is void from inception;
- (e) where an instrument was voidable from inception and so rendered before the exercise of any right or fulfilment of any obligation or duty under the instrument;
- (f) where—
 - (i) the instrument has not had any legal effect but, on having legal effect, would have an unintended effect because of a mistake in its preparation; and
 - (ii) the instrument is chargeable with duty under this Act because of the unintended effect;
- (g) where a stamp is on any bill of exchange or promissory note which has not been accepted or made use of in any manner whatever, or is delivered out of the hands of the maker for any purpose other than by way of tender for acceptance;
- (h) where a stamp is on any policy of insurance which is issued for renewal by an insurer but which is not renewed;
- (i) where the mortgagor under a purported mortgage is not and does not become, nor has a right to become, the owner of any of the property purported to be mortgaged;
- (j) where the transferor under a purported conveyance or transfer is not and does not become, nor has a right to become, the owner of any of the property purported to be conveyed or transferred;
- (k) where a purported transfer or conveyance by way of gift is never accepted by the donee;
- (l) where the highest amount advanced under a mortgage, bond, debenture or covenant securing an unlimited amount, or a further advance certificate relating thereto has been erroneously overstated, or where ad valorem duty has been paid erroneously on more than 1 instrument in respect of the same advance.

(6) Where a person is in possession of adhesive stamps that are superfluous to that person's requirements because the adhesive stamps were acquired in respect of an instrument the duty on which, because of amendments made by the *Stamp Act Amendment Act 1990*, no longer applies or can not be paid adhesively, the allowance made by the

commissioner under subsection (3) may be made without the deduction referred to in subsection (3).

(7) For this section, an instrument is taken to have legal effect only if—

- (a) a right has been exercised under the instrument; or
- (b) an obligation has been carried out under the instrument; or
- (c) the instrument has been relied on in another way.

(8) For subsection (5)(f), an instrument has an unintended effect if—

- (a) at the time the instrument was signed, the parties had a specific intention that was to be given effect to by the instrument; and
- (b) the instrument does not give effect to the intention.

(9) For subsection (8), the signing of an instrument by the parties is evidence the instrument gives effect to the intention of the parties.

76 Alternative to prosecution

(1) Instead of bringing a proceeding against a person for an offence against section 31Q, 31U or 31X, the commissioner may impose a penalty of—

- (a) 3% of the duty chargeable on the statement or return for the first month, or part of the first month, after the end of the period during which the statement was required to be lodged; and
- (b) 2% for each subsequent month or part of a month until the statement is lodged.

(2) If a penalty calculated under subsection (1) is less than \$10, the penalty is \$10.

(3) The commissioner may reduce or waive a penalty that could be imposed under this section, section 31Q, 31U or 31X if the commissioner considers a reduction or waiver to be the appropriate action to take in the circumstances.

78 Recovery of penalties

(1) All penalties imposed by this Act may be recovered in a summary way before any 2 justices of the peace.

(2) A complaint made to recover a penalty imposed by this Act may be made within 2 years next after the commission of the offence to which the penalty relates comes to the knowledge of the complainant.

78A Evidentiary provisions

(1) In all legal proceedings instituted by or on behalf of the commissioner for the purposes of this Act a certificate in writing purporting to be signed by the commissioner, or a delegate of the commissioner, certifying that—

- (a) the person named therein, made, gave or executed an instrument of a description specified therein; or
- (b) an assessment or reassessment of duty was duly made against that person in respect of the instrument mentioned in the certificate; or
- (c) the particulars of the assessment or reassessment are as stated in the certificate; or
- (d) notice of the assessment was duly served upon that person; or
- (e) the amount specified in the certificate was at the date of the certificate due by that person to the Crown in respect of duty;

shall be prima facie evidence of the facts stated in the certificate.

(1A) The production of an assessment or reassessment, or of a document purporting to be under the hand of the commissioner purporting to be a copy of an assessment or reassessment, shall—

- (a) be conclusive evidence of the due making of the assessment or reassessment; and
- (b) be conclusive evidence that the amount and all particulars of the assessment or reassessment are correct, except in proceedings on appeal against the assessment or reassessment.

(1B) The validity of any assessment or reassessment shall not be affected by reason that any of the provisions of this Act have not been complied with.

(1C) In any legal proceeding instituted in the name of the commissioner for the purposes of this Act, any officer authorised in writing by the commissioner—

- (a) may appear on behalf of the commissioner before any court of competent jurisdiction; and
- (b) shall be deemed to represent the commissioner; and
- (c) shall be entitled to conduct the proceedings and to give evidence.

(2) In all legal proceedings instituted by or on behalf of the commissioner for the purposes of this Act a certificate purporting to be under the hand of a person who is or was at the material time the commissioner with respect to any of the matters following shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the certificate, that is to say—

- (a) that a permit or permission has been granted to any person named therein to furnish or render to the commissioner any return or account of a description specified therein on an annual or any other periodic basis;
- (b) that any return, statement, declaration, notification or account of a description specified therein has not been furnished or rendered to the commissioner as at a date specified therein or has not been received by the commissioner as at a date specified therein;
- (c) that any information, books, papers or instruments have not been furnished or, as the case may be, produced to the commissioner as at a date specified in the certificate.

(2A) Proceedings in respect of an offence against this Act may be instituted in the name of the commissioner by any officer engaged in the administration of this Act and authorised by the commissioner to institute proceedings on the commissioner's behalf and any proceedings instituted in the name of the commissioner shall, in the absence of evidence to the contrary, be deemed to have been duly instituted by the commissioner or on the commissioner's authority.

(3) In legal proceedings against any person for contravening subsection 35A(1) a certificate purporting to be under the hand of the commissioner that as at a date specified therein that person was not duly registered under section 35A shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein.

(4) In all legal proceedings instituted for the purposes of this Act a document purporting to be a copy of or extract from any return, statement, declaration, notification, account or other document furnished or rendered to or issued by the commissioner and purporting to be certified as such

under the hand of the commissioner shall be sufficient proof of that of or from which the document produced in evidence purports to be a copy or extract without production of the original.

(4A) A certificate, purporting to be under the hand of the commissioner, certifying that on a day specified in the certificate an officer of the public service named in the certificate was a delegate of the commissioner, under section 7A, to whom such powers and functions of the commissioner as are specified in the certificate had been delegated, on terms (if any) so specified, shall be prima facie evidence of the matters so certified.

(4B) A document purporting to be given by the commissioner is validly given, and is evidence of the matters contained in the document, if the name of an authorised officer appears above the title ‘Commissioner of Stamp Duties’ on the document.

(5) In all legal proceedings judicial notice shall be taken of the signature of the commissioner, including the signature of any person who at the time such signature was signed on any instrument was the commissioner within the meaning of this Act.

(6) The appointment of any person as commissioner may be sufficiently proved by the production of a copy of the gazette or an extract (purporting to be issued by the Government Printer) from the gazette in which notification of such appointment appeared.

78B Service of documents on the commissioner

Any notice, summons, writ or other process and any return, application, statement or form to be served on the commissioner for the purposes of this Act may be served by being lodged at the office of the commissioner with an officer employed in the administration of this Act and authorised in writing by the commissioner to accept service of documents on the commissioner’s behalf.

80 Amendment of assessments

(1) The commissioner may, subject to this section, at any time amend any assessment by making such alterations or additions thereto as the commissioner considers appropriate, notwithstanding that duty may have been paid in respect of the assessment.

(2) Subsection (2A) applies if—

- (a) a court decides the amount of duty payable on an instrument or statement has been assessed, for any reason, at an insufficient amount; or
- (b) the commissioner finds the amount of duty payable on an instrument or statement has been assessed, for any reason, at an insufficient amount.

(2A) The commissioner may reassess the duty—

- (a) for an incorrect assessment mentioned in subsection (2)(a)—at any time within 2 years after the court’s decision; or
- (b) for an incorrect assessment mentioned in subsection (2)(b) if the assessment was made because of incorrect or insufficient information, including information relating to future circumstances—at any time within 2 years after obtaining the information necessary to make a correct assessment; or
- (c) in any other case—within 2 years from the date on which the duty under the assessment became due and payable.

(2B) The commissioner may demand and recover an amount equal to the difference between the amount of duty assessed at an insufficient amount and the amount of duty assessed under subsection (2A).

(3) No amendment to an assessment effecting a reduction in the amount of duty assessed on any instrument or statement shall be made except to correct an arithmetic error in the calculation of an assessment or to correct an assessment made under a mistake of fact; and no such amendment shall be made after the expiration of 2 years from the date upon which the duty under the assessment made in arithmetic error or under mistake of fact became due and payable.

(4) Despite this section an assessment may be amended if there is a current objection or appeal.

(5) Subject to subsection (6), nothing in this section shall prevent the commissioner in the commissioner’s absolute discretion from amending, by a reduction in duty, an assessment within 2 years of the date upon which the assessment was made where the commissioner is satisfied that the assessment was not made in accordance with the interpretation which the commissioner determines was the commissioner’s consistent interpretation of the application of the Act to instruments of that particular kind at the time at which the assessment was made.

(6) It is not competent to a person to commence proceedings against the commissioner to require the commissioner to exercise the commissioner's discretion under subsection (5).

(7) The commissioner shall refund any duty paid on the assessment in excess of the amount of the reassessment, as amended pursuant to this section.

(8) Forthwith upon making an amended assessment under this section, the commissioner shall cause notice in writing of the amended assessment and the amount thereof to be given to any party to the instrument or statement or to the person lodging the instrument or statement for reassessment.

(9) Subject to subsection (10), an amended assessment made under subsection (2) or (4) shall be deemed to be an assessment to which an objection or appeal applies.

(10) Where a person appeals against an amended assessment made by the commissioner under subsection (2) or (4), the amount that the court may order to be repaid to the appellant shall not exceed the amount by which the amended assessment increased the amount of duty payable on the instrument, above the amount paid or payable under any previous assessment or amended assessment, unless an appeal in accordance with the requirements of section 24, or in accordance with this section and section 24 in respect of a previously amended assessment, has been lodged and is current in respect of the previous assessment.

(11) It is not competent to a person to object against an amended assessment made under subsection (3) unless—

- (a) the amended assessment is made within the time in which an objection might be lodged in respect of the original assessment; or
- (b) the previous assessment is the subject of an objection or appeal or, in the case of a previously amended assessment, the original assessment is the subject of an objection or appeal.

80A General provision about refunding stamp duty

(1) This section applies to a stamp duty refund that is required to be, or may be, made to a person by the commissioner under this Act or otherwise.

(2) The commissioner must not make the refund unless satisfied—

Stamp Act 1894

- (a) the person has not received, and will not receive, an amount from another person for all or part of the stamp duty paid; or
 - (b) if the person has received an amount (the “**amount received**”) from the other person for all or part of the stamp duty—the person will reimburse the other person for the amount received.
- (3) If subsection (2)(b) applies, the person must—
- (a) within 90 days after receiving the refund (the “**relevant period**”), reimburse the other person for the amount received; and
 - (b) within 7 days after the relevant period, give the commissioner written notice that the other person has been reimbursed for the amount received.

(4) Also, if subsection (2)(b) applies and the person does not, within the relevant period, reimburse the other person for the amount received, the person must, within 7 days after the relevant period—

- (a) give the commissioner written notice that the other person was not reimbursed for the amount received; and
- (b) pay the commissioner the amount received plus interest at the rate of 10% a year calculated from the day the refund was made until the amount received is paid to the commissioner.

Maximum penalty—50 penalty units.

(5) An amount payable under subsection (4)(b) is a debt payable by the person to the State.

(6) In this section—

“**stamp duty**” means stamp duty paid, or purportedly paid, under this Act, whether or not the duty is paid under a mistake of law or fact.

81 Certain contracts etc. void against the commissioner

Every contract, agreement, or arrangement made or entered into, in writing or orally, whether before or after the commencement of the *Stamp Acts Amendment Act 1959*, shall, so far as it has or purports to have the purpose or effect of in any way directly or indirectly—

- (a) altering the incidence of any duty under this Act; or
- (b) relieving any person from liability to pay any duty, or make any return, under this Act; or

- (c) defeating, evading, or avoiding any duty under this Act or liability imposed on any person by this Act; or
- (d) preventing the operation of this Act in any respect;

be absolutely void, but without prejudice to its validity in any other respect or for any other purpose.

82 Reference to repealed sections

When in any Act reference is made to any of the provisions of the Acts hereby repealed, the reference shall be taken to be to the corresponding provisions of this Act.

82A Approval of forms

The commissioner may approve forms for use under this Act.

83 Regulation-making power

(1) The Governor in Council may make regulations for the purposes of this Act.

(2) Regulations may be made with respect to—

- (a) the duties of persons employed in the administration of this Act; and
- (ab) fees to be paid under this Act; and
- (ac) the payment of duty under this Act; and
- (b) the time and way of giving notices; and
- (c) the forms to be used under this Act; and
- (d) the effective cancellation of adhesive duty stamps on documents allowed to be stamped with adhesive stamps.

(3) A regulation may impose a penalty of not more than 20 penalty units for a contravention of the regulation.

(4) Also, for information purposes only, a regulation may identify entities that are credit unions for section 35(1), definition “credit union”, paragraph (a).

83A Commissioner's requirements in respect of information etc.

(1) If the commissioner considers that it is necessary or desirable for the purpose of enabling the commissioner to exercise the commissioner's powers under this Act, the commissioner may issue written requirements, not inconsistent with this Act, to be complied with by persons in relation to the administration of this Act.

(2) Without limiting subsection (1), a requirement may—

- (a) require a person who lodges an instrument or statement, or is a party to an instrument lodged, to give to the commissioner specified information, in a specified form or way, at a specified place and within a specified reasonable time; or
- (b) require a person seeking the commissioner's exercise of a power to give to the commissioner specified information, in a specified form or way, at a specified place and within a specified reasonable time; or
- (c) require a person who is required to give notice under this Act, but the form and way in which the notice is given is not specified, to give the notice in a specified form or way.

(3) A requirement may include provision for the commissioner to waive or otherwise reduce the burden of a requirement.

(4) A person who contravenes a requirement of the kind mentioned in subsection (2)(a) commits an offence against this Act.

Maximum penalty—20 penalty units and 1 penalty unit for every day the contravention continues.

(5) If a person contravenes a requirement of the kind mentioned in subsection (2)(c), the person is taken to have failed to give the notice concerned.

(6) The *Acts Interpretation Act 1954*, section 28A applies to a requirement under this section as if it were a regulation.

83B Interest on duty delayed

(1) Subject to this section, if—

- (a) a person fails to provide any information required by the commissioner under this Act, or under a requirement made under section 83A; and

- (b) the commissioner is unable to make an assessment of duty because of the failure;

the person is liable to pay interest by way of penalty—

- (c) at the rates set out in section 26(8); and
(d) on the duty subsequently assessed; and
(e) from the day the information should have been lodged until it is lodged.

(2) If the person is liable to pay an amount under another provision of this Act (other than by way of a penalty for an offence) in respect of the failure to provide the information, the person is not liable to pay interest under this section.

(3) If the person is prosecuted under this Act for an offence of failing to provide the information, the person is not liable to pay the interest under this section unless and until the prosecution is withdrawn.

(4) The commissioner, after considering the circumstances of the matter, may waive or reduce any interest payable under this section.

84 Undertaking by exempt persons

(1) A person who is not liable to the payment of duty charged upon any instruments pursuant to this Act may give an undertaking in the approved form and in the way prescribed under a regulation to the commissioner to make such payments to the commissioner in respect of any such instruments and at the times as that person would be required to make if the person were liable to the payment of duty.

(2) Where the commissioner receives an undertaking under subsection (1), the commissioner shall determine whether or not to accept the undertaking.

(3) Where the commissioner accepts an undertaking under subsection (1), the person shall be deemed to be liable to the payment of duty as if the person were liable to such payment for so long as the undertaking has effect in accordance with subsection (4).

(4) An undertaking accepted by the commissioner under this section has effect from the date on which the commissioner accepts the undertaking until—

- (a) the person by notice in writing given to the commissioner withdraws the undertaking; or

- (b) the commissioner by notice in writing given to the person, withdraws the commissioner's acceptance of the undertaking.

85 Declaration about certain provisions

(1) Duty under schedule 1, under the heading 'Conveyance or transfer', paragraph (4) is payable on an agreement for the sale or conversion of, or a deed of grant for—

- (a) land in a term lease mentioned in the *Land Act 1994*, section 112(c); or
- (b) an estate in fee simple granted without competition under the *Land Act 1994*, section 122; or
- (c) land in a road permanently closed and sold under the *Land Act 1994*, section 108(2)(a); or
- (d) an estate in fee simple made available by public auction, tender or ballot under the *Land Act 1994*, section 112.

(2) The commissioner, and an officer of the department in which the *Land Act 1994* is administered acting for the commissioner, is authorised to assess, collect and recover under this Act duty under schedule 1, under the heading 'Conveyance or transfer', paragraph (4) on a document mentioned in subsection (1).

88 Duty not payable on Suncorp Metway notes

(1) For this Act, an Exchanging Instalment Note Series 2 issued under the deed poll signed by the State on 8 October 1998 is not, and is taken never to have been, a marketable security or a right in respect of shares.

(2) To remove any doubt, it is declared that—

- (a) schedule 1, under the heading "Conveyance or transfer", subparagraph (4), does not apply to the conveyance or transfer of an Exchanging Instalment Note Series 2; and
- (b) subsection (1) does not apply to an Exchanging Instalment Note Series 2 on and from the day the note becomes a share.

89 Validation of certain exemptions from duty for applications involving registration of motor vehicles

Exemptions 5(f) to (j) and 5A in schedule 1, under the heading ‘Application for registration or application for transfer of registration of a motor vehicle’ are taken to have had effect on and from 26 April 1988.

90 Transitional provisions for the conversion of prescribed interests

(1) The purpose of this section is to provide for the payment of nominal duty only on a conversion instrument if the conversion conditions are met.

(2) If a conversion instrument is not exempt from duty under this Act, and the conversion conditions are met, the duty payable on the instrument is—

- (a) for an instrument mentioned in the definition “conversion instrument”, paragraph (a)—nil;
- (b) for an instrument mentioned in the definition “conversion instrument”, paragraph (b)—\$4;
- (c) for an instrument mentioned in the definition “conversion instrument”, paragraph (c), (d), (e) or (f)—\$100.

(3) For subsections (1) and (2), the conversion conditions are—

- (a) the conversion instrument must be made for giving effect to the conversion of a prescribed interest scheme to a registered scheme; and
- (b) the conversion instrument must be signed in the transitional period; and
- (c) the persons who are members of the registered scheme must have the same beneficial interest in the property of the scheme immediately before the conversion instrument is signed as they had immediately after the instrument was signed; and
- (d) for a conversion instrument mentioned in subsection (5), definition “conversion instrument”, paragraph (a) or (b)—any instrument of settlement or declaration of trust that subsequently alters the terms of the trust as intended, will be an instrument to which section 61B applies.

(4) This section expires 1 year after the end of the transitional period.

(5) In this section—

“conversion instrument” means—

- (a) an instrument transferring trust property from a retiring trustee of a trust to a new trustee of the trust and on which nil duty would be payable under schedule 1, paragraph (v) of the first proviso to subsection (3) or (4) under the heading ‘Conveyance or transfer’ if it were not for the intention to alter the terms of the trust at any future time to give effect to the conversion of the trust to a registered scheme; or
- (b) a declaration of trust on which only \$4 duty would be payable under schedule 1, under the heading ‘Declaration of trust’ if it were not for the intention to alter the terms of the trust at any future time to give effect to the conversion of the trust to a registered scheme; or
- (c) an instrument transferring trust property from a retiring trustee of a prescribed interest scheme to the entity that will, after the transition of the prescribed interest scheme to a registered scheme, be the custodian of the responsible entity for the registered scheme; or
- (d) an instrument transferring property of a registered scheme from the responsible entity of the scheme to the custodian of the responsible entity; or
- (e) a declaration of trust made by a custodian acting as a trustee; or
- (f) a transaction that effects the appointment of a custodian and—
 - (i) imposes on the custodian a trust restriction mentioned in section 54AB(1AB)(b); or
 - (ii) that would be chargeable with duty under section 54AC if it were not for this provision.

“custodian” means the corporation that has been or will be appointed under the Corporations Act, section 601FB, to hold the property of a registered scheme as agent for the responsible entity of the scheme.

“prescribed interest scheme” means an investment scheme that offers prescribed interests as that term was defined in the Corporations Law (as in force on 30 June 1998).

“transitional period” means the period from 1 July 1998 to the later of the following—

- (a) 30 June 2000;

- (b) the last day permitted by the Corporations Act or the Australian Securities and Investments Commission for the transition of a prescribed interest scheme to a registered scheme.

SCHEDULE 1

STAMP DUTIES ON INSTRUMENTS

section 4

APPLICATION FOR REGISTRATION OR APPLICATION FOR TRANSFER OF REGISTRATION OF A MOTOR VEHICLE

For every \$100, and also for any fractional part of \$100, of the value of the motor vehicle in respect of which the application is made—**\$2 duty**.

Provided that the duty on an application for transfer of registration to a person beneficially entitled under a will or intestacy shall be \$2 irrespective of the value of the motor vehicle.

Exemptions

1. Any application for registration of a motor vehicle made by a person who carries on the business of selling motor vehicles if the application is made by that person for the purpose of demonstrating such motor vehicle to prospective purchasers of motor vehicles of the make and model thereof and such motor vehicle has not been previously registered (whether in this State or elsewhere in the Commonwealth).

2. Any application for registration made by or application for transfer of registration to a licensed motor dealer, where the motor vehicle has been acquired in the course of and for the purposes of carrying on the business of such licensee.

3. Any application for registration made by, or application for transfer of registration to, an executor or administrator of or any person administering the estate of a deceased person if the application is made only for the purpose of the transfer of the motor vehicle to a person beneficially entitled thereto or for the purpose of the sale of the motor vehicle in the course of winding-up the estate.

SCHEDULE 1 (continued)

4. Any application for registration made by, or application for transfer of registration to, an owner who has repossessed the motor vehicle pursuant to a hire-purchase agreement or an owner to whom the motor vehicle has been returned by the hirer voluntarily where the vehicle is the subject of a hire-purchase agreement or upon the termination of a hiring agreement (not being a hire-purchase agreement).

5. Any application for registration made by or application for transfer of registration to—

- (a) the Crown or any corporation representing the Crown or any department, subdepartment, board or commission under the State Government;
- (b) a local government, a regional health authority established under the *Health Services Act 1991*, the Queensland Ambulance Service or the Queensland Fire and Rescue Authority;
- (c) a foreign consul or a member of a foreign consulate staff if such person is a national of the country represented;
- (d) a primary producer, where the motor vehicle is of more than 4 tons load capacity and the primary producer makes a declaration under the *Oaths Act 1867*, that the primary producer intends to use the motor vehicle solely in connection with the primary producer's business as a primary producer;
- (e) an exempt charitable institution where the motor vehicle is necessary to and is to be principally used for carrying out that institution's work for a qualifying exempt purpose;
- (f) an ex-service person for a motor vehicle not used for commercial purposes if, because of an injury or condition resulting from war service, the ex-service person is entitled to receive a concession for motor vehicle registration fees payable under the *Transport Operations (Road Use Management) Regulation 1995*;
- (g) a hirer who has redeemed a motor vehicle that was previously repossessed, if the registration of the motor vehicle is recorded in the same name as before repossession;
- (h) a person who has lost the use of 1 or both legs and the motor vehicle is used for transport to and from the place of employment because of inability to use public transport;

SCHEDULE 1 (continued)

- (i) a disabled person for a motorised wheelchair used for private purposes;
- (j) the Governor.

In this exemption—

“primary producer” has the same meaning as it has in the regulations under the *Transport Infrastructure (Roads) Act 1991*.

5A. Any application for transfer of registration by way of gift from an individual to—

- (a) the individual’s spouse, de facto spouse, parent or child or any 2 or more of them jointly; or
- (b) the individual and the individual’s spouse, de facto spouse, parent or child or any 2 or more of them jointly.

6. Any application for transfer of registration which is made subsequent to the making, in respect of the same transaction, of another such application on which the duty payable under this Act has been duly paid.

7.(1) Any application for registration of a heavy motor vehicle that was, immediately before 1 July 1995, registered under the Commonwealth Act if—

- (a) the registration is the first registration of the vehicle in Queensland; and
- (b) the person in whose name the vehicle is registered in Queensland is the person in whose name the vehicle was registered under the Commonwealth Act.

(2) In subsection (1)—

“Commonwealth Act” means the *Interstate Road Transport Act 1985* (Cwlth).

“heavy motor vehicle” means a motor vehicle with a gross vehicle mass of 4.5 tonnes or more.

SCHEDULE 1 (continued)

CAVEAT

Under the *Land Title Act 1994*, other than a caveat chargeable with duty under section 66A—**\$1 duty**.

Exemption

A caveat other than a caveat—

- (a) claiming an interest in land as security for the payment or repayment of a loan, an annuity or an amount of money;
- (b) of a class prescribed under a regulation for the purposes of this exemption.

CONVEYANCE OR TRANSFER

(1) (a) Of property consisting solely of a mortgage or of an interest in a mortgage secured on land or land and improvements thereon, whether the conveyance or transfer is absolute or by way of security—

For each mortgage to which the conveyance or transfer relates—**\$5 duty**.

(c) Of property consisting solely of a security which is ancillary or incidental to property of the kind specified in subparagraph (a) where the conveyance or transfer is made in connection with a conveyance or transfer of property of the kind specified in subparagraph (a)—**\$5 duty**.

(2) By way of security of any property where paragraph (1) does not apply—**see Mortgage, etc.**

(2A) The stock, marketable security or right in respect of shares mentioned in paragraph (3) are—

- (a) a share or a right in respect of a share of a Queensland company;

SCHEDULE 1 (continued)

- (b) a share or a right in respect of a share of a foreign company—
 - (i) if the transfer is an SCH-regulated transfer—that has a registered office, under the Corporations Act, in Queensland; or
 - (ii) if the transfer is not an SCH-regulated transfer—that has a register in Queensland on which the share is located;
 - (c) a unit of a unit trust scheme, or a right in respect of shares (being a right of a kind mentioned in schedule 2, definition “right in respect of shares”, paragraph (a) or (b)) that relates to a unit in a public unit trust scheme, if—
 - (i) the transfer is an SCH-regulated transfer and the register of the scheme is situated in Queensland; or
 - (ii) the transfer is not an SCH-regulated transfer and the unit is located on the Queensland register of the scheme.
- (3) Of a stock, marketable security or right in respect of shares mentioned in paragraph (2A)—
- (a) on sale for a consideration in money or money’s worth of at least the full unencumbered value of the stock, marketable security or right in respect of shares—
 - (i) if the stock, marketable security or right is listed on the Australian Stock Exchange—for every \$100 (or part of \$100) of the consideration—**30c duty**.
 - (ii) if the stock, marketable security or right is not listed on the Australian Stock Exchange—for every \$100 (or part of \$100) of the consideration—**60c duty**.
 - (b) for no consideration in money or money’s worth, for a consideration in money or money’s worth of less than the full unencumbered value of the stock, marketable security or right in respect of shares, by way of division or exchange, or under the Corporations Act, part 6A.1 or 6A.2—
 - (i) if the stock, marketable security or right is listed on the Australian Stock Exchange—for every \$100 (or part of \$100) of the full unencumbered value—**30c duty**.

SCHEDULE 1 (continued)

- (ii) if the stock, marketable security or right is not listed on the Australian Stock Exchange—for every \$100 (or part of \$100) of the full unencumbered value—**60c duty**.

Provided that the duty payable as aforesaid in respect of any conveyance or transfer made for the sole purpose of—

- (i) carrying into effect any distribution under a will or in intestacy; or
- (ii) carrying into effect the terms of a settlement where duty has been paid at the ad valorem rate under the ‘Settlement, deed of gift or voluntary conveyance’ or ‘Declaration of trust’ head of charge on an instrument relating to the particular stock or marketable security or right in respect of shares and whereby the stock or marketable security or right in respect of shares became subject to such terms and the provisions of section 55B or 55C have not been applied for the purpose of calculating the amount of that duty; or
- (iii) transferring to a beneficiary the beneficiary’s entitlement under the terms of a declaration of trust where duty has been paid at the ad valorem rate under the ‘Declaration of trust’ head of charge on an instrument relating to the particular stock or marketable security or right in respect of shares and whereby the stock or marketable security or right in respect of shares became subject to such terms and the provisions of section 55B or 55C have not been applied for the purpose of calculating the amount of that duty; or
- (iv) a transfer of the kind to which section 53(9) applies; or
- (v) effecting the retirement of a trustee or the appointment of a new or additional trustee where the commissioner is satisfied—
 - (a) that the trustee or remaining trustee is to hold upon the same trusts as the trust property had theretofore been held and that it is not intended to alter the terms of those trusts at any future time; and
 - (aa) that there has been no change of beneficial interest from the time of appointment of the retiring or continuing trustee (or both) in respect of which ad valorem duty chargeable under

SCHEDULE 1 (continued)

- the heading 'Settlement, deed of gift or voluntary conveyance', 'Declaration of trust' or 'Conveyance or transfer' has not been paid on an instrument relating to the particular property and particular transaction; and
- (b) that it is not part of a scheme whereby any benefit actual or potential may be conferred upon the new, additional or remaining trustee, or any other person, whether by operation of law or otherwise; and
 - (c) where the trustee or remaining trustee is trustee for a trust or unit trust, that it is not intended to make any alteration to the beneficial ownership of the trust property (whether by sale, issue, transfer or redemption of units or in any other manner); and
 - (d) where the trustee or remaining trustee is a corporation, that it is not intended to make any alteration to the ownership of the stock or shares in such corporation; or
- (vi) transferring to a trustee stock or marketable security or right in respect of shares for the purpose only of giving effect to any trust or settlement and where, in relation to the entry of such stock or marketable security or right in respect of shares into the trust or settlement, duty has been paid upon any other instrument to an amount not less than the duty which would have been payable on the conveyance or transfer but for the provisions of this paragraph; or
- (vii) correcting an error in a previous conveyance or transfer of the same stock or marketable security or right in respect of shares where no additional consideration in money or money's worth is paid or payable and such instrument has the effect of altering the beneficial interest or interests to such extent only as may be necessary to effect the correction of such error; or
- (viii) effecting a change in registered ownership from joint tenants to tenants in common or vice versa and which does not alter the value of the respective co-owner's interests at the time of the conveyance or transfer; or
- (ix) conducting an art union for the benefit of any institution in Queensland engaged in the education of students in primary or secondary schools, or primary and secondary schools, or the

SCHEDULE 1 (continued)

University of Queensland or any constituent college thereof, or a rural training school, or any institution in Queensland (as approved by the Minister) engaged in the relief of poverty or in the care of the sick, aged, infirm, afflicted or incorrigible persons or of children, where the prize for such art union is to be represented wholly or in part by the whole of the property conveyed or transferred or transferring such property to the winner of any prize in any such art union; or

- (x) transferring property which vested in the Public Curator pursuant to the *Public Curator Act 1915*, part 4, from the public trustee to a former prisoner or those exercising their legal entitlement to claim through the former prisoner; or
- (xi) transferring property which was acquired by the public trustee pursuant to the *Public Trustee Act 1978*, section 59 to the beneficial owner; or
- (xii) vesting property in trustees upon the statutory trust for sale or on the statutory trust for partition pursuant to the *Property Law Act 1974*, part 5;

shall not exceed—**nil duty**.

Provided further that the duty payable in respect of conveyances or transfers made for the sole purpose of—

- (i) carrying into effect the terms of a settlement where duty has been paid at the ad valorem rate or at that rate no duty was payable under the ‘Settlement, deed of gift or voluntary conveyance’ or ‘Declaration of trust’ head of charge on an instrument relating to the particular property and whereby the property became subject to such terms; or
- (ii) transferring to a beneficiary the beneficiary’s entitlement under the terms of a declaration of trust where duty has been paid at the ad valorem rate or at that rate no duty was payable under the ‘Declaration of trust’ head of charge on an instrument relating to the particular property whereby the property became subject to such terms;

and for the purpose of calculating the duty payable thereon the property or part thereof was deemed pursuant to section 55B or 55C to have no value—

SCHEDULE 1 (continued)

- (iii) in the case where the property is being conveyed, transferred or assigned to a person other than a prescribed descendant within the meaning of those sections—shall be calculated on the full unencumbered value of the property and for the purposes of determining that value the assets (if any) of the company which the commissioner is satisfied were not deemed to have no value at the time when that instrument was stamped shall be disregarded;
- (iv) in the case where the property being conveyed, transferred or assigned to a prescribed descendant within the meaning of those sections comprises wholly or in part property that is not prescribed family property within the meaning of either of those sections—

shall be—

(A) **an amount calculated on the full unencumbered value of the property or the part thereof that is not prescribed family property other than property (if any) that was not prescribed family property at the time when that instrument was executed; or**

(B) **\$4 duty;**

whichever is the greater.

For the purposes of provision (iv) any property that consists of a share or a right in respect of shares in a family company shall be deemed to be prescribed family property only to the extent that assets held by the company comprise prescribed family property.

For the purposes of provision (iv) a share or a right in respect of shares in a family company shall be deemed to have a value—

- (i) equal to the value of its full unencumbered value; or
- (ii) at the option of any of the parties, equal to the value that it would have if the assets of the company consisting of assets that are not prescribed family property other than those assets (if any) that were taken into consideration as being not prescribed family property in calculating the duty that was paid on that instrument were the only assets of the company and the company had no liabilities.

(c) Where—

SCHEDULE 1 (continued)

- (i) shares are acquired with rights to further shares and ad valorem duty is paid on the transfer of the shares on the full value of the shares including the said rights; or
- (ii) shares are acquired and rights to further shares are attached to them after acquisition and ad valorem duty is paid on the value at the time of acquisition of the shares;

any transfer executed to vest in the transferee such further shares shall be charged with duty calculated as aforesaid but not exceeding—**nil duty**.

(4) Of any property (except stock or marketable security or right in respect of shares)—

- (a) upon a sale for a consideration in money or money's worth of not less than the full unencumbered value of the property—

Duty calculated on the amount or value of the consideration at the following rate—

Not exceeding \$20 000—**\$1.50 duty for every \$100 and also for any fractional part of \$100 of the value of the consideration.**

Exceeding \$20 000 but not exceeding \$50 000—**\$300 duty plus \$2.25 for every \$100 and also for any fractional part of \$100 of the value of the consideration in excess of \$20 000.**

Exceeding \$50 000 but not exceeding \$100 000—**\$975 duty plus \$2.75 for every \$100 and also for any fractional part of \$100 of the value of the consideration in excess of \$50 000.**

Exceeding \$100 000 but not exceeding \$250 000—**\$2 350 duty plus \$3.25 for every \$100 and also for any fractional part of \$100 of the value of the consideration in excess of \$100 000.**

Exceeding \$250 000 but not exceeding \$500 000—**\$7 225 duty plus \$3.50 for every \$100 and also for any fractional part of \$100 of the value of the consideration in excess of \$250 000.**

Exceeding \$500 000—**\$15 975 duty plus \$3.75 for every \$100 and also for any fractional part of \$100 of the value of the consideration in excess of \$500 000.**

SCHEDULE 1 (continued)

However, if the property acquired consists of or includes a prescribed principal place of residence, the duty payable under this paragraph (4) is—

- (i) for every \$100 (or part of \$100) of the value of the consideration up to \$250 000 that, in the commissioner's opinion, is reasonably attributable to the principal place of residence (irrespective of the total value of the consideration)—**\$1 duty**;
- (ii) on the balance of the value of the consideration—**the duty that would have been payable under this paragraph (4)(a) on the value of the consideration for the entire property if it did not consist of or include a prescribed principal place of residence less the duty that would have been payable under this paragraph (4)(a) on the acquisition of a property that does not consist of or include a prescribed principal place of residence for a consideration equal to the value of the consideration on which duty was calculated under provision (i).**

If the prescribed principal place of residence is a prescribed first principal place of residence, the duty payable under the exception is reduced by the amount of the relevant rebate as defined in section 55A(1).

- (b) in any other case to which paragraphs (1) and (2) do not apply—

Duty calculated on the full unencumbered value of the property at the rates specified in this paragraph (4)(a) including the exception to the subparagraph as if—

- (A) **other than in the statement of the duty payable under the exception to the subparagraph, the words ‘value of the consideration’ in the subparagraph were ‘full unencumbered value of the property’; and**
- (B) **in the statement of the duty payable under the exception to the subparagraph, the words ‘value of the consideration for’ were ‘full unencumbered value of’ and the words ‘value of the consideration on’ were ‘full unencumbered value of the property on’; and**
- (C) **the provision starting with the words ‘If the prescribed’ and ending with the words ‘section 55A(1).’ were omitted.**

SCHEDULE 1 (continued)

Provided that the duty payable in respect of conveyances or transfers made for the sole purpose of—

- (i) carrying into effect any distribution under a will or in intestacy; or
- (ii) carrying into effect the terms of a settlement where duty has been paid at the ad valorem rate under the ‘Settlement, deed of gift or voluntary conveyance’ or ‘Declaration of trust’ head of charge on an instrument relating to the particular property and whereby the property became subject to such terms and the provisions of section 55B or 55C have not been applied for the purpose of calculating the amount of that duty; or
- (iii) transferring to a beneficiary the beneficiary’s entitlement under the terms of a declaration of trust where duty has been paid at the ad valorem rate under the ‘Declaration of trust’ head of charge on an instrument relating to the particular property and whereby the property became subject to such terms and the provisions of section 55B or 55C have not been applied for the purpose of calculating the amount of that duty; or
- (iv) a transfer of the kind to which section 53(9) applies; or
- (v) effecting the retirement of a trustee or the appointment of a new or additional trustee where the commissioner is satisfied—
 - (a) that the trustee or remaining trustee is to hold upon the same trusts as the property had theretofore been held and that it is not intended to alter the terms of those trusts at any future time; and
 - (aa) that there has been no change of beneficial interest from the time of appointment of the retiring or continuing trustee (or both) in respect of which ad valorem duty chargeable under the heading ‘Settlement, deed of gift or voluntary conveyance’, ‘Declaration of trust’ or ‘Conveyance or transfer’ has not been paid on an instrument relating to the particular property and particular transaction; and
 - (b) that it is not part of a scheme whereby any benefit actual or potential may be conferred upon the new, additional or remaining trustee, or any other person, whether by operation of law or otherwise; and

SCHEDULE 1 (continued)

- (c) where the trustee or remaining trustee is trustee for a trust or unit trust, that it is not intended to make any alteration to the beneficial ownership of the trust property (whether by sale, issue, transfer or redemption of units or in any other manner); and
- (d) where the trustee or remaining trustee is a corporation, that it is not intended to make any alteration to the ownership of the stock or shares in such corporation; or
- (vi) transferring to a trustee property for the purpose only of giving effect to any trust or settlement and where, in relation to the entry of such property into the trust or settlement, duty has been paid upon any other instrument to an amount not less than the duty which would have been payable on the conveyance or transfer but for the provisions of this paragraph; or
- (vii) correcting an error in a previous conveyance or transfer of the same property where no additional consideration in money or money's worth is paid or payable and such instrument has the effect of altering the beneficial interest or interests to such extent only as may be necessary to effect the correction of such error; or
- (viii) effecting a change in registered ownership from joint tenants to tenants in common or vice versa and which does not alter the value of the respective co-owners interests at the time of the conveyance or transfer; or
- (ix) conducting an art union for the benefit of any institution in Queensland engaged in the education of students in primary or secondary schools, or primary and secondary schools, or the University of Queensland or any constituent college thereof, or a rural training school, or any institution in Queensland (as approved by the Minister) engaged in the relief of poverty or in the care of the sick, aged, infirm, afflicted or incorrigible persons or of children, where the prize for such art union is to be represented wholly or in part by the whole of the property conveyed or transferred or transferring such property to the winner of any prize in any such art union; or
- (x) transferring property which vested in the Public Curator pursuant to the *Public Curator Act 1915*, part 4, from the public trustee to

SCHEDULE 1 (continued)

a former prisoner or those exercising their legal entitlement to claim through the former prisoner; or

(xi) transferring from a trustee of a superannuation scheme to a member of that scheme on the member's retirement from that scheme a policy of insurance on the life of that member; or

(xii) transferring a policy of life insurance—

(a) by the person whose life is assured thereunder to a trustee of a superannuation scheme; or

(b) by a trustee of one superannuation scheme to a trustee of another superannuation scheme;

where the life assured under the policy is the person entitled under the superannuation scheme to which the policy is transferred to receive the proceeds of the policy upon its maturity; or

(xiii) transferring a lot under a building units plan or a group titles plan registered under the *Building Units and Group Titles Act 1980* where—

(a) the transferor is a company; and

(b) the company is the person by whom the land comprised in the plan was held in fee simple at the time of the registration of the plan; and

(c) the transferee is a person who surrendered his or her shares in the company for the purposes of obtaining the conveyance or transfer of the lot from the company; and

(d) the separate area which the lot comprises corresponds with the separate area which the transferee had a right to occupy immediately prior to surrendering his or her shares; and

(e) the separate area which the lot comprises has been used for residential purposes immediately prior to the transferee surrendering his or her shares and will after registration of the plan and the conveyance or transfer of the lot to the transferee be used for residential purposes; or

(xiiia) transferring a lot that, under the *Body Corporate and Community Management Act 1997* (the “**BCCM Act**”), is a lot included in a community titles scheme (the “**scheme**”) if—

SCHEDULE 1 (continued)

- (a) the transferor is a company; and
 - (b) under the BCCM Act, the company is the original owner for the scheme; and
 - (c) the transferee is a person who surrendered his or her shares in the company for the purposes of obtaining the conveyance or transfer of the lot from the company; and
 - (d) the separate area the lot consists of corresponds with the separate area the transferee had a right to occupy immediately before surrendering his or her shares; and
 - (e) the separate area the lot consists of has been used for residential purposes immediately before the transferee surrendered his or her shares and will after registration of the transfer of the lot to the transferee be used for residential purposes; or
- (xiv) transferring property which was acquired by the public trustee pursuant to the *Public Trustee Act 1978*, section 59 to the beneficial owner; or
- (xv) vesting property in trustees upon the statutory trust for sale or on the statutory trust for partition pursuant to the *Property Law Act 1974*, part 5; or
- (xvi) transferring from one party to a valid subsisting marriage or a subsisting de facto relationship to the other party to the marriage or the relationship by way of gift (but subject to any existing mortgage) an interest in a place of residence, as defined in section 55A(1), which the commissioner is satisfied will, as the result of the conveyance, be owned only by the parties to the marriage as joint tenants or as tenants in common in equal shares and will be used by them as their principal place of residence;

shall be—**nil duty**.

Provided further that the duty payable in respect of conveyances or transfers made for the sole purpose of—

- (i) carrying into effect the terms of a settlement where duty has been paid at the ad valorem rate or at that rate no duty was payable under the ‘Settlement, deed of gift or voluntary conveyance’ or

SCHEDULE 1 (continued)

‘Declaration of trust’ head of charge on an instrument relating to the particular property and whereby the property became subject to such terms; or

- (ii) transferring to a beneficiary the beneficiary’s entitlement under the terms of a declaration of trust where duty has been paid at the ad valorem rate or at that rate no duty was payable under the ‘Declaration of trust’ head of charge on an instrument relating to the particular property whereby the property became subject to such terms;

and for the purpose of calculating the duty payable thereon the property or part thereof was deemed pursuant to section 55B or 55C to have no value—

- (iii) in the case where the property is being conveyed, transferred or assigned to a person other than a prescribed descendant within the meaning of those sections—shall be calculated on the full unencumbered value of the property or that part thereof which was deemed to have no value;
- (iv) in the case where the property being conveyed, transferred or assigned to a prescribed descendant within the meaning of those sections comprises wholly or in part property that is not prescribed family property within the meaning of either of those sections—

shall be—

- (A) **an amount calculated on the full encumbered value of the property or the part thereof that is not prescribed family property other than property (if any) that was not prescribed family property at the time when that instrument was executed;** or

- (B) **\$4;**

whichever is the greater.

For the purposes of this proviso any property that consists of a right or interest of a beneficiary under a family unit trust scheme shall be deemed to be prescribed family property only to the extent that the property held by the unit trustees comprises prescribed family property.

SCHEDULE 1 (continued)

Exemptions

1. All conveyances or transfers of lands to the Government for public purposes.

2. Any grant from the Crown under the hand of the Governor to any—

- (a) trustee of Crown land for a public purpose; or
- (b) person who held a right to acquire a grant in fee simple of the land comprised in—
 - (i) an agricultural farm lease; or
 - (ii) a grazing homestead freeholding lease; or
 - (iii) a perpetual lease selection;

under the *Land Act 1994*.

3. Transfer under the Mining Acts of a claim or share in a claim where the consideration paid does not exceed \$100.

4. Transfer of a pastoral holding (not being a preferential pastoral holding) from the mortgagee to the mortgagor having the effect of a release of the mortgage.

6. All conveyances and transfers which, upon the incorporation of an association of persons (by whatever name called)—

- (a) formed with the object of—
 - (i) providing recreation or amusement; or
 - (ii) promoting religion, charity, patriotism or the arts; or
 - (iii) attaining any other end useful to the community and approved by the Minister; and
- (b) whose constitution provides for the application of its funds to its objects and prohibits the distribution of any part of its funds or profits to its members;

SCHEDULE 1 (continued)

are necessary or expedient for the purpose of vesting in the incorporated body in its corporate name all property of which the association was beneficial owner immediately prior to its incorporation.

7. Any conveyance or transfer of a licence under the *Land Act 1994*, to enclose a temporarily closed road, where the value of such licence does not exceed \$200.

9. Any contract note issued by a Queensland dealer as defined in section 31B in relation to the sale or purchase of any marketable security or right in respect of shares.

10. Any conveyance or transfer of stock, debentures or bonds of any public statutory body constituted under the law of this or any other State or of any Territory.

11. Any conveyance or transfer of land situated outside Queensland.

12. Any conveyance or transfer of a corporate debt security.

13. Any conveyance or transfer of property consisting of an annuity purchased for a bona fide lump sum cash consideration made on or after 27 November 1984.

14. Any transfer of a marketable security or right in respect of shares—

- (a) to a prescribed corporation, as defined in section 31J, where such prescribed corporation is to hold in trust the marketable security or right in respect of shares for the transferor; or
- (b) to a prescribed corporation, as defined in section 31J, where such prescribed corporation is to hold in trust the marketable security or right in respect of shares for a person on whose behalf the marketable security or right in respect of shares was held by the

SCHEDULE 1 (continued)

transferor in trust immediately before the transfer where the transferor is—

- (i) the public trustee; or
 - (ii) a trustee company within the meaning of the *Trustee Companies Act 1968*; or
 - (iii) a corporation that is constituted under the law of another State or of a Territory which is approved under a regulation as corresponding in that State or Territory to the public trustee or a trustee company referred to in subparagraph (ii);
or
 - (iv) a corporation or class of persons prescribed as a trustee for the purpose of this paragraph; or
- (c) by a prescribed corporation, as defined in section 31J, as trustee, to the person recorded by it as the person for whose benefit the shares are held by it in trust; or
- (d) by a prescribed corporation, as defined in section 31J, as trustee, to another person as trustee for the person recorded by the prescribed corporation as the person for whose benefit the shares were held by it in trust or for the beneficial owner of shares purchased under a relevant transaction upon which duty was paid or which was exempt from duty and on whose behalf the prescribed corporation held the shares in trust where the new trustee is—
- (i) the public trustee; or
 - (ii) a trustee company within the meaning of the *Trustee Companies Act 1968*; or
 - (iii) a corporation that is constituted under the law of another State or of a Territory which is approved under a regulation as corresponding in that State or Territory to the public trustee or a trustee company referred to in subparagraph (ii);
or
 - (iv) a corporation or class of persons prescribed as a trustee for the purpose of this paragraph; or
- (e) by a prescribed corporation, as defined in section 31J, as trustee, to a person (not being a person referred to in paragraph (c) or to a

SCHEDULE 1 (continued)

new trustee referred to in paragraph (d)) who is the beneficial owner of the shares purchased under the relevant transaction upon which duty has been paid or which is exempt from duty, and on whose behalf the prescribed corporation held the shares in trust; or

- (f) to or by a prescribed corporation, as defined in section 31J, for the sole purpose of effecting a transaction which is, in accordance with the rules and practices of the Stock Exchange of the United Kingdom, a stock loan transaction.

15. A transfer (including an SCH-regulated transfer) of a marketable security or right in respect of shares to or from a company formed by—

- (a) the Australian Stock Exchange Limited; or
- (b) a member of the Australian Stock Exchange Limited;

for the purpose of—

- (c) receiving transfers of marketable securities or rights in respect of shares in respect of which sell orders have been placed; and
- (d) making transfers of marketable securities or rights in respect of shares to purchasers (or on their behalf to their brokers or a company of the kind described in this exemption); and
- (e) making transfers of marketable securities or rights in respect of shares to vendors (or on their behalf to their brokers or a company of the kind described in this exemption); and
- (f) making or receiving transfers of marketable securities or rights in respect of shares of a kind and in such circumstances and on such conditions as may be prescribed under a regulation for the purposes of this exemption;

and not for the purpose of acting as general custodian or trustee, where the transfer is a transfer of a kind specified in paragraph (c), (d), (e) or (f).

This exemption, in respect of transfers to or by a company formed by a member of the Australian Stock Exchange Limited, applies on and from 1 July 1989.

SCHEDULE 1 (continued)

15A.(1) An SCH-regulated transfer to an entrepot nominee company, or from an entrepot nominee company to another entrepot nominee company, if the transfer is a qualifying transfer.

(2) In subsection (1)—

“entrepot nominee company” means a company formed by an SCH participant solely for the purpose of facilitating settlement of transactions, for marketable securities or rights in respect of shares, entered into in the ordinary course of business.

“qualifying transfer” means a transfer of a marketable security or right in respect of shares to an entrepot nominee company, on the purchase or sale of the security or right if the security or right is to be held by the company for settlement purposes only on a temporary basis and not as general custodian or trustee.

16.(1) A transfer of a marketable security or a right in respect of a share listed on a stock exchange to carry out obligations under—

- (a) a securities loan within the meaning of the Corporations Act, section 1097 as modified from time to time by declaration of the Australian Securities and Investments Commission; or
- (b) a securities lending scheme within the meaning of the Corporations Act, section 1097 as modified from time to time by declaration of the Australian Securities and Investments Commission;

if the transfer is endorsed by an SCH participant in a way approved by the commissioner.

(2) If a transfer to effect a securities loan is exempted, and the loan arrangement is subsequently terminated without the borrower making available to the lender securities or rights of the quantity and class lent, the transfer is to be newly dutiable as if this exemption had never applied.

(3) This exemption applies only to a securities loan or a securities lending scheme for 1 year or less.

17.(1) This exemption applies to the conveyance or transfer of a marketable security or right in respect of shares to or from—

SCHEDULE 1 (continued)

- (a) a corporation that is a financial institution or trustee company within the meaning of the *Trustee Companies Act 1968* or a corresponding law of another State or a related corporation body corporate within the meaning of the Corporations Act; or
 - (b) a corporation of a class prescribed by regulation.
- (2) Subsection (1) only applies if—
- (a) the corporation's principal business is to hold property as a trustee or nominee; and
 - (b) the conveyance or transfer—
 - (i) does not pass a beneficial interest in a marketable security or right in respect of shares conveyed or transferred; and
 - (ii) is not made in contemplation of the passing of a beneficial interest in a marketable security or right in respect of shares conveyed or transferred; and
 - (iii) is not part of, or made under, a scheme under which a beneficial interest in a marketable security or right in respect of shares conveyed or transferred (whether vested or contingent) has passed, or will or may pass.

18. A transfer of a marketable security or right in respect of shares to or from CHESS Depository Nominees Pty Ltd (A.C.N. 017 346 506) that—

- (a) relates to the issue or redemption of a CUFS in the marketable security or right in respect of shares; and
- (b) is entered into in the ordinary course of business.

19.(1) A transfer of a mobile home positioned on a site under a relevant agreement.

(2) A transfer of a mobile home not positioned on a site if—

- (a) the mobile home is acquired for positioning on a site; and
- (b) the transfer is not part of a transaction involving a transfer of ownership of land.

(3) An assignment of a person's rights and obligations as occupier under a relevant agreement.

SCHEDULE 1 (continued)

(4) In this section, “**mobile home**”, “**occupier**”, “**relevant agreement**” and “**site**” have the respective meanings given by the *Mobile Homes Act 1989*, section 3.¹⁰

20.(1) A transfer of a share, or right in respect of a share, in a Queensland company to a foreign resident if—

- (a) the share or right is listed on an approved stock exchange; and
- (b) the transfer relates to a sale and purchase of the share or right effected on the approved stock exchange; and
- (c) the share or right is recorded on an overseas register of legal or beneficial title; and
- (d) the transfer is to be recorded on the overseas register.

(2) In this exemption—

“**approved stock exchange**” means—

- (a) the NASDAQ Stock Market, Inc.; or
- (b) another stock exchange located outside Australia—
 - (i) with similar listing requirements as the Australian Stock Exchange Limited ACN 008 624 691; and
 - (ii) on which shares or rights in respect of shares in a Queensland company are listed; and
 - (iii) approved under a regulation for this exemption.

“**foreign resident**” means—

¹⁰ *Mobile Homes Act 1989*, section 3(1)—

“**mobile home**” means a structure (other than a caravan) prescribed by regulation.

“**occupier**” means a person who under a relevant agreement is entitled to occupy a mobile home positioned on a site.

“**relevant agreement**” means an agreement under which a person is entitled—

- (a) to position a mobile home on a site; and
- (b) to occupy the mobile home as the person’s only or principal place of residence.

“**site**” means land made available for positioning of mobile homes under relevant agreements and includes every part of such land.

SCHEDULE 1 (continued)

- (a) an individual, other than a trustee of a share or right in respect of a share mentioned in paragraph (1), who normally resides outside Australia; or
- (b) a person, other than a trustee of a share or right in respect of a share mentioned in paragraph (1)—
 - (i) incorporated or established under a law of a country other than Australia; and
 - (ii) whose central management and control is situated outside Australia; and
 - (iii) whose voting power is controlled by shareholders or members who are foreign residents; and
 - (iv) who, in relation to the share or right, is not accustomed, or under an obligation, or reasonably expected, to act in accordance with the directions, instructions or wishes of a person who is not a foreign resident; or
- (c) a trustee of a share or right in respect of a share mentioned in paragraph (1) who—
 - (i) would be a foreign resident under subparagraph (a) or (b) if the person were not a trustee; and
 - (ii) holds the share or right in a trust in which at least 95% of the beneficial interest is held by foreign residents; or
- (d) a beneficiary of a trust mentioned in subparagraph (c) who—
 - (i) holds the beneficial interest in the trust as trustee of another trust in which at least 95% of the beneficial interest is held by foreign residents; and
 - (ii) would be a foreign resident under subparagraph (a) or (b) if the person were not a trustee.

21. A transfer after 30 June 2001 of a quoted security.

22.(1) A conveyance or transfer of scheme property of a registered scheme from the responsible entity of the scheme to a person as primary custodian for the responsible entity.

SCHEDULE 1 (continued)

(2) Subsection (1) does not apply if the conveyance or transfer is part of an arrangement under which—

- (a) the scheme property, or an interest in the scheme property, ceases to be scheme property; or
- (b) the persons who are members of the registered scheme do not have the same beneficial interest in the scheme property after the conveyance or transfer as they had immediately before the arrangement was entered into.

23.(1) A conveyance or transfer of property from a person as vendor to another person as primary custodian for the responsible entity of a registered scheme.

(2) Subsection (1) applies only if—

- (a) the conveyance or transfer is made under a contract or agreement for sale or transfer of the property entered into between the person as vendor and the responsible entity as purchaser; and
- (b) the property is acquired by the responsible entity as scheme property; and
- (c) ad valorem duty chargeable under schedule 1, under the heading ‘Conveyance or transfer’, has been paid on the contract or agreement.

24.(1) A conveyance or transfer of scheme property of a registered scheme from a person as primary custodian for the responsible entity of the scheme to the responsible entity.

(2) Subsection (1) does not apply if the conveyance or transfer is part of an arrangement under which—

- (a) the scheme property, or an interest in the scheme property, ceases to be scheme property; or
- (b) the persons who are members of the registered scheme do not have the same beneficial interest in the scheme property after the conveyance or transfer as they had immediately before the arrangement was entered into.

SCHEDULE 1 (continued)

DECLARATION OF TRUST

Any instrument declaring that property vested or to be vested in the person executing the same is or shall be held in trust—**the same duty on the full unencumbered value of such property as on the amount or value of the consideration for a conveyance or transfer on sale.**

Provided that in respect of any such instrument made on or after 9 April 1985 where the commissioner is satisfied—

- (a) that the declaration is consequential upon the retirement of a trustee or upon the appointment of a new or additional trustee and is for no other purpose; and
- (b) that the trustee or remaining trustee is to hold upon the same trusts as the property had been held and that it is not intended to alter the terms of those trusts at any future time; and
- (c) that there has been no change of beneficial interest from the time of appointment of the retiring or continuing trustee (or both), in respect of which ad valorem duty chargeable under the heading ‘Settlement, deed of gift or voluntary conveyance’, ‘Declaration of trust’ or ‘Conveyance or transfer’ has not been paid on an instrument relating to the particular property and particular transaction; and
- (d) that it is not the means or part of the means whereby any benefit actual or potential may be conferred upon the new, additional or remaining trustee, or any other person, whether by operation of law or otherwise; and
- (e) where the trustee or remaining trustee is trustee for a trust or unit trust, that it is not intended to make any alteration to the beneficial ownership of the trust property (whether by sale, issue, transfer or redemption of units or any other manner); and
- (f) where the trustee or remaining trustee is a corporation, that it is not intended to make any alteration to the ownership of the stock or shares in that corporation;

the duty payable shall be—**\$4 duty.**

SCHEDULE 1 (continued)

Exemptions

1. Any instrument in which the trust declared is a charitable trust only.

2. Any instrument executed by any trustee or trustees of any association of persons—
 - (a) formed with the object of—
 - (i) providing recreation or amusement; and
 - (ii) promoting religion, charity, patriotism or the arts; and
 - (iii) attaining any other end useful to the community and approved by the Minister; and
 - (b) whose constitution provides for the application of its funds to its objects and prohibits the distribution of any part of its funds or profits to its members;

declaring that property vested or to be vested in him, her or them is or shall be held in trust for the purposes of that association in order to comply with the requirements of the Lands Department in respect of such vesting.

3. An instrument declaring that property acquired and held by a person as primary custodian for the responsible entity of a registered scheme, or to be vested in the person in that capacity, is, or is to be, held as scheme property by the person as primary custodian for the responsible entity of the scheme.

4. A declaration of trust, to the extent that it is for the benefit of an exempt charitable institution in respect of property that is to be used solely or almost solely by that institution for a qualifying exempt purpose.

SCHEDULE 1 (continued)

HIRING AGREEMENT

(1) Where the agreement is for a definite and certain period so that the total amount to be ultimately payable can be ascertained—**0.43% of the total amount.**

Provided that in any case where the total calculated under this paragraph (1) includes a fraction of a cent the total payable shall be increased by an amount equal to the difference between that fractional part of a cent and 1c.

(2) Where the agreement is for the term of any life or lives in being or for any other indefinite period it shall be deemed to be an agreement for the period of 3 years and chargeable accordingly under provision (1) appearing under this heading.

Provided that where, within 6 months of the making of an agreement mentioned in this provision (2) which was made after the coming into force of the *Stamp Acts Amendment Act 1968*, section 6, that agreement is determined, a rebate of the duty charged pursuant to this provision (2) shall be made equal to the amount of the excess thereof over the amount of duty which would have been charged under provision (1) appearing under this heading if the agreement was for the period between the making and determination thereof.

Exemptions

1. A hiring agreement, the amount received in respect of which is to be received by a person who is registered under section 35A as carrying on a rental business.

2. A hiring agreement, to the extent that the goods are hired by an exempt charitable institution and the goods are necessary to and are to be used solely or almost solely for carrying out the work of that institution for a qualifying exempt purpose.

SCHEDULE 1 (continued)

INSTALMENT-PURCHASE AGREEMENT

Where the purchase price—

Does not amount to \$20—**nil duty**.

Amounts to \$20 or more—**0.43% of the purchase price**.

Provided that in any case where the total duty calculated under this provision includes a fraction of a cent the total duty payable shall be increased by an amount equal to the difference between that fractional part of a cent and 1c.

Exemptions

1. Any instalment-purchase agreement in which the vendor and the purchaser are persons engaged in the trade or business of selling goods of the same nature or description as the goods referred to in the agreement.

2. Any credit-purchase agreement for the purchase of goods together with—

- (i) real property; or
- (ii) any estate or interest in real property; or
- (iii) in the case of land held from the Crown for a leasehold estate—such leasehold estate or any lesser interest in such land;
or
- (iv) any business or interest in a business.

3. An instalment-purchase agreement, to the extent that the purchaser is an exempt charitable institution in respect of goods which are necessary to and are to be used solely or almost solely for carrying out the work of that institution for a qualifying exempt purpose.

SCHEDULE 1 (continued)

**INSTRUMENT AMENDING A TRUST DEED
CONSTITUTING A PUBLIC UNIT TRUST SCHEME**

Where, in respect of an instrument, the commissioner is satisfied of the matters specified in section 61B(2)(a) or (b)—**\$200 duty**.

**INSTRUMENT RECONSTITUTING OR VARYING
SUPERANNUATION SCHEMES**

Where the commissioner is satisfied that upon the reconstitution or variation effected (wholly or in part) by the instrument the superannuation scheme is of a type approved for the purposes of section 61A—**\$20.00 duty**.

LEASE

For any term of any lands, tenements or hereditible subjects—

For every \$100 and also for any fractional part of \$100 of the total rental payable over the term of the lease—**35c duty**.

For any transfer or cancellation of any lease, agreement for lease, or other instrument of a description referred to under this heading—**conveyance on sale duty on any premium, fine, or other consideration (other than rent) paid, and on any consideration paid for or the value of movable chattels taken over by the lessee from the lessor or the outgoing lessee**.

SCHEDULE 1 (continued)

Exemptions

1.(1) A lease, agreement or other document made for the lease of premises as a private dwelling house.

(2) A relevant agreement under the *Mobile Homes Act 1989*.¹¹

(3) Subsections (1) and (2) apply only if—

- (a) the premises are, or, for a relevant agreement, the mobile home is, used for the purpose of residence; and
- (b) the premises are not, or the mobile home is not, used for carrying on any profession, trade, business or commercial venture in the premises or mobile home.

2. A lease, to the extent that it is to an exempt charitable institution where the property is to be used by that institution solely or almost solely for a qualifying exempt purpose.

MORTGAGE, BOND, DEBENTURE, AND COVENANT

(1) Subject to provision (2), a security which is—

- (a) a mortgage or debenture that secures the payment or repayment of money; or
- (b) an instrument (other than one of the kind specified at paragraph (a)) that secures the payment or repayment of an amount of financial accommodation to be paid or repaid by way of an annuity or by way of a sum or sums of money at stated periods; or

¹¹ *Mobile Homes Act 1989*, section 3(1)—

“relevant agreement” means an agreement under which a person is entitled—

- (a) to position a mobile home on a site; and
- (b) to occupy the mobile home as the person’s only or principal place of residence.

SCHEDULE 1 (continued)

- (c) a bond or covenant (other than one of the kind specified in paragraph (b)) that secures the payment or repayment of an amount of financial accommodation;

and which is—

- (d) the only, the principal or primary security; or
(e) collateral, auxiliary, additional or substituted security or security by way of further assurance;

for the payment or repayment of that money or amount—

- (f) where the security is a prescribed short-term debenture—**nil duty**.
(g) in any other case—for every \$100 and also for any fractional part of \$100 secured by the instrument—**40c duty**.

(2) Any security—

- (a) of the kind specified in provision (1) which is collateral, auxiliary, additional or substituted security or security by way of further assurance, for the payment or repayment of money or an amount, where the principal or primary security is liable to be and the commissioner is satisfied that it is stamped with the ad valorem duty imposed under provision (1); or
(b) which is a security solely for the payment of money which represents the whole or part of the purchase price payable under an instalment-purchase agreement where the instalment-purchase agreement or an original instrument in relation to that agreement is liable to be and the commissioner is satisfied that it is stamped with ad valorem duty imposed under the heading ‘Instalment-purchase agreement’ or that duty has been accounted for under section 32A—**nil duty**.

(3) An instrument that, in respect of a security of the kind specified in provision (1) or (2)—

- (a) is a retransfer of that security or of the benefit thereof, or of the money thereby secured; or

SCHEDULE 1 (continued)

- (b) where the total amount secured by the security or recoverable under the security is not expressed in the instrument to be limited—is a release or discharge of that security or of the benefit thereof, or of the money thereby secured—**an amount equal to the duty with which the security to which the retransfer, release or discharge relates is chargeable less the amount of any duty paid on that security.**

(5) Where the duty specified by the provisions appearing under this heading has been charged upon any debenture in respect of the issue or any reissue or renewal of such debenture for a term of less than 1 year, such duty shall not be again charged upon such debenture in respect of any subsequent reissue or renewal thereof, within the period of 1 year commenced on and including the date of the issue, reissue or renewal thereof in respect whereof duty was so charged, for a further term of less than 1 year.

Exemptions

1. Any instrument to which the provisions appearing under this heading are expressed to apply given or executed for the purpose of carrying out its objects by a society under and within the meaning of the *Cooperative Housing Societies Act 1958*, and so given or executed in respect of—

- (a) any advance made or to be made to that society by the Treasurer;
or
(b) any advance guaranteed by the said Treasurer made or to be made to that society by any bank, friendly society, or approved body.

2. Any instrument securing an advance to any parents and citizens association formed as prescribed by the *Education (General Provisions) Act 1989*.

3. Any debenture issued in respect of a loan borrowed by Brisbane City Council or a local government or by any Crown corporation or instrumentality or corporation or instrumentality representing the Crown,

SCHEDULE 1 (continued)

or by any corporation or instrumentality created by statute and under which a regulation grants this exemption.

4.(1) To the extent a home mortgage secures an advance used, or to be used, to buy or build a home borrower's principal home, the mortgage is exempt up to an amount of—

- (a) if the home is a first home—\$100 000; or
- (b) in any other case—\$70 000.

(2) If the property secured includes property (the “**other property**”) other than the home borrower's principal home, the amount of the exemption is reduced by an amount that bears to the amount of the exemption the same proportion as the value of the other property bears to the value of all the property.

4A. To the extent a home refinance mortgage secures an advance used, or to be used, to repay the balance owing under the previous mortgage, the home refinance mortgage is exempt up to an amount of—

- (a) if the balance owing under the previous mortgage is less than \$100 000—the balance; or
- (b) in any other case—\$100 000.

5. Any instrument to which the provisions appearing under this heading are expressed to apply and which is approved under a regulation as an instrument to which this exemption applies given or executed to secure an advance made or to be made to a cooperative registered under the *Cooperatives Act 1997* whose members are primary producers for the purpose of providing finance for the acquisition of a commodity or primary produce or of making advances or other payments to its suppliers on account of a commodity or primary produce marketed on behalf of such suppliers or of providing finance for working or other expenses incidental to the acquisition, processing or marketing of a commodity or primary produce.

6. An agreement, letter or memorandum (other than an instalment-purchase agreement under and within the meaning of

SCHEDULE 1 (continued)

section 32A) made for or relating to the sale in any retail establishment of any goods the value whereof does not exceed \$200 and, in respect of any such transaction, any instrument guaranteeing payment of moneys at any time due and unpaid provided that the liability of the guarantor is for a specified amount not exceeding \$200.

7.(1) An application solely for a credit card that is chargeable with duty under provision (1)(b) or (c).

(2) Subsection (1) does not apply if, when making the application for the credit card, the cardholder and the cardholder's bank contemplate the use of the card for a transaction exceeding \$100 000 within 1 year after the issue of the card.

(3) Words used in this exemption that are defined in section 42B(1) have the same meaning in this exemption.

POLICIES OF LIFE INSURANCE

When the sum insured—

Exceeds \$100 but does not exceed \$200—**10c duty**.

Exceeds \$200 but does not exceed \$2 000 for every full sum of \$100 and also for every fractional part of \$100 of the amount insured—**5c duty**.

Exceeds \$2 000—for the first \$2 000 thereof at the rate prescribed for a policy not exceeding \$2 000, and for every \$100 or fractional part thereof exceeding \$2 000—**10c duty**.

Provided that the duty payable on a temporary or term assurance policy shall be 5.00% of the first year's premium.

SCHEDULE 1 (continued)

**POLICIES OF INSURANCE (OTHER THAN POLICIES
OF LIFE ASSURANCE AND POLICIES OF ACCIDENT
INSURANCE ISSUED UNDER THE WORKCOVER
QUEENSLAND ACT 1996)**

(1) Certificate or policy of insurance for accidental bodily injury (fatal or non-fatal) to any person issued under the *Motor Accident Insurance Act 1994*, and the regulations thereunder—**10c duty**.

(2) Upon every policy of insurance in respect of plate glass—

- (i) for any dwelling—**5c duty**.
- (ii) for other than a dwelling—**10c duty**.

(3) Tourist and travellers' special policy (other than for air travel) for any 1 tour where the period of the tour does not exceed 7 days—**3c duty**.

(5) Every policy of insurance indemnifying the insured against any liability for breach of professional duty by reason of any negligent act, error or omission on the part of the insured or any employee of the insured in any business conducted by or on behalf of the insured in the insured's professional capacity—

For every \$1 or fractional part of \$1 of the net premium—**5c duty**.

Provided that between 26 April 1988 and 30 April 1992 (both days inclusive) duty shall be charged as follows—

From 26 April 1988 to 30 April 1989 (both days inclusive)

For every \$1 or fractional part of \$1 of the net premium—**1c duty**.

From 1 May 1989 to 30 April 1990 (both days inclusive)

For every \$1 or fractional part of \$1 of the net premium—**2c duty**.

From 1 May 1990 to 30 April 1991 (both days inclusive)

For every \$1 or fractional part of \$1 of the net premium—**3c duty**.

From 1 May 1991 to 30 April 1992 (both days inclusive)

For every \$1 or fractional part of \$1 of the net premium—**4c duty**.

SCHEDULE 1 (continued)

In this provision (5)—

“net premium” means the amount charged or payable as premium in respect of the insurance (after deducting from the premium otherwise payable all rebates, bonuses and profit distributions made by the insurer), and includes any amount paid or payable or allowed or allowable by way of discount, commission or servicing or business acquisition or other charges to an agent, broker or other person for securing or arranging that insurance for or on behalf of the ‘insurer’.

(6) Every policy of insurance relating to any motor vehicle or indemnifying the insured against legal liability for accidental bodily injury (fatal or non-fatal) to any person or for damage caused by, through or in connection with a motor vehicle or a trailer (if the trailer is covered by a policy of insurance in connection with the motor vehicle)—

For every \$1 and also for any fractional part of \$1 of the net premium payable thereon—**5c duty**.

In this provision (6)—

“net premium” has the same meaning as in provision (5).

(6A) In respect of every policy of insurance relating to the risk of accidental personal injury (fatal or non-fatal) to a person in connection with travel by that person while on an aircraft—

For every \$1 and also for any fractional part of \$1 of the net premium payable thereon—**5c duty**.

In this provision (6A)—

“net premium” has the same meaning as in provision (5).

(8) In respect of all other policies—

For every \$1 or fractional part of \$1 of the net premium—**\$0.085 duty**.

In this provision (8)—

“net premium” has the same meaning as in provision (5).

Provided that—

- (a) where a policy of insurance is dutiable under more than 1 provision of this heading, unless the commissioner is satisfied

SCHEDULE 1 (continued)

that the premiums relative to the sums insured under the policy truly reflect the relative separate risks under the policy, the commissioner may, for the purpose of calculating duty, attribute a proportion of the total net premium payable under the policy to each of the risks which attract duty under a separate provision of this heading.

In this paragraph (a)—

“**net premium**” has the same meaning as in provision (5).

(c) the duty upon—

(ii) a plate glass policy; and

(iii) a tourist and travellers’ policy;

may be denoted by adhesive stamps;

(e) where there is included in or annexed to any policy of life assurance any provision for the payment of an additional capital sum on the death by accident of the assured or in the event of the assured suffering some disablement—

(i) where the premium payable in respect of the life assurance and that payable in respect of the said provision are separately stated in the policy; or

(ii) where the premium stated in the policy is payable in respect of the life insurance and the said provision, but the insurer endorses on the policy the part of that premium actuarially attributable to that provision;

the duty payable annually in respect of that provision shall be 5% of the annual premium or part premium or of the annual aggregate of other periodical premiums or part premiums payable in respect of that provision;

(f) the duty upon a policy in respect of a television installation which does not cover any property or risk, other than the television installation and the legal liability of the insured for accidental bodily injury (fatal or non-fatal) to any person or for damage caused by, through or in connection with the television installation, shall be 50c;

(h) in respect of any policy of insurance chargeable with duty under provision (5), (6), (6A) or (8) appearing under this heading, where the total duty calculated thereon includes a fraction of a

SCHEDULE 1 (continued)

cent—then the total duty payable shall be increased by an amount equal to the difference between that fractional part of the cent and 1c;

- (i) in respect of any policy of insurance insuring the insured against any loss in respect of a loan made, or proposed to be made, by the insured to finance the purchase or erection of a residential building and secured or to be secured by a first mortgage over the building in question the duty payable shall be 5% of the total net premium.

In this paragraph (i)—

“net premium” has the same meaning as in provision (5).

In this paragraph—

“residential building” means a dwelling house, a home unit or a building for human habitation comprising home units, 2 or more flats, or a double-unit dwelling house or other multiple dwelling, but does not include a hotel, motel, boarding house, lodging house, or building containing business premises.

Exemptions

1. Policies of insurance for—

- (a) the physical loss or damage to goods or merchandise and the loss of freight on goods or merchandise, carried by—
 - (i) railway; or
 - (ii) road, air or water transport; and
- (b) the physical loss or damage to hulls of waterborne craft which are used primarily for commercial purposes.

2. A policy of insurance entered into in the course of an insurer’s “health insurance business” within the meaning of the *National Health Act 1953* (Cwlth).

(3) A policy of insurance, to the extent that it is in respect of—

SCHEDULE 1 (continued)

- (a) the property of an exempt charitable institution, where the property is or is to be solely or almost solely used for a qualifying exempt purpose; or
- (b) the undertaking of an exempt charitable institution to the extent only that the institution is engaged solely or almost solely in activities for a qualifying exempt purpose.

4. Policies of reinsurance by one insurer with another insurer.

**POLICIES OF ACCIDENT INSURANCE UNDER THE
WORKCOVER QUEENSLAND ACT 1996**

On every return of premiums charged made pursuant to section 47B—

For every \$100, or part of \$100, of the aggregate of the premiums charged—**\$5 duty**.

REQUEST

Under the *Land Title Act 1994*—**\$1 duty**.

Exemption

A request of a type or class approved under a regulation for the purpose of this exemption.

SCHEDULE 1 (continued)

**SETTLEMENT, DEED OF GIFT OR VOLUNTARY
CONVEYANCE**

Any instrument being a settlement, deed of gift or voluntary conveyance (not being the appointment merely of a new trustee) of any property relating to any trust, or a declaration of trust having the effect of such a settlement, deed or conveyance—

- (a) where the whole or a part of the property dealt with by the instrument is of the nature specified under the heading ‘Conveyance or transfer’, paragraph (3)—**duty on the full unencumbered value of the property or such part of the property at the rates specified in paragraph (3)(a) as if those rates were therein prescribed in relation to full unencumbered value in lieu of consideration;**
- (b) where the whole or a part of the property dealt with by the instrument is of a nature of any other kind—**duty on the full unencumbered value of the property or such part of the property at the rates specified under the heading ‘Conveyance or transfer’, paragraph (4)(a) as if those rates were therein prescribed in relation to full unencumbered value in lieu of value of consideration.**

Exemption

An instrument, to the extent that it is for the benefit of an exempt charitable institution in respect of property that is to be used solely or almost solely for a qualifying exempt purpose.

SCHEDULE 2

DICTIONARY

section 2

“application for registration” means the application prescribed by the regulations under the *Transport Infrastructure (Roads) Act 1991* for the issue of a certificate of registration in respect of a motor vehicle in accordance with those regulations, but does not include any application made for the issue of a certificate of registration or renewal of registration in accordance with those regulations in respect of a motor vehicle and by the person in whose name that motor vehicle was last registered (whether in Queensland or elsewhere) before the date upon which the application is made where ad valorem duty under this Act or a corresponding Act or law of any other State or a Territory has been paid in respect of a prior registration of that vehicle in the name of that person.

“application for transfer of registration” means the application prescribed by the regulations under the *Transport Infrastructure (Roads) Act 1991* for the issue of a certificate of transfer of registration in respect of a motor vehicle in accordance with those regulations by reason of the transfer of the ownership of that motor vehicle.

“approved form” see section 82A.¹²

“commissioner” means the Commissioner of Stamp Duties appointed under this Act.

“corporate debt security” means any marketable security which is a debenture, debenture stock, bond or note or other security of a corporation, company or society, or any right thereto (whether constituting a charge on the assets of the corporation, company or society, or not) and includes any property of a class or description of property prescribed under a regulation to be a corporate debt security for the purposes of this definition, but does not include property of a

¹² Section 82A (Approval of forms)

SCHEDULE 2 (continued)

class or description prescribed under a regulation not to be a corporate debt security for the purposes of this definition.

“CUFS” means a security, issued by or for CHESS Depository Nominees Pty Ltd (A.C.N. 017 346 506), that represents a beneficial interest in—

- (a) a share, or right in respect of shares, that—
 - (i) is held in a foreign company (as defined in section 31B¹³); and
 - (ii) is listed on the market operated by Australian Stock Exchange Limited; or
- (b) a unit in a public unit trust scheme that is listed on the market operated by Australian Stock Exchange Limited.

“deed of gift” means and includes—

- (a) every deed of gift or instrument by way of gift conveying, transferring, assigning or disposing of or purporting to convey, transfer, assign or dispose of property absolutely (including disposal by the extinguishment by forgiveness, in whole or in part, of a debt);
- (b) every conveyance, transfer, assignment or disposition of property (including the disposition by the extinguishment by forgiveness, in whole or in part, of a debt) relating to a trust or a disposition of property (including the disposition by the extinguishment by forgiveness, in whole or in part, of a debt) to take effect during the life of the donor, and not being made before and in consideration of the marriage of the donor, or in favour of a bona fide purchaser or encumbrancer for valuable consideration in money, and whether or not the property comprised in that deed is subject to limitation;
- (c) every deed or instrument whereby a person directly or indirectly conveys, transfers, assigns or otherwise disposes of property to or for the benefit of a person connected with the person by blood or marriage, in consideration or with the reservation of a benefit or advantage to or in favour of himself or herself or any other person, whether by way of rent-charge, or life or any other estate

SCHEDULE 2 (continued)

or interest in the same or any other property, or by way of annuity or other payment or otherwise howsoever, and whether such benefit or advantage is charged on the property comprised in such deed or instrument or not.

“de facto relationship” means the relationship between de facto spouses.

“de facto spouse”—

1. A “de facto spouse” is either 1 of 2 persons, whether of the same or the opposite sex, who are living or have lived together as a couple for at least 2 years.
2. For subsection (1)—
 - (a) 2 persons are a couple if they live together on a genuine domestic basis in a relationship based on intimacy, trust and personal commitment to each other; and
 - (b) 2 persons are not a couple only because they are cotenants.

“die” includes any type, plate or implement whatsoever used under the direction of the commissioner for expressing or denoting duty, or a rate of duty, or that duty or a rate of duty or penalty has been paid, or that an instrument is duly stamped, or is not chargeable with duty or for denoting any fee, and includes any part of that type, plate or implement.

“donor” means the person making a deed of gift.

“executed”, in respect of an instrument, means signed by or on behalf of 1 or more of the parties thereto, or, in the case of a corporation, signed on behalf of that corporation or sealed with its seal.

“exempt charitable institution” means an institution or body or the trustees thereof which the commissioner is, for the time being, satisfied is an institution or body of the kind to which section 59E may be applied.

“exempt foreign company” see the Corporations Act, section 9.

“exempt proprietary company” means a proprietary company, other than an exempt foreign company, no share or interest in which is held by a body corporate other than another proprietary company that is not an exempt foreign company, whether directly or through interposed companies or trusts.

SCHEDULE 2 (continued)

“financial accommodation” includes—

- (a) an advance; and
- (b) money paid for or on account of or on behalf of or at the request of a person; and
- (c) a forbearance to require payment of money owing on any account whatsoever; and
- (d) a transaction (whatever its term or form) which—
 - (i) in substance, effects a loan; or
 - (ii) is, as between the parties to an arrangement or agreement, to be regarded as being in the nature of a loan;

whether that advance, money, forbearance or transaction has been or is to be made, paid, forborne or transacted.

“hiring agreement” means an agreement (including an instrument constituting or evidencing the terms and conditions of an agreement) for the letting or hiring of goods, but does not include an agreement or instrument constituting or evidencing the terms and conditions of an agreement, which is defined by section 32A to be an instalment-purchase agreement for the purposes of that section or, where such an instalment-purchase agreement is constituted by 2 or more agreements, any of those agreements or an instrument constituting or evidencing the terms and conditions of any of those agreements: For the purposes of this definition “goods” includes all chattels personal other than money and things in action.

“impressed” means impressed by a die.

“information”, without limiting its meaning, includes documents of any kind and copies of or extracts from documents.

“instrument” includes—

- (a) a written document; and
- (b)
 - (i) a duplicate of an original instrument; and
 - (ii) a copy of an original instrument; and
 - (iii) a copy of a duplicate of an original instrument;

whether produced by the same process as the original instrument or by a separate process and whether executed or not; and

SCHEDULE 2 (continued)

- (c) a representation (in any form whatsoever) of an instrument of the kind described in paragraph (a) or (b).

“insurance” includes assurance.

“investigating officer” means a person authorised by the commissioner under section 29.

“lodge” means to lodge with the commissioner.

“managed investment scheme” see the Corporations Act, section 9.¹⁴

“marketable security” means—

- (a) any stock or share of a local government or other corporation, company or society; and
- (b) any debenture, debenture stock, bond, note or other security of a government or of a local government or other corporation, company or society, whether constituting a charge on the assets of the government, local government or other corporation, company or society or not; and
- (c) any right or interest (whether described as a unit or otherwise) of a beneficiary under a public unit trust scheme.

“material” includes every sort of material upon which words or figures can be expressed.

“money” includes a bill of exchange, a promissory note and all sums expressed in any currency.

“motor vehicle” means a motor vehicle as defined by the regulations under the *Transport Infrastructure (Roads) Act 1991* other than a trailer or caravan trailer as respectively defined by those regulations.

“policy of assurance against accident” means a policy of insurance (other than a policy of insurance under the *WorkCover Queensland Act 1996*) for a payment to be made upon the death of a person only from accident, violence or otherwise than from a natural cause or as compensation for personal injury, and includes any notice or advertisement in a newspaper or other publication which purports to insure the payment of money upon the death of or injury to the holder

¹⁴ For the meaning of “managed investment scheme” see the attachment to this Act.

SCHEDULE 2 (continued)

or bearer of the newspaper or publication containing the notice only from accident, violence or otherwise than from a natural cause.

“policy of insurance” includes every certificate or declaration as to the existence of or an agreement for insurance or renewal or reinstatement thereof or any instrument or every writing whereby a contract of insurance or renewal or reinstatement thereof is made or agreed to be made or is evidenced.

“policy of life insurance” means a policy of insurance upon any life or lives or upon any event or contingency relating to or depending upon any life or lives, but does not include a policy of assurance against accident.

“policy of marine insurance” means insurance made upon a ship or vessel or upon the machinery, tackle or furniture of a ship or vessel, or upon any goods, merchandise or property of any description whatever on board of a ship or vessel, or upon the freight of or any other interest which may be lawfully insured in or in respect of a ship or vessel, and includes the insurance of goods, merchandise or property during transit (which includes a sea risk and any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance).

“primary custodian”—

1. The “primary custodian” for the responsible entity of a registered scheme means the corporation that has been appointed under the Corporations Act, section 601FB(2) to hold property of the scheme as agent for the responsible entity.
2. The term does not include a person who, under the Corporations Act, section 601FB(3), is taken to be an agent appointed by the responsible entity to do something for the purposes of subsection (2) of the section.

“produce” means to produce to the commissioner.

“proprietary company” see the Corporations Act, section 9

“public unit trust scheme” means a public unit trust scheme as defined in section 56B.

“qualifying exempt purpose”, in respect of an exempt charitable institution, means a purpose of the kind specified in section 59E(1).

SCHEDULE 2 (continued)

“Queensland company” means a company within the meaning of the Corporations Act that is taken to be registered in Queensland under that Act.

“quoted security” means—

- (a) a marketable security quoted on a recognised stock exchange as defined in section 31B; or
- (b) a CUFS;
- (c) a security mentioned in the definition “right in respect of shares”, paragraph (b); or
- (d) another right in respect of a share if the share is a marketable security mentioned in paragraph (a).

“recognised stock exchange” means—

- (a) the Australian Stock Exchange Limited; or
- (b) another stock exchange prescribed under a regulation.

“record” includes book, account, deed, writing, document and any other source of information compiled, recorded or stored in written form, on microfilm, by electronic process or in any other manner or by any other means, and includes a part of a record or a copy of a record.

“registered scheme” see the Corporations Act, section 9.¹⁵

“responsible entity” see the Corporations Act, section 9.¹⁶

“right in respect of shares” includes—

- (a) a CUFS; and
- (b) a security (other than a CUFS, a unit in a unit trust scheme or a security prescribed under a regulation) that—
 - (i) is listed on a prescribed stock exchange (as defined in section 31B); and
 - (ii) represents a beneficial interest in a marketable security, or right in respect of shares, listed on a prescribed stock exchange (as defined in section 31B).

15 For the meaning of “registered scheme” see the attachment to this Act.

16 For the meaning of “responsible entity” see the attachment to this Act.

SCHEDULE 2 (continued)

“risk in Queensland” in relation to insurance or a policy of insurance includes—

- (a) the happening of an event or contingency in Queensland against the possibility of which or against the consequences of which, wherever those consequences might arise, the insurance has been effected; or
- (b) a loss or damage in Queensland as a consequence of the happening of an event or contingency, wherever that happening or contingency might occur, against the possibility of which consequence the insurance has been effected.

“scheme property” means property of a registered scheme held by a person as—

- (a) the responsible entity of the scheme; or
- (b) a primary custodian for the responsible entity of the scheme.

“settlement” means any contract, deed or agreement (whether voluntary or upon good or valuable consideration other than a bona fide pecuniary consideration) whereby property, real or personal, is settled or agreed to be settled in any manner whatsoever.

“stamp” means an adhesive stamp or an impressed stamp.

“stock” means any share in stocks or funds of any government, or in the capital, stock, or funded debt of any company, corporation or society.

“unit trust scheme” means an arrangement made for the purpose, or having the effect of providing, for persons having funds available for investment, facilities for the participation by them, as beneficiaries under a trust, in any profits or income arising from the acquisition, holding, management or disposal of property pursuant to the trust or the carrying on of business by the trust.

ATTACHMENT

DEFINITIONS IN CORPORATIONS LAW

section 2AA

“managed investment scheme” means:

- (a) a scheme that has the following features:
 - (i) people contribute money or money’s worth as consideration to acquire rights (interests) to benefits produced by the scheme (whether the rights are actual, prospective or contingent and whether they are enforceable or not);
 - (ii) any of the contributions are to be pooled, or used in a common enterprise, to produce financial benefits, or benefits consisting of rights or interests in property, for the people (the members) who hold interests in the scheme (whether as contributors to the scheme or as people who have acquired interests from holders);
 - (iii) the members do not have day-to-day control over the operation of the scheme (whether or not they have the right to be consulted or to give directions); or
- (b) a time-sharing scheme;

but does not include the following:

- (c) a partnership that has more than 20 members but does not need to be incorporated or formed under an Australian law because of regulations made for the purposes of subsection 115(2);
- (d) a body corporate (other than a body corporate that operates as a time sharing scheme);
- (e) a scheme in which all the members are bodies corporate that are related to each other and to the body corporate that promotes the scheme;
- (f) a franchise;
- (g) a statutory fund maintained under the Life Insurance Act 1995;
- (h) a regulated superannuation fund, an approved deposit fund, a pooled superannuation trust, or a public sector superannuation

ATTACHMENT (continued)

scheme, within the meaning of the Superannuation Industry (Supervision) Act 1993;

- (i) a scheme operated by an Australian ADI in the ordinary course of its banking business;
- (j) the issue of debentures or convertible notes by a body corporate;
- (k) a barter scheme under which each participant may obtain goods or services from another participant for consideration that is wholly or substantially in kind rather than in cash;
- (l) a retirement village scheme operating within or outside Australia:
 - (i) under which the participants, or a majority of them, are provided, or are to be provided, with residential accommodation within a retirement village (whether or not the entitlement of a participant to be provided with accommodation derives from a proprietary interest held by the participant in the premises where the accommodation is, or is to be, provided); and
 - (ii) which is not a time-sharing scheme;
- (m) a scheme that is operated by a co-operative company registered under Part VI of the Companies (Co-operative) Act 1943 of Western Australia or under a previous law of Western Australia that corresponds to that Part;
- (n) a scheme of a kind declared by the regulations not to be a managed investment scheme.

Note: Paragraph (c)—A partnership with less than 20 members will usually not require registration because of paragraph 601ED(1)(a) and under section 115 a partnership with more than 20 members can only operate if covered by regulations made for the purposes of subsection 115(2).

“registered scheme” means a managed investment scheme that is registered under section 601EB.

“responsible entity” of a registered scheme means the company named in ASIC’s record of the scheme’s registration as the responsible entity or temporary responsible entity of the scheme.

ENDNOTES

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 March 2002. Future amendments of the Stamp Act 1894 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prev	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	proc	= proclamation
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	pubd	= published
exp	= expires/expired	R[X]	= Reprint No.[X]
gaz	= gazette	RA	= Reprints Act 1992
hdg	= heading	reloc	= relocated
ins	= inserted	renum	= renumbered
lap	= lapsed	rep	= repealed
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation

Key	Explanation	Key	Explanation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 28 of 1995	7 July 1995
1A	to Act No. 12 of 1996	8 July 1996
2	to Act No. 74 of 1997	8 January 1998
2A	to Act No. 13 of 1999	8 April 1999
2B	to Act No. 27 of 1999	12 July 1999
2C	to Act No. 89 of 1999	17 February 2000
2D	to Act No. 5 of 2000	5 April 2000
2E	to Act No. 20 of 2000	21 July 2000
2F	to Act No. 48 of 2000	29 November 2000
3	to Act No. 45 of 2001	31 July 2001

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1, 2
Changed names and titles	1
Comparative legislation	1
Corrected minor errors	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Stamp Act 1894 58 Vic No. 8

date of assent 23 October 1894
commenced 1 November 1894 (see s 1)
rep 1 March 2002 (2001 No. 71 s 509)
amending legislation—

Criminal Code Act 1899 63 Vic No. 9 s 3 sch 3

date of assent 28 November 1899
commenced on date of assent

Stamp Act Amendment Act 1901 1 Edw 7 No. 3

date of assent 17 September 1901
commenced 1 October 1901 (see s 1)

Stamp Act Amendment Act 1903 3 Edw 7 No. 2

date of assent 30 September 1903
commenced 1 October 1903 (see s 1)
Note—This Act expired 1 January 1905 (see s 3)

Stamp Act Amendment Act 1904 4 Edw 7 No. 14 (as amd by 1918 9 Geo 5 No. 11 s 2)

date of assent 14 December 1904
commenced 1 January 1905 (see s 1)

Statute Law Revision Act 1908 8 Edw 7 No. 18 s 2 sch 1

date of assent 23 December 1908
commenced on date of assent

Companies Acts Amendment Act 1909 9 Edw 7 No. 13 s 23(3)

date of assent 24 December 1909
commenced 1 March 1910 (see s 1)

Stamp Act Amendment Act 1914 5 Geo 5 No. 7

date of assent 1 October 1914
commenced on date of assent

Stamp Act Amendment Act 1918 9 Geo 5 No. 11

date of assent 1 November 1918
commenced on date of assent

Stamp Acts Amendment Act 1926 17 Geo 5 No. 10

date of assent 27 October 1926
commenced on date of assent

Stamp Acts Amendment Act 1928 19 Geo 5 No. 13 (as from 27 October 1926 (see s 2(ii)))

date of assent 27 October 1928
commenced on date of assent

Stamp Acts Amendment Act 1929 20 Geo 5 No. 21

date of assent 17 December 1929
commenced on date of assent

Stamp Acts Amendment Act 1930 21 Geo 5 No. 49

date of assent 30 December 1930
commenced on date of assent

Stamp Acts Amendment Act 1940 4 Geo 6 No. 23

date of assent 21 November 1940
commenced on date of assent

Financial Arrangements and Development Aid Act 1942 6 Geo 6 No. 26 ss 1, 2(B)(III), 12(1) (as from 1 July 1942 (see s 12(3)))

date of assent 19 November 1942
commenced on date of assent

Stamp Acts Amendment Act 1950 14 Geo 6 No. 10

date of assent 9 November 1950
commenced on date of assent

Stamp Acts Amendment Act 1954 3 Eliz 2 No. 44

date of assent 6 December 1954
commenced on date of assent

Stamp Acts Amendment Act 1955 4 Eliz 2 No. 44

date of assent 2 December 1955
commenced on date of assent

Stamp Acts Amendment Act 1956 5 Eliz 2 No. 13

date of assent 19 November 1956
commenced 1 January 1957 (proc pubd gaz 15 December 1956 p 1931)

Stamp Acts Amendment Act 1958 7 Eliz 2 No. 44

date of assent 3 December 1958
commenced on date of assent

Stamp Acts Amendment Act 1959 8 Eliz 2 No. 42

date of assent 26 November 1959
commenced on date of assent

Stamp Acts Amendment Act 1961 10 Eliz 2 No. 21

date of assent 7 April 1961
commenced on date of assent

Stamp Acts Amendment Act 1962 No. 28

date of assent 18 December 1962
commenced on date of assent

Stamp Acts Amendment Act 1963 No. 35

date of assent 16 December 1963
commenced on date of assent

Stamp Acts Amendment Act 1964 No. 62

date of assent 22 December 1964
commenced on date of assent

Stamp Acts Amendment Act 1965 No. 46

date of assent 25 November 1965
ss 4, 7(1)(a) commenced 1 December 1965 (see ss 4(2), 7(2))
remaining provisions commenced on date of assent

Decimal Currency Act 1965 No. 61 s 10 sch 1

date of assent 23 December 1965
commenced 14 February 1966 (see s 1(2))

Stamp Acts and Another Act Amendment Act 1966 No. 15 ss 1–14

date of assent 12 December 1966
ss 4–6, 11, 14(c)–(d), (g) commenced 3 July 1967 (proc pubd gaz 24 June 1967
p 962)

ss 12, 14(b) commenced 3 January 1967 (see s 2(1))
s 14(e)(ii)–(vii) commenced 1 February 1967 (proc pubd gaz 14 January 1967
p 129)

remaining provisions commenced on date of assent

Stamp Acts Amendment Act 1968 No. 11

date of assent 16 April 1968

ss 6–8 commenced 1 August 1968 (see ss 6(1), 7(1) and 8(1) and proc pubd gaz
13 July 1968 p 1306)

remaining provisions commenced on date of assent

Marketable Securities Act 1970 No. 6 s 15

date of assent 10 April 1970

commenced 1 July 1971 (proc pubd gaz 26 June 1971 p 1259)

Stamp Act Amendment Act 1970 No. 15 (as amd by 1970 No. 30 pt 2)

date of assent 16 April 1970

s 2 commenced 21 June 1973 (proc pubd gaz 23 June 1973 p 1579)

ss 3–4 commenced 29 October 1970 (proc pubd gaz 31 October 1970 p 816)

ss 7–11 never proclaimed into force and om 1970 No. 30 s 4(b)

remaining provisions commenced on date of assent

Stamp Act Amendment Act (No. 2) 1970 No. 30 pts 1, 3–4

date of assent 16 December 1970

pt 3 commenced 1 October 1970 (see s 3)

remaining provisions commenced on date of assent

Stamp Act Amendment Act 1971 No. 15

date of assent 19 April 1971

commenced on date of assent

Stamp Act Amendment Act (No. 2) 1971 No. 51

date of assent 15 November 1971

commenced 1 January 1972 (proc pubd gaz 11 December 1971 p 1679)

Metric Conversion Act 1972 No. 31 pt 2, s 6 sch 1

date of assent 21 December 1972

commenced 2 August 1973 (proc pubd gaz 4 August 1973 p 2466)

Stamp Act and Another Act Amendment Act 1973 No. 64 pts 1–2

date of assent 19 December 1973

ss 6, 11 commenced 1 September 1973 (see s 4(2))

remaining provisions commenced on date of assent

Stamp Act Amendment Act 1974 No. 16

date of assent 18 April 1974

commenced on date of assent

Limitation of Actions Act 1974 No. 75 s 4 sch

date of assent 1 November 1974

commenced 1 July 1975 (see s 2)

Stamp Act Amendment Act 1975 No. 65 (as amd by 1984 No. 17 s 28)

date of assent 1 December 1975

ss 15, 16(m) commenced 1 February 1976 (proc pubd gaz 17 January 1976 p 179)

s 16(p)–(q) commenced 1 January 1976 (see s 2(2))
remaining provisions commenced on date of assent

Stamp Act Amendment Act 1976 No. 30

date of assent 28 April 1976
commenced on date of assent

Succession and Gift Duties Abolition Act 1976 No. 93 pts 1, 3

date of assent 17 December 1976
commenced on date of assent

Stamp Act Amendment Act 1979 No. 12

date of assent 4 May 1979
ss 4, 6 commenced 7 May 1979 (see s 2(2))
ss 13–14, 28 commenced 22 October 1979 (proc pubd gaz 20 October 1979 p 771)
remaining provisions commenced on date of assent

Stamp Act Amendment Act (No. 2) 1979 No. 66

date of assent 19 December 1979
commenced on date of assent

Stamp Act Amendment Act 1980 No. 21

date of assent 12 May 1980
commenced on date of assent

Stamp Act Amendment Act 1981 No. 91

date of assent 26 November 1981
ss 3, 15, 16(a)–(b), 17, 19, 23(c)–(d) commenced 15 May 1981 (see s 2(1))
remaining provisions commenced on date of assent

Stamp Act Amendment Act (No. 2) 1981 No. 102

date of assent 16 December 1981
s 3 commenced on 1 January 1982 (see s 2(2))
remaining provisions commenced on date of assent

Companies (Consequential Amendments) Act 1981 No. 111 pts 1, 6

date of assent 16 December 1981
commenced 1 July 1982 (see s 2(4) and proc pubd gaz 29 June 1982 p 2102)

Stamp Act Amendment Act 1982 No. 18

date of assent 23 April 1982
commenced on date of assent

Stamp Act Amendment Act (No. 2) 1982 No. 53

date of assent 12 November 1982
s 3(a) commenced 15 November 1982 (see s 2(2))
s 3(b) commenced 1 November 1982 (see s 2(3))
remaining provisions commenced on date of assent

Stamp Act and Another Act Amendment Act 1982 No. 65 pts 1–2

date of assent 13 December 1982
commenced on date of assent

Stamp Act Amendment Act 1984 No. 17

date of assent 8 March 1984

s 4 commenced 12 March 1984 (proc pubd gaz 10 March 1984 p 950)
 ss 6, 11–12, 25(f), (h) commenced 1 May 1984 (proc pubd gaz 14 April 1984
 p 1603)
 ss 7–10, 13–14, 27–28 commenced 1 June 1984 (proc pubd gaz 14 April 1984
 p 1603)
 s 25(c) commenced 1 February 1984 (see s 2(3))
 remaining provisions commenced on date of assent

Stamp Act Amendment Act (No. 2) 1984 No. 109

date of assent 12 December 1984
 s 7 commenced on 1 June 1984 (see s 2(2))
 s 9(a) commenced 1 September 1984 (see s 2(3))
 s 21 commenced 24 December 1981 (see s 2(4))
 remaining provisions commenced on date of assent

Stamp Act Amendment Act 1985 No. 40

date of assent 19 April 1985
 commenced on date of assent

Stamp Act and Another Act Amendment Act 1985 No. 90 ss 1–23

date of assent 9 December 1985
 s 14 commenced 1 July 1985 (see s 2(2))
 s 16 commenced 9 April 1985 (see s 2(3))
 s 22 commenced 9 March 1967 (see s 2(4))
 s 23(b)(ii) commenced 9 April 1985 (see s 2(5))
 remaining provisions commenced on date of assent

Stamp Act Amendment Act 1986 No. 8

date of assent 20 March 1986
 commenced on date of assent

Stamp Act Amendment Act 1987 No. 4

date of assent 10 April 1987
 ss 4, 6 and 9 commenced 1 February 1987 (see s 3(2))
 ss 11, 15(c) commenced 30 October 1986 (see s 3(4))
 s 15(a) commenced 17 November 1986 (see s 3(3))
 remaining provisions commenced on date of assent

Stamp Act Amendment Act 1988 No. 34

date of assent 26 April 1988
 s 37 commenced 1 July 1985 (see s 3(2))
 ss 39–49 commenced 1 July 1988 (see s 3(4))
 s 56 commenced 15 September 1987 (see s 3(3))
 remaining provisions commenced on date of assent

Stamp Act Amendment Act (No. 2) 1988 No. 100

date of assent 8 December 1988
 ss 4–5, 10(b)(ii)–(v) commenced 1 January 1989 (see s 3(4))
 ss 6, 10(a) commenced 8 September 1988 (see s 3(3))
 ss 8, 10(b)(i) commenced 26 April 1988 (see s 3(2))
 remaining provisions commenced on date of assent

Stamp Act Amendment Act 1989 No. 32

date of assent 28 April 1989
 ss 5, 7(a)(i)–(ii) commenced 6 February 1989 (see s 3(2))
 s 7(a)(iii) commenced on 8 September 1988 (see s 3(3))
 s 7(b) commenced 17 April 1989 (see s 3(4))
 remaining provisions commenced on date of assent

Stamp Act Amendment Act 1990 No. 40

date of assent 21 June 1990
 ss 4(a)(i), 28, 32, 34–37, 39, 40, 42(a), (c), (f)–(i), (k)(ii), (m) commenced
 1 November 1989 (see s 3(2))
 ss 5, 31 commenced 1 September 1990 (see s 3(5) and proc pubd gaz 14 July 1990
 p 1647)
 ss 18(a), (b)(ii), (c), 25 commenced 26 June 1989 (see s 3(3))
 s 21 commenced 1 September 1988 (see s 3(4))
 remaining provisions commenced on date of assent

Corporations (Consequential Amendments) Act 1990 No. 99 pts 1, 3 sch

date of assent 12 December 1990
 commenced 1 January 1991 (proc pubd gaz 22 December 1990 p 2270)

Statute Law (Miscellaneous Provisions) Act 1991 No. 97 ss 1–2, 3 sch 1

date of assent 17 December 1991
 commenced on date of assent (see s 2)

Stamp Amendment Act 1991 No. 99

date of assent 17 December 1991
 ss 1–2 commenced on date of assent
 s 9 commenced 1 July 1988 (see s 2(2))
 s 12(1) commenced 26 April 1988 (see s 2(1))
 s 19 commenced 4 November 1991 (see s 2(3))
 remaining provisions commenced on date of assent

Queensland Office of Financial Supervision Act 1992 No. 12 ss 1–2, pt 6 s 66 sch

date of assent 6 May 1992
 ss 1–2 commenced on date of assent
 commenced 29 May 1992 (1992 SL No. 109)

Statute Law (Miscellaneous Provisions) Act 1992 No. 36 ss 1–2 sch 1

date of assent 2 July 1992
 commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1993 No. 32 ss 1–3 sch 2

date of assent 3 June 1993
 commenced on date of assent

Revenue Laws Amendment Act 1993 No. 51 pts 1, 5

date of assent 25 October 1993
 ss 1–2 commenced on date of assent
 ss 19–21, 23, 25(1) commenced 1 January 1994 (see s 2(3))
 s 25(5) commenced 1 December 1993 (see s 2(2))
 remaining provisions commenced on date of assent

Land Title Act 1994 No. 11 ss 1–2, 194 sch 2

date of assent 7 March 1994
ss 1–2 commenced on date of assent
commenced 24 April 1994 (1994 SL No. 132)

Statute Law (Miscellaneous Provisions) Act 1994 No. 15 ss 1–3 sch 1 (as amd 1999 No. 49 ss 1, 2(3), 38 sch) (as from 4 November 1999)

date of assent 10 May 1994
ss 1–2 commenced on date of assent
s 3 sch 1 amd 2 never proclaimed into force amd om 1991 No. 49 s 38 sch (as from 4 November 1999)
remaining provisions commenced 19 December 1997 (1997 SL No. 448)

Stamp Amendment Act 1994 No. 35

date of assent 12 August 1994
ss 1–2 commenced on date of assent
ss 4–16, 18, 20(1)–(8) commenced 1 September 1994 (see s 2(2))
s 17 commenced 31 May 1994 (see s 2(1))
remaining provisions commenced on date of assent

Lotteries Act 1994 No. 56 ss 1–2, 87 sch 2

date of assent 4 November 1994
ss 1–2 commenced on date of assent
remaining provisions commenced 8 December 1995 (1995 SL No. 337)

Building Units and Group Titles Act 1994 No. 69 ss 1–2, 229 sch 2

date of assent 1 December 1994
ss 1–2 commenced on date of assent
remaining provisions never proclaimed into force and rep 1995 No. 58 s 5(1) sch 7

Revenue Laws Amendment Act 1995 No. 28 pts 1, 4

date of assent 14 June 1995
ss 1–2 commenced on date of assent
remaining provisions commenced on 1 July 1995 (see s 2(1))

Revenue Laws Amendment Act (No. 2) 1995 No. 44 pts 1–2

date of assent 22 November 1995
s 4 commenced 7 April 1995 (see s 2(1))
remaining provisions commenced on date of assent

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1

date of assent 28 November 1995
commenced on date of assent

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995
commenced on date of assent

Stamp Act Amendment Act 1996 No. 12

date of assent 23 May 1996
ss 1–2 commenced on date of assent
remaining provisions commenced on 1 July 1996 (see s 2)

Revenue Laws Amendment Act (No. 2) 1996 No. 70 pts 1, 5

date of assent 9 December 1996
ss 22–23(1), 35(3) commenced 15 July 1996 (see s 2)
remaining provisions commenced on date of assent

WorkCover Queensland Act 1996 No. 75 ss 1–2, 535 sch 2

date of assent 12 December 1996
ss 1–2 commenced on date of assent
remaining provisions commenced 1 February 1997 (1996 SL No. 442)

Body Corporate and Community Management Act 1997 No. 28 ss 1–2, 295 sch 3

date of assent 22 May 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 13 July 1997 (1997 SL No. 210)

Cooperatives Act 1997 No. 39 ss 1–2, 472 sch 7

date of assent 25 August 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 1 September 1997 (1997 SL No. 286)

Revenue Laws Amendment Act 1997 No. 43 s 1 pt 4

date of assent 25 August 1997
commenced on date of assent

Revenue and Other Legislation Amendment Act 1997 No. 74 pts 1, 4

date of assent 1 December 1997
commenced on date of assent

Revenue and Other Legislation Amendment Act 1999 No. 13

ss 1–2(1), (7) pt 6
date of assent 30 March 1999
ss 1–2, 35, 37, 44–45, 47–48 commenced on date of assent (see s 2(1))
remaining provisions commenced 1 July 1999 (1999 SL No. 82)

Financial Sector Reform (Queensland) Act 1999 No. 27 ss 1–2(1), (4), 76 sch 1 pt 3

date of assent 16 June 1999
ss 1–2, 76 commenced on date of assent
remaining provisions commenced 1 July 1999 (see s 2(1) and proc pubd Cwlth of Australia gaz 29 June 1999, No. S283)

Revenue and Other Legislation Amendment Act (No. 2) 1999 No. 49 pts 1, 5 s 38 sch

date of assent 4 November 1999
pt 5 div 3 commences 6 October 1997 when an arrangement is made under the Commonwealth Places (Mirror Taxes Administration) Act 1999 (see s 2(1)–(2))
remaining provisions commenced on date of assent

Revenue Laws Amendment Act 1999 No. 78 s 1 pt 4

date of assent 14 December 1999
commenced on date of assent

Primary Industry Bodies Reform Act 1999 No. 88 ss 1, 2(2) pt 10 div 3

date of assent 21 December 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 21 January 2000 (see s 2(2))

Property Law Amendment Act 1999 No. 89 pt 1 s 8 sch

date of assent 21 December 1999
 commenced on date of assent

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2(1)–(2), 373 sch 2

date of assent 23 March 2000
 commenced on date of assent (see s 2(1)–(2))

GST and Related Matters Act 2000 No. 20 ss 1, 2(3), (4), 29 sch 3

date of assent 23 March 2000
 ss 1–2 commenced on date of assent
 sch 3 amdts 5–7 commenced 1 July 2001 (see s 2(3))
 remaining provisions commenced 1 July 2000 (see s 2(4))

Revenue Laws Amendment Act 2000 No. 48 s 1 pt 4

date of assent 17 November 2000
 commenced on date of assent

Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3

date of assent 28 June 2001
 sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)
 remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

7 List of annotations

Long title sub 1999 No. 49 s 38 sch

Short title

prov hdg amd 1999 No. 49 s 38 sch
s 1 amd 1999 No. 49 s 38 sch

Definitions

s 2 amd 1980 No. 21 s 2(a), (c); 1985 No. 90 s 3(b); 1988 No. 34 s 4; 1990 No. 40 s 4(b); 1991 No. 97 s 3 sch 1; 1999 No. 49 s 38 sch
 (1) reloc to sch 2 1999 No. 49 s 38 sch
 (2)–(4) renum as s 2AB 1999 No. 49 s 38 sch

Attachment

s 2AA ins 1999 No. 49 s 38 sch
 amd 2001 No. 45 s 29 sch 3

Effect of stamping duplicate instruments

prov hdg ins 1999 No. 49 s 38 sch
s 2AB (prev s 2(2)–(2A)) renum 1999 No. 49 s 38 sch

Meaning of “full unencumbered value”

s 2A ins 1988 No. 34 s 5
 amd 1996 No. 70 s 24

Special directions where property comprises certain shares

s 2B ins 1988 No. 34 s 5
amd 1991 No. 99 s 4

Mining claims, leases etc.

s 2C ins 1990 No. 40 s 5

Administration

s 3 amd 1918 9 Geo 5 No. 11 s 4

Charge of duties

s 4 sub 1982 No. 65 s 4
amd 1988 No. 34 s 6; 1990 No. 40 s 6; 2001 No. 45 s 29 sch 3

Restriction on effect of unstamped instruments

s 4A ins 1918 9 Geo 5 No. 11 s 5
amd 1980 No. 21 s 3; 1982 No. 65 s 5

Duty a debt recoverable by commissioner

prov hdg amd 1982 No. 18 s 2(a)
s 4B ins 1926 17 Geo 5 No. 10 s 3
amd 1982 No. 18 s 2(b)–(c)
sub 1988 No. 34 s 7

Governor in Council may grant exemption regarding works for public benefit

s 4C prev s 4C ins 1961 10 Eliz 2 No. 21 s 3
om 1979 No. 12 s 4
pres s 4C ins 1982 No. 18 s 3
om 1985 No. 90 s 4

Appointment of commissioner, deputies, and other officers

s 5 sub 1918 9 Geo 5 No. 11 s 6(1)–(2)
amd 1926 17 Geo 5 No. 10 s 4; 1958 7 Eliz 2 No. 44 s 3
sub 1974 No. 16 s 2
amd 1988 No. 34 s 8

Branch offices may be opened

s 6 amd 1988 No. 34 s 9; 1999 No. 49 s 38 sch

Duties and powers of assistant commissioner and deputy commissioners

s 7 amd 1918 9 Geo 5 No. 11 s 6(3); 1958 7 Eliz 2 No. 44 s 4
sub 1988 No. 34 s 10

Delegation

s 7A ins 1988 No. 34 s 11

Commissioner's opinion

s 7B ins 1988 No. 34 s 11

Commissioner to supervise branch offices

prov hdg amd 1918 9 Geo 5 No. 11 s 6(4)
s 8 amd 1918 9 Geo 5 No. 11 s 6(4)

Collection of Commonwealth tax on receipts

s 8A ins 1970 No. 15 s 3
om 1988 No. 34 s 12

Inspectors

- s 9** amd 1918 9 Geo 5 No. 11 s 7; 1926 17 Geo 5 No. 10 s 5
 sub 1979 No. 12 s 5
 amd 1984 No. 109 s 4
 om 1988 No. 34 s 13

Disclosure of information

- s 10** sub 1918 9 Geo 5 No. 11 s 8
 amd 1958 7 Eliz 2 No. 44 s 5
 sub 1988 No. 34 s 14

Inspector may take possession of unstamped documents

- prov hdg** amd 1926 17 Geo 5 No. 10 s 6
s 11 amd 1918 9 Geo 5 No. 11 s 6(4); 1926 17 Geo 5 No. 10 s 6
 om 1988 No. 34 s 15

Appeal from decision of deputy commissioner

- s 12** om 1918 9 Geo 5 No. 11 s 9

All duties to be paid according to this Act

- prov hdg** amd 1988 No. 34 s 16(a)
s 13 amd 1958 7 Eliz 2 No. 44 s 6; 1988 No. 34 s 16(b); 1999 No. 49 s 38 sch

Duty accounted for by returns

- s 13A** ins 1988 No. 34 s 17
 amd 1991 No. 99 s 5

Facts and circumstances affecting duty to be disclosed

- s 16** amd 1918 9 Geo 5 No. 11 s 10; 1926 17 Geo 5 No. 10 s 7
 sub 1988 No. 34 s 18
 amd 1991 No. 97 s 3 sch 1; 1994 No. 15 s 3 sch 1 (amdt 1)

Mode of calculating ad valorem duty in certain cases

- s 17** amd 1984 No. 90 s 5; 1996 No. 70 s 25

General direction as to the cancellation of adhesive stamps

- s 18** amd 1926 17 Geo 5 No. 10 s 8; 1988 No. 34 s 19

Penalty for frauds in relation to adhesive stamps

- s 19** om 1899 63 Vic No. 9 s 3 sch 3

Denoting stamps

- s 21** amd 1918 9 Geo 5 No. 11 s 6(4)

Assessment of duty by commissioner

- prov hdg** amd 1918 9 Geo 5 No. 11 s 6(4)
s 22 amd 1918 9 Geo 5 No. 11 s 6(4); 1968 No. 11 s 2; 1982 No. 65 s 6; 1988
 No. 34 s 20; 1990 No. 40 s 7; 1992 No. 36 s 2 sch 1; 1996 No. 70
 s 34(1)–(2)

Rounding down amounts of duty etc.

- s 22AA** ins 1992 No. 36 s 2 sch 1

Default assessments of duty

- s 22A** ins 1981 No. 91 s 4

sub 1988 No. 34 s 21
 amd 1991 No. 99 s 6; 2000 No. 48 s 13; 2001 No. 45 s 29 sch 3

Commissioner may require information

prov hdg amd 1918 9 Geo 5 No. 11 s 6(4)
 sub 1981 No. 91 s 5

s 23 amd 1918 9 Geo 5 No. 11 s 6(4); 1926 17 Geo 5 No. 10 s 9; 1981 No. 91 s 5
 sub 1988 No. 34 s 22

Offence not to comply with s 23

s 23A ins 1981 No. 91 s 6
 amd 1984 No. 109 s 5; 1985 No. 90 s 6
 sub 1988 No. 34 s 23

False or misleading statements

s 23B ins 1988 No. 34 s 24

Penalty duty when s 23 not complied with

s 23C ins 1988 No. 34 s 24

Objection against assessment

s 23D ins 1991 No. 99 s 7

Notification to agent is notification to principal

s 23E ins 1992 No. 36 s 2 sch 1

Persons dissatisfied may appeal

s 24 amd 1918 9 Geo 5 No. 11 s 6(4); 1929 20 Geo 5 No. 21 s 2; 1979 No. 12 s 6;
 1989 No. 32 s 4; 1991 No. 99 s 8

Evidence of parties to instruments

s 25 prev s 25 om 1918 9 Geo 5 No. 11 s 11
 pres s 25 ins 1968 No. 11 s 3
 amd 1980 No. 21 s 4; 1988 No. 34 s 25; 1990 No. 40 s 8

Liability in respect of stamp duties payable upon instruments

s 26 amd 1918 9 Geo 5 No. 11 s 6(4)
 sub 1968 No. 11 s 4
 amd 1970 No. 30 s 5; 1980 No. 21 s 5; 1982 No. 65 s 7; 1988 No. 34 s 26;
 1990 No. 40 s 9; 1995 No. 58 s 4 sch 1; 1996 No. 70 s 34(1), (3)–(4); 1999
 No. 49 s 38 sch

Instrument not to be delivered up till duty and penalty paid

s 28 amd 1918 9 Geo 5 No. 11 s 6(4); 1988 No. 34 s 27; 1990 No. 40 s 10

Powers of investigation

s 29 amd 1918 9 Geo 5 No. 11 s 6(4)
 sub 1979 No. 12 s 7
 amd 1981 No. 91 s 7
 sub 1988 No. 34 s 28
 amd 2000 No. 5 s 373 sch 2; 2000 No. 48 s 14

Restriction on entry to investigate

s 29A ins 1988 No. 34 s 29
 amd 1996 No. 70 s 34(5); 1999 No. 13 s 36

Obstruction etc. of an investigating officer

s 29B ins 1988 No. 34 s 29

False or misleading statements

s 29C ins 1988 No. 34 s 29

Penalty for registering instrument not duly stamped

s 30 amd 1926 17 Geo 5 No. 10 s 10; 1986 No. 8 s 2; 1988 No. 34 s 30; 1990 No. 40 s 11; 1994 No. 11 s 194 sch 2

No company to register unstamped transfer

s 31 amd 1918 9 Geo 5 No. 11 s 12
om 1966 No. 15 s 4

Transfers of marketable securities and share rights

prov hdg sub 1979 No. 12 s 8

s 31A ins 1904 4 Edw 7 No. 14 s 2

sub 1926 17 Geo 5 No. 10 s 11

amd 1929 20 Geo 5 No. 21 s 3; 1962 No. 28 s 3; 1966 No. 15 s 5; 1987 No. 4 s 4; 1990 No. 40 s 12; 1994 No. 35 s 4; 1996 No. 70 s 26; 2000 No. 20 s 29 sch 3

Transfer to company of shares bought back by company is dutiable

s 31AB ins 1999 No. 13 s 37
2001 No. 45 s 29 sch 3

Interpretation

s 31B ins 1966 No. 15 s 6

amd 1970 No. 6 s 15; 1979 No. 66 s 2; 1981 No. 111 s 23 sch; 1987 No. 4 s 5; 1990 No. 40 s 13; 1994 No. 35 s 5; 1999 No. 49 s 38 sch; 2001 No. 45 s 29 sch 3

Application of ss 31C, 31E, 31G, 31GA and 31H

s 31BAA ins 2000 No. 20 s 29 sch 3

Options—marketable securities and share rights

prov hdg amd 1997 No. 74 s 9(1)

s 31BA ins 1995 No. 44 s 4

amd 1997 No. 74 s 9(2)–(4)

Sales and purchases to be recorded

s 31C ins 1966 No. 15 s 6

amd 1984 No. 109 s 6; 1988 No. 34 s 31; 1990 No. 40 s 14; 1994 No. 35 s 6; 1995 No. 58 s 4 sch 1

Returns to be lodged and duty paid

s 31D ins 1966 No. 15 s 6

amd 1971 No. 51 s 3; 1984 No. 17 s 4; 1984 No. 109 s 7(1); 1987 No. 4 s 6; 1988 No. 34 s 32; 1990 No. 40 s 15; 1994 No. 35 s 7; 1995 No. 28 s 12; 1995 No. 58 s 4 sch 1; 1996 No. 70 s 34(1), (6); 1997 No. 74 s 8 sch

Endorsement of transfer as to payment of duty

s 31E ins 1966 No. 15 s 6

amd 1984 No. 109 s 8; 1990 No. 40 s 16; 1994 No. 35 s 8; 1995 No. 58 s 4 sch 1

Power to dealer to recover duty paid by dealer

s 31F ins 1966 No. 15 s 6
amd 1990 No. 40 s 17

Transfers of marketable securities not to be registered unless duly stamped

s 31G ins 1966 No. 15 s 6
amd 1979 No. 12 s 9; 1984 No. 17 s 5; 1985 No. 90 s 7; 1988 No. 34 s 33;
1994 No. 35 s 9; 1999 No. 78 s 12

Retention of transfer instrument

s 31GA ins 1988 No. 34 s 34
amd 1990 No. 99 s 3.1 sch; 1994 No. 35 s 10; 2000 No. 20 s 29 sch 3; 2001
No. 45 s 29 sch 3

Duty on transactions on registers of Queensland incorporated companies

prov hdg sub 1987 No. 4 s 7(a)
amd 2001 No. 45 s 29 sch 3

s 31H ins 1982 No. 65 s 8
amd 1987 No. 4 s 7(b)–(g); 1988 No. 34 s 35; 1990 No. 99 s 3.1 sch; 1994
No. 35 s 11; 1995 No. 58 s 4 sch 1; 1996 No. 70 s 27; 1999 No. 13 s 38;
1999 No. 78 s 13; 2001 No. 45 s 29 sch 3

Transitional provision—ss 31H and 31I

s 31I ins 1982 No. 65 s 9
amd 1987 No. 4 s 8
sub 1994 No. 35 s 12

Transitional provision—contract or agreement for sale and transfer of marketable security or right in respect of shares

s 31IA ins 1994 No. 35 s 12

Duty on certain transactions on the Stock Exchange of the United Kingdom

s 31J ins 1985 No. 90 s 8
amd 1987 No. 4 s 9; 1988 No. 34 s 36; 1990 No. 40 s 18; 1990 No. 99 s 3.1
sch; 1994 No. 35 s 13; 1995 No. 58 s 4 sch 1; 1996 No. 70 s 34(1);
1997 No. 74 s 8 sch; 1999 No. 49 s 38 sch; 2000 No. 20 s 29 sch 3

Application of CHESS provisions

s 31K ins 1994 No. 35 s 14
amd 1996 No. 70 s 28; 2000 No. 20 s 29 sch 3; 2001 No. 45 s 29 sch 3

Transfer documents treated as instruments of conveyance

s 31L ins 1994 No. 35 s 14

SCH participant liable to pay duty

s 31M ins 1994 No. 35 s 14

Record of SCH-regulated transfers

s 31N ins 1994 No. 35 s 14
amd 1996 No. 70 s 29; 2000 No. 20 s 29 sch 3

Particulars to be included by relevant participant in transfer document

s 31O ins 1994 No. 35 s 14

Exemption if duty paid on instrument

s 31P ins 1994 No. 35 s 14
amd 2000 No. 20 s 29 sch 3

Statement to be made and duty paid

s 31Q ins 1994 No. 35 s 14
amd 1996 No. 70 s 34(7)

Failure to pay duty

s 31R ins 1994 No. 35 s 14

Refund for error transaction

s 31S ins 1994 No. 35 s 14

Registration as the securities clearing house

s 31T ins 1994 No. 35 s 14
amd 2001 No. 45 s 29 sch 3

Monthly return

s 31U ins 1994 No. 35 s 14
amd 1996 No. 70 s 34(8)

Particulars stated by participants to be kept by SCH

s 31V ins 1994 No. 35 s 14
amd 2000 No. 20 s 29 sch 3

Disclosure to the SCH of information

s 31W ins 1994 No. 35 s 14

Liability to account for duty for a security loan or security lending scheme for more than 1 year

s 31X ins 1994 No. 35 s 14
amd 1996 No. 70 ss 30, 34(7)

Relevant SCH participant's identification code equivalent to stamping

s 31Y ins 1994 No. 35 s 14

Duty on agreements may be denoted by adhesive stamp

s 32 amd 1918 9 Geo 5 No. 11 s 13; 1926 17 Geo 5 No. 10 s 12
om 1990 No. 40 s 19

Instalment-purchase agreements

s 32A ins 1959 8 Eliz 2 No. 42 s 2
sub 1965 No. 46 s 3
amd 1968 No. 11 s 5; 1970 No. 30 s 10; 1979 No. 12 s 10; 1984 No. 17 s 6;
1995 No. 58 s 4 sch 1; 1996 No. 70 s 34(9); 2000 No. 20 s 29 sch 3

Charter-party may be stamped with adhesive stamp

s 33 om 1990 No. 40 s 20

Penalty for issue of unstamped share certificate, &c.

s 34 prev s 34 om 1918 9 Geo 5 No. 11 s 14
pres s 34 ins 1926 17 Geo 5 No. 10 s 13
om 1973 No. 64 s 5

Credit and rental business

s 35 prev s 35 amd 1918 9 Geo 5 No. 11 s 15
om 1955 4 Eliz 2 No. 44 s 2
pres s 35 ins 1968 No. 11 s 6(2)
amd 1970 No. 30 s 11; 1971 No. 15 s 2(1); 1973 No. 64 s 6; 1975 No. 65 s 3;
1979 No. 12 s 11; 1981 No. 111 s 23 sch; 1984 No. 17 s 7; 1984 No. 109 s
9; 1985 No. 90 s 9; 1987 No. 4 s 10; 1990 No. 40 s 21; 1992 No. 12 s 66
sch; 1999 No. 27 s 76 sch 1 pt 3; 1999 No. 49 s 38 sch; 2001 No. 45 s 29
sch 3

Persons carrying on credit or rental business to be registered

s 35A ins 1968 No. 11 s 6(2)
amd 1975 No. 65 s 4; 1979 No. 66 s 3(1); 1984 No. 17 s 8; 1995 No. 58 s 4
sch 1; 1996 No. 70 s 34(1), (10); 1999 No. 13 s 39

Certificates of registration of persons carrying on credit or rental business in Queensland

s 35AA ins 1999 No. 13 s 40

Statements to be lodged by required persons with the commissioner

prov hdg amd 1985 No. 90 s 10(a)
s 35B ins 1968 No. 11 s 6(2)
amd 1975 No. 65 s 5; 1979 No. 12 s 12; 1980 No. 21 s 6; 1981 No. 91 s 8;
1982 No. 18 s 5; 1984 No. 17 s 9; 1984 No. 109 s 10; 1985 No. 90 s 10(b);
1990 No. 40 s 22; 1995 No. 28 s 13; 1996 No. 70 s 34(1); 1997 No. 74 s 8
sch; 1999 No. 13 s 41; 1999 No. 49 s 36; 2000 No. 20 s 29 sch 3

Required persons to keep records

prov hdg amd 1985 No. 90 s 11(a)
s 35C ins 1968 No. 11 s 6(2)
amd 1984 No. 17 s 10; 1985 No. 90 s 11(b); 1995 No. 58 s 4 sch 1; 2000
No. 48 s 15

Penalties

s 35D ins 1968 No. 11 s 6(2)
amd 1981 No. 91 s 9; 1984 No. 17 s 11; 1985 No. 90 s 12; 1995 No. 58 s 4
sch 1

As to transactions with unregistered persons

s 35E ins 1968 No. 11 s 6(2)
amd 1975 No. 65 ss 6–7; 1984 No. 17 s 12; 1984 No. 109 s 11; 1985 No. 90
s 13; 1999 No. 13 s 42

Exemption from credit duty of certain loans by registered persons

s 35F ins 1973 No. 64 s 7
sub 1984 No. 17 s 13
amd 1999 No. 49 s 38 sch

Orders in council to be laid before Legislative Assembly

s 35G ins 1973 No. 64 s 8
amd 1975 No. 65 s 8; 1984 No. 17 s 14
om 1999 No. 49 s 38 sch

Undertaking by financial institutions

s 35H ins 1984 No. 17 s 15
amd 1996 No. 70 s 34(11)

Stamp duty not chargeable on certain orders

s 36 amd 1929 20 Geo 5 No. 21 s 4
sub 1993 No. 51 s 19
amd 1999 No. 88 s 120

Meaning of “Promissory Note”

s 37 om 1993 No. 51 s 20

Duties on foreign bills of exchange, etc.

s 38 sub 1981 No. 91 s 10; 1984 No. 17 s 16
om 1993 No. 51 s 20

Use of adhesive stamps on bills and notes

s 39 amd 1926 17 Geo 5 No. 10 s 14; 1956 5 Eliz 2 No. 13 s 2; 1962 No. 28 s 4;
1965 No. 46 s 4(1); 1971 No. 51 s 4; 1975 No. 65 s 9
sub 1981 No. 91 s 11
amd 1984 No. 17 s 17
om 1993 No. 51 s 20

Provisions as to stamping foreign bills and notes

s 40 amd 1918 9 Geo 5 No. 11 s 6(4); 1962 No. 28 s 5; 1981 No. 91 s 12
om 1993 No. 51 s 20

Penalty for issuing, etc. unstamped bill or note

s 41 amd 1926 17 Geo 5 No. 10 s 15
sub 1981 No. 91 s 13
amd 1984 No. 17 s 18
om 1993 No. 51 s 20

Irregularity in cancelling stamp not to debar bona fide holder from recovery on bill or note

s 41A ins 1981 No. 91 s 14
om 1984 No. 17 s 19

One bill only of a set need be stamped

s 42 om 1993 No. 51 s 20

Stamp Duty on return of accounts settled

s 42A ins 1970 No. 15 s 4
om 1993 No. 51 s 20

Stamp duty on credit card business

s 42B ins 1975 No. 65 s 10
amd 1976 No. 30 s 3; 1985 No. 90 s 14; 1988 No. 34 s 37; 1993 No. 51 s 21;
1995 No. 58 s 4 sch 1; 1996 No. 70 s 34(12); 1999 No. 49 s 38 sch

Bills of lading not to be stamped after execution

s 43 amd 1918 9 Geo 5 No. 11 s 16; 1940 4 Geo 6 No. 23 s 2
om 1990 No. 40 s 23

Payment of duties on documents registered with clerk of petty sessions, warden etc.

s 45 sub 1904 4 Edw 7 No. 14 s 3
 amd 1995 No. 57 s 4 sch 1

Collection of duties by the chief executive (of the department in which the Land Act 1994 is administered)

s 45A ins 1988 No. 34 s 38

Policies executed outside Queensland

s 46 amd 1918 9 Geo 5 No. 11 s 17
 sub 1926 17 Geo 5 No. 10 s 16; 1988 No. 34 s 39

Policies executed in Queensland

s 46A ins 1961 10 Eliz 2 No. 21 s 4
 amd 1966 No. 15 s 7; 1979 No. 12 s 13; 1981 No. 11 s 23 sch
 sub 1988 No. 34 s 40

Risk of consequential loss or damage

s 46B ins 1961 10 Eliz 2 No. 21 s 5
 amd 1966 No. 15 s 8; 1979 No. 12 s 14; 1981 No. 11 s 23 sch
 sub 1988 No. 34 s 41

Insurance with no executed policy

s 46C ins 1988 No. 34 s 42
 amd 1991 No. 99 s 9; 1999 No. 13 s 43

Relief from duty where duty also chargeable in other States or Territories

s 46D ins 1988 No. 34 s 42

Liability for duty on a policy and lodgment

s 46E ins 1988 No. 34 s 43

Approved insurers to pay duty by return

s 46F ins 1988 No. 34 s 43
 amd 1990 No. 40 s 24; 1996 No. 70 s 34(1)

Policy of temporary insurance

s 47 amd 1918 9 Geo 5 No. 11 s 18
 sub 1988 No. 34 s 44

Policies of marine insurance in sets

s 47A ins 1966 No. 15 s 9
 sub 1988 No. 34 s 45

Workers' compensation insurance

s 47B ins 1966 No. 15 s 10
 sub 1988 No. 34 s 46
 amd 1996 No. 75 s 535 sch 2

Continuous insurance

s 48 prev s 48 om 1918 9 Geo 5 No. 11 s 19
 pres s 48 ins 1955 4 Eliz 2 No. 44 s 3
 amd 1961 10 Eliz 2 No. 21 s 6
 sub 1988 No. 34 s 47

Assessment of duty where premium unascertainable

- s 48A** ins 1918 9 Geo 5 No. 11 s 20
 amd 1926 17 Geo 5 No. 10 s 17
 sub 1988 No. 34 s 48; 1988 No. 100 s 4
 amd 1990 No. 40 s 25; 1996 No. 75 s 535 sch 2

Increase in premium

- s 48B** ins 1955 4 Eliz 2 No. 44 s 4
 sub 1988 No. 34 s 49; 1988 No. 100 s 5

Certain insurance policies need not be produced

- s 48C** ins 1987 No. 4 s 11

Establishment of true premium

- s 48D** ins 1990 No. 40 s 26

Meaning of “conveyance or transfer” and provisions affecting the same

- s 49** amd 1918 9 Geo 5 No. 11 s 21
 sub 1926 17 Geo 5 No. 10 s 18
 amd 1961 10 Eliz 2 No. 21 s 7
 sub 1979 No. 12 s 15
 amd 1988 No. 34 s 50; 1990 No. 40 s 27; 1991 No. 97 s 3 sch 1; 1994 No. 15
 s 3 sch 1 (amdt 2) (never proclaimed into force and om 1999 No. 49
 s 38 sch); 1995 No. 44 s 5

Collection of duty in cases of property vested by Act or purchased under statutory power

- s 49A** ins 1918 9 Geo 5 No. 11 s 22
 amd 1926 17 Geo 5 No. 10 s 19

Nature of conveyance upon winding-up of company

- s 49B** prev s 49B ins 1959 8 Eliz 2 No. 42 s 3
 amd 1961 10 Eliz 2 No. 21 s 8
 prev s 49B om 1962 No. 28 s 5
 pres s 49B ins 1970 No. 15 s 5

Relief from conveyance and transfer duty upon company reconstruction or amalgamation

- s 49C** ins 1970 No. 15 s 6
 amd 1979 No. 66 s 4(1); 1980 No. 21 s 7; 1982 No. 18 s 6; 1984 No. 109 s 12;
 1987 No. 4 s 12; 1999 No. 49 s 38 sch; 1999 No. 78 s 14

Duty and penalty on conveyance or transfer in certain cases

- s 49D** ins 1985 No. 90 s 15

Duty and penalty on declaration of trust in certain cases

- s 49E** ins 1985 No. 90 s 16

How ad valorem duty to be calculated in respect of stock, marketable securities and share rights

- prov hdg** amd 1996 No. 70 s 31(1)
s 50 amd 1918 9 Geo 5 No. 11 s 23; 1996 No. 70 s 31(2)–(5)

How consideration consisting of periodical payments to be charged

- s 51** amd 1926 17 Geo 5 No. 10 s 20

sub 1979 No. 12 s 16
amd 1981 No. 91 s 15

Voluntary disposition to a company deemed to be a voluntary conveyance

s 51A ins 1918 9 Geo 5 No. 11 s 24

Valuation of property passing under voluntary conveyance

s 51B ins 1918 9 Geo 5 No. 11 s 24

Valuation in certain circumstances

prov hdg sub 1984 No. 109 s 13(a)

s 51C ins 1918 9 Geo 5 No. 11 s 24

amd 1926 17 Geo 5 No. 10 s 21; 1984 No. 109 s 13; 2000 No. 48 s 16

Improvements effected by transferee

s 51D ins 1955 4 Eliz 2 No. 44 s 5

Minimum value of certain shares or stock

s 51E ins 1988 No. 34 s 51

Directions as to duty in certain cases

s 53 amd 1918 9 Geo 5 No. 11 s 25; 1926 17 Geo 5 No. 10 s 22; 1929 20 Geo 5 No. 21 s 5; 1966 No. 15 s 11; 1975 No. 65 s 11; 1981 No. 91 s 16; 1984 No. 109 s 14; 1985 No. 90 s 17; 1988 No. 34 s 52; 1994 No. 35 s 15; 1995 No. 58 s 4 sch 1

Further provisions re stock or marketable security

s 53A ins 1928 19 Geo 5 No. 13 s 2(i)

amd 1993 No. 32 s 3 sch 2

Calculation of value where property subject to a lease

s 53B ins 1988 No. 34 s 53

Certain contracts to be chargeable as conveyances

prov hdg amd 1988 No. 34 s 54(a)

s 54 amd 1918 9 Geo 5 No. 11 s 26; 1926 17 Geo 5 No. 10 s 23; 1929 20 Geo 5 No. 21 s 6; 1930 21 Geo 5 No. 49 s 2; 1963 No. 35 s 2; 1965 No. 46 s 5; 1975 No. 65 s 12; 1979 No. 12 s 17; 1981 No. 91 s 17; 1982 No. 65 s 10; 1984 No. 109 s 15; 1988 No. 34 s 54(b)–(d); 1999 No. 13 s 44; 1999 No. 49 s 38 sch; 2001 No. 45 s 29 sch 3

Liability to account for duty upon transfer of business

s 54A ins 1968 No. 11 s 7(2)

amd 1979 No. 12 s 18; 1981 No. 91 s 18; 1982 No. 65 s 11; 1984 No. 109 s 16; 1985 No. 90 s 18; 1991 No. 99 s 10; 1995 No. 58 s 4 sch 1; 1996 No. 70 s 34(13)

Duty payable where no dutiable instrument

s 54AB ins 1987 No. 4 s 13

amd 1988 No. 34 s 55; 1991 No. 99 s 11; 1996 No. 70 s 34(13); 1997 No. 74 s 10; 1999 No. 49 s 38 sch

Duty payable on change of beneficial ownership of marketable securities and rights in respect of shares

s 54AC ins 1994 No. 35 s 16
amd 1996 No. 70 s 34(7); 2000 No. 20 s 29 sch 3

Statutory business licences

s 54AD ins 1995 No. 44 s 6

Water entitlements

s 54AE ins 2000 No. 48 s 17

Partition or division

prov hdg sub 1984 No. 109 s 17(a)(i)
s 55 prev s 55 om 1918 9 Geo 5 No. 11 s 27
pres s 55 ins 1930 21 Geo 5 No. 49 s 3
amd 1979 No. 12 s 19; 1984 No. 109 s 17(a)(ii)–(b); 1990 No. 40 s 28

Duty relating to principal place of residence and first principal place of residence

prov hdg amd 1984 No. 17 s 20(a)
s 55A ins 1982 No. 65 s 12
amd 1984 No. 17 s 20(b)–(f); 1988 No. 34 s 56; 1988 No. 100 s 6; 1989
No. 32 s 5; 1990 No. 40 s 29; 1993 No. 51 s 22; 1995 No. 44 s 7; 1995
No. 58 s 4 sch 1; 1996 No. 70 s 34(1); 1999 No. 49 s 25

Duty in respect of prescribed family rural properties

s 55B ins 1984 No. 109 s 18
amd 1995 No. 58 s 4 sch 1; 2001 No. 45 s 29 sch 3

Transactions involving certain family businesses

s 55C ins 1984 No. 109 s 18
amd 1995 No. 58 s 4 sch 1; 2001 No. 45 s 29 sch 3

Certain instruments of annuity need not be produced

s 56A ins 1984 No. 109 s 19

Unit trust schemes

s 56B ins 1984 No. 109 s 20
amd 1985 No. 90 s 19(1); 1988 No. 34 s 57; 1988 No. 100 s 7; 1990 No. 40
s 30; 1990 No. 99 s 3.1 sch; 1995 No. 58 s 4 sch 1; 1999 No. 13 s 45; 1999
No. 49 ss 26, 38 sch; 2000 No. 48 s 18; 2001 No. 45 s 29 sch 3

Companies involving trusts

s 56C ins 1984 No. 109 s 20
amd 1985 No. 90 s 20
sub 1988 No. 34 s 58
amd 1988 No. 100 s 8; 1990 No. 99 s 3.1 sch; 2000 No. 48 s 19; 2001 No. 45
s 29 sch 3

Conveyance of land by way of security

s 56D ins 1985 No. 90 s 21

Conveyance of other property by way of security

s 56E ins 1985 No. 90 s 21
amd 1988 No. 34 s 59

Meaning of “prescribed provisions”

s 56F ins 1988 No. 34 s 60

Interpretation

s 56FA ins 1988 No. 34 s 60
amd 1990 No. 40 s 31; 1991 No. 99 s 12; 1999 No. 49 ss 27, 38 sch; 2000
No. 48 s 20; 2001 No. 45 s 29 sch 3

Lodgment of statements where trust acquires interest

s 56FB ins 1988 No. 34 s 60

Valuation of property

prov hdg amd 1999 No. 49 s 28(1)

s 56FC ins 1988 No. 34 s 61
amd 1995 No. 57 s 4 sch 1; 1996 No. 70 s 34(12); 1999 No. 49 s 28(2)–(4);
2000 No. 48 s 21

Charge may be recorded on title

s 56FD ins 1988 No. 34 s 61
amd 1994 No. 11 s 194 sch 2; 1996 No. 70 s 34(1)

Charge on land

s 56FE ins 1988 No. 34 s 61

Power of sale

s 56FF ins 1988 No. 34 s 62

Application of proceeds of sale

s 56FG ins 1988 No. 34 s 62
amd 1994 No. 11 s 194 sch 2

When statement to be lodged

s 56FH ins 1988 No. 34 s 62
amd 1991 No. 99 s 13; 1996 No. 70 s 34(1); 1999 No. 49 s 29

Corporation to lodge a statement

s 56FI ins 1988 No. 34 s 63
amd 1996 No. 70 s 34(14)

Subsidiary to lodge a statement

s 56FJ ins 1988 No. 34 s 63
amd 1996 No. 70 s 34(1)

Statement chargeable with duty

s 56FK ins 1988 No. 34 s 63
amd 1991 No. 99 s 14; 1997 No. 74 s 11; 2000 No. 48 s 22

Corporations to which the prescribed provisions apply

s 56FL ins 1988 No. 34 s 64
amd 1988 No. 100 s 9; 1990 No. 99 s 3.1 sch; 1997 No. 74 s 12; 2000 No. 48
s 23; 2001 No. 45 s 29 sch 3

Land or property to which corporation or subsidiary entitled

s 56FLA ins 2000 No. 48 s 24

Calculating value of land or property of corporation or subsidiary

s 56FLB ins 2000 No. 48 s 24

Meaning of “relevant acquisition”

s 56FM ins 1988 No. 34 s 64

Meaning of “interest”, “majority interest” and “further interest”

s 56FN ins 1988 No. 34 s 64
amd 1991 No. 99 s 15; 1999 No. 49 s 30

Special directions as to duty

s 56FO ins 1988 No. 34 s 65

What is to be deemed a conveyance on any occasion not being a sale or mortgage

s 57 amd 1926 17 Geo 5 No. 10 s 24
sub 1979 No. 12 s 20
amd 1980 No. 21 s 8; 1981 No. 91 s 19

Motor vehicles

s 57A ins 1966 No. 15 s 12
amd 1985 No. 90 s 22; 1988 No. 34 s 66; 1995 No. 44 s 8; 1996 No. 70
s 34(1); 2000 No. 20 s 29 sch 3; 2000 No. 48 s 25

Banknotes to be exempt subject to annual composition

s 58 om 1984 No. 17 s 21

As to settlement of policy or security

s 59 amd 1926 17 Geo 5 No. 10 s 25

Matrimonial arrangements—interpretation

s 59A ins 1984 No. 109 s 21

Matrimonial instruments

s 59B ins 1984 No. 109 s 21

Nominal duty on matrimonial instruments

s 59C ins 1984 No. 109 s 21

Refund of excess duty

s 59D ins 1984 No. 109 s 21

Conveyance duty exemption for educational, religious and other institutions

s 59E ins 1988 No. 34 s 67
amd 1989 No. 32 s 6; 1990 No. 40 s 32; 1999 No. 49 s 38 sch

Listed companies and trusts

s 59F ins 1990 No. 40 s 33
amd 1990 No. 99 s 3.1 sch; 1991 No. 99 s 16; 2001 No. 45 s 29 sch 3

Where several instruments, 1 only be charged with ad valorem duty

s 61 amd 1926 17 Geo 5 No. 10 s 26; 1973 No. 64 s 9; 1981 No. 91 s 20; 1990
No. 40 s 34

Duty upon instruments relating to variation or reconstitution of superannuation schemes

s 61A ins 1982 No. 65 s 13

Instrument amending a trust deed constituting a public unit trust scheme

- s 61B** ins 1986 No. 8 s 3
 amd 1990 No. 99 s 3.1 sch; 1999 No. 49 s 31; 2000 No. 48 s 26; 2001 No. 45
 s 29 sch 3

Agreement for lease

- s 62** amd 1975 No. 65 s 13
 sub 1988 No. 34 s 68

Directions as to duty in certain cases

- s 64** amd 1926 17 Geo 5 No. 11 s 27; 1930 21 Geo 5 No. 49 s 4; 1975 No. 65 s 14;
 1979 No. 12 s 21; 1988 No. 34 s 69; 1999 No. 49 s 38 sch

Provisions affecting the term of leases

- s 64A** ins 1975 No. 65 s 15
 amd 1979 No. 12 s 22; 1981 No. 91 s 21
 sub 1988 No. 34 s 70

Provisions affecting the payment of duty on leases

- s 64B** ins 1988 No. 34 s 71
 amd 1996 No. 70 s 34(1)

Refund of duty

- s 64C** ins 1988 No. 34 s 71

Licence to occupy premises

- s 64D** ins 1995 No. 44 s 9
 amd 2000 No. 48 s 27

Meaning of “mortgage”

- s 65** amd 1918 9 Geo 5 No. 11 s 28; 1959 8 Eliz 2 No. 42 s 4; 1986 No. 8 s 4; 1988
 No. 34 s 72; 1990 No. 40 s 35

Agreement to grant mortgage

- s 66** prev s 66 om 1918 9 Geo 5 No. 11 s 29
 pres s 66 ins 1926 17 Geo 5 No. 10 s 28
 amd 1979 No. 12 s 23; 1986 No. 8 s 5; 1990 No. 40 s 36

Caveats

- s 66A** ins 1986 No. 8 s 6
 amd 1990 No. 40 s 37; 1994 No. 11 s 194 sch 2

Directions as to duty in certain cases

- s 67** amd 1990 No. 40 s 38

Loan application or offer to be dutiable in certain circumstances

- s 67A** ins 1986 No. 8 s 7
 amd 1990 No. 99 s 3.1 sch; 2001 No. 45 s 29 sch 3

Security for future advances, how to be charged

- s 68** sub 1918 9 Geo 5 No. 11 s 30
 amd 1995 No. 58 s 4 sch 1

Security of third party

- s 68AA** ins 1997 No. 43 s 20

Trust deed in respect of debentures

s 68A ins 1961 10 Eliz 2 No. 21 s 9
amd 1963 No. 35 s 3; 1979 No. 12 s 24; 1984 No. 17 s 22; 1987 No. 4 s 14

Prescribed short-term debenture

s 68B ins 1984 No. 17 s 23
amd 1986 No. 8 s 8; 1995 No. 58 s 4 sch 1; 2001 No. 45 s 29 sch 3

No duty on financial corporation debentures

s 68C ins 1994 No. 35 s 17
amd 2001 No. 45 s 29 sch 3

Commutation of duty on debentures etc. of local bodies

s 69 prev s 69 om 1918 9 Geo 5 No. 11 s 30
pres s 69 ins 1926 17 Geo 5 No. 10 s 29
amd 1999 No. 49 s 38 sch

Securities for loans to or debts of educational, charitable or religious bodies

s 69A ins 1955 4 Eliz 2 No. 44 s 6
sub 1988 No. 34 s 73
amd 1990 No. 40 s 39

Restriction on exemption on instruments securing advances to certain boards and cooperatives

prov hdg amd 1997 No. 39 s 472 sch 7
s 69B ins 1988 No. 34 s 74
amd 1997 No. 39 s 472 sch 7; 1999 No. 88 s 121

Purpose and application of exempting provisions

s 69C ins 1996 No. 12 s 4

Definitions for exempting provisions

s 69D ins 1996 No. 12 s 4

Meaning of “first home”

s 69E ins 1996 No. 12 s 4

Meaning of “home borrower”

s 69F ins 1996 No. 12 s 4

Meaning of “home refinance borrower”

s 69G ins 1996 No. 12 s 4

Meaning of “home refinance mortgage” and “previous mortgage”

s 69H ins 1996 No. 12 s 4

Limited exemptions for certain owners

s 69I ins 1996 No. 12 s 4

Failure to meet exemption criteria

s 69J ins 1996 No. 12 s 4

Duty chargeable on certain exempt home mortgages

s 69K ins 1996 No. 12 s 4
om 1997 No. 43 s 21

Duty chargeable on certain home refinance mortgages

s 69L ins 1996 No. 12 s 4
amd 1997 No. 43 s 22

More than 1 instrument for home mortgage or home refinance mortgage

s 69M ins 1996 No. 12 s 4

Ex-Queensland securities

s 70 prev s 70 amd 1918 9 Geo 5 No. 11 s 31; 1958 7 Eliz 2 No. 44 s 7; 1965
No. 61 s 10 sch 1
sub 1970 No. 15 s 7 (never proclaimed into force and om 1970 No. 30 s 4(b))
om 1970 No. 30 s 6
pres s 70 ins 1988 No. 34 s 74

Securities over certain shares and units

s 71 prev s 71 amd 1901 1 Edw 7 No. 3 s 2; 1903 3 Edw 7 No. 2 s 2(2); 1904 4
Edw 7 No. 14 s 4(2); 1918 9 Geo 5 No. 11 s 32; 1926 17 Geo 5 No. 10 s 30;
1966 No. 15 s 13
sub 1970 No. 15 s 7 (never proclaimed into force and om 1970 No. 30 s 4(b))
om 1970 No. 30 s 6
pres s 71 ins 1988 No. 34 s 75
amd 2001 No. 45 s 29 sch 3

Banking transactions

s 71A ins 1970 No. 15 s 7 (never proclaimed into force and om 1970 No. 30 s 4(b))

Crediting of accounts

s 71B ins 1970 No. 15 s 7 (never proclaimed into force and om 1970 No. 30 s 4(b))

Extension of provisions relating to receipts

s 71C ins 1970 No. 15 s 7 (never proclaimed into force and om 1970 No. 30 s 4(b))

Receipts given to Her Majesty

s 71D ins 1970 No. 15 s 7 (never proclaimed into force and om 1970 No. 30 s 4(b))

Money exchanged for money

s 71E ins 1970 No. 15 s 7 (never proclaimed into force and om 1970 No. 30 s 4(b))

Receipts by solicitors or agents

s 71F ins 1970 No. 15 s 7 (never proclaimed into force and om 1970 No. 30 s 4(b))

Stamping of receipts

s 71G ins 1970 No. 15 s 7 (never proclaimed into force and om 1970 No. 30 s 4(b))

Payment of duty on receipts by return

s 71H ins 1970 No. 15 s 7 (never proclaimed into force and om 1970 No. 30 s 4(b))

Total amount not precisely ascertainable

s 71I ins 1970 No. 15 s 7 (never proclaimed into force and om 1970 No. 30 s 4(b))

Receipts in other instruments

s 71J ins 1970 No. 15 s 7 (never proclaimed into force and om 1970 No. 30 s 4(b))

Rebate of duty in certain cases

s 71K ins 1970 No. 15 s 7 (never proclaimed into force and om 1970 No. 30 s 4(b))

Exemptions for charitable institutions

- s 72** orig s 72 amd 1908 8 Edw 7 No. 18 s 2 sch 1
om 1909 9 Edw 7 No. 13 s 23(3)
prev s 72 ins 1918 9 Geo 5 No. 11 s 33
sub 1970 No. 15 s 8 (never proclaimed into force and om 1970 No. 30 s 4(b))
om 1970 No. 30 s 6
pres s 72 ins 1990 No. 40 s 40

De facto relationship instruments exempt from duty

- s 72A** prev s 72 ins 1942 6 Geo 6 No. 26 s 12(1)
amd 1965 No. 61 s 10 sch 1
om 1994 No. 56 s 87 sch 2
pres s 72 ins 1999 No. 89 s 8 sch

Certain payments deemed to have been made in Queensland

- s 72B** ins 1968 No. 11 s 8(2)
om 1970 No. 15 s 9 (never proclaimed into force and om 1970 No. 30 s 4(b))
om 1970 No. 30 s 7

Licences to sell stamps

- s 73** sub 1918 9 Geo 5 No. 11 s 34

Stamps to be provided

- s 74** amd 1918 9 Geo 5 No. 11 s 6(4)

Allowance in certain circumstances

- s 75** amd 1918 9 Geo 5 No. 11 s 6(4)
sub 1988 No. 34 s 76
amd 1990 No. 40 s 41; 1996 No. 70 s 34(1); 1997 No. 74 s 13

Alternative to prosecution

- s 76** prev s 76 om 1899 63 Vic No. 9 s 3 sch 3
pres s 76 ins 1994 No. 35 s 18

Limitation for time for proceedings

- s 77** amd 1918 9 Geo 5 No. 11 s 35; 1959 8 Eliz 2 No. 42 s 5
om 1979 No. 12 s 25

Recovery of penalties

- s 78** amd 1979 No. 12 s 26

Evidentiary provisions

- s 78A** ins 1918 9 Geo 5 No. 11 s 36
sub 1981 No. 91 s 22
amd 1984 No. 109 s 22; 1988 No. 34 s 77; 1994 No. 35 s 19

Service of documents on the commissioner

- s 78B** ins 1988 No. 34 s 78

Action against officers

- s 79** om 1974 No. 75 s 4 sch

Amendment of assessments

- s 80** amd 1918 9 Geo 5 No. 11 s 6(4); 1926 17 Geo 5 No. 10 s 31; 1979 No. 12
s 27; 1982 No. 18 s 7

sub 1988 No. 34 s 79
 amd 1991 No. 99 s 17; 1999 No. 49 s 32

General provision about refunding stamp duty

s 80A ins 1999 No. 78 s 15

Certain contracts etc. void against the commissioner

s 81 prev s 81 (not reprinted in R1) om 1995 No. 57 s 4 sch 1
 pres s 81 ins 1959 8 Eliz 2 No. 42 s 6
 amd 1961 10 Eliz 2 No. 21 s 10

Approval of forms

s 82A ins 1996 No. 70 s 32

Regulation-making power

prov hdg sub 1999 No. 13 s 46(1)

s 83 sub 1918 9 Geo 5 No. 11 s 37

amd 1950 14 Geo 6 No. 10 s 2; 1965 No. 46 s 6; 1968 No. 11 s 9; 1970 No. 15
 s 10 (never proclaimed into force and om 1970 No. 30 s 4(b)); 1970 No. 30
 s 8; 1971 No. 51 s 5; 1979 No. 66 s 5(1)

sub 1993 No. 51 s 23

amd 1999 No. 13 s 46(2)–(4); 1999 No. 27 s 76 sch 1 pt 3

Commissioner's requirements in respect of information etc.

s 83A ins 1991 No. 99 s 18

Interest on duty delayed

s 83B ins 1991 No. 99 s 18

amd 1999 No. 49 s 38 sch

Undertaking by exempt persons

s 84 ins 1984 No. 17 s 24

amd 1996 No. 70 s 34(11)

Declaration about certain provisions

s 85 ins 1988 No. 34 s 80

sub 1995 No. 4 sch 1

amd 1999 No. 49 s 38 sch

Transitional provision about forms

s 86 prev s 86 ins 1993 No. 51 s 24

exp 30 November 1993 (see s 86(2))

pres s 86 ins 1996 No. 70 s 33

exp 9 December 1997 (see s 86(3))

Declaration about the repealed Revenue Laws Amendment Act (No. 2) 1996, s 34(1)

s 87 ins 1997 No. 74 s 8 sch

AIA s 20A applies (see s 87(2))

exp 31 December 1998 (see s 87(3))

Duty not payable on Suncorp Metway notes

s 88 ins 1999 No. 13 s 47

Validation of certain exemptions from duty for applications involving registration of motor vehicles

s 89 ins 1999 No. 13 s 47

Transitional provisions for the conversion of prescribed interests

s 90 ins 1999 No. 49 s 33 exp one year after the transitional period ends
(see s 90(4))
amd 2000 No. 48 s 28; 2001 No. 45 s 29 sch 3

Recognition of duty paid in certain circumstances

s 91 ins 1999 No. 49 s 37

SCHEDULE 1—STAMP DUTIES ON INSTRUMENTS

amd 1903 3 Edw 7 No. 2 s 2(3); 1904 4 Edw 7 No. 14 ss 4(3), 5; 1914 5 Geo 5 No. 7 s 2; 1918 9 Geo 5 No. 11 s 38; 1926 17 Geo 5 No. 10 s 32; 1929 20 Geo 5 No. 21 s 7; 1930 21 Geo 5 No. 49 s 5; 1954 3 Eliz 2 No. 44 s 2; 1955 4 Eliz 2 No. 44 s 7; 1956 5 Eliz 2 No. 13 s 3; 1958 7 Eliz 2 No. 44 s 8; 1959 8 Eliz 2 No. 42 s 7; 1961 10 Eliz 2 No. 21 s 11; 1962 No. 28 s 7; 1963 No. 35 s 4; 1964 No. 62 s 2; 1965 No. 46 s 7(1)

sub 1965 No. 61 s 10 sch 1

amd 1966 No. 15 s 14; 1968 No. 11 s 10; 1970 No. 15 s 11 (never proclaimed into force and om 1970 No. 30 s 4(b)); 1970 No. 30 s 9; 1971 No. 51 s 6; 1972 No. 31 s 6 sch 1; 1973 No. 64 s 10; 1974 No. 16 s 4; 1975 No. 65 s 16; 1976 No. 93 s 9; 1979 No. 12 ss 28–29; 1979 No. 66 ss 6–9(1), 10; 1980 No. 21 ss 9–22; 1981 No. 91 s 23; 1981 No. 102 s 3; 1982 No. 53 s 3; 1982 No. 65 s 14; 1984 No. 17 s 25; 1984 No. 109 s 23

sub 1985 No. 40 s 2

amd 1985 No. 90 s 23; 1986 No. 8 s 9; 1987 No. 4 s 15; 1988 No. 34 s 81; 1988 No. 100 s 10; 1989 No. 32 s 7; 1990 No. 40 s 42; 1990 No. 99 s 3.1 sch; 1991 No. 99 s 19; 1993 No. 51 s 25; 1994 No. 11 s 194 sch 2; 1994 No. 35 s 20; 1994 No. 69 s 229 sch 2 (never proclaimed into force and om 1995 No. 58 s 5(1) sch 7); 1995 No. 28 s 14; 1995 No. 44 s 10; 1996 No. 12 s 5; 1996 No. 70 s 35; 1996 No. 75 s 535 sch 2; 1997 No. 28 s 295 sch 3; 1997 No. 39 s 472 sch 7; 1997 No. 74 s 14; 1999 No. 13 s 48; 1999 No. 49 ss 34, 38 sch; 1999 No. 78 s 16; 1999 No. 88 s 122; 1999 No. 89 s 8 sch; 2000 No. 20 s 29 sch 3; 2000 No. 48 s 29; 2001 No. 45 s 29 sch 3

SCHEDULE 2—DICTIONARY

prev sch 2 om 1990 No. 40 s 43

pres sch 2 ins 1999 No. 49 s 38 sch

def “**application for registration**” ins 1966 No. 15 s 3(b)

amd 1985 No. 90 s 3(a)(ii)

sub 1988 No. 34 s 4(a)

reloc 1999 No. 49 s 38 sch

def “**application for transfer of registration**” ins 1966 No. 15 s 3(b)

sub 1988 No. 34 s 4(a)

reloc 1999 No. 49 s 38 sch

def “**approved form**” ins 1996 No. 70 s 23(2)

reloc 1999 No. 49 s 38 sch

def “**bill of lading**” sub 1988 No. 34 s 4(a)

om 1990 No. 40 s 4(a)(i)

- def “**charter party**” sub 1988 No. 34 s 4(a)
om 1990 No. 40 s 4(a)(i)
- def “**commissioner**” ins 1918 9 Geo 5 No. 11 s 3
sub 1926 17 Geo 5 No. 10 s 2
amd 1958 7 Eliz 2 No. 44 s 2
sub 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def “**Commissioners**” om 1918 9 Geo 5 No. 11 s 3
- def “**Commonwealth place**” ins 1999 No. 49 s 35
reloc 1999 No. 49 s 38 sch
- def “**corporate debt security**” ins 1984 No. 109 s 3
sub 1988 No. 34 s 4(a)
amd 1999 No. 49 s 38 sch
reloc 1999 No. 49 s 38 sch
- def “**CUFS**” ins 1996 No. 70 s 23(1)
reloc 1999 No. 49 s 38 sch
- def “**deed of gift**” ins 1918 9 Geo 5 No. 11 s 3
amd 1985 No. 90 s 3(a)(iii)
sub 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def “**de facto relationship**” ins 1999 No. 89 s 8 sch
- def “**de facto spouse**” ins 1999 No. 89 s 8 sch
- def “**Deputy Commissioner**” om 1918 9 Geo 5 No. 11 s 3
- def “**die**” sub 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def “**donor**” ins 1918 9 Geo 5 No. 11 s 3
reloc 1999 No. 49 s 38 sch
sub 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def “**Executed**” and “**Execution**” om 1926 17 Geo 5 No. 10 s 2
- def “**executed**” ins 1926 17 Geo 5 No. 10 s 2
sub 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def “**exempt charitable institution**” ins 1990 No. 40 s 4(a)(i)
reloc 1999 No. 49 s 38 sch
- def “**exempt foreign company**” ins 2001 No. 45 s 29 sch 3
- def “**exempt proprietary company**” ins 2001 No. 45 s 29 sch 3
- def “**Full unencumbered value**” ins 1985 No. 90 s 3(b)
om 1988 No. 34 s 4(b)
- def “**financial accommodation**” ins 1990 No. 40 s 4(a)(ii)
reloc 1999 No. 49 s 38 sch
- def “**hiring agreement**” ins 1962 No. 28 s 2
amd 1965 No. 46 s 2
sub 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def “**impressed**” ins 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def “**information**” ins 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch

- def **“Inspector”** amd 1926 17 Geo 5 No. 10 s 2
om 1988 No. 34 s 4(a)
- def **“instrument”** amd 1926 17 Geo 5 No. 10 s 2
sub 1980 No. 21 s 2(b); 1985 No. 90 s 3(a)(i); 1988 No. 34 s 4(a); 1990
No 40 s 4(a)(ii)
reloc 1999 No. 49 s 38 sch
- def **“insurance”** ins 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def **“investigating officer”** ins 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def **“lodge”** ins 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def **“managed investment scheme”** ins 2000 No. 48 s 30
amd 2001 No. 45 s 29 sch 3
- def **“marketable security”** amd 1918 9 Geo 5 No. 11 s 3
sub 1966 No. 15 s 3(a)
amd 1981 No. 91 s 3; 1984 No. 17 s 3(1)
sub 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def **“material”** sub 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def **“Minister”** ins 1918 9 Geo 5 No. 11 s 3
sub 1988 No. 34 s 4(a)
om 1991 No. 97 s 3 sch 1
- def **“money”** amd 1970 No. 15 s 2(a)
sub 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def **“motor vehicle”** ins 1966 No. 15 s 3(b)
sub 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def **“Policy of Assurance”** ins 1918 9 Geo 5 No. 11 s 3
om 1988 No. 34 s 4(a)
- def **“policy of assurance against accident”** ins 1918 9 Geo 5 No. 11 s 3
sub 1988 No. 34 s 4(a)
amd 1996 No. 75 s 535 sch 2
reloc 1999 No. 49 s 38 sch
- def **“policy of insurance”** sub 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def **“policy of life insurance”** ins 1918 9 Geo 5 No. 11 s 3
sub 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def **“policy of marine insurance”** ins 1926 17 Geo 5 No. 10 s 2
sub 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def **“prescribed”** om 1988 No. 34 s 4(a)
- def **“primary custodian”** ins 2000 No. 48 s 30
amd 2001 No. 45 s 29 sch 3
- def **“produce”** ins 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch

- def “**proprietary company**” ins 2001 No. 45 s 29 sch 3
- def “**public unit trust scheme**” ins 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def “**qualifying exempt purpose**” ins 1900 No. 40 s 4(a)(i)
reloc 1999 No. 49 s 38 sch
- def “**Queensland company**” ins 2001 No. 45 s 29 sch 3
- def “**quoted security**” ins 2000 No. 20 s 29 sch 3
- def “**receipt**” ins 1970 No. 15 s 2(b) (om 1970 No. 30 s 4(a))
- def “**recognised stock exchange**” ins 2000 No. 20 s 29 sch 3
- def “**record**” ins 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def “**registered scheme**” ins 2000 No. 48 s 30
amd 2001 No. 45 s 29 sch 3
- def “**religious body**” ins 1961 10 Eliz 2 No. 21 s 2
sub 1979 No. 12 s 3(a)
om 1988 No. 34 s 4(a)
- def “**responsible entity**” ins 2000 No. 48 s 30
amd 2001 No. 45 s 29 sch 3
- def “**right in respect of shares**” ins 1996 No. 70 s 23(1)
reloc 1999 No. 49 s 38 sch
- def “**risk in Queensland**” ins 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def “**scheme property**” ins 2000 No. 48 s 30
- def “**settlement**” ins 1918 9 Geo 5 No. 11 s 3
sub 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def “**stamp**” sub 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def “**stamped**” om 1988 No. 34 s 4(a)
- def “**statutory declaration**” ins 1988 No. 34 s 4(a)
om 1991 No. 97 s 3 sch 1
- def “**stock**” ins 1918 9 Geo 5 No. 11 s 3
amd 1926 17 Geo 5 No. 10 s 2
sub 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch
- def “**unit trust scheme**” ins 1979 No. 12 s 3(b)
sub 1988 No. 34 s 4(a)
reloc 1999 No. 49 s 38 sch

8 List of forms

Form SD1 Version 1—Application for Impressed Stamping of Documents

pubd gaz 25 August 2000 pp 1471–72

Form SD22 Version 1—Declaration to Accompany a Conveyance, Transfer or Declaration of Trust of a Share in respect of a Corporation not listed on the Australian Stock Exchange and not a Corporation to which sections 56C and 56FA–FO of the Stamp Act 1894 Apply

pubd gaz 25 August 2000 pp 1471–72

- Form SD23 Version 1—Declaration to Accompany an Instrument Effecting or Evidencing a Disposition of Shares under section 56C of the Stamp Act 1894**
pubd gaz 25 August 2000 pp 1471–72
- Form SD24 Version 1—Declaration to Accompany an Instrument Transferring or Providing for the Transfer of a Share, or Right in respect of a Share, in a Corporation listed on the Australian Stock Exchange or a Unit in a Public Unit Trust Scheme**
pubd gaz 25 August 2000 pp 1471–72
- Form SD28 Version 1—Declaration to Accompany an Instrument Effecting or Evidencing a Disposition of Units under section 56B of the Stamp Act 1894**
pubd gaz 25 August 2000 pp 1471–72
- Form SD43 Version 1—Declaration by Mortgagee to Accompany a Security Document to Claim a Credit under section 70 in respect of Duty that has been or will be paid in another State or Territory**
pubd gaz 25 August 2000 pp 1471–72
- Form SD44 Version 3—Claim for Stamp Duty Exemption and any Credit on a Home Mortgage**
pubd gaz 25 August 2000 pp 1471–72
- Form SD45 Version 3—Claim for Stamp Duty Exemption and any Credit on a Home Refinance Mortgage**
pubd gaz 25 August 2000 pp 1471–72
- Form SD72 Version 1—Agreement to Account for Duty on Hire-Purchase Agreements**
pubd gaz 25 August 2000 pp 1471–72
- Form SD73 Version 1—Undertaking under section 35H**
pubd gaz 25 August 2000 pp 1471–72
- Form SD76 Version 1—Declaration claiming the Benefit of section 68B in relation to Prescribed Short Term Loans**
pubd gaz 25 August 2000 pp 1471–72
- Form SD77 Version 1—Weekly Return of Sales and Purchases, Marketable Securities and Rights in respect of Shares**
pubd gaz 25 August 2000 pp 1471–72
- Form SD78 Version 1—Weekly Return of Sales and Purchases, Marketable Securities and Rights in respect of Shares made by a Queensland Broker, on his/her own Account**
pubd gaz 25 August 2000 pp 1471–72
- Form SD79 Version 1—Monthly Statement of Relevant Transactions by Prescribed Corporations**
pubd gaz 25 August 2000 pp 1471–72
- Form SD80 Version 1—Application for Registration under section 35A to Carry on Credit Business and/or Rental Business**
pubd gaz 25 August 2000 pp 1471–72

Form SD84 Version 1—Credit/Rental Business Return

pubd gaz 25 August 2000 pp 1471–72

Form SD86 Version 1—Declaration to Claim Exemption from Stamp Duty under section 35 in respect of a Housing Loan

pubd gaz 25 August 2000 pp 1471–72

Form SD87 Version 1—Application by a Person to Carry on any Insurance Business in Queensland as an Approved Insurer under section 46F(1)

pubd gaz 25 August 2000 pp 1471–72

Form SD88 Version 1—Application by a Person to Carry on any Insurance Business outside Queensland as an Approved Insurer under section 46F(2)

pubd gaz 25 August 2000 pp 1471–72

Form E Version 1—Application for Spoiled Stamps Allowance

pubd gaz 25 August 2000 pp 1471–72

Form G Version 1—Declaration to Accompany any Unlimited Security under subsection 68 (3A)

pubd gaz 25 August 2000 pp 1471–72

Form M Version 1—Undertaking under section 84

pubd gaz 25 August 2000 pp 1471–72

Form Q Version 1—Declaration to Accompany a Contract or Agreement for Sale and/or Instrument of Conveyance in respect of the Acquisition of a Principal Place of Residence or a First Principal Place of Residence

pubd gaz 25 August 2000 pp 1471–72

Form Q(2) Version 1—Application for Refund in respect of Stamp Duty on an Acquisition of Land on which an Applicant's Principal Place of Residence has been Erected

pubd gaz 25 August 2000 pp 1471–72

Form S(a) Version 1—Statement and Verifying Affidavit pursuant to section 54A(2) relating to the Acquisition of a Business

pubd gaz 25 August 2000 pp 1471–72

Form S(b) Version 1—Supplementary Affidavit pursuant to section 54A(3)

pubd gaz 25 August 2000 pp 1471–72

Form S(c) Version 1—Statement and Verifying Affidavit relating to the Acquisition of an Estate or Interest in Real Property or Leasehold Estate in Queensland

pubd gaz 25 August 2000 pp 1471–72

Form S(d) Version 1—Statement and Verifying Affidavit relating to the Obtaining of Tenancy or Occupancy of Land, Tenements or Hereditaments in Queensland

pubd gaz 25 August 2000 pp 1471–72

Form X Version 1—Notification of Unstamped Instruments

pubd gaz 25 August 2000 pp 1471–72

Form Y(b) Version 1—Warrant to Enter Dwelling House

pubd gaz 25 August 2000 pp 1471–72

9 Provisions that have not commenced and are not incorporated into reprint

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

Revenue and Other Legislation Amendment Act (No. 2) 1999 No. 49 pt 5 div 3 reads as follows—

Division 3—Amendments about the Commonwealth Places (Mirror Taxes) Act 1998 (Cwlth)

35 Amendment of s 2 (Definitions)

Section 2(1)—

insert—

‘**“Commonwealth place”** means a place in Queensland acquired by the Commonwealth for public purposes.’.

36 Amendment of s 35B (Statements to be lodged by required persons with the commissioner)

Section 35B—

insert—

‘**(8)** Despite subsection (1AA)(b), if a required person is carrying on rental business in Queensland, other than in a Commonwealth place, and is also carrying on rental business in a Commonwealth place in Queensland, the total amount received by the required person for the purposes of subsection (1AA)(b) is the sum of—

- (a) the total amount received by the required person under subsection (1AA)(b) for the rental business carried on in Queensland, other than in a Commonwealth place; and
- (b) the total amount received by the required person under subsection (1AA)(b) for the rental business carried on in the Commonwealth place in Queensland.

‘**(9)** Despite subsection (1AB)(b), if a required person is carrying on rental business in Queensland, other than in a Commonwealth place, and is

also carrying on rental business in a Commonwealth place in Queensland, the total amount received by the required person under subsection (1AB)(b)(ii) is the sum of—

- (a) the total amount received by the required person under subsection (1AB)(b)(ii) for the rental business carried on in Queensland, other than in a Commonwealth place; and
- (b) the total amount received by the required person under subsection (1AB)(b)(ii) for the rental business carried on in the Commonwealth place in Queensland.

‘(10) Despite subsection (1AB)(c), if a required person is carrying on credit business in Queensland, other than in a Commonwealth place, and is also carrying on credit business in a Commonwealth place in Queensland, the sum of the total amounts debited by the required person under all credit arrangements and the total amounts of all forbearances by the required person under subsection (1AB)(c) (the “total credit amounts”) is the sum of—

- (a) the total credit amounts for the credit business carried on in Queensland, other than in a Commonwealth place; and
- (b) the total credit amounts for the credit business carried on in the Commonwealth place in Queensland.’

37 Insertion of new s 91

After section 90, as inserted by this Act—

insert—

‘91 Recognition of duty paid in certain circumstances

‘(1) If this Act requires regard to be had to duty previously paid or payable, regard must be had to any duty previously paid or payable under the Commonwealth Act if regard would have been had under this Act to that duty if that duty were paid or payable under this Act.

‘(2) In this section—

“Commonwealth Act” means the Stamp Act 1894 (Queensland) as a law applied under the Commonwealth Places (Mirror Taxes) Act 1998 (Cwlth).’.