

1991—No. 463

STAMP DUTIES ACT 1920—REGULATION

(Stamp Duties Regulation 1991)

NEW SOUTH WALES



[Published in Gazette No. 121 of 30 August 1991]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Stamp Duties Act 1920, has been pleased to make the Regulation set forth hereunder.

NICK GREINER
Treasurer.

Citation

1. This Regulation may be cited as the Stamp Duties Regulation 1991.

Commencement

2. This Regulation commences on 1st September, 1991.

Definitions

3. In this Regulation:
“**approved**” means approved for the time being by the Chief Commissioner;
“**the Act**” means the Stamp Duties Act 1920.

Use of adhesive stamps: sec 9

4. The following instruments may be stamped with adhesive stamps:
agreements under hand
transfers of shares (or rights to shares) of any corporation listed on the Australian Stock Exchange Limited, where the transfer is effected pursuant to a sale of the shares (or rights to shares) for full consideration in money or money’s worth

transfers of units in any unit trust scheme listed on the Australian Stock Exchange Limited, where the transfer is effected pursuant to a sale of the units for full consideration in money or money's worth

leases in respect of greyhounds

leases in respect of racing or trotting horses

duplicates or counterparts of instruments that may themselves be stamped with adhesive stamps

Prescribed transactions: sec. 44

5. For the purposes of section 44 (3) of the Act, a transaction that (by reason of the issue, surrender, exchange, transfer or other disposition of American Depositary Shares or of American Depositary Receipts that relate to American Depositary Shares) causes or results in a change in the beneficial ownership of an estate or interest in shares, or of rights to shares, in a corporation incorporated in New South Wales is a prescribed transaction.

Returns concerning share transfers by companies that keep branch registers: sec. 96B

6. (1) For the purposes of section 96B(1) of the Act:

(a) the prescribed time for lodging a return referred to in that subsection is:

(i) any time within the period commencing with the 1st day of the month succeeding that in which an entry referred to in that subsection is made and ending on the 21st day of that month; or

(ii) if the Chief Commissioner so directs in a particular case or class of cases, at the time specified in the direction; and

(b) the prescribed particulars and information to be included in a return to be lodged with the Chief Commissioner are the information and particulars specified by the form approved for the purposes of that subsection as the particulars to be included in that form.

(2) For the purposes of section 96B (1A) of the Act, the following places are prescribed places:

Queensland
South Australia
Tasmania
Victoria
Western Australia
the Northern Territory
the Australian Capital Territory
the United Kingdom

Prescribed stock exchanges: sec. 97A

7. In accordance with the definition of “Prescribed stock exchange” in section 978 (1) of the Act, the Australian Stock Exchange Limited is prescribed for the purposes of the Act.

Prescribed form of endorsement on share transfers: sec 97E

8. For the purposes of section 97E (6) of the Act, the prescribed form of endorsement on a transfer referred to in paragraph (f) of the exemptions appearing under the heading “TRANSFE OF SHARES” in the Second Schedule to the Act is as follows:

NO NEW SOUTH WALES STAMP DUTY IS PAYABLE

See paragraph (f) of the exemptions appearing under the heading “TRANSFER OF SHARES” in the Second Schedule to the Stamp Duties Act 1920.

Prescribed rate of interest: sec. 124C

9. (1) For the purposes of section 124C (1) (b) and (2) (a) of the Act, the prescribed rate of interest is 20 per cent per year.

(2) If the amount of interest calculated in accordance with subclause (1) includes any fraction of a cent:

- (a) the amount is to be increased to the next higher cent if the fraction is 0.5 cents or more; and
- (b) the amount is to be decreased to the next lower cent if the fraction is less than 0.5 cents.

Deferred payments for certain stamped instruments: sec 129D

10. (1) For the purposes of section 129D (1) of the Act, circumstances in which (in the course of an industrial dispute involving persons engaged in the administration of the Act) an instrument liable to duty under the Act is not stamped by reason of the refusal of those persons to exercise functions relating to the administration of the Act or of any other law are prescribed circumstances.

(2) For the purposes of section 129D (2) of the Act, the following persons are prescribed persons:

- (a) a person who is primarily liable to pay duty in respect of an instrument;
- (b) a person who is authorised (whether by a person who is primarily liable to pay duty in respect of an instrument or by another person) to arrange for the stamping of the instrument on behalf of a person who is primarily liable.

Exemptions from duty for share transfers: Second Schedule

11. (1) For the purposes of paragraph (f) (ii) (D) and (iv) (F) of the exemptions appearing under the heading “TRANSFER OF SHARES” in the Second Schedule to the Act, the following corporations are prescribed corporations:

a nominee corporation (being a corporation whose principal business is the business of holding shares as a trustee or nominee)

(2) For the purposes of paragraph (g) of the exemptions appearing under the heading “TRANSFER OF SHARES” in the Second Schedule to the Act, the following companies are prescribed nominee companies:

SECH Nominees Pty Ltd

a nominee company that holds marketable securities solely for the purpose of facilitating marketable security transaction settlements by a broker as defined in section 97A of the Act

Repeal

12. The Stamp Duties Regulations 1934 are repealed.

Transitional

13. (1) Regulations 24–32, 56, 63, 68A, 75 and 76 of the Stamp Duties Regulations 1934 continue to have effect as if those Regulations had not been repealed.

(2) Subclause (1) ceases to have effect on 1 July 1992.

TABLE OF PROVISIONS

1. Citation
 2. Commencement
 3. Definitions
 4. Use of adhesive stamps: sec. 9
 5. Prescribed transactions: sec. 44
 6. Returns concerning share transfers by companies that keep branch registers:
sec. 96B
 7. Prescribed stock exchanges: sec. 97A
 8. Prescribed form of endorsement on share transfers: sec. 97E
 9. Prescribed rate of interest: sec. 124C
 10. Deferred payments for certain stamped instruments: sec. 129D
 11. Exemptions from duty for share transfers: Second Schedule
 12. Repeal
 13. Transitional
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EXPLANATORY NOTE

The object of this Regulation is to repeal and re-make, without any major modifications, certain of the provisions of the Stamp Duties Regulations 1934. The Regulation deals with matters that are required or permitted to be prescribed by the Stamp Duties Act 1920. The Regulation also preserves, until 1 July 1992, the operation of certain other provisions of the Stamp Duties Regulations. By that date it is intended that the subject-matter of those provisions will have been included in the Stamp Duties Act 1920.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
