

Queensland



Stamp Act 1894

STAMP DUTIES REGULATION 1999

**Reprinted as in force on 1 March 2002
(includes amendments up to SL No. 66 of 2001)**

This is the reprint current on the repeal date

Reprint No. 1C

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Information about this reprint

This regulation is reprinted as at 1 March 2002.

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.

See endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Queensland



STAMP DUTIES REGULATION 1999

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STAMP DUTIES REGULATION 1999

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

PART 1—PRELIMINARY

1 Short title

This regulation may be cited as the *Stamp Duties Regulation 1999*.

2 Commencement

This regulation commences on 1 July 1999.

PART 2—GENERAL

3 Interest rate for refund in respect of appeal—Act, s 24

For section 24(4A) of the Act, the prescribed rate is 5.5% a year.

4 Declared States—Act, s 31B

For the definition “declared State” in section 31B(1) of the Act, the following States and Territories are declared States—

- (a) Australian Capital Territory;
- (b) New South Wales;
- (c) Northern Territory;
- (d) South Australia;
- (e) Tasmania;
- (f) Victoria;
- (g) Western Australia.

5 Prescribed corporation—Act, s 31J

For section 31J(2) of the Act, Sepon (Australia) Pty Limited ACN 005 738 518 is a prescribed corporation.

6 Short-term discount transaction and short-term loan elections and declarations—Act, s 35B

(1) For the definition “short-term discount transaction” in section 35B(1AC) of the Act, an election to treat a discount transaction as a short-term discount transaction may be made by giving the commissioner written notice in the approved form.

(2) For the definition “short-term loan” in section 35B(1AC) of the Act—

- (a) an election to treat a loan as a short-term loan is made by giving the commissioner written notice in the approved form; and
- (b) a loan is declared to be a special account current if the instrument evidencing the loan is endorsed with a memorandum that the loan is a special account current.

(3) An endorsement under subsection (2)(b) must be made within 1 month after the loan is made.

7 Form of certain declarations

A declaration under section 49(3)(b) or section 68(3) or (3A) of the Act must be in the approved form.

8 Exemption—Act, s 54AB

For section 54AB(5) of the Act, the vesting of property in the State under a forfeiture order under the *Crimes (Confiscation) Act 1989* is exempt from the operation of section 54AB of the Act.

9 Business activities—Act, s 55C

(1) For the definition “prescribed business activities” in section 55C(1) of the Act, the classes of activities listed in schedule 1 are business activities to which section 55C of the Act applies, except if the activities are carried on as an adjunct of, or ancillary to, a class of business mentioned in subsection (3).

(2) For paragraph (e), definition “prescribed family business” in section 55C(1) of the Act, a class of business to which section 55C of the Act applies is a class of business—

- (a) involving carrying on only prescribed business activities on land that is, or an estate or interest in which is, the subject of an instrument for which an application under section 55C(2) of the Act is made; or
- (b) carried on by a family company or under a family unit trust scheme if—
 - (i) an application is made under section 55C(2) of the Act for an instrument about—
 - (A) shares, or a right in respect of shares, in the company; or
 - (B) an interest in, or right of, a beneficiary under the scheme; and
 - (ii) all land, or estates and interests in land, held by the company or under the scheme is land on which only prescribed business activities are carried on.

(3) For paragraph (f), definition “prescribed family business” in section 55C(1) of the Act, each of the following is a class of business to which section 55C of the Act does not apply, except if the business also involves the carrying on of a prescribed business activity—

- (a) owning and managing—
 - (i) a caravan park; or
 - (ii) an hotel; or
 - (iii) a motel; or
 - (iv) a reception and convention centre; or
 - (v) a tavern; or
 - (vi) a wine saloon;
- (b) leasing or letting land;
- (c) managing investment property;
- (d) practising a profession;
- (e) building, constructing and developing land.

(4) In this section and in schedule 1—

“**family company**” see section 55C(1) of the Act.

“**family unit trust scheme**” see section 55C(1) of the Act.

“**rental business**” see section 35(1) of the Act.

10 Approved unit trust schemes—Act, s 56B

For the definition “unit trust scheme” in section 56B(1) of the Act, a class of deed for a unit trust scheme is approved if—

- (a) the trustee of the scheme is the Queensland Investment Corporation; and
- (b) the scheme existed before 22 July 1994.

11 Prescribed stock exchange—Act, s 56C

For paragraph (c), definition “company” in section 56C(1) of the Act, each recognised stock exchange is prescribed.

11A Prescribed stock exchange—Act, s 56FL

For section 56FL(1)(a) of the Act, each recognised stock exchange is prescribed.

12 Universities—Act, s 59E

For section 59E(1)(a)(i) of the Act, each of the following is declared to be a university—

- (a) Australian Catholic University Limited ACN 050 192 660;
- (b) the Central Queensland University established under the *Central Queensland University Act 1998*;
- (c) the University of Southern Queensland established under the *University of Southern Queensland Act 1998*;
- (d) the University of the Sunshine Coast established under the *University of the Sunshine Coast Act 1998*.

13 Dealing with spoiled stamps—Act, s 75

For section 75(4) of the Act, the commissioner must retain—

- (a) a stamp for which an allowance is made under section 75(3) of the Act; and
- (b) a document to which a stamp mentioned in paragraph (a) is attached or impressed.

14 Trustee corporation—Act, sch 1

(1) For exemptions 14(b)(iv) and (d)(iv) under the heading ‘Conveyance or transfer’ in schedule 1 of the Act, a corporation is a trustee if—

- (a) all shares in the corporation are owned by—
 - (i) a broker; or
 - (ii) a dealer; or
 - (iii) a market maker; and
- (b) the corporation’s business mainly involves holding marketable securities as trustee or nominee for—
 - (i) the broker, dealer or market maker mentioned in paragraph (a); or
 - (ii) a client of the broker, dealer or market maker.

(2) A corporation is also a trustee for exemptions 14(b)(iv) and (d)(iv) if it holds itself out to the public as carrying on the business of holding marketable securities as a person’s trustee or nominee.

(3) In this section—

“**broker**” see section 31J(1) of the Act.

“**dealer**” see section 31B(1) of the Act.

“**market maker**” see section 31J(1) of the Act.

15 Approved requests—Act, sch 1

For the exemption under the heading ‘Request’ in schedule 1 of the Act, a request is approved if it is listed in schedule 2.

15A Recognised stock exchanges—Act, sch 2

For the definition “recognised stock exchange” in schedule 2 of the Act, the following are prescribed—

- (a) Bendigo Stock Exchange Ltd ACN 087 708 898;
- (b) Stock Exchange of Newcastle Limited ACN 000 902 063;
- (c) a stock exchange that is a member of Federation Internationale des Bourses de Valeurs.

16 Method of payment under the Act

A payment of duty, or another amount payable under the Act—

- (a) may be made to the commissioner—
 - (i) if paid at an office of the commissioner—only by cash or cheque; or
 - (ii) if posted to an office of the commissioner—only by cheque; and
- (b) must be made at the office of the commissioner at which the instrument on which the duty is charged was lodged for assessment.

17 Payments by instalments with commissioner’s approval

A person may only pay duty, or another amount payable under the Act, by instalments with the approval of the commissioner.

18 Documents given to commissioner

A document to be given to the commissioner under the Act is given to the commissioner when the document is received by the commissioner.

19 Fees

The fees payable to the commissioner under the Act are in schedule 3.

PART 3—COMMISSIONER’S REQUIREMENTS

20 Requirement to produce stamped instrument with instrument of transfer

(1) This section applies if—

- (a) a transfer is lodged with the commissioner under section 26 of the Act; and
- (b) another instrument of conveyance or instrument chargeable with duty as if it were an instrument of conveyance, under which the transfer is made, has been stamped (the “**stamped instrument**”).

(2) The stamped instrument must be lodged with the transfer.

(3) If the stamped instrument can not be lodged with the transfer, a declaration must be lodged with the transfer stating why the stamped instrument can not be lodged.

21 Requirement to lodge declaration with transfer of interest in lot

(1) If a person lodges with the commissioner a transfer of an interest in a lot, the person must also lodge with the transfer a declaration in the approved form.

(2) In this section—

“**lot**” see *Land Title Act 1994*, schedule 2.

22 Requirement to produce instrument with application for refund

If an application is made to the commissioner for a refund of all or part of the duty paid on an instrument under section 54 of the Act, the instrument must be lodged with the application.

23 Requirement to lodge declaration about certain shares and units

(1) This section applies if a person lodges with the commissioner an instrument transferring, or providing for the transfer of—

- (a) a share, or a right in respect of a share, in a corporation listed on the Australian Stock Exchange Limited ACN 008 624 691; or
- (b) a unit in a public unit trust scheme.

(2) The person must lodge with the instrument a declaration in the approved form.

(3) In this section—

“**public unit trust scheme**” see section 56B(1) of the Act.

24 Requirement to lodge declaration with instrument effecting or evidencing a disposition of units under s 56B of the Act

(1) If a person lodges with the commissioner an instrument effecting or evidencing a disposition of a unit, the person must also lodge with the instrument a declaration in the approved form.

(2) In this section—

“**disposition**” see section 56B(1) of the Act.

“**unit**” see section 56B(1) of the Act.

25 Requirement to lodge declaration with instrument effecting or evidencing a disposition of shares under s 56C of the Act

(1) If a person lodges with the commissioner an instrument effecting or evidencing a disposition of a share in a company to which section 56C(2) of the Act applies, the person must also lodge with the instrument a declaration in the approved form.

(2) In this section—

“**disposition**” see section 56C(1) of the Act.

26 Requirement to lodge declaration with claim for credit under s 70 of the Act

(1) This section applies if—

(a) a person lodges with the commissioner an instrument chargeable with duty under the heading ‘Mortgage, bond, debenture, and covenant’ in schedule 1 of the Act; and

(b) the person seeks a credit under section 70 of the Act.

(2) The person must lodge with the instrument a declaration in the approved form.

27 Requirement to lodge declaration with certain instruments about certain shares

(1) This section applies if a person lodges with the commissioner—

- (a) an instrument transferring or providing for the transfer of, a share, or a right in respect of a share, in a corporation if the corporation—
 - (i) is not listed on the Australian Stock Exchange Limited ACN 008 624 691; and
 - (ii) is not a corporation to which section 56C of the Act applies; or
- (b) an instrument of a kind mentioned under the heading ‘Declaration of trust’ in schedule 1 of the Act relating to a share, or a right in respect of a share, in a corporation if the corporation—
 - (i) is not listed on the Australian Stock Exchange Limited ACN 008 624 691; and
 - (ii) is not a corporation to which section 56C of the Act applies.

(2) The person must lodge with the transfer a declaration in the approved form.

28 Requirement to lodge declaration with lease

(1) If a person lodges with the commissioner a lease or an instrument transferring, surrendering or cancelling a lease, the person must also lodge with the lease or instrument a declaration in the approved form.

(2) In this section—

“lease” includes an agreement for lease to which sections 62 to 64B of the Act apply, but does not include—

- (a) a lease or agreement for lease of premises as a private dwelling house; or
- (b) a relevant agreement under the *Mobile Homes Act 1989*.

29 Requirement to lodge declarations for prescribed first principal place of residence or prescribed principal place of residence

(1) This section applies if—

- (a) a person lodges with the commissioner an instrument under which the person is acquiring a prescribed first principal place of residence or a prescribed principal place of residence; and
- (b) the person claims the benefit of paragraph (4)(a)(i) or (ii) or paragraph 4(b) under the heading ‘Conveyance or transfer’ in schedule 1 of the Act.

(2) The person must lodge with the instrument a declaration in the approved form.

(3) In this section—

“prescribed first principal place of residence” see section 55A(1) of the Act.

“prescribed principal place of residence” see section 55A(1) of the Act.

30 Requirement to lodge declaration for prescribed short-term debentures

If a person lodges with the commissioner a debenture and claims the benefit of section 68B of the Act, the person must lodge with the debenture a declaration in the approved form.

31 Requirement to lodge declaration if claiming exemption for home mortgage

(1) This section applies if—

- (a) a person lodges with the commissioner a home mortgage or a home refinance mortgage; and
- (b) the person claims the benefit of exemption 4 or 4A under the heading ‘Mortgage, bond, debenture, and covenant’ in schedule 1 of the Act.

(2) The person must lodge with the home mortgage or home refinance mortgage a declaration in the approved form.

(3) In this section—

“home mortgage” see section 69D of the Act.

“home refinance mortgage” see section 69H of the Act.

SCHEDULE 1**PRESCRIBED BUSINESS ACTIVITIES**

section 9

1. Excavating and earthmoving.
2. Framing pictures.
3. Gun smithing.
4. Lock smithing.
5. Manufacturing, processing and packaging.
6. Operating any 1 or more of the following—
 - (a) a beauty salon or barber shop;
 - (b) a bus service;
 - (c) a cinema;
 - (d) a crematorium;
 - (e) an engineering workshop;
 - (f) a laundry or laundrette;
 - (g) a newsagency, travel agency or real estate agency;
 - (h) a repair and service workshop;
 - (i) a rental business;
 - (j) a restaurant or cafe;
 - (k) a service station;
 - (l) a sports complex or gymnasium;
 - (m) as an undertaker or funeral director;
 - (n) a warehouse or bulk storage complex.
7. Printing and publishing.
8. Repairing boots and shoes.

SCHEDULE 1 (continued)

9. Retailing and wholesaling, whether or not involving repairing or installing of goods sold.
10. Upholstering.

SCHEDULE 2**APPROVED REQUESTS**

section 15

1. Application for title.
2. Request for substitute instrument.
3. Request to amalgamate.
4. Request to correct deed of grant under the *Land Act 1994*, section 359.
5. Request to cancel caveat (other than caveat of equitable mortgagee) under the *Land Title Act 1994*, section 128.
6. Request to dispense with production of instrument.
7. Request to record cessation of the public trustee as administrator.
8. Request to record a change of name by a natural person.
9. Request to record correction of name.
10. Request to record death.
11. Request to record the public trustee as trustee.
12. Request to register realignment of road under the *Acquisition of Land Act 1967*, sections 16 and 17.
13. Request to register realignment of road under the *Acquisition of Land Act 1967*, section 5.
14. Request to merger or partial merger of a bill of mortgage, easement or lease.
15. Request to register power of attorney.
16. Request to register revocation or partial revocation of power of attorney.
17. Request to remove succession duty encumbrance by registered proprietor.

SCHEDULE 2 (continued)

18. Request to register writ or warrant of execution under the *Land Title Act 1994*, section 116.
19. Request to cancel a writ of execution under the *Land Title Act 1994*, section 118.
20. Request to register a discharge or satisfaction of writ of execution under the *Land Title Act 1994*, section 119.
21. Request to register a direction, licence or order (other than a vesting order) of the Supreme Court.
22. Request to withdraw a caveat (other than caveat of equitable mortgagee).
23. Request to register or enter a transmission.
24. Request to record cessation of deed of grant under the *Land Act 1994*, section 10.
25. Request to register a transmission application by personal representative.
26. Request to register transmission application as devisee or legatee.
27. Request to register agreement under the *Rural Land Protection Act 1985*, parts 5, 8 and 10.
28. Request to register agreement under the *River Improvement Trust Act 1940*, section 11.
29. Request to record expiry of lease over freehold.
30. Request to record first community management statement under the *Body Corporate and Community Management Act 1997*, section 48.
31. Request to record new community management statement under the *Body Corporate and Community Management Act 1997*, section 51.
32. Request to record reservation of name for a community title scheme under the *Body Corporate and Community Management Act 1997*, section 24.
33. Request to record change of address of a body corporate under the *Body Corporate and Community Management Act 1997*, section 262.
34. Request to record removal of profit a prendre under the *Land Title Act 1994*, section 97L.

SCHEDULE 2 (continued)

35. Request to register standard terms document.
36. Request to record notice of actions or proceedings.
37. Request to register amendment of priority of mortgages under the *Land Title Act 1994*, section 77.
38. Request to register covenant under the *Land Title Act 1994*, section 97A, and the *Land Act 1994*, section 373A.
39. Request to register building management statement under the *Land Title Act 1994*, section 54A.
40. Request to register release of covenant under the *Land Title Act 1994*, section 97D.
41. Request to register extinguishment of building management statement under the *Land Title Act 1994*, section 54H.

SCHEDULE 3**FEES**

section 19

	\$
1. Fee for returning by post an instrument lodged for assessment—	
(a) for 1 instrument only	2.20
(b) for each additional instrument, including a duplicate instrument	0.75
2. Fee for stamping an instrument not chargeable with duty (s 22(2A) of the Act)	20.00
3. Fee for notifying an assessment of 1 or more instruments relating to a particular transaction (s 22(7)(a) to (c) of the Act)	1.00

SCHEDULE 4**REPEALED SUBORDINATE LEGISLATION**

section 32

1. *Stamp Duties Regulation 1926.*
2. The instrument made as an order in council declaring Sepon (Australia) Pty Limited to be a prescribed corporation and gazetted on 19 April 1986 at page 1853.
3. The instrument made as an order in council prescribing Australian Stock Exchange (Brisbane) Limited to be a prescribed stock exchange and gazetted on 4 April 1987 at page 1642.
4. The instrument made as an order in council exempting a vesting of property under the *Crimes (Confiscation of Profits) Act 1989* from the operation of section 54AB of the Act and gazetted on 24 June 1989 at page 1812.
5. The instrument made as an order in council exempting certain types of requests from payment of duty and gazetted on 30 June 1990 at page 1339.
6. The instrument made as an order in council approving the University College of Central Queensland and the University College of Southern Queensland to be tertiary educational institutions and gazetted on 30 June 1990 at page 1340.
7. The instrument made as an order in council, gazetted on 30 June 1990 at page 1340, declaring—
 - (a) New South Wales, Victoria, Western Australia, South Australia, Tasmania, the Australian Capital Territory and the Northern Territory to be declared States; and
 - (b) a stock exchange or recognised stock exchange within the meaning of the Securities Industry (Queensland) Code to be a prescribed stock exchange.
8. The instrument made as an order in council exempting certain types of requests from payment of duty and gazetted on 13 October 1990 at page 783.

SCHEDULE 4 (continued)

9. The instrument made as an order in council declaring Australian Catholic University Ltd to be a university and gazetted on 9 March 1991 on page 1139.
10. The instrument made as an order in council exempting an agreement between The Buderim Ginger Growers' Co-operative Association Limited and AIDC Ltd from payment of duty and gazetted on 9 June 1990 on page 793.
11. The instrument made as an order in council exempting from payment of duty all cheques drawn on a bank in Queensland by the Honorary Consul for and on behalf of the Consulate of Sweden gazetted on 5 June 1992 on page 1037.

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.

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
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	none	2 July 1999
1A	to SL No. 241 of 1999	12 November 1999
1B	to SL No. 66 of 2001	6 July 2001

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

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6 List of legislation

Stamp Duties Regulation 1999 SL No. 104

made by the Governor in Council on 10 June 1999
 notfd gaz 11 June 1999 pp 675–8
 ss 1–2 commenced on date of notification
 remaining provisions commenced 1 July 1999 (see s 2)
 lap 1 March 2002 (2001 No. 71 s 509)
 amending legislation—

Revenue and Other Legislation Amendment Regulation (No. 2) 1999 SL No. 241 pts 1, 5

notfd gaz 29 October 1999 pp 814–7
 commenced on date of notification

Revenue Legislation Amendment Regulation (No. 1) 2001 SL No. 66 pts 1, 3

notfd gaz 8 June 2001 pp 516–17
 ss 1–2 commenced on date of notification
 remaining provisions commenced 1 July 2001 (see s 2)

7 List of annotations

Prescribed stock exchange—Act, s 56C

s 11 amd 2001 SL No. 66 s 6

Prescribed stock exchange—Act, s 56FL
s 11A ins 2001 SL No. 66 s 7

Universities—Act, s 59E
s 12 amd 1999 SL No. 241 s 11

Recognised stock exchanges—Act, sch 2
s 15A ins 2001 SL No. 66 s 8

PART 4—REPEALS

pt 4 (s 32) exp 1 July 1999 (see s 32(3))