



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Price 20c Prys
Overseas 30c Oorsee
POST FREE—POSVRY

ISBN 0 621 00993 8

Vol. 96.]

CAPE TOWN, 29TH JUNE, 1973.

KAAPSTAD, 29 JUNIE 1973.

[No. 3951.

DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1118. 29th June, 1973.

No. 1118. 29 Junie 1973

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 66 of 1973: Revenue Laws Amendment Act, 1973.

No. 66 van 1973: Wysigingswet op Inkomstewette, 1973.

Act No. 66, 1973

REVENUE LAWS AMENDMENT ACT, 1973.

ACT

To amend the Companies Act, 1926, so as to increase the minimum duty payable for a company licence; to amend the Transfer Duty Act, 1949, so as to provide for a reduction in transfer duty in certain circumstances; to provide for certain exemptions from transfer duty, and to introduce a provision in regard to the calculation of transfer duty in respect of certain conversions of a right of occupancy of parts of buildings into a right of ownership; to amend the provisions of the Stamp Duties Act, 1968, with regard to the definition of "public revenue"; so as to provide for certain exemptions; to prescribe the manner in which stamp duty shall be paid in respect of certain instruments; to determine liability for duty in the case of a transfer deed; to abolish the company share capital duty payable under Item 10 of Schedule 1 to that Act; to provide that the stamp duty payable under Item 15 of the said Schedule in respect of the original issue of certain shares, stock or debentures shall also be payable in respect of any premium payable therefor; to prescribe the manner in which the last-mentioned duty shall be determined in the case of shares having no par value; to provide for the payment of a penalty in respect of certain false or incorrect endorsements made on instruments of transfer relating to arbitrage transactions; to extend the meaning of "shares" and "cancelled" in section 23 (10), (11) and (12) of that Act; to extend the exemptions under Item 2 of Schedule 1 to that Act; to withdraw the exemption from the stamp duty on bonds in respect of bonds given by certain companies; to extend the exemptions under Item 20 of Schedule 1 to that Act; to provide that the stamp duty payable under Item 21 of Schedule 1 to that Act in respect of transfer deeds shall also be payable in respect of certain endorsements and certificates of registered sectional title, and to effect certain textual changes; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 19th June, 1973.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of section 228 of Act 46 of 1926, as substituted by section 14 of Act 64 of 1934 and amended by section 16 of Act 49 of 1935, section 16 of Act 33 of 1939 and section 1 of Act 94 of 1967.

1. (1) Section 228 of the Companies Act, 1926, is hereby amended by the substitution for paragraph (a) of the proviso to subsection (5) of the following paragraph:

“(a) the minimum duty payable for any such licence shall be twenty-five pounds if the liability for such duty commences on or after the first day of April, 1973, or five pounds if the liability for such duty commenced on or after the first day of January, 1968, or one pound if the liability for such duty commenced before the first day of January, 1968;”.

Act No. 66, 1973

REVENUE LAWS AMENDMENT ACT, 1973.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1973.

Amendment of section 2 of Act 40 of 1949, as substituted by section 2 of Act 77 of 1964 and amended by section 1 of Act 56 of 1966.

2. (1) Section 2 of the Transfer Duty Act, 1949, is hereby amended—

(a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“(2) Where the date of acquisition falls within the period commencing on the sixteenth day of March, 1964, and ending on the twenty-eighth day of March, 1973, there shall be deducted from the amount of duty calculated as provided in subsection (1)—”; and

(b) by the addition of the following subsections:

“(3) Where—

(a) the date of acquisition of property falls on or after the twenty-ninth day of March, 1973; and

(b) such property is acquired by a natural person and the Secretary is satisfied that the purpose or one of the principal purposes for which such property was acquired by such person was that such person, his spouse, his parent, the parent of his spouse, his or his spouse's child (including anybody who was adopted by such person or his spouse under the Adoption of Children Act, 1923 (Act No. 25 of 1923), or the Children's Act, 1937 (Act No. 31 of 1937), or the Children's Act, 1960 (Act No. 33 of 1960), or under the law of any country other than the Republic, if in the last-mentioned case the adopted person is under such law accorded the status of a legitimate child of the adoptive parent and the adoption was made at a time when the adoptive parent was ordinarily resident in such country) or his or his spouse's grandchild should mainly reside on such property and the Secretary is satisfied that such person, spouse, parent, child or grandchild, as the case may be, will so reside on such property,

there shall be deducted from the amount of duty calculated as provided in subsection (1) in respect of such acquisition an amount equal to—

(i) two-thirds of the amount of such duty if the value or amount on which such duty is payable does not exceed fifteen thousand rand; or

(ii) where the property acquired is improved property as defined in subsection (4)—

(aa) one-half of the amount of such duty if the value or amount on which such duty is payable exceeds fifteen thousand rand but not twenty thousand rand; or

(bb) one-third of the amount of such duty if the value or amount on which such duty is payable exceeds twenty thousand rand but not twenty-five thousand rand.

(4) For the purposes of subsection (3) ‘improved property’ means—

(a) property consisting of land and a habitable dwelling-house thereon; or

Act No. 66, 1973

REVENUE LAWS AMENDMENT ACT, 1973.

- (b) property consisting of a habitable section of a building which, together with the undivided share in the common property apportioned to such section, constitutes a unit as defined in section 1 of the Sectional Titles Act, 1971 (Act No. 66 of 1971):

Provided that where property is acquired under a transaction in terms of which the person acquiring the property agrees to pay in respect thereof a consideration which consists in part of a consideration for the erection or completion of a habitable dwelling-house or habitable accommodation thereon, the property shall for the purposes of subsection (3) be deemed to be improved property."

- (2) Subsection (1) shall be deemed to have come into operation on 29 March 1973.

Amendment of section 9 of Act 40 of 1949, as amended by section 3 of Act 31 of 1953, section 12 of Act 80 of 1959, section 3 of Act 70 of 1963, section 3 of Act 77 of 1964, section 1 of Act 81 of 1965, section 7 of Act 103 of 1969 and section 2 of Act 89 of 1972.

3. (1) Section 9 of the Transfer Duty Act, 1949, is hereby amended—

- (a) by the insertion in subsection (1) after paragraph (bA) of the following paragraph:

"(bB) any regional water services corporation constituted under section 7 of the Water Services Ordinance, 1963 (Ordinance No. 27 of 1963), of Natal;" and

- (b) by the insertion in the said subsection after paragraph (bB) of the following paragraph:

"(bC) the Abattoir Commission established by section 2 of the Abattoir Commission Act, 1967 (Act No. 86 of 1967), in respect of property acquired by it on or after 1 June 1972 for abattoir purposes;"

- (2) Subsection (1) (b) shall be deemed to have come into operation on 1 June 1972.

Insertion of section 9A in Act 40 of 1949.

4. (1) The following section is hereby inserted in the Transfer Duty Act, 1949, after section 9:

"Conversion of right of occupancy of part of building into ownership. 9A. If the right to occupy any part of a building has, before the date of commencement of the Sectional Titles Act, 1971 (Act No. 66 of 1971), become vested in any person by reason of the fact that he holds a share or shares in a company, and that company or, if the company is not the owner of the building, the owner of the building has taken steps as contemplated in section 23 of the said Act for the purpose of conveying ownership to that person in respect of the part in question, and that person has become entitled under the said section to have the ownership in the property (in this section referred to as the acquired property), consisting of a section of such building and an undivided share in the common property apportioned to that section, transferred to him by the said company or the said owner—

- (a) the said person shall, for the purposes of determining the value or amount on which duty is payable in respect of his acquisition of the acquired property, and for the purposes of section 2 of this Act, be deemed to have acquired that property on the date on which the right to occupy the said part of the said building became vested in him;
- (b) the consideration payable by the said person in respect of his acquisition of the acquired property shall for the purposes of determining

Act No. 66, 1973

REVENUE LAWS AMENDMENT ACT, 1973.

the value or amount on which duty is payable in respect of such acquisition, be deemed to be the gross amount (without any set-off) of the consideration referred to in paragraph (iv) of the proviso to subsection (1) of the said section 23, plus the share of the costs referred to in paragraph (iii) of the said proviso which is payable by the said person to such company or owner; and

- (c) the date of acquisition of the acquired property shall for the purposes of sections 3 and 4 of this Act be deemed to be the date on which the relevant sectional plan is registered as contemplated in section 8 of the Sectional Titles Act, 1971, or, where such sectional plan is not registered before the expiry of one year as from the date of commencement of that Act (as applicable in relation to the aforesaid building), the date immediately following upon such expiry.”

(2) Subsection (1) shall be deemed to have come into operation on 29 March 1973.

Amendment of section 1 of Act 77 of 1968, as amended by section 16 of Act 103 of 1969.

5. Section 1 of the Stamp Duties Act, 1968 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of “public revenue” of the following definition:

“‘public revenue’ means the revenue of the State (including a provincial administration, the administration of the territory and the railway administration) received or accrued by way of any tax, fee, levy, duty or rate and includes any amount received by or accrued to the State from an irrigation board established under section 79 of the Water Act, 1956 (Act No. 54 of 1956);”.

Amendment of section 4 of Act 77 of 1968, as amended by section 17 of Act 103 of 1969 and section 5 of Act 72 of 1970.

6. Section 4 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) any instrument if the duty thereon would be legally payable and borne by any divisional council, rural council, municipal council, town council, village council, town board, local board, village management board, health committee or other committee of a similar nature, or any district council or any local or general council established or deemed to have been established under the Bantu Affairs Act, 1959 (Act No. 55 of 1959), or the Rand Water Board, or any regional water services corporation constituted under section 7 of the Water Services Ordinance, 1963 (Ordinance No. 27 of 1963), of Natal, or any water board established under Chapter VII of the Water Act, 1956 (Act No. 54 of 1956), or the Electricity Supply Commission, or the Evaton Bantu Township Liaison Committee as constituted under Part II of Schedule B to Proclamation No. 54 of 1959, or the body established under section 2 of the Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943 (Ordinance No. 20 of 1943), of the Transvaal;”.

Act No. 66, 1973

REVENUE LAWS AMENDMENT ACT, 1973.

Amendment of
section 5 of
Act 77 of 1968,
as amended by
section 9 of
Act 89 of 1972.

7. (1) Section 5 of the principal Act, is hereby amended—
- (a) by the substitution for paragraph (a) of subsection (3) of the following paragraph:
- “(a) Except in the case of an instrument referred to in subsection (4), the duty on any instrument which is notarially executed and is required to be filed in any public office in the Republic shall be denoted on the notarial grosse, duplicate original or copy which is so filed, and the notarial minute or original of such instrument shall be endorsed as to the amount of duty so denoted.”; and
- (b) by the addition of the following subsection:
- “(4) (a) The duty on a notarial lease, notarial sub-lease, sectional mortgage bond or other deed referred to in section 11 (7) of the Sectional Titles Act, 1971 (Act No. 66 of 1971), shall for the purposes of this Act be deemed to be chargeable in respect of the notarial grosse or duplicate original or any copy thereof filed in a deeds registry, and payment thereof shall not be denoted by means of stamps but shall be acknowledged by means of the issue of a special receipt.
- (b) Where any endorsement made by a registrar of deeds on a sectional title deed as contemplated in the Sectional Titles Act, 1971, or any certificate of registered sectional title issued by such registrar under that Act is subject to the duty chargeable under Item 21 of Schedule 1 to this Act on a transfer deed relating to immovable property, such duty shall for the purposes of this Act be deemed to be chargeable in respect of the endorsement made by the said registrar on the copy of such sectional deed filed in his deeds registry or in respect of the copy of such certificate of registered sectional title filed in his deeds registry, as the case may be, and payment thereof shall not be denoted by means of stamps but shall be acknowledged by means of the issue of a special receipt.”.

(2) Subsection (1) shall be deemed to have come into operation on 29 March 1973.

Amendment of
section 7 of
Act 77 of 1968,
as amended by
section 18 of
Act 103 of 1969
and section 10 of
Act 89 of 1972.

8. (1) Section 7 of the principal Act is hereby amended by the insertion after paragraph (i) of the following paragraph:
- “(iA) in the case of any transfer deed, the transferor;”.
- (2) Subsection (1) shall be deemed to have come into operation on 29 March 1973.

Repeal of
section 20 of
Act 77 of 1968.

9. (1) Section 20 of the principal Act is hereby repealed.
- (2) Subsection (1) shall come into operation on 1 January 1974.

Amendment of
section 23 of
Act 77 of 1968,
as amended by
section 20 of
Act 103 of 1969,
section 13 of
Act 92 of 1971
and section 11 of
Act 89 of 1972.

10. (1) Section 23 of the principal Act is hereby amended—
- (a) by the insertion after subsection (1A) of the following subsection:
- “(1B) (a) Where any shares, stock or debentures are issued at a premium the amount of such premium shall for the purposes of the duty payable under Item 15 (1) of Schedule 1 in respect of such issue, be shown in or endorsed upon the

Act No. 66, 1973

REVENUE LAWS AMENDMENT ACT, 1973.

- scrip, certificate, warrant or other instrument representing such shares, stock or debentures.
- (b) Where shares having no par value are issued, the nominal value thereof (as contemplated in the said Item 15 (1)) shall, for the purposes of the duty payable under that Item in respect of such issue, be shown in or endorsed upon the scrip, certificate or other instrument representing such shares.
- (c) The company or corporate body issuing any shares, stock or debentures to which the provisions of paragraph (a) or (b) apply shall be responsible for compliance with those provisions, and if such company or corporate body or any officer thereof fails to comply with any requirement thereof, such company or corporate body shall, in addition to being liable for any unpaid duty which is payable in respect of the issue of the shares, stock or debentures in question, incur a penalty not exceeding one hundred rand.
- (d) The provisions of paragraphs (a), (b) and (c) shall not apply where the duty is paid in the manner contemplated in paragraph (iii) of the proviso to section 5 (1).";
- (b) by the substitution for paragraph (b) of subsection (8) of the following paragraph:
 "(b) makes any endorsement on any instrument of transfer for the purposes of subsection (4) (b) (ii), (v), (vi) or (vii) which is false or incorrect or fails to comply with the provisions of subsection (5); or"; and
- (c) by the insertion after subsection (12) of the following subsection:
 "(12A) For the purposes of section 7 (hA) and of subsections (10), (11) and (12) of this section and Item 15 (4) of Schedule 1—
- (a) the references therein to 'shares' shall be deemed to include references to stock and debentures;
- (b) 'cancelled' means cancelled in whole or in part, and 'cancellation' shall be construed accordingly;
- (c) shares, stock or debentures issued by any company shall be deemed to be cancelled in part if any rights attaching to such shares, stock or debentures are altered so as to result in a material diminution of the rights of the holders of such shares, stock or debentures to participate in the profits or gains of such company or to receive any dividend or other distribution or any interest or other payment from such company;
- (d) where shares, stock or debentures are cancelled in part as aforesaid, the consideration to be determined under subsection (10) in respect of such part-cancellation shall be deemed to be the full market value of such shares, stock or debentures as determined in accordance with that subsection, less such amount as the Secretary may determine as the value of such shares, stock or debentures immediately after such part-cancellation.".
- (2) (a) Subsection (1) (a) shall come into operation on 1 January 1974.
- (b) Subsection (1) (c) shall be deemed to have come into operation on 6 June 1973 in respect of any scheme of arrangement or reconstruction of any company or its affairs sanctioned by any order of court granted in consequence of proceedings instituted on or after the said date.

Act No. 66, 1973

REVENUE LAWS AMENDMENT ACT, 1973.

Amendment of
Item 2 of
Schedule 1 to
Act 77 of 1968,
as amended by
section 8 of
Act 72 of 1970.

11. (1) Item 2 of Schedule 1 to the principal Act is hereby amended by the addition to the Exemptions of the following paragraph:

“(c) Agreement incorporated in the memorandum of association of any company which is formed or to be formed under the Companies Act, 1973.”

(2) Subsection (1) shall come into operation on 1 January 1974.

Amendment of
Item 7 of
Schedule 1 to
Act 77 of 1968.

12. (1) Item 7 of Schedule 1 to the principal Act is hereby amended by the substitution for paragraph (c) of the Exemptions of the following paragraph:

“(c) Bond given not later than 31 December 1973 by any company registered in pursuance of a licence granted under section 21 of the Companies Act, 1926 (Act No. 46 of 1926), which has not been revoked.”

(2) Subsection (1) shall come into operation on 1 January 1974.

Amendment of
Item 8 of
Schedule 1 to
Act 77 of 1968.

13. Item 8 of Schedule 1 to the principal Act is hereby amended by the substitution for paragraph (b) of the Exemptions of the following paragraph:

“(b) Note in respect of the sale or purchase of any stock issued by the Government or of any marketable security issued by any local authority, the South African Broadcasting Corporation, the Rand Water Board, the Electricity Supply Commission, the Land and Agricultural Bank of South Africa, a water board established under Chapter VII of the Water Act, 1956 (Act No. 54 of 1956), or a regional water services corporation constituted under section 7 of the Water Services Ordinance, 1963 (Ordinance No. 27 of 1963), of Natal.”

Deletion of
Item 10 of
Schedule 1 to
Act 77 of 1968.

14. (1) Item 10 of Schedule 1 to the principal Act is hereby deleted.

(2) Subsection (1) shall come into operation on 1 January 1974.

Amendment of
Item 12 of
Schedule 1 to
Act 77 of 1968.

15. (1) Item 12 of Schedule 1 to the principal Act is hereby amended by the addition to the Exemptions of the following paragraph:

“(c) Any duplicate original of any endorsement referred to in section 5 (4) (b) of this Act.”

(2) Subsection (1) shall be deemed to have come into operation on 29 March 1973.

Amendment of
Item 15 of
Schedule 1 to
Act 77 of 1968,
as substituted by
section 13 of
Act 89 of 1972.

16. (1) Item 15 of Schedule 1 to the principal Act is hereby amended—

(a) by the substitution for the words preceding paragraph (1) of the following words:

“15. *Marketable security*, including any scrip, certificate, warrant or any other like instrument representing any share, stock or debenture, or any right of option to acquire any share, stock or debenture, of any company or other corporate body (other than a local authority, the Rand Water Board, the Electricity Supply Commission, the Land and Agricultural Bank of South Africa, a water board established under Chapter VII of the Water Act, 1956 (Act No. 54 of 1956), a regional water services corporation constituted under section 7 of the Water Services Ordinance, 1963 (Ordinance No. 27 of 1963), of Natal, or a building society);” and

Act No. 66, 1973

REVENUE LAWS AMENDMENT ACT, 1973.

- (b) by the substitution for paragraph (1) of the following paragraph:

“(1) In respect of the original issue within the Republic of any such shares, stock or debentures:

- (a) if transferable only by registration: for every R20 or part thereof of the nominal value of such shares, stock or debentures and any premium payable therefor R c
0 05
- (b) if made out to bearer or in any manner so as to be transferable by delivery only: for every R20 or part thereof of the nominal value of such shares, stock or debentures and any premium payable therefor. 0 20

For the purposes of this paragraph shares having no par value shall be deemed to have a nominal value equal to the issue price of or other consideration for such shares or, where no issue price or other consideration is payable, the nominal value of the interest represented by the shares in the share capital of the company or corporate body issuing such shares.”

- (2) Subsection (1) (b) shall come into operation on 1 January 1974.

Amendment of
Item 16 of
Schedule 1 to
Act 77 of 1968.

17. (1) Item 16 of Schedule 1 to the principal Act is hereby amended—

- (a) by the substitution for the Exemption to paragraph (2) of the following Exemption:

“Exemption: Any notarial grosse, duplicate original or copy referred to in section 5 (3) (a) of this Act or any notarial grosse, duplicate original or copy in respect of which duty is chargeable and payment thereof is acknowledged as provided in section 5 (4) of this Act.”; and

- (b) by the substitution for paragraph (3) of the following paragraph:

“(3) The notarial minute or original of any instrument chargeable with duty under any other Item of this Schedule, if such duty is denoted on the notarial grosse, duplicate original or copy of such instrument or is chargeable in respect of the notarial grosse, duplicate original or copy of such instrument and payment thereof is acknowledged as provided in section 5 (4) of this Act R c
0 20”.

- (2) Subsection (1) shall be deemed to have come into operation on 29 March 1973.

Amendment of
Item 18 of
Schedule 1 to
Act 77 of 1968,
as amended by
section 26 of
Act 103 of 1969.

18. Item 18 of Schedule 1 to the principal Act is hereby amended by the substitution for paragraph (3) of the following paragraph:

“(3) Policy of insurance issued in compliance with the Compulsory Motor Vehicle Insurance Act, 1972 (Act No. 56 of 1972): in respect of each vehicle which is the subject of such policy R c
0 10”.

Amendment of
Item 20 of
Schedule 1 to
Act 77 of 1968,
as amended by
section 27 of
Act 103 of 1969.

19. Item 20 of Schedule 1 to the principal Act is hereby amended by the addition to the Exemptions of the following paragraph:

“(f) Indemnity given to the Government (including any provincial administration, the administration of the territory and the railway administration) in respect of loss or damage caused by or suffered in consequence

Act No. 66, 1973

REVENUE LAWS AMENDMENT ACT, 1973.

of any act or omission of any officer or employee of the Government (or of any such administration) in carrying out the duties of his office or employment.”.

Amendment of Item 21 of Schedule 1 to Act 77 of 1968, as substituted by section 28 of Act 103 of 1969.

20. (1) The following Item is hereby substituted for Item 21 of Schedule 1 to the principal Act:

“21. *Transfer deed* relating to immovable property:

- | | |
|---|-------------|
| (1) Where the value or consideration does not exceed R7 000: for every R100 or part thereof of the value or consideration . . . | R c
0 25 |
| (2) Where the value or consideration exceeds R7 000 | 17 50 |
| and for every R100 or part thereof of the value or consideration in excess of R7 000 | 0 75 |

Where the amount of such value differs from the amount of such consideration, the duty under this Item shall be payable on the higher amount.

Where, in terms of the Sectional Titles Act, 1971 (Act No. 66 of 1971), the ownership or any share of or interest in the ownership in any unit or land held under sectional title deed is transferred or any alienation of any such unit or land or any share of or interest therein is registered by means of an endorsement made by a registrar of deeds on such sectional title deed or by means of the issue by such registrar of a certificate of registered sectional title, such endorsement or certificate shall for the purposes of this Item be deemed to be a transfer deed relating to immovable property.

Exemptions:

- (1) Partition transfers, except in respect of consideration paid by one of the parties thereto to another such party.
- (2) Transfers which bring about no alteration in the legal rights in the property transferred.”.
- (2) Subsection (1) shall be deemed to have come into operation on 29 March 1973.

Short title.

21. This Act shall be called the Revenue Laws Amendment Act, 1973.