

76AG. When statement to be lodged

- (1) Where by a relevant acquisition a person acquires a majority interest or a further interest in —
 - (a) a WA company to which this Division applies; or
 - (b) a WA company to which this Division would apply if the reference to the value of land in section 76AI(2)(b) were a reference to the value of land, goods, wares and merchandise,the person shall prepare and lodge with the Commissioner a statement in respect of that 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 him and a related person or related persons being aggregated, one of such persons shall prepare and lodge a statement under that subsection of all acquisitions on behalf of all such persons.
- (3) The statement shall be lodged within 3 months of the occurrence of the relevant acquisition.
- (4) The statement shall be in a form approved by the Commissioner and shall include the following information —
 - (a) the name and address of the person who has acquired a majority interest or a further interest and of any related person referred to in subsection (2);
 - (b) the date of the acquisition;
 - (c) particulars of the interest acquired and all interests previously acquired by the person or a related person in the WA company;
 - (d) the person's estimate of the unencumbered value of all land and chattels in the State to which the WA company is entitled as at that date;
 - (da) particulars of any chattels, whether situated in the State or not, to which the WA company was entitled in the 12 months preceding that date and acquired, directly or indirectly, by the person or a related person in that period;
 - (db) the person's estimate of the unencumbered value of those chattels;
 - (e) the person's estimate of the unencumbered value of the property of the WA company as at that date; and
 - (f) if the statement is lodged because of subsection (1)(b), a notation to that effect and such information relating to the goods, wares and merchandise referred to in subsection (1)(b), and their ownership and acquisition, as the approved form requires to be provided.
- (5) For the purposes of this Act —
 - (a) a statement lodged because of subsection (1)(a); and
 - (b) subject to subsection (5c), a statement lodged because of subsection (1)(b),

is to be regarded as an instrument executed on the day on which the relevant acquisition occurs.

- (5a) If, in the case of a statement lodged because of subsection (1)(b), the Commissioner is satisfied that the entitlement to, and valuation of, the goods, wares and merchandise referred to in subsection (1)(b) were not part of an arrangement or scheme having as its purpose, or one of its purposes, the defeat of the object of this Division, the Commissioner may determine that subsection (5) does not apply to the statement.
- (5b) In deciding whether or not to make a determination under subsection (5a) the Commissioner may have regard to —
- (a) the source of the goods, wares and merchandise and the source of funding for their acquisition;
 - (b) their nature and their relevance to any business carried on by the WA company or subsidiary;
 - (c) the period for which they have been and are likely to remain the property of the WA company or subsidiary; and
 - (d) any other matter that the Commissioner considers relevant.
- (5c) A determination made under subsection (5a) has effect according to its terms and the Commissioner is to give written notice of it to the person who lodged the statement.
- (5d) If the person who lodged the statement requests the Commissioner, in writing, to give reasons why the Commissioner has not made a determination under subsection (5a), the Commissioner is to give written reasons to the person.
- (5e) A person who —
- (a) is required to lodge a statement because of subsection (1)(b); and
 - (b) fails to do so within the period set out in subsection (3),
- commits an offence against this Act.
- (6) A person who lodges a statement under subsection (1) which is false in a material particular commits an offence against this Act.

[Section 76AG inserted by No. 33 of 1987 s.22¹⁸; amended by No. 41 of 1989 s.15; No. 39 of 1994 s.21; No. 22 of 1998 ss.38 and 39; No. 60 of 2000 s.7; No. 3 of 2001 s. 20.]