

76C. Non-beneficial change of ownership

- (1) On application by a person to whom the licence for a vehicle has been or is to be transferred the Commissioner may authorise duty to be charged on the transfer in accordance with section 76D(2) if the Commissioner is satisfied that —
 - (a) the change in the legal ownership of the vehicle to which the licence relates that necessitated, or will necessitate, the transfer of the licence did not, or will not, change the beneficial ownership of the vehicle; and
 - (b) the transferor of the licence —
 - (i) acquired the legal ownership of the vehicle in his or her capacity as trustee, discretionary trustee or unit trustee (as the case requires); and
 - (ii) paid duty on the grant or transfer to him or her of the licence.
- (2) An application for an authorisation is to be made to the Commissioner in an approved form.
- (3) For the purposes of subsection (1)(a), a change in the legal ownership of a vehicle does not change the beneficial ownership of the vehicle if —
 - (a) the change in the legal ownership of the vehicle is made to effect the appointment of a new trustee, or the retirement of a trustee, whether the trust is expressed or implied;
 - (b) the legal ownership of a vehicle passes to a beneficiary from a trustee or a person in any other fiduciary capacity (except a discretionary trustee or a unit trustee), under a trust, whether express or implied;
 - (c) the legal ownership of the vehicle passes to a beneficiary under a discretionary trust (whether express or implied) from the discretionary trustee otherwise than as a result of the exercise by the trustee of a power of appointment;
 - (d) the legal ownership of the vehicle passes to a beneficiary under a discretionary trust from the discretionary trustee as a result of the exercise by the trustee of a power of appointment if —
 - (i) the beneficiary is an individual;
 - (ii) the beneficiary acquires the vehicle for his or her own use and benefit; and
 - (iii) at the time the trustee acquired the vehicle the beneficiary was named or described in the instrument which created the power of appointment as a beneficiary or as a member of a class of beneficiaries in whose favour the discretionary trustee was empowered by that instrument to appoint the vehicle;
 - (e) the legal ownership of the vehicle passes to the holder of a unit in a unit trust scheme from the unit trustee if the change in the legal ownership of the vehicle —
 - (i) has the effect of reducing the rights of the transferee in respect of the trust property to the extent of the vehicle or the value of the vehicle; and

- (ii) does not have the effect of varying, abrogating or altering the rights of the holder or holders of other units under the unit trust scheme in respect of the remaining trust property;

or

- (f) the change in the legal ownership of the vehicle —
 - (i) does not pass a beneficial interest in the vehicle;
 - (ii) is not made in contemplation of the passing of a beneficial interest in the vehicle; and
 - (iii) is not part of, or made pursuant to, a scheme whereby any beneficial interest in the vehicle, whether vested or contingent, has passed or will or may pass.

[Section 76C inserted by No. 2 of 2003 s. 100.]