

76C. Duty on motor vehicle licences and transfers thereof

- (1) Duty referred to in item 14 or, where subsection (6a) or section 76CA or 112UE(2) applies, item 6 of the Second Schedule shall, except where —
 - (a) it is denoted on a licence or transfer by an impressed stamp or an adhesive stamp which has been duly cancelled; or
 - (b) subsection (11) applies,be paid to the licensing authority to which an application is made for the issue or transfer of a licence.
- (2) A licensing authority which is —
 - (a) the Director General shall furnish to the Commissioner each month details of amounts of duty brought to account for licences and transfers during the preceding month;
 - (b) not the Director General shall, subject to subsection (3), furnish to the Commissioner within a period of 15 days after the end of the month in which licences were issued or transferred a return in such form as the Commissioner approves in writing setting out details of those issued or transferred licences, together with a remittance for the amount of duty payable in respect thereof.
- (3) If no duty is payable in respect of the licences, if any, issued or transferred in any month by a licensing authority which is not the Director General, that licensing authority shall furnish the Commissioner with a nil return in respect of that month.
- (4) Every licensing authority shall cause licences issued or transferred by it and charged with duty in accordance with item 14 or, where subsection (6a) or section 76CA applies, item 6 of the Second Schedule to be endorsed as to the payment of duty in such manner as the Commissioner may require.
- (5) When the charging of duty is denoted, on licences issued or transferred as referred to in this section, by adhesive stamps, the person issuing or transferring those licences shall furnish the Commissioner, not later than the 15th day of the month following the month in which those licences were issued or transferred, with a statement relating to those issued or transferred licences in such form as the Commissioner requires in writing.
- (6) No duty is chargeable under this Act —
 - (a) in the case of a transfer to a dealer, if that transfer has been obtained by the dealer for the purpose of the resale to another person by the dealer of the motor vehicle to which that transfer relates, and for no other purpose, and that resale is in the ordinary course of the business of the dealer; or
 - (b) in the case of a licence issued to a person who carries on the business of selling motor vehicles, if that licence has been obtained by that person for the purpose of —
 - (i) selling the motor vehicle to which that licence relates to another person in the ordinary course of that business; or
 - (ii) demonstrating the motor vehicle referred to in subparagraph (i) to prospective purchasers thereof,and for no other purpose.

- (6a) A transfer of a licence for a motor vehicle under a testamentary instrument or upon an intestacy to a person who is entitled to that vehicle in terms of that instrument or upon that intestacy —
- (a) shall be charged with duty under item 6 of the Second Schedule; and
 - (b) is not subject to the requirements of subsection (8).
- (7) A person applying for —
- (a) the transfer of a licence referred to in subsection (6)(a); or
 - (b) the issue of a licence referred to in subsection (6)(b),
- shall, before the transfer or issue of the licence, certify in such form as the Commissioner requires that, if the licence is issued or transferred to the person, the motor vehicle in respect of which the application is made will, while the person is the holder of the licence, be used for the purpose specified in the certification, being one of the purposes referred to in that subsection, and for no other purpose except a minor incidental purpose.
- (8) For the purposes of this Part an application for the issue or transfer of a licence shall contain or be accompanied by —
- (a) a statement signed by the person who is the proposed licensee or transferee showing —
 - (i) the market value of the motor vehicle at the time of the application; and
 - (ii) whether or not the proposed licensee or transferee is a purchaser of the motor vehicle and, if he is, the purchase price paid for the vehicle;
- and
- (b) where the proposed licensee or transferee is a purchaser of the motor vehicle a statement signed by the seller of the motor vehicle showing the purchase price paid for the vehicle by the purchaser.
- (9) If an application does not contain any statement required by subsection (8)(a) or (b) or if the licensing authority considers that the market value of the motor vehicle stated is less than the market value at the time of the application, the licensing authority —
- (a) may call on the proposed licensee or transferee to furnish to it such evidence or further evidence of the market value as he may wish to supply;
 - (b) shall determine the market value of the motor vehicle on such evidence, including the evidence (if any) furnished under paragraph (a), as it thinks fit;
 - (c) shall, on the basis of that determination, assess the amount of duty payable on the licence or transfer; and
 - (d) shall not issue or transfer the licence until that amount has been paid.
- (10) If it appears to a licensing authority that a person has contravened section 24(2) of the *Road Traffic Act 1974* in respect of a motor vehicle and if the time for commencing proceedings for the offence has not elapsed, the authority may —
- (a) determine the market value of the motor vehicle as at the date the person became the owner of the motor vehicle;

- (b) assess the duty payable by the person as if the licence had been transferred on the application of the person; and
 - (c) include a fine equal to the amount of duty assessed.
- (10A) A licensing authority may remit the whole or part of any fine included under subsection (10).
- (10B) The total amount of the duty assessed under this Part, and any fine included under subsection (10) —
 - (a) shall be paid by the person to a licensing authority before the licence for the vehicle is transferred; and
 - (b) may be recovered —
 - (i) if the offence against section 24(2c) of the *Road Traffic Act 1974* is prescribed for the purposes of section 102 of that Act, by issuing a traffic infringement notice to the person for an alleged offence against section 24(2c) of that Act; or
 - (ii) on a complaint alleging that the person has committed an offence against section 24(2c) of that Act.
- (10C) If it appears to the Commissioner that a person has contravened section 24(2) of the *Road Traffic Act 1974* in respect of a motor vehicle, the Commissioner may —
 - (a) determine the market value of the motor vehicle as at the date the person became the owner of the motor vehicle;
 - (b) assess the duty payable by the person as if the licence had been transferred on the application of the person; and
 - (c) serve a notice of the assessment on the person.
- (10D) The Commissioner shall not take action to recover any duty or fine payable under this section if a licensing authority is taking action to recover the duty or fine, and *vice versa*.
- (11) If the Commissioner considers that duty has been paid or assessed on the basis of a value of a motor vehicle that is less than the market value at the time of the application he may, notwithstanding that the licence for the vehicle has been issued or transferred and an amount of duty has been paid, serve —
 - (a) a notice of assessment showing the duty or the balance of the duty assessed on the person liable under item 14 of the Second Schedule to pay the duty;
 - (b) a notice of assessment showing the proportion of the duty assessed on a person liable under subsection (12) to pay a proportion of duty.
- (12) If —
 - (a) duty has been paid or assessed on the basis of a value of a motor vehicle that is less than the market value at the time of the application; and
 - (b) the seller of the motor vehicle has in a statement under subsection (8)(b) understated the purchase price of the vehicle,the seller is liable to pay the part of the duty that relates to the difference between the purchase price stated by him and the lesser of the actual purchase price or the market value of the vehicle.

- (13) The liability of the seller under subsection (12) is joint and several with the liability of the person referred to in item 14 of the Second Schedule.
- (13A) Section 31A(1a), (1b), (3), (4) and (5) and section 32 apply to a notice under subsection (10C) or (11) as if it were a memorandum created by the Commissioner and an assessment of duty under section 31A.
- (13B) Section 32 applies to an assessment or a determination made by a licensing authority under this Part as if it were an assessment or determination, as the case requires, made by the Commissioner.
- (13C) If a traffic infringement notice issued under section 102 of the *Road Traffic Act 1974* for an alleged offence against section 24(2c) of that Act specifies the amount referred to in subsection (10B), the person to whom it is issued shall not object under section 32 to the assessment made under subsection (10) unless he has paid the total amount payable under and in respect of the infringement notice.
- (14) A person who for the purposes of this section makes any return, statement, certificate or valuation, or furnishes any evidence, which is false in a material particular commits an offence against this Act.
- (15) Section 75A does not apply to any determination by the Commissioner of the market value of a motor vehicle for the purposes of this section.
- (16) A person referred to in subsection (8)(a) who fails or refuses to comply with paragraph (a)(i) or (ii) of that subsection commits an offence.
- (17) A seller of a motor vehicle who fails or refuses to comply with subsection (8)(b) commits an offence.
- (18) If under the *Road Traffic Act 1974* a licence is issued to a person and, within 15 months after the date of the issue, the Director General or a specified person under that Act —
- (a) determines that the person did not have to pay the vehicle licence fee at the time of the issue; and
 - (b) refunds the whole of that vehicle licence fee paid by the person,
- the Commissioner shall refund the whole of the duty paid by the person in respect of the issue of the licence.
- (19) If under the *Road Traffic Act 1974* a licence is transferred to a person and, within 15 months after the date of the transfer, the Director General or a specified person under that Act determines that had the person applied for the issue of a licence at the date of the transfer, he would not have had to pay a vehicle licence fee, the Commissioner shall refund the duty paid by the person in respect of the transfer.

[Section 76C inserted by No. 37 of 1979 s. 54; amended by No. 106 of 1981 s. 38; No. 84 of 1985 s. 9; No. 41 of 1989 s. 18; No. 52 of 1991 s. 16; No. 41 of 1995 s. 7; No. 57 of 1995 s. 9; No. 76 of 1996 s. 45; No. 13 of 1997 s. 44; No. 24 of 1999 s. 5 and 7²¹.]