

75D. Interpretation in Part IIIBAA

(1) In this Part —

“discretionary trust” has the same definition as in section 76;

“discretionary trustee” means the trustee of a discretionary trust;

“family member”, in relation to a person, means —

- (a) a child or remoter lineal descendant of the person;
 - (b) a parent or remoter lineal ancestor of the person;
 - (c) a brother or sister of the person or remoter lineal descendant of a brother or sister of the person;
 - (d) an aunt or uncle of the person;
 - (e) the spouse, former spouse, de facto partner of 2 years or former de facto partner of 2 years of the person; or
 - (f) the spouse or de facto partner of 2 years of a person referred to in paragraph (a), (b), (c) or (d),
- or more than one of them;

“farming company” means a corporation —

- (a) the shares of which are not quoted on a financial market; and
- (b) which has assets which include —
 - (i) farming property; or
 - (ii) a share in a corporation —
 - (I) the shares of which are not quoted on a financial market; and
 - (II) the assets of which include farming property;

“farming land” means —

- (a) land that is used solely or principally for the purpose of primary production; or
- (b) land that is used solely or principally for the purpose of silviculture or reforestation;

“farming partnership” means a partnership, the assets of which include farming property;

“farming property” means —

- (a) farming land; or
- (b) personal property which is used solely or principally in connection with the business of primary production;

“instrument of conveyance” means a conveyance or transfer of property or other instrument chargeable with duty —

- (a) under item 4 of the Second Schedule; or
- (b) at a rate of duty provided for in item 4 of the Second Schedule, but does not include a Part IIIBA statement;

“land” includes an estate or interest in —

- (a) freehold land, whether or not registered under the *Transfer of Land Act 1893*; or
- (b) a Crown lease registered under the *Transfer of Land Act 1893*;

“primary production” means —

- (a) the growing or rearing of plants (including trees, fungi or any crop) for the purpose of selling them, parts of them or their produce;
- (b) the breeding, rearing or maintenance of living creatures for the purpose of —
 - (i) selling them (or their progeny) for food;
 - (ii) the production or collection of their skins, shells or bodily produce; or
 - (iii) selling parts of them or their skins, shells or bodily produce;
- (c) the breeding or rearing of horses for the purpose of selling them or their progeny;

“trustee” means a trustee who is not a discretionary trustee or the trustee of a unit trust.

- (1a) For the purposes of this Part a person controls a discretionary trust if —
 - (a) the person is in a position to influence, either directly or indirectly, the vesting of the whole or any part of the capital of the trust property, or of the whole or any part of the income from that trust property; or
 - (b) in a case where a corporation is in a position to influence, either directly or indirectly, the vesting of the whole or any part of the capital of the trust property, or of the whole or any part of the income from that trust property, the person is beneficially entitled to a share, or an interest in a share, in that corporation or a related corporation or to act as a director or secretary of that corporation or related corporation.
- (2) For the purposes of this Part —
 - (a) an illegitimate person shall be treated as the legitimate child of that person’s parents; and
 - (b) it is irrelevant whether a relationship is of the whole or half-blood, or whether it is a natural relationship or a relationship established by a written law.

[Section 75D inserted by No. 79 of 1994 s. 4(1); amended by No. 20 of 1996 s. 31; No. 57 of 1996 s. 6; No. 13 of 1997 s. 42; No. 53 of 1999 s. 21; No. 21 of 2003 s. 27; No. 2 of 2003 s. 68; No. 28 of 2003 s. 191; No. 66 of 2003 s. 42; No. 12 of 2004 s. 27.]