

REVENUE RULING NO. SD 169

POLICIES OF INSURANCE - CARE CUSTODY AND CONTROL POLICIES

PREAMBLE

- Regulation 68A of the Stamp Duties Regulations 1934 was gazetted on 23 February 1990 and was to take effect from 1 November 1989. The object of this Regulation was to prescribe crop insurance and livestock insurance as Class 2 insurance for the purposes of Division 24 of Part 3 of the Stamp Duties Act 1920, so reducing (from 11.5% to 2.5%) the stamp duty payable on premiums paid in respect of such insurance.
- Some confusion has arisen in the interpretation of the definition of livestock insurance when effecting a Care Custody and Control Policy of insurance. The Regulation defines "livestock insurance" as -

"being insurance covering:

(a) loss due to the death of, or physical damage to, any animal, whether domesticated or wild; or

(b) loss due to the death of, or physical damage to, any genetic material of any such animal; or

(c) loss due to the theft of any such animal or genetic material.">

- The Care Custody and Control Policy typically indemnifies "the Insured" against any claim by reason of any negligent act, negligent error or negligent omission on the part of the insured *for damages* arising out of -

(a) death;

(b) permanent injury;

(c) temporary injury;

(d) loss of use;

(e) infectious or contagious disease; or

(f) service of the wrong mare;

of or to any bloodstock which is in the legal care custody or control of "the Insured".

- Furthermore, these policies provide that the insurance company shall not be liable to indemnify "the Insured" in respect of any claim for any bloodstock in which "the Insured" has either a direct, actual or

beneficial proprietary interest.

RULING

- Where an owner of livestock or bloodstock takes out a policy for "livestock insurance" (as it is defined in Regulation 68A), then that policy is subject to duty at the rate of 2.5% of the premium.
- However, the Care Custody and Control Policy simply covers "the Insured" for damages for which they may become legally liable. As such, a liability policy of this type is clearly precluded from the definition of "livestock insurance" as is contemplated in the Regulation and attracts duty at the rate of 11.5% of the premium.

B. BUCHANAN
for Chief Commissioner of Stamp Duties
12th April, 1991

Last Updated: 20-Sep-2001