

# Notice

## To Lodging Parties

30 June 2009

No 160

### Implications of the Stamp Duties (Tax Reform) Amendment Act 2009

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The *Stamp Duties (Tax Reform) Amendment Act 2009* was assented to on the 4 June 2009. The Act, amongst other things, repeals Sections 79(6) and 79(7) of the *Stamp Duties Act 1923* and abolishes mortgage duty.

#### Discharge of Mortgage

Sections 79(6) and 79(7) require discharges of mortgages to be endorsed with a certificate by the mortgagee stating the highest amount secured during the currency of the mortgage and that the mortgage has been duly stamped. As from 1 July 2009, any discharge of mortgage (including a mortgagee consent within a division type document) lodged for registration does not have to contain such a certificate.

The certificate will therefore be removed from the relevant Lands Titles Office panel forms in the near future. The certification displayed in existing panel forms may simply be crossed through.

#### Mortgage Duty

Under the Act the following provisions apply in relation to mortgage duty.

1. No stamp duty will be payable on a mortgage executed on or after 1 July 2009.
2. Where a mortgage is executed prior to 1 July 2009, stamp duty will only be payable where:
  - An advance is made under the mortgage prior to 1 July 2009, or
  - The mortgage first affects property in South Australia prior to 1 July 2009.
3. Mortgages that are dutiable will be chargeable at the rate in force, as at the date that the advance is made or the date that the mortgage first affects property in South Australia.

Where registration fees are paid directly to the LTO, mortgages executed on or after 1 July 2009 do not require stamping. The effect of Section 104(1)(b) of the *Stamp Duties Act 1923* is that mortgages executed before 1 July 2009 could also be exempt so long as the advance is made on or after that date. These mortgages will therefore need to be stamped with the required duty or as exempt.

RevenueSA have introduced a new document type for non-dutiable mortgages within RevNet, which will be available from 1 July 2009 to enable LTO fees to be remitted.



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