



STATEMENT OF PRACTICE SP-SD 1/96

1. INTRODUCTION

- 1.1 The Finance Act, 1996, simplifies procedures for claiming stamp duty exemption in respect of new houses or apartments i.e., houses or apartments which are entirely exempt under the provisions of Section 49, Finance Act, 1969. It is no longer necessary to present such instruments to the Revenue Commissioners in order to qualify for the exemption. This Statement of Practice sets out the new procedures which apply to instruments executed on or after 15 May, 1996.
- 1.2 The requirement that such deeds be impressed with the "Particulars Delivered" (PD) stamp still remains.

2. BACKGROUND

- 2.1 Section 49, Finance Act, 1969, refers to new houses and apartments which come within certain floor area limits laid down by the Department of the Environment.
- 2.2 Under Section 49, an instrument giving effect to the purchase of a house or apartment upon the erection thereof, is exempt from stamp duty provided that it is shown to the satisfaction of the Revenue Commissioners that a floor area certificate has been issued by the Department of the Environment in respect of same. The floor area certificate certifies that, on the basis of the information available to the Minister for the Environment, the floor area of the house or apartment is within the limits as laid down under Regulations made by the Minister. As the exemption could not be granted unless the Revenue Commissioners were satisfied, in practice all such instruments were adjudged.
- 2.3 Instruments executed prior to 15 May, 1996 had to be stamped "adjudged not chargeable with any stamp duty" before registration could take place in the Land Registry or the Registry of Deeds.

3. SECTION 113, FINANCE ACT, 1996

- 3.1 This section applies to instruments executed on or after 15 May, 1996. It provides that the exemption from stamp duty shall apply where the instrument contains a statement, in such form as the Revenue Commissioners may specify, certifying that —
 - the instrument gives effect to the purchase of a house or apartment upon the erection thereof, *and*
 - on the date of execution of the instrument there exists a valid floor area certificate in respect of the said house or apartment.

The form of words is to be as follows:

"It is hereby certified that —

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PROCEDURES UNDER SECTION 113, FINANCE ACT, 1996

EXEMPT NEW HOUSES

APPENDIX 4

REVENUE COMMISSIONERS'
STATEMENTS OF PRACTICE
STAMP DUTY

LAW SOCIETY CONVEYANCING HANDBOOK



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PROCEDURES UNDER SECTION 113, FINANCE ACT, 1996

EXEMPT NEW HOUSES

(Contd.)

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- this instrument gives effect to the purchase of a house/apartment [delete as appropriate] upon the erection thereof; *and*
 - on the date of execution of this instrument, there exists a valid floor area certificate (within the meaning of Section 4(2)(b) Housing Miscellaneous Provisions Act, 1979) in respect of the said house/apartment [delete as appropriate].”
- 3.2 There is no need to present the instruments to the Revenue Commissioners in order to obtain the exemption. The requirement to have the deed stamped “adjudged not chargeable with any stamp duty” has been removed.
- 3.3 Where an instrument contains a certificate as at 3.1, the Land Registry and the Registry of Deeds will accept such instruments without the adjudged stamp for the purposes of registering title. There is still, however, a requirement to have the PD stamp impressed.
- 3.4 The furnishing of an incorrect statement under Section 113, Finance Act, 1996 shall be deemed to be the delivery of an incorrect statement for the purposes of Section 94, Finance Act, 1983.
- 4. PARTICULARS DELIVERED**
- 4.1 There is no change in the requirement to furnish particulars and to have the “Particulars Delivered” stamp impressed on instruments giving effect to the purchase of exempt new houses/apartments.
- 4.2 Where conveyances, transfers or leases of houses, buildings or land are made by or to a housing authority to which section 8 of the Housing (Miscellaneous Provisions) Act, 1992 (No. 18 of 1992) apply, there is no requirement to furnish particulars or to have a “Particulars Delivered” stamp impressed.
- 5. MISCELLANEOUS**
- 5.1 This Statement of Practice has been produced in consultation with the Land Registry and the Registry of Deeds.
- 5.2 In order to ensure that exemption is only granted in appropriate cases, selected cases will be subject to audit.
- 5.3 This Statement of Practice is issued for general guidance only and is not a comprehensive legal interpretation of the legislation.

June, 1996