

As in force at 1 September 2002.

South Australia

STAMP DUTIES REGULATIONS 2002

REGULATIONS UNDER THE STAMP DUTIES ACT 1923

Stamp Duties Regulations 2002

being

No. 157 of 2002: *Gaz.* 15 August 2002, p. 3070¹

¹ Came into operation 1 September 2002: reg. 2.

N.B. The amendments effected to these regulations by Regulation No. 162 of 2003 have not come into operation.

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**PART 1
PRELIMINARY**

Citation

1. These regulations may be cited as the *Stamp Duties Regulations 2002*.

Commencement

2. These regulations will come into operation on 1 September 2002.

Revocation

3. The *Stamp Duties Regulations 1991* (see *Gazette* 19 December 1991 p. 1936), as varied, are revoked.

Interpretation

4. In these regulations, unless the contrary intention appears—

"Act" means the *Stamp Duties Act 1923*.

5.

PART 2
RECOGNISED STOCK EXCHANGES

Recognised stock exchanges

5. The following are recognised stock exchanges for the purposes of the definition of "**recognised stock exchange**" in section 2 of the Act:

- (a) Stock Exchange of Newcastle Limited;
- (b) Bendigo Stock Exchange Ltd;
- (c) stock exchanges that are members of the Fédération Internationale des Bourses de Valeurs.

PART 3 STAMPS

Impressed stamps

6. (1) Unless the Commissioner otherwise determines, a person requiring an impressed stamp must—

- (a) lodge with the Commissioner the instrument or other material to be stamped together with a requisition to the Commissioner; and
- (b) pay in advance to the Commissioner the value of the stamp to be impressed.

(2) The Commissioner may determine the manner in which the value of a stamp must be paid.

Certain persons are distributors of stamps

7. (1) For the purposes of section 7 of the Act, the following persons are appointed as distributors of stamps:

- (a) postmasters;
- (b) officers of the Australian Postal Corporation directed to act as distributors of stamps by the Australian Postal Corporation or by a postmaster;
- (c) managers of financial institutions or of branches of financial institutions.

(2) This regulation does not limit the power of the Governor to appoint distributors of stamps otherwise than by regulation.

Security for distributors of stamps

8. The Commissioner may, before issuing stamps to a distributor of stamps, require the distributor to give such security as the Commissioner determines to be appropriate.

Distributor to keep stamps available

9. A distributor of stamps must make available for disposal to the public such adhesive stamps as the Commissioner has issued to the distributor for that purpose.

Commission or discount on sale of stamps or on cheque duty under section 7

10. The Commissioner may grant—

- (a) to a distributor of stamps, a commission or discount in respect of the stamps purchased for disposal by the distributor;
- (b) to a financial institution, a commission of 1.25 per cent on the duty payable in relation to each return lodged by the financial institution under section 44 of the Act.

Application for allowance for spoiled or unused stamps or cheque forms

11. (1) For the purposes of section 106 of the Act, an application for allowance for spoiled or unused stamps must be made in a form approved by the Commissioner and be accompanied by a statutory declaration setting out such information as the Commissioner may reasonably require to determine the application.

7.

(2) An application for allowance for spoiled or unused cheque forms issued by a financial institution in respect of accounts held with the financial institution in South Australia must—

- (a) be made by the head office for South Australia of the financial institution that paid the duty sought to be recovered; and
- (b) be accompanied by a statutory declaration in a form approved by the Commissioner made by the principal officer of the financial institution in South Australia, or by a senior officer of the financial institution who is approved by the Commissioner and authorised by the principal officer for the purpose, and setting out such information as the Commissioner may reasonably require to satisfy himself or herself that—
 - (i) duty has been paid on the cheque forms concerned; and
 - (ii) the cheque forms have been unused or rendered useless by being inadvertently spoiled; and
 - (iii) the cheque forms have been destroyed under the supervision of officers approved by the Commissioner; and
 - (iv) the cheque forms were destroyed at the place and time and by the method stated in the application for allowance; and
 - (v) the dutiable value of the cheque forms destroyed is correctly stated in the application for allowance.

Grant of application and deduction

12. (1) Subject to subregulations (2) and (3), on the grant of an application under regulation 11, the Commissioner must—

- (a) pay the amount allowed to the person entitled to the allowance; or
- (b) give other stamps to the equivalent value to the allowance in lieu of payment.

(2) The Commissioner may, at his or her discretion, deduct 5 per cent or any lesser amount from—

- (a) the payment; or
- (b) the value of the stamps given in lieu of payment.

(3) The minimum amount which will be paid or given as stamps in lieu of payment under this regulation is \$4.

Disposal of spoiled or unused stamps

13. (1) Subject to subregulation (2), after the grant of an application for allowance for any spoiled or unused stamp or stamped material, the Commissioner must—

8.

- (a) cancel and retain or destroy the stamp or stamped material; or
- (b) at his or her discretion, in the case of a spoiled stamp affixed to an instrument, cancel or remove the spoiled stamp and return the instrument to the applicant.

(2) This regulation does not apply where the stamped material is a cheque form destroyed under the supervision of officers approved by the Commissioner.

Disallowed applications for spoiled stamps or material

14. Where the Commissioner refuses to grant an application for allowance for spoiled stamps or stamped material, the spoiled stamp or material on which it is affixed or impressed must be marked with the word "Disallowed" and the date on which it is disallowed, and be returned to the applicant.

**PART 4
RENTAL BUSINESS**

Exempted business under section 31B

15. For the purposes of section 31B of the Act, the following class of business is exempted from the ambit of the definition of "**rental business**":

The business of providing floor plan financing where each item of trading stock covered by a floor plan financing agreement is identified by a unique number.

Election and statements under section 31F

16. (1) For the purposes of section 31F(2) of the Act—

(a) an election to lodge an annual statement must be notified in a form approved by the Commissioner; and

(b) an annual statement lodged by a person who has made an election must be in a form approved by the Commissioner.

(2) For the purposes of section 31F(4) of the Act, a cancellation of election must be in a form approved by the Commissioner.

Monthly statement of rent received where alternative calculation is accepted

17. For the purposes of section 31K of the Act, where the Commissioner agrees to accept a statement—

(a) in which an amount is calculated on a basis different from that required under section 31F of the Act; or

(b) at a time, or relating to a period, otherwise than in accordance with that section,

the statement must be in a form approved by the Commissioner.

10.

PART 5
ANNUAL LICENCES

Time for application for annual licence

18. For the purposes of section 34 of the Act, an application for an annual licence must be lodged not later than 31 January in each year, or within any further period, not exceeding one month, allowed by the Commissioner.

PART 6
PRINTED CHEQUE FORMS

Interpretation

19. In this Part, unless the context otherwise requires—

"**authorised printer**" means a person who is authorised by the Commissioner to print cheque forms under this Part and includes a printer authorised to print cheques immediately before the commencement of these regulations.

Authority to print cheque forms

20. (1) On application by a financial institution, the Commissioner may in writing authorise a specified printer or other person to print cheque forms for and at the request of the financial institution.

(2) The Commissioner may at any time and for any reason revoke the authority of an authorised printer.

(3) A revocation under subregulation (2)—

- (a) must be made by notice in writing forwarded by certified mail to the last known address of the authorised printer; and
- (b) becomes effective immediately on the expiry of 7 days from the date of posting of the notice.

(4) The Commissioner must forward a copy of a notice of revocation to the financial institution for which the printer or other person is authorised to print cheque forms.

Restrictions on printing of cheque forms

21. A person must not—

- (a) print a cheque form except pursuant to a request in writing from a financial institution; or
- (b) print a cheque form while not being an authorised printer.

Restrictions on delivery of printed cheque forms

22. (1) Except in accordance with this regulation or with the written approval of the Commissioner, an authorised printer must not deliver a cheque form to any person other than the financial institution at whose request the cheque form has been printed.

(2) An authorised printer who has printed a cheque form may forward that cheque form to another authorised printer ("the second printer"), to enable a code line or other particulars to be printed on the cheque form.

(3) The second printer may deliver the cheque form to—

- (a) the authorised printer from whom the cheque form was received, for delivery to the financial institution; or

- (b) the financial institution at whose request the cheque form has been printed; or
- (c) another person authorised in writing by the Commissioner to receive the cheque form.

(4) Where the second printer delivers a cheque form printed by another authorised printer to a financial institution or other person authorised by the Commissioner to receive it, the second printer is responsible for completing the return referred to in regulation 25.

Authorised printer to keep records

23. An authorised printer must keep records of—

- (a) the number of cheque forms that the authorised printer—
 - (i) prints; or
 - (ii) receives as the second printer; and
- (b) the name of the financial institution or person to whom the cheque forms are sent including, if the cheque forms are sent to a financial institution, the relevant office, department or branch of that financial institution; and
- (c) the date on which the cheque forms are sent; and
- (d) the number of cheque forms sent.

Financial institution to keep records

24. (1) A financial institution must keep records at its head office in South Australia of—

- (a) all requests placed with its authorised printers for the printing of cheque forms; and
- (b) the number of cheque forms delivered to it by authorised printers and the date and place of each such delivery; and
- (c) the number of cheque forms transferred from one office or branch to another office or branch of the financial institution, the date of that transfer and the offices or branches to which the cheque forms are transferred; and
- (d) the number of cheque forms (if any) destroyed before issue to a customer of the financial institution and the office or branch at which those cheques are destroyed; and
- (e) where another person has been authorised by the Commissioner to receive cheque forms from the financial institution's authorised printer, the number of cheque forms delivered by the printer to that person.

(2) A financial institution must keep at each office or branch of the financial institution records recording the matters required under subregulation (1) to be recorded at its head office in relation to those cheque forms requested by, received or destroyed at or transferred from that office or branch.

(3) A financial institution must keep at each of its offices and branches chronological records of the number of cheque forms issued to each customer by that office or branch showing the name of the customer and the date of issue.

Returns by printers

25. (1) An authorised printer must make a monthly return of all cheque forms printed by the printer for a financial institution, including a nil return for any month in which no cheque forms were printed for the financial institution.

(2) A return under subregulation (1) must—

- (a) be in a form approved by the Commissioner and contain the information required by the Commissioner; and
- (b) be verified by a statutory declaration in a form approved by the Commissioner made by the authorised printer or a person employed by the printer who is approved by the Commissioner and authorised by the printer for the purpose; and
- (c) be provided to the financial institution within 7 days after the end of the month to which the return relates.

Cheque form is stamped material

26. For the purposes of section 106 of the Act and these regulations, a cheque form on which duty has been paid is stamped material.

Exemptions

27. (1) The Commissioner may exempt any financial institution from compliance with any regulation under this Part.

(2) An exemption under subregulation (1)—

- (a) must be in writing; and
- (b) may be subject to such terms and conditions as the Commissioner thinks fit.

(3) A financial institution to which an exemption has been granted must comply with the terms and conditions of that exemption.

(4) The Commissioner may, by notice in writing given to the financial institution to which an exemption has been granted—

- (a) vary or revoke the exemption; or
- (b) vary or revoke the terms and conditions of the exemption.

**PART 7
CONVEYANCES**

Computation of duty where instruments are interrelated

28. (1) For the purposes of section 67(2)(d) of the Act, an instrument is excluded from the operation of section 67 of the Act if—

- (a) it is one of a series of separate conveyances under which rights or interests in a hotel, motel, resort or managed apartment complex are conveyed in separate parcels to different persons, each of whom is or becomes a member of the same managed investment scheme; and
- (b) the Commissioner is satisfied that, apart from any arrangement or understanding entered into for the purposes of the managed investment scheme, no arrangement or understanding exists between the members under which the parcels of property conveyed are to be used otherwise than separately and independently from each other.

(2) In this regulation—

"**managed investment scheme**" and "**member**" of a managed investment scheme have the same respective meanings as in the *Corporations Act 2001* of the Commonwealth.

Certain transactions excluded for the purposes of s. 71E

29. For the purposes of section 71E(2)(e) of the Act, the vesting of property or a right (whether certain or contingent) in a registered co-operative by virtue of a merger or transfer of engagements under Part 12 Division 1 or Part 14 Division 3 of the *Co-operatives Act 1997* is a transaction of a prescribed class.

**PART 8
GENERAL**

Forms

30. (1) The forms set out in the Schedule must—

- (a) be used for the purposes specified in the Schedule; and
- (b) be completed in accordance with the instructions contained in the forms.

(2) The name of a person signing a form set out in the Schedule must be written legibly under or alongside the signature of that person.

(3) Where the space provided in a form is insufficient to contain all the required information—

- (a) the information must be set out in an annexure to the form; and
- (b) the annexure must have a distinguishing mark such as a letter or numeral; and
- (c) the space in the form must contain the statement "See Annexure" together with the distinguishing mark for the annexure, or words to similar effect.

Offences

31. A person who contravenes or fails to comply with a provision of these regulations is guilty of an offence.

Maximum penalty: \$2 000.

SCHEDULE
Forms

FORM 1

STAMP DUTIES ACT 1923

Revenue SA,
Treasury and Finance Portfolio

Postal Address:
Revenue Services
GPO Box 1353.,
ADELAIDE S.A. 5001
DX 179 ADELAIDE
Ph: (08) 8204 9888
Fax: (08) 8226 3805

APPLICATION FOR REGISTRATION TO CARRY ON A RENTAL BUSINESS UNDER SECTION 31E

• NAME OF APPLICANT

Where the Applicant is:

(A) A Natural Person. Please show full name, surname first and then other names, or

(B) A Partnership. Please show name of each partner and where a partner is a natural person surname first and then other names, or

(C) A Corporation. Please show full name as incorporated.

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• DETAILS OF APPLICANT

1. Business Trading Name:

2. Address:

(1) Where business activity is carried on in South Australia*

Postcode Contact Phone No. (. . .) A/H Phone No. (. . .)

* List of additional addresses overleaf.

(2) Where correspondence and notices are to be directed

Postcode Contact Phone No. (. . .) A/H Phone No. (. . .)

(3) Where records and books may be inspected

Postcode Contact Phone No. (. . .) A/H Phone No. (. . .)

3. Date of commencement of rental business

4. Type of rental business conducted: Hire Lease Bailment or Other

5. Type of goods offered for rental

6. The expected amount of gross rental income during the next twelve months

• DETAILS OF RENTAL INCOME AND SERVICING COST PRIOR TO THIS APPLICATION

RETURN PERIOD * Refer to note 1 below	GROSS RENTAL INCOME	SERVICING COST * Refer to note 2 below
/ / to / /		
/ / to / /		
/ / to / /		
/ / to / /		

*1. Return period to be in financial years whenever possible and from the commencement date of rental business to the end of the month closest to the date of this application.

*2. Servicing costs are allowable where the rent is received under a lease, agreement, etc., which provides that the registered person is responsible for servicing the goods concerned (i.e. expenses directly attributable to repairs and maintenance).
If claiming a deduction for servicing costs you must attach with this form a detailed schedule itemising the servicing costs for each return period designated.

• ATTACH TO THIS FORM ONE BLANK COPY OF ALL PROPOSED STANDARD RENTAL DOCUMENTS THAT WILL BE USED IN THE COURSE OF THE BUSINESS.

Signature Date

Full Name (Block letters)

18.

LIST ALL ADDITIONAL ADDRESSES WHERE BUSINESS ACTIVITY
IS CARRIED ON IN SOUTH AUSTRALIA

(OFFICE USE ONLY)

APPLICATION RECEIVED

RP No. ALLOTTED

CERTIFICATE ISSUED

19.

FORM 2

SOUTH AUSTRALIA

STAMP DUTIES ACT 1923

CANCELLATION OF REGISTRATION AS A "REGISTERED PERSON"

Please complete the following questions if you no longer operate a rental business

Registration number (RP):

Date of sale/completion of rental business:

Business Sold to:
(if applicable)

Future contact number:

Signature:

FORM 3

STAMP DUTIES ACT 1923 Statement of Rental Business for the Period <div style="border: 1px solid black; height: 15px; width: 100%; margin-top: 5px;"></div>		ABN 190 403 498 65
Registration Number <div style="border: 1px solid black; width: 150px; height: 15px; display: inline-block; vertical-align: middle;"></div>	Return & Payment Due <div style="border: 1px solid black; width: 150px; height: 15px; display: inline-block; vertical-align: middle;"></div>	
Your Contact: (please advise changes)		OFFICE USE ONLY (Receipting Purposes) REN
Name: <div style="border: 1px solid black; width: 200px; height: 40px; display: inline-block; vertical-align: middle;"></div>	Telephone: <div style="border: 1px solid black; width: 200px; height: 40px; display: inline-block; vertical-align: middle;"></div>	

Calculation of Servicing Cost Percentage		
1. Total rental income received during the period in respect of your rental business		\$ <input style="width: 60px;" type="text"/> (I)
2. Total amount spent by you during the period as servicing costs		\$ <input style="width: 60px;" type="text"/> (S)
3. Calculate servicing costs as a percentage of income	(S) x 100 and divided by (I) = (P)	\$ <input style="width: 60px;" type="text"/> (P)
Calculation of Duty		
1. Total amount declared at (I) above		\$ <input style="width: 60px;" type="text"/> (I)
2. Less allowance under Section 31(1)(b)		\$ <input style="width: 60px;" type="text"/>
3. Balance of rental income after allowance	(I) less allowance = (A)	\$ <input style="width: 60px;" type="text"/> (A)
4. Servicing cost deduction (where applicable)	(A) X (P) = (B)	\$ <input style="width: 60px;" type="text"/> (B)
5. Net amount upon which duty is calculated	(A) less (B) = (C)	\$ <input style="width: 60px;" type="text"/> (C)
6. Stamp Duty Payable	multiply (C) by 1.8% = (D)	\$ <input style="width: 60px;" type="text"/> (D)
7. Less deduction for cross border rental or duty previously paid		\$ <input style="width: 60px;" type="text"/> (E)
8. TOTAL STAMP DUTY PAYABLE	(D) less (E) = (F)	\$ <input style="width: 60px;" type="text"/> (F)
See notes overleaf for information about the calculation of your stamp duty liability		

DECLARATION		
I <input style="width: 250px;" type="text"/>	of	<input style="width: 800px;" type="text"/>
Print name in Block Letters		Address of Declarant
declare that the above details are true and correct		<input style="width: 150px;" type="text"/> Date <input style="width: 60px;" type="text"/>
		Personal Signature of Authorised Person

Information about the calculation of your stamp duty liability:

Calculation of Servicing Cost Percentage

1. Your gross rental income should include any Goods and Services Tax (GST) that you have collected from your clients during the relevant period.
2. Where you receive rental income in excess of \$2 000 per month (\$24 000 per annum), you may be eligible to claim a deduction for costs incurred in keeping your goods in a hireable state. Any GST paid by you, as part of your servicing cost expenses, can also be included.
3. If you have been allocated a fixed servicing cost percentage by this Office, this figure will be stated at P on the front of this Return.

If you do not have a fixed servicing cost percentage issued by this Office, please calculate your percentage based on the percentage of servicing costs incurred to gross income received. A schedule of servicing costs incurred must also be provided. Please note that you can only claim a maximum of 40% servicing cost deduction (unless otherwise approved by this Office).

Calculation of Duty

5. If the net amount of income received (after deductions for your allowance and servicing costs) is negative, your liability to stamp duty is NIL. You are not allowed to claim a refund.
7. Deductions under this item must be accompanied by detailed evidence of your claim, according to the following:
 - If you are claiming a deduction for cross border rental, please see Circular 110 and complete the necessary Application for Deduction of Stamp Duty Paid on Rental Business.
 - If you are claiming a deduction for any stamp duty previously paid for the relevant period, please attach copies of any documentation relating to the duty paid.

PLEASE NOTE

- This return and any duty payable must be lodged with the Commissioner of State Taxation no later than the 21st day following the end of the period to which it relates.
- If no stamp duty is payable, a NIL Return must still be lodged.
- Failure to lodge your Return by the due date specified on your Return may result in a Notice of Assessment being issued under the *Taxation Administration Act 1996*. Penalties of up to 75% and interest may also be applied.

**STAMP DUTIES ACT 1923
RETURN UNDER SECTION 42AA
INSURANCE EFFECTED OUTSIDE SOUTH AUSTRALIA**

<p>DETAILS OF INSURED PARTY</p> <p>Full name of company, person or firm of persons insured</p> <div style="border: 1px solid black; height: 25px; width: 100%;"></div> <p>Trading Name</p> <div style="border: 1px solid black; height: 25px; width: 100%;"></div> <p>Postal Address (<i>Street address</i>)</p> <div style="border: 1px solid black; height: 35px; width: 100%;"></div>	<p align="center">OFFICE USE ONLY (Receiving Purposes)</p>
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DETAILS OF ASSURANCE / INSURANCE BUSINESS	
<p>1. The date on which the assurance or insurance was obtained, effected or renewed</p>	<div style="border: 1px solid black; height: 20px; width: 100%;"></div>
<p>2. Was the business obtained, effected or renewed with: <i>(please tick one box)</i></p> <p>An Insurance Company, <input type="checkbox"/> a Broker, <input type="checkbox"/> or an Agent <input type="checkbox"/></p>	<p>3. The term of the cover obtained</p> <div style="border: 1px solid black; height: 20px; width: 100%;"></div>

CALCULATION OF DUTY PAYABLE	
PART A—PREMIUMS AT THE RATE OF \$11 PER \$100 OR PART THEREOF	
<p>1. The gross amount of premium whatsoever paid or payable (excluding life assurance—see notes overleaf)</p>	<div style="border: 1px solid black; padding: 2px;">\$</div>
<p>2. Less premiums relating to risks outside South Australia (see notes overleaf)</p>	<div style="border: 1px solid black; padding: 2px;">\$</div>
<p>3. Net Premiums (the difference between 1 and 2)</p>	<div style="border: 1px solid black; padding: 2px;">\$</div>
<p>4. DUTY PAYABLE</p>	<div style="border: 1px solid black; padding: 2px;">\$</div>
<p>5. TOTAL DUTY PAYABLE</p>	<div style="border: 1px solid black; padding: 2px;">\$</div>
	IOS

PLEASE COMPLETE APPORTIONMENT STATEMENT (IF APPLICABLE) AND DECLARATION OVERLEAF

APPORTIONMENT STATEMENT: State the basis of apportionment used in determining the proportion referred to in Item 2 of the Calculation of Duty Payable section of this Return. This apportionment will account for premiums relating to non-South Australian Property, risks, contingencies or events.

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DECLARATION

I/We hereby provide the information herein, as required by Section 42AA of the *Stamp Duties Act 1923*, and the Regulations made under that Act, in respect of assurance or insurance obtained, effected or renewed outside South Australia which relates wholly or partly to any property in South Australia, or to any risk, contingency or event occurring in South Australia. I/We declare that the information shown on this application is true and correct.

Name of Insurer, Broker or Agent

Contact Person

Date

Notes for guidance:—

1. Section 42AA of the *Stamp Duties Act 1923* requires every company, person or firm of persons which effects, obtains or renews outside South Australia any assurance or insurance (except life assurance) wholly or partly in respect of any property in South Australia or any risk, contingency or event occurring in South Australia, to lodge with the Commissioner of State Taxation a return containing the prescribed information and particulars. Gross premium refers to the gross amount of premium whatsoever paid or payable (excluding life assurance).
2. The return is to be lodged within one month of the assurance or insurance being obtained, effected or renewed and is to be accompanied by a remittance in payment of the duty chargeable on gross premiums paid or payable (before deducting any commission or discount allowed).

The Commissioner may allow a rebate of the duty payable on that proportion of any premium which is, in the Commissioner’s opinion, properly attributable to the assurance or insurance of any property outside South Australia or any risk, contingency or event occurring outside South Australia.

3. Any company, person or firm of persons which fails to lodge a return within the time specified or fails to pay the duty chargeable may be liable to penalties.

FORM 5

SOUTH AUSTRALIA

Stamp Duties Act 1923

.....

(Name of company acquired)

ACCEPTANCE OF SHARES

WHEREAS by various instruments of transfer signed or to be signed by the various shareholders in the abovenamed company such shareholders transferred or will transfer to

(hereinafter called the transferee)

(number and class)

shares issued by the said company being acquired subject to the several conditions on which the shareholders held the shares immediately prior to the date or dates of the abovementioned transfers NOW the transferee agrees to accept the shares subject to the same conditions. The date on which the offer to accept the above transfer/s became unconditional was The total consideration for this transfer/s is \$ and/or the total allotment of shares in the transferee company.

This acceptance covers share transfers.

Executed by the transferee this day of 20 .

The Common Seal of (Transferee)]

was hereunto affixed by the authority of a resolution of the Board of Directors previously given and in the presence of:

.....]

Secretary

.....
Director

.....
Director

NOTE: The words "or to be signed" and "or will transfer" are included to also cover shares to be compulsorily acquired and thus to have duty paid on the whole of the issued capital at the one time. If it is not desired to include such shares at the present time, these words should be deleted.