

Document Class: CONVEYANCE - LAND
Document Name: For Consideration
Document Description: Easement
Document Code: CL

Introduction

This guide note explains how stamp duty is calculated where there is a consideration passing between the Grantor and Grantee on the:

- grant of an easement;
- extinguishment of an easement; or
- variation of an easement.

The procedure is the same regardless of the form of the easement document, or the nature of the easement. An LTO Form RTC – Application for Deposit of a Plan of Division may transact several easements. Each easement transaction is stamped separately.

Where statutory easements are created by a Deposited Plan and not by a dutiable document, there is no stamp duty liability.

The following similar transactions cannot be stamped under this document heading:

If there is **no consideration** passing between the parties – refer to document heading:

- [Conveyance of Land – No Consideration – Easement](#) (VC).

If the grantor and the grantee are the same parties - refer to the document heading:

- [Exemptions – Not Chargeable – Easement – Same Parties, No Consideration](#) (EX).

What *documents* can I stamp under this document heading?

The document can be in the form of:

- a LTO Form RTC – Application for Deposit of a Plan of Division;
- a LTO Form TG – Grant of Easement; or
- a LTO Form VE – Application for Extinguishment / Variation of Easement.

What types of *transactions* can I stamp under this document heading?

An easement is deemed **suitable** for self-stamping under this document heading where:

- the document grants, extinguishes or varies an easement;
- there is a consideration passing between the parties; and
- the Grantor and Grantee are different persons.

These documents can be self-stamped regardless of whether or not the parties are related.

What stamp duty is payable on this document?

The document is chargeable with *ad valorem* conveyance stamp duty on either the **consideration** or **market value** of the interest being conveyed, **WHICHEVER IS THE GREATER**.

If the transaction is *bona fide* arms length transaction between unrelated parties then pursuant to section 60A(2) of the SD Act the consideration will be treated as the market value of the land.

What evidence do I need to retain for audit purposes?

For audit purposes, you will need to retain the following documentation:

- a copy of the stamped document.

Example 1 – Grant of easement for a consideration

Bill grants an easement to Sue for a consideration of \$500. This is a *bona fide* arms length transaction between unrelated parties.

Pursuant to section 60A(2) of the SD Act the consideration may be accepted as the market value of the property being conveyed (ie. the easement), and stamp duty is charged at the *ad valorem* conveyance rate on the consideration of \$500 (ie. \$5 stamp duty).

Example 2 – Extinguishment of easement for a consideration

Sally and Bob have agreed that their easement is no longer required. Sally has agreed to pay Bob \$1,000 to extinguish the easement. This is a *bona fide* arms length transaction between unrelated parties.

Pursuant to section 60A(2) of the SD Act the consideration may be accepted as the market value of the property being conveyed (ie. the easement), and stamp duty is charged at the *ad valorem* conveyance rate on the consideration of \$1,000 (ie. \$10 stamp duty).

Example 3 – Variation of easement for a consideration

Tom and Ann have agreed to vary the position of their easement. Tom has agreed to pay Ann \$250 to vary the easement. This is a *bona fide* arms length transaction between unrelated parties.

Pursuant to section 60A(2) of the SD Act the consideration may be accepted as the market value of the property being conveyed (ie. the easement), and stamp duty is charged at the *ad valorem* conveyance rate on the consideration of \$250 (ie. \$3 stamp duty).

What section of the SD Act applies?

Section 60