

Section 79(5) of the SD Act

Section 79(5) of the SD Act gives the Commissioner the discretion in the case of a mortgage securing a contingent liability, to permit the mortgage to be stamped for an amount that is less than the full amount of the liability. If the contingency subsequently happens further stamp duty becomes chargeable on the mortgage as from the date of the happening of the contingency.

These documents need to be submitted for the Opinion of the Commissioner of State Taxation together with your submission to support why the exercise of the Commissioner's discretion is sought.

The Commissioner will exercise the discretion provided at section 79(5) of the SD Act in circumstances where it is considered fair and reasonable to do so.

Refer to the SD Act and [Commissioner's Circular No. 118](#) for more details.