EXPLANATORY MEMORANDUM TO

THE STAMP DUTY LAND TAX (ADMINISTRATION) (AMENDMENT) REGULATIONS 2006

2006 No. 776

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

2. Description

2.1 This instrument brings in a new version of the Stamp Duty Land Tax form SDLT 60 and provides for a transitional period until the 15th March 2007 when either the old or new forms can be submitted.

3. Matters of special interest to the Select Committee on Statutory Instruments.

3.1 None.

4. Legislative Background

4.1 This instrument amends the Stamp Duty Land Tax (Administration) Regulations 2003 (S.I. 2003/2837) which came into force at the introduction of Stamp Duty Land Tax on 1st December 2003. The regulations are made under Section 113 (2) of, and paragraph 2 of Schedule 11 to, the Finance Act 2003.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Form SDLT 60 is used in certain cases where transactions can be self-certified, and no land transaction return is required.

7.2 The new form reflects the extended number of reasons for not having to return a land transaction legislated for in Sections 298 and 304 of the Finance Act 2004. The amendment to the form will not change the tax liability or the notification requirements for any land transactions.

8. Impact

8.1 Although this form imposes no additional burden on businesses a full Regulatory Impact Assessment has been published. The Regulatory Impact Assessment is attached to this memorandum.

8.2 The impact on the public sector is minimal. The change to the SDLT 60 simply formalises on the form the changes already brought into affect by the Finance Act 2004.

9. Contact

Keith Brown at HM Revenue and Customs Tel: 020 7147 2790 or e-mail: keith.brown@hmrc.gsi.gov.uk can answer any queries regarding the instrument.

Regulatory Impact Assessment

Stamp Duty Land Tax (Administration) (Amendment No. 2) Regulations 2005; Amendment of the SDLT 60 Self-Certification Form

Purpose and intended effect of the measure

The policy objectives

1. The amendments to the SDLT 60 self-certification form are intended to ensure that the form reflects additional statutory reasons, introduced by Sections 298 and 304 Finance Act 2004, to self-certify a land transaction.

Background and introduction

2. Registration of an interest in land is generally conditional upon presenting to the relevant land registry a certificate issued by HM Revenue and Customs confirming that a land transaction return has been made and Stamp Duty Land Tax paid. 'Land registries' include HM Land Registry, the Keeper of the Registers of Scotland and the Land Registry of Northern Ireland. There are certain transactions for which no land transaction return is required and no SDLT payable. In such cases compliance with SDLT legislation can be 'self certified' to the land registries by the purchaser by means of form SDLT60 which confirms the reason no return is required.

3. Sections 298 and 304 Finance Act 2004 increased the number of types of land transaction that can be self-certified. The amendments to the form reflect these changes. The old form is not inaccurate, but needs to be extended. Annex A contains the old SDLT 60 form. Annex B contains the amended SDLT 60 form, which reflects the 2004 legislative changes.

4. Between the introduction of Stamp Duty Land Tax in December 2003 and the enactment of the Finance Act 2004, people undertaking the types of transaction covered by sections 298 and 304 Finance Act 2004 had to fill in SDLT 1 return forms, which require substantially more information.

5. Since the introduction of the Finance Act 2004 the newly self-certifiable transactions can be entered by hand on the SDLT 60, removing them from the scope of the SDLT 1 return. Guidance to this effect is available on our website. This interim arrangement has been in place while the new form has been developed. Consequently, the amendments to the SDLT 60 that this RIA is concerned with do not alter the tax due or the notification requirements as laid out in Finance Act 2004. In short, since Finance Act 2004 it has been possible to use an SDLT 60 for the transactions brought within its scope.

6. Although the interim arrangement of writing the information on the form in paragraph 5 has meant that it has been possible to use the SDLT 60 form for the transactions types covered in Sections 298 and 304, the form is outdated as it does not reflect these legislative changes. The suggested changes will make the form easier and marginally faster to complete.

The risk(s)/harm being addressed

7. The amendments address the fact that the current form does not reflect all possible reasons for self-certification so additional hand-written entries must be made. This interim arrangement does not offer the best customer service that we could provide.

Options

8. While it would be possible to leave the SDLT 60 as it is, the current interim arrangement of hand writing on the form the reason why no land transaction return is required would have to remain in force. This provides an inferior service to users of the SDLT 60.

9. The best option is to amend the form to reflect the 2004 legislative changes. The new version of the SDLT 60 sets out the full range of possible reasons for self-certification, encompassing the information on the original SDLT 60 and the additional guidance published in 2004. The bulk of the new form is simply completed by selecting one of a short series of tick boxes.

Business sectors affected

10. Solicitors and conveyancers will be affected in that the form will be slightly extended, although easier to complete. These are the businesses that most commonly complete the SDLT 60, albeit on behalf of their clients.

11. Businesses undertaking transactions that fall within the scope of the SDLT 60 will be affected only if they complete the form in-house. There will be no change to the notification requirements or the tax liability.

Issues of equity and fairness

12. There are no issues of equity and fairness. The new form will be available in the same (albeit slightly extended) format, and will be distributed in the same way. No one is disadvantaged by the amendment of the form.

Benefits

Economic

13. The new form will be quicker and easier to complete. Rather than think of an appropriate form of words, those completing the form can just tick the relevant box. This may result in some very marginal economic benefits.

Social

14. There are no social implications to amending the SDLT 60.

Environmental

15. This measure is neutral in terms of its effect on the environment.

Costs

Economic

16. No SDLT liabilities will be altered by the amendment of the form. As such there are no economic costs to the users of the form.

17. The SDLT 60 is processed by the land registries, and is a paper form only. As such the only cost incurred by HMRC is the changing of the print setting. We do not envisage the amendments resulting in any further costs to HMRC or the land registries.

Social

18. There are no social implications to amending the SDLT 60.

Environmental

19. This measure is neutral in terms of its effect on the environment.

Small Business impacts

20. There will be no impact on small businesses that are undertaking land transactions eligible for self-certification, unless they complete the form in house. The amended SDLT 60 allows these firms to select one of a series of specified reasons for returning the self-certification form, rather than having to justify the use of the form in writing. There will be no effect on land transactions.

21. There will also be a minimal impact on firms of solicitors and conveyancers, which are commonly employed on behalf of businesses to complete SDLT forms. This is the same impact as on other businesses that complete the form in-house.

Competition assessment

22. The users of these forms will incur no additional costs, and there will be no changes in tax liability as a result of the amendments to the form. There should be no impact either in terms of hindrances or assistance to competition in the market.

Securing compliance

23. There will be no changes in notification or tax liability so the current compliance regime will still be effective. As the transactions covered by the SDLT 60 will be more clearly expressed on the new version of the form it will be easier for customers to assess which form and which tick box is most appropriate for them to use.

Consultation

24. The changes in the legislation resulted from representations from the users of the form. The amendments this RIA discusses reflect the changes in the law, which have already been made.

25. We have ongoing discussions with various representative bodies concerned with SDLT. A number of the changes in the 2004 legislation were as a direct result of these discussions. The amendments to the form have also been the subject of consultation with representative bodies.

26. The only bodies significantly affected by the amendments to the form per se are the land registries. We have discussed the proposed amendments with the land registries, and these bodies have approved the new version of the form.

Monitoring and evaluation

27. We will monitor the success or otherwise of the amended form through a random sample, received on a regular basis from the land registries. We regularly liaise with the land registries to rectify any problems that should emerge.

Summary and recommendation

28. The amendment to the SDLT 60 formalises legislative changes from Finance Act 2004 on the appropriate form. The amended form reflects these deregulatory changes. By amending the form we can reduce the burden on the forms' users by clarifying exactly when it is appropriate to use this form and replacing with tick boxes information that currently has to be hand written.

Contact point:

Keith Brown
Room GC/16
100 Parliament Street
London
SW1A 2BQ

020-7147 2790
keith.brown@hmrc.gsi.gov.uk

REGULATORY IMPACT ASSESSMENT

Stamp Duty Land Tax (Administration) (Amendment No. 2) Regulations 2005; Amendment of the SDLT 60 Self-Certification Form

Statement of Ministerial Approval

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed by the responsible Minister:

Ivan Lewis

Economic Secretary

13th March 2006

Annex A

The current SDLT 60

Inland Revenue

Stamp duty land tax

Certification that no Land Transaction Return is required for a land transaction

This is a self-certificate under Section 79(3) of Finance Act 2003.

Effective date of transaction

/ /

Property or land address

Name(s) and address of purchaser

Title number/folio number

Name and address of purchaser's solicitor/agent

Name(s) and address of vendor

Please turn over

SDLT60 BS11/03

Reason no Land Transaction Return is required

✓

- ☐ Transfer or conveyance of a freehold interest in land (in Scotland, ownership of land or the interest of the proprietor of the *dominium utile* of land) for no chargeable consideration.
- ☐ Transfer or assignment of a leasehold interest in land (in Scotland, assignation of a tenant's interest under a lease of land) for no chargeable consideration.
- ☐ Grant of lease (or in Scotland, missives of let constituting a lease) where all the following are satisfied
  - the term of the lease is less than seven years, and
  - the amount of any premium is not such as to attract a charge to SDLT at a rate of 1% or more (ignoring the availability of any relief), and
  - the amount of any rent is not such as to attract a charge to SDLT at a rate of 1% or higher (ignoring the availability of any relief).
- ☐ Land transactions (other than the transfer of a freehold, assignment or grant of a lease) where the amount of the consideration is not such as to attract a charge to SDLT at a rate of 1% or higher (ignoring the availability of any relief).
- ☐ Land transaction exempt from SDLT under Schedule 3 paragraph 3 Finance Act 2003 (transactions in connection with divorce).
- ☐ Land transaction exempt from SDLT under Schedule 3 paragraph 4 Finance Act 2003 (variation of testamentary dispositions).

Declaration

This certificate must be signed by the person acquiring the interest. Signature by an agent is not acceptable. Where there is more than one transferee all of them must sign the certificate, except in certain circumstances (please refer to guidance notes).

I certify that for the reason given (as ticked) I do not need to submit a Land Transaction Return to the Inland Revenue.

If you give false information in this certificate you may face financial penalties and prosecution.

I declare that the information I have given in this form is true and complete to the best of my knowledge and belief.

Signature of purchaser(s)

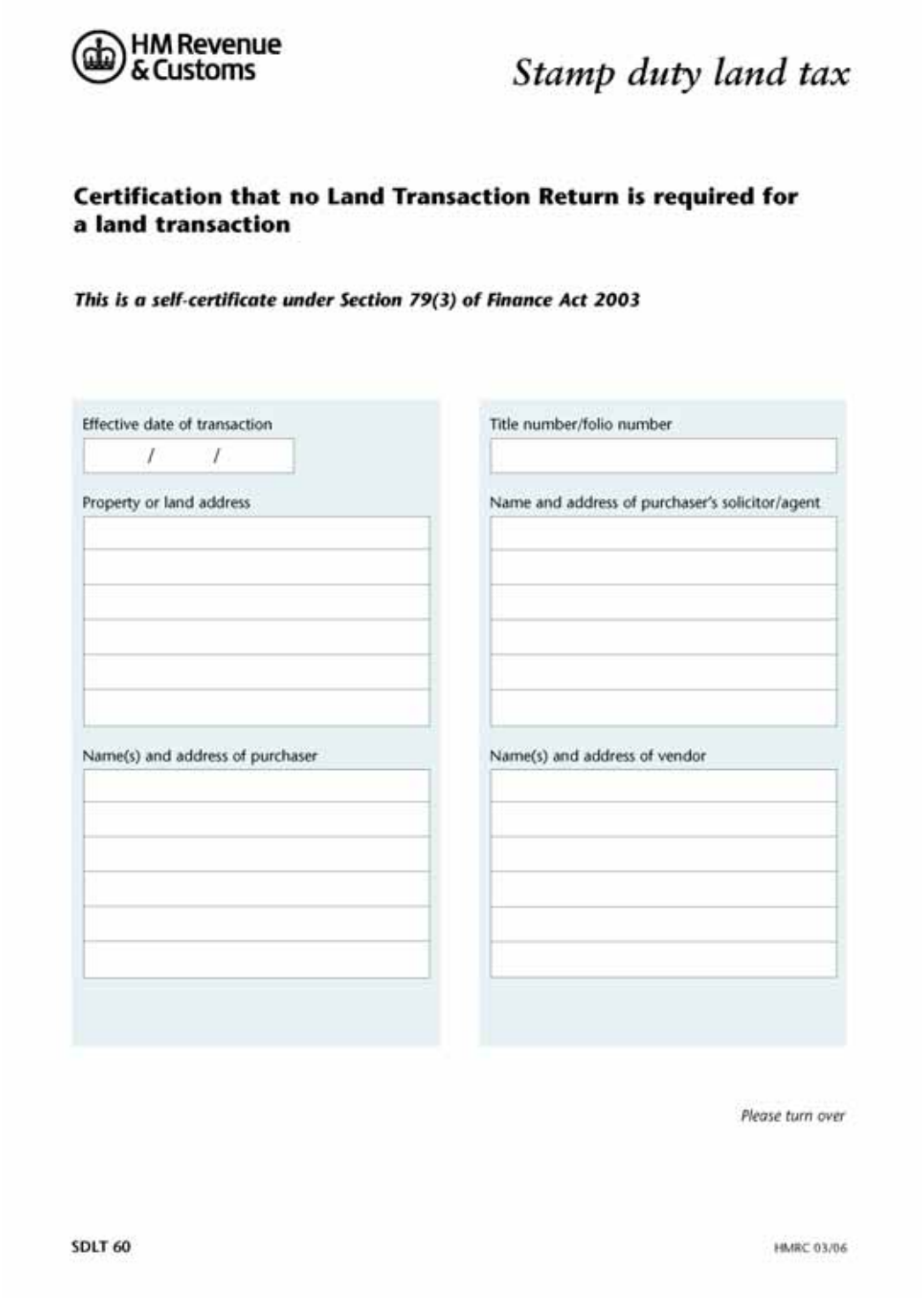
Name (printed)

Date

/ /

Annex B

The proposed SDLT 60



HM Revenue & Customs

Stamp duty land tax

Certification that no Land Transaction Return is required for a land transaction

This is a self-certificate under Section 79(3) of Finance Act 2003

Effective date of transaction

/ /

Property or land address

Name(s) and address of purchaser

Title number/folio number

Name and address of purchaser's solicitor/agent

Name(s) and address of vendor

Please turn over

SDLT 60

HMRC 03/06

Reason no Land Transaction Return is required

✓

- ☐ Transfer or conveyance of a freehold interest in land for no chargeable consideration.
- ☐ Grant of a lease in England & Wales or Northern Ireland for a term of seven years or more and for no chargeable consideration (that is, no premium and no rent of any monetary value).
- ☐ Transfer or assignment of a lease for no chargeable consideration.
- ☐ Grant of a lease where all the following are satisfied:
  - the term of the lease is less than seven years, and
  - the amount of any premium is not such as to attract a charge to SDLT at a rate of 1% or higher (ignoring the availability of any relief), and
  - the amount of any rent is not such as to attract a charge to SDLT at a rate of 1% or higher (ignoring the availability of any relief).
- ☐ Transfer or assignment of a lease where both the following are satisfied:
  - the term of the lease when granted was less than seven years, and
  - the amount of any consideration for the assignment is not such as to attract a charge to SDLT at a rate of 1% or higher (ignoring the availability of any relief).
- ☐ Land transaction (other than the transfer of a freehold interest in land, or grant or assignment of a lease) where the amount of the consideration is not such as to attract a charge to SDLT at a rate of 1% or higher (ignoring the availability of any relief).
- ☐ Land transaction exempt from SDLT under Schedule 3 paragraph 3 Finance Act 2003 (transactions in connection with divorce or dissolution of a civil partnership formed under the Civil Partnership Act 2004).
- ☐ Land transaction exempt from SDLT under Schedule 3 paragraph 4 Finance Act 2003 (variation of testamentary dispositions).
- ☐ Transfer or conveyance of a freehold interest in land consisting entirely of residential property where the chargeable consideration, together with that of any linked transaction(s), is less than £1,000.
- ☐ Acquisition by a beneficiary entitled under a will or on intestacy, where the only consideration given is the assumption of 'secured debt' as defined in paragraph 3A of Schedule 3 Finance Act 2003.
- ☐ Transfer of interest in a partnership for chargeable consideration not exceeding the zero rate threshold.

Note: in Scotland

- for 'a freehold interest in land' read 'ownership of land'
- 'a lease' includes missives of let constituting a lease
- for 'assignment of a lease' read 'assignation of a tenant's interest under a lease (including missives of let constituting a lease)'

Declaration

This certificate must be signed by the person acquiring the interest. Signature by an agent is not acceptable. Where there is more than one transferee all of them must sign the certificate, except in certain circumstances (please refer to guidance notes).

I certify that for the reason given (as ticked) I do not need to submit a Land Transaction Return to HM Revenue & Customs.

If you give false information in this certificate you may face financial penalties and prosecution.

I declare that the information I have given in this form is true and complete to the best of my knowledge and belief.

Signature of purchaser(s)

Name (printed)

Capacity in which signing

Date

/ /