

Chapter 5 Allowance for spoiled or misused stamps

Allowance for spoiled stamps SDMA 1891 s9 151.—(1) Subject to such regulations as the Commissioners may think proper to make, and to the production of such evidence by statutory declaration or otherwise as the Commissioners may require, allowance shall be made by the Commissioners for stamps in any of the following cases:

(a) the stamp on any material inadvertently and undesignedly spoiled, obliterated, or by any means rendered unfit for the purpose intended, before the material bears the signature of any person or any instrument written on the material is executed by any party;

(b) any adhesive stamp which has been inadvertently and undesignedly spoiled or rendered unfit for use and has not in the opinion of the Commissioners been affixed to any material;

(c) any adhesive stamp representing a fee capable of being collected by means of such stamp which has been affixed to material where a certificate from the proper officer is produced to the effect that the stamp should be allowed;

(d) the stamp on any bill of exchange signed by or on behalf of the drawer which has not been accepted or made use of in any manner or delivered out of such drawer's hands for any purpose other than by means of tender for acceptance;

(e) the stamp on any promissory note signed by or on behalf of the maker which has not been made use of in any manner or delivered out of such maker's hands;

(f) the stamp on any bill of exchange or promissory note which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange, may have been accepted or endorsed, or, being a promissory note, may have been delivered to the payee, where another completed and duly stamped bill of exchange or promissory note is produced identical in every particular, except in the correction of the error or omission, with the spoiled bill or note;

(g) the stamp used for any of the following instruments, that is—

(i) an instrument executed by any party to the instrument, but afterwards found to be absolutely void from the beginning,

(ii) an instrument executed by any party to the instrument, but afterwards found unfit, by reason of any error or mistake in the instrument, for the purpose originally intended,

(iii) an instrument executed by any party to the instrument which has not been made use of for any purpose, and which by reason of the inability or refusal of some necessary party to sign the same or to

complete the transaction according to the instrument, is incomplete and insufficient for the purpose for which it was intended,

(iv) an instrument executed by any party to the instrument, which by reason of the refusal of any person to act under the same, or for want of enrolment or registration within the time required by law, fails of the intended purpose or becomes void, or

(v) an instrument executed by any party to the instrument which is inadvertently and undesignedly spoiled, and in lieu of which another instrument made between the same parties and for the same purpose is executed and duly stamped, or which becomes useless in consequence of the transaction intended to be effected by the instrument being effected by some other instrument duly stamped.

(2) Notwithstanding subsection (1), allowance shall not be made by the Commissioners for spoiled stamps unless—

(a) the application for relief is made within 6 years after the stamp has been spoiled or become useless or in the case of an executed instrument after the date of the instrument, or, if it is not dated, within 6 years after the execution of the instrument by the person by whom it was first or alone executed or within such further time as the Commissioners may prescribe in the case of any instrument sent outside the State for execution or when from unavoidable circumstances any instrument for which another has been substituted cannot be produced within that period,

(b) in the case of an executed instrument no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence, and that the instrument is given up to be cancelled,

(c) in the case of an executed instrument the instrument has not achieved the purpose for which it was intended being the purpose of registering title to the property being conveyed or transferred by that instrument.