



**LAW SOCIETY**  
OF SOUTH AFRICA

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**LAW SOCIETY WELCOMES COURT ORDER DECLARING UNSTAMPED COURT DOCUMENTS VALID SINCE REPEAL OF STAMP DUTIES ACT**

The Law Society of South Africa (LSSA) has welcomed an order by the North Gauteng High Court, Pretoria last Friday, declaring all court documents issued without revenue stamps, imprinted stamp or payment of court fees since 1 April 2009, to be valid.

'Had this order not been successful, the invalidation of unstamped summonses due to the unavailability of revenue stamps could have had disastrous consequences for litigants whose claims could prescribe as a result of the invalidity,' say LSSA Co-Chairpersons Thoba Poyo-Dlwati and Henri van Rooyen.

The Law Society of the Northern Provinces (LSNP) – representing some 10 000 attorneys in Gauteng, Mpumalanga, Limpopo and North-West – brought the application against the Rules Board for Courts of Law, the Ministers of Justice and Constitutional Development and Finance, as well as the Registrar of the High Court, to have specific court rules suspended that require court documents to be stamped in order to be valid. Revenue stamps have been demonetised [deprived of their status as money] when the Revenue Laws Amendment Act, 2008 which repealed the Stamp Duties Act, 1968, came in to effect earlier this year. This has led to a shortage of revenue stamps.

The LSNP indicated in its documents before the Pretoria court that members of the public litigating in the courts were being prejudiced by

- the unavailability of revenue stamps in certain centres; and
- the refusal by clerks of the Magistrates' Courts and the Registrars of the High Court to issue summonses and applications without revenue stamps.

Even in cases where litigants had been permitted to issue documents without revenue stamps, there was still the risk that, without the current court order, the unstamped applications could be invalidated or nullified.

The LSSA and LSNP had, on several occasions in the past, made the Minister of Justice and Constitutional Development, the Rules Board and the South African Revenue Service aware of the difficulties that would arise if the court rules were not amended in the light of the intended repeal of the Stamp Duties Act. However, despite these warnings to the Minister, the Stamp Duties Act was repealed without taking the consequences into account.

The North Gauteng High Court declared on Friday that all court process shall, if not stamped, be issued by clerks of the court and registrars without self-affixing revenue stamps, imprinted stamps and without court payment. In addition, all court process issued after 1 April 2009 without stamps having been affixed, will be valid process. The order will be binding on all courts nationally as the court has directed the Minister of Justice and Constitutional development to notify all clerks of the court and registrars of the order.

***ISSUED ON BEHALF OF THE CO-CHAIRPERSONS OF THE LAW SOCIETY OF SOUTH AFRICA***

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**Editor's note:**

The Law Society of South Africa brings together its six constituent members – the Cape Law Society, the KwaZulu-Natal Law Society, the Law Society of the Free State, the Law Society of the Northern Provinces, the Black Lawyers Association and the National Association of Democratic Lawyers – in representing South Africa's 18 600 attorneys and 4 800 candidate attorneys.

In Afrikaans items, please refer to the 'Prokureursorde van Suid-Afrika'.