



LAWS OF KENYA



STAMP DUTY ACT

CHAPTER 480

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CHAPTER 480

STAMP DUTY ACT

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SCHEDULE

CHAPTER 480

STAMP DUTY ACT

[Date of assent: 11th August, 1958.]

[Date of commencement: 1st October, 1958.]

An Act of Parliament to make provision for the levying and management of stamp duties; and for purposes connected therewith and incidental thereto

[Act No. 31 of 1958, Act No. 5 of 1960, Act No. 15 of 1961, L.N. 153/1962, L.N. 176/1962, L.N. 761/1963, L.N. 236/1964, Act No. 21 of 1966, Act No. 29 of 1967, L.N. 280/1967, Act No. 54 of 1968, Act No. 13 of 1972, Act No. 10 of 1973, Act No. 10 of 1981, Act No. 8 of 1985, L.N. 192/1985, L.N. 73/1989, Act No. 10 of 1990, Act No. 11 of 1992, Act No. 6 of 1994, Act No. 13 of 1995, Act No. 8 of 1997, Act No. 4 of 1999, Act No. 9 of 2000, Act No. 6 of 2005, Act No. 10 of 2006, Act No. 9 of 2007, Act No. 8 of 2008, Act No. 6 of 2009, Act No. 10 of 2010, Act No. 4 of 2012.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Stamp Duty Act.

2. Interpretation

In this Act, except where the context otherwise requires—

“**collector**” means the Kenya Revenue Authority established under the Kenya Revenue Authority Act (Cap. No. 469).

“**consideration**” or “**valuable consideration**” includes valuable consideration in money or money’s worth, marriage and natural love and affection;

“**duty**” and “**stamp duty**” mean any stamp duty for the time being chargeable by any written law;

“**executed**” and “**execution**”, with reference to instruments not under seal, mean signed and signature;

“**instrument**” includes document;

“**marketable security**” includes a security of such a description as to be capable of being sold on any stock exchange;

“**material**” includes every sort of material on which words and figures can be expressed;

“**money**” includes all sums expressed in Kenya currency or in the currency of any country;

“**receipt**” includes a printout from a cash register, or a teller machine showing a list of goods purchased and amount tendered or to be tendered for the goods being sold;

“**stamp**” means a stamp embossed or impressed by means of a die or an adhesive stamp;

“**stamped**” and “**duly stamped**” mean that the instrument referred to is stamped with the required and sufficient stamp and that the stamp has been cancelled, if necessary, in accordance with the provisions of this Act;

“**stock**” includes any share in the stocks transferable at the Bank of England, and any share in the stocks or funds of the government of any country in the Commonwealth or of any foreign country, or in the capital stock or funded debt of any local authority, corporation, company or society in Kenya or in any country in the Commonwealth or of any foreign corporation, company or society.

[L.N. 236/1964, Sch., Act No. 21 of 1966, Sch., s. 69, Act No. 4 of 1999, s. 69, Act No. 6 of 2005, s. 39, Act No. 6 of 2009, Sch.]

3. Application of Act

This Act shall apply to all stamp duties and to all fees and penalties which are for the time being directed to be collected or received by means of stamps under or by virtue of any written law.

4. Officers

The collector may appoint such officers as may be appropriate for the purpose of collecting stamp duty under this Act.

[L.N. 236/1964, Sch., Act No. 4 of 1999, s. 70.]

PART II – PROVISIONS APPLICABLE TO INSTRUMENTS GENERALLY

Charge of Duty upon Instruments

5. Liability to stamp duty

Subject to the provisions of, and to the exemptions contained in, this Act and any other written law, every instrument specified in the Schedule, wheresoever executed, which relates to property situated, or to any matter or thing done or to be done, in Kenya, shall be chargeable with the stamp duty specified in that Schedule:

Provided that the Government shall not charge stamp duty twice where a person moves a mortgage from one bank to another.

[Act No. 5 of 1960, s. 2, Act No. 4 of 2012, s. 31.]

6. Time of stamping and liability for stamping

(1) Subject to the provisions of this Act or of any other written law, every instrument, unless it is written on duly stamped material, shall be duly stamped with the proper duty before the expiration of thirty days after it is first executed, or after it has been first received in Kenya in case it is first executed at any place out of Kenya, unless the opinion of a collector with respect to the amount of duty with which the instrument is chargeable has, before the expiration of that period, been required under section 17.

(2) If the opinion of a Collector with respect to the amount of duty with which any instrument is chargeable has been required under section 17, the instrument shall be stamped in accordance with the assessment of the collector within twenty-one days of the date of the notice of the assessment.

(3) Where in the Schedule or in any other written law it is specified that an instrument is to be stamped before execution, it shall be stamped before execution by any party thereto.

(4) If any instrument which is chargeable with stamp duty is not duly stamped, the person or persons respectively specified in the Schedule or in any other written law as being liable for stamping shall be liable, or jointly and severally liable, as the case may be, to the collector for the payment of the specified duty.

(5) If any instrument which is liable to stamp duty is not duly stamped, every person specified in the Schedule or in any other written law as being responsible for stamping shall also be guilty of an offence and liable to a fine not exceeding two thousand shillings.

(6) Where in the Schedule or in any other written law the responsibility for stamping is imposed upon more persons than one, every person on whom that responsibility is imposed may, if the instrument is not duly stamped, be proceeded against either civilly or criminally without reference to any civil liability of the parties *inter se* for the payment of the stamp duty.

[Act No. 5 of 1960, s. 3.]

7. Duties, how to be paid

Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and payment shall be denoted upon the instruments, by means of stamps in such manner as may be prescribed.

8. How instruments are to be written and stamped

(1) Every instrument written upon stamped material shall be written in such manner, and every instrument partly or wholly written before being stamped shall be so stamped, that the stamp may appear on the face of the instrument, and cannot be used for or applied to any other instrument written upon the same piece of material.

(2) If more than one instrument is written upon the same piece of material, every one of the instruments shall be separately and distinctly stamped with the duty with which it is chargeable.

9. Instruments to be separately charged in certain cases

(1) An instrument containing or relating to several distinct matters shall be separately and distinctly charged, as if it were a separate instrument, with duty in respect of each of the matters.

(2) An instrument made for any consideration in respect whereof it is chargeable with *ad valorem* duty, and also for any further or other valuable consideration or considerations, shall be separately and distinctly charged, as if it were a separate instrument, with duty in respect of each of the considerations.

10. Facts and circumstances affecting duty to be set out in instruments

(1) All the facts and circumstances affecting the liability of any instrument to duty, or the amount of the duty with which any instrument is chargeable, shall be fully and truly set out in the instrument; and every person who negligently or with intent to defraud the Government—

- (a) executes any instrument in which all those facts and circumstances are not fully and truly set forth; or

- (b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all those facts and circumstances,

shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings.

[Act No. 10 of 1990, s. 63(a).]

(2) The collector may require any person executing, or any person employed or being concerned in or about the preparation of any instrument, to give evidence on oath, or by statutory declaration, as to the fullness and truth of the facts and circumstances set forth; and for the purpose of taking that evidence the collector may summon any such person to appear before him, and the person so summoned shall be legally bound to appear and to answer such questions and to produce such documents as the collector may put to him or require to be produced relating to those facts and circumstances.

10A. Valuation by Government Valuer

(1) The Collector of Stamp Duties shall refer to the Chief Government Valuer any conveyance or transfer on sale of any immovable property before or after registration of the relevant instruments in order to determine the true open market value of such property as at the date of the conveyance or transfer for purposes of ascertaining whether any additional stamp duty is payable.

(2) The Collector shall immediately demand by written notice to the purchaser or transferee or his authorised agent the payment of any additional stamp duty that may become payable after the valuation has been effected under subsection (1), and such payment shall be made within twenty-one days from the date of posting of the notice.

(3) The Collector shall cause caveats or restrictions, as the case may be, to be registered against the title of any immovable property immediately upon valuation under subsection (1) where additional stamp duty becomes due and payable.

(4) The provisions of this section shall also apply to gifts *inter vivos* under section 52 (1) and to partitions under section 71 (1) and (2).

[Act No. 6 of 1994, s. 51.]

11. Mode of calculating *ad valorem* duty in certain cases

(1) Subject to the provisions of subsection (2), where an instrument is chargeable with *ad valorem* duty in respect of—

- (a) any money in any currency other than that of Kenya; or
(b) any stock or marketable security,

the duty shall be calculated on the value, on the day of the date of the instrument, of the money in Kenya currency according to the current rate of exchange, or of the stock or security according to the average price thereof:

Provided that where stock or security is the consideration for any conveyance or transfer of property, and, in the opinion of the collector, the consideration is inadequate having regard to the actual value of the stock or security, *ad valorem* duty shall be chargeable on the value of the property to be conveyed or transferred.

(2) Notwithstanding the provisions of subsection (1), where any instrument other than a bill of exchange or promissory note is charged with an *ad valorem* duty in respect of any money in any currency other than that of Kenya and a rate of exchange is prescribed by regulations made under this Act for that currency, then the stamp duty on that instrument shall be calculated according to the prescribed rate of exchange.

(3) Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with that statement it shall, so far as regards the subject matter of the statement, be deemed to be duly stamped, unless or until it is shown that the statement is untrue and that the instrument is in fact insufficiently stamped.

12. Instruments to be in English

Every instrument chargeable with duty shall be written in the English language, or shall have annexed thereto a full and accurate translation thereof into the English language, certified to the satisfaction of the collector.

Use of Adhesive Stamps

13. General directions as to cancellation of adhesive stamps

(1) Where stamp duty is required or permitted by any written law to be denoted by an adhesive stamp, the stamp shall be cancelled in such manner as to render it incapable of being used again for any revenue purpose.

(2) When two or more adhesive stamps are used to denote the stamp duty upon an instrument, each stamp shall be so cancelled.

(3) Where an instrument, the stamp duty on which is required or permitted by any written law to be denoted by an adhesive stamp, is to be stamped before execution, or before issue, or before being parted with by the maker, or before the doing of any other act, the first person executing, or the person issuing, or the maker, or the person doing such other act, as the case may be, shall cancel the adhesive stamp before execution, or before issuing, or before parting with the instrument, or before doing that other act, as the case may be.

(4) Where an instrument, the stamp duty on which is required or permitted by any written law to be denoted by an adhesive stamp, is to be stamped within a certain period after any event, the person affixing the adhesive stamp shall cancel it forthwith and before he parts with the instrument.

(5) Subject to the provisions of sections 20, 21, 34 and 36, an instrument, the stamp duty on which is denoted by an adhesive stamp, shall not be deemed to have been duly stamped unless the stamp has been cancelled as required by this section.

(6) The person required by the foregoing provisions of this section to cancel an adhesive stamp shall cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing.

(7) Any person who neglects or refuses duly and effectively to cancel an adhesive stamp in accordance with the provisions of this section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings.

[Act No. 10 of 1990, s. 63(b).]

14. Defacement of adhesive stamps

Any person who by any writing in any manner defaces an adhesive stamp before it is used for the purpose of denoting stamp duty shall be guilty of an offence and liable to a fine not exceeding two thousand shillings:

Provided that any person may, with the express sanction of the Senior Collector of Stamp Duties and in conformity with the conditions which may be prescribed, write upon or otherwise appropriate an adhesive stamp before it is used for the purpose of identification thereof.

[Act No. 10 of 1990, s. 63(c).]

15. Penalty for frauds in relation to adhesive stamps

If any person—

- (a) fraudulently removes or causes to be removed from any instrument any adhesive stamp, or affixes to any other instrument or uses for any other purpose any adhesive stamp which has been so removed with intent that the stamp may be used again; or
- (b) sells, or offers for sale, or utters, any adhesive stamp which has been so removed, or utters any instrument, having thereon any adhesive stamp which has to his knowledge been so removed,

he shall be guilty of an offence and liable, in addition to any other fine or penalty to which he may be liable, to a fine not exceeding twenty thousand shillings.

[Act No. 10 of 1990, s. 63(d).]

*Denoting Stamps***16. Denoting stamps**

Where the duty with which an instrument is chargeable depends in any manner upon the duty paid upon another instrument, the payment of the last-mentioned duty shall, upon application to a collector and production of both the instruments, be denoted upon the first-mentioned instrument in such manner as may be prescribed.

*Adjudication Stamps***17. Adjudication**

(1) Subject to any regulations made under this Act, a collector may be required by any person, on payment by that person of a fee of one hundred shillings, to express his opinion with reference to any executed instrument upon the following questions—

- (a) whether it is chargeable with any duty;
- (b) with what amount of duty it is chargeable.

(2) The collector may require to be furnished with an abstract of the instrument, and also with such evidence as he may deem necessary in order to show to his satisfaction whether all the facts and circumstances affecting the liability of the instrument to duty, or the amount of duty chargeable thereon, are fully and truly set forth therein.

(3) If the collector is of the opinion that the instrument is not chargeable with any duty it shall be stamped with a particular stamp denoting that it is not chargeable with any duty.

(4) If the collector is of the opinion that the instrument is chargeable with duty he shall assess the duty with which it is in his opinion chargeable, and when the instrument is stamped in accordance with the assessment it shall be stamped with a particular stamp denoting that it is duly stamped.

(5) Every instrument stamped with the particular stamp, denoting either that it is not chargeable with any duty or that it is duly stamped, shall be admissible in evidence and available for all purposes notwithstanding any objection relating to duty.

(6) An instrument upon which the duty has been assessed by the collector shall not, if it is unstamped or insufficiently stamped, be stamped otherwise than in accordance with the assessment.

(7) Nothing in this section shall extend to any instrument chargeable with *ad valorem* duty, and made as a security for money or stock without limit; or shall authorize the stamping after the execution thereof of any instrument which by law cannot be stamped after execution.

(8) A statutory declaration made for the purpose of this section shall not be used against any person making it in any proceedings whatever, except in an inquiry as to the duty with which the instrument to which it relates is chargeable; and, if the declaration is true, every person by whom it is made shall, on payment of the duty chargeable upon the instrument to which it relates, be relieved from any fine or disability to which he may be liable by reason of the omission to state truly in the instrument any fact or circumstance required by this Act to be stated therein.

18. Persons dissatisfied may appeal

(1) Any person who is dissatisfied with the assessment of the collector may, within thirty days after the date of the assessment, and on payment of duty in conformity therewith, or on securing the duty to the satisfaction of the collector, appeal against the assessment to the High Court, and may for that purpose require the Collector to state and sign a case, setting out the question upon which his opinion was required, and the assessment made by him.

(2) A sum of five thousand shillings shall be lodged with the collector as security for the costs referred to in subsection (6).

(3) The collector shall thereupon state and sign a case and deliver it to the person by whom it is required, and the case may, within seven days thereafter, and after service thereof upon the Attorney-General, be set down by that person for hearing.

(4) Upon the hearing of the case the court shall determine the question submitted, and, if the instrument in question is in the opinion of the court chargeable with any duty, shall assess the duty with which it is chargeable.

(5) If it is decided by the court that the assessment of the collector is erroneous, any excess of duty which may have been paid in conformity with the

erroneous assessment, together with any fine or penalty which may have been paid in consequence thereof, shall be ordered by the court to be repaid to the appellant, with or without costs as the court may determine.

(6) If the assessment of the collector is confirmed wholly or in part, the court may make an order for payment to the collector of the costs incurred by him in relation to the appeal. Production of Instruments in Evidence and Instruments not duly Stamped

[Act No. 10 of 1981, Sch., Act No. 13 of 1995, s. 93.]

Production of Instruments in Evidence and Instruments not duly Stamped

19. Non-admissibility of unstamped instruments in evidence; and penalty

(1) Subject to the provisions of subsection (3) of this section and to the provisions of sections 20 and 21, no instrument chargeable with stamp duty shall be received in evidence in any proceedings whatsoever, except—

- (a) in criminal proceedings; and
- (b) in civil proceedings by a collector to recover stamp duty,

unless it is duly stamped.

(2) No instrument chargeable with stamp duty shall be filed, enrolled, registered or acted upon by any person unless it is duly stamped.

(3) Upon the production to any court (other than a criminal court), arbitrator, referee, company or other corporation, or to any officer or servant of any public body, of any instrument which is chargeable with stamp duty and which is not duly stamped, the court, arbitrator, referee, company or other corporation, or officer or servant, shall take notice of the omission or insufficiency of the stamp on the instrument and thereupon take action in accordance with the following provisions—

- (a) if the period of time within or before which the instrument should have been stamped has expired and the instrument is one in respect of which a person is specified in the Schedule to this Act as being liable for the stamping thereof, the instrument shall be impounded and, unless the instrument has been produced to a collector, shall forthwith be forwarded to a collector;
- (b) in any such case, before the exclusion or rejection of the instrument, the person tendering it shall, if he desires, be given a reasonable opportunity of applying to a collector for leave under section 20 or of obtaining a certificate under section 21;
- (c) in all other cases, unless otherwise expressly provided in this Act, the instrument shall, saving all just exceptions on other grounds, be received in evidence upon payment to the court, arbitrator or referee of the amount of the unpaid duty and of the penalty specified in subsection (5), and the duty and penalty, if any, shall forthwith be remitted to a collector with the instrument to be stamped after the instrument has been admitted in evidence.

(4) If any person is empowered or required by any written law to act upon, file, enrol or register a duplicate or copy of any instrument, and if the original of that instrument would require to be duly stamped if acted upon, filed, enrolled or

registered by that person, that person may call for the production of the original instrument or for evidence to his satisfaction that it was duly stamped, and no person shall act upon, file, enrol or register any such duplicate or copy without production of the original instrument duly stamped or of evidence thereof.

(5) The penalty on stamping any instrument out of time referred to in paragraph (c) of subsection (3) shall be ten shillings in respect of every twenty shillings and of any fractional part of twenty shillings of the duty chargeable thereon and in respect of every period of three months or any part of such a period after the expiration of the time within or before which the instrument should have been stamped.

20. Stamping out of time

(1) Where an instrument is chargeable with stamp duty under this Act and should have been stamped before a certain event or before the expiration of a certain period, but has not been so stamped, a collector may give leave for the stamping of the instrument if he is satisfied—

- (a) that the omission or neglect to stamp duty did not arise from any intention to evade payment of stamp duty or otherwise to defraud; and
- (b) that the circumstances of the case are such as to justify leave being given.

(2) If the collector grants leave under subsection (1) for the stamping of an instrument, the instrument shall be stamped on payment of the unpaid duty including any additional stamp duty and of a penalty of one shilling in respect of every twenty shillings and of any fractional part of twenty shillings of the duty chargeable thereon and in respect of every period of three months or any part of such period after the expiration of the time within or before which the instrument should have been stamped:

Provided that—

- (a) the penalty chargeable under this subsection shall not exceed one hundred per centum of the principal duty outstanding; and
- (b) the collector may remit the penalty under this section up to a maximum of one million five hundred shillings, but shall not remit any penalty exceeding that amount without prior approval from the Minister.

(3) If any person applying for leave under this section is dissatisfied with the decision of the collector upon that application, that person may require his application to be referred to the Minister, whose decision thereon shall be final for all purposes.

(4) Upon any application for leave under this section, the collector, or the Minister, may require sworn or other evidence in support of the application.

(5) When an instrument has been stamped by leave under this section it shall be deemed to have been duly stamped.

(6) Notwithstanding the provisions of this section, no bill of exchange or promissory note shall, except as provided in sections 21, 22, 34 and 36, be stamped after execution.

(7) In this section, “collector” does not include the Senior Collector of Stamp Duties.

[Act No. 5 of 1960, s. 4, Act No. 6 of 1994, s. 52, Act No. 10 of 2010, s. 42.]

21. Certain improperly stamped instruments

Subject to the provisions of this Act, where an instrument bears a stamp of sufficient amount but of improper description, it may, on payment of the duty with which it is chargeable and of a penalty of ten shillings, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped.

22. Effect of noncompliance in case of certain bills of exchange

Notwithstanding any written law to the contrary, a bill of exchange which is presented for acceptance, or accepted, or payable, outside Kenya, or a cheque, whether presented for acceptance, or accepted, or payable, outside or inside Kenya, shall not be invalid by reason only that it is not stamped in accordance with the provisions of this Act, and any such bill of exchange or cheque which is unstamped or not properly stamped may be received in evidence on payment of the proper duty and penalties as provided by sections 19 and 20.

23. Instruments executed out of Kenya

Every instrument executed out of Kenya by any person, not being a bill of exchange or a promissory note, shall, before being used, brought into force or registered, within Kenya, be stamped according to the rate of duty chargeable thereon in accordance with this Act, whatever the provision of the Schedule may be with regard to the time before which or the period within which such an instrument, if executed in the first instance within Kenya, should be stamped.

[Act No. 5 of 1960, s. 5.]

Miscellaneous

24. Refund where instrument erroneously assessed

If the Senior Collector of Stamp Duties is satisfied that an instrument has been erroneously assessed with duty or penalty, he may, if application for a refund is made at any time within one year after the date of the payment of that duty or penalty, refund the amount thereof to the person by whom it was paid.

25. Splitting

(1) Where any minimum amount is prescribed below which stamp duty shall not be payable, no person shall execute more instruments than would ordinarily be necessary for the transaction in question in order to evade stamp duty.

(2) Where a scale is prescribed under which the rate of stamp duty is increased after passing certain limits, no person shall execute more instruments than would ordinarily be necessary for the transaction in question in order to evade stamp duty.

(3) In any question arising under this section the onus of proof shall lie upon the person who asserts that there has been no splitting in order to evade stamp duty.

26. Penalty for evasion of duty by splitting

Any person executing an instrument in contravention of the provisions of section 25 shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings.

[Act No. 10 of 1990, s. 63(e).]

27. Instruments reserving interest

Where interest is expressly made payable by the terms of an instrument, the instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

28. Stamp where value of subject-matter is indeterminate.

Where the amount or value of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be, or (in the case of an instrument executed before the commencement of this Act) could not have been, ascertained at the date of its execution, or first execution, nothing shall be claimable under the instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient:

Provided that if the owner of an instrument which was duly stamped in accordance with the information then available to him receives information showing that the instrument is insufficiently stamped, and produces the instrument with the information to a collector within twenty-one days after receipt, the instrument may be stamped without penalty for such further sum as is proper, but this proviso shall not apply to instruments which are required to be stamped before execution.

29. Recovery of duty and penalties

(1) All duties, penalties and other sums required to be paid by way of or in connexion with stamp duty under this Act or any other written law may be recovered by a collector as a civil debt recoverable summarily.

[Act No. 6 of 1994, s. 53.]

(2) In a suit under this section, the production of a certificate signed by the Senior Collector of Stamp Duties giving the name and address of the person concerned and the amount of stamp duty due and payable by him shall be sufficient evidence that the amount of stamp duty is due and payable by that person.

(3) Subject to the provisions of section 18, where stamp duty is recoverable in the manner provided by this section the Senior Collector of Stamp Duties may, instead of suing for the stamp duty, recover it by distress, and for that purpose may by order under his hand authorize an officer to execute distress upon the goods and chattels of the person from whom the stamp duty is recoverable and that officer may, at the cost of the person from whom the duty is recoverable, employ such servants or agents as he may think necessary to assist him in the execution of the distress:

Provided that—

- (i) where the full amount of the duty due and payable is not recovered by distress, the Senior Collector of Stamp Duties may forthwith recover the deficiency, in the manner provided by this section;
- (ii) where the full amount of duty due and payable has been paid after the issue of an order under this section and before the execution of distress, any costs and expenses incurred by the Senior Collector of Stamp Duties prior to the payment of the duty shall be deemed to be a debt due and payable to the Government by the person in respect of whom the order was issued and may be recovered by the Senior Collector of Stamp Duties.

(4) For the purposes of executing distress the person authorized by the Senior Collector of Stamp Duties under the order may, in addition to employing such servants or agents as he may consider necessary, require a police officer to be present while the distress is being levied and a police officer so required shall comply with that requirement.

(5) A distress levied under this section shall be kept for ten days, either at the premises at which distress was levied or at any other place which the authorized officer may consider appropriate, at the cost of the person from whom the duty is recoverable.

(6) If the person from whom duty is recoverable by distress does not pay the duty together with the costs of the distress within the period of ten days, the goods and chattels distrained upon shall be sold by public auction for payment of the duty due and payable and the costs, and the proceeds of the sale shall be applied first towards the cost of taking, keeping and selling the goods and chattels distrained upon and then towards the duty due and payable and any remainder of those proceeds shall be restored to the owner of the property distrained.

(7) In this section an authorized officer means the Collector of Stamp Duties or any other person authorized by the Senior Collector of Stamp Duties to levy distress.

PART III – PROVISIONS APPLICABLE TO PARTICULAR INSTRUMENTS

Agreements

30. Certain mortgages of stock to be chargeable as agreements

(1) Every instrument under hand only (not being a promissory note or bill of exchange) given upon the occasion of a deposit of any share warrant or stock certificate to bearer, or Commonwealth or foreign share certificate, or any security for money transferable by delivery, by way of security for any loan, shall be deemed to be an agreement, and shall be charged with duty accordingly.

(2) Every instrument under hand only (not being a promissory note or bill of exchange) making redeemable or qualifying a duly stamped transfer intended as a security of any registered stock or marketable security shall be deemed to be an agreement and shall be charged with duty accordingly.

(3) A release or discharge of any such instrument shall be charged with the like duty.

31. Hire purchase agreement to be stamped

Any agreement for or relating to the supply of goods on hire, whereby the goods in consideration of periodical payments will or may become the property of the person to whom they are supplied, shall be charged with duty as an agreement or, if under seal, as a deed, as the case requires, and the exemption numbered (1) under the heading *Agreement or any Memorandum of an Agreement* in the Schedule shall not apply in the case of any such instrument.

*Bills of Exchange and Promissory Notes***32. Meaning of “bill of exchange”**

For the purposes of this Act, “**bill of exchange**” includes draft, order, cheque and letter of credit, and any other document or writing entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money; and “bill of exchange payable on demand” includes—

- (a) an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen; and
- (b) an order for the payment of any sum of money weekly, or monthly, or at any other stated periods, and also an order for the payment by any person at any time after the date thereof of any sum of money, and sent or delivered by the person making it to the person by whom the payment is to be made, and not to the person to whom the payment is to be made, or to any person on his behalf.

33. Meaning of “promissory note”

(1) For the purposes of this Act, “**promissory note**” includes any document or writing containing a promise to pay any sum of money.

(2) A note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen, shall be deemed a promissory note for that sum of money.

34. Provisions as to stamping foreign bills and notes

(1) A person into whose hands a bill of exchange or promissory note drawn or made out of Kenya comes into Kenya before it is stamped shall, before he presents for payment, or endorses, transfers or in any manner negotiates, or pays, the bill or note, affix thereto the proper stamp, and, if an adhesive stamp, cancel it:

Provided that—

- (i) if at the time when the bill or note comes into the hands of a *bona fide* holder there is affixed thereto an adhesive stamp effectually

cancelled, the stamp shall, so far as relates to the holder, be deemed to be duly cancelled, although it may not appear to have been affixed or cancelled by the proper person; and

- (ii) if at the time when the bill or note comes into the hands of a *bona fide* holder there is affixed thereto an adhesive stamp not duly cancelled, the holder may cancel the stamp as if he were the person by whom it was affixed, and upon his so doing the bill or note shall be deemed to be duly stamped, and as valid and available as if the stamp had been cancelled by the person by whom it was affixed.

(2) Nothing contained in subsection (1) shall relieve any person from any fine or penalty to which he may be liable for not cancelling an adhesive stamp.

[L.N. 73/1989, s. 2.]

35. As to bills and notes purporting to be drawn abroad

A bill of exchange or promissory note which purports to be drawn or made out of Kenya shall, for the purpose of determining the mode in which the stamp duty thereon is to be denoted, be deemed to have been so drawn or made, although it may in fact have been drawn or made within Kenya.

36. Penalty for issuing, etc., any unstamped bill or note

(1) Every person who issues, endorses, transfers, negotiates, presents for payment or pays a bill of exchange or promissory note liable to duty and not being duly stamped shall be guilty of an offence and liable to a fine not exceeding five thousand shillings; and the person who takes or receives from any other person any such bill or note either in payment or as a security, or by purchase or otherwise, shall not be entitled to recover thereon or to make it available for any purpose whatever:

Provided that if any bill of exchange payable on demand or at sight, or on presentation, or within three days after date or sight, is presented for payment unstamped the person to whom it is presented may affix thereto an adhesive stamp of two shillings and fifty cents, and cancel it as if he had been the drawer of the bill, and may thereupon pay the sum mentioned in the bill and charge the duty in account against the person by whom the bill was drawn, or deduct the duty from that sum, and the bill shall, so far as respects the duty, be deemed valid and available.

(2) Nothing contained in subsection (1) shall relieve any person from any fine or penalty incurred by him in relation to that bill.

[Act No. 8 of 1985, s. 21(a), Act No. 10 of 1990, s. 63(f), Act No. 6 of 1994, s. 54.]

37. One bill only of a set need be stamped

Where a bill of exchange is drawn in a set according to the custom of merchants, and one of the set is duly stamped, the other or others of the set shall, unless issued or in some manner negotiated apart from the stamped bill, be exempt from duty; and, upon proof of the loss or destruction of a duly stamped bill forming one of the set, any other bill of the set which has not been issued or in any manner negotiated apart from the lost or destroyed bill may, although unstamped, be admitted in evidence to prove the contents of the lost or destroyed bill.

*Chattels Transfers***38. Chattels transfers**

No instrument shall be registered under the Chattels Transfer Act (Cap. 28) unless the original, duly stamped, is produced to the Registrar.

*Companies***39. Charge of duty on capital of companies**

A statement of the amount which is to form the nominal share capital of any company to be registered with limited liability shall be delivered to the Registrar of Companies and a statement of the amount of any increase of registered capital of a company now registered or to be registered with limited liability shall be delivered to the Registrar, and every such statement shall be charged with an *ad valorem* stamp duty.

*Contract Notes***40. Provision as to contract notes**

(1) For the purposes of this Act, “**contract note**” means the note sent by a broker or agent to his principal, or by any person who by way of business deals, or holds himself out as dealing, as a principal in any stock or marketable securities, advising the principal or the vendor or purchaser, as the case may be, of the sale or purchase of any stock or marketable security, but does not include a note sent by a broker or agent to his principal where the principal is himself acting as broker or agent for a principal.

(2) Where a contract note is a continuation or carrying over note made for the purpose of continuing or carrying over any transaction for the sale or purchase of stock or marketable securities, the contract note, although it is made in respect of both the sale and purchase, shall be charged with duty under this section as if it related to one of those transactions only, and, if different rates of duty are chargeable in respect of those transactions, to that one of those transactions which would render the contract note chargeable at the highest rate.

(3) Where a contract note advises the sale or purchase of more than one description of stock or marketable security, the note shall be deemed to be as many contract notes as there are descriptions of stocks or securities sold or purchased.

41. Obligation to execute contract notes

(1) Any person who effects any sale or purchase of any stock or marketable security as a broker or agent, and any person who by way of business deals, or holds himself out as dealing, as a principal in any stock or marketable security and buys or sells any such stock or marketable security shall forthwith make and execute a contract note and transmit the note to his principal or to the vendor or purchaser of the stock or marketable security, as the case may be, and in default of so doing shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings.

[Act No. 10 of 1990, s. 63(g).]

(2) If any person makes or executes any contract note chargeable with duty and not being duly stamped, he shall be guilty of an offence and liable to a fine not exceeding one thousand shillings.

(3) No broker, agent or other person shall have a legal claim to any charge for brokerage, commission or agency with reference to the sale or purchase of any stock or marketable security if he fails to comply with the provisions of this section.

(4) Stamp duty on a contract note may be added to the charge for brokerage or agency, and may be recoverable as part of that charge.

42. Extension of provisions as to contract notes to sale or purchase of options

(1) The provisions of this Act as to contract notes shall apply to any contract under which an option is given or taken to purchase or sell any stock or marketable security at a future time at a certain price, as it applies to the sale or purchase of any stock or marketable security, but the duty on such a contract shall be one-half only of that chargeable on a contract note:

Provided that, if under the contract a double option is given or taken, the contract shall be deemed to be a separate contract in respect of each option.

(2) Any contract note made or executed in pursuance and in consequence of the exercise of an option given or taken under a contract duly stamped in accordance with the provisions of this section shall be charged with one-half only of the duty which would otherwise have been chargeable thereon under this Act, provided it bears on its face a certificate by the broker, agent or other person mentioned in section 41 to the effect that it is made or executed in the exercise of an option for which a duly stamped contract has been rendered on the date mentioned in the certificate.

Conveyances on Sale

43. Meaning of “conveyance on sale”

(1) For the purposes of this Act, “conveyance on sale” includes—

- (a) an instrument, and a decree or order of a court, whereby any property, or any estate or interest in property, upon the sale thereof is transferred to or vested in a purchaser, or any other person on his behalf or by his direction;
- (b) a decree or order for, or having the effect of an order for, foreclosure:

Provided that—

- (i) the *ad valorem* duty upon any such decree or order shall not exceed the duty on a sum equal to the value of the property to which the decree or order relates, and where the decree or order states that value that statement shall be conclusive for the purpose of determining the amount of duty; and
- (ii) where *ad valorem* duty is paid upon the decree or order any conveyance following upon the decree or order shall be exempt from *ad valorem* duty.

(2) Any vesting order by the court shall bear the same stamp as if it were a conveyance on sale.

44. How *ad valorem* duty is to be calculated in respect of stock and securities

(1) Where the consideration, or any part of the consideration, for a conveyance on sale consists of any stock or marketable security, the conveyance shall be charged with *ad valorem* duty in respect of the value of the stock or security.

(2) Where the consideration, or any part of the consideration, for a conveyance on sale consists of any security not being a marketable security, the conveyance shall be charged with *ad valorem* duty in respect of the amount due on the day of the date thereof for principal and interest upon the security.

45. How consideration consisting of periodical payments to be charged

(1) Where the consideration, or any part of the consideration, for a conveyance on sale consists of money payable periodically for a definite period not exceeding twenty years, so that the total amount to be paid can be previously ascertained, the conveyance shall be charged in respect of that consideration with *ad valorem* duty on the total amount.

(2) Where the consideration, or any part of the consideration, for a conveyance on sale consists of money payable periodically for a definite period exceeding twenty years or in perpetuity, or for any indefinite period not terminable with life, the conveyance shall be charged in respect of that consideration with *ad valorem* duty on the total amount which will or may according to the terms of sale be payable during the period of twenty years next after the day of the date of the instrument.

(3) Where the consideration or part of the consideration for a conveyance on sale consists of money payable periodically during any life or lives, the conveyance shall be charged in respect of that consideration with *ad valorem* duty on the amount which will or may, according to the terms of sale, be payable during the period of twelve years next after the day of the date of the instrument.

(4) Notwithstanding the foregoing provisions of this section, no conveyance on sale chargeable with *ad valorem* duty in respect of any periodical payments and containing also provision for securing the payments shall be charged with any duty in respect of that provision, and no separate instrument made in that case for securing repayment shall be charged with any higher duty than one hundred shillings.

[Act No. 8 of 1985, s. 21(b), Act No. 6 of 1994, s. 55.]

46. Conveyance on sale with further covenant

A conveyance on sale made for any consideration in respect whereof it is chargeable with *ad valorem* duty, and in further consideration of a covenant by the purchaser to make, or of his having previously made, any substantial improvement of or addition to the property conveyed to him, or of any covenant relating to the subject matter of the conveyance, shall not be chargeable, and shall be deemed not to have been chargeable, with any duty in respect of such further consideration.

47. How conveyance in consideration of a debt, etc., to be charged

Where any property is conveyed to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or encumbrance or not, the debt, money or stock shall be deemed to be the whole or part, as the case may be, of the consideration in respect whereof the conveyance is chargeable with *ad valorem* duty.

48. Direction as to duty in certain cases of conveyances, mortgages and settlements

(1) Where property contracted to be sold for one consideration for the whole is conveyed to the purchaser in separate parts or parcels by different instruments, the consideration shall be apportioned in such manner as the parties think fit, so that a distinct consideration for each separate part or parcel is set out in the conveyance relating thereto, and that conveyance shall be charged with *ad valorem* duty in respect of the distinct consideration.

(2) Where property contracted to be purchased for one consideration for the whole by two or more persons jointly or by any person for himself or others or wholly for others is conveyed in parts or parcels by separate instruments to the persons by or for whom it was purchased for distinct parts of the consideration, the conveyance of each separate part or parcel shall be charged with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

(3) Where there are several instruments employed for completing any conveyance, mortgage or settlement, the principal instrument only shall be charged with *ad valorem* duty and each of the other instruments shall be chargeable with a duty of five shillings instead of the duty (if any) prescribed for it in the Schedule.

(4) (a) Where any property is conveyed by one person to another by the direction, or at the request, or with the consent, of an intermediary or intermediaries, the conveyance shall be charged with duty as if it were both a conveyance of the property by the transferor to the intermediary or, as the case may be, to the first intermediary, and also a number of conveyances whereby each intermediary conveys the property to the next intermediary or, in the final case, to the transferee.

(b) Every conveyance to which this subsection refers shall recite the fact of each such direction, request or consent; and, if the instrument is executed without that recital, every person executing it knowing that it does not contain that recital (which knowledge shall be presumed unless the contrary is proved) shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings.

(c) In this subsection, “**intermediary**” means a person, other than the transferee, who since the commencement of this Act acquired the right to call for a conveyance of any property under an agreement for sale, trust or otherwise howsoever, and includes two or more such persons acting jointly.

[Act No. 8 of 1985, s. 21(c), Act No. 10 of 1990, s. 63(h).]

49. Certain contracts to be chargeable as conveyances on sale

(1) Any agreement or memorandum of an agreement for the sale of any estate or interest in any property (except lands, tenements or hereditaments, or

property locally situated out of Kenya, or goods, wares or merchandise, or shares, or marketable securities, or any ship or vessel, or part interest, share or property of or in any ship or vessel) shall be charged with the same *ad valorem* duty as if it were an actual conveyance, assignment or transfer on sale of the estate, interest or property agreed to be sold.

(2) Where *ad valorem* duty has been paid under subsection (1) and the purchaser, before having obtained a conveyance, assignment or transfer of the property, enters into an agreement for the sale of the property, the agreement shall be charged, if the consideration for the sale is in excess of the consideration for the original sale, with the *ad valorem* duty payable in respect of the excess consideration, and in any other case with the fixed duty of one thousand shillings or of one hundred shillings, as the case may require.

(3) Where duty has been duly paid in conformity with the foregoing provisions of this section, the conveyance, assignment or transfer made to the purchaser or sub-purchaser, or any other person on his behalf or by his direction, shall not be chargeable with any duty, and the Collector upon application shall denote the payment of the *ad valorem* duty upon the conveyance, assignment or transfer.

(4) Where any such agreement is stamped with the fixed duty of one hundred shillings, the agreement shall be regarded as duly stamped for the mere purpose of proceedings to enforce specific performance or recover damages for the breach thereof.

(5) Where any such agreement is stamped with fixed duty, and a conveyance, assignment or transfer made in conformity with the agreement is presented to the collector for stamping with the *ad valorem* duty chargeable thereon within the period of six months after the first execution of the agreement or within such longer period as the collector may think reasonable in the circumstances of the case, the conveyance, assignment or transfer shall be stamped accordingly and both it and the agreement shall be deemed to be duly stamped; but nothing in this subsection shall alter or affect the provisions as to the stamping of a conveyance, assignment or transfer after the execution thereof.

(6) The *ad valorem* duty paid upon any such agreement shall be returned by the collector in case the agreement be afterwards rescinded or annulled in writing.

[Act No. 8 of 1985, s. 21(d), Act No. 6 of 1994, s. 56.]

50. As to sale of an annuity or right not before in existence

(1) Where upon the sale of any annuity or other right not before in existence the annuity or other right is not created by actual grant or conveyance, but is only secured by bond, warrant of attorney, covenant, contract or otherwise, the bond or other instrument, or some one of the instruments if there are more than one, shall be charged with the same duty as an actual grant or conveyance and shall for the purposes of this Act be deemed to be an instrument of conveyance on sale.

(2) Notwithstanding the provisions of subsection (1), an instrument being a grant or contract for payment of a purchased life annuity shall be chargeable with stamp duty under paragraph (3) of the heading *Bond, Covenant or Instrument of any kind whatsoever* in the Schedule, whether or not the annuity is a superannuation annuity as defined in that paragraph.

(3) In this section, “**purchased life annuity**” means a life annuity granted for consideration in money or money’s worth in the ordinary course of a business of granting annuities on human life.

51. Principal instrument how to be ascertained

The parties may determine for themselves which of several instruments shall be deemed to be the principal instrument and may pay the *ad valorem* duty thereon accordingly:

Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of those instruments.

52. Duty on gifts *inter vivos*

(1) Any conveyance or transfer operating as a voluntary disposition *inter vivos* shall be chargeable with stamp duty as if it were a conveyance or transfer on sale, with the substitution in each case of the value of the property conveyed or transferred for the amount or value of the consideration for the sale.

(2) Notwithstanding the provisions of subsection (1), a conveyance or transfer, or an agreement for a conveyance or transfer, operating as a voluntary disposition of property shall not be chargeable with any duty, if the conveyance or transfer is in favour of—

- (a) any body of persons incorporated by special Act and that body is by its Act precluded from dividing any profit amongst its members and the property conveyed is to be held for the purposes of an open space or for the purposes of its preservation for the benefit of Kenya; or
- (b) any body of persons established for charitable purposes only or the trustees of a trust so established.

(3) Notwithstanding anything contained in section 17, a Collector shall be required without fee to express his opinion under that section on any conveyance, transfer or agreement mentioned in the foregoing provisions of this section, and no such conveyance, transfer or agreement shall be deemed to be duly stamped unless the Collector has expressed his opinion thereon in accordance with that section and the instrument has been stamped accordingly.

(4) Where any instrument is chargeable with duty both as a conveyance or transfer under this section and as a settlement under the heading *Settlement* in the Schedule, the instrument shall be charged with duty as a conveyance or transfer under this section and not as a settlement.

(5) Any conveyance or transfer (not being a disposition made in favour of a purchaser or encumbrancer or other person in good faith and for valuable consideration) shall, for the purposes of this section, be deemed to be a conveyance or transfer operating as a voluntary disposition *inter vivos*, and (except where marriage is the consideration) the consideration for any conveyance or transfer shall not for this purpose be deemed to be valuable consideration where a collector is of opinion that by reason of the inadequacy of the sum paid as consideration or other circumstances the conveyance or transfer confers a substantial benefit on the person to whom the property is conveyed or transferred.

(6) The foregoing provisions of this section shall not apply to a conveyance or transfer made for a nominal consideration for the purpose of securing the repayment of an advance or loan or made for effectuating the appointment of a new trustee or the retirement of a trustee, whether the trust is expressed or implied, or under which no beneficial interest passes in the property conveyed or transferred, or made to a beneficiary by a trustee or other person in a fiduciary capacity under any trust, whether express or implied, and this subsection shall have effect notwithstanding that circumstances exempting the conveyance or transfer from charge under this section are not set forth in the conveyance or transfer.

Conveyances on any Occasion except Sale or Transfer

53. What is to be deemed a conveyance on any occasion not being a sale or mortgage

Every instrument, and every decree or order of any court, whereby any property on any occasion, except a sale or mortgage, is transferred to or vested in any person, shall be charged with duty as a conveyance or transfer of property:

Provided that a conveyance or transfer made for effectuating the appointment of a new trustee, or for effectuating the retirement of a trustee although no new trustee is appointed, shall not be charged with any higher duty than two hundred shillings.

[Act No. 8 of 1985, s. 21(e), Act No. 6 of 1994, s. 57.]

Duplicates and Counterparts

54. Provision as to duplicates and counterparts

The duplicate or counterpart of an instrument chargeable with duty shall not be deemed to be duly stamped unless it is stamped as an original instrument, or unless it appears by some stamp impressed thereon that the full and proper duty has been paid upon the original instrument of which it is the duplicate or counterpart.

Leases and Licences

55. Agreements to be charged as leases

(1) An agreement for a lease, or in respect of any letting, shall be charged with the same duty as if it were an actual lease made for the term and consideration mentioned in the agreement.

(2) A lease made subsequently to, and in conformity with, such an agreement duly stamped shall be charged with the duty of five shillings only.

[Act No. 8 of 1985, s. 21(f).]

56. Duty on leases where consideration consists of rent

Every lease shall, so far as the consideration therefor consists of rent, whether reserved as a yearly rent or otherwise, be charged with duty in accordance with the heading *Lease* in the Schedule.

57. Duty on leases in other cases

A lease shall, so far as the consideration therefor consists of any premium or other consideration whatsoever other than rent, moving either to the lessor or to any other person, be charged with *ad valorem* stamp duty computed on that consideration as if it were a conveyance on sale for the amount of that consideration.

58. Duty on leases granted in perpetuity

A lease granted in perpetuity shall be charged with *ad valorem* stamp duty as if it were a conveyance on sale, and the duty shall be computed on the value of the property.

59. Leases, how to be charged in respect of produce, etc.

(1) Where the consideration, or any part of the consideration, for which a lease is granted or agreed to be granted, consists of any produce or other goods, the value of the produce or goods shall be deemed a consideration in respect of which the lease or agreement is chargeable with *ad valorem* duty.

(2) Where it is stipulated that the value of the produce or goods is to amount at least to, or is not to exceed, a given sum, or where the lessee is specially charged with or has the option of paying after any permanent rate of conversion, the value of the produce or goods shall, for the purpose of assessing the *ad valorem* duty, be estimated at the given sum, or according to the permanent rate.

(3) A lease or an agreement for a lease made either wholly or partially for any such consideration, if it contains a statement of the value thereof, and is stamped in accordance with the statement, shall, so far as regards the subject-matter of the statement, be deemed to be duly stamped, unless or until it is otherwise shown that the statement is incorrect, and that the lease or agreement is in fact not duly stamped.

60. Directions as to duty on instruments increasing rent and on certain leases

(1) An instrument, whereby the rent reserved by any other instrument chargeable with duty and duly stamped as a lease is increased, shall not be charged with duty otherwise than as a lease in consideration of the additional rent thereby made payable.

(2) If, in accordance with the articles of association of any company, or in pursuance of any agreement with any company, a shareholder in that company is entitled to a lease from the company, then—

- (a) where such a lease is granted to the first holder of the shares, the consideration paid to the company for the shares shall be deemed to be a premium in respect of the lease, and the lease shall be chargeable with *ad valorem* duty accordingly;
- (b) where such a lease is granted to a subsequent holder of the shares, the consideration paid by the holder for the shares shall be deemed to be a premium paid in respect of the lease notwithstanding that no consideration may have been paid to the company, and the lease shall be chargeable with *ad valorem* duty accordingly, but, where the lease has been so charged, the duty on the share transfer shall

be charged at the rate of five shillings only, and, if *ad valorem* duty has already been paid thereon in an amount exceeding five shillings, allowance shall be made for the excess;

- (c) where such a lease is assigned to a holder or transferee of shares, the consideration paid by the holder or transferee for the shares shall be deemed to be consideration for the assignment of the lease, and the assignment shall be chargeable with *ad valorem* duty accordingly, but, where the assignment has been so charged, the duty on the share transfer shall be charged at the rate of five shillings only, and, if *ad valorem* duty has already been paid thereon in an amount exceeding five shillings, allowance shall be made for the excess;
- (d) for the purposes of paragraphs (b) and (c), "consideration" includes the value of any shares comprised in a transfer operating, for the purposes of section 52, as a voluntary disposition *inter vivos*.

[Act No. 8 of 1985, s. 21(g).]

61. Duty on leases granted for inadequate consideration

A lease granted for a consideration which in the opinion of the Collector is inadequate, unless it is a lease granted by the Government, shall, in respect of the consideration therefor, be charged in accordance with the foregoing provisions; and such a lease shall also be charged as if it were an instrument operating as a voluntary disposition *inter vivos* in respect of the value of the leasehold interest after deducting the amount of the consideration.

[L. N. 236/1964, Sch., Act No. 21 of 1966, Sch..]

62. Duty where consideration cannot be fixed with accuracy

Where, in the opinion of the Collector, the amount of the consideration for a lease cannot be ascertained with reasonable accuracy, he may either disregard that consideration to the extent to which its amount is deemed to be unascertainable and stamp the lease as if it were a voluntary disposition *inter vivos* in accordance with the provisions of section 52, or he may assess the lease with a fixed duty of one thousand shillings in respect of the consideration so far as it is deemed to be unascertainable.

[Act No. 8 of 1985, s. 21(h), Act No. 6 of 1994, s. 58.]

63. Licences

(1) Every licence relating to immovable property shall for the purposes of this Act be deemed to be a lease by the grantor of the licence to the grantee, and shall be charged with duty accordingly.

(2) In the application to licences of the provisions of this Act with respect to leases, every consideration which would have been rent if the licence had been a lease shall be deemed to be rent, and duty shall be charged accordingly.

*Marketable Securities***64. Meaning of marketable securities for charge of duty and foreign and Commonwealth share certificate**

Marketable securities for the purpose of the charge of duty thereon, whether or not transferable by delivery, include—

- (a) a marketable security made or issued by or on behalf of any company or body of persons corporate or unincorporate formed or established in Kenya; and
- (b) a marketable security by or on behalf of any foreign State or government, or Commonwealth or foreign municipal body, corporation or company (hereinafter called a foreign security)—
 - (i) which is made or issued in Kenya; or
 - (ii) which, though originally issued out of Kenya, is offered for subscription, and is given or delivered to a subscriber in Kenya; or
 - (iii) which is assigned, transferred or in any other manner negotiated in Kenya; and
- (c) a marketable security by or on behalf of the government of any country in the Commonwealth which, if the borrower were a foreign government, would be a foreign security (hereinafter called a Commonwealth government security); and
- (d) a share warrant or stock certificate to bearer, or any other instrument to bearer, by means of which any share or stock of any company or body of persons formed or established out of Kenya is assigned, transferred or in any manner registered in Kenya.

65. Penalty on issuing, etc., security not duly stamped

Every person who in Kenya makes, issues, assigns, transfers, negotiates or offers for subscription any foreign security or Commonwealth government security, not being duly stamped, shall be guilty of an offence and liable to a fine not exceeding five thousand shillings.

[Act No. 10 of 1990, s. 63(i).]

66. Foreign or Commonwealth securities may be stamped without penalty

A collector may at any time, without reference to the date thereof, allow a foreign security or Commonwealth government security to be stamped without the payment of any penalty, upon being satisfied, in any manner that he may think proper, that it was not made or issued, and has not been transferred, assigned or negotiated, within Kenya.

67. Meaning of marketable security transferable on delivery and instrument to bearer

An instrument used for the purpose of assigning, transferring or in any manner negotiating the right to any marketable security, share or stock shall, if the delivery thereof is by usage treated as sufficient for the purpose of a sale on the market, whether that delivery constitutes a legal assignment, transfer or negotiation or not, be deemed to be a marketable security transferable on delivery, or an instrument to bearer, as the case may be, and the delivery thereof an assignment, transfer or negotiation.

*Mortgages, etc.***68. Meaning of “mortgage” and “equitable mortgage” and provisions in relation to equitable mortgages**

(1) For the purposes of this Act, “**mortgage**” means a legal charge or security by way of mortgage for the payment of any definite or certain sum of money advanced or lent at the time, or previously due and owing or foreborne to be paid, being payable, or for the repayment of money to be thereafter lent, advanced or paid, or which may become due upon an account current, together with any sum already advanced or due, or without, as the case may be; and includes—

- (a) a conditional surrender by way of mortgage, charge, further charge or disposition; and
- (b) any conveyance of any property in trust to be sold or otherwise converted into money intended only as a security, and redeemable before the sale or other disposal thereof, either by express stipulation or otherwise; and
- (c) any instrument in writing for defeating or making redeemable or explaining or qualifying any conveyance, transfer, disposition or assignation of any immovable property, apparently absolute, but intended only as a security; and
- (d) any agreement (other than an agreement chargeable with duty as an equitable mortgage), contract or bond accompanied with a deposit of title deeds or with other instruments evidencing a right to property, for making a mortgage, or any other security or conveyance as aforesaid of any property comprised in the title deed, or for pledging or charging the same as a security; and
- (e) any deed operating as a mortgage of any stock or marketable security,

but does not include an instrument registrable under the Chattels Transfer Act (Cap. 28).

(2) For the purpose of this Act “**equitable mortgage**” means an agreement or memorandum relating to the deposit of any title deeds or instruments constituting or being evidence of the title to any property (other than any stock or marketable security) or creating a charge on the property.

(3) (a) There shall be embodied in every equitable mortgage a certificate setting forth the amount secured thereby, or, if such be the case, that the amount secured is uncertain.

(b) In the case of an equitable mortgage to which the provisions of subsection (2) of section 70 apply, where any advance of loan is made in excess of the amount covered by the *ad valorem* duty impressed thereon, there shall be presented with or endorsed on the equitable mortgage, when it is presented for stamping, a certificate setting forth the amount of the advance or loan so made.

(c) There shall be embodied in every discharge of an equitable mortgage a certificate setting forth the greatest amount which was at any time secured by the mortgage.

(d) Nothing shall be claimable under any equitable mortgage more than the highest amount for which the stamp actually used would, at the date of the stamping thereof, have been sufficient.

69. Direction as to duty in certain cases

(1) A security for the transfer or retransfer of any stock shall be charged with the same duty as a similar security for a sum of money equal in amount to the value of the stock; and a transfer, assignment or disposition of any such security, and a reconveyance, release, discharge, surrender, resurrender, warrant to vacate or renunciation of any such security, shall be charged with the same duty as an instrument of the same description relating to a sum of money equal in amount to the value of the stock.

(2) A security for the payment of any rentcharge, annuity or periodical payments, by way of repayment, or in satisfaction or discharge of any loan, advance or payment intended to be so repaid, satisfied or discharged, shall be charged with the same duty as a similar security for the payment of a sum of money so lent, advanced or paid.

(3) A transfer of a duly stamped security, and a security by way of further charge for money or stock added to money or stock previously secured by a duly stamped instrument, shall not be charged with any duty by reason of it containing any further or additional security for the money or stock transferred or previously secured, or the interest or dividends thereof, or any new covenant, proviso, power, stipulation or agreement in relation thereto, or any further assurance of the property comprised in the transferred or previous security.

(4) An instrument chargeable with *ad valorem* duty as a mortgage shall not be charged with any further duty by reason of the equity of redemption in the mortgaged property being thereby conveyed or limited in any other manner than to a purchaser, or in trust for, or according to the direction of, a purchaser.

70. Security for future advances how to be charged

(1) A security for the payment or repayment of money to be lent, advanced or paid, or which may become due upon an account current, either with or without money previously due, shall be charged, where the total amount secured or to be ultimately recoverable is in any way limited, with the same duty as a security for the amount so limited.

(2) Where such total amount is unlimited, the security shall be available for such an amount only as the *ad valorem* duty impressed thereon extends to cover, but where any advance or loan is made in excess of the amount covered by that duty the security shall, for the purpose of stamp duty, be deemed to be a new and separate instrument bearing date on the day on which the advance or loan is made.

(3) Notwithstanding the foregoing provisions of this section, no money to be advanced for the insurance of any property comprised in the security against damage by fire, or for keeping up any policy of life insurance comprised in the security, or for effecting in lieu thereof any new policy, or for the renewal of any grant or lease of any property comprised in the security upon the dropping of any life whereon the property is held, shall be reckoned as forming part of the amount in respect whereof the security is chargeable with *ad valorem* duty.

*Partitions***71. Partitions**

(1) Every instrument and every decree or order of any court, whereby the co-owners of any property divide or agree to divide such property in severalty, shall be charged with duty as a partition.

(2) For the purpose of computing the duty on an instrument of partition, the largest share remaining after any property has been divided (or, if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated.

(3) When an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of the agreement, the duty chargeable upon the instrument effecting the partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than two hundred shillings.

(4) Where a final order for effecting a partition passed by any civil court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition and an instrument of partition in pursuance of the order or award is subsequently executed, the duty on the instrument shall be reduced by the amount of the duty paid in respect of the first instrument, but shall not be less than two hundred shillings.

[Act No. 8 of 1985, s. 21(i), Act No. 6 of 1994, s. 59(a)-(b).]

*Policies of Insurance***72. Meaning of “policy of insurance”**

For the purposes of this Act, “policy of insurance” includes any writing whereby a contract of insurance is made or agreed to be made, or is evidenced; and “insurance” includes assurance.

73. Meaning of “policy of marine insurance”

(1) For the purposes of this Act, “**policy of marine insurance**” means a policy within the meaning of the Marine Insurance Act (Cap. 390).

(2) Where a person, in consideration of a sum of money paid or to be paid for additional freight or otherwise, agrees to take up himself any risk attending goods, merchandise or property of any description whatever while on board of any ship or vessel or engages to indemnify the owner of any such goods, merchandise or property from any risk, loss or damage, the agreement or engagement shall be deemed to be a contract of marine insurance.

[Act No. 54 of 1968, s. 93.]

74. *Repealed by Act No. 54 of 1968, s. 94.*

75. Continuation clause in policy of marine insurance

(1) A stamp duty of five shillings shall be charged on a policy of marine insurance containing a continuation clause, in addition to the stamp duty which is otherwise chargeable on the policy.

(2) If the risk covered by the continuation clause attaches and a new policy is not issued covering the risk, the continuation clause shall be deemed to be a new and separate contract of marine insurance expressed in the policy in which it is contained, but not covered by the stamp on the policy, and the policy shall be stamped in respect of that contract accordingly, but may be so stamped without penalty at any time not exceeding 30 days after the risk has so attached.

(3) In this section, “**continuation clause**” has the same meaning as in section 25 (4) of the Marine Insurance Act (Cap. 390).

[Act No. 54 of 1968, s. 95, Act No. 8 of 1985, s. 21(j), Act No. 6 of 1994, s. 60.]

76. Policy for voyage and time chargeable with two duties

Where any marine insurance is made for or upon a voyage and also for time, or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination and been there moored at anchor, the policy shall be charged with duty as a policy for or upon a voyage, and also with duty as a policy for time.

[Act No. 54 of 1968, s. 96.]

77. No policy valid unless duly stamped

A policy of marine insurance shall not be stamped at any time after it is signed or underwritten by any person, except in the two following cases—

- (a) a policy of mutual insurance having a stamp impressed thereon may, if required, be stamped with an additional stamp provided that at the time when the additional stamp is required the policy has not been signed or underwritten to an amount exceeding the sum or sums which the duty impressed thereon extends to cover; and
- (b) a policy made or executed out of, but being in any manner enforceable within Kenya, may be stamped at any time within ten days after it has been first received in Kenya on payment of the duty only:

Provided that a policy of marine insurance shall, for the purpose of production in evidence, be an instrument which may legally be stamped after the execution thereof, and the penalty payable on stamping it shall be two thousand shillings.

[Act No. 54 of 1968, s. 96.]

78. Stamping of policies of marine insurance which are subject to a contingent increase of premium

(1) Where the premium or consideration for a policy of marine insurance is expressed to be a sum not exceeding the rate of two shillings and fifty cents per centum of the sum insured, and is subject to an increase (whether defined or not in the policy) in the event of the occurrence of a specified contingency, the premium or consideration shall, for the purposes of this Act, be treated as a premium or consideration not exceeding the rate of two shillings and fifty cents per centum on the sum insured.

[Act No. 54 of 1968, s. 96.]

(2) If, owing to the occurrence of the contingency which is the occasion for an increase of the premium or consideration, the premium or consideration is increased so as to exceed the rate of two shillings and fifty cents per centum of

the sum insured, the policy or a new policy to be thereupon issued shall be stamped with such an additional sum as is required to represent the additional duty payable, and may be so stamped without penalty at any time not exceeding thirty days after the date on which the increased premium or consideration becomes ascertained.

79. Legal alterations in policies may be made under certain restrictions

Nothing in this Act shall prohibit the making of any alteration which may lawfully be made in the terms and conditions of any policy of marine insurance after the policy has been underwritten, provided that the alteration is made before notice of the determination of the risk originally insured, and that it does not prolong the time covered by the insurance thereby made beyond the period of six months in the case of a policy made for a less period than six months, or beyond the period of twelve months in the case of a policy made for a greater period than six months, and that the articles insured remain the property of the same person or persons, and that no additional or further sum is insured by reason or means of the alteration.

[Act No. 54 of 1968, s. 96.]

80. Stamping of policies of insurance on ships under construction, etc.

A policy of insurance made or purporting to be made upon or to cover any ship or vessel, or the machinery or fittings belonging to the ship or vessel, whilst under construction or repair or on trial, shall be sufficiently stamped for the purposes of this Act, if stamped as a policy of marine insurance made for a voyage, and, though made for a time exceeding twelve months, shall not be deemed to be a policy of marine insurance made for time.

[Act No. 54 of 1968, s. 96.]

81. Penalty on assuring unless policy duly stamped

(1) If any person—

- (a) becomes an assurer upon any marine insurance, or enters into any contract for marine insurance, or directly or indirectly receives or contracts or takes credit in account for any premium or consideration for any marine insurance, or knowingly takes upon himself any risk, or renders himself liable to pay, or pays, any sum of money upon any loss, peril or contingency relative to any marine insurance, unless the insurance is expressed in a policy of marine insurance duly stamped; or
- (b) makes or effects, or knowingly procures to be made or effected, any marine insurance, or directly or indirectly gives or pays, or renders himself liable to pay, any premium or consideration for any marine insurance, or enters into any contract for marine insurance, unless the insurance is expressed in a policy of marine insurance duly stamped; or
- (c) is concerned in any fraudulent contrivance or device, or is guilty of any wilful act, neglect or omission, with intent to evade the duties payable on policies of marine insurance, or whereby the duties may be evaded,

he shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings.

(2) Any broker, agent or other person negotiating or transacting any marine insurance contrary to the true intent and meaning of this Act, or writing any policy of marine insurance upon material not duly stamped, shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings, and shall not have any legal claim to any charge for brokerage, commission or agency, or for any money expended or paid by him with reference to the insurance, and any money paid to him in respect of any such charge shall be deemed to be paid without consideration and shall remain the property of his employer.

(3) If any person makes or issues, or causes to be made or issued, any document purporting to be a copy of a policy of marine insurance, and there is not at the time of the making or issue in existence a policy duly stamped whereof that document is a copy, he shall be guilty of an offence and liable, in addition to any other fine or penalty to which he may be liable, to a fine not exceeding fifty thousand shillings.

[Act No. 54 of 1968, s. 96, Act No. 10 of 1990, s. 63(j).]

82. Meaning of “policy of life insurance” and “policy of insurance against accident”

(1) For the purposes of this Act, “**policy of life insurance**” means a policy of insurance upon any life or lives or upon any event or contingency relating to or depending upon any life or lives except a policy of insurance against accident; and “**policy of insurance against accident**” means a policy of insurance for any payment agreed to be made upon the death of any person only from accident or violence or otherwise from a natural cause, or as compensation for personal injury.

[Act No. 8 of 1985, s. 21(k), Act No. 6 of 1994, s. 61.]

(2) A policy of insurance against accident shall not be charged with any further duty than five shillings or forty shillings, as the case may be, by reason of its extending to any payment to be made during sickness or incapacity from personal injury.

83. Employer’s indemnity insurance

The provisions of section 82 in reference to the expression “policy of insurance against accident” shall extend to and include policies of insurance or indemnity against liability incurred by employers in consequence of claims made upon them by workmen who have sustained personal injury when the annual premium on those policies does not exceed forty shillings.

84. Penalty for not making out policy or making, etc., any policy not duly stamped

Any person who—

- (a) receives, or takes credit for, any premium or consideration for any insurance and does not within three months after receiving, or taking credit for, the premium or consideration make out and execute a duly stamped policy of insurance; or
- (b) makes, executes or delivers out, or pays or allows in account, or agrees to pay or allow in account, any money upon or in respect of any policy other than a policy of sea insurance which is not duly stamped,

shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings.

[Act No. 10 of 1990, s. 63(k).]

85. Assignment of policy of life insurance to be stamped before payment of money assured

(1) No assignment of a policy of life insurance shall confer on the assignee therein named, or his executors, administrators or assigns, any right to sue for the money assured or secured thereby, or to give a valid discharge therefor, or any part thereof, unless the assignment is duly stamped, and no payment shall be made to any person claiming under any such assignment unless it is duly stamped.

(2) If any payment is made in contravention of this section, the duty not paid upon the assignment, together with the penalty payable on stamping the same, shall be a debt due to the Government from the person by whom the payment is made.

*Receipts***86. Provisions as to duty upon receipts**

For the purposes of this Act, “**receipt**” includes any note, memorandum or writing whereby any money amounting to one hundred shillings or upwards, or any bill of exchange, cheque or promissory note for money amounting to one hundred shillings or upwards, is acknowledged or expressed to have been received or deposited or paid, or whereby any debt or demand, or any part of a debt or demand, of the amount of one hundred shillings or upwards is acknowledged to have been settled, satisfied or discharged, or which signifies or imports any such acknowledgment, and whether it is or is not signed with the name of any person.

[Act No. 6 of 1994, s. 62.]

87. Certain forms of receipts not dutiable

Neither the name of a banker (whether accompanied by words of receipt or not) within the ordinary course of his business as a banker upon a bill of exchange, cheque or promissory note duly stamped, nor the name of a payee written upon a draft or order, if payable to order, shall constitute a receipt chargeable with duty.

88. Obligation to give receipt in certain cases, and penalty for offences in relation to receipts

(1) Any person receiving any money of one hundred shillings or upwards in amount, or any bill of exchange or promissory note for an amount of one hundred shillings or upwards, or receiving in satisfaction or part satisfaction of a debt any movable property of one hundred shillings or upwards in value, shall, on demand by the person paying or delivering the money, bill, note or property, give a duly stamped receipt for it.

(2) If any person—

- (a) fails to give a receipt, as required by subsection (1); or
- (b) gives a receipt liable to duty and not duly stamped; or
- (c) in any case where a receipt would be liable to duty, refuses to give a receipt duly stamped; or

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- (d) upon a payment to the amount of one hundred shillings or upwards, gives a receipt for a sum not amounting to one hundred shillings, or separates or divides the amount paid with intent to evade the duty,

he shall be guilty of an offence and liable to a fine not exceeding two thousand shillings.

[Act No. 10 of 1990, s. 63(l), Act No. 6 of 1994, s. 63(a)-(b).]

*Settlements***89. As to settlement of policy or security**

Where any money which may become due or payable upon a policy of life insurance, or upon a security, not being a marketable security, is settled or agreed to be settled, the instrument whereby the settlement is made or agreed to be made shall be charged with *ad valorem* duty in respect of that money:

Provided that—

- (i) where, in the case of a policy, no provision is made for keeping up the policy, the *ad valorem* duty shall be charged only on the value of the policy at the date of the instrument;
- (ii) if in any such case the instrument contains a statement of the value and is stamped in accordance with the statement, it shall, so far as regards the policy, be deemed to be duly stamped, unless or until it is shown that the statement is untrue, and that the instrument is in fact insufficiently stamped.

90. Settlements, when not to be charged as securities

An instrument chargeable with *ad valorem* duty as a settlement in respect of any money, stock or security shall not be charged with any further duty by reason of containing provision for the payment or transfer of the money, stock or security, or by reason of containing, where the money, stock or security is in reversion or is not paid or transferred upon the execution of the instrument, provision for the payment by the person entitled in possession to the interest or dividends of the money, stock or security during the continuance of the possession of any annuity or yearly sum not exceeding interest at the rate of four per centum per annum upon the amount or value of the money, stock or security.

91. Duty when settlement made in pursuance of agreement

Where a settlement is made in pursuance of a previous agreement upon which *ad valorem* settlement duty exceeding twenty shillings has been paid in respect of any property, the settlement shall not be charged with *ad valorem* duty in respect of the same property, but shall be charged with the duty of forty shillings.

[Act No. 8 of 1985, s. 21(l), Act No. 6 of 1994, s. 64.]

*Share Warrants***92. Penalty for issuing share warrant not duly stamped**

If a share warrant, or any instrument to bearer issued by or on behalf of any company or body of persons formed or established in Kenya and having the

same effect as a share warrant, or any stock certificate to bearer, is issued without being duly stamped, the company issuing it shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings.

[Act No. 10 of 1990, s. 63(m).]

Stock Certificates to Bearer

93. Meaning of “stock certificate to bearer”

For the purposes of this Act, “**stock certificate to bearer**” includes a stock certificate to bearer issued after the commencement of this Act under the Companies Act (Cap. 486) or any other written law authorizing the creation of debenture stock, corporation stock, municipal stock or funded debt by whatever name known, and also includes an instrument to bearer issued by or on behalf of any company or body of persons formed or established in Kenya and having the same effect as a stock certificate to bearer.

94. Penalty for issuing stock certificate unstamped

(1) Where the holder of a stock certificate to bearer or an instrument to bearer chargeable as a stock certificate to bearer has been entered on the register of a local authority, or any corporation or company or body of persons formed or established in Kenya, as owner of the share or stock described in the certificate, the certificate shall be forthwith cancelled so as to be incapable of being reissued to any person.

(2) Any person by whom a stock certificate to bearer or an instrument to bearer chargeable as a stock certificate to bearer is issued without being duly stamped shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings.

[Act No. 10 of 1990, s. 63(n).]

PART IV – RELIEF FROM STAMP DUTY IN CERTAIN CASES

95. Reconstruction or amalgamation of companies

(1) If in connexion with a scheme for the reconstruction of a company or companies or the amalgamation of any companies it is shown to the satisfaction of a collector that there exist the following conditions—

- (a) that a company with limited liability is to be registered, or that since 29th September, 1951, a company has been incorporated by Letters Patent or Act of the United Kingdom Parliament, or under an Act of Kenya, or the nominal share capital of a company has been increased;
- (b) that the company (in this section referred to as the transferee company) is to be registered or has been incorporated or has increased its capital with a view to the acquisition either of the undertaking of, or of not less than ninety per centum of the issued share capital of, any particular existing company;
- (c) that the consideration for the acquisition (except such part thereof as consists in the transfer to or discharge by the transferee company of liabilities of the existing company) consists as to not less than ninety per centum thereof—
 - (i) where an undertaking is to be acquired, in the issue of shares in the transferee company to the existing company or to holders of shares in the existing company; or

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- (ii) where shares are to be acquired, in the issue of shares in the transferee company to the holders of shares in the existing company in exchange for the shares held by them in the existing company;

then to the provisions of subsection (2) shall apply.

(2) If the collector is satisfied as to the conditions set out in subsection (1) then, subject to the further provisions of this section—

- (a) the nominal share capital of the transferee company, or the amount by which the capital of the transferee company has been increased, as the case may be, shall, for the purpose of computing the stamp duty chargeable in respect of that capital, be treated as being reduced by either—
 - (i) an amount equal to the amount of the share capital of the existing company, or, in the case of the acquisition of a part of an undertaking, equal to such proportion of the share capital as the value of that part of the undertaking bears to the whole value of the undertaking; or
 - (ii) the amount to be credited as paid up on the shares to be issued as consideration and on the shares, if any, to be issued to creditors of the existing company in consideration of the release of debts (whether secured or unsecured) due or accruing due to them from the existing company or of the assignment of those debts to the transferee company,

whichever amount is the less; and

- (b) stamp duty under the heading *Conveyance or Transfer on sale* in the Schedule shall not be chargeable on any instrument made for the purposes of, or in connexion with, the transfer of the undertaking or shares or on any instrument made for the purposes of, or in connexion with, the assignment to the transferee company of any debts, secured or unsecured, of the existing company, nor shall any such duty be chargeable on any instrument vesting, or relating to the vesting of, the undertaking or shares in the transferee company.

(3) No instrument referred to in paragraph (b) of sub section (2) shall be deemed to be duly stamped unless—

- (a) it is stamped with the duty to which it would, but for this section, be liable; or
- (b) it has, in accordance with the provisions of section 17, been stamped with a particular stamp denoting that—
 - (i) it is not chargeable with any duty; or
 - (ii) it is duly stamped,

but where, by reason of this subsection, a fee has been paid under section 17 in respect of the stamping of such an instrument, no fee shall be payable under that section in respect of the stamping of any further instrument of transfer or assignment between the existing company and the transferee company where the conditions under which that further transfer or assignment takes place are those under which the transfer or assignment in respect of which the fee was paid took place.

(4) In the case of an instrument made for the purposes of, or in connexion with, a transfer to a company within the meaning of the Companies Act (Cap. 486), the provisions of paragraph (b) of subsection (2) shall not apply unless the instrument is either—

- (a) executed within a period of twelve months from the date of the registration of the transferee company or the date of the resolution for the increase of the nominal share capital of the transferee company, as the case may be; or
- (b) made for the purpose of effecting a conveyance or transfer in pursuance of an agreement which has been filed, or particulars of which have been filed, with the Registrar of Companies within that period of twelve months.

(5) The provisions of this section with respect to the release and assignment of debts of the existing company shall not, except in the case of debts due to banks or to trade creditors, apply to debts which were incurred less than two years before the proper time for making a claim for exemption under this section.

(6) For the purposes of a claim for exemption under paragraph (b) of subsection (2), a company which has, in connexion with a scheme of reconstruction or amalgamation, issued any unissued share capital shall be treated as if it had increased its nominal share capital.

(7) A company shall not be deemed to be a particular existing company within the meaning of this section unless it is provided by the memorandum of association of, or the Letters Patent, Act of the United Kingdom Parliament or Act of Kenya incorporating, the transferee company that one of the objects for which the company is established is the acquisition of the undertaking of, or shares in, the existing company, or unless it appears from the resolution, Act of the United Kingdom Parliament, Act of Kenya or other authority for the increase of the capital of the transferee company that the increase is authorized for the purpose of acquiring the undertaking of, or shares in, the existing company.

(8) In a case where the undertakings of or shares in two or more companies are to be acquired, the amount of the reduction to be allowed under this section in respect of the stamp duty chargeable in respect of the nominal share capital or the increase of the capital of a company shall be computed separately in relation to each of those companies.

(9) Where a claim is made for exemption under this section, the collector may require the delivery to him of a statutory declaration in such form as he may direct, made by an advocate, and of such further evidence, if any, as the collector may reasonably require.

(10) If—

- (a) where any claim for exemption from duty under this section has been allowed, it is subsequently found that any declaration or other evidence furnished in support of the claim was untrue in any material particular, or that the conditions specified in subsection (1) are not fulfilled in the reconstruction or amalgamation as actually carried out; or
- (b) where shares in the transferee company have been issued to the existing company in consideration of the acquisition, the existing

company within a period of two years from the date, as the case may be, of the registration or incorporation, or of the authority for the increase of the capital, of the transferee company ceases, otherwise than in consequence of reconstruction, amalgamation or liquidation, to be the beneficial owner of the shares so issued to it; or

- (c) where any such exemption has been allowed in connexion with the acquisition by the transferee company of shares in another company, the transferee company within a period of two years from the date of its registration or incorporation or of the authority for the increase of its capital, as the case may be, ceases, otherwise than in consequence of reconstruction, amalgamation or liquidation, to be the beneficial owner of the shares so acquired,

the exemption shall be deemed not to have been allowed and an amount equal to the duty remitted shall become payable forthwith, and shall be recoverable from the transferee company as a debt due to the Government, together with interest thereon at the rate of five per centum per annum in the case of duty remitted under paragraph (a) of subsection (2) from the date of the registration or incorporation of the transferee company or the increase of its capital, as the case may be, and, in the case of duty remitted under paragraph (b) of subsection (2), from the date on which it would have become chargeable if the Stamp (Amendment) Ordinance, 1951 (No. 58 of 1951) (now repealed) had not been enacted.

(11) If in the case of any scheme of reconstruction or amalgamation the collector is satisfied that at the proper time for making a claim for exemption from duty under subsection (1) there were in existence all the necessary conditions for the exemption other than the condition that not less than ninety per centum of the issued share capital of the existing company would be acquired by the transferee company, the collector may, if it is proved to his satisfaction that not less than ninety per centum of the issued capital of the existing company has under the scheme been acquired within a period of six months from the earlier of the two following dates, that is to say—

- (a) the last day of the period of thirty days after the first allotment of shares made for the purposes of the acquisition; or
- (b) the date on which an invitation was issued to the shareholders of the existing company to accept shares in the transferee company,

and on production of the instrument on which duty paid has been impressed, direct repayment to be made of such an amount of duty as would have been remitted if that condition had been originally fulfilled.

(12) In this section, except where the context otherwise requires—

- (a) references to the undertaking of an existing company include references to a part of the undertaking of an existing company;
- (b) “shares” includes stock.

[Act No. 5 of 1960, s. 6, L.N. 236/1964, Sch..]

96. Transfers between associated companies

(1) Stamp duty under the heading *Conveyance or Transfer on sale* in the Schedule shall not be chargeable on an instrument to which this section applies.

(2) No instrument to which this section applies shall be deemed to be duly stamped unless—

- (a) it is stamped with the duty to which it would, but for this section, be liable; or
- (b) it has, in accordance with the provisions of section 17, been stamped with a particular stamp denoting—
 - (i) that it is not chargeable with any duty; or
 - (ii) that it is duly stamped,

but, where, by reason of this subsection, a fee has been paid under section 17 in respect of the stamping of such an instrument, no fee shall be payable under that section in respect of the stamping of any further instrument of conveyance or transfer between the same companies where the conditions under which that further conveyance or transfer takes place are those under which the conveyance or transfer in respect of which the fee was paid took place.

(3) This section shall apply to any instrument as respects which it is shown to the satisfaction of the collector—

- (a) that the effect thereof is to convey or transfer a beneficial interest in property from one company with limited liability (hereinafter called the transferor) to another such company (hereinafter called the transferee); and
- (b) that either—
 - (i) one of such companies is beneficial owner of not less than ninety per centum of the issued share capital of the other company; or
 - (ii) not less than ninety per centum of the issued share capital of each of the companies is in the beneficial ownership of a third company with limited liability; and
- (c) that the instrument was not executed in pursuance of or in connexion with an arrangement whereunder—
 - (i) the consideration for the conveyance or transfer was to be provided directly or indirectly by a person other than a company which at the time of the execution of the instrument was associated with either the transferor or the transferee; or
 - (ii) the beneficial interest in the property was previously conveyed or transferred directly or indirectly by such a person.

[Act No. 5 of 1960, s. 7.]

97. Exemption of building societies' documents from stamp duty

Notwithstanding anything contained in this Act, no rules of a building society registered under the Building Societies Act (Cap. 489) (hereinafter referred to as a building society), nor any copy thereof nor any receipt, nor any entry in any book of receipt for money deposited in the funds of a building society, or for any money received by any member, or his executors, administrators, assigns or attorneys, from the funds of a building society, nor any transfer of any share, nor any bond or other security to be given to or on account of a building society, or by any officer thereof, nor any order on any officer for payment of money to any member, nor any appointment of any agent, nor any certificate or other

instrument for the revocation of any such appointment, nor any other instrument or document whatever required or authorized to be given, issued, signed, made or produced in pursuance of the Building Societies Act (Cap. 489), or of the rules of a building society, shall be subject or liable to or charged with any stamp duty or duties whatsoever:

Provided that this exemption shall not extend to a mortgage, nor to the release or discharge of a mortgage.

PART V – ALLOWANCES FOR STAMPS IN CERTAIN CASES

98. Allowance for spoiled stamps

Subject to the provisions of section 99, and of any regulations made under this Act, and to the production of such evidence by statutory declaration or otherwise as the collector may require, allowance shall be made by a collector for stamps spoiled in 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 thereon 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 collector been affixed to any material;
- (c) any adhesive stamp representing a fee capable of being collected by means of that stamp which has been affixed to material;
- (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 whatever or delivered out of his hands for any purpose other than by way of tender for acceptance;
- (e) the stamp on a promissory note signed by or on behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands;
- (f) the stamp on a bill of exchange or promissory note which from any omission or error has been spoiled or rendered useless, although, being a bill of exchange, it may have been accepted or endorsed or, being a promissory note, it may have been delivered to the payee, provided that 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 an instrument executed by any party thereto—
 - (i) but afterwards found to be absolutely void from the beginning;
 - (ii) but afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended;
 - (iii) which has not been made use of for any purpose whatever and which, by reason of the inability or refusal of some necessary party to sign it or to complete the transaction according to the instrument, is incomplete and insufficient for the purpose for which it was intended;

- (iv) which by reason of the refusal of any person to act under it, or for want of enrolment or registration within the time required by law, fails of its intended purpose or becomes void;
- (v) which is inadvertently and undesignedly spoiled, and in lieu whereof 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 thereby effected being effected by some other instrument duly stamped.

[Act No. 5 of 1960, s. 8.]

99. Conditions upon which applications under section 98 shall be granted

No application for relief under section 98 shall be granted—

- (a) unless the application is made within ninety days 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 two years after the execution thereof by the person by whom it was first or alone executed, or within such further time as the collector may allow in the case of an instrument sent out of Kenya for execution or when from unavoidable circumstances an instrument, for which another has been substituted, cannot be provided within that period;
- (b) if, in the case of an executed instrument, any legal proceedings have been commenced in which the instrument could or would have been given or offered in evidence and unless the instrument is given up to be cancelled.

[Act No. 6 of 1994, s. 65.]

100. Allowance for misused stamps

Where a person has inadvertently used for an instrument liable to duty a stamp of sufficient amount but of improper description, or a stamp of greater value than was necessary, or has inadvertently used a stamp for an instrument not liable to any duty, a collector may, on application made within one year after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if liable to duty, being stamped with the proper duty, and subject to the provisions of section 21, cancel and allow as spoiled the stamp so misused.

101. Allowance for spoiled or misused stamps, how to be made

In any case in which allowance is made for spoiled or misused stamps, the collector may give in lieu thereof—

- (a) other stamps of the same description and value; or
- (b) if required, and he thinks fit, stamps of any other description to the same amount in value; or
- (c) at his discretion, the value in money of the spoiled or misused stamps less five cents for each shilling or fractional part of a shilling,

or paper bearing impressed stamps to the value of the spoiled or misused stamps less twenty-five cents for each shilling or fractional part of a shilling.

[Act No. 6 of 1994, s. 66.]

102. Allowance for stamps not required for use

Where a person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, a collector shall repay to that person the value of the stamp or stamps in money, deducting twenty-five cents for each shilling or fractional part of a shilling, upon that person delivering it or them to be cancelled, and proving to the collector's satisfaction—

- (a) that the stamp or stamps were purchased by that person with a *bona fide* intention to use them; and
- (b) that he has paid the full price thereof; and
- (c) that they were so purchased within the period of one hundred and eighty days next preceding the date on which they were so delivered:

Provided that, where the person is a licensed vendor of stamps, the collector may make the repayment of the sum actually paid by the vendor without any such deduction.

[Act No. 6 of 1994, s. 67, Act No. 10 of 2010, s. 43.]

PART VI – MISCELLANEOUS

103. As to discontinuance of dies

Whenever the Senior Collector of Stamp Duties determines to discontinue the use of any die and provides a new die to be used in lieu thereof and gives public notice thereof in the *Gazette*, then from and after any day to be stated in the notice (that day not being within one month after the notice is so published) the new die shall be the only lawful die for denoting the duty chargeable in any case in which the discontinued die would have been used; and any instrument first executed by a person or bearing date after the day so stated and stamped with the discontinued die shall be deemed, subject to subsections (2) and (3), to be not duly stamped.

(2) If any instrument stamped with the discontinued die, and first executed after the day so stated at any place outside Kenya, is brought to a collector within fourteen days after it has been received in Kenya, then upon proof of the facts to the satisfaction of the collector the stamp thereon shall be cancelled and the instrument shall be stamped with the same amount of duty by means of the lawful die, without payment of any penalty;

(3) Any person having in his possession any material stamped with the discontinued die, and which by reason of the providing of the new die has been rendered useless, may, at any time within six months after the day stated in the notice, send it to the collector, who may thereupon cause the stamp on that material to be cancelled and the same material, or if the collector thinks fit any other material, to be stamped with the new die, in lieu of and to an equal amount with the stamp so cancelled.

104. Conditions and agreements as to duty void

Any condition of sale framed with the view to precluding objection or requisition upon the ground of absence or insufficiency of stamp upon any instrument executed after the commencement of this Act, and any contract, arrangement, or undertaking for assuming the liability on account of absence or insufficiency of stamp upon any such instrument or indemnifying against that liability, absence or insufficiency, shall be void.

105. Compounding duty on cheques

(1) The Senior Collector of Stamp Duties may enter into an agreement with any banker for the composition of the stamp duty on unstamped cheques on the following conditions—

- (a) that the cheques shall be drawn and issued on forms to be supplied or adopted by the banker;
- (b) that the banker shall levy upon or charge to the person to whom the cheques are issued the stamp duty mentioned in the Schedule;
- (c) that the banker shall pay on or before the last day of each month to the Senior Collector of Stamp Duties the amount due and collected thereon as duties on the unstamped cheques issued during the immediately preceding month, and shall render with each payment an account in such form as the Senior Collector of Stamp Duties may require;
- (d) that the banker shall deposit with the Senior Collector of Stamp Duties, as security for the due payment of any moneys payable under paragraph (c), such sum (if any) as the Senior Collector of Stamp Duties may direct.

(2) Cheques drawn and issued on forms supplied or adopted by the bank in accordance with this section shall be deemed to be duly stamped.

106. Power to exempt instruments

(1) The Minister may on the recommendation of the Minister for the time being responsible for matters relating to land, by notice in the *Gazette*, direct that any instrument or any class of instruments shall be exempted from the provisions of this Act if he is satisfied that it is in the public interest so to do.

(2) The Minister shall not exempt any instrument or class of instruments from the provisions of this Act in respect of which stamp duty has already been paid and the instruments have been duly stamped.

[Act No. 6 of 1994, s. 68, Act No. 6 of 2005, s. 40.]

107. Registers, books, etc., to be open to inspection

Any officer or servant of a public body having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person thereto authorized by a collector to inspect the registers, books, records, papers, documents and proceedings, and to take such notes and extracts as he may deem necessary, without fee or reward, and in case of refusal shall be guilty of an offence and liable to a fine not exceeding five hundred shillings.

108. Penalty for enrolling, etc., instrument not duly stamped

If any person, whose office it is to enrol, register or enter in or upon any rolls, books or records any instrument chargeable with duty, enrolls, registers or enters any such instrument not being duly stamped, he shall be guilty of an offence and liable to a fine not exceeding five hundred shillings.

109. Responsibility for loss of or damage to instrument

(1) If any instrument sent to a collector under subsection (3) of section 19 is lost, destroyed or damaged during transmission, the person sending it shall not be liable for the loss, destruction or damage.

(2) When any instrument is about to be sent, the person from whose possession it came into the hands of the person impounding it may require a copy thereof to be made at the expense of the first mentioned person and authenticated by the person impounding the instrument:

Provided that in the event of the loss, destruction or damage of the original instrument the authenticated copy shall be admissible in evidence in any court, but the copy shall be chargeable with duty and penalty as if it were the original.

110. Collector may administer oaths

A Collector may administer any oath or affirmation which may be necessary for the purposes of this Act.

PART VII – CRIMINAL OFFENCES AND PROCEDURE**111. Penalty for not drawing full number of bills or marine policies purporting to be in sets**

Any person drawing or executing a bill of exchange or a policy of marine insurance purporting to be drawn or executed in a set of two or more and not at the same time drawing or executing, on paper duly stamped, the whole number of bills or policies of which the bill or policy purports the set to consist shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings.

[Act No. 10 of 1990, s. 63(o).]

112. Penalty for postdating bills and for other devices to defraud the revenue

Any person who—

- (a) with intent to defraud the Government of duty, draws, makes or issues a bill of exchange or promissory note, bearing a date subsequent to that on which the bill or note is actually drawn or made; or
- (b) knowing that the bill or note has been so post-dated, endorses, transfers or presents for acceptance or payment, or accepts, pays or receives payment of, the bill or note, or in any manner negotiates it,

shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings.

[Act No. 10 of 1990, s. 63(o).]

113. Penalty for frauds in relation to stamp duties

(1) Any person who practises or is concerned in any fraudulent act, contrivance or device, not specially provided for by any written law, with intent to defraud the Government of any stamp duty or penalty shall be guilty of an offence and liable to imprisonment for a term not exceeding one year or to a fine not exceeding one hundred thousand shillings, or to both such imprisonment and fine.

[Act No. 10 of 1990, s. 63(o).]

(2) Any person who, for the purpose of evading any stamp duty or penalty, falsifies, mutilates or destroys any book of account or other instrument whatsoever shall be guilty of an offence and liable to imprisonment for a term not exceeding one year or to a fine not exceeding one hundred thousand shillings, or to both such imprisonment and fine.

114. Liability in the case of corporate bodies and firms

(1) Where any obligation or liability is under the provisions of this Act imposed upon a corporate body and the obligation or liability is not discharged, every director, manager, secretary and other officer of the corporate body who is wilfully a party to the default, and the corporate body, shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings.

(2) Where any obligation or liability is under the provisions of this Act imposed upon a firm and the obligation or liability is not discharged, every partner in the firm, and every servant of the firm, who is wilfully a party to the default, and the person appearing to have the management of the firm within Kenya, shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings.

[Act No. 10 of 1990, s. 63(p).]

115. Search

(1) If it appears to a magistrate upon the oath of any person that there is reason to believe that there are or may be upon or in the possession or under the control of any person, or on any premises, any books of account or other instruments whatsoever of which any of the contents may tend to show that an offence under this Act has been committed, the magistrate may issue a search warrant authorizing any person named or referred to in the warrant to search any such person, and to enter and search any such premises and any person found therein, and to inspect and take copies of any books of account or other instruments found on those premises or upon that person.

(2) Any copies so taken shall be admissible in evidence in any proceedings under this Act.

(3) If any person obstructs any such inspection or taking of copies in any manner whatsoever he shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings.

[Act No. 10 of 1990, s. 63 (q).]

116. Power to reward informers

The Senior Collector of Stamp Duties may reward any person who informs a collector of an offence under this Act or assists in the recovery of any fine or penalty, but a reward exceeding ten thousand shillings shall not be paid in any case without the consent of the Treasury.

[Act No. 10 of 1990, s. 63(r).]

PART VIII – GENERAL

117. Exemptions from stamp duty.

- (1) There shall be exempt from stamp duty under this Act—
- (a) an instrument executed by or on behalf of or in favour of the Government in any case in which, but for this exemption, the Government would be liable to pay the duty;
 - (b) a bill of exchange, cheque or promissory note drawn or made in Uganda or in Tanzania and accepted and paid or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in Kenya, if the bill of exchange, cheque or promissory note has previously been duly stamped in Uganda or Tanzania;
 - (c) a power, warrant or letter of attorney granted or to be granted by the Managing Director of the Kenya Posts and Telecommunications Corporation, and a power, warrant or letter of attorney given by any depositor in the post office savings bank established under the provisions of the Kenya Post Office Savings Bank Act (Cap. 493B) (hereinafter referred to as the savings bank) to any other person, authorizing him to make a deposit of a sum of money in the savings bank on behalf of the depositor or to sign any document or instrument required by the rules of the savings bank to be signed on making the deposit or to receive back any sum of money deposited in the savings bank, or the interest arising therefrom; a receipt or an entry in a book of receipts for money deposited in the savings bank, or for any money received by a depositor or his executors or administrators, assigns, attorneys or agents, from the funds thereof; and a draft or order, or an appointment of an agent, or any certificate or other instrument or document whatsoever, required or authorized to be given, issued, signed, made or produced in pursuance of that Act or of any rules made thereunder;
 - (d) a transfer of shares in the stock or funds of the Government, the Organization, the Authority, the Government of Uganda or the Government of Tanzania;
 - (e) a conveyance or transfer of any stock or marketable security in any company incorporated in Uganda or Tanzania, if the conveyance or transfer has been duly stamped in accordance with the law of the territory in which the company was incorporated;
 - (f) an instrument for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of a ship or of any part, interest, share or property of or in a ship;
 - (g) a bond given by a public officer for the due execution of his duties;
 - (h) a will, codicil or other testamentary disposition; and
 - (hh) instruments for the sale or transfer of land for the construction or expansion of educational institutions:
Provided that stamp duty shall become payable if such land reverts to any other use.
 - (i) the instruments generally or specially exempted in the schedule;

- (j) the exemption of all instruments with respect to licences of business activities of an export processing zone enterprise licenced under the Export processing zones Act, 1990;
- (k) the sale conveyance, transfer or issue of shares, preferred shares, stocks, warrants or similar capital market instruments which are listed and transacted on the Nairobi Stock Exchange or other securities exchange approved under the Capital Markets Authority Act, 1988 (No. 17 of 1988).

(2) The exemption conferred by this section on the Government shall extend to the Community and to the Corporations within the Community.

[Act No. 5 of 1960, s. 9, L.N.153/1962, s. 5, L.N.176/1962, L.N.236/1964, Sch., Act No. 21 of 1966, Sch., Act No. 29 of 1967, Sch., L.N.280/1967, s. 3, Act No. 13 of 1972, Sch., Act No. 10 of 1990, s. 63(s), Act No. 10 of 2006, s. 38.]

118. Expenses

There shall be defrayed out of moneys provided by Parliament administrative expenses incurred by the Minister or by any other Minister under this Act.

[L.N. 236/1964.]

119. Regulations

The Minister may make regulations as may appear to him to be necessary or expedient for the proper carrying out of the intent and provisions of this Act, and, without prejudice to the generality of the foregoing, may make regulations respecting—

- (a) the supply and sale of stamps and stamped papers;
- (b) the persons by whom alone the supply or sale is to be conducted; and
- (c) the duties and remuneration of those persons.

119A. Power to amend Schedule

(1) The Minister may, by order published in the *Gazette*, amend the Schedule.

(2) Every order made under this section shall be laid before the National Assembly without unreasonable delay, and, if a resolution is passed by the Assembly within twenty days on which it next sits after the order is laid before it that the order be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or to the making of any new order.

[Act No. 8 of 1985, s. 21(m).]

120. Appointments under Cap. 259 (1948)

Any appointment made under the Stamp Ordinance (Cap. 259 [1948]) (now repealed) shall continue in force and have effect as if made under this Act.

SCHEDULE

[Section 69, Sections 5, 6(3) and (4) and 117.]

[Act No. 15 of 1961, Sch., L.N. 153/1962, L.N. 176/1962, L.N. 761/1963, Act No. 54 of 1968, s. 96, Act No. 10 of 1973, s. 4, L.N. 192/1985, sch., Act No. 11 of 1992, Sch., Act No. 6 of 1994, s. 69, Act No. 8 of 1997, s. 55, Act No. 4 of 1999, s. 71, Act No. 9 of 2000, s. 90, Act No. 9 of 2007, s. 76, Act No. 8 of 2008, s. 46, Act No. 10 of 2010, s. 44.]

STAMP DUTIES ON INSTRUMENTS

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially provided in this Act</i>
<i>Administration Bond</i>	See <i>Bond, etc.</i>		
<i>Agreement for Dissolution of Partnership</i>	See <i>Partnership and Conveyance, etc.</i>		
<i>Agreement to Divide</i>	See <i>Partition.</i>		
<i>Agreement for Exchange</i>	See <i>Exchange of Property and Agreement and section 49.</i>		
<i>Agreement for Hire of Goods</i>	See <i>Agreement and section 31.</i>		
<i>Agreement for Lease, Letting or Tenancy</i>	See <i>Lease.</i>		
<i>Agreement or Contract accompanied with a deposit</i>	See <i>Mortgage, etc.</i>		
<i>Agreement for Partition</i>	See <i>Partition.</i>		
<i>Agreement for Partnership</i>	See <i>Partnership.</i>		
<i>Agreement to sell Property</i>	See <i>Agreement and Conveyance, etc., and section 49.</i>		

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially provided in this Act</i>
<p>1. Agreement or any Memorandum of an Agreement under hand only and not otherwise specifically charged with any duty, whether it be only evidence of a contract or obligatory upon the parties from its being a written instrument</p> <p>Exemptions—</p> <p>(1) Agreement, letter or memorandum of agreement made for or relating to the sale of any goods, wares or merchandise.</p> <p>(2) Agreement, letter or memorandum of agreement made in the form of a tender to the Government for or relating to any loan.</p> <p>(3) Agreement or memorandum of agreement, being a contract of service.</p> <p>(4) Agreement made with Kenya Railways for the conveyance of passengers or goods.</p> <p>Annuity—</p> <p>(1) Conveyance in consideration of</p> <p>(2) Creation of, by way of security</p>	<p>Sh. 100</p>	<p>The person first executing.</p>	
	<p>See Conveyance, etc.</p> <p>See Mortgage, etc.</p>		

Stamp Duty

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially provided in this Act</i>
(3) Purchase of	See Conveyance, etc.		
(4) Instruments relating to, upon any other occasion	See Bond, etc.		
2. Appointment of a New Trustee and Appointment in execution of a power of any property, or of any use, share or interest in any property, by any instrument not being a will	Sh. 200	The appointor.	
And see section 53.			
3. (1) Articles of Association of a company	Sh. 2,000		
(2) Articles of a company not formed for profit.	Sh. 300		
Assent to Bequest	See Conveyance, etc.	All person executing.	Before delivery to the Registrar of Companies.
Assignment—			
(1) By way of security, or of any security	See Mortgage, etc.		
(2) Upon a sale or otherwise	See Conveyance, etc.		
Assurance	See Policy of Insurance.		
Attorney, Letter or Power of	See Power of Attorney.		

Stamp Duty

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially provided in this Act</i>
<p>4. Bill of Exchange payable on demand or at sight or on presentation or within three days after date or sight And see sections 32,34,36 and 105</p> <p>Exemption— Bill of Exchange of any other kind whatsoever and Promissory Note of any kind whatsoever, drawn, or expressed to be payable, or actually paid or endorsed, or in any manner negotiated in Kenya.</p> <p>And see sections 32 to 37 and 105.</p>	<p>Sh. 2.50</p>	<p>All person executing</p>	<p>(a) If drawn in Kenya, before execution.</p> <p>(b) If drawn out of Kenya, in accordance with section 34.</p>
<p>5. Bill of Sale</p> <p>Bond—</p> <p>(1) For securing the payment or repayment of money</p> <p>(2) For securing the transfer or retransfer of stock</p>	<p>See Chattels Transfer.</p> <p>See Mortgage, etc.</p> <p>See Marketable Security.</p>		

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially provided in this Act</i>
<p>(3) In relation to any annuity upon the original creation and sale thereof</p> <p>6. Bond, Covenant or Instrument of any kind whatsoever—</p> <p>(1) Being the only or principal or primary security for any annuity (except upon original creation thereof by way of sale or security and except a super-annuation annuity), or for any sum or sums of money at stated periods, not being interest for any principal sum secured by a duly stamped instrument, nor rent reserved by a lease—</p> <p>For a definite and certain period, so that the total amount to be ultimately payable can be ascertained, for every Sh. 1,000, and also for any fractional part of Sh. 1,000, of such amount.</p>	<p>See Conveyance, etc.</p>	<p>The obligee, covenantee, or other person taking the security.</p>	
<p>For a term of life or any other indefinite period, for every Sh. 100, and also for any fractional part of Sh. 100, of the annuity or sum periodically payable.</p>	<p>Sh. 10.00</p>	<p>The obligee, covenantee, or other person taking the security.</p>	

Stamp Duty

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially provided in this Act</i>
<p>(2) Being a collateral or auxiliary or additional or substituted security for any of the above-mentioned purposes where the principal or primary security is duly stamped—</p> <p>Where the total amount to be ultimately payable can be ascertained, for every Sh. 1,000, and also for any fractional part of Sh. 1,000, of such amount</p> <p>In any other case, for every Sh. 100, and also for any fractional part of Sh. 100, of the annuity or sum periodically payable</p>	<p>Sh. 2.00</p> <p>Sh. 4.00</p>	<p>The obligee, covenantee or other person taking the security</p>	
<p>(3) Being a grant or contract for payment of a superannuation annuity, that is to say, a deferred life annuity granted or secured to any person in consideration of annual premiums payable until he attains a specified age, and so to commence on his attaining that age—</p> <p>For every Sh. 100, and also for any fractional part of Sh. 100, of the annuity</p>	<p>Sh. 2.00</p>	<p>The grantor.</p>	

Stamp Duty

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially provided in this Act</i>
(4) Given pursuant to the provisions of any written law or on the directions of any public officer for or in respect of any of the duties or revenues of Kenya or for preventing frauds thereon or evasions thereof, or for any other matter or thing relating thereto	Sh. 200	The obligee, covenantee, or other person taking the security.	Before execution.
(5) Executed by way of security for the due execution of any office or employment, or to account for money or any other property received by virtue thereof, or executed by a surety to secure the due performance of any agreement or contract	Sh. 200	The obligee, covenantee, or other person taking the security.	Before execution.
(6) On obtaining letters of administration	Sh. 200	The Administrator.	Before execution.
(7) Accompanied with a deposit of title deeds for making a mortgage or other security on any immovable property—			

Stamp Duty

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially provided in this Act</i>
For every Sh. 1,000, and also for any fractional part of Sh. 1,000, of the sum secured (8) Being a declaration, or other deed or writing for making redeemable any disposition or assignment, apparently absolute, but intended only as a security— For every Sh. 1,000, and also for any fractional part of Sh. 1,000, of the sum secured. (9) Of any kind whatsoever, not specifically charged with any duty Exemption— Bail Bond.	Sh. 7.50 Sh. 7.50 Sh. 200	The obligee, covenantee or other person taking the security.	Before execution.

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially provided in this Act</i>
<p>7. <i>Cancellation, Instrument of</i> (including any instrument by which any instrument previously executed is cancelled), if not otherwise provided for— Where the duty with which the original instrument was chargeable does not exceed Sh. 10</p>	<p>The same duty as on the original Sh. 20</p>	<p>The person who was responsible for stamping the original instrument.</p>	
<p>In any other case 8. Capital Duty on the capital of a company other than a company listed on a stock exchange approved under Capital Markets Act (Cap. 485A) the registration thereof or on any increase in the capital of a company— For every Sh. 2,000, and also for any fractional part of Sh. 2,000, of the amount of new capital or increase of capital, as the case may be And see Section 39.</p>	<p>Sh. 20</p>	<p>The company.</p>	
<p>9. <i>Chattel Transfer—</i></p>	<p>See <i>Conveyance, etc.</i></p>		
<p>(1) Any instrument registrable under the Chattels Transfer Act</p>	<p>Sh. 200</p>	<p>The transferee.</p>	

Stamp Duty

SCHEDULE—continued

Instrument	Duty	Person responsible for Stamping	Time for Stamping if other than that generally or specially provided in this Act
<p>And see section 38</p>			
<p>(2) Any instrument registrable under the Companies Act</p>	<p>See <i>Mortgage</i>, etc.</p>		
<p><i>Cheque</i></p>	<p>See <i>Bill of Exchange</i>.</p>		
<p><i>Composition Deed</i></p>	<p>See <i>Deed of Arrangement</i>.</p>		
<p><i>Contract</i></p>	<p>See <i>Agreement</i>.</p>		
<p>10. <i>Contract Note</i> for or relating to the sale or purchase of any stock or marketable security— Where the value of the stock or marketable security does not exceed Sh. 2,000</p>	<p>Sh. 1</p>	<p>The broker or agent or, where there is no broker or agent, the principal delivering the note.</p>	<p>Before delivery of the note.</p>
<p>Where the value of the stock or marketable security exceeds Sh. 2,000 but does not exceed Sh. 10,000</p>	<p>Sh. 2</p>		<p>Before delivery of the note.</p>
<p>And for every Sh. 10,000, and also for any fractional part of Sh. 10,000, in excess of Sh. 10,000</p>	<p>Sh. 2</p>		<p>Before delivery of the note.</p>
<p>11. <i>Conveyance or Transfer</i> on sale of any property (except any stock or marketable security or any immovable property subject to duty under item 12A of this Schedule)—</p>			

Stamp Duty

SCHEDULE—continued

Instrument	Duty	Person responsible for Stamping	Time for Stamping if other than that generally or specially provided in this Act
Where the amount or value of the consideration for the sale does not exceed Sh. 500 Exceeds Sh. 500 but does not exceed Sh. 1,000 Exceeds Sh. 1,000 but does not exceed Sh. 1,500 Exceeds Sh. 1,500 but does not exceed Sh. 2,000 And for every Sh. 1,000, and also for any fractional part of Sh. 1,000 in excess of Sh. 2,000 And see sections 43 to 52.	Sh. 10 Sh. 20 Sh. 30 Sh. 40 Sh. 20	} The purchaser or transferee.	
12. Conveyance or Transfer on sale of any stock or marketable security— Where the amount or value of the consideration for the sale does not exceed Sh. 500 Exceeds Sh. 500 but does not exceed Sh. 1,000 Exceeds Sh. 1,000 but does not exceed Sh. 1,500 Exceeds Sh. 1,500 but does not exceed Sh. 2,000 And for every Sh. 1,000, and also for any fractional part of Sh. 1,000, in excess of Sh. 2,000 And See sections 43 to 52 and 64 to 67.	Sh. 5 Sh. 10 Sh. 15 Sh. 20 Sh. 10	} The purchaser or transferee.	

SCHEDULE—continued

Instrument	Duty	Person responsible for Stamping	Time for Stamping if other than that generally or specially provided in this Act	
<p>12A. Conveyance or Transfer on sale of any immovable property (except any debt secured by mortgage or charge on immovable property) situated in any municipality— Where the amount or value of the consideration for the sale does not exceed Sh. 500</p>	Sh. 20	} The purchaser or transferee.		
Exceeds Sh. 500 but does not exceed Sh. 1,000	Sh. 40			
Exceeds Sh. 1,000 but does not exceed Sh. 1,500	Sh. 60			
Exceeds Sh. 1,500 but does not exceed Sh. 2,000	Sh. 80			
And for every Sh. 1,000, and also for any fractional part of Sh. 1,000, in excess of Sh. 2,000	Sh. 40			
And see sections 43 to 52.				
Conveyance or Transfer by way of security of any property or of any security	See Mortgage, etc., and Marketable Security			
12B. Conveyance or transfer of real property between husband and wife	Nil.			
13. Conveyance or Transfer of any kind not herein before described	Sh. 200	The purchaser or transferee.		
And see section 53.				

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially provided in this Act</i>
<p>14. <i>Copy or Extract</i> certified to be a true copy by, or by order of, any public officer and not charged for under any written law for the time being in force relating to court fees</p> <p>Exemptions—</p> <p>(1) Any copy or extract which a public officer is expressly required of any written law to make and to furnish for record in any Government Department or for any public purpose.</p> <p>(2) Any copy of, or extract from, any register relating to births, baptisms, marriages, adoptions, divorces, deaths or burials.</p> <p><i>Covenant</i> for securing the payment or repayment of money, or the transfer or retransfer of stock</p> <p><i>Covenant</i> in relation to any annuity upon the original creation and sale thereof.</p> <p><i>Covenant</i> in relation to any annuity (except upon the original creation and sale thereof) or to other periodical payments</p>	<p>Sh. 50</p> <p>See <i>Mortgage</i>, etc.</p> <p>See <i>Conveyance</i>, etc., and section 50.</p> <p>See <i>Bond</i>, etc</p>	<p>The person for or on whose behalf the copy or extract is made.</p>	<p>Within thirty days of certification.</p>

Stamp Duty

SCHEDULE—continued

Instrument	Duty	Person responsible for Stamping	Time for Stamping if other than that generally or specially provided in this Act
<p>15. Covenant—Any separate deed of covenant (not being an instrument chargeable with <i>ad valorem</i> duty as a conveyance on sale or mortgage) made on the sale or mortgage of any property, and relating solely to the conveyance or enjoyment of, or the title to, the property sold or mortgaged, or to the production of the documents of title relating thereto, or to all or any of the matters aforesaid—</p> <p>Where the <i>ad valorem</i> duty in respect of the consideration or mortgage money does not exceed Sh. 10</p> <p>In any other case</p> <p><i>Counterpart</i></p> <p><i>Debiture</i> for securing the payment or repayment of money, or the transfer or retransfer of stock</p>	<p>A duty equal to the amount of such <i>ad valorem</i> duty.</p> <p>Sh.200</p> <p>See Duplicate.</p> <p>See <i>Marketable Security and Mortgage</i>, etc.</p>	<p>The covenantee.</p>	
<p>16. Declaration of any use or trust of or concerning any property by any instrument, not being a will or any instrument chargeable with <i>ad valorem</i> duty as a settlement</p>	<p>Sh. 200</p>	<p>The declarer.</p>	
<p>17. Deed or other <i>Instrument</i> of any kind whatsoever not described in this Schedule and not generally or specially exempted from duty</p>	<p>Sh. 200</p>	<p>All persons executing.</p>	

Stamp Duty

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially provided in this Act</i>
<p>18. <i>Deed of Arrangement</i> registered under the Deeds of Arrangement Act— For every Sh. 2,000, and also for any fractional part of Sh. 2,000, of the sworn value of the property passing under the deed or (where no property so passed) the amount of composition payable under the deed</p> <p><i>Deposit of Title</i></p> <p><i>Deeds</i></p> <p><i>Draft for Money</i></p>	<p>Sh. 3 See <i>Mortgage, etc.</i>, and section 68. . See <i>Bill of Exchange</i></p>	<p>The debtor</p>	<p>Before registration under that Act.</p>
<p>19. <i>Duplicate or Counterpart</i> of any instrument chargeable with any duty— Where such duty does not amount to Sh. 20</p> <p>In any other case.....</p> <p>And see section 54. Exemption— Temporary occupation licence issued under the Government Lands Act and any lease for a term of one year or less granted under the Trust Land Act</p>	<p>The same duty as the original instrument. Sh. 20</p>	<p>The person for whose benefit the duplicate or counterpart was executed.</p>	<p>The time allowed for stamping the original instrument.</p>

Stamp Duty

SCHEDULE—continued

Instrument	Duty	Person responsible for Stamping	Time for Stamping if other than that generally or specially provided in this Act
<i>Equitable Mortgage</i>	See <i>Mortgage, etc.</i> , and sections 30 and 68.		
20. <i>Exchange of Property</i>	The same duty as on a <i>Conveyance, etc.</i> , for a consideration equal to the value of the property of greatest value. See <i>Copy or Extract</i> . See <i>Marketable Security</i> and section 64.	All persons executing.	
<i>Extract</i>	See <i>Copy or Extract</i> .		
<i>Foreign Security</i>	See <i>Marketable Security</i> and section 64.		
<i>Further Charge or Further Security</i>	See <i>Mortgage, etc.</i> , and section 68.		
<i>Hire Purchase Agreement</i>	See <i>Agreement</i> and section 31.		
<i>Instrument not otherwise provided for Insurance</i>	See <i>Deed</i> . See <i>Policy of Insurance</i> .		
21. <i>Lease or Licence-</i> (1) For any definite term not exceeding one year-			

Stamp Duty

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially provided in this Act</i>
Where the whole amount payable does not exceed Sh. 2,000	Sh. 20	The lessee or licensee.	
And for every Sh. 1,000, and also for any fractional part of Sh. 1,000, in excess of Sh. 2,000	Sh. 10	The lessee or licensee.	
(2) For any definite term of not less than one year but not exceeding three years, where the rent is at a rate or average rate—		} The lessee or licensee.	
Not exceeding Sh. 2,000 a year, for every Sh. 500, and also for any fractional part of Sh. 500, of such rate or average rate	Sh. 5	} The lessee or licensee.	
Exceeding Sh. 2,000 a year, for every Sh. 1,000, and also for any fractional part of Sh. 1,000, of such rate or average rate	Sh. 10		
(3) For any other definite term, or any indefinite term, where the rent is at a rate or average rate—			
Not exceeding Sh. 2,000 a year, for every Sh. 500, and also for any fractional part of Sh. 500, of such rate or average rate	Sh. 10		
Exceeding Sh. 2,000 a year, for every Sh. 1,000, and also for any fractional part of Sh. 1,000, of such rate or average rate	Sh. 20		

Stamp Duty

SCHEDULE—continued

Instrument	Duty	Person responsible for Stamping	Time for Stamping if other than that generally or specially provided in this Act
(4) Temporary occupation licence issued under the Government Lands Act and any lease for a term of one year or less granted under the Trust Land Act .. And see sections 55 to 63. <i>Letter of Credit</i> <i>Letter of Guarantee</i> <i>Letter of Indemnity</i> <i>Letter of Power of Attorney</i>	Sh. 500 See <i>Bill of Exchange</i> . See <i>Agreement</i> . See <i>Agreement</i> . See <i>Power of Attorney</i> .	The licensee.	
22. Marketable Security- (1) Transfer, assignment or disposition of a marketable security of any description: (a) upon a sale thereof (b) upon a mortgage thereof (c) in any other case than a sale or mortgage (2) Marketable security, including a debenture, transferable by delivery-	See <i>Conveyance, etc.</i> . See <i>Mortgage, etc.</i> . Sh. 100	The transferee, assignee, etc.	

Stamp Duty

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially provided in this Act</i>
Where the money thereby secured does not exceed Sh. 10,000	Sh. 50	} The deliveror.	Before delivery.
Where the money thereby secured exceeds Sh. 10,000 but does not exceed Sh. 20,000	Sh. 100		
Where the money thereby secured exceeds Sh. 20,000 but does not exceed Sh. 30,000	Sh. 150		
Where the money thereby secured exceeds Sh. 30,000 but does not exceed Sh. 40,000	Sh. 200		
And for every Sh. 10,000, and also for any fractional part of Sh. 10,000 by which the money thereby secured exceeds Sh. 40,000.	Sh. 50		
(3) Marketable security, being such security as last aforesaid, given in substitution for a like security duly stamped-			
For every Sh. 10,000, and also for any fractional part of Sh. 10,000, of the money thereby secured And see sections 64 to 67.	Sh. 2	The deliveror.	Before delivery.
<i>Marriage Settlement</i>	See Settlement		
23. Memorandum of Association of a company-			
(1) If accompanied by the Articles of Association	Sh. 2,000	} All persons executing.	Before delivery of the Registrar of Companies.
(2) If not so accompanied	Sh. 2,000		
(3) Memorandum of any company not formed for profit.	Sh. 300		
24. Mortgage, Bond, Debiture and Covenant (except a marketable security specially charged with duty)-			

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially provided in this Act</i>
<p>(1) Being the only, or principal, or primary security (other than an equitable mortgage) for the payment or repayment of money— For every Shs. 1,000, and also for any fractional part of Shs. 1,000 of the amount secured</p>	Sh. 1		
<p>(2) Being a collateral, or auxiliary, or substituted security (other than an equitable mortgage), or by way of further assurance for the above mentioned purpose, where the principal, or primary security is duly stamped— For every Shs. 1,000, and also for any fractional part of Shs. 1,000, of the amount secured</p>	Sh. 1	} The mortgagee chargee, etc	
<p>(3) Being an equitable mortgage— For every Shs. 1,000, and also for any fractional part of Shs. 1,000, of the amount secured</p>	Sh. 1		
<p>(4) Transfer, assignment or disposition of any mortgage, bond debenture or covenant (except a marketable security), or of any money or stock secured by any such instrument or by any judgement—</p>	Sh. 1		

Stamp Duty

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially</i>
<p>For every Shs.1,000, and also for any fractional part of Shs.1,000, of the amount transferred, assigned or disposed, exclusive of interest which is not in arrears</p> <p>And also where any further money is added to the money already secured</p> <p>(5) Reconveyance, release, discharge, surrender, resurrender, or renunciation of any such security as aforesaid, or of the benefit thereof or of the money thereby secured-</p> <p>For every Shs. 1,000, and also for any fractional part of Shs. 1,000, of the total amount or value of the money at any time secured</p> <p>Exemptions-</p> <p>(1) Letter of hypothecation accompanying a bill of exchange.</p> <p>(2) Instruments of pawn or pledge of goods, if unattested.</p> <p>And see sections 68, 69 and 70</p>	<p>Sh. 0.50</p> <p>The same duty as a principal security for such further money</p> <p>Sh. 0.50</p>	<p>The transferee</p> <p>The mortgagor chargor, etc.</p>	

Stamp Duty

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially</i>
<p><i>Mortgage of Stock or Marketable Security -</i> (1) Under hand only</p>	<p>See Agreement and section 30.</p>		
<p>(2) By deed</p>	<p>See Mortgage, etc., and section 68.</p>		
<p><i>Order for payment of money</i></p>	<p>See <i>Bill of Exchange</i>.</p>		
<p>25. Partition, Instrument of - Where the amount or value of the separated share or shares of the property does not exceed Sh. 2,000 And for every Sh. 1,000, and also for any fractional part of Sh. 1,000, in excess of Sh. 2,000 And see section 71.</p>	<p>Sh. 40 Sh. 20</p>	<p>} All persons executing.</p>	
<p>26. Partnership-</p>			
<p>(1) Instrument of</p>	<p>Sh. 1,000</p>	<p>} All persons executing.</p>	
<p>(2) Instrument of dissolution of, including an agreement to dissolve, without consideration</p>	<p>Sh. 200</p>		
<p>(3) Instrument of dissolution of, including an agreement to dissolve, with consideration</p>	<p>See <i>Conveyance, etc.</i></p>		

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially provided in this Act</i>
<p><i>Pawn or Pledge</i></p> <p>27. Policy of Insurance (1) Policy of Marine Insurance: (a) Where the premium or consideration does not exceed the rate of one-eighth per centum of the sum insured, but excluding reinsurance</p> <p>(b) Reinsurance</p> <p>(c) In any other case- (i) For or upon any voyage, for every Sh. 10,000, and also for any fractional part of Sh. 10,000, of the sum insured</p> <p>(ii) For time-</p>	<p>See Mortgage, etc.</p> <p>Sh. 5 Sh. 10</p> <p>Sh. 5</p>	<p>The insurer, or in the case of a policy issued outside Kenya and sent to the insured or his agent, the insured.</p> <p>The insurer, or in the case of a policy issued outside Kenya and sent to the insured or his agent, the insured.</p>	

Stamp Duty

SCHEDULE—continued

Instrument	Duty	Person responsible for Stamping	Time for Stamping if other than that generally or specially provided in this Act
<p>(A) Where the insurance is made for any time not exceeding six months, for every Sh. 10,000, and also for any fractional part of Sh. 10,000, of the sum insured</p> <p>(B) Where the insurance is made for any time exceeding six months but not exceeding twelve months, for every Sh. 10,000, and also for any fractional part of Sh. 10,000, of the sum insured</p> <p>Exemption-</p> <p>Policy of insurance on baggage or personal and household effects only, if made or executed outside Kenya.</p> <p>And see sections 72 to 81.</p> <p>(2) <i>Policy of Life Insurance:</i></p> <p>For every Sh. 10,000 and also for any fractional part of Sh. 10,000, of the sum insured</p> <p>And see sections 72, 82 and 85.</p> <p>(3) Policy of insurance against Accident and policy of insurance for any payment agreed to be made during the sickness of any person, or his incapacity from personal injury, or by way of indemnity against loss of, damage of or to any property.</p>	<p>Sh. 7.50</p> <p>Sh. 10</p> <p>Sh. 7.50</p>	<p>The insurer.</p>	

Stamp Duty

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially provided in this Act</i>
(a) against railway or air accident, valid for a single journey only (b) in any other case (4) Any other <i>Policy of Insurance</i> not specifically mentioned Exemption- Letter or cover or engagement to issue a policy of insurance: Provided that unless such letter or engagement is duly stamped for such policy, nothing shall be claimable thereunder, nor, shall it be available for any purpose except to compel the delivery of the policy therein mentioned.	Sh. 5 Sh. 40 Sh. 40	} The insurer. The insurer.	
28. Power or Letter of Attorney or other instrument in the nature thereof- (1) When given for valuable consideration and authorising the attorney to sell any immovable property (2) Of any kind whatsoever not herein-before described- In respect of each donor	The same duty as for a Conveyance, etc. computed on the consideration. Sh. 200	The person executing. All persons executing.	

Stamp Duty

SCHEDULE—continued

Instrument	Duty	Person responsible for Stamping	Time for Stamping if other than that generally or specially provided in this Act
<p>(3) Revocation of any power or letter of attorney- In respect of each person revoking <i>Promissory Note</i></p> <p>29. Deleted by Act No. 8 of 2008, s.46.</p> <p>30. Release or Renunciation of any property or of any right or interest in any property - (1) Upon a sale</p> <p>(2) By way of security</p> <p>(3) In any other case</p> <p>31. Revocation of any use or trust of any property by any writing not being a will</p> <p>32. Settlement- Any instrument, whether voluntary or upon any good or valuable consideration, other than a <i>bona fide</i> pecuniary consideration, whereby any definite and certain principal sum of money (whether charged or chargeable on any immovable property or not, or to be laid out in the purchase of immovable property or not), or any definite and certain amount of stock, or any security, is settled in any manner whatsoever-</p>	<p>Sh. 20 See Bill of Exchange</p> <p>See Conveyance, etc. See Mortgage, etc. Sh. 50</p> <p>Sh. 50 and see Cancellation.</p>	<p>All persons executing.</p> <p>All persons executing. All persons executing</p>	

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially provided in this Act</i>
<p>(1) In respect of a settlement of any marketable security or of any interest secured by a bond, mortgage or policy of insurance, for every Sh. 2,000, and also for any fractional part of Sh. 2,000, of the amount or value of the property settled or agreed to be settled</p> <p>(2) In any other case, for every Sh. 2,000, and also for any fractional part of Sh. 2,000, of the amount or value of the</p>	<p>Sh. 20</p> <p>Sh. 40</p>	<p>} The settlor.</p>	
<p>Exemption- Deed of dower executed on the occasion of a marriage between persons professing the Muslim faith. And see sections 89 to 91. 33. Share Warrant to bearer, issued in Kenya.</p>	<p>The same duty as that payable in respect of a marketable security transferable by delivery computed on the amount of the consideration.</p>	<p>The company issuing.</p>	<p>Before issue.</p>
<p>And see sections 92 to 94. <i>Superannuation Annuity</i></p>	<p>See <i>Bond</i>, etc.</p>		

SCHEDULE—continued

<i>Instrument</i>	<i>Duty</i>	<i>Person responsible for Stamping</i>	<i>Time for Stamping if other than that generally or specially provided in this Act</i>
<p>34. <i>Surrender</i> of any kind whatsoever not chargeable with duty as a conveyance on sale or mortgage. Exemption- <i>Surrender</i> of lease, when such lease is exempt from duty <i>Temporary Occupation Licence</i> <i>Transfer</i> <i>Trust</i></p>	<p>Sh. 20 See Lease. See Conveyance, etc. See Declaration.</p>	<p>The surrenderee</p>	<p>.</p>

GENERAL EXEMPTIONS

- (1) Acknowledgement of Debt.
- (2) Adoption Deed.
- (3) Affidavit or Statutory Declaration.
- (4) Agreement relating to the sale of a Government security or share in an incorporated company or other body corporate.
- (5) Appraisement.
- (6) Apprenticeship Deed.
- (7) Authority to adopt.
- (8) Award.
- (9) Bill of Lading.
- (10) Certificate of shares or share certificate.
- (11) Charter Party.
- (12) Delivery Order.
- (13) Instrument of Divorce.
- (14) Letter of Allotment of shares.
- (15) Letter of Licence, that is to say, an agreement between a debtor and his creditors that the creditors shall for a specified period suspend their claims and allow the debtor to carry on business at his own discretion.
- (16) Notarial Act.
- (17) Note of Protest by Master of ship.
- (18) Protest by ship Master.
- (19) Proxy.
- (20) Shipping Order.
- (21) Valuation.

[L.N. 192/1985, Act No. 6 of 1994, s. 69.]

CHAPTER 480

STAMP DUTY ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

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2. Stamp Duty Regulations	87

CLASSES OF INSTRUMENTS DIRECTED TO BE EXEMPTED FROM THE PROVISIONS OF THE THIS ACT UNDER SECTION 106

[L.N. 461/1958, L.N. 10/1959, L.N. 67/1959, L.N. 254/1960.]

Exemptions of individual instruments or individual series of instruments are not referenced

1. Charges of land (both legal and equitable) and discharges of charges and reconveyances of mortgaged land, executed in the following circumstances—

- (a) the land has been surrendered to the Crown for the purpose of a regrant of the same (subject to any adjustment of area resulting from resurvey, relinquishment of land for public purposes or addition of adjoining Crown land), and the land has been so regranted; and
- (b) the land was the subject of a charge or mortgage (legal or equitable), and the discharge or reconveyance thereof was made to enable the chargor or mortgagor to surrender the land and on condition that a charge should be imposed on the same land (subject as aforesaid) between the same parties and to secure the same amount in replacement of the earlier charge or mortgage, and the charge has been so reimposed.

[L.N. 461/1958.]

2. Subleases of land and surrenders of subleases executed in the following circumstances—

- (a) land has been surrendered and regranted in manner specified in paragraph 1 (a) above; and
- (b) the land was the subject of a sublease, and the surrender thereof was made to enable the sublessor to surrender the land to the Crown and on condition that a sublease should be granted in respect of the same land (subject as aforesaid) between the same parties and at the same rent in replacement of the earlier sublease, and the sublease has been granted:

Provided that where the new sublease contains an addition of adjoining Crown land, in execution of a duly stamped agreement to sublease such addition, this exemption shall extend to the new sublease, notwithstanding that the rent thereunder has been increased beyond that reserved by the earlier lease, if it has been increased by the amount of the rent agreed to be paid for the additional land.

3. Mortgage bonds issued by the Nairobi City Council.

[L.N. 10/1959.]

4. Grants of land in the municipality of Nairobi to the Governing Council of the University College, Nairobi.

[L.N. 67/1959.]

5. Transfer documents in connexion with any stock or bonds, interest warrant or other document required for the purposes of any stock or bonds issued made or created under the provisions of section 97 of the Municipalities Ordinance (now repealed) (Cap. 136 [1948]).

[Cap. 136/1948, L.N. 254/1960.]

6. Instruments executed by the Commissioner of Lands declaring the rents payable, in pursuance of the provisions of section 29 of the Government Lands Act, in respect of agricultural land for the second period prescribed by section 28 of the Government Lands Act (Cap. 280).

Stamp Duty

[Subsidiary]

7. Bills of exchange or promissory notes drawn or expressed to be payable or actually paid or endorsed or in any manner negotiated in Kenya for the purpose of financing within Kenya the marketing (including the processing for marketing) of coffee, cotton, pyrethrum, tea, sisal or cloves, and which are—
- (a) payable otherwise than on demand or at sight or on presentation or within three days after date or sight; and
 - (b) denominated in East African shillings; and
 - (c) payable in the East African currency area; and
 - (d) drawn on or payable to a bank licensed to operate in the East African currency area and with the prior approval of that bank.
8. Promissory notes drawn by the Land Development and Settlement Board.
9. Instruments to which Lands Ltd. is a party.
10. Discharges of charges, reassignments of mortgages and discharges of memoranda of equitable mortgages or charges by deposit if title made or given by the Commissioner of Income Tax.
11. Instruments to which the Kenya Tea Development Authority or its tea factory companies are a party.
12. Instruments to which the Coffee Research Foundation is a party.
13. Instruments to which the Royal Tropical Institute is a party.
14. Mortgages and charges made between the Land and Agricultural Bank of Kenya and the Agricultural Development Corporation.
15. Bills of exchange or promissory notes drawn or expressed to be payable or actually paid or endorsed or in any manner negotiated in Kenya for the purpose of financing within Kenya the marketing (including the processing for marketing) of hides and skins, and which are—
- (a) payable otherwise than on demand or at sight or on presentation or within three days after date or sight; and
 - (b) denominated in Kenya Shillings; and
 - (c) payable in Kenya; and
 - (d) drawn on or payable to a bank licenced to operate in Kenya and with the prior approval of that bank.
16. Lease and tenancy agreements under which the United States Agency for International Development is the tenant or lessee.
17. Instruments pertaining to indemnities taken by the Government in respect of cheques reissued by the Government.
18. Promissory notes drawn by the Agricultural Finance Corporation for the purpose of financing maize or wheat production in Kenya.
19. Instruments to which Kenyare Properties Ltd. is a party.
20. Loan agreements, covenants, bonds, debentures, mortgages or other instruments under which the Government is the primary debtor.
-

STAMP DUTY REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

- 1 Citation.
- 2 Duties, how to be paid.
- 2A.
- 3 Revenue franking machines.
- 4 Denoting stamps.
- 5 Adjudication of stamp duty.
- 6 Certificates of time.
- 7 Stamping out of time.
- 8 Contracts chargeable as conveyances on sale.
- 9 Marketable securities
- 10 Certificate on unstamping instrument.
- 11 Procedure for obtainable allowance for spoiled and misused stamps.
- 12 No allowance for spoiled stamps in certain cases.

SCHEDULES

FIRST SCHEDULE – INSTRUMENTS UPON WHICH STAMP DUTY MAY BE PAID AND DENOTED BY MEANS OF ADHESIVE REVENUE STAMPS OR REVENUE STAMPS IMPRESSED BY A FRANKING MACHINE.

SECOND SCHEDULE

[Subsidiary]

Regulations under section 119

STAMP DUTY REGULATIONS

[L.N. 368/1958, L.N. 471/1958, L.N. 159/1959, L.N. 239/1967, L.N. 18/1993, L.N. 96/2009.]

1. Citation

These Regulations may be cited as the Stamp Duty Regulations.

2. Duties, how to be paid

The stamp duty with which any instrument specified in the First and Fourth Schedule is chargeable may be paid and denoted by an adhesive revenue stamp affixed, or (subject to the provisions of regulation 3) by means of a revenue stamp impressed by a franking machine, on the instrument; but save as aforesaid, the stamp duty with which instruments are chargeable shall be paid and denoted by an embossed stamp which shall be embossed on the instrument under the direction of a collector in such manner as he may require.

2A. (1) Notwithstanding anything contained in regulation 2, the Senior Collector of Stamp Duties may enter into an agreement with a banker for the composition of the stamp duty on unstamped receipts in respect of withdrawals from savings bank accounts on the following conditions—

- (a) that the receipts shall be given on forms to be supplied or adopted by the banker;
- (b) that the banker shall levy upon or charge to the person by whom the receipts are given the stamp duty mentioned in the Schedule to the Act;
- (c) that the banker shall pay on or before the last day of each month to the Senior Collector of Stamp Duties the amount due and collected as duties on the unstamped receipts given during the immediately preceding month, and shall render with each payment an account in such form as the Senior Collector of Stamp Duties may require;
- (d) that the banker shall deposit with the Senior Collector of Stamp Duties, as security for the due payment of any moneys payable under paragraph (c), such sum (if any) as the Senior Collector of Stamp Duties may direct.

(2) Receipts given on forms supplied or adopted by a banker in accordance with this regulation shall be deemed to be duly stamped.

[L.N. 239/1967.]

3. Revenue franking machines

(1) The Senior Collector of Stamp duties may, by licence under his hand, authorize any person to impress revenue stamps on any instrument specified in the First Schedule by means of a revenue franking machine.

(2) A licence issued under this regulation shall be subject to such conditions as the Senior Collector of Stamp Duties may impose.

(3) An impression indicating the payment of duty made by a revenue franking machine used under a licence under this regulation shall contain the true date of the making of the impression.

(4) The franking of any instrument specified in the First Schedule by any duly authorized person as provided for in this regulation, if done in accordance with the terms of this regulation and of the licence, shall have the same effect as cancelling an adhesive revenue stamp on the date and to the value indicated by the franking.

[Subsidiary]

(5) Any person, other than a person to whom a licence has been issued under this regulation, who impresses or causes to be impressed a revenue stamp on any instrument, and any person, being a person to whom a licence has been issued, who fails to comply with any condition of the licence, shall be guilty of an offence and liable to a fine not exceeding two thousand shillings.

4. Denoting stamps

All instruments which are required to be denoted under section 16 of the Act shall be so denoted by having affixed thereto or impressed thereon, in addition to the proper stamp or stamps, a particular stamp, on which a collector shall denote the amount of the duty paid in respect of the principal instrument.

5. Adjudication of stamp duty

(1) An executed instrument, the adjudication of which is desired under either section 17 or subsection (3) of section 52 of the Act, shall be submitted to the collector, and in all cases a plain copy of the instrument shall accompany the original instrument.

(2) Where a number of transfers of stocks, shares or marketable securities between the same parties are presented for adjudication, then, notwithstanding the provisions of paragraph (1), a copy of one transfer may be furnished and a list of the others, showing for each the consideration and the number and description of the shares or securities or the amount and description of the stock.

(3) An application for adjudication shall be in Form A in the Second Schedule to these Regulations, and if made under section 17 of the Act shall be accompanied by the fee therein specified.

(4) Copies supplied with the application will not be returned.

(5) The collector may require such further information to be given to him as he may deem necessary in any particular case.

(6) When the duty has been assessed, a notice of provisional assessment shall be sent to the applicant, who, if he agrees to the amount, shall pay the duty in the manner directed by the notice.

(7) The instrument shall then be stamped with the duty assessed and with the adjudication stamp, and shall be returned to the applicant.

(8) If the collector considers that the instrument is already duly stamped, or is not liable to any duty, he shall cause the adjudication stamp to be impressed and shall return the instrument to the applicant.

(9) If the applicant dissents from the proposed assessment, he may submit to the collector a statement of his reasons for dissenting and his view of the basis upon which the instrument should be stamped.

6. Certificates of time

An instrument first executed at any place out of Kenya shall bear a certificate endorsed on the face thereof, signed by the person presenting it, in the following form—

“Certified that this instrument was first received in Kenya on the.....
day of, 20”

7. Stamping out of time

An instrument presented for stamping by leave under section 20 of the Act shall be accompanied by an application in Form B in the Second Schedule to these Regulations.

Stamp Duty

[Subsidiary]

8. Contracts chargeable as conveyances on sale

An instrument chargeable with duty under section 49 of the Act or as an instrument of dissolution of partnership shall be accompanied by a statutory declaration as to the apportionment of consideration in Form C in the Second Schedule to these Regulations.

9. Marketable securities

A transfer of a marketable security not quoted on any stock exchange shall be accompanied by a certificate of value in Form D in the Second Schedule to these Regulations.

10. Certificate on unstamping instrument.

Where an instrument being a security for the payment or repayment of an unlimited amount of money has been stamped ad valorem and is later presented for payment of further ad valorem duty in accordance with section 70 of the Act, there shall at the same time be lodged a certificate in the following form –

I certify that the amount at any time owing by to
(a) did not exceed £ until the day of 20.....;
(b) has not at any time exceeded the sum of £; and I request that further stamp duty may be impressed on the instrument on the day of, 20, to cover a total advance of £

*Signature
..... Address
....., 20Date

The Collector of Stamp Duties, Nairobi/Mombasa.

* To be signed by the mortgagee or by the manager of the bank making the advance.

- (a) If the amount has not yet been exceeded cancel these words.
(b) If the advance has already been exceeded cancel these words.

11. Procedure for obtainable allowance for spoiled and misused stamps

(1) The owner of spoiled or misused stamps, namely, the person for whose use and business the stamps were purchased, shall apply in writing in Form E in the Second Schedule to these Regulations within the appropriate period set out in Part V of the Act.

(2) The spoiled instrument shall be surrendered to the collector for destruction or for disposal in such manner as he may direct.

(3) In all cases of bills of exchange signed by both drawer and acceptor and in cases where signed cheques, receipts, promissory notes, bills at sight or on demand, and accepted bills have been out of the possession of the signers, allowance shall be made upon production of duly stamped and completed substituted instruments correcting some error or omission in the spoiled instruments.

(4) Spoiled instruments shall be presented in a complete state without mutilation.

(5) No refund shall be made in respect of stamps which have been cut or otherwise removed from material.

12. No allowance for spoiled stamps in certain cases

No allowance shall be made for any spoiled adhesive revenue stamp representing a fee paid in pursuance of the provisions of any Act specified in the Third Schedule to these Regulations or of any rules or regulations made under any such Act, being a fee collected by means of stamp affixed to any form prescribed by any such Act, rules or regulations.

FIRST SCHEDULE

[Rule 2.]

INSTRUMENTS UPON WHICH STAMP DUTY MAY BE PAID AND DENOTED BY
MEANS OF ADHESIVE REVENUE STAMPS OR REVENUE STAMPS IMPRESSED BY
A FRANKING MACHINE.

Agreement or any Memorandum of an Agreement under hand only and chargeable with duty of Sh. 1.

Bill of exchange payable on demand or at sight or on presentation or within three days after date or sight.

Bill of Exchange and Promissory Note, if drawn out of Kenya.

Bond, etc., chargeable with duty not exceeding Sh. 10.

Cancellation, Instrument of.

Cheque.

Contract Note.

Copy or Extract.

Duplicate or Counterpart.

Instrument registrable under the Chattels Transfer Act (Cap. 28)

Lease for a term of one year or less granted under the Trust Land Act (Cap.288).

Letter of Credit.

Letter of Guarantee.

Letter of Indemnity.

Policy of Insurance, except any policy chargeable with duty as an annuity.

Receipt.

Procedure for obtainable allowance for spoiled and misused stamps.

No allowance for spoiled stamps in certain cases.

Instruments registrable under, or drawn and executed under the provisions of the Companies Act (Cap. 486).

Stamp Duty

[Subsidiary]

SECOND SCHEDULE

FORM A

(r. 5)

To: The Collector of Stamp Duties,

P.O. Box 30089,

Nairobi.

or

P.O. Box 80053,

Mombasa.

APPLICATION FOR ADJUDICATION OF STAMP DUTY

I hereby apply for the adjudication of the stamp duty payable on the undermentioned instrument(s), a plain copy of which is enclosed (together with the fee of Sh. 100*):-

<i>Date</i>	<i>Description of Instrument</i>	<i>Parties</i>
-------------	--	----------------

2. I certify that, except as set forth in the attached memorandum, all the facts and circumstances affecting the liability of the instrument(s) to duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein in pursuance of the provisions of section 10 of the Act.

Date

Signature

Name in block capitals

Address

Note. - The nature of the further information usually required is set out in the following pages and must be given where appropriate.

* Delete if application is made under section 52 (3) of the Act.

AGREEMENT FOR SALE

Where applicable, complete Form C in the Second Schedule to the Stamp Duty Regulations.

CONVEYANCE ON SALE

Where the property is sold subject to a mortgage. State the amount owing for principal (and interest, if any, if the purchaser undertakes payment thereof) at the date of the conveyance.

Generally, if property is sold subject to, or in consideration of, the taking over or release of any debt or pecuniary liability. State the amount thereof.

CONVEYANCE OR TRANSFER (INCLUDING SETTLEMENT, DECLARATION OF TRUST, ETC.) OPERATING AS A VOLUNTARY DISPOSITION INTER VIVOS

Where the subject matter is land. Furnish a full description of the land with any improvements thereon and particulars of all sub-leases and tenancies with rents and estimated outgoings and names of tenants. The question of value will be referred to the Government Valuer.

Where the subject matter is stocks, shares or other marketable securities. Furnish a valuation as indicated below under the heading "Settlement". With a voluntary settlement, produce duly stamped transfers of any securities transferable by deed subject to stamp duty executed by the settlor in favour of the trustees. Where the securities have been vested in the trustees otherwise than by direct transfer from the settlor, particulars should be given.

Stamp Duty

[Subsidiary]

SECOND SCHEDULE, FORM A—continued

Where the subject matter is property of any other description, e.g. reversions, life policies, furniture.	Furnish details and reasonable evidence of value and give the ages of the parties concerned where the subject matter is a reversion or a life interest.
---	---

CONVEYANCE OR TRANSFER ON ANY OCCASION EXCEPT SALE, MORTGAGE OR VOLUNTARY DISPOSITION

If the conveyance or transfer is made on the occasion of the appointment of a new trustee of an existing trust.	Produce the deed of appointment.
---	----------------------------------

If the conveyance or transfer is made for effectuating a settlement.	Produce the settlement.
--	-------------------------

INSTRUMENT OF DISSOLUTION OF PARTNERSHIP, WHETHER AGREEMENT OR CONVEYANCE

In all cases.

Produce a copy of the balance sheet or statement of account as at the date of dissolution between the partners, showing—

- (a) the amount of the liabilities (separating mortgages from current trade liabilities);
- (b) the liquid assets (stock in- trade, cash and book debts);
- (c) (if the fact is not disclosed by the instrument) the share of the outgoing partner in the partnership assets; and
- (d) any immovable property held by or on behalf of the partnership.

MORTGAGE, ETC.

Note. -A security for advances without limit cannot be adjudicated.

Where a trust deed secures payment of debentures.	Produce the debentures executed and duly stamped.
---	---

Where it is claimed that collateral, auxiliary, additional or substituted security duty only is payable.	Produce the principal or primary security, or other evidence that it is stamped with full duty.
--	---

TRANSFER OF MORTGAGE

If the transfer is made on the occasion of the appointment of a new trustee of an existing trust.	Produce the deed of appointment.
---	----------------------------------

In all cases.	State the amount of interest in arrear (if any) at the date of transfer.
---------------	--

SETTLEMENT (IF NOT WITHIN HEADING III)

Where stocks and/or securities are settled, whether in possession or reversion, and whether the interest settled is contingent or vested.	Furnish particulars of the stocks and securities if not specified in the settlement and in any case produce a statement of the value of each of the several items as at the date of settlement—
---	---

- (a) from prices quoted in ny recognized stock and share list;

Stamp Duty

[Subsidiary]

SECOND SCHEDULE, FORM A—*continued*

- (b) where there is no quotation, complete and attach Form D in the Second Schedule to the Stamp Duty Regulations.
 - Where a share only in a reversionary interest in a trust fund is settled. In addition to the above particulars of the investments of the fund at the date of settlement, state the settlor's interest therein.
 - Where a settlor covenants to settle other property which he may then have, but which is not specifically mentioned. State whether the settlor was at the date of the settlement entitled in possession or reversion, or in default of the exercise of a power of appointment, to any money, stocks or shares not specified in the deed, and give as above particulars and value of such property.
 - Where the settled fund comprises a policy of life insurance—
 - (a) if the settlement (or any other instrument) contains provision for keeping the policy on foot; (a) State the amount of any bonuses added.
 - (b) if there is no such provision. (b) Produce a certificate of the surrender value from the insurance company.
- Note.* - Particulars of the value of unsold immovable property brought into settlement, whether subject to a trust for sale or not, need not be furnished.

SPECIAL EXEMPTIONS

Where it is claimed that an instrument is not chargeable with duty by reason of an exemption not arising under the Stamp Duty Act. State the section of the particular Act conferring the exemption, and give an explanation of the grounds for claiming that the instrument falls within it.

FORM B

(r. 7)

To: The Collector of Stamp Duties,
 P.O. Box 30089, Nairobi. or P.O. Box 80053, Mombasa.

APPLICATION FOR LEAVE TO STAMP OUT OF TIME

(Parties) to
 I hereby certify that the annexed instrument was first executed on the day of, 20

The reason(s) why this instrument was not presented for stamping in due time is/are:—

Signed
 Name of Applicant in block capitals
 Postal Address
 Date

FOR OFFICIAL USE ONLY

Leave Granted Refused	Duty Sh	Penalty Assessed Sh	Date	Collector's Signature

SECOND SCHEDULE—continued

FORM C

(r. 8)

STATEMENT APPORTIONMENT OF CONSIDERATION

Particulars of Consideration	Amount of Consideration		Asset to be Transferred	Apportioned Consideration	
	Sh.	cts		Sh.	cts
I. Cash.....			(a) All immovable property, improvements and fixed plant and machinery in respect of which duty will be paid on the conveyance, transfer or assignment		
II. Shares		
III. Debentures			(b) Loose plant and machinery, stock-in-trade and other property capable of passing and so passing by manual delivery		
IV. Liabilities of the vendor assumed by the purchaser, viz:			(c) Cash in hand		
			(d) Cash at bank on current account		
			(e) Bills, Notes, etc		
			(f) Shares, debentures and other investments in respect of which duty will be paid on the transfer.		
V. Other consideration.			(g) All immovable property, improvements and fixed plant and machinery in respect of which no further instrument evidencing the sale will be produced.		
			(h) Goodwill		
			(i) Benefit of contracts		
			(j) Patents, designs, trade marks, licences, etc		
			(k) Book debts due to the vendor		
			(l) Cash on deposit		
			(m) Other property, viz:		

Stamp Duty

[Subsidiary]

SECOND SCHEDULE, FORM C—continued

<p>NOTE.—Every question must be answered. If the answer is "Nil", this fact must be stated.</p> <p style="text-align: center;">STATUTORY DECLARATION</p> <p style="text-align: center;"><i>(To be made by any party to the Instrument, or, in the case of a Company, the Secretary)</i></p> <p>I, (Secretary of Ltd.) of do solemnly and sincerely declare that the particulars shown above are in every respect fully and truly stated, and that no part of the value apportioned to loose plant and machinery represents plant or machinery which was not in a state of actual severance at the date of the sale or dissolution.</p> <p>I make this Declaration conscientiously believing the same to be true and according to the Oaths and Statutory Declarations Act.</p> <p>Declared at</p> <p>This day of 20 Before me</p>		

Stamp Duty

[Subsidiary]

SECOND SCHEDULE—continued

FORM D

(r. 9)

To: The Collector of Stamp Duties,
 P.O. Box 30089, P.O. Box 80053,
 Nairobi. or Mombasa.

CERTIFICATE ON TRANSFER OF CERTAIN MARKETABLE SECURITIES

I hereby certify that to the best of my knowledge and belief-

- (a) the transaction effected by the transfer of shares in dated 20..... between and represents a *bona fide* sale between a willing vendor and a willing purchaser;
- (b) the value of one ordinary/preference share in on the 20 was Sh.

Date

Signature of Company Auditor

.....
 Name in block capitals
 Postal Address

FORM E

(r. 11)

(To be submitted in duplicate)

To: The Collector of Stamp Duties.
 P.O Box 30089, P.O Box 80053,
 Nairobi. or Mombasa.

APPLICATION FOR ALLOWANCE FOR SPOILED OR MISUSED STAMPS

I HEREBY APPLY for an allowance for stamps in respect of the instruments set out below.

2. I HEREBY CERTIFY that I am the owner of the stamps and that they were purchased by me.

List of Instruments (One per line) (Notes (1) and (2))	Value of Stamp	(For Official use only) Collector's Remarks (Note (3))
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		

Stamp Duty

[Subsidiary]

SECOND SCHEDULE, FORM E—continued

Notes:

- (1) Each instrument must be numbered in red with the number given to it above.
- (2) Where a bank submits a number of blank cheques, they may be entered as one item.
- (3) References in this column are to sections of the Stamp Duty this Act (Cap. 480), which, for ease of reference, are reproduced on the back of this form.

Date Signed

Name in capital letters
 Name of Firm in capital letters
 Postal Address ..

FOR OFFICIAL USE ONLY

The instruments in respect of which the application has been refused are returned herewith. A remittance for those approved will follow in due course.

Date Collector of Stamp Duties

THIRD SCHEDULE
 [Rule 12.]

- 1. The Trustees (Perpetual Succession) Act (Cap. 164).
- 2. The Government Lands Act (Cap. 280).
- 3. The Land Titles Act (Cap. 282).
- 4. The Registration of Titles Act (Cap. 281).
- 5. The Registration of Documents Act (Cap. 285).
- 6. The Mining Act (Cap. 306).
- 7. The Water Act (Cap. 372).
- 8. The Public Roads and Roads of Access Act (Cap. 399).

FOURTH SCHEDULE

INSTRUMENTS UPON WHICH STAMP DUTY MAY BE PAID AND DENOTED BY
 MEANS OF REVENUE STAMPS IMPRESSED BY A FRANKING MACHINE

- 1. Any instrument requiring or capable of registration, being an instrument relating to the registration of transactions or devolution affecting land registered under any law relating to the registration of land.
- 2. Bills of Exchange and Promissory Notes if drawn within Kenya.