

CHAPTER 189

THE STAMP DUTY ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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SCHEDULE

CHAPTER 189

THE STAMP DUTY ACT

An Act to provide for stamp duty and for related matters.

[1st July, 1972]
[S.1]

Acts Nos:
20 of 1972
9 of 1977
12 of 1979
25 of 1980
8 and 16 of 1983
15 of 1985
10 of 1986
6 and 10 of 1987
9 of 1988
13 of 1989
18 of 1991
16 of 1992
3 and 10 of 1993
16 of 1994
13 of 1996
24 of 1997
8 of 1998
15 of 2000
10 of 2002
18 of 2002
15 of 2003
15 of 2004
13 of 2005
6 of 2006
14 of 2009

PART I

PRELIMINARY PROVISIONS

- | | |
|--|---|
| Short title | 1. This Act may be cited as the Stamp Duty Act. |
| Interpretation
Acts Nos. 10
of 1993; 16 of
1994
Cap. 215
14 of 2009 | 2. In this Act, unless the context otherwise requires—
"banker" includes a bank and any person acting as a banker;
"bill of exchange" means a bill of exchange as defined by the Bills of Exchange Act and includes a draft, order, cheque, letter of credit, and any other document, 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;
"bill of lading" means any instrument signed by the owner or master of a ship or vessel or by the agent of the owner, which states that certain |

specified goods have been shipped upon a particular ship or vessel and which purports to set out the terms on which such goods have been delivered to and received by the ship or vessel, and includes the document commonly known as "through bill of lading" but does not include a mate's receipt;

"bond" includes –

- (a) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be;
- (b) any instrument (other than a bill of exchange or promissory note) attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another; and
- (c) any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another;

"chargeable" means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, and, as applied to any other instrument, chargeable under the written law in force in Tanzania when such instrument was executed, or where several persons executed the instrument at different times, first executed;

"cheque" means a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand;

"Commissioners" means the Commissioners of Stamp Duty appointed under the provisions of section 3;

"Commissioner General" means the Commissioner-General appointed under section 16 of the Tanzania Revenue Authority Act;

Cap. 399

"composition agreement" means an agreement entered into pursuant to the provisions of sections 9, 10 or 11;

"compounded duty" means any stamp duty payable under a composition agreement, and includes any sum payable pursuant to an order under section 13 and also includes any additional compounded duty or any penalty payable or failure to pay compounded duty or additional compounded duty on due date;

"Conveyance" includes a conveyance on sale and every instrument by which property, whether movable or immovable is transferred *inter vivos* and which is not otherwise specifically provided for by the Schedule hereto; and also a decree or order for, or having the effect of an order, for foreclosure;

"duly stamped", as applied to an instrument, means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in Mainland Tanzania;

"executed" and "execution" used with reference to instruments, means "signed" and "signature";

"Government" means the Government of the United Republic;

"impressed stamp" includes –

- (a) labels affixed and impressed by a proper officer;
- (b) stamps embossed or engraved on stamped paper;
- (c) adhesive stamps over-embossed;

Act No. 14 of

"instrument" includes every document by which any right or liability is, or

purports to be, created, transferred, limited, extended, extinguished or recorded **in a paper or electronic form;**

"instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by a civil court and an award by an arbitrator directing a partition;

"lease" means a lease of immovable property, and includes also—

- (a) a certificate of occupancy;
- (b) a grant for a term of the right to use and enjoy any easement, *profit à prendre*, or incorporeal right;
- (c) any instrument by which tolls of any description are let;
- (d) any writing on an application for a lease intended to signify that the application is granted;

"marine policy" means any insurance (including reinsurance) made upon any ship or vessel (whether for marine or inland navigation) or upon the machinery, tackle or furniture of any ship or vessel, or upon any goods, merchandise, or property of any description whatever on board of any ship or vessel, or upon the freight of, or any other interest which may be lawfully insured in, or relating to, any ship or vessel and includes any insurance of goods, merchandise or property for any transit which includes not only a sea risk, but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance, and where any person, in consideration of any money paid or to be paid for additional freight or otherwise, agrees to take upon himself any risk attending goods, merchandise or property of any description whatsoever 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, such agreement or engagement shall be deemed to be a contract for marine insurance;

"Minister" means the Minister responsible for finance;

"mortgage deed" includes every instrument whereby for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates, to or in favour of another, a right over or in respect of specified property, and for the purposes of this Act includes a charge under the Land Registration Act;

"paper" includes vellum, parchment, or any other material on which an instrument may be written;

"person with whom a composition agreement has been entered into" includes such person's personal representatives, assigns and attorneys;

"policy of insurance" includes —

- (a) a policy of insurance upon any life or lives or upon any event or contingency relating to or depending upon any life or lives;
- (b) a policy of insurance against accident,

and for the purposes of this Act "a policy of insurance against accident or an accident policy" 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 than from a natural cause, or as compensation for personal injury, or during the sickness of any person, or his incapacity from personal injury, or by way of indemnity against loss or damage to any property, and includes

any notice or advertisement in a newspaper or other publication which purports to insure the payment of money upon the death of, or injury to, or sickness or incapacity of, or loss or damage to, property of the holder or bearer of the newspaper or publication containing the notice or advertisement only from accident or violence or otherwise than from natural cause;

"power of attorney" includes any instrument empowering a specific person to act for and in the name of the person executing it;

"promissory note" means a promissory note as defined by the Bills of Exchange Act *; it also includes 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;

"proper officer" in relation to any function means the Commissioner-General, a Commissioner or a Stamp Duty Officer upon whom such function is conferred or to whom such function has been delegated under this Act, and where such function has not been specifically conferred upon any of such persons, the Commissioner-General or a Stamp Duty Officer;

"receipt" includes any note, memorandum or writing—

- (a) whereby any money, or any bill of exchange, cheque, or promissory note is acknowledged to have been received; or
- (b) whereby any other movable property is acknowledged to have been received in satisfaction of a debt; or
- (c) commonly known as "cash sale" and given to any person making any payment or giving any bill of exchange, cheque or promissory note; or
- (d) whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged; or
- (e) which signifies or imports an acknowledgement of any debt or demand, whether the same is or is not signed with the name of any person;

"specified country" means any country which the Minister may, by notice in the *Gazette*, declare to be a specified country for the purposes of the Act or of such provision of this Act as may be specified in such order;

"settlement" means any non-testamentary disposition in writing of movable or immovable property made—

- (a) in consideration of marriage;
- (b) for the purpose of distributing property of the settlor among his family or those whom he desires to provide, or for the purpose of providing for some person dependent on him; or
- (c) for any religious or charitable purpose, and includes an agreement in writing to make such a disposition, and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any of such disposition;

"Stamp Duty Officer" means a Stamp Duty Officer appointed under section 4;

"tribute agreement" means any instrument by which the holder of a claim or mining lease agrees to allow another person to work the claim or lease, or part thereof, in return for a proportion of the value of

production or profits of working.

Commissioners **3.** The Minister may, by notice in the *Gazette*, appoint not less than two and not more than five public officers to be Commissioners for Stamp Duty.

Stamp Duty Officers Act No.6 of 2006 s.28 **4.** The Commissioner-General may, by notice in the *Gazette*, appoint such number of public officers as he may deem fit to be Stamp Duty Officers for the purposes of this Act and may, by such order or any subsequent order, delegate to a Stamp Duty Officer all or any of his functions or the functions of the Commissioners.

**PART II
STAMP DUTIES**

(a) Instruments Chargeable with Stamp Duty

Instruments specified in the Schedule chargeable Acts Nos. 16 of 1994 s. 62; 13 of 1996 s. 48 **5.-(1)** Every instrument specified in the Schedule to this Act and which—

- (a) is executed in Tanzania Mainland; or
- (b) if executed outside Tanzania Mainland, relates to any property in Tanzania Mainland or to any matter or thing to be performed or done in Mainland Tanzania,

shall be chargeable with duty of the amount specified or calculated in the manner specified in that Schedule in relation to such instrument:

Provided that—

Cap.148

Cap.147

- (i) before calculating the stamp duty payable in accordance with article 51 of the Schedule to this Act on a receipt issued by the manufacturer of locally manufactured goods which are chargeable to Value Added Tax in accordance with the Value Added Tax Act or to Excise Duty pursuant to the Excise (Management and Tariff) Act the whole of the Value Added Tax and the Excise duty shall be deducted from the gross sum;
- (ii) no duty shall be chargeable in respect of any instrument executed by, or on behalf of, or in favour of the Government in cases where, had this paragraph not been enacted, the Government would be liable to pay the duty chargeable in respect of such instrument;
- (iii) no duty shall be chargeable in respect of any instrument which is exempt from stamp duty by virtue of any provision of this Act or of an order made under section 16 or section 17 or by virtue of any other written law;
- (iv) a bill of exchange, cheque or promissory note drawn or made in a specified country and accepted or paid or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in Tanzania Mainland, and which has previously been duly stamped in the specified country in which it was drawn or made shall be deemed to be duly stamped for the purposes of this Act;
- (v) no power, warrant or letter of attorney granted or to be granted by the Postmaster General, nor any power, warrant or letter of attorney given by a depositor in the savings bank to any other person, authorising him to make any deposit of

Act No. 6 of
2006.

any sum of money in the savings bank on behalf of the said depositor or to sign any document or instrument required by the rules or regulations of the savings bank to be signed on making such deposit or to receive back any sum of money deposited in the savings bank, or the interest arising there from, nor any receipt nor any entry in any book of receipts for money deposited in the savings bank, nor for any money received by any depositor, his executors or administrators, assigns, attorneys or agents, from the funds thereof, nor any draft or order nor any appointment of any agent, nor any certificate, or other instrument or document whatsoever required or authorised to be given, issued, signed, made or produced in pursuance of the Bank of Tanzania Act or of any rules made there under, shall be subject to, or be charged with any stamp duty or duties whatsoever;

(vi) where a company incorporated in Tanzania Mainland acquires all the undertaking in Tanzania Mainland of a company incorporated outside Tanzania Mainland no duty shall be payable on any conveyance or transfer to such Company of any of the property comprised in such undertaking at the time of such acquisition.

(2) For the purposes of paragraph (v) of subsection (1).

"savings bank" means the Savings Bank established by the Tanzania Postal Bank Act.

Cap. 301

(3) The Minister may by notice published in the *Gazette*, add to, vary or amend the Schedule.

Several
instruments
used in a
single
transaction
Act No. 18 of
2002 s. 48

6.-(1) Where, in the case of any sale, mortgage or settlement, several instruments are employed for completing the transaction (whether executed at the same time or at different times) the principal instrument only shall be chargeable with the duty prescribed in the Schedule to this Act for the conveyance, mortgage or settlement, as the case may be, and each of the other instruments shall be chargeable with a duty of one thousand five hundred shillings instead of the duty (if any) prescribed for it in that Schedule.

(2) The parties may determine for themselves which of the instruments so employed shall, for the purposes of subsection (1) of this section, be deemed to be the principal instrument:

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

(3) Any instrument modifying the terms of a mortgage in respect of the reduction of principal or raising or reducing the rate of interest or varying the term for the repayment of principal shall be chargeable as an agreement.

(4) Where upon receipt of a payment, both a cash sale and a receipt is issued, only one of such instruments shall be chargeable with duty.

Instruments
relating to
several distinct
matters

7. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

Instruments coming within several descriptions in the Schedule

8. Subject to section 7 an instrument so framed as to come within two or more of the descriptions in the Schedule to this Act shall, where the duties chargeable there under are different, be chargeable only with the highest of such duties:

Provided that nothing in this Act contained shall render chargeable with duty exceeding ten shillings a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

(b) Composition of Duties

9. [Repealed Act No. 15 of 2004].

10. [Repealed Act No. 15 of 2004].

Agreement to compound duty on cheques
Act No.6 of 2006 s.28

11.-(1) The Commissioner-General may by agreement with any banker provide for the composition of the duty payable on any cheque drawn on such banker on a cheque form issued or adopted by such banker or any other chargeable instrument issued, given or received by such banker.

Act No.6 of 2006 s.28

(2) Such agreement shall be in such form and for such duration and shall contain such terms and conditions as the Commissioner-General may think proper.

(3) During the continuance in force of any composition agreement under this section any cheque or other chargeable instrument to which the agreement relates shall be deemed to be properly stamped.

Terms implied in composition agreement
Act No.6 of 2006 s.28

12. It shall be an implied term of every composition agreement entered into under this Act that—

- (a) if in consequence of any amendment of this Act or in consequence of this Act being repealed and replaced—
 - (i) any duty payable on the chargeable instruments or any category of such instruments to which the agreement relates is raised;
 - (ii) any category of instruments which were not chargeable when the agreement was entered into become chargeable and by virtue of the provisions of the agreement will remain exempt,the Commissioner-General shall be entitled to terminate the agreement unless the person with whom it is entered into agrees to such amendment or variation thereof as the Commissioner-General may direct;
- (b) the proper officer shall be entitled, by notice in writing, to terminate an agreement in the event of contravention by the person with whom it is entered of any of its terms or of any provision of this Act or of regulations made there under.

Power to compound

13. The Commissioner-General may, by order, provide for the composition or consolidation of duties in the case of issue by any body

duties
Act No.6
of 2006
s.28

corporate of debentures, bonds or other securities.

Moneys due
under
composition
agreement to
be
Government
debt

Act No.6
of 2006
s.28

“Moneys
due under
composition
agreement to
be Government
debt”

section 150 of the
Tax
Administration
Act, 2014

~~14. Any sum of money due under a composition agreement, or an order under section 13 whether by way of compounded duty, additional compounded duty or penalty shall be a debt due to the United Republic and, without prejudice to the provisions of section 58, may be recovered by a suit by the Commissioner-General or any person authorised by him in that behalf.~~

14. Any sum of money due under a composition agreement, or an order under section 13 whether by way of compounded duty, additional compounded duty or penalty shall be a debt due to the United Republic and recovered as duty or tax under the provisions of this Act or the Tax Administration Act.

15. [Repealed Act No. 15 of 2004].

(c) Exemptions

Minister may
exempt
chargeable
instrument

16.-(1) The Minister may, by notice in the *Gazette*, exempt any chargeable instrument, or any category, class or description of such instruments, from stamp duty.

(2) Where an order under subsection (1) is expressed to have retrospective effect, any instrument specified in the order or, as the case may be, any instrument of the category, class or description specified in the order, and given, issued or executed on or after the date specified in the order shall be deemed not to have been a chargeable instrument.

Commissioner-
General may
exempt fixed
sum in lieu of
duty on
instrument

Act No.6
of 2006
s.28

17.-(1) Where in relation to any transaction or a series of transactions any person is required to give, issue or execute a number of chargeable instruments, the Commissioner-General may, upon payment by such person of such sum of money as the Commissioner-General may direct, exempt, by order under his hand, all such instruments from stamp duty.

(2) Any sum of money paid under subsection (1) shall be deemed to be compounded duty in respect of the instruments to which such order relates.

(d) Stamps and Mode of using them

Duties, how to
be paid

18. Except as is otherwise expressly provided in this Act the duty with which any instrument is chargeable shall be paid, and such payment shall be indicated on such instrument, by means of a stamp or stamps in

such manner as may be prescribed.

Where adhesive stamps used

19.-(1) Where any chargeable instrument is stamped with an adhesive stamp, every person executing the instrument or attesting the execution of the instrument by any other person, shall cancel the stamp, unless at the time of such execution or, as the case may be, attestation, the stamp had been properly cancelled by any other person who executed the instrument or attested its execution.

(2) A stamp shall be deemed to have been properly cancelled for the purposes of subsection (1) only if it has been cancelled by a person who is required by that subsection to cancel it, by writing his name or initials thereon or by affixing on such instrument his seal in such manner that part of the seal is visible on the stamp or in such other manner as may be prescribed, so that in no case can such stamp be used for any other instrument or otherwise.

(3) Where a chargeable instrument has been stamped by affixing thereon an adhesive stamp, such instrument shall, for the purposes of this Act, be deemed not to have been properly stamped if such adhesive stamp has not been cancelled as is required by this section.

Instruments stamped with impressed stamps, how to be written

20. Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

Only one instrument to be on same stamp

21. No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written:

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

Instrument written contrary to section 19 or 20 deemed unstamped

22. Every instrument written in contravention of section 18 or section 19 shall be deemed to be unstamped.

Certificate denoting duty or exemption

23.-(1) Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument the payment of such last mentioned duty shall, if application is made to a Stamp Duty Officer for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument by endorsement under the hand of a proper officer or in such other manner (if any) as may be prescribed.

(2) Where a Stamp Duty Officer is satisfied that any instrument is, for any reason whatsoever, exempt from stamp duty, he may on application made in that behalf and upon receipt of the prescribed fee, endorse the

instrument with a certificate signed by him and certifying that the instrument is so exempt.

Provisions as to duplicates and counterparts

24. The duplicate or counterpart of an instrument chargeable with duty (except the counterpart of an instrument chargeable as a lease, such counterpart not being executed parts by or on behalf of any lessor or grantor) shall be deemed not to be duly stamped unless it is stamped as an original instrument or unless it appears by some stamp impressed thereon or by certificate given by a proper officer that the full and proper duty has been paid upon the original instrument of which it is the duplicate or counterpart.

(e) Time When Instruments Must Be Stamped

Instruments executed in Tanzania

25. All chargeable instruments executed by any person in Tanzania Mainland shall be stamped within thirty days of execution:

Provided that—

- (a) where any such instrument is brought to a proper officer for adjudication under section 42 of this Act within such thirty days, the period from the presentation of the instrument to the proper officer until the notification to the person who presented it of the decision of the proper officer, shall be excluded in computing the said period of thirty days; and
- (b) every receipt, acknowledgement of a debt, promissory note and bill of exchange shall be stamped on the date of execution or the date of the instrument, whichever shall be the earlier date.

Instruments executed outside Tanzania

26. Every chargeable instrument executed out of Tanzania Mainland shall be stamped within thirty days of its first arrival in Tanzania Mainland:

Provided that—

- (a) where any such instrument is brought to a proper officer for adjudication under section 42 of this Act within such thirty days, the period from the presentation of the instrument to the proper officer until the notification to the person who presented it of the decision of the proper officer shall be excluded in computing the said period of thirty days; and
- (b) promissory notes and bills of exchange payable on demand or at not more than thirty days from sight or date shall be stamped within seven days of first arrival in Tanzania Mainland.

Bills, cheques and notes drawn outside Tanzania

27. The first holder in Tanzania Mainland of any bill of exchange, cheque or promissory note drawn or made outside Tanzania Mainland shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in Tanzania Mainland, cause to be affixed the proper stamp and (in the case of an adhesive stamp) cancel the same:

Provided that—

- (a) if at the time any such bill of exchange, cheque, or note comes into the hands of any holder thereof in Tanzania Mainland, the proper stamp is affixed thereto (and in the

case of an adhesive stamp, such stamp is cancelled in the manner prescribed by or under this Act), and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by or under this Act, such stamp shall in so far as it affects such holder, be deemed to have been duly affixed and cancelled;

- (b) nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

Special provisions for any particular class of instruments

28. Notwithstanding the provisions of sections 24, 25 and 26, regulations made under this Act may provide for the time of stamping of any category, class or description of chargeable instruments.

(f) Valuation of Stamp Duty

Conversion of amount expressed in foreign currencies

29. Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any currency other than that of the United Republic, such duty shall be calculated on the value of such money in the currency of the United Republic according to the current rate of exchange on the date of the instrument.

Stock and marketable securities, how to be valued

30. Where an instrument is chargeable with *ad valorem* duty in respect of any share, stock or other security, such duty shall (except as provided in article 60 of the Schedule) here to be calculated on the value of such share, stock or security, according to the average price or the value thereof on the date of instrument.

Effect of statement of rate of exchange or average price

31. 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 such statement, it shall, so far as regards the subject matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

Instruments reserving interest

32. Where interest is expressly made payable by the terms of an instrument, such 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.

Duty on mortgages of marketable securities

33.-(1) Where an instrument (not being a promissory note or a bill of exchange)–

- (a) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt; or
(b) makes redeemable or qualifies a duly stamped transfer intended as a security, of any marketable security,

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under article 5 of the Schedule hereto.

- (2) A release or discharge of any such instrument shall be

chargeable with the like duty.

Duty on transfer in consideration of debt, or subject to future payment, etc.

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

Provided that nothing in this section shall apply to any certificate of sale referred to in article 17 of the Schedule hereto.

(2) For the purposes of subsection (1) where property is sold subject to a mortgage or other encumbrance, any unpaid mortgage money or money charged, together with the interest (if any) due on the same, shall be deemed to be part of the consideration for the sale:

Provided that where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

Valuation in case of annuity, etc.

35. Where an instrument is executed to secure the payment of an annuity or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument or consideration for such conveyance, as the case may be, shall, for the purpose of this Act, be deemed to be—

- (a) where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained, such total amount;
- (b) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance, the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years calculated from the date on which the first payment becomes due; and
- (c) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance, the maximum amount which will, or may become, payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

Claims under certain instruments limited by value of stamp

36. Where—

- (a) the amount or value of the subject matter of any instrument chargeable with *ad valorem* duty cannot be ascertained at the date of its execution or first execution; or
- (b) any instrument is given as security for the repayment of money to be lent, advanced or paid and the total amount secured or to be ultimately recoverable is unlimited,

nothing shall be claimable under such 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–

- (i) where proceedings have been taken in respect of an instrument under section 42 or section 49, the amount certified by the revenue authority shall be deemed to be the stamp actually used at the date of execution;
- (ii) in the case of an instrument falling within the provisions of paragraph (a) of this section, where at any time, to the knowledge of the parties thereto the amount or value of the subject matter of such instrument exceeds the amount or value claimable there under as stamped, any party may stamp such instrument with additional duty covering such excess and thereupon the amount or value claimable there under shall be increased accordingly and the date upon which such excess came to the knowledge of the parties shall be deemed to be the date of execution for the purposes of this Act;
- (iii) in the case of an instrument falling within the provisions of paragraph (b) of this section, where at any time the total amount secured or to be ultimately recoverable under such instrument exceeds the amount or value claimable there under as stamped, any party thereto may stamp such instrument with additional duty covering such excess and thereupon the amount or value claimable there under shall increase accordingly and the date upon which such excess occurred shall be deemed to be the date of execution for the purposes of this Act.

Facts affecting duty to be set forth in instrument

37. The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein and the proper officer may require any person executing, or any person employed or being concerned in or about the preparation of any such instrument to give evidence on oath, or by affidavit, that the facts and circumstances therein are fully and truly set forth, and for such purpose the proper officer may administer an oath.

Direction as to duty in case of certain conveyances

38.-(1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the certain purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration.

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

(3) Where a person, having contracted for the purpose of any property but not having obtained a conveyance, contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem*

duty in respect to the consideration moving from the sub-purchaser.

(4) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof contracts to sell the whole, or any part thereof to any other person or persons and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad valorem* duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration, and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers:

Provided that the duty on such last mentioned conveyance shall in no case be less than fifteen shillings.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration paid by him and is duly stamped accordingly, any conveyance which may be afterwards made to him of the same property by the original seller shall be chargeable with duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or where such duty would exceed twenty-five shillings, with duty of twenty-five shillings.

(6) If the holder of a registered claim, mining lease or exclusive prospecting licence has granted to any person the right to purchase such claim, lease or licence, and if the said right to purchase becomes vested in some other person by the cession or transfer of the said right, then, upon the exercise of the said right to purchase, any sums paid for such cession or transfer shall be deemed to form part of the consideration in the transfer of such claim, lease or licence.

Duty in case of certain contracts and agreements

39.-(1) Any contract or agreement for the sale—

(a) of any equitable estate or interest in any property; or

(b) of any estate or interest in any property (other than land) situate outside Tanzania Mainland; or

(c) of any goods, merchandise, share, stock or debenture, or of any interest therein; or

(d) of any ship or vessel or of any interest in a ship or vessel,

shall be chargeable with the same duty as if such contract or agreement were a conveyance or, as the case may be, a transfer of the estate, interest or property contracted or agreed to be sold.

(2) Where the purchaser has paid the *ad valorem* duty as required by subsection (1), and before having obtained a conveyance or transfer of the property, and within six months after the first execution of such contract or agreement, enters into a contract or agreement for the sale of the same, the contract or agreement shall be charged, if the consideration for that sale is in excess of the consideration for the original sale, with the *ad valorem* duty payable in respect of such excess consideration:

Provided that the duty on such last mentioned contract or agreement shall in no case be less than ten shillings.

Transfers

40.-(1) Stamp duties prescribed in the Schedule to this Act for

between
associated
corporations

conveyance and transfers shall not be chargeable in respect of instruments to which this section applies:

Provided that no such instrument shall be deemed to be duly stamped unless either it is stamped with the duty to which it would, but for this section, be liable, or it has in accordance with the provisions of section 43 been certified by endorsement either that it is not chargeable with any duty or that it is duly stamped.

(2) This section applies to any instrument in respect of which it is shown to the satisfaction of the proper officers—

(a) that the effect thereof is to convey or transfer a beneficial interest in property from one body corporate (hereinafter in this section called "the transferor") to another body corporate (hereinafter in this section called the transferee"); and

(b) that either—

(i) one of such bodies corporate is beneficial owner of not less than ninety per centum of the issued share capital of the other body corporate; or

(ii) not less than ninety per centum of the issued share capital of each of the bodies corporate is in the beneficial ownership of a third body corporate; and

(c) that the instrument was not executed in pursuance of or in connection with an arrangement hereunder—

(i) a consideration for the conveyance or transfer was to be provided directly or indirectly by a person other than a body corporate 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 person aforesaid.

(3) For the purpose of this section—

(a) a body corporate shall be deemed to be associated with another body corporate if, but not unless—

(i) one of them is the beneficial owner of not less than ninety per centum of the issued share capital of the other; or

(ii) not less than ninety per centum of the issued share capital of each of them is in the beneficial ownership of a third body corporate; and

(b) "body corporate" means—

(i) a company with limited liability;

(ii) a body corporate established by or under any written law;

(iii) any other body corporate designated by the Minister by notice in the *Gazette* to be a body corporate for the purpose of this section.

(g) Persons Liable to Pay Duty

Duties, by whom payable

41. In the absence of an agreement to the contrary, the expense for stamp duty shall be borne by—

- (a) in the case of—
 - (i) administration bonds;
 - (ii) bills of exchange;
 - (iii) bonds;
 - (iv) bottomry bonds;
 - (v) customs bonds;
 - (vi) debentures;
 - (vii) further charges;
 - (viii) indemnity bonds;
 - (ix) promissory notes;
 - (x) releases;
 - (xi) respondentia bonds;
 - (xii) security bonds;
 - (xiii) settlements,

by the person drawing, making or executing the instruments;

- (b) in the case of a policy of insurance other than fire insurance, by the person effecting the insurance;
- (c) in the case of a policy of fire insurance, by the person issuing the policy;
- (d) in the case of a conveyance (including a reconveyance of mortgaged property), by the guarantee;
- (e) in the case of a lease or agreement to lease, by the lessee or intended lessee;
- (f) in the case of a counterpart of a lease, by the lessor;
- (g) in the case of a mortgage-deed, by the mortgagor;
- (h) in the case of an instrument of exchange, by the parties in equal shares;
- (i) in the case of a certificate of sale, by the purchaser of the property to which such certificate relates;
- (j) in the case of an instrument of partition, by the parties in proportion to their respective shares in the whole property partitioned, or when the partition is made in execution of an order passed by a civil court or arbitrator, in such proportion as such court or arbitrator directs;
- (k) in the case of a transfer of shares in an incorporated company or other body corporate, by the purchaser or transferee;
- (l) in the case of a transfer of debentures, being marketable securities, whether the debenture is liable to duty or not, by the purchaser or transferee;
- (m) in the case of a transfer of any interest secured by bond, mortgage deed or policy of insurance, by the purchaser or transferee;
- (n) in the case of a receipt or acknowledgement of a debt, the person giving or issuing same;
- (o) in any other case, such party to the instrument as a Stamp Duty Officer may direct.

Obligation to give receipt in certain cases

42.-(1) Any person receiving any sum of money of one thousand shillings or more, or any bill of exchange, cheque or promissory note for an amount of five hundred shillings or more or receiving in satisfaction or part

Acts Nos. 9 of 1977 s. 17; 13 of 1989 s. 29; 10 of 1994 s. 41; 13 of 1996 s. 48; s 8 of 1998 s. 52; 18 of 2002 s. 49

satisfaction of a debt of any movable property of five hundred shillings or more in value, shall give to the person paying or delivering such money, bill, cheque, note or property, a duly stamped receipt for the sum, whether or not a demand is made for such receipt.

(2) Any person who is liable to stamp duty under this Act shall keep proper records of his affairs showing all duties paid by him.

(3) The provisions of subsection (1) shall not apply to a trader who has been registered for Value Added Tax or to any payments to or by a banker in the ordinary course of his business.

(4) Where a receipt was given by any person for any bill of exchange, cheque or promissory note, such person shall not be required to give a receipt for any sum of money received by him under such bill of exchange, cheque or promissory note.

(5) Where the receipt required to be given under subsection (1) is for an amount of one thousand shillings or more and is in respect of goods sold by a manufacturer or a trader in the ordinary course of business or is in respect of services of any kind rendered by any person, then, notwithstanding any custom in any trade or anything to the contrary contained in this act or in any other written law or in any agreement between the parties to the sale or, as the case may be, the contract for services, the person issuing the receipt shall enter in the receipt and in its duplicate copy the following particulars—

- (a) the date on which the payment is made;
- (b) the full name and address of the seller of the goods or the person who rendered the services, as the case may be;
- (c) a full description of the goods sold or the services rendered and a statement of the quantity and value of the goods or, in the case of services, the amount charged in respect of the services rendered;
- (d) the full name and address of the buyer of the goods or the person to whom the services were rendered, as the case may be;
- (e) such other particulars as may be prescribed by regulations made under this act for the purposes of this section.

(6) Every person who issues a receipt under subsection (5) shall retain in his records the duplicate copy of every receipt issued by him and shall preserve that copy for a period of two years or such longer period as may be prescribed by regulations made under this Act.

(7) The name and address referred to in paragraph (b) of subsection (5) shall be in a printed form and the receipts issued under this Act shall be numbered and issued in accordance to the serial number.

(8) Any person. required to issue receipts in accordance with the - provisions of this Act shall, for every print of a receipt book, submit to the Commissioner the copy of the printers certificate showing the quantity of the receipts printed, their serial numbers and the name of the printer.

(9) Any person who is liable to pay stamp duty under this Act shall keep proper records of his affairs showing all duties paid by him.

PART III ADJUDICATION OF STAMP DUTY

Adjudication
Act No. 15 of
2000

43.-(1) Where any person is in doubt as to whether or not any instrument is required to be stamped or as to the amount of the stamp duty payable in respect of any instrument, he may, upon payment of such fee as may be prescribed, apply for an adjudication by a Stamp Duty Officer.

(2) Where an application under subsection (1) is made to a Stamp Duty Officer, such officer may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of duty with which it is chargeable, are fully and truly set forth therein and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly:

Provided that—

- (a) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an inquiry as to the duty with which the instrument to which it relates is chargeable; and
- (b) every person by whom such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

(3) Any person aggrieved by an adjudication by a Stamp Duty Officer under this section may, within thirty days after the date of such adjudication, submit to the Stamp Duty Officer a memorandum of appeal setting forth the grounds of his objections, and upon receipt of such memorandum and such fee for lodging and appeal as may be prescribed, the Stamp Duty Officer shall forward the memorandum to the Commissioners for their decision.

(4) The Commissioners may call for from the Stamp Duty Officer or the person lodging the memorandum such particulars as they may require for the purposes of determining the matters raised in the memorandum of appeal.

(5) The decision of the Commissioners on an appeal under subsection (3) shall, subject to reference to the Tax Revenue Appeals Board made under section 68, be final and bind the Stamp Duty Officer and the parties to the instrument.

Certificate by
Stamp Duty
Officer

44.-(1) When an instrument brought to a Stamp Duty Officer under section 42 is, in his opinion, one of a description chargeable with duty, and—

- (a) that officer determines that it is already fully stamped; or
- (b) the duty determined by that officer under section 42 or the difference, if any, between the duty so determined and the duty previously paid, has been paid, that officer shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

(2) When such instrument is, in his opinion, not chargeable with duty, the Stamp Duty Officer shall certify in the manner aforesaid that such instrument is not so chargeable.

(3) Any instrument upon which an endorsement has been made

under this section certifying either that it is not chargeable with any duty, or is duly stamped, shall be admissible in evidence, and available for all purposes notwithstanding any objection relating to duty:

Provided that nothing in this section shall authorise a Stamp Duty Officer to make an endorsement under this section in respect of—

- (a) any instrument (other than an instrument to which paragraph (b) applies) executed or first executed in Tanzania Mainland and brought to him after the expiration of thirty days from the date of its execution or first execution, as the case may be; or
- (b) any receipt, acknowledgement or debt, promissory note or bill of exchange drawn and executed in Tanzania Mainland when brought to him after the drawing or execution was not duly stamped; or
- (c) any instrument (other than an instrument to which paragraph (d) applies) executed or first executed outside Tanzania Mainland and brought to him after the expiration of thirty days after it has been received in Tanzania Mainland; or
- (d) any promissory note or bill of exchange executed outside Tanzania Mainland, when brought to him after the expiration of seven days after it has been first received in Tanzania Mainland.

PART IV INSTRUMENTS NOT DULY STAMPED

Examination
and
impounding of
instrument
Act No.6
of 2006
s.28

45.-(1) A public officer to whom an instrument is produced in the course of the performance by him of his functions, shall examine such instrument to ascertain whether such instrument is duly stamped and shall, if he is satisfied that it is not duly stamped, impound the instrument or cause the same to be impounded by any other public officer.

(2) The Commissioner-General or any public officer authorised in that behalf by the Commissioner-General, may require any person to produce to him any chargeable instrument in possession of such person, and may exercise in relation to any such instrument so produced to him, the powers conferred upon a public officer by subsection (1).

(3) Failure by any public officer to examine or impound any instrument as required by this section shall, in no circumstances, affect—

- (a) any proceedings under this Act or any other written law;
- (b) the chargeability, or otherwise, of such instrument.

(4) In this section "public officer" includes any arbitrator or other person having by law or consent of parties authority to receive evidence.

Special
provision as
to unstamped
receipts

46. Where any receipt or acknowledgement of debt is tendered to or produced before any public officer unstamped in the course of the audit of any public account, such officer may in his discretion, instead of impounding the instrument, require a duly stamped receipt to be substituted therefor.

Instruments

47.-(1) No instrument chargeable with duty shall be admitted in

not duly stamped inadmissible in evidence

evidence for any purpose by any person having by law or consent of parties authority to receive the evidence or shall be acted upon, registered in evidence authenticated by any such person or by any public officer, unless such instrument is duly stamped:

Provided that—

- (a) any such instrument not being a receipt, an acknowledgement of debt, a bill of exchange (other than a cheque or a bill of exchange presented for acceptance, accepted or payable elsewhere than in Tanzania Mainland or a promissory note shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, or the amount required to make up such duty, together, with a penalty of a sum of money equal to ten times the amount of the proper duty or deficient thereof portion or four hundred shillings, whichever be the lesser sum of money;
- (b) where any person from whom a stamped receipt could have been demanded has given an unstamped receipt and such receipt if stamped would be admissible in evidence against him, then such receipt shall be admitted in evidence against him on payment of a penalty of ten shillings by the person tendering it;
- (c) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped;
- (d) nothing contained herein shall prevent the admission of any instrument in evidence in any proceeding for a criminal offence;
- (e) nothing contained herein shall prevent the admission of any instrument in any court when such instrument has been executed by or on behalf of the Government, or where it bears the certificate of a proper officer as provided by section 22 or section 43 or any other provision of this Act.

(2) The provisions of subsection (1) shall not apply to any instrument chargeable with duty and not duly stamped which was drawn, given, or executed by the Administrator-General or Public Trustee in his official capacity prior to the 31st day of August, 1933.

(3) Failure by any public officer to examine and impound any instrument as required by this subsection shall, in no circumstances affect—

- (a) any proceedings under this Act or any other written law;
- (b) the chargeability, or otherwise, of such instrument, for the purpose of this section.

Instruments impounded, how dealt with

48.-(1) Where the person impounding an instrument under section 44 has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section 46, he shall send to a Stamp Duty Officer an authenticated copy of such instrument, together with—

- (a) a certificate in writing, stating the amount of duty and penalty levied in respect thereof; and
- (b) the amount of duty and penalty so collected.

(2) In every other case, the person so impounding an instrument shall send it in original to the Stamp Duty Officer.

Stamp Duty Officer may refund penalty paid under section

49.-(1) When a copy of an instrument is sent to a Stamp Duty Officer under subsection (1) of section 47, he may, with approval of the Commissioners, refund any portion of the penalty in excess of fifty shillings which has been paid in respect of such instrument.

(2) When such instrument has been impounded only because it has been written in contravention of section 18 or section 19, the Stamp Duty Officer may, with the approval of the Commissioners, refund the whole penalty so paid.

Stamp Duty Officer may stamp instruments impounded Act No. 18 of 2002 s. 50

50.-(1) When a Stamp Duty Officer impounds any instrument under this Act or receives any instrument sent to him under subsection (2) of section 47 not being a receipt, an acknowledgement of a debt, a bill of exchange or a promissory note, he shall adopt the following procedure—

- (a) if he is of the opinion that such instrument is duly stamped, or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be;
- (b) if he is of the opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of an amount equal to 25% of the duty payable and not more than the amount equal to ten times the amount of the proper duty or of the deficient portion thereof:

Provided that—

- (i) when such instrument has been impounded only because it has been written in contravention of section 18 or section 19, the Stamp Duty Officer may, with the approval of the Commissioners, remit the whole penalty prescribed by this section;
- (ii) where any instrument is impounded before the time for stamping prescribed by or under section 24, section 25 or section 26, as the case may be, has expired, the Stamp Duty Officer may remit the whole penalty prescribed by this section conditionally on the duty being paid within such period as he may determine.

(2) Every certificate under paragraph (a) of subsection (1) of this section shall, for the purpose of this Act, be conclusive evidence of the matters stated therein unless the court is satisfied that it was not signed by a Stamp Duty Officer or that it was obtained by fraud.

(3) Where an instrument has been sent to a Stamp Duty Officer under subsection (2) of section 47 the Stamp Duty Officer shall, when he has dealt with it as provided by this section, return it to the impounding officer.

Instruments unduly stamped by accident

51. If any instrument chargeable with duty and not duly stamped, not being a receipt, an acknowledgement of a debt, a bill of exchange or a promissory note, is produced by any person of his own motion before a Stamp Duty Officer within one year from the date of its execution or first execution, and such person brings to the notice of the Stamp Duty Officer the fact that such instrument is not duly stamped and offers to pay the Stamp Duty Officer the amount of the proper duty, or the amount required to make up the same, and the Stamp Duty Officer is satisfied that the omission to duly stamp such instrument was occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections 44 and 49, receive such amount, and proceed in the manner prescribed by section 51.

Endorsement of instruments on which duty has been paid under sections 47, 50 and 51 Act No. 15 of 2000 s. 38

52.-(1) When the duty and penalty (if any) leviable in respect of any instrument have been paid under section 46, 49 or 50 the person admitting such instrument in evidence or the Stamp Duty Officer, as the case may be, shall certify by endorsement thereon the receipt of the proper duty or, as the case may be, the proper duty and penalty, stating the amount of each and the name and residence of the person paying the same.

(2) Every instrument upon being so endorsed shall be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered, on application in that behalf made by him, to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct:

Provided that no instrument which has been admitted in evidence upon payment of duty and penalty under section 46 of this Act shall be so delivered before the expiration of one month from the date of such impounding, or if the Stamp Duty Officer certified that its further detention is necessary and has not cancelled such certificate.

Proceedings under this Part not to bar prosecution section 161 of the Tax Administration Act 2014

53. The taking of proceedings or the payment of a penalty under this Part in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence against this Act or the Tax Administration Act in respect of such instrument.

Persons paying duty or penalty may recover same in certain cases

54.-(1) When any duty or penalty has been paid under section 46, 49 or section 50 by any person in respect of an instrument, and, by agreement or under the provision of section 40, or any other written law in force at the time when such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

(2) For the purpose of recovery of any sum of money under subsection (1) any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters certified unless the court is satisfied that the person signing the certificate did not, at the time of signing it, hold the office which is required to be held for the purpose of

giving such certificate.

(3) Such amount may, if the court thinks fit, be included in any order as to costs in any suit or proceedings to which such persons are parties, and in which such instrument has been tendered in evidence.

Power of Commissioners to refund penalty or excess duty in certain cases

55.-(1) Where any penalty is paid under section 46 or section 50, the Commissioners may, upon application in writing made within one year from the date of payment, refund such penalty wholly or in part.

(2) Where, in the opinion of the Commissioners, stamp duty in excess of that which is legally chargeable has been charged and paid under section 46 or section 49, the Commissioners may, upon application in writing made within three months of the order charging the same, refund the excess.

Non-liability for loss of instruments sent under section 48

56.-(1) If any instrument sent to a Stamp Duty Officer under subsection (2) of section 47 is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

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

Provided that in the event of the loss, destruction or damage of the original instrument such authenticated copy shall be admissible in evidence in any court.

Power of payer to stamp bills, promissory notes and cheques received by him unstamped

57. When any bill of exchange, promissory note or cheque is presented for payment unstamped or insufficiently stamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and upon cancelling the same in manner herein before provided, may pay the sum payable upon such bill, note or cheque, and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill, note, or cheque shall, so far as respects the duty, be deemed good and valid:

Provided that nothing herein contained shall relieve any person from any penalty or proceedings to which he may be liable for failure to properly stamp such bill, note or cheque.

Appeals to the Tax Revenue Appeals Board Act No. 15 of 2000 s. 38 Act No. 6 of 2006 s. 28 section 162 of the Tax Administration Act 2014

~~58. Without prejudice to any other method of recovery of duty and penalties payable under the Act, where any amount of duty or penalty is due from any person, the Commissioner General may lodge an appeal with the Tax Revenue Appeals Board, a certificate stating—~~

~~(a) the name and address of the person from whom such~~

amount is due; and

(b) ~~the amount due,~~

~~and upon such certificate being lodged with such Board, such certificate shall be deemed to be a decree passed by such Board against the person named in the certificate for payment by such person to the Government of the amount stated in the certificate together with interest thereon at twenty per centum per annum from the date on which such certificate is filed until the date of payment, and every such decree may be executed in the same manner as a decree passed by a court of a Resident Magistrate in a civil suit.~~

Instruments
tendered in
primary courts
section

59.-(1) Notwithstanding any provision of this Part or section 71—

- (a) where any instrument chargeable with duty is tendered in evidence in a primary court, the primary court may admit it in evidence without examination or, if the court examines the same and it appears that it is not duly stamped, may, instead of impounding the same, order that it be presented for adjudication and, if necessary, stamped within such period as the court may specify and pending such adjudication and stamping may refuse to admit it in evidence;
- (b) where a Primary Court has admitted in evidence any instrument which is not duly stamped, a District Court or the High Court, in the exercise of their respective jurisdictions under Part III of the Magistrates' Court Act, may, instead of impounding the same, order it to be presented for adjudication and, if necessary, stamped, within such period as the court may specify and, if it is not stamped in accordance with such adjudication, may, in its discretion, exclude the instrument from evidence in the proceedings, and, where a court so orders, the instrument may be adjudicated upon and stamped within such period.

(2) If an instrument to which an order made under this section relates is not presented for adjudication and stamped in accordance therewith within the period specified, the instrument may be seized on the order of the court and impounded.

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PART V ALLOWANCES FOR STAMPS

Allowances for
spoiled stamps

60.-(1) Subject to such rules as may be prescribed as to the evidence to be required, or the inquiry to be made, a Stamp Duty Officer may on application made within the period prescribed in section 60, and if he is satisfied as to the facts, make allowance for stamps spoiled in the cases hereinafter mentioned, namely—

- (a) the stamp on any paper inadvertently or accidentally spoiled, obliterated or, by error in writing or any other means, rendered unfit for the purpose intended before any instrument written thereon is executed by any person;
- (b) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party

- thereto;
- (c) in the case of bills of exchange, cheques or promissory notes—
- (i) the stamp on any bill of exchange or cheque 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:
Provided that the paper on which any such stamp is impressed does not bear any signature intended as, or for the acceptance of, any bill of exchange or cheque to be afterwards written thereon;
- (ii) the stamp on any 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;
- (iii) the stamp used or intended to be used for any bill of exchange, cheque, or promissory note signed by, or on behalf of the drawer thereof but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange or cheque, may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee:
Provided that another completed and duly stamped bill of exchange, cheque or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill, cheque or note;
- (d) the stamp used for an instrument executed by any party thereto which—
- (i) has been afterwards found to be absolutely void in law from the beginning;
- (ii) has been afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended;
- (iii) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed;
- (iv) for want of the execution by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended;
- (v) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby granted, totally fails to the intended purpose;

- (vi) becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument between the same parties and bearing a stamp of no less value;
 - (vii) is insufficiently stamped provided that the transaction intended to be effected thereby has been effected by some other instrument between the same parties and bearing a stamp of no less value;
 - (viii) is inadvertently spoiled and in lieu another instrument made between the same parties, and for the same purpose is executed and duly stamped;
- (e) the stamp used on any instrument of lease, conveyance, transfer or other disposition of immovable property, where such lease, conveyance, transfer or other disposition becomes inoperative or ineffective in law for absence of consent of the President, a Minister or a public officer.
- (2) Notwithstanding the provisions of subsection (1) no allowance for stamp duty shall be made—
- (a) in the case of an instrument which has been executed by any party, unless such instrument is tendered to the Stamp Duty Officer for cancellation;
 - (b) in the case of a bill of exchange or a promissory note, if the duty paid is of less than fifteen shillings.
- (3) A certificate by a Stamp Duty Officer signifying the amount of duty paid shall, for the purposes of this section, be deemed to be a stamp of the amount stated in such certificate.
- (4) Subject to the provisions of section 60, the provisions of this section shall apply in relation to any stamp fixed or impressed under any written law in force before the commencement of this Act.

Application for relief under section 60, when to be made

- 61.** The application for relief under subsection (1) of section 59 shall be made—
- (a) in the cases mentioned in paragraph (d)(v) of the said subsection, within six months of the date of the instrument;
 - b) in cases of instruments referred to in paragraph (e) of that subsection, within two years of the date of the notification of the refusal to give consent;
 - (c) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto within two years after the stamp has been spoiled;
 - (d) in the case of a stamped paper on which an instrument has been executed by any of the parties, within two years after the execution by the person by whom it was first or alone executed:
- Provided that—
- (i) when the spoiled instrument has been lawfully sent out of Tanzania Mainland, the application may be made within two years after it has been received back in Tanzania Mainland;

- (ii) when, from unavoidable circumstances, any instrument for which another instrument has been substituted, cannot be given up to be cancelled within the aforesaid period, the application may be made within two years after the date of execution of the substituted instrument.

Allowance by Commissioners and Commissioner-General Act No.6 of 2006 s.28

62.-(1) The Commissioners may, at any time, make allowance for stamped papers used for printed forms of instruments by any banker or by any incorporated company or other body corporate, if for any sufficient reason such forms have ceased to be required by such banker, company or body corporate, provided that the Commissioners are satisfied that the duty in respect of stamped papers has been duly paid.

(2) Where in the opinion of the Commissioner-General it is just and equitable that allowance be made for any stamp in any case, he may, by order under his hand, direct that such allowance be made.

Allowance for misused stamps

63. Where—

- (a) any person has inadvertently used for an instrument chargeable with duty a stamp or a description other than prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with duty; or
- (b) any stamp used for an instrument has been inadvertently rendered useless under section 21, owing to such instrument having been written in contravention of the provisions of section 19,

a Stamp Duty Officer may, on application made within two years after the date of the instrument, or, if it is not dated, within two years after the execution by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being restamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

Allowance for spoiled or misused stamps, how to be made Act No.6 of 2006 s.28

64. In case in which allowance is made for spoiled or misused stamps, or the Commissioner-General has directed that allowance for any stamp be made, the Stamp Duty Officer 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 of the same amount in value; or
- (c) at his discretion, the same value in money.

Allowance for stamps not required for use

65. When any person is in possession of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended and for which he has no immediate use, a Stamp Duty Officer shall repay to such person the value of such stamp or stamps in money, deducting ten cents for each shilling or portion of a shilling, upon such person delivering up the same to be cancelled, and proving to such officer's satisfaction—

- (a) that such stamp or stamps were purchased by him 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 two years immediately preceding the date on which they were so delivered:

Provided that where the person is a licensed vendor of stamps a Stamp Duty Officer may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

Allowance on renewal of certain debentures

66.-(1) When any duly stamped debenture is renewed by the issue of a new debenture in the same terms, a Stamp Duty Officer shall, upon production to him of the new debenture duly stamped, within one month from the date of the execution of such new debenture, repay to the person issuing such debenture, the value of the stamp on the original or on the new debenture, whichever shall be less:

Act No.6 of 2006 s.28

Provided that such repayment shall be made only where the original debenture is produced before the Stamp Duty Officer and cancelled by him in such manner as the Commissioner-General may direct.

(2) For the purposes of subsection (1) a debenture shall be deemed to be renewed on the same terms notwithstanding any of the following changes—

- (a) the issue of two or more debentures in place of one original debenture, the total amount secured being the same;
- (b) the issue of one debenture in place of two or more original debentures, the total amount secured being the same;
- (c) the substitution of the name of the holder at the time of renewal for the name of the original holder;
- (d) the alteration of the rate of interest or the dates of payment thereof.

section 163 of the Tax Administration Act 2014
“Application of allowance”

66A. -Where a person is granted an allowance under this Part, the Commissioner General may direct that, the allowance be applied in reduction of any tax due payable by the person under any tax law.

PART VI REFERENCE AND REVISION

Control of Commissioners

67.-(1) The functions of the Stamp Duty Officers under this Act shall be subject to the control of the Commissioners.

(2) Where a Stamp Duty Officer acting under section 42 or section 49 is in doubt as to the amount of the stamp duty payable, he may draw up a statement of the case and refer it with his own opinion thereon for the decision of the Commissioners.

(3) Where a reference is made to the Commissioners under subsection (2), the Commissioners shall send a copy of their decision to the Stamp Duty Officer who shall proceed to assess and charge the duty, if any, in conformity with such decision.

Statement of case by Commissioners to Tax

68. The Commissioners may, and shall if so requested by any interested party, state any case referred to them under section 66 or otherwise before them for their consideration, and refer such case, with their own opinion, to the Tax Revenue Appeals Board:

Revenue Appeals Board Act No. 15 of 2000 s. 38

Provided that where any interested party makes a request for reference to the Tax Revenue Appeals Board under this section, the Commissioners shall not refer the case to the Tax Revenue Appeals Board unless such person has first paid such fee as may be prescribed.

Power of Tax Revenue Appeals Board to call for further particulars as to the case stated Act No. 15 of 2000 s. 38

69. If the Tax Revenue Appeals Board is not satisfied that the statements contained in any case referred to it under the provisions of section 66 are sufficient to enable it to determine the questions raised thereby the Board may remit the case to the Commissioners to make such additions thereto or alterations therein as the Board may direct in that behalf.

Procedure in disposing of case stated Act No. 15 of 2000 s. 38

70.-(1) The Tax Revenue Appeals Board, upon the consideration of any case referred to it under section 67, shall decide the questions raised and shall deliver its judgment thereon stating the grounds on which such decision is founded.

(2) The Board shall send to the Commissioners a copy of such judgment under the seal of the Board; and the Commissioners shall on receiving such copy, dispose of the case in conformity with such judgment.

Statement of case by other courts to High Court

71.-(1) If any court, other than the High Court, is in doubt as to the amount of duty to be paid in respect of any instrument to which proviso (a) to section 46 applies, the magistrate may draw up a statement of the case and refer it, with his own opinion thereon for decision of the High Court.

(2) The High Court shall deal with the case as if it had been referred to it under section 67, and send a copy of its judgment under the seal of the court to the Commissioners and another like copy to the judge or magistrate making the reference, who shall, on receiving such copy, dispose of the case in conformity with such judgment.

Revision of certain decisions of courts regarding the sufficiency of stamps
section 164 of the Tax Administration Act, 2014

72.-(1) When any court in the exercise of its civil jurisdiction makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 46, the court to which appeals lie from, or references are made by, such first-mentioned court may, of its own motion or on the application of a ~~Stamp Duty Officer~~ **the Commissioner General**, take such order into consideration.

(2) If such court, after such consideration, is of the opinion that such instrument should not have been admitted in evidence as duly stamped or as not requiring a stamp, it shall exclude such instrument from the evidence in the suit or proceedings on the ground that the instrument has not been duly stamped.

(3) If such court, after such consideration, is of the opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 46, or without the payment of a higher duty and penalty than those paid, it shall record a declaration to that effect and determine the amount of duty with which such instrument is chargeable, and shall require any person in whose possession or power such instrument then is to produce the same, and shall impound the same when produced.

(4) When any declaration has been recorded under subsection (3) of this section, the court recording the same shall send a copy thereof to a Stamp Duty Officer, and, where the instrument to which it relates has been impounded or is otherwise in the possession of such court, shall also send him such instrument.

(5) A Stamp Duty Officer may, notwithstanding anything contained in an order admitting such instrument in evidence, or in any certificate granted under this Act in respect of such instrument, prosecute any person for any offence against this Act which he considers such person to have committed in respect of such instrument.

PART VII OFFENCES

Offences relating to stamp duty Acts Nos: 13 of 1989 s. 30; 16 of 1994 s. 63; 13 of 1996 s. 48 Act No.6 of 2006 s.28 section 91 of TAA 2014 also refers to stamp duty offences

73.-(1) Any person who—

- (a) draws, makes, issues, endorses or transfers, or signs otherwise than as a witness, or presents for acceptance or payment, or accepts, pays or receives payment of, or in any manner negotiates, any bill of exchange, cheque or promissory note which has not been duly stamped;
- (b) votes or attempts to vote under any proxy not duly stamped;
- (c) issues any share warrant not duly stamped;
- (d) being a person required by section 18 to cancel such stamp in the manner prescribed by or under this Act, fails to so cancel the stamp;
- (e) executes any instrument in which all the facts and circumstances required by section 36 to be set forth in such instrument are not fully and truly set forth, or being employed or concerned in or about the preparation of any instrument, neglects or omits fully or truly to set forth all such facts and circumstances;
- (f) in any case in which a receipt is required to be given by this Act, fails to give such receipt, or gives a receipt which is not properly stamped;
- (g) upon receipt of a sum of money of fifty shillings or more of a property the value of which is forty shillings or more, gives one receipt, or two or more receipts, of less than, or any of them of less than forty shillings;
- (h) upon being required by the Commissioner-General, a Stamp Duty Officer, or a public officer authorised by the

Commissioner-General, to produce for inspection any register, book or document fails to do so;

- (i) being a person appointed to sell stamps, disobeys any lawful direction given by the Commissioner-General or contravenes any of the provisions of the regulations made under this Act;
- (j) not being a person appointed to sell stamps, sells or offers for sale to any person otherwise than by way of surrender to a Stamp Duty Officer, any stamp other than adhesive stamps each of the value of fifty cents or less;
- (k) fails to pay any compounded duty within thirty days of the expiry of the period during which it is required to be paid;
- (l) fails to submit to a proper officer any statement of account, record or return required to be submitted by, under or in relation to any composition agreement, within fourteen days of the expiry of the period during which the same is required to be submitted;
- (m) save with the consent of the Commissioner-General, requires any person making any payment to him or giving him any bill of exchange, cheque or promissory note (otherwise than in repayment of any sum of money lent) or requires any person delivering any property to him, to pay for the stamp duty for any receipt given for any such payment, bill of exchange, cheque, promissory note or property,

shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding two years or to both.

(2) Notwithstanding subsection (1), any person who—

- (a) does or omits to do anything with intent to evade the payment of proper stamp duty in respect of any instrument or to defraud the Government of any duty payable under this Act; or
- (b) with intent to defraud the Government of duty or part of duty payable under this Act—
 - (i) draws, makes or issues any bill of exchange or promissory note, bearing a date subsequent to the date on which such bill or promissory note is actually drawn or made;
 - (ii) knowing that any bill of exchange or promissory note has been post-dated in contravention of this provision, endorses, transfers, presents for acceptance or payment, or accepts, pays, or receives payment of such bill or promissory note, or in any manner negotiates the same;

commits an offence and upon conviction shall pay the duty which would have been paid had the offence not been committed and in addition to that shall be liable to a fine of two million shillings and imprisonment for a term of two years.

Where offence
is committed
by body

74. Where any offence under this Act or under any regulations made under this Act is committed by a body corporate then, as well as the body corporate, any person who, at the time of the commission of the

corporate offence was concerned, as a director or an officer, with the management of the affairs of such body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly, unless he proves to the satisfaction of the court that he had no knowledge and could not, by the exercise of reasonable diligence, have had knowledge and could not, by the exercise of reasonable diligence have had knowledge of the commission of the offence.

Liability of employer or principal **75.** Where any offence under this Act or under any regulations made under this Act is committed by a person as an agent or employee then, as well as the agent or employee, the principal or employer shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves to the satisfaction of the Court that he had no knowledge and could not, by the exercise of reasonable diligence, have had knowledge, of the commission of the offence.

Commissioner-General may compound offence Act No.6 of 2006 s.28 **76.-(1)** The Commissioner-General may, where he is satisfied that any person has committed an offence under this Act or under any regulations made under this Act, by order, compound such offence by requiring such person to make payment of a sum of money:

Provided that—

- (a) such sum of money shall not be less than fifty shillings or more than the aggregate of half of the maximum fine provided for such offence and twice the amount of any stamp duty not paid or not paid in accordance with the provisions of this Act;
- (b) the power conferred by this section shall only be exercised where the person admits in writing that he has committed the offence;
- (c) the Commissioner-General shall give to the person from whom he receives such sum of money, a receipt thereof.

(2) Where an offence is compounded in accordance with the provisions of subsection (1) and any proceedings are brought against the offender for the same offence, it shall be a good defence for such offender if he proves to the satisfaction of the court that the offence with which he is charged has been compounded under subsection (1).

(3) Where any person is aggrieved by any order made under subsection (1), he may, within thirty days of such order being made, appeal against such order to the High Court and the provisions of Part X of the Criminal Procedure Act shall apply *mutatis mutandis* to every such appeal as if it were an appeal against sentence passed by a District Court in the exercise of its original jurisdiction.

Burden of Proof **77.** In any proceedings for an offence under this Act, the burden to prove—

- (a) that the instrument which is the subject matter of the charge is not a chargeable instrument; or
- (b) that such instrument is properly stamped; or
- (c) that such instrument was stamped at the time when it was, by this Act, required to be stamped,

shall be on the person charged.

PART VIII
COLLECTION AND RECOVERY OF STAMP DUTY

Appointment
and duties of
agent
Act No. 13 of
1996
s. 48

78.-(1) In this Part—

"agent" means a person appointed as such under subsection (2) of this section;
"appointment notice" means a notice issued by the Commissioner under subsection (2) of this section;

"moneys" includes any debt, deposit or credit, any salary, wages and pensions payments and any other remuneration whatsoever;

"principal" means the person in respect of whom an agent is appointed.

(2) The Commissioner may, in his discretion, by written notice addressed to any person—

- (a) appoint him to be the agent of another person for the purposes of the collection and recovery of stamp duty due from such another person; and
- (b) specify the amount of such duty to be collected and recovered.

(3) An agent shall pay the stamp duty specified in his appointment notice out of any moneys which may at any time during twelve months following the date of the notice, be held by him for, or become due from him to, his principal.

(4) Where an agent claims to be, or to have become, unable to comply with subsection (3) of this section by reason of the lack of moneys held by, or due from him, he shall, as soon as may be practicable, notify the commissioner accordingly in writing setting out fully the reasons for his inability so to comply, and the Commissioner may—

- (a) accept the notification and cancel or amend the appointment notice accordingly; or
- (b) if he is not satisfied by such reasons, reject the notification.

(5) Unless and until a notification is given by an agent under subsection (4) of this section—

- (a) sufficient moneys for the payment of the stamp duty specified in his appointment notice shall be presumed to be held by him for, or due from him to, his principal; and
- (b) in any proceedings for the collection or recovery of such duty, he shall be stopped from asserting the lack of such moneys.

(6) For the purposes of this section, the Commissioner may, by notice in writing at any time require any person to furnish him with a reasonable time, not being less than thirty days from the date of service of such notice, with a return showing any moneys which may be held by such person for, or become due to him by, any other person from whom tax is due.

(7) Where an agent fails to pay any amount of stamp duty specified in his appointment notice within thirty days—

- (a) of the date of service of such notice on him; or
- (b) of the date on which any moneys came into his hands for, or become due by him to, his principal, whichever is the later, and—

- (i) he has not given a notification under subsection (4) of this section; or
- (ii) he has given such notification which has been rejected by the Commissioner; the provisions of this Act relating to the collection and recovery of stamp duty shall apply to the collection and recovery of such amount as if it were due and payable by the agent, the due date for the payment of which was the date upon which such amount should have been paid to the Commissioner under this subsection.

(8) An Agent who has made any payment of stamp duty under this section shall for all purposes be deemed to have acted therein with the authority of his principal and of all other persons concerned, and shall be indemnified in respect of such payment against all proceeding, civil or criminal, and all process, judicial or extrajudicial, notwithstanding any provisions to the contrary in any written law, contract or agreement.

(9) Any person who, in giving a notification under subsection (4) of this section, wilfully makes any false or misleading statement, or wilfully conceals any material fact, commits an offence.

(10) For the purposes of this section, cases where moneys are held by an agent for, or due by him to, his principal, shall include cases where the agent—

- (a) owes or is about to pay or becomes liable to pay the principal; or
- (b) holds money on account of some other person for payment to the principal; or
- (c) has authority from some other person to pay money to the principal.

Deceased persons Acts Nos: 13 of 1996 s. 48; 15 of 2000 s. 38

79. Where any person dies then, to the extent to which any stamp duty remains unpaid shall be a debt due and payable out of his estate.

Collection of stamp duty from person leaving or having left the United Republic Act No. 13 of 1996 s. 48; 15 of 2000 s. 38

80.-(1) Notwithstanding anything to the contrary in this act, where the Commissioner has reason to believe that any person who is liable to pay stamp duty under any provision of this Act—

- (a) is about to leave the United Republic without having paid such duty; or
 - (b) has left the United Republic without having paid such duty and his absence is unlikely to be only temporary,
- he may, whether or not the due date for the payment of such duty has arrived, by notice in writing served on such person require—

- (i) that payment of the whole, or such part as remains unpaid, or payable be made within such time as may be specified in the notice; or
- (ii) that security to his satisfaction be given for such

payment.

(2) Where any notice has been served on any person under this section the amount of the stamp duty payable and required to be paid shall, notwithstanding that an appeal is pending or a request for reference to the Tax Revenue Appeals Board has been made, be deemed to be due and payable on the date specified in such notice and in default of compliance with such notice the Commissioner shall in addition to any action taken under subsection (3) of this section or under section 77 be entitled forthwith to recover the duty by suit or distress under this Act:

Provided that, if subsequent to the commencement of any suit under this section compliance is made with such notice, any such suit shall be discontinued.

(3) Where any person has failed to comply with a notice served personally on him under this section, the Commissioner may apply to a resident magistrate for the arrest of such person, and if the resident magistrate is satisfied by affidavit or otherwise—

- (a) that an amount of stamp duty is due and payable by such person;
- (b) that such person has failed to comply with such notice; and
- (c) that there is reason to believe that such person is about to leave the United Republic,

he may issue a warrant to arrest such person and bring him before the court to show cause why he should not pay such duty or give security therefor to the satisfaction of the Commissioner:

Provided that such a person shall not be arrested if he pays to the officer entrusted with the warrant the amount of the stamp duty due.

(4) Where any person is brought before a court under subsection (3) of this section fails to show cause as thereby required, the magistrate may order him either forthwith to pay the amount of stamp duty due or forthwith to give security thereof to the satisfaction of the Commissioner and, in default of compliance, to be committed to prison until either such stamp duty due is paid or such security given:

Provided that—

- (a) no such person shall be detained in prison for a longer period than six months;
- (b) the detention in prison of any such person shall not release such person from the liability to pay such duty.

(5) In any proceedings under subsection (3) or (4) of this section the production of a certificate signed by the Commissioner giving the name and address of the person and the amount of stamp duty due and payable by him shall be sufficient evidence that such amount of stamp duty is due and payable by such person.

(6) The compliance by any person with a notice served on him under subsection (1) of this section shall not prejudice his right to appeal or to request for reference to the Tax Revenue Appeals Board and finally if upon determination, the amount of stamp duty due and payable by such person is—

- (a) less than the amount paid, then the amount overpaid shall be refunded together with interest thereon at such rate as the court may order;
- (b) more than the amount paid, then the amount underpaid shall be payable as if it were a balance of stamp duty charged.

Collection of
duty from
guarantor
Act No. 13 of
1996
s. 48

81.-(1) Where any security has been given under subsection (1) of section 79 and such security consists of a form of guarantee under which, in default of payment of stamp duty in terms of the security, a person (in this section referred to as guarantor) is obliged to pay such duty the Commissioner may, in default of payment of the duty by notice in writing served on the guarantor require him to pay within ninety days of the notice, such amount of stamp duty (not exceeding the amount guaranteed by him) as shall be specified in such notice.

(2) The provisions of this Act relating to the collection and recovery of stamp duty shall apply to the collection and recovery of the amount of stamp duty specified in a notice added under this section as if that amount were stamp duty due and payable by the guarantor and as if the due date of the payment of that amount were the date upon which the amount was due for payment under the notice.

Collection of
stamp duty by
distrain
Act No. 13 of
1996
s. 48

82.-(1) In any case in which stamp duty is recoverable by suit by the Commissioner, he may, instead of suing for such stamp duty, recover the same by distress, and for that purpose may by order under his hand authorise any public officer or an officer of a court to execute such distress upon the goods and chattels of the person from whom such stamp duty is recoverable and such officer may at the cost of the person from whom such duty is recoverable, employ such servants or agents as he may think necessary to assist him in the execution of the distress:

Provided that—

- (a) where the full amount of the stamp duty due and payable is not recovered by such distress, the Commissioner may forthwith recover the deficiency in any other manner provided by this Act;
- (b) where the full amount of stamp 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 Commissioner prior to the payment of the stamp 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 Commissioner as stamp duty under this Act.

(2) For the purposes of levying any distress under this section an officer authorised under subsection (1) of this section together with such servants or agents as such person may consider necessary, may break open in the daytime any premises, and any such officer may require any police officer to be present while such distress is being levied and any police officer so required shall comply with such requirement.

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

(4) If the person from whom stamp duty is recoverable by distress does not pay such duty together with the costs of the distress within the period of ten days referred to in subsection (3) of this section, the goods and chattels distrained upon shall be sold by public auction for payment of the duty due and payable and all such costs, and the proceeds of such sale shall be applied first towards chattels distrained upon, then towards the duty due and payable and any remainder of such proceeds shall be restored to the

owner of the property distrained.

Cap.33

(5) For the purpose of this section, the provisions of the Civil Procedure Code in relation to distress shall not apply and the Minister shall, by regulations published in the Gazette, provided for the procedure for distress for the purpose of this section.

Security on property for unpaid duty
Act No. 13 of 1996
s. 48

83.-(1) Where any person being the owner of land or any premises situated in the United Republic fails to make payment of any stamp duty due by him on or before the due date or fails to comply with a notice served on him under section 79, the Commissioner may by notice in writing notify such person of his intention to apply to the Registrar of Titles for such land or premises to be the subject of security for stamp duty of an amount specified in the notice.

(2) If any person on whom a notice has been served under this section fails to make payment of the whole of the amount of the stamp duty specified in the notice within thirty days of the date of the service of the notice, the Commissioner may by notice in writing direct the Registrar of Titles that the land or building, to the extent of the interest of such person therein, be the subject of security for stamp duty of a specified amount, and the registrar shall without fee, register such direction as if it were an instrument of mortgage over or charge on, as the case may be, such land or premises and thereupon such registration shall subject to any prior mortgage or charge operate while it subsists in all respects as a legal mortgage over or charge on such land or premises to secure the amount of the stamp duty.

(3) The Commissioner shall, upon the payment of the whole of the amount of the stamp duty secured under subsection (2) of this section by notice in writing to the Registrar of Titles cancel the direction made under that subsection and the Registrar shall, without fee, record such cancellation and thereupon such direction shall cease to subsist.

Collection of stamp duty from shipowner
Act No. 13 of 1996
s. 48

84.-(1) In addition to any other powers of collection of stamp duty provided in this Act, the Commissioner may in any case where stamp duty recoverable by suit has been charged on any person who carries on the business of ship-owner, charterer or air transport operator, issue to the proper officer of Customs by whom clearance may be granted a certificate containing the name of such person and the amount of the stamp duty due and payable and on receipt of such certificate the proper officer of Customs shall refuse clearance from any port or airport in the United Republic to any ship or aircraft owned by such person until such duty has been paid.

(2) No civil or criminal proceedings shall be instituted or maintained against the proper officer of Customs or any other authority in respect of a refusal of clearance under this section, nor shall the fact that a ship or aircraft is detained under this section affect the liability of the owner, charterer or agent to pay harbour or airport dues and charges for the period of detention.

PART IX MISCELLANEOUS PROVISIONS

Power of inspection
Act No. 13 of 1996

85. Every person, whether a public officer or not having in his custody any registers, books, records, papers, documents or proceedings, the inspection 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

s. 48 times, permit a Stamp Duty Officer or any person authorised in writing in that behalf by the Commissioner-General to inspect for such purpose the registers, books, papers, documents, and proceedings, and take such notes and extracts as he may deem necessary without fee or charge.

Regulations **86.** The Minister may make regulations for the better carrying out of the purposes and provisions of this Act, and without prejudice to the generality of the foregoing, may make regulations—

- (a) regulating the supply and sale of stamps and stamped papers;
- (b) providing for the authorisation of persons by whom stamps and stamped papers may be sold;
- (c) providing for the remuneration of persons, other than public officers, authorised to sell stamps and stamped papers;
- (d) prescribing the manner in which the Commissioners shall exercise their functions under this Act;
- (e) providing for any one Commissioner to exercise the functions of the Commissioners;
- (f) regulating composition agreements;
- (g) providing for anything or matter which may be prescribed or provided for by rules or regulations.

PART X REPEAL AND SAVINGS

Definition of R.L. Cap. 189 **87.** [Definition of the Stamps Ordinance as meaning the Stamps Ordinance *].

Repeal of R.L. Cap. 189 **88.** [Repeal of the Stamps Ordinance.]

Savings **89.** Notwithstanding the repeal of the Ordinance—

- (a) until such time as the appointment of any such person is revoked by appropriate subsidiary legislation made under this Act—
 - (i) all persons appointed as Commissioners for the purposes of the Ordinance, shall be deemed to have been appointed as Commissioners for the purposes of this Act;
 - (ii) every person appointed as a revenue authority or having, immediately before the commencement of this Act, the powers of a revenue authority under the Ordinance, shall be deemed to have been appointed a Stamp Duty Officer for the purposes of this Act;
- (b) until revoked by regulations made under this Act, the Stamp Duties (Stamping of Instruments) Rules * shall continue in effect as, and be deemed to be, regulations made under this Act and may be amended accordingly;
- (c) all exemptions granted under section 15A of the Ordinance shall continue in force and have effect as exemptions granted under section 16;
- (d) every composition agreement entered into under section 13

or section 14 of the Ordinance shall continue in force as a composition agreement entered under the corresponding provision of this Act;

- (e) every order made under section 14 of the Ordinance providing for the composition or consolidation of duties shall continue in force as an order made under section 13 of this Act;
- (f) where immediately before the commencement of this Act any proceeding for adjudication of duty is pending before a revenue officer or before the Commissioners or the High Court, such proceeding may be proceeded with, concluded, appealed against or referred to the High Court or other authority in the manner provided for in this Act, and the relevant provisions of this Act shall apply.

Transitional provisions

90. Transitional provisions

SCHEDULE

**STAMP DUTY ON INSTRUMENTS
(Section 5)**

<i>Article No.</i>	<i>Description of Instruments</i>	<i>Proper Stamp Duty</i>
1.	ACKNOWLEDGEMENT of a debt: (a) of an amount not exceeding TShs. 1,000/=	Nil
	(b) of an amount exceeding TShs. 1,000/=	TShs. 500/=
2.	ADMINISTRATION BOND: (a) where the amount is less than TShs. 1,000/=	Nil
	(b) where the amount is TShs. 1,000/= or more	TShs. 500/=
3.	ADOPTION DEED: that is to say any instrument (other than a will) recording an adoption or conferring or purporting to confer an authority to adopt.	TShs. 500/=
4.	AFFIDAVIT: Including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of taking oath. Exemptions: (a) Affidavit or declaration in writing when made— (i) for the immediate purpose of being filed or used in any court or before an officer of any court; or (ii) for the sole purpose of enabling any person to receive any pension or charitable allowance. (b) Affidavit made for use before any Commission appointed by the President to hold an Inquiry. (c) Statutory Declaration under section 89 of the Land Registration Act, or any Act amending or substituting that Act. (d) Omitted: Cap. 356 s. 11(1)(a)	TShs. 500/=
5.	AGREEMENT OR MEMORANDUM OF AGREEMENT: (a) if relating to the sale of a bill of exchange (b) if not otherwise provided for: (i) For a sum of money not exceeding TShs. 1,000/=	TShs. 500/=
	(ii) For a sum of money of TShs. 1,000/= or more	Nil
	(iii) Where no sum of money is involved	TShs. 500/=
	Exemptions: (1) Agreement or memorandum of an agreement— (a) For or relating to the sale of goods or merchandise exclusively, not being a Note or Memorandum chargeable under No. 41	TShs. 500/=

	<p>(b) Made in the form of tenders to the Government for or relating to any loan.</p> <p>(c) Being a contract of service required to be made in writing by or under the Employment Act or the Merchant Shipping Act.</p> <p>(d) Made with the Government, the Community or any institution or corporation.</p>	
	(2) Apprenticeship deed including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment.	
6.	<p>AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, HYPOTHECATION, PAWN OR PLEDGE, that is to say, any instrument evidencing an agreement relating to:</p> <p>(1) The deposit of title-deeds of instruments constituting or being evidence of title to any property whatsoever (other than a marketable security).</p> <p>(2) The hypothecation, pawn or pledge of movable property, where such deposit, hypothecation, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or for an existing or future debt.</p>	<p>TShs. 500/=</p> <p>TShs. 500/=</p>
7.	APPOINTMENT IN EXECUTION OF POWER, whether of trustees or of a property, movable or immovable, where made by any writing not being a will.	TShs. 2,000/=
8.	<p>APPRAISEMENT OR VALUATION, made otherwise than under an order of the Court in the course of a suit:</p> <p>(a) Where the amount is less than TShs. 1,000/=.</p> <p>(b) In any other case</p> <p>Exemptions:</p> <p>(a) Appraisement or valuation made for information of one party only, and not being in any manner obligatory between parties either by agreement or operation of Law.</p> <p>(b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.</p>	<p>Nil</p> <p>TShs.500/=</p>
9.	<p>ARTICLES OF ASSOCIATION OF A COMPANY:</p> <p>Exemptions:</p> <p>Articles of any association not formed for profit and registered under the law in force, in Tanzania relating to companies. See also Memorandum of Association of a company (No. 38)</p>	TShs. 5,000/=
10.	AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a	

	<p>partition on a reference made otherwise than by an order of the court in the course of a suit:</p> <p>(a) Where the amount or value of the property to which the award relates as set forth in such award is less than TShs.1,000/=</p> <p>(b) In any other case.</p>	<p>Nil</p> <p>TShs.500/=</p>
11.	BILL OF EXCHANGE, not being a bond, bank note or currency note.	Nil
12.	<p>BILL OF LADING (including a through bill of lading).</p> <p>Exemptions:</p> <p>(a) Bill of lading when the goods therein described are received at a place within the limits of any port within the meaning of the Customs (Management and Transfer Tax) Act, and are to be delivered at another place within the limits of the same port.</p> <p>(b) Bill of lading when executed out of Tanzania and relating to property to be delivered in Tanzania.</p>	NIL
13.	<p>BILLS OF SALE:</p> <p>(1) ABSOLUTE</p> <p>(2) By way of security</p> <p>(3) By way of collateral security for every sum of TShs. 1,000/= or part thereof secured</p>	<p>0.5 percent for the first TShs. 100,000/= then 1 percent of value in excess of TShs. 100,000/=</p> <p>1 percent of the value to a maximum of TShs. 10,000/=</p> <p>1 percent not exceeding TShs. 1,000/=</p>
14.	<p>BOND, not being a Debenture (No. 26), and not being otherwise provided for by this Act or by any Rules of court. See Administration Bond (No. 2), Bottomry Bond (No. 33), Respondentia Bond (No. 54), Security Bond (No. 55).</p> <p>Exemptions:</p> <p>(a) Bond when executed by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem or annum.</p> <p>(b) Bail Bonds in criminal cases, recognisance to prosecute or give evidence, or recognisance for personal appearance or otherwise issued or taken by the police under the Criminal Procedure Act.</p>	1 percent of the base value of the bond
15.	BOTTOMRY BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage.	1 percent of the value of the bond but not exceeding TShs. 10,000/=

16.	CANCELLATION, INSTRUMENT OF, if attested and not otherwise provided for– (a) If the duty with which the original was chargeable does not exceed TShs. 1,000/=. (b) In any other case. See also Release (No. 53), Revocation of Settlement (No. 56(b)), Surrender of Lease (No. 59), Revocation of Trust (No. 63(b))	The same duty as the original TShs. 500/=
17.	CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any auction by a Civil Court.	0.5 percent for the first TShs. 100,000/=, then 1 percent for value in excess of TShs. 100,000/=
18.	CERTIFICATE OR OTHER DOCUMENT evidencing the right or title of the holder, or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body. See also Letter of Allotment of Shares (No. 35).	Tshs 500/=
19.	CHARTER PARTY, that is to say, any instrument (except an agreement for the hire of a tug steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer whether it includes a penalty clause or not.	TShs.500/=
20.	CHEQUE.	TShs. 100/=
21.	COMPOSITION DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of licence, for the benefit of his creditors, or a Deed of Agreement under the Deeds of Arrangement Act	TShs. 500/=
22.	CONVEYANCE, not being a transfer charged or exempted under No. 60: (a) Where the amount or value of the consideration for such conveyance does not exceed TShs. 20,000/=. (b) Where the amount exceeds TShs. 20,000/=: Provided that in any case where an agreement for sale is stamped with the ad valorem duty required for a conveyance, and a conveyance in pursuance of such agreement is subsequently executed, the duty on such conveyance shall be reduced by the amount of the duty paid on such agreement, but shall not be less than TShs. 1,000/=: Provided also that in the case of a decree or order, for or having the effect of an order for foreclosure, the ad valorem Stamp Duty upon any such decree	NIL 0.5 percent for the first TShs. 100,000, then 4 percent for value in excess of TShs. 100,000/=

<p>Act. No. 5 2011 S.27</p>	<p>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 the duty, and where ad valorem Stamp Duty is paid upon such decree or order, shall be dutiable with TShs. 500/=, under the provisions of section 6 of this Act: And provided also that the duty on a conveyance by the liquidator of a company in liquidation of property forming part of the assets of the company to a shareholder in the course of the dissolution of the company shall be Tshs. 1,000/=.</p> <p>(c) for conveyance of agricultural land</p> <p>Exemptions: Conveyance of any property under the Administrator General (Powers and Functions) Act * to a trustee, heir or beneficiary if falling under Article 60(c)</p> <p>(a) conveyance of any property under the Administrator General (Powers and Functions) Act to a trustee, heir or beneficiary if falling under Article 60(c);</p> <p>(b) conveyance of any property under the Export Processing Zones and the Special Economic Zones;</p> <p>(c) conveyance on the transfer of the assets to the Special Purposes Vehicles (SPV) for the purpose of issuing asset-backed securities. This exemption shall be limited to construction of transport infrastructures and utilities projects.”</p>	<p>TShs.500/=</p>
<p>23. Act. No. 5 2011 S.27</p>	<p>COPY OF EXTRACT certified to be a true copy or extract by or by order of any public officer:</p> <p>(a) If the original was not chargeable with duty or if the duty with which it was chargeable does not exceed TShs. 1,000/=.</p> <p>(b) In any other case.</p> <p>Exemptions:</p> <p>(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record purposes.</p> <p>(b) Copy of, or extract from, any register relating to births, baptisms, marriages, divorces, deaths or burials.</p> <p>(c) Copy of, or extract from, any proceedings of a court.</p>	<p>TShs.500/=</p> <p>TShs.500/=</p>
<p>24.</p>	<p>COUNTERPART OR DUPLICATE of any instrument chargeable with duty and in respect of which the proper duty has been paid–</p>	

	<p>a. If the duty with which the original instrument is chargeable does not exceed TShs. 1,000/=.</p> <p>b. In any other case.</p> <p>Exemptions:</p> <p>(a) Counterpart or duplicate prepared and executed solely for purposes of filing and record in the Land Registry, the Registry of Documents or the Mining Registry.</p> <p>(b) Duplicate or copy of any Contract of Service made under the provisions of the Employment Act</p>	<p>TShs. 500/=</p> <p>TShs. 500/=</p>
25.	<p>CUSTOMS BOND:</p> <p>(a) Where the amount does not exceed TShs. 9,999/=.</p> <p>(b) In any other case.</p>	<p>TShs.500/=</p> <p>TShs. 40 per 1,000, the maximum should not exceed Tshs. 5000/=</p>
26.	<p>DEBENTURE:</p> <p>Explanation - The term "debenture" includes any interest coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.</p> <p>(a) If transferable by endorsement or by separate instrument of transfer.</p> <p>(b) If transferable by delivery.</p> <p>Exemptions: A debenture issued to an incorporated company or other body corporate in terms of a registered mortgage deed duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture holders. See also Bond (No. 14) and section 65.</p>	<p>The same duty as a Mortgage (No. 39) for the same amount The same duty as a Share Warrant (No. 57)</p>
27.	DEED POLL if attested and not otherwise provided for.	TShs. 500/=
28.	DELIVERY ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire or upon any wharf, such instrument being signed by or on behalf of the owner of such goods upon the sale or transfer of the property therein.	Nil
29.	DIVORCE, INSTRUMENT OF, that is to say, any instrument by which any person effects the dissolution of his marriage.	TShs.500/=
30.	EXCHANGE OF PROPERTY, instrument of.	0.5 percent for the first TShs. 100,000/=, then 1 percent of value in excess of

		TShs. 100,000/=
31.	FURTHER CHARGE, instrument of, that is to say, any instrument imposing a further charge on mortgaged property.	1 percent of the instrument with a maximum of TShs. 10,000/=
32.	GIFT, instrument of, not being a Settlement (No. 56) or Will or Transfer (No. 60).	0.5 percent for the first TShs. 100,000/=, then 1 percent of value in excess of TShs. 100,000/=
33.	INDEMNITY BOND. Exemptions: Indemnity Bonds given to the Government or any corporation or institution.	TShs. 500/=
34.	LEASE, including an under-lease or sublease and any agreement to let or sublet: (a) Where by such lease the rent is fixed and no premium is paid or delivered— (i) where the lease purports to be for a term of less than one year. (ii) where the lease purports to be for a term of not less than one year but not more than three years. (iii) where the lease does not purport to be for any definite term. (iv) where the lease purports to be in perpetuity. (b) Where the lease is granted for a fine or premium or for money advanced and where no rent is reserved. (c) Where the lease is granted for a fine or premium or for money advanced in addition to rent reserved Exemptions: Claims issued under the Mining Act and regulations made thereunder. (a) claims issued under the Mining Act and regulations made thereunder; (b) hypothecation or lease of any movable or immovable property as provided under the Export Processing Zones Act;” Cap 373	1 percent of the annual reserved rent for lease of all durations
Act. No. 5 2011 S.27		
35.	LETTER OF ALLOTMENT OF SHARES in a company, a proposed company, or in respect of any loan to be raised by any company or proposed company. See also Certificate or other Document (No. 18).	TShs. 500/=
36.	LETTER OF CREDIT, that is to say, any instrument by which one person authorises another to give credit to the person in whose favour it is drawn.	TShs. 500/=

37.	LETTER OF LICENCE, that is to say, any agreement between a debtor and his creditors that the latter shall for a specified time suspend their claims and allow the debtor to carry on business at his own discretion.	TShs. 500/=
38.	MEMORANDUM OF ASSOCIATION OF A COMPANY: (c) If accompanied by articles of association under the law in force in Tanzania relating to companies. (d) If not so accompanied. Exemptions: Memorandum of any Association not formed for profit and registered under the law in force in Tanzania relating to companies.	TShs. 5,000/= TShs. 5,000/=
39.	MORTGAGE-DEED, not being an agreement relating to Deposit of Title Deeds, Hypothecation, Pawn or Pledge (No. 6), Bottomry Bond (No. 15), Respondentia Bond (No. 54), or Security Bond (No. 55): (a) Where the amount does not exceed TShs.1,000/=. (b) Where a certified auxiliary or additional or substituted security or by way of further assurance for the abovementioned purpose where the principal or primary security is duly stamped for every sum of Shs. 1,000/= or part thereof secured. Exemptions: A mortgage bond as provided under the Export Processing Zones Act. Cap 373	1 percent of instrument, not exceeding a maximum of TShs. 10,000/= 1 percent of instrument, not exceeding a maximum of TShs. 10,000/=
Act. No. 5 2011 S.27		
40.	NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation certificate or entry not being a Protest (No. 48) made or signed by a Notary Public in the execution of the duties of his office or by any other person lawfully acting as a Notary Public.	TShs. 500/=
41.	NOTE OR MEMORANDUM, sent by a Broker or Agent to his Principal intimating the purchase or sale on account of such Principal.	Nil
42.	NOTE OF PROTEST BY THE MASTER OF A SHIP. See also Protest by the Master of a Ship (No. 49).	TShs. 500/=
43.	PARTITION, instrument of. Note: The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other share then one such equal shares) shall be deemed to be that from which the other shares are separated: Provided always that—	0.25 percent for the first TShs. 100,000/= then 1 percent of TShs. 100,000/=

	<p>(a) When an instrument of partition containing an agreement to divide property is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of a duty paid in respect of the first instrument but shall not be less than one shilling.</p> <p>(b) 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 a stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall be reduced by the amount of the duty paid in respect of the first instrument but shall not be less than one shilling.</p>	
44.	<p>PARTNERSHIP:</p> <p>A. Instrument of:</p> <p>(i) Where the capital does not exceed TShs. 10,000/=.</p> <p>(ii) Where the capital exceeds TShs. 100,000/= but does not exceed TShs. 1,000,000/=.</p> <p>(iv) In any other case.</p> <p>B. Dissolution.</p> <p>Exemptions: This does not include an assignment by a partner of his share and interest in the firm in consideration of a payment or his release from liabilities of the firm, or both, by his co-partners. This is dutiable as a Conveyance (No. 22).</p>	<p>TShs. 1,000/=</p> <p>TShs. 2,000/=</p> <p>TShs. 5,000/=</p> <p>TShs. 1,000/=</p>
45.	<p>POLICY OF INSURANCE:</p> <p>A. Sea Insurance:</p> <p>(1) For or upon any voyage—</p> <p>(i) Where the premium or consideration does not exceed the rate of one-eighth per centum of the amount insured by the policy.</p> <p>(ii) In any other case, in respect of every full sum of TShs. 10,000/= and also any fractional part of TShs. 10,000/= insured by the policy.</p> <p>(2) For time—</p> <p>(i) In respect of every sum of Shs. 5,000/= and also any fractional part of TShs. 5,000/= insured by the policy—</p> <p>(ii) where the insurance shall be made for any time exceeding six months and not exceeding 12 months</p> <p>B. Policy of Insurance against railway or air accident valid for a single journey only.</p> <p>C. Life Insurance— For every sum insured not exceeding TShs. 5,000/= or part thereof insured in excess of TShs. 5,000/=.</p> <p>D. Any valid Policy of Insurance not specifically provided for (including any re-insurance by an insurance company with another company by way of indemnity or guarantee against the payment on the original insurance of</p>	<p>Nil</p> <p>Nil</p> <p>Nil</p> <p>Nil</p> <p>Nil</p> <p>Nil</p> <p>Nil</p>

	<p>a certain part of the sum insured thereby).</p> <p>General Exemption: Letter of cover or engagement to issue a policy of insurance: Provided that unless such letter or engagement bears the stamp prescribed by this Act 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.</p>	
46.	<p>POWER OF ATTORNEY, not being a Proxy (No. 50):</p> <p>(a) When executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents.</p> <p>(b) When authorising one person or more to act in a single transaction other than the case mentioned in clause (a).</p> <p>(c) When authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally.</p> <p>(d) When given for consideration and authorising the attorney to sell any immovable property.</p> <p>(e) In any other case.</p> <p>(f) Revocation of.</p> <p>Exemptions: Authorisation on a bank permitting one or more persons to conduct ordinary banking business on account of another or others or a resolution whereby an incorporated company or other body corporate authorises its director or directors, servant or servants similarly to conduct such business. Explanation. - For the purposes of this Article two or more persons who are members of the same firm shall be deemed to be one person.</p>	<p>TShs. 500/=</p> <p>TShs. 500/=</p> <p>TShs. 500/=</p> <p>TShs. 500/=</p> <p>TShs. 500/=</p> <p>TShs. 500/=</p>
47.	PROMISSORY NOTE.	Nil
48	PROTEST OF BILL OR NOTE , that is to say, any declaration in writing made by a Notary Public or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note.	Nil
49.	PROTEST BY THE MASTER OF A SHIP , that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or consignees for not loading or unloading the ship when such declaration is attested or certified by a Notary Public or other person lawfully acting as such. See also Note of Protest by the Master of a Ship (No. 42).	TShs. 500/=
50.	PROXY empowering any person to vote at any one election of the Members of a district or local board or of a body of Municipal Commissioners, or at any one meeting	

	<p>of:</p> <ul style="list-style-type: none"> (a) members of an incorporated company or other body corporate whose stock or funds is or are divided into shares and transferable; (b) a local authority; or (c) proprietors, members or contributors to the funds of any institution. <p>Note: A proxy giving power to demand a poll and vote thereat is dutiable as a Power of Attorney (No. 46).</p>	<p>Nil</p> <p>Nil</p> <p>Nil</p>
51.	<p>RECEIPT for any money or other property:</p> <ul style="list-style-type: none"> (i) For an amount not exceeding TShs. 1,000/=. (ii) For an amount exceeding TShs. 1,000/=. <p>(iii) for bureau de change</p> <p>Exemptions: Receipt–</p> <ul style="list-style-type: none"> (a) endorsed on or contained in any instrument duly stamped or exempted under the proviso to section 5 (instruments executed on behalf of the Government) acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest or annuity or other periodical payment thereby secured; (b) for any payment of money without consideration; (c) given by any member of the Defence Forces, or his representative, for or on account of any pay, pension, gratuity or allowance; (d) given for or on account of any salary, pay, or wages, or for or on account of any other like payment made to or for the account or benefit of any person, being the holder of an office or an employee, in respect of his office or employment, or for or on account of money paid in respect of any pension, superannuation allowance, compassionate allowance, or other like allowance; (e) given for money or securities for money deposited in the hands of a Bank or any banker, to be accounted for: <p>Provided that the same is not expressed to be received of, or by, the hands of any other than the person to whom the same is to be accounted for: Provided also that this exemption shall not extend to a receipt or acknowledgement for any sum paid or deposited for or upon a letter of allotment of a</p>	<p>Nil</p> <p>1 percent</p> <p>0.5 percent of total value of margins being the difference between selling and buying</p>

	<p>share, or in respect of a call upon any stock or share of, or in, any incorporated company or other body corporate or such proposed or intended company or body or in respect of a debenture being a marketable security;</p> <p>(f) given by the Government;</p> <p>(g) by any person or body of persons, registered under Part IV of the VAT Act, Cap 148 from the imposition date of VAT;</p> <p>(h) for selling agricultural products by a farmer, a farmers' association, a co-operative society or co-operative union;</p> <p>(i) issued to acknowledge payment of fees to all farmers, Colleges and Training Institutions;</p> <p>(j) for proceeds of game of chance;</p> <p>(k) for rental income;</p> <p>(l) for selling fish by fishermen;</p> <p>(m) for business income.</p>	
52.	RECONVEYANCE OF MORTGAGED PROPERTY OR RELEASE OR DISCHARGE OF ANY MORTGAGE OR CHARGE.	1 percent of mortgage value but duty not exceeding TShs. 1.000/=
53.	RELEASE , that is to say, any instrument not being a release or discharge charged under article 52 or such release as is provided for by section 32 whereby a person renounces a claim upon another person or against any specified property.	0.25 percent for the first TShs. 100,000/=, then 1 percent of value in excess of TShs. 100,000/=
54.	RESPONDENTIA BOND , that is to say, any instrument securing a loan on the cargo laden or to be laden on board of a ship and making repayment contingent on the arrival of the cargo at the port of destination.	0.5 percent of the mortgage value, total duty not exceeding TShs. 10,000/=
55.	<p>SECURITY BOND OR MORTGAGE DEED</p> <p>Executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof or executed by a surety to secure the due performance of a contract—</p> <p>(a) when the amount secured does not exceed TShs. 2,000/=;</p> <p>(b) in any other case.</p> <p>General Exemptions:</p> <p>Bond or other instrument, when executed—</p> <p>(a) by any person for the purposes of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem or annum;</p> <p>(b) executed by Officers of Government or their sureties to secure the due execution of an</p>	<p>1 percent of mortgage value, total duty not exceeding TShs. 10,000/=</p> <p>TShs. 1,000/=</p>

	Office or the due accounting for money or other property received by virtue thereof.	
56.	<p>SETTLEMENT: A: Instrument of (including a deed of dower).</p> <p>Exemptions: Deed of dower executed on the occasion of a marriage between Mohammedans. B: Revocation of. See also Trust (No. 63).</p>	0.25 percent for the first Shs. 100,00/=, then 1 percent of value in excess of TShs. 100,000/=
57.	<p>SHARE WARRANTS to bearer issued under any written law relating to companies.</p> <p>Exemptions: Share warrant when issued by a company under the law in force in Tanzania relating to companies, to have effect only upon payment, as composition for the duty of– (a) three-quarters per centum of the whole subscribed capital of the company; or (b) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital, three-quarters per centum of the additional capital so issued.</p>	0.17 percent for the first TShs. 100,000/=, then 1.3 percent of value in excess of TShs. 100,000/=
58.	SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel.	Nil
59.	<p>SURRENDER OF LEASE: (1) without consideration– (a) when the duty with which the lease is chargeable does not exceed TShs. 20,000; (b) in any other case. (2) with consideration.</p> <p>Exemptions: Surrender of lease, when such lease is exempted from duty.</p>	<p>TShs. 1,000/=</p> <p>TShs. 1,000/=</p> <p>The same duty as a Conveyance (No. 22) for the amount of the consideration in addition to the duty chargeable under paragraph (1)(a) or (b) of this Article.</p>
60.	<p>TRANSFER (whether with or without consideration)– (a) of shares in an incorporated company or other body corporate; (b) of debentures whether the debenture is</p>	1 percent of the value of the shares approved by the Board

	<p>liable to duty or not;</p> <p>(c) of any interest secured by a bond, mortgage-deed or policy of insurance–</p> <p>(1) if the duty on such bond, mortgage-deed or policy does not exceed ten shillings;</p> <p>(2) in any other case;</p> <p>(d) of any trust-property without consideration from one trustee to another trustee or from a trustee to a beneficiary;</p> <p>(e) of any property under the Administrator-General (Powers and Functions) Act * to a trustee, heir or beneficiary:</p> <p>Provided that in any case where an agreement for sale is stamped with the ad valorem duty required for a transfer, and a transfer in pursuance of such agreement is subsequently executed, the duty on such transfer shall be reduced by the amount of the duty paid on such agreement, but shall not be less than one shilling:</p> <p>Provided also that the duty on a transfer by the liquidator of a company in liquidation of property forming part of the assets of the company to a share-holder in the course of the dissolution of the company shall be ten shillings.</p> <p>Exemptions:</p> <p>Transfer by sale-</p> <p>(a) of shares;</p> <p>(b) of other financial securities, by companies listed by the Dar es Salaam Stock Exchange. Transfers by endorsement–</p> <p>(1) of a bill of exchange, cheque or promissory note;</p> <p>(2) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title of goods;</p> <p>(3) of a policy of insurance.</p>	<p>1 percent of the value of the shares approved by the Board</p> <p>1 percent of the value of the shares approved by the Board</p> <p>TShs. 1,000/=</p> <p>Nil</p> <p>Nil</p>
61.	TRANSFER OF LEASE by way of assignment and not by way of under-lease.	0.5 percent for the first TShs. 100,000/=, then 1 percent of value in excess of TShs. 100,000/=
62.	<p>TRIBUTE AGREEMENTS:</p> <p>(a) With respect to claims–</p> <p>(i) where the holder reserves a proportion of the value of production, for every one-hundredth part of such value reserved, or fraction of such one-hundredth part, in respect of each claim;</p> <p>(ii) where the holder reserves a proportion of the profits of working, for every one-hundredth part of the amount of the profits reserved, or fraction of such one-hundredth part, in respect of each</p>	<p>TShs. 500/=</p> <p>TShs. 500/=</p>

	<p>claim.</p> <p>(b) With respect to mining leases–</p> <p>(i) where the holder reserves a proportion of the value of production, for every one-hundredth part of the value reserved, or fraction of such one-hundredth part, in respect of each claim;</p> <p>(ii) where the holder reserves a proportion of the profits of the working, for every one-hundredth part of the amount of the profits reserved, or fraction of such one-hundredth part</p> <p>(c) Where, in any such agreement, the consideration or part thereof is specified in terms of rent.</p>	<p>TShs. 1,000/= for each acre contained in the lease</p> <p>TShs. 1,000/= for each acre contained in the lease</p> <p>The same duty as a lease in addition to the duty (if any) payable under (a) or (b)</p>
63.	<p>TRUST:</p> <p>A. Declaration of, or concerning any property when made by any writing not being a will.</p> <p>B. Revocation of, or concerning any property when made by any instrument other than a will.</p> <p>See also Settlement (No. 56)</p>	<p>1 percent of the amount of value of the property concerned with the maximum not exceeding TShs. 1,000/=</p> <p>1 percent of the amount of value of the property concerned with the maximum not exceeding TShs. 1,000/=</p> <p>1 percent of the amount of value of the property concerned with the maximum not exceeding TShs. 1,000/=</p>
64.	<p>WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.</p>	<p>Nil</p>
65.	<p>ANY INSTRUMENT (if attested) not otherwise provided for.</p> <p>Exemptions: Wills, codicils of wills, or other testamentary instruments.</p>	<p>TShs. 500/=</p>
