



**GOVERNMENT GAZETTE**  
OF THE  
**REPUBLIC OF NAMIBIA**

R7,30

WINDHOEK — 25 August 1993

No. 698

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**Government Notice**

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**OFFICE OF THE PRIME MINISTER**

No. 91 1993

**PROMULGATION OF ACT OF  
THE NATIONAL ASSEMBLY**

The following Act which has been passed by the National Assembly and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 15 of 1993: Stamp Duties Act, 1993.

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# ACT

**To consolidate and adjust the law relating to stamp duties.**

*(Signed by the President on 12 August 1993)*

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## SCHEDULE 1

## TARIFF OF STAMP DUTIES

## SCHEDULE 2

## LAWS REPEALED

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

## PART I

## INTRODUCTORY PROVISIONS

Definitions.

1. In this Act, unless the context otherwise indicates -

“authorized revenue officer” means -

- (a) the Permanent Secretary, any receiver of revenue and any magistrate in an area in which there is not an office of a receiver of revenue;

- (b) any officer in the public service authorized by the Minister by notice in the *Gazette* to act as an authorized revenue officer for the purposes of this Act, either in respect of all instruments generally or in respect of such categories of instruments as may be specified in the notice; and
- (c) the registrar of the High Court or the Supreme Court, as the case may be, any registrar of deeds, registrar of mining titles, master of the High Court or clerk of any lower court, in respect of instruments relating to matters with which he or she is or may be officially concerned;

“banker” means a banking institution which is registered under the Banks Act, 1965 (Act 23 of 1965), and includes the Bank of Namibia;

“bill of exchange” includes any unconditional order in writing, addressed by one person to another, signed by the person giving the order, and requiring the person to whom it is addressed to pay on demand, or at a fixed or determinable future date, a sum of money to a specified person or his or her order or to bearer, and an order to pay shall for the purposes of this definition be deemed to be an unconditional order whether or not coupled with -

- (a) an indication of a particular fund out of which the drawee is to reimburse himself or herself or of a particular account to be debited with the amount;
- (b) a statement of the transaction which gives rise to the bill;
- (c) a statement in the bill that it is drawn against specified documents attached thereto for delivery on acceptance or on payment of the bill, as the case may be; or
- (d) a statement on the bill that it is drawn under or against a specified letter of credit or other similar authority;

“cheque” means a bill of exchange drawn on a bank or banker and payable on demand, and for the purposes of this definition any such bill payable at sight or on presentation shall be deemed to be payable on demand;

“debit entry” means any entry by means of which a debit is posted to -

- (a) a bank account from which money is withdrawable by cheque; or
- (b) an account in terms of a credit card scheme as defined in section 1 of the Usury Act, 1968 (Act 73 of 1968), other than such a scheme which is carried on by a building society or a scheme carried on by a buying association in respect of which the Permanent Secretary is satisfied that it is operated on co-operative principles for the benefit of its members; or
- (c) a savings account as defined in section 1 of the Building Societies Act, 1986 (Act 2 of 1986), at a building society defined in section 1 of that Act or a savings account as defined in section 1 of the Banks Act, 1965 (Act 23 of 1965), at a banking institution as defined in section 1 of that Act;

“die” means any plate, type, tool or implement whatsoever which is used for expressing or denoting any duty or rate of duty or the fact that any duty or rate of duty or penalty has been paid or that an instrument is duly stamped or is not chargeable with duty, and includes any part of any such plate, type, tool or implement;

“duly stamped” in relation to any instrument required to be stamped under this Act, means that such instrument has been stamped as required by this Act for the proper amount of duty and the amount of any penalty incurred under this Act and, where adhesive stamps have been used, that such stamps have been defaced as required by this Act;

“duty” means any duty imposed by this Act;

“executed”, when used in relation to an instrument, means executed as is required by law or as is accepted as sufficient in law;

“fixed deposit” means a deposit of money for a definite period and includes a deposit of money for an indefinite period which is withdrawable after the expiration of a period of notice of at least 89 days;

“forge” or “forged” includes counterfeit or counterfeited;

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“instrument” includes any written document or writing, and for the purposes of the duty contemplated in Item 4 of Schedule I in respect of any debit entry in an account, such a debit entry;

“marketable security” means any security, stock, debenture, share or other interest capable of being sold in a sharemarket or exchange or otherwise and, where the context so requires, includes the scrip, certificate, warrant or other instrument by which the ownership of or title to any such security, stock, debenture, share or other interest is represented;

“material” includes material of every description upon which words or figures can be expressed;

“Minister” means the Minister of Finance;

“Permanent Secretary” means the Permanent Secretary: Finance;

“policy of life insurance” means a policy upon any life or lives or upon any event or contingency relating to or depending upon any life or lives, and includes a home service policy, but excludes a policy of insurance against accident to a person or in respect of any injury, incapacity, sickness or the like or a policy whereby a sum to cover any compensation or damage due under a law relating to workmen’s compensation or employer’s liability or the common law is payable in respect of the death or illness of, or injury to, an employee;

“promissory note” means any unconditional promise in writing made by one person to another, signed by the maker, and engaging to pay on demand or at a fixed or determinable future date a sum of money to or to the order of such other person or any other specified person or to bearer, but does not include a bank note;

“public officer” means a person in the employ of the Government of Namibia, and includes an authorized revenue officer;

“public revenue” means the revenue of the State received or accrued by way of any tax, fee, levy, duty or rate;

“regulation” means any regulation made or in force under this Act;

“stamp” -

- (a) when used as a noun, means an adhesive stamp approved by the Minister for use under this Act or an impression made by means of a die approved by the Permanent Secretary; and
- (b) when used as a verb, means to affix a stamp to, or to impress a stamp on, an instrument: Provided that in the case where the payment of duty is not required to be denoted on an instrument by means of an adhesive stamp or otherwise, “stamp”, when used as a verb, means to make payment of that duty,

and “stamped” and “stamping” shall be construed accordingly;

“this Act” includes any regulation.

Administration of Act.

2. (1) The Permanent Secretary shall be responsible for carrying out the provisions of this Act, and may in the exercise of his or her powers or the performance of his or her duties act personally or through officers in the public service acting under his or her authority.

(2) The Permanent Secretary shall make such arrangements for the supply of stamps to public offices and the sale and distribution of stamps at public offices or at any other premises as may be necessary for the convenience of the public.

(3) The Permanent Secretary may make use of such forms as he or she may from time to time consider necessary or convenient for the better carrying out of the provisions of this Act.

## PART II

### IMPOSITION OF STAMP DUTIES

Stamp duty to be charged in accordance with Schedule 1.

3. (1) Every instrument referred to in Schedule 1, not being an instrument in respect of which exemption is provided for in this Act or in that Schedule, shall be subject to the duties prescribed in that Schedule in respect of such instrument, if the instrument is executed in Namibia on or after the date of commencement of this Act or if the



instrument is executed outside Namibia on or after the said date and relates to the transfer or hypothecation of any property situated in Namibia or any matter or thing to be performed or done therein.

(2) Schedule 1 shall be deemed to be part of this Act and shall be construed and applied accordingly.

General exemptions.

4. (1) Duty shall not be chargeable in respect of -

(a) any instrument if the duty thereon would be legally payable and borne by the Government of Namibia, or by the government of any other country;

(b) any instrument if the duty thereon would be legally payable and borne by -

(i) any regional Council;

(ii) any municipal council, town council or village council, or other body of a similar nature;

(c) any instrument used or intended for use in or in connection with criminal proceedings, or in connection with any charge of a criminal offence, or in connection with bail;

(d) any instrument used or intended for use in or in connection with legal proceedings arising out of commissions rogatoire or letters of request received from foreign countries;

(e) any instrument which is executed by or on behalf of an ecclesiastical, charitable or educational institution of a public character which is exempt from tax in terms of section 16(1)(j) of the Income Tax Act, 1981 (Act 24 of 1981), if the duty thereon would be legally payable and borne by such institution.

(2) Any instrument exempted from stamp duty under any other law shall not be chargeable with duty by reason of the provisions of this Act.

## PART III

GENERAL PROVISIONS RELATING TO THE  
STAMPING OF INSTRUMENTS

Use of stamps in payment  
of duty.

5. (1) The payment of any duty or of any penalty incurred under this Act shall, save as is otherwise provided in this Act, be denoted by means of adhesive revenue stamps for the amount of such duty or adhesive penalty stamps for the amount of such penalty, as the case may be, and such stamps shall be affixed to the instrument chargeable with the duty or penalty and be defaced as prescribed by this Act: Provided that -

- (a) subject to such conditions as the Permanent Secretary may impose, payment of duty on any category of instrument to which he or she may from time to time apply this proviso, may be denoted by means of impressed stamps;
- (b) the Permanent Secretary may, in lieu of the requirement that adhesive stamps be affixed to any such instrument, authorize the issue of a special receipt for the duty paid in respect of such instrument, and upon the issue of such receipt the person by whom or under whose supervision the said receipt is issued, shall endorse upon the instrument concerned a certificate of the due payment of the said duty;
- (c) where the Permanent Secretary is satisfied that any person or category of persons cannot conveniently denote the duty in respect of fixed deposit receipts or the original issue of marketable securities by means of stamps affixed to such fixed deposit receipts or marketable securities, he or she may, subject to such conditions as he or she may impose and subject to the exercise of such control as he or she considers necessary, agree that payment of such duty may be acknowledged by means of the issue of a special receipt, and any such fixed deposit receipt or marketable security which bears on its face the words "duty paid", shall for the purposes of this Act be deemed to be duly stamped.

(2) Any certificate endorsed under the provisions of paragraph (b) of the proviso to subsection (1), shall contain a reference to the number and date of the receipt to which that certificate relates and shall set forth the amount of duty paid, and the instrument on which such certificate has been so endorsed shall for the purposes of this Act be deemed to be stamped to the amount of the duty paid and set forth in the certificate.

(3) If any notarially executed instrument liable to duty is found to be not duly stamped after the expiry of the period required under this Act for the stamping of such instrument, the notary by or before whom such instrument was executed or passed, shall be liable to have the instrument duly stamped: Provided that nothing in this subsection contained shall be construed as exempting from liability for the duty or penalty, any other person who is under this Act liable in respect of the duty or penalty.

(4) (a) Payment of the duty on a notarial lease, notarial sub-lease, sectional mortgage bond or other deed referred to in section 11(7) of the Sectional Titles Act, 1971 (Act 66 of 1971), shall not be denoted by means of stamps but shall be acknowledged by means of the issue of a special receipt.

(b) Where any endorsement made by the registrar of deeds on a sectional title deed as contemplated in the Sectional Titles Act, 1971, or any certificate of registered sectional title issued by the registrar under that Act is subject to the duty chargeable under Item 16 of Schedule 1 to this Act on a transfer deed relating to immovable property, payment of such duty shall not be denoted by means of stamps but shall be acknowledged by means of the issue of a special receipt.

How instruments shall be written and stamped.

6. (1) Every instrument (other than any debit entry) shall be written in such manner, and shall be so stamped that the stamp appears on the face of the instrument.

(2) An instrument containing or relating to several distinct matters shall in respect of each of those matters be separately and distinctly charged with duty as if it were a separate instrument, except that it shall not be necessary to stamp separately a power of attorney to perform a particular act, if the power of attorney is contained in an

instrument chargeable with a higher duty and is subordinate or incidental to the main character or purpose of the instrument.

(3) Any instrument stamped as a duplicate original under Item 7 of Schedule 1 shall bear an endorsement by any person executing such instrument or who attests such instrument or certifies it to be a copy or duplicate of the original instrument, as to the amount of duty denoted on the original instrument.

(4) All facts and circumstances affecting the liability of any instrument to duty or the amount of duty with which any instrument is chargeable shall be fully and truly set forth in the instrument, and any person who, with intent to evade the payment of duty -

- (a) executes any instrument in which all such facts and circumstances are not fully and truly set forth; or
- (b) being employed or concerned in or about the preparation of any instrument, fails fully and truly to set forth therein all such facts and circumstances,

shall incur a penalty not exceeding R1 000.

(5) Where an instrument is chargeable with *ad valorem* duty in respect of an amount stated in any foreign currency, the duty shall be calculated in the currency of Namibia according to the current rate of exchange on the date of execution of the instrument.

(6) Where an instrument contains a statement of current rates of exchange or average price and is stamped in accordance with that statement, it shall, in respect of the statement, be deemed to be stamped for the proper amount of duty, unless it is shown that the statement is untrue and that the instrument is in fact insufficiently stamped.

(7) In case of doubt or difficulty in determining the amount of any value or consideration upon which duty is payable, the Permanent Secretary may determine such amount, and such determination shall, unless and until the amount so determined is shown to be incorrect or excessive, be conclusive for the purposes of the determination of the amount of such duty.

Persons liable to stamp  
various instruments.

7. (1) The persons respectively liable for duty and required to stamp any instrument referred to in this section shall be -

- (a) in the case of an agreement or contract, the parties thereto;
- (b) in the case of a bill of exchange or promissory note, the drawer or maker;
- (c) in the case of any debit entry in an account, the banker or person carrying on the credit card scheme concerned or the building society concerned;
- (d) in the case of a bond, the person giving or passing the bond or in the case of a substitution of a debtor in respect of a bond, the person substituted as debtor;
- (e) in the case of a cession, the cedent;
- (f) in the case of a lease or agreement of lease in respect of immovable property, the lessor;
- (g) in the case of the original issue of a marketable security, the company or corporate body issuing the marketable security;
- (h) in the case of the registration of transfer of a marketable security, the transferee;
- (i) in the case of the cancellation or redemption of company shares as contemplated in Item 11(4) of Schedule 1, the company of which the shares are cancelled or redeemed;
- (j) in the case of the acquisition of any marketable security as contemplated in Item 11(5) of Schedule 1, the person by whom such marketable security is acquired;
- (k) in the case of a policy of insurance, the person executing it;
- (l) in the case of any transfer deed, the transferor;

- (m) in the case of any other instrument in respect of which no specific provision is made, the person executing the instrument.

(2) The provisions of paragraph (c) of subsection (1) shall not be construed as prohibiting the banker or the person or the building society concerned from recovering the duty contemplated in that subsection from the holder of the account concerned.

- (3) For the purposes of subsection (1)(i) -

- (a) the reference therein to "shares" shall be deemed to include a reference to stock and debentures;

- (b) "cancelled" means cancelled in whole or in part, and "cancellation" shall be construed accordingly;

- (c) shares, stock or debentures issued by any company shall be deemed to be cancelled in part if any rights attaching to such shares, stock or debentures are altered so as to result in a material diminution of the rights of the holders of such shares, stock or debentures to participate in the profits or gains of such company or to receive any dividend or other distribution or any interest or other payment from such company.

Time within which instruments shall be stamped.

8. (1) (a) Every instrument chargeable with duty which is executed within Namibia shall, save as is otherwise provided in this Act, be stamped before or at the time of the execution thereof, and if an instrument is executed by two or more persons, the time of execution shall be deemed to be the time of the signature of the person by whom it is last signed.

- (b) Any such instrument not stamped before or at the time of execution may be stamped within 21 days thereafter by or in the presence of the person liable under this Act to stamp the instrument, or any party thereto or any banker to whom such instrument has been presented in the ordinary course of such banker's business or in the presence of an authorized revenue officer.

(2) Every instrument chargeable with duty, which is executed outside Namibia, shall, save as is otherwise provided in this Act, within 21 days after the date on which it is first received in Namibia, be stamped by the person so receiving it, and it shall be the duty of such person to endorse thereon the date of receipt and sign such endorsement.

(3) If any person is in doubt as to whether he or she is liable to stamp any instrument, or as to the extent of his or her liability, and he or she has within 21 days after the date of execution of such instrument, or if such instrument was executed outside Namibia, after the date such instrument was first received in Namibia, lodged it with an authorized revenue officer for submission to the Permanent Secretary for his or her decision as to whether such liability exists or as to the extent of such liability, the date on which the decision of the Permanent Secretary is communicated to the person who has lodged such instrument as aforesaid, shall for the purposes of this Act be deemed to be the date of execution of the instrument or the date on which such instrument was first received in Namibia, as the case may be.

Late stamping of instruments and penalties for default.

9. (1) If any instrument requiring to be stamped under this Act has not before the expiry of the relevant period prescribed in section 8(1) or (2) been stamped for the full amount of duty payable, such instrument shall, subject to the provisions of subsection (4) of this section, be stamped in the presence of an authorized revenue officer for the amount of duty unpaid, and there shall be paid, in addition to the duty -

(a) a validating penalty equal to -

- (i) twice the unpaid duty if the instrument is stamped for the unpaid duty within six months after the date of execution of the instrument or the date on which it was first received in Namibia, as the case may be; or
- (ii) three times the unpaid duty if the instrument is stamped for the unpaid duty later than six months after the said date:

Provided that such validating penalty shall not be less than R1 or more than R2 000; and

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(b) such further penalty as the Permanent Secretary may impose but not exceeding R4 000: Provided that such further penalty shall not be payable if such instrument is voluntarily presented to an authorized revenue officer for stamping or the Permanent Secretary is satisfied that any failure to comply with the provisions of section 8 was due to inadvertence.

(2) (a) If any instrument chargeable with duty bears an adhesive revenue stamp for the amount of such duty and the stamp has not been defaced as required by section 10, such instrument shall for the purposes of this section not be deemed to have been stamped within the relevant period for stamping prescribed by section 8, unless it is shown to the satisfaction of the Permanent Secretary that such stamp was affixed to the instrument within such period.

(b) Where it is shown to the satisfaction of the Permanent Secretary that the stamp was affixed to such instrument within the said period, he or she shall endorse the instrument to the effect that it is duly stamped.

(3) When an authorized revenue officer deems it necessary, he or she may require evidence on oath or other proof, to his or her satisfaction, to be furnished to him or her of the date of affixing of any adhesive revenue stamp to any instrument or of the date of execution of any instrument or, if any instrument was executed outside Namibia, of the date when it was first received in Namibia.

(4) If any instrument referred to in subsection (1) is presented to a banker in the ordinary course of the banker's business and the banker is satisfied that the omission to comply with section 8 was due to inadvertence, such instrument may, subject to the payment of the validating penalty referred to in paragraph (a) of that subsection, be stamped by or in the presence of such banker for the amount of duty unpaid and for the amount of such penalty.

Defacement of adhesive stamps.

**10. (1)** Whenever duty on any instrument is denoted by means of adhesive revenue stamps and such stamps are affixed to the instrument at any time before the expiry of the period required by section 8 for stamping, the stamps shall before the end of such period be defaced -



- (a) in the case of an instrument which is required to be executed before any particular category of public officer, by the public officer concerned or by the person liable under this Act to stamp the instrument;
- (b) in the case of any notarial instrument, by the notary by or before whom the instrument is executed or passed;
- (c) in the case of a promissory note, by an authorized revenue officer or by a banker to whom the promissory note has been presented in the ordinary course of such banker's business;
- (d) in the case of any other instrument, by the person liable under this Act to stamp the instrument or by any party thereto or by an authorized revenue officer or by a banker to whom the instrument has been presented in the ordinary course of such banker's business.

(2) Where duty on any instrument is denoted by adhesive revenue stamps and such instrument has been stamped as provided in section 8 or, where the instrument has been stamped as provided in section 9, but the stamps thereon have not been defaced as provided in subsection (1) of this section, the stamps shall, subject to the payment of any penalty incurred under section 9(1) in respect of such instrument, be defaced by an authorized revenue officer or by a banker to whom such instrument has been presented in the ordinary course of such banker's business.

(3) Where any penalty provided for in section 9(1) has been incurred in respect of any instrument, the adhesive penalty stamps denoting such penalty shall be defaced by the authorized revenue officer in whose presence, or by the banker by whom or in whose presence, the instrument is stamped under that section.

(4) Where any instrument is stamped as contemplated in section 16, the stamps affixed thereto shall be defaced by an authorized revenue officer.

(5) An authorized revenue officer shall not be required to deface the stamps affixed to any instrument unless he or she is satisfied that the duty in respect of such instrument, and any penalties incurred in respect of such instrument under this Act, have been fully paid.

(6) Any person required or empowered by this Act to deface an adhesive stamp shall deface it by writing or impressing in ink on or across the stamp his or her name or initials together with the true date of defacement in such manner as effectually and permanently to render it incapable of being used for stamping any other instrument.

(7) Any public officer, banker, firm or company required or empowered by this Act to deface any adhesive stamp may deface the stamp by impressing thereon in indelible ink by means of a rubber stamp or other device the date and, in the case of such banker, firm or company, the name of the bank, firm or company.

Adjudication in respect of liability for stamp duty or penalty.

**11.** An endorsement or a certificate made on or in respect of any instrument and signed by the Permanent Secretary or by his or her authority, stating that the instrument is duly stamped or is not chargeable with duty or penalty or further duty or penalty, shall for all purposes be conclusive evidence of the fact so endorsed or certified.

Invalidity of instruments not duly stamped.

**12.** Save as is otherwise provided in any law, no instrument which is required to be stamped under this Act shall be made available for any purpose whatsoever, unless it is duly stamped, and in particular shall not be produced or given in evidence or be made available in any court of law, except -

- (a) in criminal proceedings; or
- (b) in any proceedings by or on behalf of the State for the recovery of any duty on the instrument or of any penalty alleged to have been incurred under this Act in respect of such instrument:

Provided that the court before which any such instrument is so produced, given or made available may permit or direct that, subject to the payment of any penalty incurred in respect of such instrument under section 9(1), the instrument be stamped in accordance with the provisions of this Act and upon the instrument being duly stamped may admit it to be produced or given in evidence or made available.

Person making use of instrument not duly stamped to be liable for unpaid duty and penalty thereon.

**13. (1)** Any person who for any purpose in connection with a business conducted by him or her keeps or retains, or who in any manner other than a manner con-

templated in section 12 makes use of, an instrument which is required to be stamped under this Act but has not been duly stamped, shall be liable for the unpaid duty in respect of such instrument and any unpaid penalty incurred in respect of such instrument under section 9(1).

(2) The provisions of subsection (1) shall not be construed as relieving any person who under any other provision of this Act is liable for the duty or any penalty in respect of any instrument, from his or her liability to pay any unpaid amount of such duty or penalty, as the case may be.

Duties of public officers.

**14.** (1) (a) It shall be the duty of every public officer to take cognizance of the requirements of this Act in respect of the stamping of any instrument which may come before him or her in his or her official capacity, and no instrument, which is chargeable with duty and is not duly stamped, may be issued, received, lodged, filed, enrolled or registered by any public officer unless or until the same is duly stamped.

(b) In the event of any refusal by any person to have any such instrument duly stamped, or if any public officer has reason to believe that fraud or evasion of duty was intended, the public officer shall impound the instrument and transmit it to the Permanent Secretary for the purpose of the recovery of the duty and any penalty incurred in respect thereof.

Contracts, agreements or undertakings made for the purpose of evading, defeating or frustrating requirements of Act.

**15.** Any contract, agreement or undertaking made for the purpose of evading, defeating or frustrating the requirements of this Act as to the stamping of instruments, or with a view to precluding objection or inquiry relating to the due stamping of any instrument, shall be void: Provided that nothing in this section contained shall prohibit any agreement between parties as to the distribution between themselves of liability to pay the amount which is payable as duty.

Stamping of unstamped instruments with amount of duty and penalty recovered.

**16.** Upon the recovery under section 30 of the duty or any penalty payable in respect of any instrument, the duty or penalty recovered shall be denoted on the instrument by means of the appropriate revenue or penalty stamps or, if the Permanent Secretary so directs, an endorsement or a certificate may be made on the instrument and signed by the Permanent Secretary or by his or her authority stating that the instrument is duly stamped.

## PART IV

## PROVISIONS RELATING TO PARTICULAR INSTRUMENTS

Bills of exchange and promissory notes drawn or made outside Namibia.

**17.** Any person who comes into possession of a bill of exchange or promissory note which has been drawn or made outside Namibia and which is not duly stamped, shall, before he or she presents such bill or note for payment or endorses, transfers or in any manner negotiates or pays it, stamp it at the rate and in the manner prescribed by this Act: Provided that any bill of exchange drawn outside Namibia and transmitted to Namibia only for acceptance and return to the drawer shall not be chargeable with any duty under this Act.

Bills of exchange.

**18.** (1) Any person who issues any bill of exchange chargeable with duty and not duly stamped, and any person who receives, accepts, endorses or pays any such bill and fails to have such bill duly stamped, shall incur a penalty not exceeding R1 000, and the person who receives any such bill in payment or as security or by purchase or otherwise shall, until it has been duly stamped, not be entitled to recover thereon or to make such bill available for any purpose whatsoever.

(2) If any bill is stamped by any person who is not liable to stamp such bill under section 7, such person shall be entitled to charge the amount of the duty and any penalty paid by him or her under section 9 in respect of such bill to the account of the person from whom the bill was received or to deduct such amount from the amount of the bill, and any person against whom any such charge or deduction is made, shall have the right to recover the amount charged or deducted from the drawer or any endorser or from any other person who was in default in respect of the stamping of the instrument.

(3) When a bill of exchange is drawn in a set according to the custom of merchants and one of the set is duly stamped, the others of the set, if denoted as the second or third of the set or otherwise according to the circumstances, shall, unless issued or in some manner negotiated apart from the stamped bill, be exempt from duty, and upon proof of the loss or destruction of a duly stamped bill forming one of such set, any other bill of the set which has not been issued or in any manner negotiated apart from the lost or destroyed bill may, whether or not stamped, be admitted in evidence to prove the contents of the lost or destroyed bill.

Promissory notes.

**19. (1)** A promissory note which is chargeable with duty shall not be made available for any purpose whatsoever, nor shall any person be entitled to recover thereon, until it has been duly stamped.

(2) (a) If any person receives from the maker thereof a promissory note which is chargeable with duty and which has not been duly stamped, he or she shall be liable for the amount of the duty unpaid in respect of such note and for the penalty, if any, payable under section 9 in respect thereof and shall cause the note to be duly stamped as required by this Act.

(b) If such person fails to comply with the provisions of paragraph (a) within 21 days of the receipt by him or her of the promissory note in question, he or she shall incur a penalty in respect of such note not exceeding R1 000.

Debit entries.

**20. (1)** The duty payable in terms of Item 4 of Schedule I in respect of any debit entry in an account shall not be denoted by means of stamps but shall be paid by the banker or person carrying on the credit card scheme concerned or by the building society concerned, as the case may be, within a period of 21 days after the end of the month in which that entry is made or, where such banker, person or building society satisfies the Permanent Secretary that by reason of the accounting procedures adopted by such banker, person or building society the duty cannot conveniently be paid within that period, within such further period as the Permanent Secretary may allow.

(2) If the banker, person or building society referred to in subsection (1) fails to comply with the provisions of that subsection, such banker, person or building society shall, in addition to the amount of that duty, pay a penalty equal to ten per cent of that amount for every month or part thereof reckoned from the end of the period within which that amount was payable as provided in that subsection to the date of payment of that amount: Provided that the Permanent Secretary may, having regard to the circumstances of the case, remit the whole or any part of that penalty.

Fixed deposit receipts.

**21. (1)** A receipt given for or in respect of any fixed deposit for a definite period which provides that the deposit will be automatically renewed if notice of withdrawal is not given by the depositor, shall be stamped for such period and an additional period of twelve months.

(2) A receipt given for or in respect of any fixed deposit for an indefinite period which is withdrawable after the expiration of a period of notice of at least 89 days, shall for the purposes of duty be deemed to be a fixed deposit receipt for a period of 24 months.

(3) Any instrument extending the period of a fixed deposit for a further definite period or an indefinite period terminable after the expiration of a period of notice of at least 89 days, shall, for the purposes of duty, be deemed to be a fixed deposit receipt for such further definite period or an indefinite period, as the case may be, and shall be stamped accordingly.

Leases of immovable property.

**22. (1)** In this section "lease" means a lease or agreement of lease contemplated in Item 10 of Schedule 1.

(2) The period for which a lease shall be stamped shall be -

(a) in the case of a lease for a definite period, with no provision for the continuance, renewal or extension of the lease, such period; or

(b) in the case of a lease for an indefinite period, two years; or

(c) in the case of a lease for a definite period (hereinafter referred to as the original period), with provision for the continuance, renewal or extension thereof beyond the original period or any subsequent period during which the lease may be in force, a period equal to the aggregate of the following periods, namely -

(i) the original period; and

(ii) any definite periods of continuance, renewal or extension provided for in the lease; and

(iii) if the lease is to continue in force or may be continued, renewed or extended for an indefinite period following the original period or the definite periods referred to in subparagraph (ii), a period of two years.

(3) Where any lease may be continued, renewed or extended only in writing, duty may in the first instance be paid only in respect of the original period of the lease and, in respect of any continuance, renewal or extension, the provisions of subsection (4) shall apply, but if such lease is tendered for registration it shall before the registration be stamped for the period for stamping provided in subsection (2)(c).

(4) (a) Any instrument whereby a lease (including any lease or agreement of lease chargeable with stamp duty under any previous law of Namibia) is continued, renewed or extended beyond the period for which such lease (or any previous continuance, renewal or extension thereof) was required to be stamped, shall be chargeable with the duty payable in respect of a lease for a period equal to the entire period of the aforesaid lease (including any periods for which it has been continued, renewed or extended), less the sum of the amounts of stamp duty previously payable in respect of such lease and any earlier continuations, renewals or extensions thereof, whether under this Act or any previous law of Namibia.

(b) Where any lease referred to in paragraph (a) for a definite period is continued, renewed or extended for an indefinite period, the entire period of the lease shall for the purposes of the said paragraph be deemed to be the total period covered by the original period of such lease and any definite periods for which the lease has previously been continued, renewed or extended, and a further period of two years.

(5) If under or by virtue of a lease, rent or other consideration is payable or expressed otherwise than in money, duty shall be calculated on an amount equal to the monetary value of such rent or other consideration.

(6) The expression "other consideration" in Item 10(1) of Schedule 1 shall include the value of improve-

ments which the lessee is obliged to effect on the land or to the buildings leased by him or her and such value shall be deemed to be the amount stipulated in the lease as the value or, where no amount is so stipulated, the fair and reasonable value determined by the Permanent Secretary.

(7) The duty on a lease shall be denoted on the original instrument, which shall be retained by the lessor.

(8) In the event of a lease terminating or being terminated before the end of the period in respect of which duty has been paid, the Permanent Secretary shall, if satisfied of that fact and upon the application of the person by whom the duty was paid, authorize a refund of a proportionate amount of such duty.

Marketable securities.

23. (1) For the purposes of this section -

“arbitrage transaction” means a purchase or sale, by a broker, of any marketable security listed by a licensed stock exchange in Namibia and dealt in on the market in any other country, if such purchase or sale is, in accordance with the practice of those exchanges in relation to arbitrage, effected in order to take advantage of the difference in the prices of such marketable security on the markets in Namibia and such other country and, in consequence of such purchase or sale, the ownership of the marketable security passes from a person in Namibia to a person in any country other than the Republic of South Africa, Botswana, Lesotho or Swaziland, or vice versa;

“bank” means any banking institution registered under the Banks Act, 1965 (Act 23 of 1965), any person lawfully carrying on the occupation of a stock and share broker, or a trustee under a unit trust scheme who is registered as such under section 20 of the Unit Trusts Control Act, 1981 (Act 54 of 1981), and includes the State or any person approved by the Permanent Secretary in writing;

“broker” means a person who carries on the business of buying and selling marketable securities on behalf of other persons and who is a member of a licensed stock exchange in Namibia;

“deed” or “declaration” means a deed or declaration made, signed and dated with the true date of each signature by the parties to a transaction for the sale or disposal of any marketable security or by their respective agents, setting



forth such particulars of the transaction as may be required for the determination of liability for duty and full and true particulars of such marketable security and of any consideration passing or, if there is no consideration passing, of the market value of the marketable security on the date of the transaction;

“instrument of transfer” means -

- (a) a duly executed deed or declaration; or
- (b) a duly completed securities transfer form or broker's transfer form as defined in section 134 of the Companies Act, 1973 (Act 61 of 1973); or
- (c) any instrument whereby any marketable security is transferable in terms of any law of the United Kingdom or the Republic of South Africa or of any other country declared as such for the purposes of this section by the Minister by notice in the *Gazette*, if such instrument is completed in that country in accordance with such law and discloses sufficient information for the assessment of the duty payable under Item 11(3) of Schedule 1;

“marketable security” means any marketable security contemplated in Item 11 of Schedule 1 but does not include any marketable security made out to bearer or in any manner so as to be transferable by delivery only;

“nominee” means any person who, by virtue of a nomination, appointment, agreement or arrangement, has become or is entitled or obliged to become the registered holder of any marketable security as the nominee or agent of any other person;

“nominee company” means a company which is controlled by a broker or a bank, whose entire issued share capital is held for his or her or its own benefits by such broker or bank and whose operations are solely or mainly confined to functioning, on the instructions of such broker or bank, as a nominee in respect of marketable securities.

- (2) (a) Where any shares, stock or debentures are issued at a premium, the amount of such premium shall, for the purposes of the duty payable under Item 11(1) of Schedule 1 in respect of such issue,

be shown in or endorsed upon the scrip, certificate, warrant or other instrument representing such shares, stock or debentures.

- (b) Where shares having no par value are issued, the nominal value thereof as contemplated in the said Item 11(1) shall, for the purposes of the duty payable under that Item in respect of such issue, be shown in or endorsed upon the scrip, certificate or other instrument representing such shares.
  - (c) The company or corporate body issuing any shares, stock or debentures to which the provisions of paragraph (a) or (b) apply shall comply with the requirements of those provisions, and if such company or corporate body or any officer thereof fails to comply with any requirement thereof, such company or corporate body shall, in addition to being liable for any unpaid duty which is payable in respect of the issue of the shares, stock or debentures in question, incur a penalty not exceeding R1 000.
  - (d) The provisions of paragraphs (a), (b) and (c) shall not apply where the duty is paid in the manner contemplated in paragraph (c) of the proviso to section 5(1).
- (3) (a) An instrument of transfer shall for the purposes of the duty payable under the provisions of Item 11(3) of Schedule 1 be executed in respect of every transfer of a marketable security and the duty payable under those provisions in respect of the registration of such transfer shall be denoted on such instrument.
- (b) The provisions of sections 8 and 9 and subsections (1) to (5), both inclusive, of section 10 shall not apply in respect of any such instrument of transfer.
  - (c) The stamps on any such instrument of transfer shall, before the transfer is registered, be defaced as provided in section 10(6) or (7) by the person applying for registration of transfer or by the company or corporate body by which the marketable security was issued or by the person responsible for the registration of transfer.

(4) The date of signature of an instrument of transfer by the transferor or his or her agent shall for the purposes of Item 11(3) of Schedule 1 be deemed to be the date of execution thereof: Provided that -

- (a) where any marketable security is in the manner contemplated in section 135 of the Companies Act, 1973 (Act 61 of 1973), transferred by means of a securities transfer form and a broker's transfer form, the date of signature by the transferor or his or her agent of the relevant securities transfer form shall be deemed to be the date of execution of such broker's transfer form;
- (b) where any marketable security is transferred by means of any broker's transfer form in terms of any law governing the transfer of shares on a recognized stock exchange in the United Kingdom or the Republic of South Africa or any other country declared as such for the purposes of this section by the Minister by notice in the *Gazette*, the date of the selling broker's signature on such form shall be deemed to be the date of execution of such form;
- (c) if the marketable security, the transfer of which is to be registered, was at the time of its sale or disposal registered in the name of the transferor and held by a bank in trust or for safekeeping on behalf of the transferor or in pledge by way of security given by the transferor or for the purposes of sale on behalf of or on account of the transferor, and the relevant instrument of transfer was signed by the transferor prior to the actual date of sale or disposal of that marketable security, the bank concerned may endorse upon the instrument of transfer, in the form prescribed by the Permanent Secretary, the fact that the marketable security was so held, as well as the actual date of the sale or disposal thereof, and thereupon the date of sale or disposal as so endorsed shall be deemed to be the date of execution of such instrument.

(5) No transfer of any marketable security shall be made or permitted by any company or corporate body in its register (whether the register be kept within or outside Namibia) or by any person responsible for the registration of transfer, unless -

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- (a) there is lodged with such company, body or person an instrument of transfer relating to the transfer of such marketable security; and
- (b)
  - (i) where duty is payable under Item 11(3) of Schedule 1 in respect of the registration of such transfer, such instrument is duly stamped; or
  - (ii) where exemption from duty is claimed under paragraph (d) of the Exemptions to Item 11(3) of Schedule 1, such instrument bears an endorsement made by the buying broker or a bank acting on behalf of the transferee in connection with the relevant purchase, in such form as the Permanent Secretary may approve, to the effect that the marketable security in question is included in the list of securities kept by the committee of such stock exchange and that the purchase thereof has been effected on or after the date referred to in that paragraph; or
  - (iii) where exemption from duty is claimed under paragraph (e) of the Exemptions to Item 11(3) of Schedule 1, there is annexed to or incorporated in such instrument a statement signed by the parties to the relevant transaction or their respective agents of all such facts within the knowledge of each of the subscribers as may be necessary to establish the claim for such exemption; or
  - (iv) where exemption from duty is claimed under paragraph (f) of the Exemptions to Item 11(3) of Schedule 1, there is produced the certificate issued in terms of section 14(1)(e) of the Pension Funds Act, 1956, (Act 24 of 1956) in respect of the scheme referred to in that paragraph; or
  - (v) where exemption from duty is claimed under paragraph (g) of the Exemptions to Item 11(3) of Schedule 1, there is produced a certificate by the Permanent Secretary to the effect that the exemption is applicable; or

- (vi) where exemption from duty is claimed under paragraph (h), (i) or (j) of the Exemptions to Item 11(3) of Schedule 1, such instrument bears an appropriate endorsement as to the facts necessary to establish the claim, made in such form as the Permanent Secretary may approve -
  - (aa) where registration of transfer of a marketable security to or from a broker or a nominee company controlled by a broker is effected, by the broker concerned; or
  - (bb) where registration of transfer of a marketable security to or from a nominee company controlled by a bank is effected, by the bank concerned; or
- (vii) where exemption from duty is claimed under paragraph (k) of the Exemptions to Item 11(3) of Schedule 1, such instrument bears an appropriate endorsement as to the facts necessary to establish the claim, made in such form as the Permanent Secretary may approve, by the transferor referred to in that paragraph or, if the transferor is a nominee company, by the broker or bank by whom such nominee company is controlled; or
- (viii) where exemption from duty is claimed under paragraph (l) of the Exemptions to Item 11(3) of Schedule 1, such instrument bears an endorsement by the broker concerned in the relevant arbitrage transaction or, subject to such conditions as the Permanent Secretary may impose, by any bank or branch of a bank authorized by the Permanent Secretary to make endorsements under this subparagraph, made in such form as the Permanent Secretary may approve, to the effect that the registration of transfer is effected in consequence of such arbitrage transaction and to facilitate delivery of the marketable security; or
- (ix) where exemption from duty is claimed under paragraph (m), (n), (o), (p), (q) or (r) of the Exemptions to Item 11(3) of Schedule 1,

there is produced a certificate by the Permanent Secretary to the effect that the exemption is applicable.

(6) No endorsement shall be made by any broker or bank for the purposes of subsection (5)(b)(ii), (vi), (vii), (viii) or (ix) unless the transferee's name appears in the relevant instrument of transfer.

(7) Any instrument of transfer referred to in subsection (5) shall at all reasonable times during a period of three years after the date of registration of the relevant transfer be open for inspection by any person acting under the authority of the Permanent Secretary.

(8) (a) Where any marketable security was sold or disposed of before the date of commencement of this Act, stamp duty shall, notwithstanding the fact that the consequent registration of transfer of such marketable security is effected on or after the said date, be paid in respect of such registration under the provisions of Item 15(3) of Schedule 1 to the Stamp Duties Act, 1968 (Act 77 of 1968), but subject to the relevant exemptions provided for in that Act, and for the purposes of such duty the provisions of that Act shall apply as if that Act had not been repealed by this Act.

(b) For the purposes of paragraph (a), where it appears that any instrument used for the purpose of transferring or obtaining the registration of transfer of any marketable security has been signed by the transferor before the date of commencement of this Act, such marketable security shall be deemed to have been sold or disposed of before that date unless the actual date of such sale or disposal, being a date on or after the said date of commencement, has been endorsed on such instrument and such endorsement has been signed by the transferee or his or her agent.

(9) Any person who -

(a) as the transferor of any marketable security or as the transferor's agent signs any instrument of transfer and fails to date such instrument or dates such instrument with a date which is not the true date of his or her signature; or

- (b) makes or signs any statement for the purposes of subsection (5)(b)(iii) which is false or incorrect; or
- (c) makes any endorsement on any instrument of transfer for the purposes of subsection 5(b)(ii), (vi), (vii), (viii) or (ix) which is false or incorrect or fails to comply with the provisions of subsection (6); or
- (d) as the transferee in respect of any marketable security or as the agent of such transferee, makes any endorsement for the purposes of subsection (8)(b) or Item 11(3) of Schedule I, which is false or incorrect,

shall incur a penalty not exceeding R1 000.

(10) If any company or corporate body or any officer thereof fails to comply with any requirement of subsection (5), (7) or (12), it shall, in addition to being liable for any unpaid duty, incur a penalty not exceeding R2 000.

(11) If any compromise, arrangement or reconstruction of any company or its affairs (including the amalgamation of two or more companies) has been made or effected under any scheme involving -

- (a) any alteration of share capital or shares in terms of section 75, or a reduction of share capital in terms of section 83 or 84, of the Companies Act, 1973 (Act 61 of 1973);
- (b) the conversion of any shares to redeemable preference shares and the redemption of such shares in terms of section 98 or 99 of the said Act;
- (c) any compromise or arrangement in terms of the provisions of sections 311 to 313, both inclusive, of the said Act;
- (d) any take-over offer in terms of the provisions of sections 314 to 321, both inclusive, of the said Act, or
- (e) any procedure in terms of any combination of the said provisions,

and under that scheme any shares issued by any company are cancelled or redeemed with or without return of capital and -

- (i) any shares in any other company are, with or without subscription, issued or to be issued to the person holding the first-mentioned shares at the time of cancellation or redemption thereof; or
- (ii) such person receives or is to receive any cash or other asset from anybody,

such person shall, for the purposes of the duty under Item 11(4) of Schedule 1, be deemed to have disposed of the shares cancelled or redeemed as aforesaid and to have disposed of such shares for a consideration equal in value to the market value of those shares immediately prior to their cancellation or redemption or, where paragraph (b) applies, immediately prior to the conversion contemplated in that paragraph, such value being determined as if such shares had not been and were not about to be cancelled or redeemed and as if the said scheme had not been put into operation.

(12) The duty payable under Item 11(4) of Schedule 1 shall be denoted on a copy of any application to court, take-over offer or resolution, as the case may be, required in respect of any scheme referred to in subsection (11), and the company of which the shares in question are cancelled or redeemed shall endorse on such copy the market value of such shares as determined in accordance with the said subsection and, in the case of any take-over offer, the date of the final acceptance of such offer and shall retain such copy, which shall at all reasonable times during a period of three years after the relevant date referred to in subsection (14) be open for inspection by any person acting under the authority of the Permanent Secretary.

(13) Where, in terms of any scheme referred to in subsection (11), a capital reserve is created in any company by reason of the cancellation or redemption of shares, and other shares are issued by that company under that scheme and are subscribed for out of such reserve, the duty payable under Item 11(4) of Schedule 1 in respect of the said cancellation or redemption shall be reduced by the amount of duty paid under Item 11(1) or (2) of that Schedule in respect of the issue of the said other shares.



(14) The copy of any document referred to in subsection (12) shall be stamped in accordance with the provisions of this Act as if it were an instrument which had been executed -

- (a) in the case of any application to court, on the date of the order of court granted in respect of such application; or
- (b) in the case of any take-over offer, on the date of the final acceptance of such offer; or
- (c) in the case of any resolution, on the date of such resolution,

or on such later date as the Permanent Secretary, having regard to the circumstances of the case, may approve.

(15) For the purpose of the duty payable under Item 11(5) of Schedule 1, a person shall be deemed to have acquired any marketable security if, upon the conclusion of any transaction for the sale or disposal of the marketable security to him or her by any other person, or, upon or in consequence of the occurrence of any event, such person has become entitled to the ownership of that marketable security.

- (16) (a) Any duty payable under Item 11(5) of Schedule 1 in respect of the acquisition of any marketable security shall be denoted on a deed or declaration which shall be executed in respect of such acquisition.
- (b) The provisions of sections 8 and 9 and subsections (1) to (5), both inclusive, of section 10 shall not apply in respect of any such deed or declaration.
- (c) The stamps on any such deed or declaration shall be defaced as provided in section 10(6) or (7) by the person acquiring the marketable security or by the person with whom the deed or declaration is lodged as contemplated in paragraph (d).
- (d) Such deed or declaration shall be lodged -
  - (i) where the duty under paragraph (5) of Item 11 of Schedule 1 is payable in the circumstances contemplated in subparagraph (a) of

that paragraph, with the nominee referred to in that subparagraph or, if that nominee is a nominee company, with the broker or bank by whom such company is controlled; or

(ii) where the said duty is payable in the circumstances contemplated in subparagraph (b) of that paragraph, with the nominee referred to in that subparagraph; or

(iii) where the said duty is payable in the circumstances contemplated in subparagraph (c) of that paragraph, with the transferor referred to in that subparagraph.

(17) Any deed or declaration referred to in subsection (16) shall at all reasonable times during a period of three years after it has come into the possession of the person with whom it is lodged as contemplated in that subsection, be open for inspection by any person acting under the authority of the Permanent Secretary.

(18) Where any marketable security has been acquired by any transferee as contemplated in paragraph (5) of Item 11 of Schedule 1, the person who, immediately prior to the acquisition of the marketable security by the transferee, was the registered holder thereof or was a nominee in respect thereof, shall -

(a) where the provisions of subparagraph (a) or (c) of the said paragraph (5) are applicable, refrain from making any payment to the transferee in respect of any amount which has accrued on the marketable security and is due to the transferee by way of dividends, interest or any other distribution of income or capital, from exercising on behalf of or for the benefit of the transferee any rights in respect of or attaching to the marketable security and generally from acting as a nominee in relation to the marketable security or as an agent of the transferee in connection with the marketable security, except for purposes connected with the payment of duty under the said paragraph (5) or under paragraph (3) of the said Item; or

(b) where the provisions of subparagraph (b) of the said paragraph (5) are applicable, refrain from paying out or utilizing in any manner any amount

accruing on the marketable security by way of dividends, interest, income or a distribution of capital and generally from exercising his or her rights in respect of the marketable security, except for purposes connected with the payment of duty under the said paragraph (5) or under paragraph (3) of the said Item,

until a deed or declaration has been executed, duly stamped and lodged with the person with whom it is required to be lodged, as required under subsection (16).

(19) The reference in subsection (18) to a person who was the registered holder of any marketable security or was a nominee in respect thereof shall, where such person is a nominee company, be construed as including a reference to the broker or bank by whom such company is controlled.

(20) If duty has become payable under Item 11(5) of Schedule 1 in respect of the acquisition of any marketable security, any person who fails to comply with or who contravenes any of the provisions of subsection (16), (17) or (18) or the provisions of subsection (18), as applied by subsection (19), shall incur a penalty of an amount not exceeding double such duty (whether or not such duty has been paid) or an amount not exceeding R1 000, whichever is the higher amount.

(21) For the purposes of subsections (11), (12) and (13) of this section and Item 11(4) of Schedule 1 -

- (a) the references therein to "shares" shall be deemed to include references to stock and debentures;
- (b) "cancelled" means cancelled in whole or in part, and "cancellation" shall be construed accordingly;
- (c) shares, stock or debentures issued by any company shall be deemed to be cancelled in part if any rights attaching to such shares, stock or debentures are altered so as to result in a material diminution of the rights of the holders of such shares, stock or debentures to participate in the profits or gains of such company or to receive any dividend or other distribution or any interest or other payment from such company;

- (d) where shares, stock or debentures are cancelled in part as aforesaid, the consideration to be determined under subsection (11) in respect of such part-cancellation shall be deemed to be the full market value of such shares, stock or debentures as determined in accordance with that subsection, less such amount as the Permanent Secretary may determine as the value of such shares, stock or debentures immediately after such part-cancellation.

Policies of insurance.

**24. (1) Any person who -**

- (a) receives or takes credit for any premium or consideration for any policy or certificate of insurance or any endorsement thereto chargeable with duty under Item 13 of Schedule 1 and does not within one month after receiving or taking credit for such premium or consideration make out and execute a policy, receipt or instrument; or
- (b) pays or allows in account or agrees to pay or allow in account any money upon or in respect of any policy or certificate of insurance or any endorsement thereto or renewal thereof which requires to be stamped under this Act and is not duly stamped,

shall incur a penalty not exceeding R2 000.

(2) Where a renewal of any policy or certificate of insurance chargeable with duty under paragraph (3) of Item 13 of Schedule 1 becomes due, duty in respect of such renewal shall, notwithstanding that no premium receipt or instrument is executed in respect of such renewal, be chargeable under the said paragraph and be paid in the manner prescribed in subsection (4).

(3) The duty chargeable under paragraph (3) of Item 13 of Schedule 1 in respect of any policy or certificate of insurance or any endorsement thereto or renewal thereof referred to in that paragraph shall not be denoted by means of stamps affixed to such instrument but shall be paid in the manner prescribed in subsection (4).

(4) Every insurer who derives premiums in respect of policies or certificates of insurance or endorsements thereto or renewals thereof chargeable with duty under

Item 13(3) of Schedule 1, shall within two months after the end of each period of three months ending 31 March, 30 June, 30 September and 31 December in any year or within such further period as the Permanent Secretary, having regard to the special circumstances of the case, may approve -

(a) deliver to a receiver of revenue a statement in such form as the Permanent Secretary may prescribe, reflecting dutiable premiums for the said period of three months, being -

(i) the sum of the premiums (hereinafter referred to as the total premiums) on all such policies, certificates of insurance and endorsements executed and all such renewals falling due during the said period, less premiums in respect of any such policies, certificates or endorsements which have not been in force or of effect and renewal premiums in respect of policies which have not been renewed and have during the said period ceased to be renewable, provided the premiums so deducted have been included in total premiums in the said statement or in any statement delivered under this paragraph in respect of any previous period; or

(ii) if the Permanent Secretary, having regard to the circumstances of the case, consents and subject to such conditions as the Permanent Secretary may impose, the sum of the premiums received by the said insurer during the said period in respect of all such policies, certificates of insurance, endorsements and renewals:

Provided that where the aggregate of the premiums on any aforesaid policy, certificate of insurance or renewal thereof and any additional premiums payable in terms of any endorsements to such policy, certificate or renewal in respect of the same period of insurance exceeds R25 000, the amount by which such aggregate exceeds R25 000 shall be disregarded in the determination of such dutiable premiums; and

(b) pay to such receiver of revenue an amount of duty calculated at the rate prescribed in Item 13(3) of Schedule 1 on the amount of such dutiable premiums.

(5) (a) Re-insurance premiums payable by or to other insurers shall not be taken into account for the purposes of the duty payable under subsection (4).

(b) For the purposes of subsection (4), where a collective policy of certificate of insurance or any endorsement thereto or renewal thereof has been issued, such instrument shall be deemed to have been executed by the insurer by whom such instrument has been issued.

(6) If any insurer fails to deliver a statement as required by subsection (4) or delivers a statement which is false, incomplete or inaccurate or, after having been requested by the Permanent Secretary to furnish further information or to produce any books or documents required for the purpose of determining or verifying the duty payable, fails to furnish such information or to produce such books or documents, the Permanent Secretary may estimate the duty payable in respect of the period in question and the duty so estimated shall, until the contrary is proved, be deemed for the purposes of this Act to be the duty payable by the insurer in respect of such period.

(7) Any insurer who fails to pay within the period prescribed for payment in subsection (4), or within such further period as the Permanent Secretary may approve under that subsection, any amount of the duty referred to in that subsection, shall, in addition to such amount of duty, pay a penalty equal to ten per cent of the said amount for every month or part thereof reckoned from the beginning of such first-mentioned period to the date of payment of such amount: Provided that the Permanent Secretary may, having regard to the circumstances of the case, remit the whole or any part of such penalty.

(8) Notwithstanding anything to the contrary in this Act contained, any renewal of any policy or certificate of insurance referred to in Item 13(3) of Schedule 1 which became due before the date of commencement of this Act, shall, notwithstanding the fact that such renewal is

executed on or after that date, not be chargeable with duty under the said Item but shall be chargeable with duty under the provisions of the Stamp Duties Act, 1968 (Act 77 of 1968), and shall be stamped accordingly.

(9) The duty on any policy or certificate of insurance or any endorsement thereto or renewal thereof may be recovered by the insurer from the policy-holder or other person by whom the relevant premium is payable.

(10) If any insurer who issues any category of policy of insurance chargeable with duty under paragraph (1) or (2) of Item 13 of Schedule 1 satisfies the Permanent Secretary -

- (a) that the duty on all policies of the category so issued by the insurer and which are chargeable with duty under any of the said paragraphs can be calculated by means of a computer which is used and controlled by the insurer; and
- (b) that procedures have been devised whereby duty will be calculated on all the policies referred to in paragraph (a); and
- (c) that the amount of duty so calculated in respect of any one of such policies will at all times be readily ascertainable from computer tabulations retained by the insurer,

the Permanent Secretary may, authorize the insurer, subject to any conditions the Permanent Secretary may impose, to pay the duty in respect of the policies referred to in paragraph (a) in the manner prescribed in subsection (11), in which case the duty chargeable in respect of any of such policies shall not be denoted by means of stamps affixed thereto but such policy shall, provided the amount of duty in respect of such policy and the words "duty paid" appear on the face thereof or are printed elsewhere in the policy by means of any computer process, be deemed to be duly stamped.

(11) An insurer authorized as contemplated in subsection (10) shall pay the duty in respect of policies of insurance of the category to which the authorization relates in the following manner, namely -

- (a) the total amount of duty chargeable in respect of policies of such category issued by the insurer during any payment period referred to in paragraph (b), as calculated by means of the computer, shall be determined and paid to a receiver of revenue within 14 days after the end of such payment period or within such further period as the Permanent Secretary, having regard to the special circumstances of the case, may approve;
- (b) the payment period shall be such period, not exceeding 42 days, as the insurer may determine: Provided that the first day of every payment period (other than the first payment period) shall be the day following the last day of the preceding payment period;
- (c) when payment of duty is made under this subsection the insurer shall at the same time furnish the receiver of revenue with a statement in such form as the Permanent Secretary may prescribe and an auditor's certificate testifying to the accuracy of the statement.

(12) If any insurer fails to furnish any statement or auditor's certificate as required by subsection (11) or furnishes a statement or auditor's certificate which is false, incomplete or inaccurate or, after having been requested by the Permanent Secretary to furnish further information or to produce any book or document required for the purpose of determining or verifying the duty payable, fails to furnish such information or to produce such book or document, the Permanent Secretary may estimate the duty payable in respect of the payment period in question and the duty so estimated shall, until the contrary is proved, for the purposes of this Act be deemed to be the duty payable by the insurer in respect of such payment period.

(13) If any insurer referred to in subsection (11) fails to pay within the period of 14 days contemplated in that subsection or within any such further period as the Permanent Secretary may have approved under that subsection, any amount of duty required to be paid under that subsection, the insurer shall, in addition to such amount of duty, pay a penalty equal to ten per cent of the said amount for every month or part thereof reckoned from the beginning of such first-mentioned period to the date of payment of such amount: Provided that the



Permanent Secretary may, having regard to the circumstances of the case, remit the whole or any part of such penalty.

Security or suretyship.

25. (1) Where any document of security or pledge, or any act of suretyship, indemnity or guarantee referred to in Item 15 of Schedule 1, secures a principal sum and in addition a subsidiary or contingent liability for interest, costs or other charges, duty shall not be payable under that Item in respect of such subsidiary or contingent liability.

(2) Where it is shown to the satisfaction of the Permanent Secretary that the value of property pledged is less than the amount secured by such pledge, any duty chargeable under Item 15(1) of Schedule 1 in respect of the relevant document of pledge shall be charged on the value of the property pledged.

## PART V

### OFFENCES

Offences relating to stamping or defacement of stamps and to evasion of duty.

26. Any person who -

- (a) in relation to the stamping of any instrument or the defacement of any stamp on any instrument, without lawful excuse uses, enters or attests any date other than the true date; or
- (b) knowing it to be false states any facts or circumstances relative to the character of any instrument or the duty chargeable in respect of any instrument; or
- (c) by any act, contrivance or omission evades or attempts to evade or aids or abets any other person in evading any duty payable under this Act,

shall be guilty of an offence and on conviction be liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Offences relating to dies  
and stamps.

27. (1) Any person who -

- (a) forges a die or stamp;
- (b) prints or makes an impression upon any material with a forged die;
- (c) with intent to defraud, prints or makes an impression upon any material from a genuine die;
- (d) cuts, tears or in any other way removes from any material any stamp, with intent that any fraudulent use should be made of such stamp or of any part thereof;
- (e) mutilates any stamp with intent that any fraudulent use should be made of such stamp or any part thereof;
- (f) with intent to defraud, fixes or places upon any material any stamp or part of a stamp which, whether with such intent or not, has been cut, torn or in any other way removed from any other material;
- (g) erases or otherwise removes or does any act which appears to erase or remove from any stamped material any name, sum, date or other matter or thing whatsoever thereon written, with the intent that any fraudulent use should be made of the stamp upon such material;
- (h) has in his or her possession any forged stamp or any stamp which has been fraudulently printed or impressed from a genuine die, knowing the same to be forged or to be so printed or so impressed and with intent to sell, use or utter it or who sells or exposes for sale or utters or uses any such stamp knowing the same to be forged or to be so printed or so impressed;
- (i) knowingly and without lawful excuse, has in his or her possession any forged die or stamp or any stamp which has been fraudulently printed or impressed from a genuine die, or any stamp or part of a stamp which has been fraudulently cut, torn or in any other way removed from any material, or any stamp which has been fraudu-

lently mutilated, or any stamped material from which any name, sum, date or other matter or thing has been fraudulently erased or otherwise, either in fact or apparently, removed;

- (j) with intent to defraud, removes from any instrument any adhesive stamp, or affixes to any other instrument any adhesive stamp which has been so removed;
- (k) sells or offers for sale or utters any adhesive stamp which has been so removed, or utters any instrument having thereon any adhesive stamp, which has to his or her knowledge been so removed as aforesaid;
- (l) causes or procures any of the acts mentioned in this subsection, to be done or knowingly aids, abets or assists any person in doing any such act,

shall be guilty of an offence and on conviction be liable to a fine not exceeding R8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(2) Any person who without lawful authority or excuse purchase or receives or knowingly has in his or her possession or custody -

- (a) any paper manufactured or provided for the purpose of making or impressing stamps by or for the proper authorities, before such stamps have been made or impressed and issued for public purposes; or
- (b) any plate, die, dandy-roller, mould or other implement,

shall be guilty of an offence and on conviction be liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Offences relating to adhesive stamps.

28. (1) Any person who -

- (a) (excluding an officer in the public service acting in his or her official capacity or any person acting

under a written authority of the Permanent Secretary), sells or otherwise disposes of any adhesive stamp, whether used or unused, to any other person;

- (b) purchases or in any other manner acquires any adhesive stamp from any person other than an officer or a person acting under a written authority of the Permanent Secretary referred to in paragraph (a);
- (c) has in his or her possession any used adhesive stamp which is not affixed to any instrument and with intent to use it to denote the payment of duty on any other instrument or to sell or dispose of it in contravention of the provisions of this subsection,

shall be guilty of an offence and on conviction be liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(2) For the purposes of this section "used adhesive stamps" means any adhesive stamp which has been or appears to have been defaced in any manner or has or appears to have had any writing thereon or which is damaged or appears to have been affixed to, and removed from, an instrument.

Powers of search for and seizure of forged stamps.

**29. (1)** On sworn information that there is reason to suspect any person of being guilty of any offence referred to in this Part or to suspect that any stamps that have been forged or have been fraudulently printed or impressed from a genuine die, or have been stolen or fraudulently obtained, are in or on any place or in the possession or custody of any person, any judicial officer may issue a search warrant authorizing any member of the Police Force or officer in the public service to search such place or person or any person suspected of being or having been in any way engaged or concerned in the commission of such offence, or any place where machinery, implements or utensils or any such stamps are kept, and any of such machinery, implements, utensils or stamps found upon such search may be seized and shall be held in custody until dealt with in accordance with law.

(2) Any machinery, implements, utensils or stamps so seized shall be declared forfeited to the State by the court convicting the person of any offence under this Act and thereafter shall be dealt with as the Permanent Secretary may direct: Provided that nothing in this subsection contained shall affect the rights of any person who is otherwise entitled by law to the possession or custody of any such machinery, implements, utensils or stamps, as the case may be.

(3) Where any stamps are seized under this section, the person authorized by the warrant shall, if required, give to the person in whose custody or possession the stamps are found, as acknowledgement in writing of the number, particulars and amount of the stamps and permit the stamps to be marked on the back thereof before the removal thereof.

## PART VI

### GENERAL AND MISCELLANEOUS PROVISIONS

Recovery of duties and penalties by action.

30. (1) (a) Any duty or penalty payable under this Act shall be a debt due to the State and may, notwithstanding anything to the contrary contained in any law be recovered by civil action in the magistrate's court having jurisdiction in the area in which the person liable for the duty or penalty resides or carries on business.

(b) Any such magistrate's court may on its own motion or at the request of either party to the proceedings reserve any question of law that may arise in any action before it under paragraph (a) for the decision of the High Court and the question shall be stated by the magistrate in the form of a special case and may be argued before, and shall be determined by, that court which may give such directions in the matter and may make such order as to costs as it may deem fit.

(2) Every action referred to in subsection (1) shall be instituted at the instance of the Permanent Secretary.

(3) All duties and penalties recovered under this Act shall be paid into the State Revenue Fund.

(4) Nothing in this section contained shall be construed as preventing the Permanent Secretary or any other officer from the recovery of any duty or penalty by way of any other remedy under any provision of this Act.

Permanent Secretary may require production of instruments or authorized officer may search for instruments or documents.

**31.** (1) The provisions of this section, in so far as they provide for a limitation on the fundamental rights contemplated in subarticle (1) of Article 13 of the Namibian Constitution by authorizing interference with the privacy of a person's home, correspondence or communications are enacted on the authority conferred by that subarticle.

(2) If the Permanent Secretary has reason to believe that any person has in his or her possession any instrument or instruments chargeable with duty under this Act and which have not been duly stamped, he or she may by notice in writing call upon such person to produce to him or her, or to any officer designated by him or her, at such time and place as may be specified in the notice, such instrument or instruments or the instruments of any category specified by the Permanent Secretary, whether stamped or unstamped at the date of such notice, held by such person, and any person to whom such notice has been delivered who without lawful excuse fails to comply therewith, shall be guilty of an offence and on conviction be liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(3) Any officer who has been authorized thereto by the Permanent Secretary by any instrument in writing may, subject to the provisions of subsection (5) -

- (a) at any time during the day enter any premises whatsoever, or any premises specified in such written authority or any premises belonging to a category of premises so specified, and search such premises for any such instruments.
- (b) in carrying out any such search, open or cause to be opened or removed and opened, anything in which he or she suspects any instruments to be contained;
- (c) at any time during the day demand from any person, or from any person specified in such written authority or from any person belonging to a category of persons so specified, the production

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to such officer of any such instrument or all such instruments in the possession or custody of such person;

- (d) seize any such instruments as in his or her opinion have not been duly stamped;
- (e) retain any such instruments for as long as they may be required for the assessment and recovery of duty or for any criminal or other proceedings under this Act.

(4) Any person who without lawful excuse fails to comply with a demand made by an authorized officer in terms of subsection (3)(c), shall be guilty of an offence and on conviction be liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(5) (a) A search of a home in terms of a power conferred by subsection (3), shall not be carried out without a search warrant, unless -

(i) the owner or occupier of the dwelling, as the case may be, has consented to the search; or

(ii) the authorized officer on reasonable grounds believes -

(aa) that a search warrant will be granted if applied for; and

(bb) that delay in obtaining such warrant would defeat the objects of the search.

(b) The provisions of sections 21 and 29 of the Criminal Procedure Act, 1977 (Act 51 of 1977), shall *mutatis mutandis* apply with reference to the obtaining and execution of a search warrant referred to in paragraph (a), and, in the application of those provisions, a reference to a police official shall be construed as including a reference to an authorized officer.

(6) Any authorized officer exercising any power under subsection (3) shall on demand produce the written authority furnished to him or her by the Permanent Secretary.

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(7) The person from whose premises or from whose possession or custody any instrument has been seized, shall be entitled to examine and make extracts from such instrument during normal office hours under such supervision as the Permanent Secretary may determine.

Refunds of duty.

32. (1) The Permanent Secretary may make, or authorize to be made, a refund in respect of -

- (a) the amount of any overpayment of the duty or any penalty duly chargeable in respect of any instrument, if application for the refund is made within a period of two years after the date of such overpayment;
- (b) any stamp which has been inadvertently spoiled or rendered unserviceable, if application for the refund is made within a period of two years after the stamp was spoiled or rendered unserviceable;
- (c) any stamp or any instrument if the Permanent Secretary is satisfied that such instrument has by reason of an omission or error been spoiled or rendered useless, and that the said instrument has within a period of two years after the date of execution thereof been cancelled and another duly stamped instrument, identical in every material particular with the aforesaid instrument, save for the correction of any such omission or error, has been substituted therefor: Provided that no refund shall be made under this paragraph in respect of any penalty incurred under this Act in respect of the said instrument;
- (d) any stamp which has been rendered obsolete by demonetization in accordance with the regulations, if application for the refund is made within a period of one year after the date on which the stamp was rendered obsolete; or
- (e) any unused stamp which has been purchased by any person and is in excess of his or her requirements.

(2) No refund shall be made in respect of any stamp unless such stamp or, where the stamp is affixed to or impressed on any instrument, such instrument is delivered to the Permanent Secretary to be marked or destroyed.



(3) Stamps shall not be removed from any instrument or material to which they have been affixed and no refund shall be made in respect of any stamp which has in fact or apparently been so removed.

Regulations.

33. (1) The Minister may make regulations as to the demonetization or withdrawal of any particular issue of stamps and generally for the better carrying out of the objects and purposes of this Act.

(2) The regulations may provide a penalty for any contravention thereof or failure to comply therewith, not exceeding a penalty of R2 000, and such penalty shall be recoverable as is provided in this Act.

Payment in advance of stamp duty on cheque books not to be required.

34. Where under paragraph (iii) of the proviso to section 5(1) of the Stamp Duties Act, 1968 (Act 77 of 1968) the Permanent Secretary has agreed with a banker to accept payment of the stamp duty chargeable in respect of cheques drawn on the banker and the duty is in terms of the agreement payable in advance at the time of issue of cheque books by the banker, he or she shall not be required to make payment of stamp duty in respect of cheque books issued by him or her on or after 1 August 1993.

Refunds of stamp duty paid in respect of unused cheque forms.

35. (1) Where stamp duty has been paid as provided in paragraph (iii) of the proviso to section 5(1) of the Stamp Duties Act, 1968 (Act 77 of 1968), in respect of any unused cheque forms held by any person on 1 August 1993, the Permanent Secretary may, notwithstanding the provisions of section 32 of this Act or of any revenue instructions issued or deemed to have been issued under any law, make or authorize a refund of that duty in the manner contemplated in subsection (2).

(2) Where any duty contemplated in subsection (1) -

(a) was paid by a banker in respect of cheque forms sold by him or her to the said person, that banker may, if the unused cheque forms are produced for his or her inspection within a period of one year after 1 August 1993, make a refund to that person of the stamp duty paid in respect of those cheque forms and may deduct the amount so refunded from any subsequent payment of stamp duty required to be made by him or her to the Permanent Secretary in terms of section 20 of this

Act: Provided that no refund shall be made in terms of this paragraph unless the cheque forms are contained in a cheque book issued by the banker and the duty paid in respect of the unused cheque forms contained in the cheque book on 1 August 1993 amounts to at least R10; or

- (b) was paid by a printer in respect of cheque forms printed by him or her for his or her own use or for use by any other person, that printer or other person, as the case may be, may within a period of one year after 1 August 1993 submit to the Permanent Secretary an application for a refund, in such form as the Permanent Secretary may require, of the duty paid in respect of those unused cheque forms held by that printer or other person on the said date.

- (3) The provisions of section 32 of this Act shall not apply to any stamp duty contemplated in subsection (1).

Repeal of laws.

36. (1) Subject to the provisions of sections 23(8) and 24(8) and subsections (2), (3) and (4) of this section, the laws specified in Schedule 2 are hereby repealed to the extent set out in the third column of that Schedule.

(2) Any regulation or notice made or issued or in force under any provision of a law repealed by subsection (1) shall be deemed to have been made or issued or to be in force under the corresponding provision of this Act.

(3) Where any instrument executed outside Namibia before the date of commencement of this Act and which relates to the transfer or hypothecation of any property situated in Namibia or to any matter or thing to be performed or done therein shall, notwithstanding that such instrument is received in Namibia on or after the said date, be subject to the duties prescribed for such instrument in the Stamp Duties Act, 1968 (Act 77 of 1968), and such duties shall be denoted or paid and shall be recoverable from the person liable therefor in the manner provided in that Act as if that Act had not been repealed by this Act.

(4) Save as is otherwise provided in this Act, where any instrument was executed in Namibia before the date of commencement of this Act, stamp duty thereon shall, notwithstanding the fact that the consequent stamping of,

or payment of duty in respect of, such instrument is effected on or after the said date, be paid in respect of such instrument under the provisions of the Stamp Duties Act, 1968 (Act 77 of 1968), but subject to the relevant exemptions provided in that Act, and for the purposes of such stamping or duty the provisions of that Act shall apply as if that Act had not been repealed by this Act.

Short title and commencement.

37. This Act shall be called the Stamp Duties Act, 1993, and shall come into operation on a date determined by the Minister by notice in the *Gazette*.

### SCHEDULE 1

#### TARIFF OF STAMP DUTIES

		R	c
1	<p><i>Agreement or contract</i> in respect of which no other duty is specifically provided .....</p> <p><i>Exemptions:</i></p> <p>(a) Agreements or contracts (other than agreements or contracts of lease) which relate to the sale, supply or delivery of goods, wares or merchandise, including livestock and agricultural produce.</p> <p>(b) Agreements or contracts for the hire of domestic servants, labourers or seamen.</p> <p>(c) Agreement incorporated in the memorandum of association of any company which is formed or to be formed under the Companies Act, 1973 (Act 61 of 1973).</p> <p>(d) Any agreement for the disposal or acquisition of property (as defined in section 1 of the Transfer Duty Act, 1993) or for the renunciation of any interest in, or restriction upon, the use or disposal of such property or for the acceptance of any benefit conferred by such renunciation and any agreement included in such afore-mentioned agreement as to matters connected with such disposal, acquisition, renunciation or acceptance.</p>	5	00

2	<i>Antenuptial or postnuptial contract</i> .....	20 00
3	<p><i>Bill of exchange or promissory note:</i></p> <p>Any bill of exchange (other than a cheque) or any promissory note, whether payable on demand or otherwise: for every R1 000 or part thereof of the amount or value .....</p> <p><i>Exemptions:</i></p> <p>(a) Draft or order by any banker on another banker, not available for payment or credit to any third person and used solely for settling or clearing accounts between the bankers concerned.</p> <p>(b) Coupon or warrant for interest or dividend attached to or issued with any marketable security.</p> <p>(c) Bill or draft by or upon the Treasury or any public account.</p> <p>(d) Promissory note by any commercial bank or other acceptance, discount or financial house in favour of the Bank of Namibia for discount purposes where such promissory note is secured by the lodgment with the latter bank or commercial, industrial or agricultural bills of exchange of equivalent value.</p>	2 00
4	<p><i>Debit entries:</i></p> <p>(1) Cheque banking account .....</p> <p>(2) Credit card scheme account .....</p> <p>(3) Savings account .....</p> <p><i>Exemptions:</i></p> <p>Debit entries in an account in respect of -</p> <p>(a) interest, service or other charges relating to the holding or use of that account or any charge in respect of the duty under this Item recovered from the holder of the account;</p>	<p>0 20</p> <p>0 20</p> <p>0 10</p>

	<p>(b) a bill of exchange (other than a cheque) drawn by the holder of that account;</p> <p>(c) the reversal of an entry;</p> <p>(d) a banking transaction if the holder of that account is a banking institution managed or controlled outside Namibia;</p> <p>(e) a banking transaction if the holder of that account is the Government or a body or institution contemplated in section 4(1) of this Act;</p> <p>(f) a transmission account as defined in section 1 of the Building Societies Act, 1986 (Act 2 of 1986), or a transmission account as defined in section 1 of the Banks Act, 1965 (Act 23 of 1965), or a savings account that is maintained at the Savings Bank as defined in section 1 of the Posts and Telecommunications Companies Establishment Act, 1992 (Act 17 of 1992), of the postal company as defined in section 1 of that Act;</p> <p>(g) the settling or clearing of accounts between bankers.</p> <p>5 <i>Bond:</i></p> <p>(1) Any mortgage bond hypothecating immovable property or an interest in such property and any general or special bond passed before a notary public: for every R1 000 or part thereof of the debt secured or to be secured .....</p> <p>(2) (a) Any bond mentioned in (1) which is executed by way of suretyship only and is collateral to a duly stamped bond for the same debt or obligation executed by the principal debtor or obligor: for every R1 000 or part thereof of the debt secured or to be secured .....</p>	<p>5 00</p> <p>2 00</p>
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<p>(b) Any bond mentioned in (1) which is auxilliary or collateral to or substituted for a previously made and duly stamped bond for the same debt or obligation and which is executed by the debtor or the person substituted as debtor under such previously executed and duly stamped bond .....</p>	<p>20 00</p>
<p>(3) Cession of any bond mentioned in (1) or of any bond substituted therefor: for every R1 000 or part thereof of the amount remaining due .....</p>	<p>5 00</p>
<p>(4) Cession of any auxiliary or collateral bond mentioned in (1) .....</p>	<p>The like duty as is chargeable on the bond</p>
<p>(5) Substitution of debtor in respect of any bond mentioned in (1) .....</p>	<p>The like duty as is chargeable on a cession of the bond</p>
<p>In determining, for the purposes of this Item, the amount of any debt secured or to be secured or remaining due under any bond, any sum separately secured by such bond to cover any costs incurred in connection with such debt shall be excluded from that amount.</p>	
<p><i>Exemptions:</i></p>	
<p>(a) Bond given solely in security for any payment due to the public revenue.</p>	
<p>(b) Bond given by any public officer in respect of the discharge of his or her official duties.</p>	
<p>(c) Cession of any bond to any company (in this paragraph referred to as the subsidiary company), which has been incorporated in Namibia and is managed and controlled in Namibia by any other company (in this para-</p>	

	<p>graph referred to as the foreign company), which has been incorporated, and is managed and controlled, outside Namibia, if it is proved to the satisfaction of the Permanent Secretary -</p> <p>(i) that at the time of such cession all the issued shares of the subsidiary company were held for its own benefit by the foreign company or a company which was incorporated, managed and controlled outside Namibia and was controlled by, or which controlled, the foreign company; and</p> <p>(ii) that the subsidiary company has, under an arrangement with the foreign company, all the assets, including the said bond, relating to any industrial, commercial or other business undertaking of the foreign company in Namibia:</p> <p>Provided that the Permanent Secretary has given a certificate to the effect that this exemption is applicable.</p> <p>6 <i>Customs and Excise documents:</i></p> <p>On each original bill or document of entry or document in lieu thereof .....</p> <p><i>Exemptions:</i></p> <p>(a) Any bill or document of entry for coastwise removal of released goods between places in Namibia or removal through contiguous territories of such goods to any place in Namibia.</p> <p>(b) Any bill or document of entry relating to any goods imported by post and which are not by law required to be cleared at a customs and excise office.</p> <p>(c) Any provisional bill or document of entry covered later by a bill or document of entry which is not exempted under this Item.</p>	<p>1 00</p>
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	<p>(d) Any triptyques, Carnet de Passages en Douane, A.T.A. carnets, temporary import permits and tourist baggage receipts relating to any goods imported under the provisions of Schedule No. 4 to the Customs and Excise Act, 1964 (Act 91 of 1964).</p> <p>7 <i>Duplicate original</i> of any instrument, the original which is chargeable with stamp duty: the like duty to that chargeable upon the original but not to exceed .....</p> <p><i>Exemptions:</i></p> <p>(a) Any duplicate original in respect of which a substantive duty is otherwise chargeable.</p> <p>(b) Any duplicate original which is required to be filed of record in any public office in Namibia.</p> <p>(c) Any duplicate original of any endorsement referred to in section 5(4)(b) of this Act.</p> <p>8 <i>Fixed deposit receipt</i>, including any certificate or other instrument whereby any fixed deposit is acknowledged or is expressed to have been received, deposited or paid:</p> <p>If given for or in respect of any fixed deposit made with any bank, legally established building society, company or association, whether corporate or unincorporate: for every R1 000, or part thereof, of the amount of the fixed deposit and for every period of twelve months, or part thereof, for which the deposit is made .....</p> <p>For the purposes of this Item a share certificate issued in respect of any "paid-up share" as defined in the Building Societies Act, 1986 (Act 2 of 1986), in any legally established building society shall be deemed to be a fixed deposit receipt in respect of a fixed deposit of an amount equal to the amount stated in the certificate, and such deposit shall be deemed to have been made for a period of 24 months.</p>	<p>1 00</p> <p>1 00</p>
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	<p><i>Exemptions:</i></p> <p>Provisional receipt in respect of money deposited on fixed deposit if a duly stamped fixed deposit receipt in respect of the amount deposited is issued within 21 days after the date of such provisional receipt.</p> <p>9 <i>Hire purchase agreement or contract or financial lease</i>, in respect of goods, wares or merchandise (other than livestock or agricultural produce): for every R1 000, or part thereof, of the amount payable under such agreement, contract or lease (including any interest and finance or other charges) .....</p> <p>Subject to a maximum duty of R100</p> <p>Notwithstanding anything to the contrary in this Act contained, an instrument which is signed by a person in connection with the sale or disposal to him or her of any goods, wares or merchandise (other than livestock or agricultural produce) and which, if signed by the other party to the transaction, would be a hire-purchase agreement or contract in respect of such goods, wares or merchandise, shall for the purposes of this Item be regarded as a hire-purchase agreement or contract executed on the date on which it was signed by such person.</p> <p>For the purposes of this Item -</p> <p>“financial lease” means a financial lease contemplated in paragraph 1 of Schedule 4 to the Sales Tax Act, 1992 (Act 5 of 1992);</p> <p>“hire-purchase agreement or contract” includes any agreement whereby goods, wares or merchandise are sold subject to the condition that the ownership therein shall not pass merely by the transfer of the possession thereof, and the purchase price is to be paid in instalments, two or more of which are payable after such transfer, and includes any other agreement which has or agreements which together have the same import, irrespective of the form of such agreement or agreements.</p>	<p>1 00</p>
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10	<p><i>Lease or agreement of lease</i> (including any instrument intended or operating as a lease or sub-lease or as an agreement to let or sub-let) whereby immovable property is let, whether with or without other assets or rights, provided transfer duty is not chargeable in respect of such lease or agreement:</p> <p>(1) In respect of any such lease or agreement, an amount of duty calculated in accordance with the following scale on a sum equal to the aggregate amount of rent payable in respect of the period for which the lease or agreement is required to be stamped as provided in section 22 of this Act, plus the amount of any other consideration whatsoever (excluding the duty payable under this Item) due or payable in respect or by virtue of such lease or agreement:</p> <p>(a) where such period does not exceed 5 years: for every R1 000 or part thereof .....</p> <p>(b) where such period exceeds 5 years but not 10 years: for every R1 000 or part thereof .....</p> <p>(c) where such period exceeds 10 years but not 20 years: for every R1 000 or part thereof .....</p> <p>(d) where such period exceeds 20 years: for every R1 000 or part thereof .....</p> <p>Provided that if in any case it is shown to the satisfaction of the Permanent Secretary that an amount of rent and any other consideration payable under any such lease or agreement of lease is payable in respect of immovable property and that the total amount thereof exceeds the full selling value of such property, duty shall be payable on the amount of such full selling value plus the aggregate amount of rent and any other consideration payable under such lease or agreement as in the opinion of the Permanent Secretary relates to movable property.</p>	<p>5 00</p> <p>8 00</p> <p>10 00</p> <p>15 00</p>
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	<p>(2) In respect of any continuance, renewal or extension of any such lease or agreement ....</p> <p>(3) In respect of any cession or assignment by a lessee of any of his or her rights under any such lease agreement, provided transfer duty is not chargeable in respect of such cession or assignment .....</p> <p>Notwithstanding anything to the contrary in this Act contained, for the purposes of this Item an instrument which, if signed by the parties thereto, would constitute a lease or agreement of lease as aforesaid or a continuance, renewal or extension thereof, shall, if signed by the lessee, be deemed to have been executed on the date on which it was so signed by the lessee, unless such instrument has within three months after that date also been signed by the lessor.</p> <p>11 <i>Marketable security</i>, including any scrip, certificate, warrant or any other like instrument representing any share, stock or debenture, or any right of option to acquire any share, stock or debenture, of any company or other corporate body other than -</p> <p>(a) a regional council;</p> <p>(b) a local authority council;</p> <p>(c) the Bank of Namibia.</p> <p>(1) In respect of the original issue within Namibia of any such shares, stock or debentures, if transferable only by registration: for every R1 000 or part thereof of the nominal value of such shares, stock or debentures and any premium payable therefor .....</p>	<p>An amount of duty calculated in accordance with section 22(4) of this Act.</p> <p>5 00</p> <p>2 00</p>
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	<p>For the purposes of this paragraph shares having no par value shall be deemed to have a nominal value equal to the issue price or other consideration for such shares or, where no issue price or other consideration for such shares is payable, the nominal value of the interest represented by the shares in the share capital of the company or corporate body issuing such shares.</p> <p>(2) In respect of the issue within Namibia of any certificate or other like instrument representing any interest in respect of such shares, stock or debentures, whether called unit or fixed trust certificates or by any other name:</p> <p>(a) if not transferable or if transferable only by registration: for every R1 000 or part thereof of the price of issue ..... 2 00</p> <p>(b) if made out to bearer or in any manner so as to be transferable by delivery only: for every R1 000 or part thereof of the price of issue ..... 5 00</p> <p>For the purposes of paragraphs (1) and (2) shares, stock or debentures or any certificate or other like instrument representing any interest in respect of shares, stock or debentures shall, when issued by a company or juristic person, which is registered, incorporated or established by or under any law of Namibia, be deemed to have been issued in Namibia notwithstanding the fact that such shares, stock, debentures, certificate or other instrument may be registered or noted in a branch register kept by that company or juristic person outside Namibia.</p> <p><i>Exemptions from the duty under paragraph (1) or (2):</i></p> <p>(a) Where the scrip, certificate, warrant or other like instrument is issued solely in substitution for any instrument or instruments of the same nature of like or equivalent value, withdrawn, cancelled or lost, which were owned by the person to whom the issue in substitution is made: Provided that this exemption shall</p>	
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	<p>only be allowable if the new instrument is endorsed by a director, secretary or responsible officer as being a <i>bona fide</i> substitution without change of owner.</p> <p>(b) The issue of any negotiable certificate in respect of any deposit made with any banking institution registered under the Banks Act, 1965 (Act 23 of 1965), if such certificate is subject to duty under Item 8.</p> <p>(3) In respect of the registration of transfer of any such marketable security:</p> <p>(a) if transfer is registered before the expiry of a period of six months from the date of execution of the relevant instrument of transfer referred to in section 23 of this Act: for every R1 000, or part thereof, of the amount or value of the consideration given or, where no consideration is given or the consideration is less than the value of the marketable security transferred, of the value of the marketable security transferred .....</p> <p>(b) if transfer is registered after the expiry of the said period .....</p> <p><i>Exemptions from the duty under paragraph (3):</i></p> <p>(a) Any registration of transfer of any marketable security held by any executor of the estate of a deceased person, or by any administrator or trustee under a trust created by will or written instrument or deed (other than a</p>	<p>2 00</p> <p>Three times the duty which would have been payable under (a) if transfer had been registered before the expiry of the said period of six months.</p>
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	<p>trust under which the administrator or trustee is the nominee of any person in relation to the marketable security), if such transfer is necessitated by a change of executors, administrators or trustees and no change in the beneficial interest of any person in the said marketable security is effected.</p> <p>(b) The registration of transfer of any negotiable certificate in respect of any deposit made with any banking institution registered under the Banks Act, 1965 (Act 23 of 1965), if such certificate is subject to the duty under Item 8.</p> <p>(c) Any registration of transfer of any marketable security issued by any company or corporate body, if the instrument of transfer is executed outside Namibia and the registration of transfer is effected in any branch register kept by such company or corporate body outside Namibia: Provided that the Permanent Secretary is satisfied -</p> <p>(i) that such branch register is kept in a country in which there is a recognized stock exchange;</p> <p>(ii) that marketable securities which have been issued by that company or corporate body, and which are of the same kind as the marketable security the registration of transfer of which is effected, are regularly bought and sold on that stock exchange; and</p> <p>(iii) that such branch register is kept solely or mainly for the convenience of investors who are not ordinarily resident in Namibia,</p> <p>and the Permanent Secretary has notified that company or corporate body that he or she is so satisfied and has not notified that company or corporate body that he or she is no longer so satisfied.</p>	
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	<p>(d) Any registration of transfer of any marketable security purchased on a licensed stock exchange, as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act 1 of 1985), if such marketable security is included in the list of securities kept by the committee of such stock exchange in terms of section 16(a) of that Act, and such purchase has been effected on or after 16 October 1992.</p> <p>(e) Any registration of transfer of any marketable security -</p> <p>(i) from a principal who, at the time of such registration, is the owner of the beneficial interest in such marketable security, to a nominee appointed by that principal, without any alteration of the beneficial interest of the principal therein; or</p> <p>(ii) from a nominee to a principal who is the owner of the beneficial interest in such marketable security if -</p> <p>(aa) throughout the period reckoned from the date at which such nominee became a nominee in respect of such marketable security, or from the date at which such marketable security was registered in the name of such nominee, whether in the capacity of a nominee or otherwise, whichever date is earlier, to the date of registration of such transfer, the said nominee has, in relation to such marketable security, been the nominee of the said principal, without any change of the beneficial interest of the principal therein; or</p> <p>(bb) where during the said period duty has become payable under paragraph (5) of this Item in respect of one or more acquisitions of such marketable security, the said duty has been paid in respect of each such acquisition.</p>	
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	<p>(f) Any registration of transfer of any marketable security registered in the name of any pension fund which is registered under the Pension Funds Act, 1956 (Act 24 of 1956), to any other pension fund which is registered under that Act, if such transfer is made in pursuance of a scheme referred to in section 14(1) of that Act.</p> <p>(g) Any registration of transfer effected on or after 28 December 1992, in respect of any marketable security sold or disposed of to any company (hereinafter referred to as the subsidiary company) which has been incorporated, and is managed and controlled, in Namibia by any other company (hereinafter referred to as the foreign company) which has been incorporated, and is managed and controlled, outside Namibia, if it is proved to the satisfaction of the Permanent Secretary -</p> <p>(i) that at the time of such sale or disposal all the issued shares of the subsidiary company were held for its own benefit by the foreign company or a company which was incorporated, managed and controlled outside Namibia and was controlled by or controlled the foreign company; and</p> <p>(ii) that the subsidiary company has under an arrangement with the foreign company acquired from the foreign company all the assets, including the said marketable security, relating to any industrial or commercial or other business undertaking of the foreign company in Namibia.</p> <p>(h) Any registration of transfer of any marketable security from a transferor who is the registered holder thereof to a broker in his or her capacity as a nominee or to a nominee company in its capacity as nominee, if such registration is effected at the request of a bank or broker in consequence of the purchase or sale of such marketable security by such broker on behalf of a client of such broker or</p>	
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	<p>by a broker on behalf of a client of any broker or bank by whom the nominee company is controlled.</p> <p>(i) Any registration of transfer of any marketable security from a transferor who is the registered holder thereof to a broker in his or her capacity as a nominee or to a nominee company in its capacity as a nominee if the transferor retains his or her interest in such marketable security.</p> <p>(j) Any registration of transfer of any marketable security from a broker to a client of such broker or from a nominee company to a client of the broker or bank by whom such nominee company is controlled, if, throughout the period during which the marketable security has been registered in the name of such first-mentioned broker or such nominee company, the broker or nominee company has held the marketable security as a nominee solely for the benefit of the client concerned.</p> <p>(k) Any registration of transfer of any marketable security from one nominee (hereinafter referred to as the transferor) to another nominee, if -</p> <p>(i) such registration of transfer is effected in consequence of a mere change of nominees without any alteration of the beneficial interest of any person in such marketable security being thereby effected; and</p> <p>(ii) throughout the period during which such marketable security has been registered in the name of the transferor, he or she has held the marketable security as a nominee solely for the benefit of the person for whose benefit it was so held by him or her at the commencement of that period.</p> <p>(l) Any registration of transfer of any marketable security into the name of a broker or of a nominee company, if such registration of</p>	
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	<p>transfer is effected in consequence of the purchase or sale of such marketable security under an arbitrage transaction (as defined in section 23 of this Act) in order to facilitate the delivery of such marketable security to a purchaser in Namibia or to a person outside Namibia who is concerned in the transaction.</p> <p>(m) Any registration of transfer of any marketable security into the name of a person (hereinafter referred to as the purchaser) or of a nominee company acting as nominee of the purchaser, if the purchaser has become the owner of such marketable security in consequence of the purchase by a broker of such marketable security under an arbitrage transaction concluded on or after 1 September 1985 and any regulation, order or rule regarding currency made under the Currency and Exchanges Act, 1933 (Act 9 of 1933), which is applicable in connection with the acquisition of the marketable security by the purchaser, has been complied with.</p> <p>(n) Any registration of transfer of any interest-bearing debenture stock, debenture bonds and any other securities of a company, whether constituting a charge on the assets of the company or not, listed by any licensed stock exchange in Namibia.</p> <p>(o) Any registration of transfer of any marketable security into the name of an heir or legatee if such registration of transfer is effected in consequence of the acquisition by such heir or legatee of such marketable security <i>ab intestato</i> or by testamentary succession or as a result of a redistribution of the assets of a deceased estate in the process of liquidation.</p> <p>(p) Any registration of transfer of any marketable security from a trustee, who is the registered holder thereof, of a trust created in accordance with a will to a beneficiary entitled thereto under such will.</p>	
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	<p>(q) Any registration of transfer of any marketable security issued under section 29(2) of the State Finance Act, 1991 (Act 31 of 1991).</p> <p>(r) Any registration of transfer of any marketable security registered in the name of any insurer registered under the Insurance Act, 1943 (Act 27 of 1943), to any other insurer so registered, if such transfer if made in accordance with a transfer of insurance business as contemplated in section 25A of that Act.</p> <p>(4) In respect of the cancellation or redemption of any company shares which any person is in terms of section 23(11) of this Act deemed to have disposed of: for every R1 000 or part thereof of the value of the consideration referred to in the said section 23(11) .....</p> <p>(5) In respect of the acquisition by any person (hereinafter referred to as the transferee) from any other person (hereinafter referred to as the transferor) of any marketable security -</p> <p>(a) immediately prior to such acquisition, any person (other than the transferee) was a nominee in respect of such marketable security; or</p> <p>(b) immediately prior to such acquisition, the transferee was a nominee in respect of such marketable security; or</p> <p>(c) after such acquisition, the transferor continues to be or becomes the registered holder of such marketable security and becomes or is to become a nominee in respect of such marketable security,</p> <p>the duty to be the following -</p> <p>(i) if the relevant deed or declaration referred to in section 23(16) of this Act is duly stamped before the expiry of a period of six months from the date of such acquisition: for every R1 000 or</p>	<p>2 00</p>
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	<p>part thereof, of the amount or value of the consideration given or, where no consideration is given, of the value of the marketable security .....</p> <p>(ii) if the relevant deed or declaration is not duly stamped within the period of six months referred to in (i) .....</p> <p><i>Exemptions from the duty under paragraph (5):</i></p> <p>(a) The acquisition of any marketable security by the transferee, if registration of the transfer of such marketable security from the transferor to the transferee has been effected and the provisions of section 23(18), or that section, as applied by section 23(19), of this Act have not been contravened.</p> <p>(b) The acquisition of any marketable security of a deceased by an heir or legatee <i>ab intestato</i> or by testamentary succession or as a result of a re-distribution of the assets of a deceased estate in the process of liquidation.</p> <p>In this Item “broker”, “nominee” and “nominee company” respectively means a broker, nominee or nominee company as defined in section 23 of this Act.</p>	<p>2 00</p> <p>Three times the duty which would have been payable under (i), if the deed or declaration had been duly stamped within the period of six months referred to in (i).</p>
12	<i>Partnership: Agreement of partnership .....</i>	20 00
13	<i>Policy of insurance: including any other instrument which constitutes a policy of insurance under the Insurance Act, 1943 (Act 27 of 1943):</i>	

<p>(1) Policy of life insurance (excluding a policy providing for the payment of an annuity only): for every R1 000 or part thereof of the aggregate sum assured, excluding the value of any annuity .....</p>	<p>1 00</p>
<p>(2) Policy of life insurance providing for the payment of an annuity only .....</p>	<p>10 00</p>
<p>(3) Policy or certificate of insurance not subject to duty under any of the foregoing paragraphs or any endorsement thereto or renewal thereof .....</p>	<p>A duty of one per cent on the dutiable premiums referred to in section 24(4)(a) of this Act.</p>
<p>For the purposes of this paragraph any ticket, coupon, notice, bill or other document purporting to be an insurance policy or to give a right to insurance in the event of death, accident, sickness or the like, shall be deemed to be a policy of insurance executed on the date of sale or issue thereof for consideration and shall be chargeable with duty under this paragraph.</p>	
<p>(4) Cession of any policy of insurance or of any interest under such policy .....</p>	<p>5 00</p>
<p>Provided that the duty on any cession of a policy referred to in paragraph (1) or of any interest thereunder shall not exceed the duty to which the policy which is ceded or under which an interest is ceded would be liable under that paragraph.</p>	
<p><i>Exemptions:</i></p>	
<p>(a) Interim cover note issued in respect of a policy of insurance to be issued within Namibia.</p>	

	(b) Policy solely for the purpose of effecting re-insurance by one insurance company or association with another insurance company or association to cover general risks.	
14	<p><i>Power of attorney:</i> Special or general power of attorney or instrument of a like kind or any substitution thereunder: in respect of each grantor .....</p> <p>A power granted by or on behalf of a company or partnership or by persons holding jointly the office of administrator, executor, curator, tutor or trustee and granting the power in any such capacity only, shall be deemed to be given by one grantor.</p> <p><i>Exemptions:</i></p> <p>(a) Proxy solely to attend, speak and vote at any specified meeting or adjournment thereof.</p> <p>(b) Power granted to an attorney or conveyancer to act in regard to the registration of any deed in a deeds registry as defined in section 1 of the Transfer Duty Act, 1993.</p>	5 00
15	<p><i>Security or suretyship:</i> Any document of security or pledge, or any act of suretyship, indemnity or guarantee not otherwise chargeable with duty:</p> <p>(1) Where such instrument secures the payment of any money debt and the amount secured is stated in such instrument: For every R1 000 or part thereof of such amount .....</p> <p>Subject to a maximum duty of .....</p> <p>(2) Where such instrument secures the payment of any money debt and the amount secured is not stated in such instrument .....</p> <p>(3) Where such security, pledge, suretyship, indemnity or guarantee is given in respect of any other matter .....</p>	<p>1 00</p> <p>50 00</p> <p>50 00</p> <p>5 00</p>

	<p><i>Exemptions:</i></p> <ul style="list-style-type: none"><li>(a) Where such security, pledge, suretyship, indemnity or guarantee is given solely in relation to any payment due to the public revenue.</li><li>(b) Where such document of security or pledge or such act of suretyship, indemnity or guarantee constitutes a policy of insurance under the Insurance Act, 1943 (Act 27 of 1943).</li><li>(c) Indemnity by any person solely in respect of loss or damage caused by or suffered in consequence of the death of, or any personal injury to, such person or any child or dependant of such person.</li><li>(d) Indemnity in respect of loss or damage caused by or suffered in consequence of the death of or any personal injury to any person while being taken up or conveyed in or put down from any vehicle, aircraft, ship or boat owned, operated or hired by the Government or in respect of the loss of, or any damage to, any property of such person arising from any accident or other cause while or as a result of being so taken up, conveyed or put down.</li><li>(e) Indemnity given to the State in connection with a lost or missing stock certificate, Treasury bond, tax bond, tax redemption certificate, loan levy certificate, warrant voucher or interest voucher or in connection with any certificate, voucher or document of a similar nature.</li><li>(f) Indemnity given to the Government in respect of loss or damage caused by or suffered in consequence of any act or omission of any officer or employee of the Government in carrying out the duties of his or her office or employment.</li><li>(g) Security or guarantee given in connection with the registration of transfer of property as defined in section 1 of the Transfer Duty Act, 1993, in a deeds registry as defined in the said section 1.</li></ul>	
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16	<p><i>Transfer deed</i>, relating to immovable property:</p> <p>(1) Where the value or consideration does not exceed R20 000: for every R1 000 or part thereof of the value or consideration .....</p> <p style="text-align: right;">5 00</p> <p>(2) Where the value or consideration exceeds R20 000 .....</p> <p style="text-align: right;">100 00</p> <p style="padding-left: 2em;">and for every R1 000 or part thereof of the value or consideration in excess of R20 000 .....</p> <p style="text-align: right;">10 00</p> <p>Where the amount of such value differs from the amount of such consideration, the duty under this Item shall be payable on the higher amount.</p> <p>Where, in terms of the Sectional Titles Act, 1971 (Act 66 of 1971), the ownership or any share of or interest in the ownership in any unit or land held under sectional title deed is transferred or any alienation of any such unit or land or any share of or interest therein is registered by means of an endorsement made by a registrar of deeds on such sectional title deed or by means of the issue by such registrar of a certificate of registered sectional title, such endorsement or certificate shall for the purposes of this Item be deemed to be a transfer deed relating to immovable property.</p> <p><i>Exemptions:</i></p> <p>(a) Partition transfers, except in respect of consideration paid by one of the parties thereto to another such party.</p> <p>(b) Transfers which bring about no alteration in the legal rights in the property transferred.</p>	
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## SCHEDULE 2

LAWS REPEALED  
(Section 36(1))

No. and year of law	Title of law	Extent of repeal
Act 77 of 1968	Stamp Duties Act, 1968	The whole.
Act 103 of 1969	Revenue Laws Amendment Act, 1969	Sections 16 to 28, both inclusive, and section 29 in so far as it relates to stamp duties.
Act 72 of 1970	Revenue Laws Amendment Act, 1970	Sections 5 to 11, both inclusive.
Act 92 of 1971	Revenue Laws Amendment Act, 1971	Section 13.
Act 89 of 1972	Revenue Laws Amendment Act, 1972	Sections 9 to 13, both inclusive.
Act 66 of 1973	Revenue Laws Amendment Act, 1973	Sections 5 to 20, both inclusive.
Act 88 of 1974	Revenue Laws Amendment Act, 1974	Sections 7 to 26, both inclusive.
Act 70 of 1975	Revenue Laws Amendment Act, 1975	Sections 3 and 4.
Act 104 of 1976	Revenue Laws Amendment Act, 1976	Section 3.
Act 114 of 1977	Revenue Laws Amendment Act, 1977	Sections 9 to 20, both inclusive, and section 24 in so far as it relates to stamp duties.
Act 2 of 1985	Stamp Duties Amendment Act, 1985	The whole.
Act 30 of 1992	Revenue Laws Amendment Act, 1992	The whole.