

## THE STAMP DUTIES ACT

*Date of commencement: 23rd October, 1970.*

*Date of assent: 1st October, 1970.*

### *Arrangement of sections*

#### PART I

##### PRELIMINARY

1. Short title and commencement.
2. Interpretation.

#### PART II

##### ADMINISTRATION OF ACT

3. Duties and responsibilities of Accountant-General.

#### PART III

##### IMPOSITION OF STAMP DUTIES

4. Stamp duty to be charged in accordance with the Schedule.
- 4bis*. Amendment of the Schedule.
5. General exemptions.

#### PART IV

##### GENERAL PROVISIONS RELATING TO THE STAMPING OF INSTRUMENTS

6. Use of stamps in payment of duty.
7. How instruments to be stamped.
8. Persons liable to stamp various instruments.
9. Time within which instruments shall be stamped.
10. Late stamping of instruments and penalties for default.
11. Defacement of adhesive stamps.
12. Adjudication respecting liability for stamp duty or penalty.
13. Invalidity of instruments not duly stamped.
14. Duties of public officers and other persons.
15. Evasion of duty.
16. Stamping of unstamped instruments with amount of duty and penalty recovered.

#### PART V

##### PROVISIONS APPLICABLE TO PARTICULAR INSTRUMENTS

17. Bills of exchange and promissory notes drawn or made outside Swaziland.

18. Bills of exchange.
19. Promissory notes.
20. Broker's notes.
21. Company share capital duty.
22. Fixed deposit receipts.
23. Leases of immovable property.
24. Marketable securities.
25. Receipts.
26. Security or suretyship.

#### PART VI

#### OFFENCES

27. Offences relating to stamping or defacement of stamps and evasion of duty.
28. Offences relating to dies and stamps.
29. Presumption in case of possession or sale of forged stamps.
30. Powers of search for and seizure of forged stamps, etc.

#### PART VII

#### GENERAL AND MISCELLANEOUS

31. Recovery of duty and penalties by action.
32. Accountant-General may require production of instruments or authorised officer may search for instruments or documents.
33. Refunds of duty.
34. Regulations.
35. Savings.  
Schedule.

*An Act to consolidate and amend the law relating to stamp duties and fees.*

#### PART I

#### PRELIMINARY

*Short title and commencement.*

1. This Act may be cited as the Stamp Duties Act, 1970.

*Interpretation.*

2. In this Act unless the context otherwise requires —

“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 time, a sum of money to a specified person or his order or to bearer, and an order to pay shall for the purposes of this definition be deemed to be an unconditional order even though coupled with —

- (a) an indication of a particular fund out of which the drawee is to reimburse himself 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;

“broker” includes an agent or other person acting in a similar capacity;

“brokerage” includes a commission or similar fee;

“broker’s notice” means the note required to be sent by any broker to his principal under section 20 advising the sale or purchase of a marketable security or any movable property;

“cheque” means a bill of exchange drawn on a banker and payable on demand, and such a bill payable at sight or on presentation shall be deemed to be payable on demand;

“die” means any plate, type, tool or implement whatever 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 an instrument requiring to be stamped under this Act, means that the instrument has been stamped as required by this Act for the proper amount of duty and the amount of any penalty incurred under section 10(1)(a) 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 and includes a fee;

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

“fee” means a fee the payment of which is prescribed by or under a law or rule of court in respect of proceedings or process or a document tendered or used in a court of law or in respect of a matter to be transacted or document used in a public office;

“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 expiry of a period of notice equal to at least eighty-nine days;

“forge” includes counterfeit;

“instrument” includes any written document or writing;

“magistrate’s court” means a subordinate court established under the Sub-ordinate Courts Proclamation (*Cap. 20*);

“marketable security” means any security, stock, debenture, share or other interest capable of being sold on 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 and the right of option to acquire any share, stock or debenture, of a company or corporate body, other than a building society, local authority, the Swaziland Credit and Savings Bank, the Swaziland Electricity Board, the Swaziland Railway and such other statutory body as the Minister may designate by notice in the Gazette;

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

“Minister” means the Minister for Finance;

“penalty” means a penalty recoverable under section 31;

“policy of life insurance” means an insurance policy upon a life or lives or upon an event or contingency relating to or depending upon a life or lives, but excludes a policy of funeral insurance and 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 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;

“policy or certificate of marine insurance” means an insurance policy or certificate of insurance which is executed in respect of marine business but excludes any policy insuring a person solely against inland transit risks;

“promissory note” means an 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 time 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;

“receipt” means any instrument whereby money or any bill of exchange or promissory note for money is acknowledged or expressed to have been received or deposited or paid or whereby any debt, or demand or any part of a debt or demand is acknowledged to have been settled, satisfied or discharged, or which signifies or imports any such acknowledgement and whether it is signed or not;

“revenue” means the revenue of Swaziland received or accrued by way of a tax, fee, levy, duty or rate;

“revenue officer” means —

- (a) the Accountant-General and a member of his staff authorised by him in writing;
- (b) in respect of instruments relating to matters officially concerning him, the registrar, master or clerk of a court, the registrar of companies and the registrar of deeds; and
- (c) an officer in the public service authorised by the Minister by notice in the Gazette to act as a revenue officer for the purposes of this Act either in respect of instruments generally or in respect of such classes of instruments as may be specified in the notice;

“stamp” —

- (a) when used as a noun, means an adhesive stamp approved by the Minister in writing as a revenue stamp for use under this Act or an impression made by means of a die approved by the Accountant-General in writing, for the purposes of a receipt includes a postage stamp; and
- (b) when used as a verb, means to affix a stamp to, or impress a stamp on, an instrument.

## PART II

### ADMINISTRATION OF ACT

*Duties and responsibilities of Accountant-General.*

3. The Accountant-General —

- (a) shall be responsible for carrying out the provisions of this Act, and may in the exercise of his powers or the performance of his duties act personally or through officers in the public service acting under his authority;
- (b) may make such arrangements for the supply to, and the sale and distribution of stamps at, public offices or any other premises for the convenience of the public and may authorise any person to sell or distribute stamps for the purposes of this Act, and may make use of such forms, as he may from time to time think necessary or convenient for the better carrying out of the provisions of this Act.

## PART III

### IMPOSITION OF STAMP DUTIES

*Stamp duty to be charged in accordance with the Schedule.*

4. Every instrument described in the Schedule not being an instrument in respect of which exemption is provided for in this Act or in the Schedule, shall be subject to the duties prescribed in the Schedule in respect of the instrument, if the instrument is executed —

- (a) in Swaziland on or after the date on commencement of this Act; or

- (b) outside Swaziland on or after that date and relates to the transfer or hypothecation of property situated in Swaziland or any matter or thing to be performed or done in Swaziland.

*Amendment of the Schedule.*

4bis. Subject to the concurrence of the Council, the Minister may by notice in the Gazette amend or vary the Schedule. (Added K.O-I-C. 21/1976.)

*General exemptions.*

5. (1) Duty shall not be chargeable in respect of any instrument —
- (a) if the duty on it would in terms of this Act be legally payable and borne by the Government, the Swazi Nation Council, the Ngwenyama in trust for the Swazi Nation, the King or Ndlovukati in their personal capacities, the Swaziland Electricity Board, the Swaziland Development and Savings Bank, the Swaziland Railway, a local authority, the government of any other country or such other body as the Minister may designate by notice in the Gazette; or (Amended K.O-I-C. 36/1976.)
  - (b) used or intended for use in or in connection with criminal proceedings, or in connection with any charge of a criminal offence, or connection with bail; or
  - (c) 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;
  - (d) executed by or on behalf of any ecclesiastical, charitable or educational institution of a public character approved by the Minister;
  - (e) including the Transfer Deed relating to the transfer of any immovable property in favour of the Government, the Crown or the Ngwenyama in trust for the Swazi Nation, the King or Ndlovukati in their personal capacities; and the Swaziland National Trust Commission Act No. 9 of 1972.
- (Added K.O-I-C. 13/1974; K.O-I-C. 5/1975; K.O-I-C. 32/1976.)
- (2) Any instrument specially exempted from stamp duty under any other law shall not be chargeable with duty by reason of the provisions of this Act.

PART IV

GENERAL PROVISIONS RELATING TO THE STAMPING OF INSTRUMENTS

*Use of stamps in payment of duty.*

6. (1) Subject to this section the payment of duty or of a penalty incurred under section 10 shall, save as otherwise specially provided in this Act, be denoted by means of adhesive stamps for the amount of such duty or penalty, and stamps shall be affixed to the instrument chargeable with such duty or penalty and be defaced as prescribed by this Act.
- (2) Subject to such conditions as the Accountant-General may in writing impose, the payment of duty on any class of instrument may be denoted by means of an impressed stamp.

(3) The Accountant-General may in his discretion, in lieu of the requirement that stamps be affixed to any instrument, authorise the issue of a receipt for the duty paid and upon the issue of such receipt the person by whom or under whose supervision the receipt is issued, shall endorse upon the instrument concerned a certificate of the payment of the duty.

(4) A certificate under subsection (3) shall contain a reference to the number and date of the receipt to which the certificate relates and set forth the amount of duty paid and the instrument on which the certificate has been endorsed shall for purposes of this Act be deemed to be stamped for the amount of the duty paid and set forth in the certificate.

(5) The duty on a notarially executed instrument shall be denoted on the notarial minute or original of the instrument.

(6) The duty on a notarial grosse, duplicate original or copy of an instrument shall be denoted on the notarial grosse, duplicate original or copy.

(7) If a notarially executed instrument liable to duty is found not to be duly stamped after the expiry of the period allowed under this Act for the stamping of such instrument, the notary by or before whom it was executed or passed, shall be liable to have the instrument duly stamped, but nothing in this Act shall exempt any other person who is liable in respect of such duty or penalty from liability for the duty or penalty.

#### *How instruments to be stamped.*

7. (1) An instrument shall be stamped on the face thereof.

(2) Any instrument containing or relating to several distinct matters shall be stamped in respect of each of those matters separately as if each matter 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 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 person who attests or certifies a copy, duplicate or grosse of an instrument chargeable with duty shall add to his attestation or certificate a statement of the amount of duty stamped on the original instrument.

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

(a) executes an instrument in which all the facts and circumstances are not fully and truly set forth; or

(b) being employed or concerned in or about the preparation of an instrument fails fully and truly to set forth therein all the facts and circumstances, shall incur a penalty of fifty emalangeni.

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

(6) If an instrument contains a statement of current rates of exchange or average price and is stamped in accordance with such statement, it shall, in respect thereof, 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 insufficiently stamped.

(7) In case of doubt or difficulty in determining the value or consideration upon which duty is payable, the Accountant-General may determine it and his determination shall, unless the determination is shown to be incorrect or excessive be conclusive for the determination of such duty.

*Persons liable to stamp various instruments.*

8. The persons respectively liable for duty and required to stamp an instrument are, in the case of —

- (a) an affidavit or solemn or attested declaration, the person making it;
- (b) an agreement or contract, the parties;
- (c) a bill of exchange or promissory note, the drawer or maker;
- (d) 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) a cession, the cedent;
- (f) a lease or agreement of lease in respect of immovable property, the lessor;
- (g) the original issue of a marketable security, the company or corporate body issuing the marketable security;
- (h) the registration of transfer of a marketable security, the transferee;
- (i) the cancellation of company shares, as contemplated in section 24(12) of the Schedule, the company the shares of which are cancelled;
- (j) a policy of insurance, the person executing it and the person insured;  
Provided that 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;
- (k) a receipt, the person giving it;
- (l) an instrument on which a fee is payable, the person to whom it is issued or by whom it is lodged; and
- (m) any other instrument in respect of which no specific provision is made, the person executing the instrument.

*Time within which instruments shall be stamped.*

9. (1) Every instrument chargeable with duty which is executed within Swaziland shall, save as is otherwise specially provided, be stamped before or at the time of its execution, and if it 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 was last signed.

(2) Any instrument other than one referred to in section 24(2) not stamped before or at the time of execution may be stamped within twenty-one days thereafter by or in the presence of the person liable to stamp the instrument, or a party to it or a banker to whom the instrument has been presented in the ordinary course of his business or in the presence of a revenue officer.

(3) Any instrument chargeable with duty, which is executed outside Swaziland shall, save as is otherwise specially provided in this Act, within twenty-one days after the date on



which it is first received in Swaziland be stamped by the person receiving it and that person shall note on it the date of receipt and sign the note.

(4) If a person is in doubt as to whether he is liable to stamp an instrument, or as to the extent of his liability, and he has within twenty-one days after the date of execution of the instrument, or if the instrument was executed outside Swaziland, after the date the instrument was first received in Swaziland, lodged it with a revenue officer for submission to the Accountant-General for his decision as to whether such liability exists or as to the extent of such liability, the date on which his decision is communicated to the person who lodged the instrument, shall for the purposes of this Act be deemed to be the date of execution of the instrument or the date on which it was first received in Swaziland as the case may be.

*Late stamping of instruments and penalties for default.*

10. (1) If an instrument requiring to be stamped under this Act has not before the expiry of the relevant period prescribed in section 9(1), (2) or (3) or 24(3) been stamped for the full amount of duty payable, the instrument shall, subject to subsection (4), be stamped in the presence of a revenue officer for the amount of duty unpaid, and there shall be paid, in addition to the duty —

- (a) subject to a minimum of fifty cents and a maximum of one hundred emalangeni, a validating penalty of —
  - (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 Swaziland 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 that date; and
- (b) such further penalty as the Accountant-General may impose not exceeding two hundred emalangeni:

Provided that such further penalty shall not be payable if the instrument is voluntarily presented to a revenue officer for stamping or the Accountant-General is satisfied that the omission to comply with section 9 or 24(3) was due to inadvertence.

(2) If any instrument chargeable with duty bears an adhesive stamp for the amount of the duty and the stamp has not been defaced as required by section 11, 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 9 or 24(3) unless it is shown to the satisfaction of the Accountant-General that such stamp was affixed to the instrument within that period.

(3) If it is shown to the satisfaction of the Accountant-General that the stamp was affixed to such instrument within the relevant period, he shall make a note on such instrument to the effect that it was duly stamped.

(4) If a revenue officer deems it necessary, he may require evidence on oath or other satisfactory proof to be furnished to him of the date of affixing of any adhesive stamp to an instrument or of the date of execution of an instrument, or if the instrument was executed outside Swaziland, of the date when it was first received in Swaziland.

(5) If any instrument referred to in subsection (1) is presented to a banker in the ordinary course of his business and he is satisfied that the omission to comply with section 9

was due to inadvertence, the instrument may, subject to the payment of the validating penalty referred to in subsection (1)(a), be stamped by or in the presence of such banker for the amount of duty unpaid and for the amount of that penalty.

*Defacement of adhesive stamps.*

11. (1) If duty on any instrument is denoted by means of adhesive stamps and the stamps are affixed to the instrument at any time before the expiry of the period allowed by section 9 or 24(3) for stamping, the stamps shall before the end of that period be defaced in the case of —

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

(2) If duty on an instrument is denoted by adhesive stamps and such instrument has been stamped as provided in section 10 or, where the instrument has been stamped as provided in section 9 but the stamps on it have not been defaced as provided in subsection (1), the stamps shall, subject to the payment of any penalty incurred under section 10(1) in respect of such instrument, be defaced by a revenue officer or by a banker to whom it has been presented in the ordinary course of business.

(3) If any penalty provided for in section 10(1) has been incurred in respect of any instrument, the adhesive stamps denoting the penalty shall be defaced by the revenue officer in whose presence, or by the banker by whom or in whose presence, the instrument is stamped under that section.

(4) If any instrument is stamped as contemplated in section 16, the stamps shall be defaced by a revenue officer.

(5) A revenue officer shall not deface the stamps affixed to an instrument unless he is satisfied that the duty in respect of such instrument, and any penalties incurred in respect of such instrument under this Act, have been paid in full.

(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 name or initials together with the true date of defacement so as effectually and permanently to render it incapable of being used for stamping any other instrument.

(7) A public officer, banker, firm or company required or empowered by this Act to deface an 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 a banker, firm or company, the name of such bank, firm or company.

*Adjudication respecting liability for stamp duty or penalty.*

12. A note or certificate made on or in respect of any instrument and signed by the Accountant-General or by his 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 noted or certified.

*Invalidity of instruments not duly stamped.*

13. Save as is otherwise expressly provided in any law, no instrument which is required to be stamped under this Act shall be made available for any purpose whatever 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 in criminal proceedings, or in any proceedings by or on behalf of the Government 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 tendered may permit or direct that, subject to the payment of any penalty incurred in respect of such instrument under section 10(1), it be stamped in accordance with this Act and upon the instrument being duly stamped may admit it in evidence.

*Duties of public officers and other persons.*

14. (1) Every public officer shall take cognizance of the requirements of this Act in respect of the stamping of any instrument which may come before him in his 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 it is duly stamped.

(2) In the event of a failure by any person to have any such instrument duly stamped or if a 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 Accountant-General for the purpose of recovering the duty and any penalty incurred.

*Evasion of duty.*

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 relative to the due stamping of an instrument shall be void:

Provided that this section shall not prohibit an 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 31 of the duty or any penalty payable in respect of any instrument, the duty or penalty recovered shall be denoted on the instrument by stamps or, if the Accountant-General so directs, a note or certificate may be made on the instrument and signed by him or by his authority stating that the instrument is duly stamped.

PART V

PROVISIONS APPLICABLE TO PARTICULAR INSTRUMENTS

*Bills of exchange and promissory notes drawn or made outside Swaziland.*

17. Any person who comes into possession of a bill of exchange or promissory note which has been drawn or made outside Swaziland and which is not duly stamped, shall, before he presents it for payment or endorses, transfers or in any manner negotiates or pays it, stamp it at the rates and in the manner prescribed by this Act:

Provided that a bill of exchange drawn outside Swaziland and transmitted to Swaziland only for acceptance and return to the drawer shall not be chargeable with duty at that stage.

*Bills of exchange.*

18. (1) Any person who issues a bill of exchange chargeable with duty and not duly stamped, and any person who receives, accepts, transfers, negotiates, presents for payment, endorses or pays such a bill and fails to have it duly stamped, incurs a penalty of fifty emalangeni, and the person who receives such a bill in payment or as security or by purchase or otherwise is, until it has been duly stamped, not entitled to recover on it or to make it available for any purpose whatever.

(2) If any bill is stamped by a person who is not liable to stamp it under section 8, he may charge the amount of the duty and any penalty paid by him under section 10 in respect of it 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 such charge or deduction is made, may recover the amount charged or deducted from the drawer or an endorser or from any other person who was in default in respect of the stamping of the instrument.

(3) Where a bill of exchange is drawn in a set according to the custom of merchants and one of the set is duly stamped, the others of the set, if denoted as others of the set shall, unless issued or in some manner negotiated apart from the stamped bill, be exempt from duty, and upon proof of the loss or destruction of a duly stamped bill forming one of such a 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, though unstamped, 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 whatever, nor shall any person be entitled to recover thereon, until it has been duly stamped.

(2) Any person who receives from its maker a promissory note which is chargeable with duty and which has not been duly stamped, shall be liable for the amount of the duty unpaid in respect of the note and for the penalty, if any, payable under section 10 in respect thereof and he shall cause such note to be duly stamped as required by this Act.

(3) If such person fails to comply with subsection (2) within twenty-one days of the receipt by him of the promissory note he shall incur a penalty of fifty emalangeni.

*Broker's notes.*

20. (1) Any person who effects any sale or purchase of any marketable security or any movable property as a broker shall within twenty-four hours thereafter make, execute and transmit to his principal a broker's note, which shall specify the marketable security or the

property sold or purchased and shall state the full and true sale or purchase price and shall, if chargeable with duty, be duly stamped, and in default of so doing such person shall be liable to pay three times the duty, if any, and a penalty of fifty emalangeni.

(2) A broker shall not charge brokerage, with reference to a sale or purchase, unless a broker's note is issued in conformity with this section and, if the note is chargeable with duty, it is duly stamped.

(3) There shall be legibly and conspicuously printed or stamped on the face of any such note chargeable with duty and which is issued or used, the following words: "The note requires to be stamped, and unless duly stamped, no claim for brokerage, commission or agency or similar fee can be made."

(4) The ordinary duty upon a broker's note may be added to the brokerage.

(5) Every broker shall keep in book form a copy or counterfoil of every broker's note issued by him, and the book shall at all reasonable times be open to inspection by any person acting under the authority of the Accountant-General.

(6) The form of a broker's note for use in the case of a sale or purchase of any marketable security or other property may be prescribed by the Accountant-General.

#### *Company share capital duty.*

21. (1) A statement of the amount which is to form the nominal share capital of any company to be registered under any law and a statement of the amount of any increase of the nominal share capital of any company shall, before the registration of the company or before the increase of the nominal share capital is authorised, be delivered to a revenue officer and upon every such statement there shall be charged and paid a company share capital duty at the rate specified in Item 12 of the Schedule.

(2) Payment of the duty payable in terms of this section shall not be required to be denoted by means of stamps affixed to the statement but may be acknowledged by the revenue officer by means of the issue of a receipt.

(3) The receipt for the amount paid shall be lodged with the registrar of companies who shall not permit the registration of a company or an increase of share capital of a company unless the receipt shows that the correct duty has been paid.

#### *Fixed deposit receipts.*

22. (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 expiry of a period of notice equal to at least eighty-nine days, shall for the purposes of duty be deemed to be a fixed deposit receipt for a period of twenty-four months.

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

*Leases of immovable property.*

23. (1) In this section “lease” means a lease or agreement of lease contemplated in Item 16 of the Schedule and includes a lease or agreement of lease chargeable with duty under a previous law.

(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, three years; or

(c) in the case of a lease for a definite period, in this section 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 —

(i) the original period;

(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 sub-paragraph (ii), a period of three years.

(3) If 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, subsections (5) and (6) shall apply, but if such lease is tendered for registration it shall before registration be stamped for the period for stamping provided in subsection (2)(c).

(4) Any instrument whereby a lease 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.

(5) For the purposes of subsection (4) or (6), where a lease continues for an indefinite period beyond a period in respect of which it was required to be stamped for three years, it shall be deemed for the purposes of this Act to continue for a further period of three years.

(6) If a lease referred to in subsection (4) for a definite period is continued, renewed or extended for an indefinite period, the entire period of the lease shall for the purposes of that subsection be deemed to be the total period covered by the original period of the lease and any definite periods for which the lease has previously been continued, renewed or extended, and a further period of three years.

(7) 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.

(8) The expression “other consideration” in Item 16(1) of the Schedule includes the value of improvements which the lessee is obliged to effect on the land or to the buildings hired by him 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 Accountant-General.

(9) Subject to section 6(3), the duty on a lease shall be denoted on the original instrument which shall be retained by the lessor.

(10) 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 Accountant-General shall, if satisfied of that fact and upon the application of the person by whom the duty was paid, allow a refund of a proportionate amount of such duty.

(11) If a lease is renewed or continues beyond the period for which duty has been paid or is payable, it shall be duly stamped within twenty-one days of the expiry of such period.

*Marketable securities.*

24. (1) For the purposes of this section —

“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 the transaction and the full and true particulars of the 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 duly executed deed or declaration, or any other instrument which purports to effect the transfer of a marketable security; and

“marketable security” does not include any marketable security made out to bearer or in a manner so as to be transferable by delivery only.

(2) An instrument of transfer shall be executed in respect of every transfer of a marketable security and the duty payable under Item 17(3) of the Schedule in respect of the registration of such transfer shall be denoted by means of a stamp on such instrument.

(3) Sections 9(1) and (2), 10 and 11(1) to (5) inclusive shall not apply in respect of any instrument of transfer and the stamps thereon shall, before the transfer is registered, be defaced as provided in section 11(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) Subject to subsection (5), the date of signature of any instrument of transfer by the transferor or his agent shall, for the purposes of this section and of Item 17(3) of the Schedule, be deemed to be the date of execution thereof.

(5) 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 note upon the instrument of transfer, in the form prescribed by the Accountant-General, the fact that the marketable security was so held, as well as the actual date of the sale or disposal thereof, and the date so noted, shall be deemed to be the date of execution of such instrument.

(6) 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 Swaziland, or by any person responsible for the registration of transfer, unless —

- (a) there is lodged with such company, body or person an instrument of transfer relating to the transfer of the marketable security; and
- (b) if duty is payable under Item 17(3) of the Schedule in respect of the registration of the transfer, the instrument is stamped in accordance with subsection (2).

(7) Any instrument of transfer referred to in subsection (6) 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 Accountant-General.

(8) Subject to subsection (9) if 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 the marketable security is effected on or after such date, be paid in respect of the registration under the provisions of Item 14 of the Schedule to the repealed Stamp Duties and Fees Proclamation (*Cap.110*) but subject to the relevant exemptions provided for in that Proclamation and for the purposes of such duty the provisions of that Proclamation shall be applied as though it had not been repealed.

(9) For the purposes of subsection (8), if it appears that an 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, the marketable security shall be deemed to have been sold or disposed of before such date unless the actual date of the sale or disposal, being a date falling on or after the said date of commencement, has been noted on the instrument and such note has been signed by the transferee or his agent.

(10) Any person who as the transferor of a marketable security or as the transferor's agent signs any instrument of transfer and fails to date such instrument or dates it with a date which is not the true date of his signature shall incur a penalty of fifty emalangeni.

(11) If a company or corporate body fails to comply with a requirement of this section shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred emalangeni unless it pays to the Accountant-General such sum not exceeding one hundred emalangeni as he may impose as a penalty.

(12) If a scheme of arrangement or reconstruction of a company or its affairs, including a scheme for the amalgamation of two or more companies, has been sanctioned by an order of court, and under that scheme shares issued by any company are cancelled with or without return of capital and —

- (a) shares in another 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
- (b) that person receives or is to receive cash or other asset from anybody,

he shall, for the purposes of the duty under Item 17(4) of the Schedule be deemed to have disposed of the cancelled shares and to have disposed of them for a consideration equal in value to their market value immediately prior to their cancellation, the value being determined as though the shares had not been and were not about to be cancelled.

(13) The duty payable under Item 17(4) of the Schedule shall be denoted on a copy of the application to court in respect of the scheme referred to in subsection (12) and the



company of which the shares in question are cancelled shall endorse on the copy the market value of the shares as determined in accordance with that subsection and shall retain the copy which shall at all reasonable times during a period of three years after the date of the order of court referred to in subsection (12) be open for inspection by any person acting under the authority of the Accountant-General.

(14) If in terms of the scheme referred to in subsection (12), a capital reserve is created in a company by reason of the cancellation of shares, and other shares are issued by the company under that scheme and are subscribed for out of that reserve, the duty payable under Item 17(4) of the Schedule in respect of the cancellation shall be reduced by the amount of duty paid under Item 17(1) or (2) in respect of the issue of such other shares.

(15) The copy of the application to court referred to in subsection (13) shall be stamped in accordance with this Act as though it were an instrument which had been executed on the date of the order of court referred to in subsection (12) or on such later date as the Accountant-General, having regard to the circumstances of the case, may approve.

#### *Receipts.*

25. Any person who —

- (a) gives a receipt liable to duty unstamped; or
  - (b) refuses to give a duly stamped receipt where a receipt would be liable to duty; or
  - (c) upon payment to the amount of two emalangeneni or upwards gives a receipt for a sum not amounting to two emalangeneni or separates or divides the amount paid with intent to evade duty; or
  - (d) receives an amount of twenty emalangeneni or more as a fixed deposit and gives a receipt or receipts for less than twenty emalangeneni with intent to evade duty,
- shall incur a penalty of twenty emalangeneni.

#### *Security or suretyship.*

26. (1) If any document of security or pledge, or any act of suretyship, indemnity or guarantee referred to in Item 23 of the Schedule 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 the subsidiary or contingent liability.

(2) If it is shown to the satisfaction of the Accountant-General that the value of property pledged is less than the amount secured by such pledge, the duty chargeable under Item 23(1) of the Schedule in respect of the relevant document of pledge shall be charged on the value as so shown.

### PART VI

#### OFFENCES

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

27. Any person who —

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

shall be guilty of an offence and liable on conviction to a fine of one hundred emalangi.

*Offences relating to dies and stamps.*

28. 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 a stamp from any material with intent that any fraudulent use should be made of any such stamp or part thereof;
- (e) mutilates any stamp with intent that any fraudulent use should be made of the 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 written thereon, with the intent that fraudulent use should be made of the stamp upon such material;
- (h) has in his 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 such a stamp knowing it to be forged or to be so printed or so impressed;
- (i) knowingly and without lawful excuse, proof of which shall lie upon him, has in his possession any forged die 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 fraudulently mutilated, or a stamped material from which a 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 and so that a stamp may be used again, 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 adhesive stamp, which has to his knowledge been so removed, or who causes or procures any of the acts

mentioned in any of paragraphs (a) to (j), inclusive, to be done or knowingly aids, abets or assists any person in doing any such act,

shall be guilty of an offence and liable on conviction to a fine of one thousand emalangeni or imprisonment for a period of two years or both.

(2) (a) Any person who without lawful authority or excuse, the proof of which shall lie upon him, purchases or receives or knowingly has in his possession or custody any —

(b) plate, die, dandy-roller, mould or other implement,

shall be guilty of an offence and liable on conviction to a fine of two hundred emalangeni or imprisonment for a period of six months or both.

*Presumption in case of possession or sale of forged stamps.*

29. Any person in whose possession any forged stamp or any stamp which has been fraudulently printed or impressed from a genuine die is found, shall, unless the contrary is proved, be deemed to have had the stamp in his possession knowing it to be forged or to be so printed or so impressed and with intent to sell, use or utter it, and any person who sells or exposes for sale or utters or uses any such stamp shall, unless the contrary is proved, be deemed to have done so knowing it to be forged or to be so printed or so impressed.

*Powers of search for and seizure of forged stamps, etc..*

30. (1) On sworn information that there is good reason to suspect any person of being guilty of any offence mentioned 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 any place or in the possession or custody of any person, any magistrate or justice of the peace or any other officer who may be authorised to issue a search warrant, may issue a search warrant authorising any police officer or other proper officer 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 of secreting machinery, implements or utensils applicable to the commission of such offence, or any place where such machinery, implements, utensils or stamps may be, and any of such things found upon such search may be seized and carried away and shall be delivered to the appropriate magistrate who shall have the custody of them until they are dealt with according to law.

(2) Things so seized shall be adjudged to be forfeited to the Government by the court having jurisdiction as to the offence and thereafter shall be dealt with as the Accountant-General may direct:

Provided that the rights of a person who is otherwise entitled by law to the possession or custody of stamps, machinery, implements or utensils stolen or improperly obtained shall not be affected by this section.

(3) Where stamps are seized under warrant, the person authorised by the warrant shall if required, give to the person in whose custody or possession the stamps are found an acknowledgement of the number, particulars and amount of the stamps and permit the stamps to be marked on the back before they are removed.

PART VII

GENERAL AND MISCELLANEOUS

*Recovery of duty and penalties by action.*

31. (1) Any duty or penalty payable under this Act shall be a debt due to the Government and may notwithstanding any other law relating to magistrate's courts, if the total amount thereof does not exceed two thousand emalangi, be recovered by action in a magistrate's court having jurisdiction in the area in which the person liable for the duty or penalty resides or carries on business.

(2) 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 thereon for the decision of the High Court, and the question shall be stated by the magistrate in the form of a special case which may be argued before, and shall be determined by the High Court, which may give in the matter such directions and make such order as to costs as it may deem fit.

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

(4) Nothing in this section shall deprive the Government of any other remedy for the recovery of duty or penalty mentioned in this Act, or as exempting any person from prosecution or punishment under any other provision of this Act.

*Accountant-General may require production of instruments or authorised officer may search for instruments.*

32. (1) If the Accountant-General has reason to believe that any person has in his possession an instrument chargeable with duty under this Act and which has not been duly stamped, he may by notice in writing call upon that person to produce to him, or to any public officer nominated by him at such time and place as may be specified in the notice, such instrument, whether stamped or not at the date of the notice, and whether held by that person on his own behalf or on behalf of another person, and a person to whom such notice has been delivered who without lawful excuse, the proof of which shall lie upon him, fails to comply with it, shall be guilty of an offence and liable on conviction to the penalty prescribed by section 27.

(2) Any public officer who has been authorised thereto by the Accountant-General in writing or by telegram may —

- (a) without previous notice, at any time during the day enter any premises whatsoever and search them for instruments;
- (b) in carrying out any such search, open or cause to be opened, anything in which he suspects any instrument to be contained;
- (c) seize any such instrument which in his opinion has not been duly stamped;
- (d) retain any such instrument for as long as it may be required for the assessment and recovery of duty or for any criminal or other proceedings under this Act.

(3) Any authorised person exercising any power under subsection (2) shall on demand produce the written authority furnished to him by the Accountant-General.

(4) The person from whose premises any instrument has been seized, shall be entitled to examine and make extracts from it during office hours under such supervision as the Accountant-General may determine.

*Refunds of duty.*

33. (1) The Accountant-General may make a refund in respect of —
- (a) the amount of any overpayment of the duty or penalty properly chargeable in respect of any instrument, if application is made therefor within two years after the date of such overpayment;
  - (b) any stamp which has been inadvertently spoiled or rendered unserviceable, if application is made within two years after it was spoiled or rendered unserviceable;
  - (c) any stamp on any instrument if the Accountant-General is satisfied that the instrument has by reason of an omission, error or mishap been spoiled or rendered useless, and that the said instrument has within two years after the date of its execution been cancelled and another duly stamped instrument, identical in every material particular with the first mentioned instrument save for the correction of the 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 such first mentioned instrument;
  - (d) any stamp which has been rendered obsolete by demonetisation in accordance with the regulations, if an application for refund is made within one year after the date on which such stamp was rendered obsolete; or
  - (e) an unused stamp which has been purchased by any person which is in excess of his 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 Accountant-General to be marked or destroyed.

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

*Regulations.*

34. (1) The Minister may make regulations as to the demonetisation or withdrawal of a particular issue of stamp 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 one hundred emalangeni, and such penalty shall be recoverable as is in this Act provided.

*Savings.*

35. (1) Any instrument executed outside Swaziland before the date of commencement of this Act which relates to the transfer or hypothecation of property situated in Swaziland or to a matter or thing to be performed or done in Swaziland shall, notwithstanding the fact that the

instrument is received in Swaziland on or after that date, be subject to the duty prescribed for the instrument in the repealed Stamp Duties and Fees Proclamation (Cap.110), and the duty shall be denoted or paid and shall be recoverable from the person liable therefor under such Proclamation.

SCHEDULE  
(Amended A.8/1985; L.N.154/1990; L.N.63/2000.)

TARIFF OF STAMP DUTIES

\*NOTE — Amendments to schedule under K.O-I-C. 21/1976 effective from 7th May, 1976 with exception of Items 6 and 17 which are effective from 1st July, 1976 as per K.O-I-C. 32/1976.

No.	Description of Instrument	Amount of Duty
1.	<p><i>Affidavit or solemn or attested declaration —</i> In respect of every deponent or declarant.....</p> <p>An affidavit or declaration made on behalf of a company or partnership or by persons holding jointly the office of administrator, executor, curator, tutor or trustee, and deposing or declaring only as such, shall for the purposes of this item be deemed to be made by one deponent or declarant.</p> <p><i>Exemption —</i> an affidavit or declaration required to be furnished to a public officer, other than a registrar or clerk of court.</p>	<p>E. c.</p> <p>1 00</p>
2.	<p><i>Agreement or contract</i> in respect of which no other duty is specifically provided .....</p> <p><i>Exemptions —</i></p> <p style="padding-left: 20px;">(a) an agreement or contract, other than a hire-purchase agreement or contract or agreement of lease, which relates to the sale, supply or delivery of goods, wares or merchandise including livestock and agricultural produce; and</p> <p style="padding-left: 20px;">(b) an agreement or contract for the hire of domestic servants, labourers or seamen.</p>	<p>1 00</p>
3.	<i>Antenuptial contract</i> .....	8 00
4.	<i>Arbitration or award —</i> Every deed of submission and every award .....	12 00
5.	<i>Authentication certificate</i> given by a public officer in his official capacity or under his official seal testifying to the identity of a person or the authenticity of a signature on an instrument outside Swaziland, irrespective of the number of signatures or seals required to effect the authentication .....	4 00
6.	<p><i>Bill of exchange or promissory note —</i></p> <p>Payable (a) on demand .....</p> <p style="padding-left: 20px;">(b) otherwise than on demand for every E100 or part thereof of the amount or value .....</p>	<p>0 05</p> <p>0 20</p>
	• <u>See headnote</u>	

<i>Exemptions —</i>		
	(a) a traveller's cheque issued outside Swaziland;	
	(b) a draft or order by a banker on another banker, not available for payment or credit to a third person and used solely for settling or clearing accounts between the bankers concerned;	
	(c) a coupon or warrant for interest or dividend attached to or issued with a marketable security;	
	(d) a bill or draft by or upon a public account.	
7.	<i>Bill of lading</i> for the carriage or transport of any goods by sea —	
	For every bill or copy or duplicate thereof .....	0 50
8.	<i>Bond:</i>	
	(1) A mortgage bond hypothecating immovable property or any interest therein and a general or special bond passed before a notary public —	
	(a) where the total amount of the debt secured does not exceed E4,000: for every E100 or part thereof .....	0 40
	(b) where the total amount of debt secured exceeds E4,000 but does not exceed E6,000: for every E100 or part thereof .....	0 60
	(c) where the total amount of the debt secured or to be secured exceeds E6,000: for every E100 or part thereof .....	0 75
	(2) A 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 E100 or part thereof of the debt secured or to be secured.....	0 20
	(3) A bond mentioned in (1) which is auxiliary 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 same person.....	A duty at the rates mentioned in (1) but not exceeding E4.
	(4) Cession of a bond mentioned in (1) or of any bond substituted therefor —	
	(a) where the amount remaining due does not exceed E4,000: for every E100 or part thereof .....	0 40
	(b) where the amount remaining due exceeds E4,000: for every E100 or part thereof .....	0 80
	(5) Cession of an auxiliary or collateral bond mentioned in (2) or (3) .....	The like duty as is chargeable on the bond.
	(6) Substitution of debtor in respect of a bond mentioned in (1) .....	The like

	In determining, for the purposes of this Item, the amount of a debt secured or to be secured or remaining due under a bond, a sum separately secured by the bond to cover costs incurred in connection with the debt shall be excluded from the amount.	duty as is chargeable on a cession of the bond.
	<i>Exemptions —</i>	
	(a) a bond given solely in security for any payment due to the public revenue; and	
	(b) a bond given by a public officer in respect of the discharge of his official duties.	
9.	<i>Broker's Note —</i>	
	(1) In respect of the sale or purchase of movable property other than a marketable security: for every E100 or part thereof of the consideration .....	0 40
	(2) In respect of the sale or purchase of any marketable security: for every E100 or part thereof of the consideration .....	0 80
	<i>Exemption —</i> a note of sale or purchase on behalf of another broker within Swaziland who is acting in the same transaction for a principal.	
10.	<i>Certificate</i> by a person, other than a notary, in a public or official capacity of an act or thing having been done or performed or relating to an instrument .....	0 40
	<i>Exemption —</i> a certificate in respect of which a fee or duty is otherwise chargeable by law.	
11.	<i>Charter party —</i>	
	(1) Of a vessel or ship not exceeding 10,000 tons burthen .....	20 00
	(2) Of a vessel or ship exceeding 10,000 tons burthen .....	30 00
12.	<i>Company share capital duty —</i> Statement delivered to a revenue officer in terms of section 21 of this Act: for every E100 or part thereof of the amount of nominal share capital or increase of nominal share capital .....	0 40
	Subject to a minimum duty of E2 in respect of the initial nominal share capital.	
13.	.....(Repealed)	
14.	<i>Duplicate original</i> of any instrument the original of which is chargeable with stamp duty: the like duty to that chargeable upon the original but not to exceed .....	0 50
	<i>Exemptions —</i>	
	(a) any duplicate original in respect of which a substantive duty is otherwise chargeable; and	
	(b) any duplicate original which is required to be filed of record in a public office in Swaziland or the Deeds Registry.	
15.	<i>Fixed deposit receipt</i> , including certificate or other instrument	



whereby a fixed deposit is expressed to have been received, deposited or paid —

If given for or in respect of a fixed deposit made with a bank, company or association, whether corporate or unincorporate for every E200, 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 .....

0 25

*Exemptions —*

- (a) a 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 twenty-one days after the date of the provisional receipt;
- (b) an acknowledgement or slip relating to a fixed deposit of an amount not exceeding twenty emalangeni.

16. *Lease or agreement of lease*, including an instrument intended or operating as a lease or sub-lease or as an agreement to let or sublet, 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 —

(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 23, 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 —

- (a) where such period does not exceed five years: for every E100 or part thereof ..... 0 30
- (b) where such period exceeds five years but not ten years: for every E100 or part thereof ..... 0 60
- (c) where such period exceeds ten years but not twenty years: every E100 or part thereof ..... 0 75
- (d) where such period exceeds twenty years: for every E100 or part thereof ..... 1 00

Provided that if in any case it is shown to the satisfaction of the Accountant-General that the aggregate amount of rent and any other consideration on which duty is payable exceeds the full selling value of the property leased, duty shall be payable only on the amount of the full selling value.

(2) In respect of any continuance, renewal or extension of any such lease or agreement duty is chargeable at the rates specified in paragraph (1) in accordance with section 23(4), (5) and (6).

(3) In respect of any cession or assignment by a lessee of any of his rights under any such lease or agreement, provided transfer duty is not chargeable in respect of the cession or assignment .....

2 00

17.	<i>Marketable security —</i>	
	(1) In respect of the original issue by a company registered within Swaziland of shares, stock or debentures, wheresoever issued —	
	(a) if transferable only by registration: for every E20 or part thereof of the nominal value .....	0 05
	(b) if made out to bearer or in a manner so as to be transferable by delivery only: for every E20 or part thereof of the nominal value .....	0 20
	(2) In respect of the issue within Swaziland of a certificate or like instrument representing an interest in respect of a marketable security, whether called unit or fixed trust certificates or by any other name —	
	(a) if not transferable or if transferable only by registration —	
	(i) where the price of issue does not exceed E100 .....	0 25
	(ii) where the price of issue exceeds E100, for every E200 or part thereof of the price of issue .....	0 10
	(b) if made out to bearer or in any manner so as to be transferable by delivery only —	
	(i) where the price of issue does not exceed E100 .....	0 05
	(ii) where the price of issue exceeds E100 for every E200 or part thereof of the price of issue .....	0 40
	<i>Exemption from the duty under paragraph (1) or (2) —</i>	
	Where the marketable security is issued solely in substitution for an instrument of the same nature or of like or equivalent value, withdrawn, cancelled or lost, which was owned by the person to whom the issue in substitution is made:	
	Provided that this exemption is only 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.	
	<i>Further Exemption from the duty under paragraph (1) or (2) —</i>	
	Where the original issue of a marketable security is listed on the Swaziland Stock Market and the subsequent registration of transfer of such marketable security is conducted or done through the Swaziland Stock Market by a stock-broking company licensed to operate in Swaziland in terms of the Financial Institutions Order, No. 23 of 1975. (Added L.N.18/1997.)	
	(3) In respect of the registration of transfer of a marketable security —	
	(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 24: for every E100 or part thereof of the amount or value of the consideration given, or of the value of the marketable security transferred	1 00

	(b) If transfer is registered after the expiry of that period .....	Three times the duty which would have been payable under (a) if transfer had been registered before the expiry of the period of six months.
	(4) In respect of the cancellation of company shares which a person is in terms of section 24(12) deemed to have disposed of: for every E100 or part referred to in section 24(12) .....	1 00
	<i>Exemption —</i>	
	(a) a registration of transfer of a marketable security held by a trust created by will or notarial deed, if the transfer is necessitated by a change of executors, administrators or trustees and no consideration is given in respect of it;	
	(b) a registration of transfer of a marketable security, if the instrument of transfer is executed outside Swaziland and the registration of transfer is effected in any branch register kept by the company or corporate body outside Swaziland.	
18.	<i>Notarial act or instrument —</i>	
	(1) The notarial minute or original of any notarially executed instrument which is not chargeable with duty under any other Item of this Schedule .....	0 60
	(2) Any notarial grosse, duplicate original or copy of any instrument which is not chargeable with duty under any other item of this Schedule .....	0 50
	(3) The notarial minute or original of an instrument chargeable with duty under any other Item of this Schedule, if the duty is denoted on the notarial grosse, duplicate original or copy of the instrument .....	0 50
19.	<i>Partnership — Agreement of partnership .....</i>	20 00
20.	<i>Policy of insurance —</i>	
	(1) Policy of life insurance, excluding a policy providing for the payment of an annuity only: for every E100 or part thereof of the aggregate sum assured, excluding the value of any annuity ..	0 10
	(2) Policy of life insurance providing of the payment of an annuity only .....	2 00
	(3) Policy of insurance against accident to a person or in respect of any bodily injury to or any incapacity or sickness of any person	

or the like, if the insurance is provided for in a policy which is mainly a policy of life insurance subject to duty under paragraph (1) or (2) —	
(a) where the sum assured does not exceed E200 .....	0 20
(b) in any other case .....	0 50
The duty under this paragraph shall be payable in addition to the duty payable under paragraph (1) or (2)	
(4) Policy of insurance in compliance with the Compulsory Motor Vehicle Insurance Order, No. 47 of 1973, in respect of each vehicle which is the subject of the policy .....	0 10
(5) Policy or certificate of marine insurance, including voyage and time policies and floating and declaration policies, or any renewal thereof or any endorsement thereto involving an additional premium —	
(a) if third-party cover is included in it .....	0 25
(b) in any other case .....	0 05
(6) Policy of insurance under which a sum is payable to cover any compensation or damage due under a law relating to workmen's compensation or employer's liability or the common law in respect of the death or illness of or injury to an employee or every policy or renewal thereof.....	0 10
(7) Policy or certificate of insurance not subject to duty under any of the foregoing paragraphs, or any endorsement on or renewal of it.	
For the purposes of this paragraph a 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 its sale or issue for consideration and is chargeable with duty under this paragraph.	
(8) Cession of a policy of insurance or any interest under it .....	0 05
Provided that the duty on a cession of a policy referred to in paragraph (1) or of any interest under it 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.	
The maximum duty chargeable under any paragraph of this Item is E60.00.	
<i>Exemption —</i>	
(a) interim cover note issued in respect of a policy of insurance to be issued within Swaziland;	
(b) policy solely for the purpose of effecting reinsurance by one insurance company or association with another insurance company or association to cover general risks;	
(c) funeral policy.	

A duty of one per cent on the premium payable rounded up to next 5c.

21.	<i>Power of attorney</i> — Power of attorney or instrument of a like kind or any substitution thereunder in respect of each grantor —	
	(i) Special .....	0 50
	(ii) General.....	1 00
	Provided that any power of attorney 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.	
	<i>Exemption</i> —	
	Proxy solely to vote at a specified meeting or adjournment thereof.	
	If given in respect of the payment of a sum of money amounting to E2.00 or more .....	0 10
22.	.....	
23.	<i>Security or suretyship</i> : Any instrument of security or pledge or any act of suretyship, indemnity or guarantee not otherwise chargeable with duty —	
	(1) Where the instrument secures the payment of any money debt and the amount secured is stated in such instrument: for every E100 or part thereof of such amount .....	0 10
	Subject to a maximum duty of E15.00.	
	(2) Where such instrument secures the payment of a money debt and the amount secured is not stated in such instrument .....	15 00
	(3) Where such security, pledge, suretyship, indemnity or guarantee is given in respect of any other matter .....	3 00
	<i>Exemptions</i> —	
	(a) where such instrument relates solely to a payment due to the public revenue;	
	(b) where such instrument constitutes a policy of insurance;	
	(c) any indemnity by any person solely in respect of loss or damage caused by or suffered in consequence of the death of or personal injury to such person or his child or dependant;	
	(d) any indemnity in respect of loss or damage caused by or suffered in consequence of the death of, or personal injury to, a person while being taken up or conveyed in or put down from a vehicle, aircraft, ship or boat owned, operated or hired by the Government or in respect of the loss of, any damage to, property of any such person arising from any accident or other cause while or as a result of being so taken up, conveyed or put down.	
24.	<i>Transfer deed relating to immovable property</i> —	
	(1) Where the value or consideration does not exceed E7,000: for every E100 or part thereof of the value or consideration .....	0 35

	(2) Where the value or consideration exceeds E7,000: for every E100 part thereof of the value or consideration	0	85
	Where the amount of the value differs from the amount of the consideration, the duty payable under this Item shall be on the higher amount.		
	<i>Exemption —</i>		
	(1) Partition transfers, except in respect of consideration paid by one of the parties thereto to another party.		
	(2) Transfers which bring about no alteration in the legal rights in the property transferred.		
25.	<i>Warehouse receipt —</i>		
	(1) A warehouse receipt .....	0	10
	(2) Any endorsement of any warehouse receipt or rail-surety by way of security —		
	(a) for every E100 or part thereof of the debt secured .....	0	20
	(b) where the amount of the debt secured is not stated, or is contingent upon the happening of some future event, or is otherwise not ascertainable at the date of the endorsement...	0	60

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