

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.

UITENGEWONE



EXTRAORDINARY

# STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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[No. 2119.]

DEPARTMENT OF THE PRIME MINISTER.

No. 1162.]

[5th July, 1968.]

It is hereby notified that the State President has assented to the following Acts which are hereby published for general information:—

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No. 77, 1968.]

# ACT

To consolidate and amend the law relating to stamp duties; and to amend the Marketable Securities Tax Act, 1948.

(Afrikaans text signed by the State President.)  
(Assented to 20th June, 1968.)

**BE IT ENACTED** by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

## PRELIMINARY.

### Definitions.

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

(i) “authorized revenue officer” means—

- (a) the 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 classes of instruments as may be specified in the notice; and
- (c) the registrar of any division of the Supreme Court, any registrar of deeds, registrar of mining titles, master of the Supreme Court or clerk of an inferior court, in respect of instruments relating to matters with which he is or may be officially concerned; (iii)

(ii) “banker” means a banking institution which is registered under the Banks Act, 1965 (Act No. 23 of 1965), and includes the South African Reserve Bank;

(i)

(iii) “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; (xxiii)
- (iv) "broker's note" means the note required to be sent by any broker or agent to his principal under section 19 advising the sale or purchase of any marketable security or of any movable property; (vii)
- (v) "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; (xix)
- (vi) "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; (xvi)
- (vii) "duly stamped" in relation to any instrument requiring 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 section 9 (1) (a) and, where adhesive stamps have been used, that such stamps have been defaced as required by this Act; (ii)
- (viii) "duty" means any duty imposed by this Act; (xiii)
- (ix) "executed", when used in relation to an instrument, means executed as is required by law or as is accepted as sufficient in law; (xxii)
- (x) "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 equal to at least eighty-nine days; (xxi)
- (xi) "forge" or "forged" includes counterfeit or counterfeited; (xx)
- (xii) "instrument" includes any written document or writing; (xviii)
- (xiii) "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; (iv)
- (xiv) "material" includes material of every description upon which words or figures can be expressed; (xvii)
- (xv) "Minister" means the Minister of Finance; (viii)
- (xvi) "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 policy of funeral insurance 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; (vi)
- (xvii) "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 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; (x)

- (xviii) "public officer" means a person in the employ of the Government or a provincial administration and includes an authorized revenue officer; (ix)
- (xix) "public revenue" means the revenue of the State (including a provincial administration and the Railway Administration) received or accrued by way of any tax, fee, levy, duty or rate; (xv)
- (xx) "regulation" means any regulation in force under this Act; (xi)
- (xxi) "Secretary" means the Secretary for Inland Revenue; (xiv)
- (xxii) "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 Secretary; and
  - (b) when used as a verb, means affix a stamp to, or impress a stamp on, an instrument, and "stamped" and "stamping" shall be construed accordingly; (xii)
- (xxiii) "this Act" includes any regulation in force thereunder. (v)

## CHAPTER I.

### ADMINISTRATION OF ACT.

Duties and responsibilities of Secretary.

2. (1) The Secretary 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.

(2) The 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 Secretary 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.

## CHAPTER II.

### IMPOSITION OF STAMP DUTIES.

Stamp duty to be charged in accordance with Schedule 1.

3. (1) Every instrument described 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 the Republic on or after the date of commencement of this Act or if the instrument is executed outside the Republic on or after the said date and relates to the transfer or hypothecation of any property situated in the Republic or to 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 (including any provincial administration and the Railway Administration) or by the government of any other country;

(b) any instrument if the duty thereon would be legally payable and borne by any divisional council, rural council, municipal council, town council, village council, town board, local board, village management board, health committee or other committee of a similar nature, or any district council or any local or general council established or deemed to have been established under the Bantu Affairs Act, 1959 (Act No. 55 of 1959), or the Evaton Bantu Township Liaison Committee as constituted under Part II of Schedule B to Proclamation No. 54 of 1959;

- (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, other than an instrument referred to in Item 15 of Schedule 1, executed in the territory of South-West Africa and relating to the transfer or hypothecation of any property in the Republic or to any matter or thing to be performed or done in the Republic, if such instrument at the time of its introduction into the Republic is duly stamped under the laws of the said territory, or is exempt from duty under those laws;
  - (f) any instrument which is executed by or on behalf of an ecclesiastical, charitable or educational institution of a public character if the duty thereon would be legally payable and borne by such institution.
- (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.

### CHAPTER 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 section 9 shall, save as is otherwise specially 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, 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—

- (i) subject to such conditions as the Secretary may impose, payment of duty on any class of instrument to which he may from time to time apply this proviso, may be denoted by means of impressed stamps;
- (ii) the Secretary may in his discretion, 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;
- (iii) where the Secretary is satisfied that any person or class of persons cannot conveniently denote the duty in respect of cheques or the original issue of marketable securities by means of stamps affixed to such cheques or marketable securities, he may, subject to such conditions as he may impose and subject to the exercise of such control as he considers necessary, agree that payment of such duty may be acknowledged by means of the issue of a special receipt, and any such cheque 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 under proviso (ii) 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 purposes of this Act be deemed to be stamped to the amount of the duty paid and set forth in the certificate.

(3) (a) The duty on any instrument which is notarially executed and is required to be filed in any public office in the Republic shall be denoted on the notarial

grosse, duplicate original or copy which is so filed, and the notarial minute or original of such instrument shall be endorsed as to the amount of duty so denoted.

- (b) The duty on any notarially executed instrument which is not required to be filed in any public office in the Republic, shall be denoted on the notarial minute or original of such instrument.
- (c) The duty on any notarial grosse, duplicate original or copy of any instrument which is not filed in any public office in the Republic, shall be denoted on such notarial grosse, duplicate original or copy.
- (d) If any notarially executed instrument liable to duty is found to be not duly stamped after the expiry of the period allowed under this Act for the stamping of such instrument, the notary by or before whom the same was executed or passed, shall be liable to have the instrument duly stamped, but nothing herein 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.

How instruments shall be written and stamped.

6. (1) Every instrument 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 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) Save where duty is denoted as provided in section 5 (3), any person who attests or certifies any copy, duplicate or grosse of any 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 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 fifty rand.

(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 the Republic 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 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. 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 affidavit or solemn or attested declaration, the person making it;
- (b) in the case of an agreement or contract, the parties thereto;

- (c) in the case of a bill of exchange or promissory note, the drawer or maker;
- (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 a policy of insurance, the person executing it;
- (j) in the case of any other instrument in respect of which no specific provision is made, the person executing the instrument.

Time within which instruments shall be stamped.

8. (1) (a) Every instrument chargeable with duty which is executed within the Republic shall, save as is otherwise specially 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 twenty-one 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 the Republic shall, save as is otherwise specially provided in this Act, within twenty-one days after the date on which it is first received in the Republic, be stamped by the person so receiving it, and it shall be the duty of such person to note thereon the date of receipt and sign such note.

(3) If any person is in doubt as to whether he is liable to stamp any instrument, or as to the extent of his liability, and he has within twenty-one days after the date of execution of such instrument, or if such instrument was executed outside the Republic, after the date such instrument was first received in the Republic, lodged it with an authorized revenue officer for submission to the Secretary for his decision as to whether such liability exists or as to the extent of such liability, the date on which the decision of the Secretary is communicated to the person who 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 the Republic, 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 the Republic, 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 fifty cents or more than one hundred rand; and
- (b) such further penalty as the Secretary may impose but not exceeding two hundred rand: Provided that such further penalty shall not be payable if such instrument is voluntarily presented to an authorized revenue officer for stamping or the Secretary is satisfied that the omission 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 Secretary that such stamp was affixed to the instrument within such period.
- (b) Where it is shown to the satisfaction of the Secretary that the stamp was affixed to such instrument within the said period, he shall make a note on the instrument to the effect that it is duly stamped.
- (3) Whenever an authorized 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 revenue stamp to any instrument or of the date of execution of any instrument or, if any instrument was executed outside the Republic, of the date when it was first received in the Republic.
- (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 allowed 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 class 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.

(2) Where duty on any instrument is denoted by adhesive revenue stamps and such instrument has been stamped as provided in section 9 or, where the instrument has been stamped as provided in section 8 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 15, 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 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 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 respecting liability for stamp duty or penalty.

11. A note or certificate made on or in respect of any instrument and signed by the Secretary 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.

12. 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—

(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 tendered 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 in evidence.

Duties of public officers.

13. (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 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 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 Secretary for the purpose of the recovery of the duty and any penalty incurred.

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

14. 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 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.

15. 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 Secretary

so directs, a note or certificate may be made on the instrument and signed by the Secretary or by his authority stating that the instrument is duly stamped.

#### CHAPTER IV.

##### PROVISIONS APPLICABLE TO PARTICULAR INSTRUMENTS.

Bills of exchange and promissory notes drawn or made outside the Republic.

16. Any person who comes into possession of a bill of exchange or promissory note which has been drawn or made outside the Republic and which is not duly stamped, shall, before he presents such bill or note 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 any bill of exchange drawn outside the Republic and transmitted to the Republic only for acceptance and return to the drawer shall not be chargeable with duty at that stage.

Bills of exchange.

17. (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 fifty rand, 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 the same available for any purpose whatever.

(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 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, though unstamped, be admitted in evidence to prove the contents of the lost or destroyed bill.

Promissory notes.

18. (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) (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 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 twenty-one days of the receipt by him of the promissory note in question, he shall incur a penalty in respect of such note not exceeding fifty rand.

Brokers' notes.

19. (1) Any person who effects any sale or purchase of any marketable security or any movable property as a broker or agent 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 not exceeding fifty rand.

- (2) (a) No broker, agent or other such person shall have any legal claim to any charge for brokerage, commission or agency with reference to any sale or purchase, unless a broker's note is issued in conformity with the provisions of this section and, if such note is chargeable with duty, it is duly stamped.
- (b) There shall be legibly and conspicuously printed or stamped on the face of any such note, which is chargeable with duty and is issued or used, the following words: "This note requires to be stamped, and unless duly stamped, no claim for brokerage, commission or agency can be legally made."
- (3) The ordinary duty upon a broker's note may be added to the charge for brokerage or agency.
- (4) Every broker or agent shall keep in book form a copy or counterfoil of every broker's note issued by him, and such book shall at all reasonable times be open to inspection by any person acting under the authority of the Secretary: Provided that a stockbroker shall be deemed to comply with the requirements of this subsection by the keeping of the transaction book required to be kept by a stockbroker under the regulations made in terms of section 27 of the Stock Exchanges Control Act, 1947 (Act No. 7 of 1947).
- (5) The form of any 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 Secretary.
- (6) A diamond broker's note shall be in conformity with any law specially regulating dealing in rough or uncut diamonds, but shall in other respects be chargeable with duty under this Act.

Company share  
capital duty.

20. (1) A statement of the amount which is to form the nominal share capital of any company to be registered under any law relating to the registration of companies 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 authorized, as the case may be, be delivered to a receiver of revenue, and upon every such statement there shall be charged and paid a company share capital duty at the rate specified in Item 10 of Schedule 1.

(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 in question but may be acknowledged by means of the issue by the receiver of revenue of a special receipt.

(3) The receipt for the amount paid shall be lodged with the officer charged by law with the duty of registering companies and no such officer shall permit the registration of any company or any increase of share capital of a company unless the receipt mentioned is lodged with him and shows that the correct duty has been paid.

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 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 expiration 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 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 14 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;

(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 Act of Parliament) 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 Act of Parliament.

(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 14 (1) of Schedule 1 shall include 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 Secretary.

(7) Subject to the provisions of section 5 (3), 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 Secretary 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.

Marketable securities.

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

(i) "bank" means any commercial bank authorized to carry on business under the Banks Act, 1965 (Act No. 23 of 1965), any building society registered under the Building Societies Act, 1965 (Act No. 24 of 1965), any person lawfully carrying on the occupation of a stock and share broker, or a trustee for holders of unit or fixed trust certificates referred to in Item 15 (2) of Schedule 1, and includes the State or any person approved by the Secretary in writing; (ii)

(ii) "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 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; (i)

(iii) "instrument of transfer" means—

(a) a duly executed deed or declaration; or

(b) a securities transfer form or brokers transfer form duly completed as contemplated in the Securities' Transfer Act, 1965 (Act No. 69 of 1965); or

(c) any instrument whereby any marketable security is transferable in terms of any law of the United Kingdom 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 15 (3) of Schedule 1; (iv)

(iv) "marketable security" means any marketable security contemplated in Item 15 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. (iii)

(2) (a) An instrument of transfer shall be executed in respect of every transfer of a marketable security and the duty payable under Item 15 (3) of Schedule 1 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), inclusive, of section 10 shall not apply in respect of any instrument of transfer.

(c) The stamps on any 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.

(3) The date of signature of an instrument of transfer by the transferor or his agent shall for the purposes of Item 15 (3) of Schedule 1 be deemed to be the date of execution thereof: Provided that—

- (i) where any marketable security is in the manner contemplated in the Securities' Transfer Act, 1965, transferred by means of a securities transfer form and a broker's transfer form, the date of signature by the transferor or his agent of the relevant securities transfer form shall be deemed to be the date of execution of such broker's transfer form;
  - (ii) where any marketable security is transferred by means of a broker's transfer form as set out in Schedule 2 to the Stock Transfer Act, 1963, of the United Kingdom, the date of the selling broker's signature on such form shall be deemed to be the date of execution of such form;
  - (iii) 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 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 noted shall be deemed to be the date of execution of such instrument.
- (4) 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 the Republic) 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 such marketable security; and
  - (b)
    - (i) where duty is payable under Item 15 (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 (f) of the Exemptions to Item 15 of Schedule 1, such instrument bears an endorsement made by the buying broker in such form as the Secretary may approve, to the effect that the tax referred to in section 2 of the Marketable Securities Tax Act, 1948 (Act No. 32 of 1948), has on or after the date of commencement of this Act become payable in respect of the purchase by the transferee of such marketable security; or
    - (iii) where exemption from duty is claimed under paragraph (h) of the Exemptions to Item 15 of Schedule 1, there is produced the certificate issued in terms of section 14 (1) (e) of the Pension Funds Act, 1956 (Act No. 24 of 1956), in respect of the scheme referred to in the said paragraph.
- (5) No endorsement shall be made by any broker for the purposes of subsection (4) (b) (ii) unless the transferee's name appears in the relevant instrument of transfer.
- (6) Any instrument of transfer referred to in subsection (4) 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 Secretary.
- (7) (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 market-

able security is effected on or after the said date, be paid in respect of such registration under the provisions of Item 18 (3) of the First Schedule to the Stamp Duties Act, 1962 (Act No. 59 of 1962), but subject to the relevant exemptions provided for in that Act, and for the purposes of such duty the provisions of that Act shall be applied as though that Act had not been repealed: Provided that such duty shall not exceed a sum calculated at the rate of one rand and fifty cents for every hundred rand or part thereof of the amount or value on which that duty is payable.

(b) For the purposes of this subsection, 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 falling on or after the said date of commencement, has been noted on such instrument and such note has been signed by the transferee or his agent.

(8) 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 signature; or

(b) as the buying broker in respect of the purchase of any marketable security makes any endorsement on any instrument of transfer for the purposes of subsection (4) (b) (ii) which is false or incorrect or fails to comply with the provisions of subsection (5); or

(c) as the transferee in respect of any marketable security or as the agent of such transferee, makes any note for the purposes of subsection (7) (b) which is false or incorrect,

shall incur a penalty not exceeding fifty rand.

(9) If any company or corporate body or any officer thereof fails to comply with any requirement of this section, it shall, in addition to being liable for any unpaid duty, incur a penalty not exceeding one hundred rand.

Policies of insurance.

24. (1) Where a renewal of any policy of insurance chargeable with duty is effected by the payment of a premium, a premium receipt shall be issued and where duty in respect of such renewal is required to be denoted by means of stamps, such premium receipt shall be stamped for the proper amount of duty payable on the renewal.

(2) Any person who—

(a) receives or takes credit for any premium or consideration for any policy or certificate of insurance or any endorsement thereto or renewal thereof chargeable with duty under this Act 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 one hundred rand.

(3) The duty chargeable under paragraph (6) of Item 18 of Schedule I 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 executes any policy, certificate of insurance or endorsement thereto or renewal thereof chargeable with duty under Item 18 (6) of Schedule 1, shall within two months after the end of each period of three months ending the thirty-first day of March, the thirtieth day of June, the thirtieth day of September and the thirty-first day of December in any year or within such further period as the 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 Secretary may prescribe, reflecting dutiable premiums for the said period of three months, being the sum of the premiums (hereinafter referred to as 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: 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 five thousand rand, the amount by which such aggregate exceeds five thousand rand 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 18 (6) 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 or 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 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 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 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 firstmentioned period to the date of payment of such amount: Provided that the 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 18 (6) of Schedule 1 which fell 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, 1962 (Act No. 59 of 1962), 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.

Security or suretyship.

25. (1) Where any document of security or pledge, or any act of suretyship, indemnity or guarantee referred to in Item 20 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 Secretary that the value of property pledged is less than the amount secured by such pledge, any duty chargeable under Item 20 (1) of Schedule 1 in respect of the relevant document of pledge shall be charged on the value of the property pledged.

## CHAPTER 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) knowingly misstates 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 liable on conviction to a fine not exceeding one hundred rand.

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 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 (the proof whereof shall lie upon him) has in his 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 fraudulently 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 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 any adhesive stamp, which has to his knowledge been so removed as aforesaid,

or who causes or procures any of the acts mentioned in any of paragraphs (a) to (k), 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 not exceeding one thousand rand 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 (the proof whereof shall lie upon him) purchases or receives or knowingly has in his 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 liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

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

28. 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 the same to be forged or to be so printed or so impressed.

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

29. (1) On sworn information that there is good reason to suspect any person of being guilty of any offence mentioned in this Chapter 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 authorized to issue a search warrant, may issue a search warrant authorizing any policeman or other proper officer to search the said 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 any machinery, implements or utensils applicable to the commission of any such offence, or any place where such machinery, implements or utensils or any such stamps may be, and any of the said articles or things found upon such search may be seized and carried away and shall be delivered to the magistrate concerned who shall have the custody thereof until the same be dealt with in accordance with law.

(2) Any articles or things so seized shall be adjudged to be forfeited to the State by the court having jurisdiction as to the offence and thereafter shall be dealt with as the Secretary may direct: Provided that nothing herein contained shall affect the rights of any person who is otherwise entitled by law to the possession or custody of any stamps, machinery, implements or utensils stolen or improperly obtained.

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

## CHAPTER VI.

### GENERAL AND MISCELLANEOUS.

Recovery of duty 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 relating to magistrates' courts, if the total amount thereof does not exceed one thousand rand, be recovered by action in the court of the magistrate 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 thereon for the decision of the provincial or local division of the Supreme Court having jurisdiction, 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 the division concerned, which may give such directions in the matter and may make such order as to costs as it may deem fit.
- (2) Every such action shall be at the suit of the Secretary.
- (3) All duties and penalties recovered under this Act shall be paid into the Consolidated Revenue Fund.
- (4) Nothing in this section contained shall be construed as depriving the Secretary or any other officer of any other remedy for the recovery of duty or penalty mentioned in this Act, or as exempting from prosecution or punishment any person who is liable therefor under any other provision of this Act.

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

31. (1) If the Secretary has reason to believe that any person has in his possession any instrument or instruments chargeable with duty under this Act and which have not been duly stamped, he may by notice in writing call upon such person to produce to him, or to any officer nominated by him, at such time and place as may be specified in the notice, such instrument or instruments or the instruments of any class specified by the Secretary, whether stamped or unstamped at the date of such notice, held by such person, whether on his own behalf or on behalf of any other person, and any person to whom such a notice has been delivered who without lawful excuse (the proof whereof shall lie upon him) fails to comply therewith, shall be guilty of an offence and liable on conviction to the penalty prescribed by section 26.
- (2) Any officer who has been authorized thereto by the Secretary in writing or by telegram under this section may—
- (a) without previous notice, at any time during the day enter any premises whatsoever and search such premises for any instruments;
- (b) in carrying out any such search, open or cause to be opened or removed and opened, anything in which he suspects any instruments to be contained;
- (c) seize any such instruments as in his opinion have not been duly stamped;
- (d) 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.
- (3) Any authorized person exercising any power under subsection (2) shall on demand produce the written authority furnished to him by the Secretary.
- (4) The person from whose premises any instruments have been seized, shall be entitled to examine and make extracts from them during office hours under such supervision as the Secretary may determine.

## Refunds of duty.

32. (1) The 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 properly chargeable in respect of any instrument, if application for the refund is made within 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 two years after the stamp was spoiled or rendered unserviceable;
- (c) any stamp on any instrument if the Secretary is satisfied that such 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 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 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 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 Secretary to be marked or destroyed.

(3) Stamps may 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 State President 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 one hundred rand, and such penalty shall be recoverable as in this Act provided.

## Repeal of laws.

34. (1) Subject to the provisions of sections 23 (7) and 24 (8) and subsections (2) and (3) 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) Any instrument executed outside the Republic before the date of commencement of this Act and which relates to the transfer or hypothecation of any property situated in the Republic or to any matter or thing to be performed or done therein shall, notwithstanding the fact that such instrument is received in the Republic on or after the said date, be subject to the duties prescribed for such instrument in the Stamp Duties Act, 1962 (Act No. 59 of 1962), and such duties shall be denoted or paid and shall be recoverable from the person liable therefor in the manner provided in the last-mentioned Act.

## Amendment of section 1 of Act 32 of 1948.

35. Section 1 of the Marketable Securities Tax Act, 1948, is hereby amended—

- (a) by the deletion of the definition of "Commissioner";
- (b) by the substitution for the definition of "marketable security" of the following definition:  
"marketable security" means any security, stock, share, right of option or other interest sold or

capable of being sold in a sharemarket or exchange or otherwise, and includes any scrip, certificate, warrant or other instrument representing such security, stock, share, right of option or other interest;" and

- (c) by the insertion after the definition of "marketable security" of the following definition:  
 "'Secretary' means the Secretary for Inland Revenue;"

Amendment of section 3 of Act 32 of 1948, as amended by section 12 of Act 64 of 1960.

36. Section 3 of the Marketable Securities Tax Act, 1948, is hereby amended by the substitution for paragraph (c) of the following paragraph:

- "(c) in respect of the purchase or the sale of marketable securities issued by the Government of the Republic or of any colony now forming part of the Republic or any local authority, the Rand Water Board, the Land and Agricultural Bank of South Africa, a water board established under Chapter VII of the Water Act, 1956 (Act No. 54 of 1956), a Regional Water Supply Corporation constituted under section 7 of the Water Supply Ordinance, 1963 (Ordinance No. 27 of 1963), of Natal, or the Electricity Supply Commission."

Substitution of certain words in Act 32 of 1948.

37. The Marketable Securities Tax Act, 1948, is hereby amended—

- (a) by the substitution for the word "Commissioner" wherever it occurs of the word "Secretary"; and  
 (b) by the substitution for the word "Union" wherever it occurs of the word "Republic".

Commencement.

38. This Act shall come into operation on the first day of October, 1968.

Short title.

39. This Act shall be called the Stamp Duties Act, 1968.

### Schedule 1.

#### TARIFF OF STAMP DUTIES.

No.	Description of Instrument.	Amount of Duty
		R c
1	<i>Affidavit or solemn or attested declaration:</i> In respect of every deponent or declarant 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.  <i>Exemption:</i> Any affidavit or declaration required to be made in connection with any payment to or refund from the public revenue or required to be furnished to a Minister or an administrator or an officer (other than a registrar of any division of the Supreme Court or a clerk of an inferior court) in the service of the State (including a provincial administration and the Railway Administration).	0 20
2	<i>Agreement or contract</i> in respect of which no other duty is specifically provided .. .. .  <i>Exemptions:</i> (a) Agreements or contracts (other than hire-purchase agreements or contracts or agreements or contracts of lease) which relate to the sale, supply or delivery of goods, wares or merchandise, including livestock and agricultural produce. (b) Agreements or contracts for the hire of domestic servants, labourers or seamen.	0 30
3	<i>Antenuptial or postnuptial contract</i> .. .. .	2 00

No.	Description of Instrument.	Amount of Duty.
		R c
4	<i>Arbitration or award:</i> Every deed of submission and every award .. .. .	2 00
5	<i>Bill of exchange or promissory note:</i>	
	(1) Cheque .. .. .	0 02
	(2) Any other bill of exchange or any promissory note, whether payable on demand or otherwise: for every R100 or part thereof of the amount or value .. .. .	0 05
	<i>Exemptions:</i>	
	(a) Traveller's cheque issued outside the Republic.	
	(b) 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.	
	(c) Coupon or warrant for interest or dividend attached to or issued with any marketable security.	
	(d) Bill or draft by or upon the Treasury or any public account.	
	(e) Promissory note by any commercial bank or other acceptance, discount or financial house in favour of the South African Reserve Bank for discount purposes where such promissory note is secured by the lodgment with the latter bank of commercial, industrial or agricultural bills of exchange of equivalent value.	
	(f) Cheque drawn on a bank in the territory of South-West Africa if stamp duty in respect of such cheque has been paid in the said territory.	
6	<i>Bill of lading</i> for the carriage or transport of any goods by sea: for every such bill or copy or duplicate thereof ..	0 10
7	<i>Bond:</i>	
	(1) Any mortgage bond hypothecating immovable property or an interest in such property and any general or special bond passed before a notary public:	
	(a) where the total amount of the debt secured or to be secured does not exceed R4,000: for every R100 or part thereof .. .. .	0 10
	(b) where the total amount of the debt secured or to be secured exceeds R4,000 but does not exceed R6,000: for every R100 or part thereof .. .. .	0 20
	(c) where the total amount of the debt secured or to be secured exceeds R6,000: for every R100 or part thereof .. .. .	0 25
	(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 R100 or part thereof of the debt secured or to be secured .. .. .	0 05
	(b) Any 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 debtor or the person substituted as debtor under such previously executed and duly stamped bond	
	(3) Cession of any bond mentioned in (1) or of any bond substituted therefor:	
	(a) where the amount remaining due does not exceed R4,000: for every R100 or part thereof .. .. .	0 10
	(b) where the amount remaining due exceeds R4,000: for every R100 or part thereof .. .. .	0 15
	(4) Cession of any auxiliary or collateral bond mentioned in (2) .. .. .	
	(5) Substitution of debtor in respect of any bond mentioned in (1) .. .. .	
	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.	
		A duty at the rates mentioned in (1) but not exceeding one rand.
		The like duty as is chargeable on the bond.
		The like duty as is chargeable on a cession of the bond.

No.	Description of Instrument.	Amount of Duty.
		R c
	<i>Exemptions:</i>	
	(a) Bond given solely in security for any payment due to the public revenue.	
	(b) Bond given by any public officer in respect of the discharge of his official duties.	
	(c) Bond given by any company registered in pursuance of a licence granted under section 21 of the Companies Act, 1926 (Act No. 46 of 1926), which has not been revoked.	
8	<i>Broker's note:</i>	
	(1) In respect of the sale or purchase of any movable property other than a marketable security: for every R100 or part thereof of the consideration .. .. .	0 10
	(2) In respect of the sale or purchase of any marketable security: for every R100 or part thereof of the consideration .. .. .	0 25
	<i>Exemptions:</i>	
	(a) Note of sale or purchase on behalf of another broker or agent within the Republic who is acting in the same transaction for a principal.	
	(b) Note in respect of the sale or purchase of any stock issued by the Government or of any marketable security issued by any local authority, the South African Broadcasting Corporation, the Rand Water Board, the Electricity Supply Commission, the Land and Agricultural Bank of South Africa, a water board established under Chapter VII of the Water Act, 1956 (Act No. 54 of 1956), or a Regional Water Supply Corporation constituted under section 7 of the Water Supply Ordinance, 1963 (Ordinance No. 27 of 1963), of Natal.	
	(c) Note issued in connection with a sale or purchase of any marketable security in respect of which the tax referred to in section 2 of the Marketable Securities Tax Act, 1948 (Act No. 32 of 1948), is payable, in so far as the note relates to that sale or purchase.	
9	<i>Charter party:</i>	
	(1) Of any vessel or ship not exceeding 10,000 tons burthen .. .. .	5 00
	(2) Of any vessel or ship exceeding 10,000 tons burthen .. .. .	10 00
10	<i>Company share capital duty:</i> Statement delivered to a receiver of revenue in terms of section 20 of this Act: For every R100 or part thereof of the amount of nominal share capital or increase of nominal share capital .. . . . Subject to a minimum duty of R10 in respect of the initial nominal share capital.	0 25
11	<i>Customs and excise documents:</i> On each original bill or document of entry or document in lieu thereof .. . . .	0 10
	<i>Exemptions:</i>	
	(a) Any bill or document of entry for coastwise removal of released goods between places in the Republic or removal through contiguous territories of such goods to any place in the Republic.	
	(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.	
	(c) Any provisional bill or document of entry covered later by a bill or document of entry which is not exempted under this item.	
12	<i>Duplicate original</i> of any instrument the original whereof is chargeable with stamp duty: the like duty to that chargeable upon the original but not to exceed .. .. .	0 10
	<i>Exemptions:</i>	
	(a) Any duplicate original in respect of which a substantive duty is otherwise chargeable.	
	(b) Any duplicate original which is required to be filed of record in any public office in the Republic.	
13	<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:	

No.	Description of Instrument.	Amount of Duty.
	<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 R200 (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, 1965 (Act No. 24 of 1965), 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 twenty-four months.</p> <p><i>Exemptions:</i></p> <p>(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 such provisional receipt.</p> <p>(b) Acknowledgment or slip relating to a fixed deposit of an amount not exceeding twenty rand.</p>	<p>R c</p> <p>0 05</p>
14	<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 five years: for every R100 or part thereof .. .. .</p> <p>(b) where such period exceeds five years but not ten years: for every R100 or part thereof .. .. .</p> <p>(c) where such period exceeds ten years but not twenty years: for every R100 or part thereof .. .. .</p> <p>(d) where such period exceeds twenty years: for every R100 or part thereof .. .. .</p> <p>Provided that if in any case it is shown to the satisfaction of the Secretary 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 such full selling value.</p> <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 rights under any such lease or agreement, provided transfer duty is not chargeable in respect of such cession or assignment .. .. .</p>	<p>0 25</p> <p>0 40</p> <p>0 55</p> <p>0 70</p> <p>An amount of duty calculated in accordance with section 22 (4) of this Act.</p> <p>2 00</p>
15	<p><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 a local authority, the Rand Water Board, the Electricity Supply Commission, the Land and Agricultural Bank of South Africa, a water board established under Chapter VII of the Water Act, 1956 (Act No. 54 of 1956), a Regional Water Supply Corporation constituted under section 7 of the Water Supply Ordinance, 1963 (Ordinance No. 27 of 1963), of Natal, or a building society):</p> <p>(1) In respect of the original issue within the Republic of any such shares, stock or debentures:</p>	



No.	Description of Instrument.	Amount of Duty.
		R c
	(a) if transferable only by registration: for every R20 or part thereof of the nominal value .. ..	0 05
	(b) if made out to bearer or in any manner so as to be transferable by delivery only: for every R20 or part thereof of the nominal value .. ..	0 20
	(2) In respect of the issue within the Republic 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:	
	(a) if not transferable or if transferable only by registration: for every R100 or part thereof of the price of issue .. .. .	0 05
	(b) if made out to bearer or in any manner so as to be transferable by delivery only: for every R100 or part thereof of the price of issue .. ..	0 20
	<i>Exemption from the duty under paragraph (1) or (2):</i> 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 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.	
	(3) In respect of the registration of transfer of any such 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 23 of this Act: for every R100 or part thereof of the amount or value of the consideration given, or where no consideration is given, of the value of the marketable security transferred	0 50
	(b) if transfer is registered after the expiry of the said period .. .. .	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.
	<i>Exemptions:</i>	
	(a) The issue or registration of transfer of shares of any company incorporated in the territory of South-West Africa.	
	(b) Any registration of transfer of the scrip, certificate, warrant or other like instrument held by a trust created by will or notarial deed, if such transfer is necessitated by a change of executors, administrators or trustees and no consideration is given in respect thereof.	
	(c) Any registration of transfer of any share, stock or debenture of any company with reference to which the Treasury has given an undertaking as contemplated by section 10 (1) (s) of the Income Tax Act, 1962 (Act No. 58 of 1962).	
	(d) The issue or registration of any negotiable certificate in respect of any deposit made with any commercial bank as defined in section 1 of the Banks Act, 1965 (Act No. 23 of 1965).	
	(e) Any registration of transfer of any marketable security issued by any company or corporate body, if the instrument of transfer is executed outside the Republic and the registration of transfer is effected in any branch register kept by such company or corporate body outside the Republic.	
	(f) Any registration of transfer of any marketable security purchased by any person on or after the date of commencement of this Act, if the purchase by such person of such marketable security was negotiated by a broker and the tax referred to in section 2 of the Marketable Securities Tax Act, 1948 (Act No. 32 of 1948), has on or after the said date become payable in respect of such purchase.	

No.	Description of Instrument.	Amount of Duty.
		R c
	(g) Any registration of transfer of any marketable security from a principal to a nominee and vice versa or from one nominee to another nominee, if no change of beneficial interest in such security is thereby effected.	
	(h) 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 No. 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.	
16	<b>Notarial act or instrument:</b>	
	(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 50
	(2) Any notarial grosse, duplicate original or copy of any instrument chargeable with duty under this Schedule	0 20
	<i>Exemption:</i> Any notarial grosse, duplicate original or copy referred to in section 5 (3) (a) of this Act.	
	(3) The notarial minute or original of any instrument chargeable with duty under any other Item of this Schedule, if such duty is denoted on the notarial grosse, duplicate original or copy of such instrument	0 20
17	<b>Partnership:</b> Agreement of partnership	5 00
18	<b>Policy of insurance,</b> including any other instrument which constitutes a policy of insurance under the Insurance Act, 1943 (Act No. 27 of 1943):	
	(1) Policy of life insurance (excluding a policy providing for the payment of an annuity only): for every R100 or part thereof of the aggregate sum assured, excluding the value of any annuity	0 05
	(2) Policy of life insurance providing for the payment of an annuity only	2 00
	(3) Policy of insurance issued in compliance with the Motor Vehicle Insurance Act, 1942 (Act No. 29 of 1942): in respect of each vehicle which is the subject of such policy	0 10
	(4) 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	0 05
	(5) Contract of insurance referred to in section 2 of the Export Credit Re-insurance Act, 1957 (Act No. 78 of 1957), executed by any person with whom the Minister of Economic Affairs, has entered into an agreement under that section which is applicable in respect of such contract: for every R200 or part thereof of the sum assured Subject to a maximum duty of R10.	0 02
	(6) Policy or certificate of insurance not subject to duty under any of the foregoing paragraphs, or any endorsement thereto or renewal thereof	
	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.	
	<i>Exemption:</i> Policy or certificate of insurance executed by a mutual association licensed under section 95 of the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), under which a sum is payable to cover any compensation or damage due, whether under that Act or otherwise, in respect of the death or illness of or injury to an employee, or any endorsement thereto or renewal thereof.	
		A duty of one per cent on the dutiable premiums referred to in section 24 (4) (a) of this Act.

No.	Description of Instrument.	Amount of Duty.
		R c
	(7) Cession of any policy of life insurance or of any interest under such policy 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.	0 50
	<i>Exemptions:</i>	
	(a) Interim cover note issued in respect of a policy of insurance to be issued within the Republic.	
	(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.	
19	<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 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.  <i>Exemption:</i> Proxy solely to vote at any specified meeting or adjournment thereof.	0 50
20	<i>Security or suretyship:</i> Any document of security or pledge, or any act of suretyship, indemnity or guarantee not otherwise chargeable with duty:	
	(1) Where such instrument secures the payment of any money debt and the amount secured is stated in such instrument: for every R100 or part thereof of such amount Subject to a maximum duty of R10.	0 05
	(2) Where such instrument secures the payment of any money debt and the amount secured is not stated in such instrument	10 00
	(3) Where such security, pledge, suretyship, indemnity or guarantee is given in respect of any other matter	2 00
	<i>Exemptions:</i>	
	(a) Where such security, pledge, suretyship, indemnity or guarantee is given solely in relation to any payment due to the public revenue.	
	(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 No. 27 of 1943).	
	(c) Indemnity by any person solely against personal injury to such person or to any child or dependant of such person.	
21	<i>Transfer deed</i> relating to immovable property:	
	(1) Where the value or consideration does not exceed R7,000: for every R100 or part thereof of the value or consideration	0 25
	(2) Where the value or consideration exceeds R7,000 and for every R100 or part thereof of the value or consideration in excess of R7,000	17 50
		0 75
	<i>Exemptions:</i>	
	(1) Partition transfers, except in respect of consideration paid by one of the parties thereto to another such party.	
	(2) Transfers which bring about no alteration in the legal rights in the property transferred.	
22	<i>Warehouse receipt:</i>	
	(1) Any warehouse receipt	0 02
	(2) Any endorsement of any warehouse receipt or rail-surety-note by way of security:	
	(a) for every R100 or part thereof of the debt secured	0 05
	(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 25
	For the purposes of this Item "warehouse receipt" means a warehouse receipt issued in terms of section 12 of the Agricultural Warehouse Act, 1930 (Act No. 42 of 1930).	

## Schedule 2.

## LAWS REPEALED.

Number and Year of Law	Title or Subject of Law	Extent of Repeal.
No. 59 of 1962	Stamp Duties Act, 1962	The whole.
No. 77 of 1962	Finance Act, 1962	Section 24.
No. 70 of 1963	Revenue Laws Amendment Act, 1963	Sections 6 and 7.
No. 77 of 1964	Revenue Laws Amendment Act, 1964	Sections 19 to 23, inclusive.
No. 81 of 1965	Revenue Laws Amendment Act, 1965	Sections 9 to 14, inclusive.
No. 94 of 1967	Revenue Laws Amendment Act, 1967	Sections 3 and 4.