

## **STAMP DUTY ACT, 2005 (ACT 689)**

As amended by

THE STAMP DUTY (AMENDMENT) ACT, 2008 (ACT 764)<sup>1</sup>

GHANA REVENUE AUTHORITY ACT, 2009 (ACT 791)<sup>2</sup>

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REPUBLIC OF GHANA

**THE SIX HUNDRED AND EIGHTY-NINTH  
ACT  
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA  
ENTITLED  
THE STAMP DUTY ACT, 2005**

**AN ACT** to revise the Stamp Act 1965 (Act 311); to incorporate amendments relating to stamp duties and to provide for related matters.

**DATE OF ASSENT:** 17th May, 2005

**ENACTED** by the President and Parliament:

Provisions applicable to instruments generally

Section 1—Charge of duties in Schedule

(1) The amounts specified in Schedule 1 are payable as stamp duties in respect of the matters stated respectively in relation to them.

(2) The Minister may by legislative instrument amend the Schedule.

Section 2—Instruments to be separately charged with duty

Except where express provision to the contrary is made in this Act or under any other enactment,

(a) an instrument that contains or relates to several distinct matters is to be charged separately and distinctly as if each matter were a separate instrument, with duty in respect of each of the matters;

(b) an instrument made for a consideration in respect of which it is chargeable with ad valorem duty, and also for a further or other valuable consideration, is to be separately and distinctly charged, as if it were a separate instrument with duty in respect of each of the consideration.

Section 3—Assessment of duty

The Commissioner shall assess the duties payable on an instrument required to be stamped under this Act.

#### Section 4—Impressed and adhesive stamp

(1) Stamp duties chargeable under this Act or any other enactment on an instrument shall be paid and denoted in accordance with this Act.

(2) Except otherwise provided expressly by this Act or any other enactment, stamp duties shall be denoted by impressed stamps only.

(3) A stamp duty of an amount not exceeding ten thousand cedis may be denoted by adhesive stamps.

(4) Where duties are permitted to be denoted by adhesive stamps, they may be denoted by stamps issued by the Commissioner for the purpose of this Act.

(5) Each stamp impressed on an instrument, other than an instrument stored electronically or in cellulose material shall contain figures denoting the actual date on which that stamp was impressed.

#### Section 5—Instruments written on stamped material

(1) An instrument which is

(a) written on material already stamped; or

(b) partly or wholly written on the material before being stamped,

is to be stamped in a manner that the stamp may appear on the face of the instrument and cannot be used or applied to another instrument written on the same piece of material.

(2) If more than one instrument is written on the same piece of material, each one of the instruments is to be separately and distinctly stamped with the appropriate duty payable.

#### Section 6—Circumstances affecting duty to be set out in instruments

The facts and circumstances that affect the liability of an instrument to duty or the amount of the duty with which an instrument is chargeable, are to be fully and truly stated in the instrument.

#### Section 7—Mode of calculation of ad valorem duty in certain cases

(1) Where an instrument is chargeable with an ad valorem duty in respect of

(a) moneys in a foreign currency,

(b) a stock or marketable security,

the duty shall be calculated on the value of the money in Ghana currency according to the prevailing rate of exchange on the day of the date of the instrument or in the case of stock or security, according to the average price of the stock or security.

(2) The Commissioner, if not satisfied with the evidence, is not bound to assess the duty in conformity with subsection (1).

## Section 8—Cancellation of adhesive stamps

(1) Where the duty chargeable on an instrument is required or permitted under this Act to be denoted by an adhesive stamp, the instrument is not duly stamped with the stamp unless

(a) the adhesive stamp is properly cancelled; or

(b) it is otherwise proved that the stamp that appears on the instrument was fixed to it at the proper time.

(2) An adhesive stamp is properly cancelled if the person required by law to cancel it writes on or across the stamp, the name or initials of that person or the name or initials of that person's firm together with the true date of the writing, or otherwise renders the stamp incapable of being used for another instrument or purpose.

(3) Where two or more adhesive stamps are used to denote the stamp duty on an instrument, each of these stamps shall be cancelled in the manner provided by this section.

## Section 9—Denoting stamp

Where the duty with which an instrument is chargeable depends on the duty paid on another instrument, the payment of the last-mentioned duty shall, if an application is made to the Commissioner for that purpose and on production of both instruments, be denoted by a certificate under the hand and seal of the Commissioner.

## Section 10—Commissioner may be required to express opinion

(1) The Commissioner may be required by a person to express an opinion with reference to an executed instrument, as to

(a) whether the instrument is chargeable with duty; and

(b) the amount of duty with which the instrument is chargeable, if duty is chargeable.

(2) The Commissioner may require a person to furnish the Commissioner with an abstract of the instrument and also with the necessary evidence in order to determine whether the facts and circumstances affecting the liability of the instrument to duty, or the amount of the duty chargeable on the instrument, are fully and truly set out.

(3) Where the Commissioner is of the opinion that the instrument is not chargeable with duty, the instrument may be stamped with a particular stamp denoting that it is not chargeable with duty.

(4) Where the Commissioner is of the opinion that the instrument is chargeable with duty, the duty shall be assessed, and the instrument shall be stamped in accordance with the assessment.

(5) An instrument is admissible in evidence and shall be available for all purposes despite an objection relating to duty whether stamped with the particular stamp denoting that it is not chargeable with a duty or stamped as charged. [As deleted and inserted by the Stamp Duty (Amendment) Act, 2008 (ACT 764), s. 1(a)]

(6) This section does not extend to an instrument chargeable with ad valorem duty and made as a security for money or stock without limit and does not authorise the stamping after the execution of an instrument which by law cannot be stamped after execution.

(7) A statutory declaration made for the purpose of this section shall not be used against the person making the declaration in a proceeding, except in an inquiry as to the duty with which the instrument to which it relates is chargeable.

(8) A person by whom a declaration is made shall, on payment of the duty chargeable on the instrument to which it relates, be relieved from any penalty or disability to which that person may be liable by reason of the omission to state truly in the instrument a fact or circumstance required by this Act to be stated.

#### Section 11—Instruments to be stamped as assessed

An instrument on which a duty has been assessed by the Commissioner shall not, if it is unstamped or insufficiently stamped, be stamped otherwise than in accordance with the assessment.

#### Stamping of instruments after execution

#### Section 12—Stamping of instruments after execution

(1) Except where express provision is made to the contrary by this Act, an unstamped or insufficiently stamped instrument may after its execution and on payment of the unpaid duty, be stamped with an impressed stamp at any time within two months.

(2) An instrument shall not be stamped after the time limit specified in subsection (1) except on payment of the unpaid duty in addition to a penalty of a value equivalent to two and a half penalty units.

(3) Where the unpaid duty exceeds the equivalent in value of two and a half penalty units, there shall be by way of further penalty an interest on the unpaid duty at the rate of five per centum per annum from the day on which the instrument was first executed up to the time when the interest is equal in amount to the unpaid duty.

(4) An unstamped or insufficiently stamped instrument which has first been executed at a place outside Ghana may, on payment of the unpaid duty, be stamped at any time within two months after it has been first received in Ghana.

(5) The payment of a penalty under this Act shall be denoted on the instrument by a particular stamp.

#### Particulars about land

#### Section 13—Particulars about land

(1) An instrument relating to the creation or transfer of an estate or interest in land, submitted to the Commissioner for assessment of the chargeable stamp duty, shall be accompanied with a statement in the form set out in the Schedule 2.

(2) The statement shall be signed by the grantee, transferee or by a person authorised in writing to do so by the grantee or transferee.

(3) The Commissioner shall when furnished with the statement required by this section, impress on the instrument, a stamp bearing the words "particulars delivered".

#### Section 14—Instruments and title registered in the land or title registry

An instrument or title shall not be registered or entered in the registry of instruments that affect land or in the land title register unless

- (a) the instrument or document containing particulars of title is stamped; or
- (b) the instrument or document is stamped under section 10 with a particular stamp denoting that it is not chargeable with duty.

Provisions applicable to particular instruments

Section 15—Calculation of ad valorem duty in respect of stock and securities

Where the consideration, or a part of the consideration, for a conveyance on sale consists of

- (a) a stock or marketable security, the conveyance shall be charged with ad valorem duty in respect of the value of the stock or security;
- (b) a security not being a marketable security, the conveyance shall be charged with ad valorem duty in respect of the amount due on the day of the date of the security, for principal and interest on the security.

Section 16—Calculation of ad valorem duty on periodical payments

(1) Where the consideration, or a part of the consideration for a conveyance on sale consists of money payable periodically for a definite period

- (a) not exceeding twenty years, so that the total amount to be paid can be previously ascertained, the conveyance shall be charged in respect of that consideration with ad valorem duty on the total amount; or
- (b) exceeding twenty years or in perpetuity, or for an indefinite period not terminable with life, the conveyance shall be charged in respect of that consideration with ad valorem duty on the total amount which will or may, according to the terms of sale, be payable during the period of twenty years next after the day of the date of the instrument.

(2) Where the consideration, or a part of the consideration for a conveyance on sale consists of money payable periodically during any life or lives, the conveyance shall be charged in respect of that consideration with ad valorem duty on the amount which will or may, according to the terms of sale, be payable during the period of twelve years following after the day of the date of the instrument. [As deleted and inserted by the Stamp Duty (Amendment) Act, 2008 (ACT 764), s. (b)]

(3) A conveyance on sale chargeable with ad valorem duty in respect of periodical payments, and containing provision for securing the payments, shall be charged with a duty in respect of that provision, and a separate instrument made in that case for securing the payments shall not be charged with a duty exceeding one thousand cedis.

Section 17—Calculation of ad valorem duty on mortgage or conveyance in respect of a debt

Where property is mortgaged or conveyed to a person [As inserted by the Stamp Duty (Amendment) Act, 2008 (ACT 764), s. (c)(i)]

- (a) in consideration wholly or in part, of a debt due to that person; or



(b) subject to the payment or transfer of money or stock, whether it is or constitutes a charge or incumbrance on the property or not, the debt, money, or stock as the case may be, is to be considered as the whole or part of the consideration in respect of which the mortgaged or conveyance is chargeable with ad valorem duty. [As inserted by the Stamp Duty (Amendment) Act, 2008 (ACT 764), s. (c)(ii)]

#### Section 18—Direction as to duty in certain cases

(1) Where property contracted to be sold for one consideration for the whole is conveyed to the purchaser in separate parcels by different instruments, the consideration is to be apportioned in that manner as the parties consider appropriate so that a distinct consideration for each separate part or parcel is stated in the conveyance it relates and that conveyance is to be charged with ad valorem duty in respect of that distinct consideration.

(2) Where property contracted to be purchased for one consideration for the whole by

(a) two or more persons jointly; or

(b) a person for the person's use and others, or wholly for others, is conveyed in parts or parcels by separate instruments to the persons by whom or for whom the property was purchased for distinct parts of the consideration, the conveyance of each separate part or parcel is to be charged with ad valorem duty in respect of the distinct part of the consideration specified in it.

(3) Where there are several instruments of conveyance for completing the purchaser's title to property sold, the principal instrument of conveyance only is to be charged with ad valorem duty and the other instruments are to be respectively charged with any other chargeable duty that they are liable to, but these duties shall not exceed the ad valorem duty payable in respect of the principal instrument.

(4) Where a person having contracted for the purchase of a property has not obtained a conveyance of the property but contracts to sell the property to another person and the property is as a result conveyed directly to the sub-purchaser, the the conveyance is to be charged with ad valorem duty in respect of the consideration moving from the sub-purchaser.

(5) Where a person having contacted for the purchase of a property has not obtained a conveyance of the property but contracts to sell the whole or a part of it to another person and the property is as a result conveyed by the original seller to different persons in parts or parcels, the conveyance of each part of parcel is to be charged with ad valorem duty in respect only of the consideration moving from the respective sub-purchaser without regard to the amount or value of the original consideration.

#### Section 19—Conveyance other than a sale

(1) An instrument and a decree or order of a court by which property is transferred to or vested in a person, other than through a sale shall be charged with duty as a conveyance on sale or transfer on sale of that property for a consideration equal to the value of that property.

(2) A conveyance or transfer made as a result of the appointment of a new trustee or the retirement of a trustee, although a new trustee is not appointed, shall be charged with a duty not exceeding ten thousand cedis.

#### Section 20—Stamp duty on gifts inter vivos

(1) A conveyance or transfer operating as a voluntary disposition inter vivos shall be chargeable with stamp duty as if it were a conveyance or transfer on sale, with the substitution in each of the value of the property conveyed or transferred, for the amount or value of the consideration for the value. [As inserted by the Stamp Duty (Amendment) Act, 2008 (ACT 764), s. (d)(i)]

(2) A conveyance or transfer which is not a disposition made in favour of a purchaser, an encumbrancer or other person in good faith and for valuable consideration shall, for the purposes of this section, be considered as a conveyance or transfer operating as a voluntary disposition inter vivos.

(3) Except where marriage is the consideration, the consideration for a conveyance or transfer shall not, for the purpose of subsection (2) be considered to be valuable consideration where the Commissioner is of the opinion that by reason of the inadequacy of the sum paid as consideration or other circumstances, the conveyance or transfer confers a substantial benefit on the person to whom the property is conveyed or transferred.

(4) A mortgage or conveyance or transfer made

(a) for nominal consideration for the purpose of securing the repayment of an advance or loan;

(b) to effect the appointment of a new trustee or the retirement of a trustee, whether the trust is express or implied; [As deleted and inserted by the Stamp Duty (Amendment) Act, 2008 (ACT 764), s. (c)(ii)]

(c) under which a beneficial interest does not pass in the property conveyed or transferred;

(d) to a beneficiary by a trustee or any other person in a fiduciary capacity under a trust, whether expressed or implied

shall not be charged with duty under this section.

(5) Subsection (4) shall have effect despite the circumstances exempting the conveyance or transfer from charge under this section are not set out in the conveyance or transfer.

#### Section 21—Stamping of duplicates and counterparts

(1) The duplicate or counterpart of an instrument chargeable with duty is not to be considered as stamped unless

(a) it is stamped as an original instrument; or

(b) it appears from a certificate signed and sealed by the Commissioner that the full and proper duty has been paid on the instrument of which it is the duplicate or counterpart.

(2) Subsection (1) does not apply to a counterpart of an instrument chargeable as a lease where the counterpart is not executed by or on behalf of a lessor or grantor.

#### Section 22—Agreement chargeable as lease

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

(2) A lease made subsequently to and in conformity with an agreement under subsection (1) is to be charged with the duty of five thousand cedis.

#### Section 23—Certain covenants not to increase duty

A lease made for a consideration which is chargeable with ad valorem duty and in further consideration of a covenant relating to

- (a) the improvement of the property demised, to
- (b) to the matter of the lease

shall not be charged with any duty in respect of that further consideration.

#### Section 24—Cancellation of stamps on memorandum of hypothecation

(1) The duty on a memorandum of hypothecation shall be denoted by adhesive stamps which shall be cancelled at the time of execution by the persons executing it.

(2) A memorandum of hypothecation executed without being stamped may, within seven days after execution and on payment of the duty and a penalty equivalent of two and a half penalty units, be stamped with an impressed stamp.

#### Section 25—Stamping of mortgages

A writing evidencing a mortgage, bond, debenture, covenant, guarantee or lien shall be treated as an instrument which shall be stamped in accordance with this Act.

#### Section 26—Mortgages for undefined amounts

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

(2) Where the total amount is unlimited, the security shall be available for that amount only as the ad valorem duty impressed on the security extends to cover.

#### Stamp duties management

#### Section 27—Administration of Act

(1) The Commissioner is responsible for the administration of this Act, and stamp duties chargeable under this Act and any other enactment shall be under the care and management of the Commissioner.

(2) The Commissioner may delegate any function imposed on the Commissioner to an officer appointed by the Service or to any other public officer as may be considered necessary.

#### Section 28—Act to apply to all stamp duties

The provisions of this Act apply to the duties and to the fees which are directed to be collected or received by means of stamps.

#### Section 29—Moneys received for duty

- (1) A person who
  - (a) receives a sum of money in respect of a duty; or
  - (b) collects a fee by means of a stamp

shall pay the monies to the Commissioner.

(2) The Commissioner shall, unless otherwise stated under any other enactment, pay into the Consolidated Fund moneys due to the State under this Act.

(3) A person who fails to pay or improperly withholds or retains money received or collected under subsection (1) shall account for it and the money shall be a debt due to the State.

### Objections and appeals

#### Section 30—Objection to an assessment

(1) A person who is dissatisfied with an assessment made under this Act may lodge an objection to the assessment with the Commissioner within thirty days after receipt of the assessment.

(2) The Commissioner shall make a determination on an objection lodged against an assessment within twenty one days from the date of receipt of an objection to the assessment.

(3) The Commissioner may, in the determination of the objection, allow the objection in whole or in part and amend the assessment accordingly or disallow the objection.

#### Section 31—Appeal against an assessment

(1) A person who is dissatisfied with the decision of the Commissioner on an objection may within thirty days from the date of the decision and after payment of the duty in conformity with the assessment, appeal against the decision to the High Court.

(2) Order 54 of the High Court Civil Procedure Rules shall apply to an appeal under subsection (1).

(3) The Commissioner or the appellant may appeal against the decision of the High Court to the Appeal Court on a matter of law only.

#### Section 32—Admissibility of insufficiently stamped or unstamped instrument

(1) Where an instrument chargeable with a duty is produced as evidence

- (a) in a court in a civil matter; or
- (b) before an arbitration or referee,

the judge, arbitrator or referee, shall take notice of an omission or insufficiency of the stamp on the instrument.

(2) If the instrument is one which may legally be stamped after its execution, it may, on payment of the amount of the unpaid duty to the registrar of the Court or to the arbitrator or referee, and the penalty payable on stamping that instrument, be received in evidence subject to just exceptions on other grounds.

(3) An instrument which is sufficiently stamped under this Act shall be receivable in evidence although that instrument may not have been stamped or is insufficiently stamped according to the law in force in the place where that instrument was executed.

(4) The registrar, arbitrator or referee shall

(a) give a receipt for moneys paid as duty or penalty;

(b) make an entry in a book kept for recording payment of stamp duty and any penalties; and

(c) communicate to the Commissioner, the

(i) title of the proceeding in which; and

(ii) name of the party from whom,

the registrar, arbitrator or referee received the duty and penalty.

(5) On the production to the Commissioner of an instrument in respect of which duty or a penalty has been paid under this section, together with the receipt of the registrar, arbitrator or referee, the payment of the duty shall be denoted on the instrument by an impressed stamp and the payment of the penalty shall also be denoted by a certificate signed and sealed by the Commissioner.

(6) Except as expressly provided in this section, an instrument

(a) executed in Ghana; or

(b) executed outside Ghana but relating to property situate or to any matter or thing done or to be done in Ghana

shall except in criminal proceedings, not be given in evidence or be available for any purpose unless it is stamped in accordance with the law in force at the time when it was first executed.

## Proceedings

### Section 33—Compounding offences

(1) Where a person commits an offence under this Act, other than an offence referred to in section 42, the Commissioner may at any time prior to the commencement of court proceedings, compound the offence and order the person to pay a sum of money specified by the Commissioner but the sum shall not exceed the amount of the fine prescribed for the offence.

(2) The Commissioner may only compound an offence under this section if the person concerned admits in writing to the Commissioner of the commission of the offence.

(3) Where the Commissioner compounds an offence under this section, the order

(a) shall

(i) be in writing and specify the offence committed;

(ii) state the sum of money to be paid;

(iii) state the date for payment; and

- (iv) have attached, the written admission referred to in subsection (2);
  - (b) shall be served on the person who committed the offence;
  - (c) shall be final and not subject to an appeal; and
  - (d) may be enforced in the same manner as a decree of a court for the payment of the amount stated in the order or this Act.
- (4) Where the Commissioner compounds an offence under this section, the person concerned is not liable to prosecution or a penalty under this Act in respect of that offence.

#### Section 34—Venue for trial

Any

- (a) offence committed by a person under this Act; or
- (b) civil proceedings under this Act in relation to a person,

shall be instituted, tried, heard, disposed of and the person punished, as the case requires, at the court nearest to that person's usual place of residence or at a court with jurisdiction over the area in which the office of the Service which has primary responsibility for that person's affairs under this Act is situated.

#### Section 35—Amounts payable

- (1) The institution of proceedings for a penalty or fine or the imposition of a penalty or fine under this Act shall not relieve a person from liability to pay duty which may include an amount treated by this Act as duty, for which the person is or may become liable under this Act.
- (2) In proceedings under this Act, the production of a certificate signed by the Commissioner stating the name and address of a person liable and the amount of duty due or due and payable by the person is sufficient evidence of the amount of duty due or due and payable by that person.

#### Section 36—Waiver or variation of duty

The Minister responsible for Finance in consultation with the Commissioner may, subject to the prior approval of Parliament by resolution in accordance with clause (2) of article 174 of the Constitution, grant a waiver or variation of duty imposed by this Act in favour of a person or an authority.

#### Section 37—Deferment of duty due

- (1) Where the Commissioner is of the opinion that the whole or part of the duty which is due by a person, including an amount considered as duty by this Act cannot be effectively recovered immediately by reason of the financial hardship that may be caused to the person, the Commissioner may on an application made to the Commissioner by the person,
- (a) defer payment of the whole or part of the duty; and
  - (b) arrange a satisfactory payment schedule not exceeding six months at any particular time, with that person.

(2) The Commissioner shall denote on the instrument presented that either the whole or part of the duty due has been deferred and shall state the outstanding duty due.

#### Section 38—Refund of excess duty

(1) Where the Commissioner is satisfied that duty has been paid by a person in excess of the duty payable the Commissioner shall, not more than five months from the date of an application by a person for a refund, refund the excess payment to the person on being notified in writing that duty has been paid by a person in excess of the person's liability to which the payment relates.

(2) A penalty paid by a person under this Act shall be refunded to that person to the extent that the duty to which the penalty relates is found not to have been due and payable.

#### Section 39—Remission of penalty

The Commissioner may remit or mitigate in part or in whole any penalty other than a fine imposed under this Act either before or after proceeding for recovery of the penalty.

#### Offences

##### Section 40—Failure to cancel adhesive stamps

(1) A person required by law to cancel an adhesive stamp who wilfully neglects or refuses to do so commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units.

(2) If a person

(a) fraudulently removes or causes to be removed from an instrument an adhesive stamp, or affixes to an instrument or uses for some other purpose an adhesive stamp which has been previously used, with intent that the stamp may be used again; or

(b) sells or offers for sale, or alters, an adhesive stamp which has been removed, or alters an instrument that has an adhesive stamp on it which has to that person's knowledge been previously used,

commits an offence and is liable on summary conviction, in addition to any other penalty to which that person may be liable, to a fine of not less than one thousand penalty units and not more than two thousand five hundred penalty units.

##### Section 41—Failure to disclose full facts about an instrument

A person who with intent to defraud the State,

(a) executes an instrument without stating fully and truly all the facts and circumstances referred to under section 6; or

(b) being employed or concerned in or about the preparation of an instrument, neglects or omits to state fully or truly all the facts and circumstances

commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units.

##### Section 42—Registering instruments not duly stamped

A person who registers particulars of an instrument chargeable with duty but not duly stamped for purposes of official records under an enactment commits an offence and is liable on summary conviction to a fine of not less than one hundred and fifty penalty units and not more than one thousand penalty units.

#### Section 43—Impeding administration of Act

Where a public officer without reasonable excuse fails or refuses to allow a person authorized by the Commissioner to conduct an inspection under section 46, the officer commits an offence and is liable on summary conviction to a fine of not less than one hundred and fifty penalty units and not more than one thousand penalty units.

#### Section 44—General penalty

A person who contravenes a provision of this Act for which no offence is provided commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than two hundred and fifty penalty units.

#### Miscellaneous provisions

#### Section 45—Recovery of penalties

(1) The Commissioner shall make an assessment of the penalties for which a person is liable under this Act.

(2) Where an assessment is made under this section the Commissioner shall serve a notice of the assessment on the person in relation to whom the assessment is made of the amount of penalty payable.

(3) A penalty under this Act

(a) is due and payable within thirty days from the day on which the person liable is served with a notice of assessment under sub-section (2); and

(b) shall be treated for purposes of this Act as duty payable under this Act.

#### Section 46—Registers, books, to be open to inspection

A public officer who has custody a register, book, record, paper or proceeding, the inspection of which may tend to secure a duty or to prove or lead to the discovery of a fraud or omission in relation to a duty chargeable under this Act, shall at reasonable times, permit a person authorised by the Commissioner to inspect the register, book, record, papers and proceeding and for the authorised person to take the notes and extracts that the person considers necessary without a fee or reward.

#### Section 47—Duty as a debt due to the State

(1) When duty becomes due and payable under an arrangement entered into with the Commissioner on deferment, is a debt due to the State and is payable to the Commissioner in the manner and at the place determined by the Commissioner.

(2) A duty and a penalty imposed under this Act that is not paid when it is due and payable may be sued for by the Commissioner and recovered by action in a court.



#### Section 48—Electronic service of documents and assessments

(1) The Commissioner may allow a person to submit particulars or extracts of an instrument which may assist in the assessment of duty under this Act to be sent by electronic means and the Commissioner on receipt of the particulars or extracts shall assess the duty payable and issue a stamp for the purpose of the instrument on payment of the duty.

(2) Where a person has provided the Commissioner with an electronic address the Commissioner may serve an assessment made under this Act through that address and the addressee, for purposes of this Act, is considered as served.

(3) For the purposes of this section, the Commissioner may authorise an imprint to denote the payment of appropriate duty.

#### Section 49—Regulations

The Minister may by legislative instrument make Regulations

- (a) for matters prescribed to be provided for under this Act; and
- (b) generally for giving effect to this Act.

#### Section 50—Interpretation

In this Act unless the context otherwise provides,

"Commissioner-General" means Commissioner-General appointed under the Ghana Revenue Authority Act, 2009 (Act ..... )" [As substituted by the Ghana Revenue Authority Act, 2009 (ACT 791), s. 3(a)]

"conveyance on sale" means a transfer by an owner of the absolute interest in a property to a purchaser for consideration and includes an instrument, decree or order of a court or the Commissioner, where a property, estate or interest in a property on sale, is transferred to or vested in a purchaser or the purchaser's representative;

"court" means a court of competent jurisdiction;

"document" means anything on which things are written, printed or inscribed and which gives information whether stored electronically or otherwise;

"impressed stamp" includes an imprint authorised by the Commissioner that denotes the payment of the appropriate stamp duty;

"instrument" includes a written or printed document;

"material" includes a type of material on which words or figures can be expressed;

"Minister" means the Minister responsible for Finance;

"mortgage" means a contract charging immovable property as security for the due repayment of debt and an interest accruing on the debt or for the performance of some obligation which is given in accordance with the terms of the contract, and for the purposes of this Act includes an agreement or a bond accompanied with a deposit of title documents for making a mortgage of an immovable property comprised in the title documents;

"prescribe" means prescribed by Regulations;

"Service" means the Internal Revenue Service established under the Internal Revenue Service Law, 1986 (P.N.D.C.L. 143);

"write" includes a mode in which words or figures can be expressed on materials.

#### Section 51—Repeals

(1) The following enactments are hereby repealed

(a) The Stamp Act, 1965 (Act 311);

(b) Stamp Act (Amendment) Law, 1988 (P.N.D.C.L. 204);

(c) Stamp Act (Amendment) Act, 1991 (P.N.D.C.L. 266);

(d) Stamp (Amendment) Act, 1996 (Act 510); and

(2) The words "duly stamped and" appearing in section 8 of the Legal Profession Act, 1960 (Act 32) are hereby deleted.

#### Section 52—Commencement

The Act shall come into force on 1st January, 2005.

### SCHEDULES

#### SCHEDULE 1

(Section 1)

#### TABLE OF STAMP DUTIES

Rate

GH¢

AGREEMENT or memorandum of agreement not specifically charged with a duty, whether it is only evidence of a contract or obligatory on the parties from it being a written instrument ..

5Gp

#### Exemptions

(1) Agreement or memorandum the subject matter of which is valued less than GH¢50.00

(2) Agreement or memorandum related to an employment or training of an individual

(3) Agreement, letter or memorandum made for or related to the sale of any goods, wares or merchandise.

AGREEMENT for a sale or for letting. (See "Lease" and sections 22 and 23)

APPOINTMENT of a new trustee of property, or of any use, share, or interest in property by instrument not being a will .. .. .

2.50

BOND (See "Mortgage".)

CONCESSION .. .. .

10.00

CONTRACTS (See: "Agreement")

CONVEYANCE OR TRANSFER on sale of a property

(1) Where the amount of the value of consideration for the sale is not more than GH¢10,000.00

0.25%

(2) Where the amount of the value of consideration is more than GH¢10,000.00 but less than GH¢50,000.00 .. .. .

0.5%

(3) Where the amount of the value of consideration is more than GH¢50,000.00 (See section 15 to 18) .. .. .

1%

Exemptions

Certificate of purchase of land sold under any enactment.

Conveyance or transfer of property which forms part of an intestate estate to the person entitled on intestacy.

CONVEYANCE OR TRANSFER operating as a voluntary disposition inter vivos.

Rate

GH¢

The same duty as a conveyance on sale, the value of the property conveyed or transferred being taken as the amount of the consideration.

CONVEYANCE OR TRANSFER of any kind not described in this Schedule 1 per cent of monetary consideration or GH¢10.00 whichever is the greater

COPY OR EXTRACT (attested or in any manner authenticated) of or from instrument chargeable with a duty not amounting to GH5p the same duty as that of the original instrument.

In any other case .. .. .

1.00

COUNTERPART. (See "Duplicate".)

DECLARATION of a trust concerning a property by a writing. 2.00

DEPOSIT OF TITLE DOCUMENTS. (see "Mortgage" and section 25 and section 26)

50Gp

DUPLICATE OR COUNTERPART of any instrument chargeable with duty 50Gp

Where the duty on the original instrument is less than 50Gp the same duty as the original instrument.

(See section 21.)

EXTRACT. (see "Copy or Extract")

FURTHER CHARGE of further security.

(See "Mortgage").

INDEMNITY, letter or other instrument of indemnity .. 1.00

LEASE

(1) For any definite term up to three years:

(a) Where the rent for such term is not more than GH¢50.00

(b) Where the rent for such term is more than GH¢50.00

0.5%

1%

(2) For any other definite term:

Where the consideration, or a part of the consideration, moving either to the lessor or to any other person, consists of any money, stock or security:

In respect of such consideration - the same duty as a conveyance on sale for the same consideration, where the consideration or any part of the consideration is rent then in respect of such rent:

If the term is definite and is not more than 5 years 0.5%

If the term is definite and is not more than 21 years 0.5%

If the term is definite and is not more than 50 years 0.5%

If the term is more than 50 years 1%

(3) Lease of any other kind not described in this Schedule (See sections 22 and 23). 1%

Exemptions

Lease of land within the area of the former Tamale Urban Council at a peppercorn rent where the lessor is the Government.

LETTER OF AUTHORITY. (See "Power of Attorney".) MEMORANDUM OF HYPOTHECATION .. 50Gp

MINING LEASE. (See "Concession" and "Lease".)

MORTGAGE, BOND, DEBENTURE, COVENANT, GUARANTEE, LIEN OR INSTRUMENT OF SECURITY OF ANY OTHER KIND NOT DESCRIBED IN THIS SCHEDULE

(1) Being the only or principal security for the payment or repayment of money in respect of the amount secured .. 0.5%

(2) Being a collateral, or auxilliary or additional or substituted security, or, by way of further assurance, for the above mentioned purpose, where the principal or primary security is stamped in respect of the amount secured

0.25%

(3) Transfer or assignment of any mortgage, bond debenture, covenant guarantee, lien or of anything secured by any such instrument in respect of the amount transferred, assigned or disposed of ..

(See sections 25 and 26.)

0.25%

Exemptions

(1) Bond given by a public officer for the due execution of his duty.

(2) Bond on which a fee is chargeable under the provisions of any other enactment.

(3) Bonds entered into under or for any purposes of any enactment related to customs or excise.

(4) Release, discharge, or surrender of a security mentioned above or of the benefit of the security or the money secured by the security.

NATURAL RESOURCES: Leases or licences

In addition to the duty otherwise payable under this Act on a concession or a mining lease granted under an enactment:

Mineral lease .. .. . 25.00

Offshore lease .. .. . 25.00

Timber lease .. .. . 12.50

Timber license .. .. . 5.00

Prospecting license .. .. . 2.50

Exclusive prospecting license .. .. . 5.00

Quarrying license .. .. . 2.50

Diamond digging license .. .. . 2.50

Leases under section 12(2) (c) of the Administration of Lands Act, 1962 (Act 123) .. 50Gp

POWER OF ATTORNEY or other instrument in that nature .. .. . 2.00

## Exemptions

- (1) Appointment of a proxy to vote at a meeting.
- (2) Authority given to a person to receive from the Controller and Accountant-General's Department any money due to a person as public officer from the Government.
- (3) Authority for the withdrawal of money deposited in any Savings Account in a Bank.
- (4) Authority which may be required by an agent transacting business with the Customs, Excise and Preventive Service.

TRANSFER. (See "Conveyance".)

## General Exemptions from all Stamp Duties

- (1) Transfer of shares in Government stocks or funds of a foreign country.
- (2) Transfers made as part of divorce settlement or arrangement.
- (3) Transfers made upon gifts inter vivos from one spouse to another or from a parent to a child or from a child to a parent.
- (4) Transfers of shares in unit trusts.
- (5) Transfers or conveyance to charities.
- (6) Transfers of loan capital.
- (7) All bankruptcy or insolvency documents.
- (8) An agreement, conveyance or other instrument relating to property of a company during winding up.
- (9) Transfer of property under will or other instruments related to testamentary dispositions.
- (10) Probates, letters of administration and vesting assents.
- (11) Insurance policy and any declaration of any use or trust concerning a life policy, or property representing, or benefits arising under a life policy.
- (12) Instruments for the sale, transfer, or other disposition, either absolutely or otherwise, of a ship or vessel or of a part interest, share or property in a ship or vessel.
- (13) All instruments on which the duty would be payable by the Government.
- (14) All instruments which are made by, to or with an officer of the Government of Ghana on behalf of the Government where, but for this exemption, that stamp duty would be payable by an officer of the Government in an official capacity.
- (15) The exemption referred to in paragraph (14) shall not be construed to extend to any instrument;
  - (a) made by, to or with a Government officer acting as ex-officio administrator or as receiver under an order of court; or

(b) made by, to, or with a Government officer in relation to a sale for the recovery of an arrears of revenue or rent or in satisfaction of any order or judgement of court.

(16) (a) A conveyance, transfer, lease or other instrument transferring land or an interest in land from the State Housing Company Ltd. or Tema Development Company Ltd. to a person.

(b) A mortgage of land where the mortgagee is the State Housing Company Ltd. or Tema Development Company Ltd.

(c) A conveyance, transfer, lease or other instrument transferring land or an interest[sic] in land from a person engaged in the business of construction of residential accommodation for sale or letting to any other person if the vendor has registered that business with the Commissioner under any law for the time being in force.

(17) A transfer of shares in a company.

(18) Bills of exchange including cheques, bank drafts or orders and letters of credit issued or written by a banker in Ghana.

(19) Bills of lading of goods, merchandise or effects.

(20) (a) Where it is shown to the satisfaction of the Commissioner that an undertaking is to be acquired by a company incorporated in Ghana and that the consideration for the acquisition (except such part of it as consists in the transfer of, or discharge by the company of the liabilities of the person formerly carrying on the undertaking) consists as to not less than ninety per centum of it in the issue of shares to the persons formerly carrying on the undertaking, duty shall not be chargeable on a document which transfers the beneficial interest in any of the assets of the undertaking to the company;

(b) A document of the kind referred to in sub paragraph (a) shall not be considered as stamped unless it is stamped with the duty to which it would, but for this paragraph, be liable or it has, in accordance with the provisions of section 10 of this Act, been stamped with a particular stamp indicating that it is not chargeable with any duty or that it is stamped.

(21) All instruments in respect of which exemption from stamp duty is conferred by Articles 23 and 34 of the Vienna Convention on Diplomatic Relations, as applied by section 1 of the Diplomatic Relations Act, 1962 (Act 148).

(22) All instruments in respect of which exemption from stamp duty is conferred by Articles 32 and 49 of the Vienna Convention on Consular Relations, as applied by section 5 of Part Two of the Diplomatic Relations Act, 1962 (Act 148). [As inserted by the Stamp Duty (Amendment) Act, 2008 (ACT 764), s. (e)]

## SCHEDULE 2

(Section 13)

### PARTICULARS OF LAND TRANSACTIONS

Nature of Instrument.....

Date of Instrument .....

Name and address of Grantor or Trasferor.....

Name and address of Grantee or Transferee.....

Short description and situation of the land and a site plan indicating the boundaries of the land and grid-lines.....

Area of land.....

Estate or interest created or transferred.....

Consideration:

(i) Capital payment;

(ii) Any mortgage debt released;

(iii) Any mortgage debt covenanted to be paid;

(iv) Any periodical payment including any charge covenanted to be paid;

(v) Any term of years surrendered;

(vi) Any land exchanged.

Terms and conditions of renewal.

Particulars of any unusual covenants or conditions.

Signature of Grantee, Transferee or Agent.

Address.

NB. Include electronic contact numbers or addresses.

**Date of Gazette Notification: 3rd June, 2005.**