

CONSOLIDATED TO 1 DECEMBER 2014

LAWS OF SEYCHELLES

CHAPTER 226

THE STAMP DUTY ACT

[1st January, 1976]

Act 4 of 1975.
S.I. 95 of 1975.
S.I. 72 of 1976.
Act 23 of 1976.
S.I. 116 of 1980.
S.I. 20 of 1982.
S.I. 13 of 1996
S.I. 3 of 2006
S.I. 34 of 2011

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PART I. - PRELIMINARY

Short Title

1. This Act may be cited as the Stamp Duty Act.

Interpretation

2. In this Act, unless the context otherwise requires-

“authorised officer” means a public officer authorised to perform the functions of an authorised officer under section 3, and includes the person for the time being holding or acting in the office of Stamp Duty Commissioner;

“company” means a company incorporated in Seychelles or elsewhere;

“Commissioner” means the Stamp Duty Commissioner appointed by the President under section 3 and, in relation to any function conferred on the Commissioner by this Act, includes any public officer appointed to assist the Commissioner under section 3 who is for the time being authorised by the Commissioner to exercise such function;

“duly stamped” in relation to an instrument chargeable with stamp duty, shall be construed in accordance with section 11;

“duty” means stamp duty chargeable under this Act;

“function” includes any power or duty;

“instrument” includes any written document;

“mortgage” means a charge or security by way of mortgage for the payment of any sum of money advanced or lent at the time or previously due and owing or, being payable, foreborne to be paid, or for the repayment of money to be thereafter lent, advanced or paid, or which may become due upon account current with or without any sum already advanced or due, as the case may be, and includes-

(a) any agreement, contract or bond, accompanied with other instruments evidencing a right to property, for making a mortgage;

(b) any instrument operating as a mortgage of any stock or marketable security;

(c) an ex officio inscription under the Mortgage and Registration Act;

“receipt” includes any note, memorandum or writing whereby any money exceeding twenty rupees or any bill of exchange or promissory note or cheque for money exceeding twenty rupees is acknowledged or expressed to have been received or deposited or paid, or whereby any debt or demand or any part of a debt or demand exceeding twenty rupees is acknowledged to have been settled, satisfied or discharged, or which signifies or imports any such acknowledgment and whether the same is or is not signed with the name of any person;

“revenue stamp” means a revenue stamp provided under section 7;

“stamp” means a revenue stamp.

“stamp duty” means stamp duty chargeable under this Act;

“transfer on sale” includes any instrument and nay decree or order of any Court whereby any property, whether movable or immovable, or any interest in any property is, upon the sale thereof, transferred to or vested in a purchaser or any other person on his behalf or by his direction;

“validating duty” means validating duty payable under the provisions of section 18.

(2) Any transfer, not being a disposition made in favour of a purchaser or encumbrances or other person in good faith and for valuable consideration, shall, for the purposes of this Act, be deemed to be a transfer operating as a voluntary disposition inter vivos and, except where marriage is the consideration, the consideration for any transfer shall not for this purpose be deemed 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 transfer

confers a substantial benefit on the person to whom the property is transferred.

(3) References in this Act to marketable securities include, for the purpose of the charging of duty thereon (whether or not transferable by delivery) references to the following instruments, that is to say-

(a) a marketable security made or issued by or on behalf of any company or body of persons, corporate or unincorporated, formed or established in Seychelles;

(b) a marketable security by or on behalf of any foreign State or government, or any Commonwealth or foreign municipal body, corporation or company (hereinafter called a “foreign security”) which-

(i) is made or issued in Seychelles;

(ii) although originally issued out of Seychelles, is offered for subscription and is given or delivered to a subscriber in Seychelles; or

(iii) is assigned, transferred or in any other manner negotiated in Seychelles;

(c) a marketable security by or on behalf of the government of any country in the Commonwealth which, if the borrower were a foreign government, would be a foreign security;

(d) a share warrant or stock certificate to bearer, or any other instrument to bearer, by means of which any share or stock of any company or body of persons formed or established out of Seychelles is assigned, transferred or in any manner registered in Seychelles.

(4) An instrument used for the purpose of the assigning, transferring or in any manner negotiating the right to any marketable security, share or stock shall, if the delivery thereof is by usage treated as sufficient for the purpose of a sale on the market, whether that delivery constitutes a legal assignment, transfer or negotiation or not, be deemed to be a marketable security transferable on delivery or an instrument to bearer, as the case may be, and the delivery thereof an assignment, transfer or negotiation.

Appointment of Stamp Duty Commissioner and Authorised Officers

3. (1) There shall be a Stamp Duty Commissioner appointed by the President*, and such other officers as the President may appoint for the purpose of assisting the Commissioner in the exercise of his functions under this Act.

(2) The Minister may by writing under his hand authorise any public officer** to exercise and perform all or any of the functions conferred by this Act upon authorised officers.

Powers of Commissioner and authorised officers

4. (1) The Commissioner or any authorised officer may for the purpose of performing any of the functions conferred upon him by or under this Act require proof of any matter which the Commissioner or authorised officer, as the case may be, may deem necessary for the due performance of his functions.

(2) The Commissioner and every authorised officer may, respectively, for the purposes of subsection (1), administer oaths and take any declaration or solemn affirmation.

(3) The Commissioner may require any person executing, or any person employed or being concerned in or about the preparation of, any instrument to give evidence on oath or in such other manner as the Commissioner may require as to the fullness and truth of the facts and circumstances set forth in such instrument; and for the purpose of taking such evidence the Commissioner may summon any such person to appear before him and the person so summoned shall be bound to appear and to answer such questions and to produce such documents as the Commissioner may put to him or require to be produced, as the case may be, relating to the facts and circumstances aforesaid.

(4) Without prejudice to any other functions conferred on the Commissioner by this Act in relation to the same or any similar question, the Commissioner may require to be furnished with such evidence as he may deem necessary in respect of any instrument in order to show to his satisfaction whether all the facts and circumstances affecting the liability of the instrument to duty, or the amount of duty chargeable thereon, are fully and truly set forth therein, and may refuse to proceed upon any application to him under this Act until such evidence has been furnished accordingly.

Duties etc. to be paid into revenues

5. All stamp duties, penalties and other monies paid to or collected by the Commissioner under this Act shall be paid into the general revenues of Seychelles.

PART II. – STAMPS

Duties to be paid by means of stamps

6. Subject to the provisions of this Act, all duties with which any instrument is chargeable under this Act shall be paid by means of stamps in such manner as the Minister may, by order, prescribe.

Revenue stamps

7. (1) The Minister may cause to be provided revenue stamps of such kinds and denoting such values as he may consider necessary for the purposes of this Act.

(2) The Minister may in his discretion authorise the grant of a licence-

(a) to any person to deal in revenue stamps;

(b) to any person to impress revenue stamps on material and to deal in such material;

(c) to any bank to issue cheque forms on which the payment of duty is denoted in such form as may be prescribed;

(d) to any person in respect of a revenue franking machine for impressing upon prescribed instruments or classes of instruments the proper revenue stamps.

(3) Every licence so granted shall be subject to-

(a) the terms and conditions contained therein;

(b) such terms and conditions as may be prescribed,

and may be revoked by the Minister at any time.

(4) An authorised officer may deal in revenue stamps when acting in the course of his duty.

Notice of discontinuance of stamps

8. Where it is intended that the use of any revenue stamp for the purposes of this Act shall be discontinued, notice of such intention shall be published in the Gazette stating the date on which such discontinuance shall take effect, not being a date earlier than thirty days from the publication of such notice.

Compounding duty on cheques

9 (1) The Commissioner may, with the approval of the Minister, enter into an agreement with any banker for the composition of stamp duty on unstamped cheques on the following conditions:

(a) that the said cheques shall be drawn and issued on forms to be supplied or adopted by the said banker;

(b) that the said banker shall levy upon or charge to the person to whom such cheques are issued the duty payable under this Act;

(c) that the said cheques shall as soon as possible pay to the Commissioner the amount due and collected as duties on such cheques issued during such periods or intervals not exceeding three months as may be agreed, and shall render an account with each such payment in such form as the Commissioner may require;

(d) that the said banker shall deposit with the Commissioner such sums as the Commissioner may direct as security for the due payment of any moneys payable under paragraph (c).

(2) Cheques drawn and issued on forms supplied or adopted by such banker in accordance with this section shall be deemed to be duly stamped.

PART III. – CHARGING AND STAMPING OF INSTRUMENTS

Instruments chargeable with duty

10. Subject to the provisions of this Act and to the express provisions of any other law, the several instruments specified in the Schedule shall be chargeable with the several duties so specified where-

(a) in the case of any bill of exchange or promissory note, the instrument is issued, transferred, negotiated or presented for payment within Seychelles; or

(b) in the case of any other instrument, the instrument relates to anything situate or performed or done or to be performed or done within Seychelles.

(2) The rules, explanations, notes, directions and exemptions in the Schedule shall have effect in relation to the matters therein specified.

Requirements for stamping chargeable instruments

11. An instrument chargeable with duty shall be deemed not to be duly stamped for the purposes of this Act unless-

(a) the payment of the duty chargeable upon the instrument is denoted thereon in accordance with section 20; and

(b) where the payment of the duty is denoted by an adhesive stamp, such adhesive stamp has been cancelled in accordance with section 21; and

(c) the requirements of paragraphs (a) and (b) were complied with at or within the time laid down by section 17, or the instrument has been produced to an authorised officer and has been stamped under the provisions of section 18; and

(d) in the case of a transfer, the duty chargeable in respect thereof has been assessed and certified by the Commissioner under section 22 or 23; or the transfer has been registered under the Mortgage and Registration Act or the Land Registration Act and the instrument in either case satisfies the requirement in paragraph (a) above.

Law to be applied in charging duty

12. (1) The duty chargeable on any instrument shall be determined-

(a) in the case of an instrument executed within Seychelles by any party thereto, whether or not the instrument is also executed outside Seychelles by any other person, in accordance with the law in force at the date when the instrument is executed in Seychelles by the last party so doing;

(b) in the case of a bill of exchange or promissory note executed outside Seychelles, in accordance with the law in force when such instrument is first transferred, negotiated or presented for payment within Seychelles;

(c) in the case of any other instrument wholly executed outside Seychelles, in accordance with the law in force when such instrument is first brought into Seychelles.

(2) Subject to subsection (1), duty chargeable under this Act in respect of any instrument shall be determined by reference to the amount of duty or, as the case may be, the rate of duty in force on the date when the instrument is presented for stamping.

Persons responsible for stamping instruments

13. Where any instrument chargeable with duty is not duly stamped, the person or persons, as the case may be, responsible for stamping such instrument shall be the person or persons respectively specified in that behalf in the Schedule.

Duplicates and lost instruments

14. (1) The duplicate or counterpart or a copy of any instrument chargeable with duty shall not be chargeable with duty but, upon the production thereof and on payment of the prescribed fee, such authorised officer shall denote on such

duplicate, counterpart or copy the amount of duty paid and denoted on the original instrument.

(2) Upon proof of the loss or destruction of an instrument and of the fact that such instrument was stamped and that the duty so paid has not been refunded and upon payment of the prescribed fee, an authorised officer may denote on the duplicate or counterpart or on a copy of such instrument the amount of duty paid upon the lost or destroyed instrument.

(3) Upon proof of the loss or destruction of a duly stamped bill of exchange forming one of a set, any other bill of the set which has not been issued or in any manner negotiated apart from the lost or destroyed bill may, although unstamped, be admitted in evidence to prove the contents of the lost or destroyed bill.

Manner in which instruments are to be written

15. (1) Every instrument written upon stamped material is to be written in such manner, and every instrument partly or wholly written before being stamped is to be so stamped, that the stamp may appear on the face of the instrument and cannot be used or applied to any other instrument written upon the same piece of material.

Provided that such instruments or class or classes of instruments as may be prescribed may be stamped on the back thereof.

(2) Every instrument chargeable with duty shall be written in French or in English or, if written in any other language, shall have annexed thereto an accurate translation thereof into French or English certified as satisfactory under the hand of the Commissioner.

Facts affecting duty to be truly set out in instruments

16. All the facts and circumstances affecting the duty chargeable in respect of any instrument shall be fully and truly set out in the instrument.

Period allowed for stamping instruments

17. (1) Every instrument chargeable with duty may be stamped before, and (save as otherwise provided in this section) shall be stamped not later than thirty days after, the execution thereof.

(2) Any unstamped or insufficiently stamped instrument which has been executed at any place outside Seychelles may be stamped at any time within thirty days after it is first received within Seychelles on payment of the unpaid duty; and it shall be the responsibility of the person first received any such instrument in Seychelles to note thereon the date of receipt and to sign such note.

(3) Any instrument referred to the Commissioner for adjudication under section 22 shall be stamped with the duty assessed by the Commissioner-

(a) where the instrument is returned by post addressed to the person by whom it was referred to the Commissioner, not later than thirty days after the date of posting; or

(b) where the instrument is delivered personally to such person or his representative, not later than thirty days after the date of delivery,

and if such instrument is stamped within such period, no validating duty other than the validating duty included in such assessment shall be payable.

(4) A bill of exchange drawn in a set of which one of the set is duly stamped shall, if such bill becomes chargeable with duty by reason of its issue or negotiation apart from the stamped bill, be stamped within thirty days after such issue or negotiation.

(5) A receipt shall be stamped by the person by whom it is given before he delivers it out of his hands.

Provided that-

(i) any person to whom an unstamped receipt is given may stamp the receipt on the day on which it comes into his possession;

(ii) an official of a bank who receives in the course of the bank's business a cheque on which there is an unstamped receipt may stamp the receipt on the day when he receives it.

Stamping out of time; validating duty

18 (1) Save as otherwise provided in this section, an instrument that has not been duly stamped at the time or within the periods specified in section 17 may be stamped upon production to an authorised officer and upon payment of the unpaid duty and of a validating duty, which validating duty shall be the amount of the unpaid duty.

(2) A receipt that has not been duly stamped in compliance with the provisions of subsection (5) of section 17 may be stamped within thirty days after it has been given on payment of the unpaid duty and a validating duty of one hundred rupees; and thereafter, upon payment of the unpaid duty and such validating duty together with a sum of one rupee for each month or part of a

month reckoned from the expiry of the said period of thirty days until payment is made.

(3) Subject to the general or special directions of the Minister, an authorised officer may waive any validating duty, or any part thereof, payable under this section in respect of any instrument presented to him for stamping.

PART IV. – PAYMENT OF STAMP DUTY

Persons liable for payment of duty

19. Where any instrument chargeable with stamp duty is not duly stamped, the person or persons respectively responsible for stamping such instrument by virtue of section 13 shall be liable of, as the case may be, jointly and severally liable under this act for the payment of such duty.

Denotation of payment of duty

20. (1) The payment of the duty chargeable upon any instrument shall be denoted in one or other of the following methods or in any combination of such methods, that is to say-

(a) by denotation by an authorised officer, in such form as may be prescribed, of the amount and date of payment of the duty;

(b) by affixing to the instrument one or more adhesive revenue stamps provided by authority under section 7;

(c) in the case of stamped material supplied under licence issued under section 7 and in the case of cheques drawn on a cheque form supplied by a bank under licenced issued under section 7, by such impression upon the material or cheque form as may be prescribed;

(d) by denotation by revenue stamps impressed upon the instrument by a revenue franking machine under licence issued under section 7.

(2) Where the duty chargeable upon any instrument depends in any manner upon the duty charged upon any other instrument, the payment of such last-mentioned duty shall, upon application to the Commissioner and production of both instruments, be denoted upon such first-mentioned instrument in such manner as maybe prescribed.

Cancellation of adhesive stamps

21 (1) An adhesive revenue stamp used to denote the payment of the duty, or

any part thereof, chargeable upon any instrument may be cancelled only by a person thereunto required or authorised under this section.

(2) The cancellation of an adhesive revenue stamp shall be effected in one or other of the following ways, that is to say-

(a) where the person canceling the stamp is an authorised officer, by impressing upon the stamp by means of an official stamp or die the title of the office to which he belongs and impressing or writing the true date of such impressing, or in such other manner as may be prescribed.

(b) where the person canceling the stamp is an official of a bank, by impressing upon the stamp by means of a stamp or die the name of the bank of which he is an official, and impressing or writing the true date of such impressing;

(c) where the person canceling the stamp is a person other than an authorised officer or an official of a bank, by writing in ink on or across the stamp his name or initials or the name of his firm or company together with the true date of his so writing.

(3) An authorised officer may at any time cancel an adhesive revenue stamp used to denote the payment of duty if it is proved to his satisfaction the uncanceled or, as the case may be, ineffectively cancelled adhesive revenue stamp was affixed to the instrument at the proper time for stamping.

(4) An official of a bank who receives a bill of exchange, cheque, promissory note, receipt, share transfer, deed, assignment or other form of marketable security (including a power of attorney) in the course of the bank's business may cancel any adhesive revenue stamp used to denote the payment of duty thereon.

(5) Any person to whom a receipt is given may cancel an adhesive revenue stamp denoting the payment of duty thereon on the day the receipt comes into his possession, and any person who stamps a receipt under subsection (5) of section 17 shall cancel the revenue stamp so affixed by him to the receipt.

(6) An adhesive revenue stamp on any special letter or power of attorney for the receipt of money from any department of the Government may be cancelled by any public officer when the instrument is tendered to him for that purpose.

(7) An adhesive revenue stamp used to denote the payment of duty on any instrument not expressly provided for under the preceding provisions of this section may be cancelled by an authorised officer only.

Adjudication by Commissioner on request

22. (1) Any person who entertains any doubt or requires the opinion of the Commissioner as to whether any instrument is chargeable with duty under the provisions of this Act or as to the amount of the duty so chargeable may refer the instrument to the Commissioner for adjudication.

(2) A transfer operating as a voluntary disposition inter vivos shall be referred to the Commissioner for adjudication under this section.

(3) The Commissioner shall write or cause to be written on any instrument referred to him under this section a certificate, duly dated and authenticated in such manner as may be prescribed, stating either-

(a) that the instrument is not chargeable with duty; or

(b) that the instrument is chargeable with the duty, including any validating duty, mentioned therein.

(4) Every instrument certified under this section as not chargeable with duty or stamped with the amount of duty so certified shall not deemed not to be duly stamped by reason only of an objection relating to duty.

(5) In addition to the powers conferred by section 4 but without prejudice to section 16, the Commissioner may ascertain the market value of the property comprised in any instrument referred to him for adjudication under this section in such manner and by such means as he may think fit and, for that purpose, may authorise any person to value that property.

(6) Any person authorised by the Commissioner under subsection (5) to value any property shall have power at all reasonable times to enter and inspect the property and to inspect any account books relating to the property.

(7) Except in the case of instruments required to be stamped before execution, any instrument duly stamped in accordance with the information then available in respect thereof may, where any subsequent information becomes available showing the instrument to be insufficiently stamped, be referred to the Commissioner under this section not later than fourteen days after such subsequent information first becomes available and, if the Commissioner information first becomes available and, if the Commissioner may certify that the instrument is chargeable with such further duty as he may assess thereon but no validating duty shall be payable in any such case.

Adjudication by Commissioner ex proprio motu instruments chargeable with ad valorem duty

23. (1) Notwithstanding the provisions of section 22, whenever the

Commissioner has reason to believe that the price or consideration expressed or stipulated or the value declared by the parties in any instrument chargeable with ad valorem duty does not represent or state the true value, he may exercise his powers under this Act, including the powers under subsection (5) of section 22, with or without notice to any person as he may deem proper, and may assess the amount of duty chargeable on such instrument in accordance with his findings.

(2) Where the Commissioner makes any assessment under subsection (1) in relation to any instrument, he shall give notice thereof in writing to any person appearing to him to be responsible for stamping the instrument:

Provided that nothing in this Section shall affect the liability of any person for any offence against this Act or for payment to the Commissioner of any duty or penalty thereunder.

(3) Without prejudice to the exercise by the Commissioner of any of the powers hereinbefore referred to, where the amount or value of the subject-matter of any instrument chargeable with ad valorem duty cannot be ascertained at the date of its execution or, as the case may be, of first execution, nothing shall be claimable under and no claim may be founded upon such instrument in excess of the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such

Appeal against Commissioner's adjudication

24. (1) A person dissatisfied with an assessment of the Commissioner under section 2 or section 23 may, within fourteen days after the date of the assessment, and on payment of the duty in conformity therewith, appeal against the assessment to the Supreme Court and may, for that purpose, require the Commissioner to state and sign a case, setting forth the question upon which his opinion was required or given, and the assessment made by him.

(2) The Commissioner shall thereupon state and sign a case and deliver the same to the person by whom it is required and the case may, within seven days thereafter, and after service thereof upon the Attorney-General, be set down by such person for hearing.

(3) Upon the hearing of the case, the Court shall determine the question submitted and, if the instrument in question is in the opinion of the Court chargeable with any duty, shall assess the duty, including any validating duty, with which it is chargeable.

(5) If the assessment of the Commissioner is confirmed wholly or in part, the Court may make an order for payment to the Commissioner of the costs incurred by him in relation to the appeal.

PART V. – RESTRICTIONS RELATING TO INSTRUMENTS NOT DULY STAMPED

Restriction on admissibility in evidence

25. (1) An instrument chargeable with duty which is not duly stamped or which is deemed not to be duly stamped by virtue of the provisions of section 11 shall not be admitted in evidence in any civil matter or proceeding.

(2) No instrument shall by reason only of its not being duly stamped be deemed to be inadmissible in evidence in any criminal trial or proceeding.

(3) If any instrument that has not been duly stamped is tendered in evidence in any civil matter or proceeding and it appears to the Court that any party to the matter or proceeding before the Court is liable to any penalty specified in Part IX, the Court may order such party to pay such penalty.

(4) If it is brought to the notice of a Court that any instrument to which subsection (1) relates has been inadvertently received or admitted in evidence in any civil matter or proceeding before the Court, the Court shall direct that the instrument shall be duly stamped at the expense of the person on whose behalf the instrument was tendered and put in evidence.

(5) Nothing in this section shall prevent any instrument being received in evidence in any proceedings by the Commissioner for the recovery of unpaid duty or any penalty in respect thereof.

General restrictions affecting unstamped instruments

26. (1) Subject to the provisions of subsection (2), no person whose office it is to issue or receive or register or authenticate or enroll or enter upon any book, register or records any instrument chargeable with duty shall issue or receive, other than for the purpose of stamping, or register or authenticate or enroll or enter such instrument unless it is duly stamped.

(2) Where any instrument chargeable with duty but not duly stamped-

(a) is tendered to the Registrar of Deeds for registration under the Mortgage and Registration Act or to the Land Registrar under the Land Registration Act, the Registrar may receive it and, if he is satisfied that an appeal is pending under section 24 in respect of any assessment of duty chargeable upon such instrument, may, in his discretion, register such instrument;

(b) is tendered to any public officer other than the Registrar of Deeds or the Land Registrar as in paragraph

(c) provided, such public officer may receive such instrument if the person tendering it or on whose behalf it is tendered gives a written undertaking that he will within fourteen days either pay the duty chargeable on the instrument or refer the instrument to the Commissioner for adjudication, but no such instrument shall, except as aforesaid, be registered, authenticated, enrolled or entered until it is duly stamped.

(3) Any person empowered or required by any written law to act upon, file, enter, enroll or register a copy or duplicate of any instrument may, if the original of such instrument would be chargeable with duty if acted upon, filed, entered, enrolled or registered by such person, call for the production of the original instrument or for evidence to his satisfaction that it is duly stamped.

(4) No assignment or surrender of a policy of life insurance shall confer on the assignee or surrender therein named or other person claiming through him any right to sue for the money assured or secured thereby, or to give a valid discharge for the same or any part thereof, unless the assignment or surrender is duly stamped.

Impounding of unstamped chargeable instruments

27. (1) If any instrument chargeable with duty but not being duly stamped comes before any public officer in his official capacity and either the person from whose custody it came refuses to have the instrument duly stamped or the public officer has reason to believe that the evasion of duty was intended, the public officer may impound the instrument and transit it to the Commissioner for the purpose of enforcing the provisions of this Act.

(2) When any instrument is received by the Commissioner under subsection (1), he may-

(a) direct that the instrument be returned to the person from whom it was received; or

(b) direct that the instrument be impounded and that notice be served upon the person from whom it was received stating that the instrument will be retained until such time as the duty, including validating duty, and such fee as may be prescribed for the custody and delivery of impounded instruments are paid; or

(c) institute proceedings under section 38 for the recovery of the duty, including validating duty, and the fee (if any) prescribed under paragraph (b).

PART VI. – SPECIAL PROVISIONS RELATING TO COMPANIES

Restriction on registration of transfer of shares

28. (1) Notwithstanding anything to the contrary in the memorandum or articles of association of any company, it shall not be lawful for a company to register in its register of members any transfer of shares in the capital of such company unless the instrument establishing or giving effect to such transfer is duly stamped.

(2) Nothing in this section shall apply in relation to a company where the instrument of transfer of shares in the capital of such company is exempted from stamp duty under section 47.

Relief in case of reconstruction or amalgamation

29. (1) If in connection with a scheme for the reconstruction of any company or companies or the amalgamation of any companies it is shown to the satisfaction of the Commissioner that there exist the following conditions, that is to say-

(a) that a company with limited liability is to be registered, or that since the commencement of this Act a company has been incorporated by letters patent or by any written law, or the nominal share capital of a company has been increased;

(b) that the company” (in this section referred to as “the transferee company”) is to be registered or has been incorporated or has increased its capital with a view to the acquisition either of the undertaking of, or of not less than ninety per centum of the issued share capital of, any particular existing company;

(c) that the consideration for the acquisition (except such part thereof as consists in the transfer to or discharge by the transferee company of liabilities of the existing company) consists as to not less than ninety per centum thereof-

(i) where an undertaking is to be acquired, in the issue of shares in the transferee company to the existing company or to holders of shares in the existing company; or-

(ii) where shares are to be acquired, in the issue of shares in the transferee company to the holders of shares in the existing company in exchange for the shares held by them in the existing company,

stamp duty chargeable in respect of any transfer of shares or property of any description shall not be chargeable on any

instrument made for the purpose of or in connection with the transfer of the undertaking or shares or on any instrument made for the purpose of or in connection with the assignment to the transferee company of any debts secured or unsecured of the existing company nor shall any such duty be chargeable on any instrument vesting, or relating to the vesting of, the undertaking or shares in the transferee company:

Provided that-

(i) no such instrument shall be deemed to be duly stamped unless either it is certified under subsection (3) of section 22 as not chargeable with duty or it is stamped with the duty certified thereon by the Commissioner under that section; and

(ii) in the case of an instrument made for the purposes of or in connection with a transfer to a company within the meaning of the Companies Act, the provisions of this subsection shall not apply unless the instrument is either-

(a) executed within a period of twelve months from the date of the registration of the transferee company or the date of the resolution for the increase of the nominal share capital of the transferee company, as the case may be; or

(b) made for the purpose of affecting a conveyance or transfer in pursuance of an agreement which has been filed, or particulars of which have been filed, with the Registrar of Companies within the said period of twelve months; and

(iii) the foregoing provisions with respect to the release and assignment of debts of the existing company shall not, except in the case of debts due to banks or to trade creditors, apply to debts which were incurred less than two years before the proper time for making a claim for exemption under this section.

(2) For the purposes of subsection (1) of this section, a company which has, in connection with a scheme of reconstruction or amalgamation, issued any unissued share capital shall be treated as if it has increased its nominal share capital.

(3) A company shall not be deemed to be a particular existing company within the meaning of this section unless it is provided by the memorandum of

association of or the letters patent or written law incorporating the transferee company that one of the objects for which the company is established is the acquisition of the undertaking of, or shares in, the existing company, or unless it appears from the resolution, written law or other authority for the increase of the capital of the transferee company that the increase of the capital of the transferee company that the increase is authorised for the purpose of acquiring the undertaking of, or shares in, the existing company.

(4) If-

(a) any instrument has, by virtue of this section, been certified by the Commissioner under subsection (3) of section 22 as not chargeable with duty or as chargeable with duty of any amount other than such amount as, apart from this section, would have been chargeable thereon, and it is subsequently found that any declaration or other evidence furnished to the Commissioner in respect thereof was untrue in any material particular, or that the conditions specified in subsection (1) of this section are not fulfilled in the reconstruction or amalgamation as actually carried out; or

(b) where shares in the transferee company have been issued to the existing company in consideration of the acquisition, the existing company, within a period of two years from the date, as the case may be, of the registration or incorporation, or of the authority for the increase of the capital, of the transferee company ceases, otherwise than in consequence of reconstruction, amalgamation or liquidation, to be the beneficial owner of the shares so issued to it; or

(c) where any such exemption has been allowed in connection with the acquisition by the transferee company of shares in another company, the transferee company within a period of two years from the date of its registration or incorporation or of the authority for the increase of its capital, as the case may be, ceases otherwise than in consequence of reconstruction, amalgamation or liquidation, to be the beneficial owner of the shares so acquired;

the full amount of the duty which, but for this section, would have been chargeable shall become payable forthwith; and shall be recoverable from the transferee company under section 38, together with interest thereon at the rate of five per centum per annum from the date on which it would, but for this section, have become so chargeable.

(5) If, in the case of any scheme of reconstruction or amalgamation, the Commissioner is satisfied that at the proper time for making a claim for relief under subsection (1) of this section there were in existence all the necessary

conditions other than the condition that not less than ninety per centum of the issued share capital of the existing company would be acquired by the transferee company, the Commissioner may, if it is proved to his satisfaction that not less than ninety per centum of the issued share capital of the existing company has under the scheme been acquired within a period of six months from the earlier of the following two dates, that is to say-

(a) the last day of the period of one month after the first allotment of shares made for the purposes of the acquisition; or

(b) the date on which an invitation was issued to the shareholders of the existing company to accept shares in the transferee company,

and on production of the instrument duly stamped, direct repayment to be made of such an amount of duty as would not have been chargeable if the said condition had been originally fulfilled.

(6) In this section, unless the context otherwise requires, references to the undertaking of an existing company include references to a part of the undertaking of an existing company.

Relief for transfers between associated companies

30. (1) Stamp duty chargeable in respect of any transfer of property, whether movable or immovable, shall not be chargeable on an instrument to which this section applies.

Provided that no such instrument shall be deemed to be duly stamped unless either it is certified under subsection (3) of section 22 as not chargeable with duty or it is stamped with the duty certifies thereon by the Commissioner under that section.

(2) This section applies to any instrument as respects which it is shown to the satisfaction of the Commissioner-

(a) that the effect thereof is to transfer a beneficial interest in property from one body corporate to another, and that the bodies in question are associated, that is to say, one is beneficial owner of not less than ninety per centum of the issued share capital of the other, or a third such body is beneficial owner of not less than ninety per centum of the issued share capital of each;

(b) that the instrument was not executed in pursuance of or in connection with an arrangement whereunder-

(i) the consideration, or any part of the consideration, for the transfer was to be provided or received, directly or indirectly, by a person other than a body corporate which at the time of the execution of the instrument was associated within the meaning of this section with either the transferor or the transferee (meaning, respectively, the body from whom and the body to whom the beneficial interest was transferred); or

(ii) the said interest was previously transferred, directly or indirectly, by such a person; or

(iii) the transferor and the transferee were to cease to be associated within the meaning of this section by reason of a change in the percentage of the issued share capital of the transferee in the beneficial ownership (within the meaning of that section) of the transferor or a third body corporate,

and, without prejudice to the generality of subparagraph (i) above, an arrangement shall be treated as within that subparagraph if it is one whereunder the transferor or the transferee, or a body corporate associated with either as there mentioned, was to be enabled to provide any of the consideration, or was to part with any of it, by or in consequence of the carrying out of a transaction or transactions involving, or any of them involving, a payment or other disposition by a person other than a body corporate so associated.

(3) The ownership referred to in subsection (2) is ownership either directly or through another body corporate, or other bodies corporate, or partly directly and partly through another body corporate or other corporate.

PART VII. – SPECIAL PROVISIONS RELATING TO BILLS OF EXCHANGE

Restrictions affecting bills not duly stamped

31. Any person who takes or receives from any other person, either in payment or as a security or by purchase or otherwise, any bill of exchange or promissory note chargeable with duty but not being duly stamped shall not be entitled to recover the amount thereon or to make the instrument available for any purpose whatsoever unless it shall thereafter be duly stamped:

Provided that, without prejudice to any proceedings in respect of any duty, or penalty payable or incurred in relation thereto, if any bill of exchange payable on demand or at sight or on presentation, or within three days after date or

sight is presented for payment without being duly stamped, the person to whom it is presented may affix thereto an adhesive revenue stamp of fifty cents and may cancel the same as if he had been the drawer of the bill, and he may thereupon pay the sum mentioned in the bill and may claim the duty in account against the person by whom the bill was drawn or deduct the duty from the said sum, and the bill shall, so far as respects the duty, be deemed to be valid and available.

Foreign bills and notes

32. (1) Every person into whose hands in Seychelles any bill of exchange or promissory note drawn or made outside Seychelles comes before it is stamped shall, before he presents it for payment or endorses or transfers or in any manner negotiates or pays the bill or note, affix thereto the proper stamp and, in the case of an adhesive revenue stamp, cancel the same:

Provided that-

(i) if at the time when any such bill or note comes into the hands of any bona fide holder there is affixed thereto an adhesive revenue stamp effectually cancelled, the stamp shall, so far as relates to the holder, be deemed to be duly cancelled, although it may not appear to have been affixed by the proper authority;

(ii) if at the time when any such bill or note comes into the hands of any bona fide holder there is affixed thereto an adhesive revenue stamp not duly cancelled, the holder may cancel the stamp as if he were the person by whom it was affixed, and upon his so doing the bill or note shall be deemed to be duly stamped and as valid and available as if the stamp had been cancelled by the person by whom it was affixed.

Bills and notes purporting to be drawn outside Seychelles

33. A bill of exchange or promissory note which purports to be drawn or made outside Seychelles shall, for the purpose of determining the mode in which stamp duty thereon is to be denoted, be deemed to have been so drawn or made although it may in fact have been drawn or made within Seychelles.

PART VIII. – ALLOWANCES, REFUNDS AND RECOVERY OF DUTY

Allowance for spoiled stamps

34. Subject to section 35 and to any regulations under this Act the Commissioner may, on production to him or to an authorised officer of such evidence as the Commissioner or, as the case may be, such authorised officer may

require, make allowance for revenue stamps spoiled in the following cases:

- (a) a revenue stamp on any material inadvertently and undesignedly spoiled, obliterated or by any means rendered unfit for the purposes intended, before the material bears the signature of any person or any instrument written thereon is executed by any party;
- (b) any adhesive revenue stamp which has been inadvertently and undesignedly spoiled or rendered unfit for use and has not, in the opinion of the Commissioner or an authorised officer, as the case may be, been affixed to any material;
- (c) a revenue stamp on any bill of exchange signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatsoever or delivered out of his hands for any purpose other than by way of tender for acceptance;
- (d) a revenue stamp on any promissory note signed by or on behalf of the maker which has not been made use of in any manner whatsoever or delivered out of his hands;
- (e) a revenue stamp on any bill of exchange or promissory note which from any mission or error has been spoiled or rendered useless, although the instrument, being a bill of exchange, may have been accepted or endorsed or, being a promissory note, may have been delivered to the payee, provided that another completed and duly stamped bill of exchange or promissory note is produced identical in every particular (except in the correction of the error or omission) with the spoiled or useless bill or note;
- (f) a revenue stamp used for any of the following instruments, that is to say-
 - (i) an instrument executed by any party thereto but afterwards found to be absolutely void from the beginning;
 - (ii) an instrument executed by any party thereto but afterwards found to be unfit, by reason of any error or mistake therein, for the purpose intended;
 - (iii) an instrument executed by any party thereto which has not been made use of for any purpose whatsoever and which, by reason of the inability or refusal of some necessary party to sign the same or to complete the transaction according to the instrument, is incomplete and

insufficient for the purpose for which it was intended;

(iv) an instrument executed by any party thereto which by reason of the refusal of any person to act under the same, or for want of enrolment or registration within the time required by law, fails in its intended purpose or becomes void;

(v) an instrument executed by any party thereto which is inadvertently or undesignedly spoiled and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped, or which becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument duly stamped.

Applications for allowance under section 34

35. An application for allowance under section 34 shall not be granted unless-

(a) the application is made within two years after the revenue stamp has been spoiled or has become useless or in the case of an executed instrument after the date of the instrument or, if it is not dated, within two years after the execution thereof by the person by whom it was first or alone executed or, in the case of an instrument sent out of Seychelles for execution, within such further time as the Commissioner may determine; and

(b) in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and the instrument is given up to be cancelled.

Allowance for misused stamps

36. Where any person has inadvertently used for an instrument chargeable with duty a revenue stamp of greater value than was necessary, or has inadvertently used a revenue stamp for an instrument not chargeable with duty, the Commissioner may, on application made within two years after the date of the instrument or, if it is not dated, within two years after the execution thereof by the person by whom it was first executed, and upon the instrument, if chargeable with duty, being stamped with the proper duty, cancel and allow as spoiled the revenue stamp so misused.

Refund of erroneous assessments and form of allowances

37. (1) Where the Commissioner is satisfied that an instrument has been

erroneously assessed with any duty, including validating duty, he may, with the approval of the Minister, if application for a refund is made at any time within one year after the date of the payment of such duty, refund the amount thereof to the person by whom it was paid.

(2) In any case in which allowance is made under this Part for spoiled or misused revenue stamps, the Commissioner may give in lieu thereof-

(a) other revenue stamps of the same value; or

(b) at his discretion, the value in money of the spoiled or misused revenue stamps less five per centum for each rupee or fraction of a rupee.

Recovery of unpaid stamp duty

38. (1) Where any stamp duty is unpaid and in arrear in relation to any instrument chargeable with duty, the amount of such duty, together with any validating duty and any interest thereon payable in respect of such instrument, shall, subject to subsection (4), be recoverable by the Commissioner by civil suit as a debt due to him from any person liable for the payment thereof.

(2) The Chief Justice may make rules with respect to the procedure in proceedings under this section.

(3) Where in any proceedings under this section or for the discharge of an order for payment of stamp duty or other sum payable under this Act it appears that an appeal under section 24 relating to the assessment thereof is pending or that the time for so appealing has not yet expired, the Court may, if it thinks fit, grant a stay of execution for such period and on such terms as it thinks just.

(4) Actions for the recovery of any stamp duty, including validating duty, or any penalty or other sum under this Act shall be barred on the expiry of a period of ten years from the date on which the cause of action first arose.

Commissioner's privilege for unpaid stamp duty

39. The Commissioner shall have a privilege over the proceeds of any judgment sale or of any attachment for payment of any unpaid stamp duty, but privilege shall be restricted to the property to which the instrument chargeable with such unpaid stamp duty relates and shall rank after the privileges established by Articles 2101, 2103 and 2103 of the Civil Code of Seychelles.

PART IX. – PENALTIES AND OFFENCES

Penalties for certain acts and omissions relating to instruments

40 (1) Any person who-

- (a) gives a receipt chargeable with duty that is not duly stamped;
- (b) in any case where a receipt would be chargeable with duty, refuses to give a receipt duly stamped;
- (c) upon a payment exceeding the amount of twenty rupees, gives a receipt for a sum not exceeding twenty rupees or separates or divides the amount paid with intent to evade duty;
- (d) with intent to defraud the revenues of Seychelles-
 - (i) executes any instrument in which all the facts and circumstances affecting the duty chargeable thereon are not fully and truly set forth; or
 - (ii) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all the said facts and circumstances;
- (e) inserts a false date in or affixes a false date to any instrument and has reason to believe that such false date may effect the liability of the instrument to duty chargeable under this Act or the amount of such duty;
- (f) knowingly or recklessly gives any authorised officer any false information which such person has reason to believe may affect the liability of any instrument to duty chargeable under this Act or the amount of such duty;
- (g) issues, transfer or negotiates or presents for payment any bill of exchange or promissory note which is not duly stamped;
- (h) with intent to defraud the revenues of Seychelles-
 - (i) draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made; or
 - (ii) knowing that such bill or note has been so post dated, endorses, transfers or presents for acceptance or payment,

or accepts, pays or receives payment of, such bill or note or in any manner negotiates the same; or

(iii) being required by law to cancel an adhesive revenue stamp, neglects or refuses duly and effectually to do so;

shall incur a penalty of one hundred rupees or three times the amount of duty chargeable upon the instrument, whichever is the greater.

(2) Any penalty incurred under this section shall be recoverable by the Commissioner under section 38 as a civil debt in the same manner as unpaid stamp duty may be recovered under that section.

Offences and punishment

41 (1) Any person who-

(a) fraudulently removes or causes to be removed from any instrument any adhesive revenue stamp with the intent that the stamp may be used again;

(b) fraudulently sells or offers for sale or utters any such adhesive revenue stamp so removed or utters any instrument having thereon any adhesive revenue stamp which has to his knowledge been so removed;

(c) authorizes, concurs in or permits the registration in the register of members of a transfer of shares where the instrument establishing or giving effect to such transfer is not duly stamped;

(d) for the purpose of evading any stamp duty or penalty, falsifies, mutilates or destroys any book of account or other instrument whatsoever;

(e) save as provided in this Act, enrolls, registers or enters any instrument chargeable with duty but not being duly stamped;

(f) with intent to defraud the revenues of Seychelles commits any acts or omission referred to in paragraph (d), (e), (f), (g), (h) or (i) of subsection (1) of section 40;

shall be guilty of an offence and liable upon conviction to a fine not exceeding ten thousand rupees or to imprisonment for a term not exceeding twelve months or to both such fine and such imprisonment.

Liability of corporate bodies etc. and officers

42. (1) Where any obligation or liability is under this Act imposed upon a body corporate and such obligation or liability is not discharged, every director, manager, secretary or other officer of such body corporate who is willfully a party to the default shall, in addition to the said body corporate, be guilty of an offence and liable upon conviction to fine not exceeding five thousand rupees.

(2) Where any obligation or liability is under this Act imposed upon a firm and such obligation or liability is not discharged, every partner in the said firm, and every servant thereof, who is willfully a party to the default, and any person appearing to have the management of the said firm within Seychelles, shall be guilty of an offence and liable upon conviction to a fine not exceeding five thousand rupees.

Search warrants

43. (1) If it appears to a magistrate upon the oath of any person that there is reason to believe that there are or may be upon or in the possession or under the control of any person or on any premises, any books or accounts or other instruments whatsoever of which any of the contents may tend to show that an offence under this Act has been committed, such magistrate may issue a search warrant authorizing any person named or referred to in the said warrant to search any such person, and to enter and search any such premises and any person found therein, and to inspect and take copies or extracts of any books of account or other instruments found on such premises or upon such person.

(2) Any copies or extracts taken under this section shall be admissible in evidence in proof of the contents thereof in any proceedings under this Act.

(3) If any person obstructs any inspection or the taking of any copies or extracts under this section in any manner whatsoever, he shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand rupees or to imprisonment for a term not exceeding twelve months or to both such fine and such imprisonment.

PART X. - MISCELLANEOUS

Liability of persons inter se not to affect proceedings

44. Proceedings under this Act, whether civil or criminal, may be taken against any person or persons notwithstanding any question arising as to the liability of such persons inter se for the payment of any stamp duty.

Responsibility for loss or damage

45. Where any instrument is referred to the Commissioner or is sent to any

authorised officer for the purposes of this Act, the persons by whom such instrument is referred or sent shall not be liable if such instrument is lost, destroyed or damaged during transmission.

Certain conditions or agreements to be void

46. Any condition or agreement intended to preclude objection or requisition on the ground of absence or insufficiency of stamp duty upon any instrument executed after the commencement of this Act, and every agreement, arrangement or undertaking for assuming liability on account of absence or insufficiency of stamp duty upon any such instrument or indemnifying against such liability, absence or insufficiency, shall be void.

Exemptions and remissions

47. (1) The Minister may, by order, exempt any instrument or class of instruments from any stamp duty or portion thereof chargeable under this Act or remit such duty or any portion thereof.

(2) An exemption or remission under this section shall be subject to such conditions, qualifications or limitations as may be specified in the order.

(3) No duty shall be levied on the inscription of legal mortgages taken for or on behalf of minors or interdicted persons.

Regulations

48 (1) The Minister may make regulations for any of the purposes of this Act and, in particular but without prejudice to the generality of the foregoing, for all or any of the following matters:

- (a) prescribing anything which by this Act is required or permitted to be prescribed;
- (b) the supply, sale and custody of revenue stamps;
- (c) the provision, custody, control and management of revenue franking machines;
- (d) the amendments of the Schedule hereto;
- (e) generally for the better carrying out of the provisions of this Act.

(2) Regulations under this section may provide in respect of any contravention thereof that the offender shall be liable to a fine not exceeding two thousand rupees or to imprisonment for a term not exceeding two years, or to both

such fine and such imprisonment.

Instruments stamped prior to this Act

49. Any instrument specified in the Schedule in respect of which duty was duly paid under the provisions of the Mortgage and Registration Act or the Stamp Act prior to the commencement of this Act shall be deemed to be duly stamped for all the purpose of this Act.

SCHEDULE (Section 10): PROVISIONS FOR COMPUTATION OF STAMP DUTY

PART I – RULES RELATING TO CHARGING AND ASSESSMENT OF STAMP DUTY

1. If more than one instrument is written upon the same piece of material, every one of the instruments shall be separately and distinctly stamped with the duty with which it is chargeable.
2.
 - (a) An instrument containing or relating to several distinct matters is to be separately and distinctly charged, as if it were a separate instrument, with duty in respect of each of those matters.
 - (b) An instrument made for any consideration in respect of which it is chargeable with ad volorem duty, and also for any 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 considerations.
 - (c) A transfer on sale or a lease made for any consideration in respect whereof it is chargeable with ad volorem duty, and in further consideration of a covenant by the purchaser or the lessee, as the case may be, to make, or of his having previously made, any substantial improvement of or addition to the property transferred or leased, or of any covenant relating to the subject-matter of the transfer or lease, shall not be chargeable with any duty in respect of such further consideration.
3. Where any instrument is chargeable with duty in respect of any single matter under more than one head in this Schedule, then except in so far as paragraph 2 of this Part applies, such instrument in respect of such matter shall be chargeable with duty only under that head of this Schedule which makes such instrument in respect of such matter chargeable with the highest duty.
4.
 - (a) The parties may determine for themselves which of several

instruments shall be deemed to be the principal instrument and duty shall be payable accordingly.

(b) The duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments.

5. A transfer operating as a voluntary disposition inter vivos shall chargeable with duty as if it were a transfer on sale for a consideration equal to the market value of the property transferred.

6. Except in the case of sale or mortgage, any instrument and any decree or order of any court whereby any property on any occasion is transferred to or vested in any person shall be charged with duty as a transfer of property.

7. (a) Where any property is transferred by one person to another by the direction or at the request or with the consent of an intermediary or intermediary or intermediaries, the transfer shall be charged with duty as if it were both a transfer of the property by the transfer to the intermediary, and also a number of transfers whereby each intermediary transfers the property to the next intermediary, or in the final case, to the transferee.

(b) Every transfer to which this paragraph refers shall recite the fact of each direction, request or consent.

(c) In this paragraph, “intermediary” means a person other than the transferee who, since the commencement of this Act, acquired the right to call for a transfer of any property under any agreement whatsoever, and includes two or more such persons acting jointly.

8. (a) Where upon the sale of any annuity or other right not before in existence, such annuity or other right is not created by actual grant or transfer but is only secured by bond, warrant of attorney, covenant, contract or otherwise, the bond or other instrument, or someone or such instruments if there are more than one, shall be charged with the same duty as an actual grant or transfer and shall for the purpose of this Act be deemed to be an instrument of transfer on sale.

(b) Any instrument being a grant or contract for payment of a purchased life annuity shall be chargeable with stamp duty under the head in this Schedule relating to bonds and covenants, whether or not the annuity is superannuation annuity as defined in that head.

(c) In this paragraph “purchased life annuity” means a life annuity granted for consideration in money or money’s worth in the ordinary course of a business of granting annuities on human life.

9. Where on a sale by licitation any heir or co-proprietor becomes a purchaser of property depending from the succession or from the common estate, no duty shall be chargeable on the share or portion of the sale price accruing directly to such heir or co-proprietor, but nothing in this paragraph shall apply in relation to heirs under benefit of inventory.

10. (a) Any instrument, other than a bill of exchange or a promissory note, making redeemable or qualifying a duly stamped transfer intended as a security of any registered stock or marketable security shall be deemed to be an agreement and shall be chargeable with duty accordingly.

(b) Any release or discharge of any such instrument shall be chargeable with the like duty.

11. (a) A security for the transfer or re-transfer of any stock shall be charged with the same duty as similar security for a sum of money equal in amount to the value of the stock; and a transfer, assignment or disposition of any such security, and a re-transfer, release, discharge, surrender, re-surrender, warrant to vacate or renunciation of any such security, shall be chargeable with the same duty as an instrument of the same description relating to a sum of money equal in amount to the value of the stock.

(b) A security for the payment of any annuity or periodical repayments, by way of repayment or in satisfaction or discharge of any loan, advance or payment intended to be so repaid, satisfied or discharged, shall be chargeable with the same duty as a similar security for the payment of a sum of money so lent, advanced or paid.

(c) A transfer of a duly stamped security and a security by way of further charge for money or stock added to money or stock previously secured by a duly stamped instrument shall not be chargeable with any duty by reason of its containing any further or additional security for the money or stock transferred or previously secured or the interest or dividends thereof or any new covenant, proviso, power, stipulation or agreement in relation thereto or any further assurance of the property comprised in the transferred or previous security.

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

(b) Where the total amount is unlimited, the security shall be available for such an amount only as the ad volorem duty stamped thereon extends to cover, but where any advance or loan

is made in excess of the amount covered by that duty the security shall, for the purpose of stamp duty, be deemed to be a new and separate instrument bearing date of the day on which the advance or loan is made.

(c) No money to be advanced for the insurance of any property comprised in the security against damage by fire or for keeping up any policy of life insurance comprised in the security, or for effecting in lieu thereof any new policy, or for the renewal of any grant or lease of any property comprised in the security upon the dropping of any life insurance whereof the property is held, shall be reckoned as forming part of the amount in respect whereof the security is chargeable with ad valorem duty.

13. Where in any instrument of partnership there is contained any obligation, liberation or transfer of property, duty shall be chargeable in respect of such obligation, liberation or transfer in accordance with this Schedule in addition to the duty chargeable on the instrument.

14. When a bill of exchange is drawn in a set and one of the set is duly stamped, the other or others of the set shall not be chargeable with duty unless issued or in some manner negotiated apart from the stamped bill.

15. (a) Where any instrument is chargeable with ad valorem duty in respect of any money in any currency other than that of Seychelles or in respect of any stock or marketable security, the duty shall be calculated on the value, on the day of the date of the instrument, of the money in Seychelles currency according to the current rate of exchange, or of the stock or security according to the average price thereof.

(b) The current rate of exchange for the purpose of the conversion of any value expressed in a foreign currency shall be the rate of exchange prevailing on such day as the Commissioner may, after consultation with the Minister, determine.

16. (a) Any instrument whereby the rent reserved by any other instrument chargeable with duty and duly stamped as a lease is increased shall not be chargeable with duty otherwise than as a lease in consideration of the additional rent thereby made payable.

(b) any licence relating to immovable property shall for the purpose of this Act be deemed to be a lease by the grantor of the licence to the grantee and shall be chargeable with duty accordingly.

(c) In the case of a licence, any consideration which, if the licence had been a lease, would have been rent shall be deemed to be rent for the purposes of this Act and duty shall be chargeable

accordingly.

(d) For the purpose of this Schedule, lease includes a lease or hire of movable or immovable property but does not include a hire purchase.

17. Any letter or power of attorney for the receipt of any one payment duly stamped for, and used only or intended to be used only for, that purpose shall not be chargeable with further duty by reason only of containing an authority for the receipt of several payments or the continuous receipt of dividends or interest.

PART II – AD VALOREM STAMP DUTIES CHARGEABLE ON INSTRUMENTS

General Notes:

Computation of stamp duty in accordance with this Part is subject to the Rules set out in Part 1 of this Schedule, and any instrument falling within any Head of this Part and also specified in Part III shall be chargeable with fixed duty under Part III only.

Head	Duty	Person Responsible for Stamping
Abandonment to Creditors	See Transfer.	
Accounts Accepted: per R. 1000 or fraction thereof	R. 15	The person presenting.
Acquittance or Discharge of Payment	R.10 per R1000	The person giving the acquittance or discharge
<i>Note: If any acquittance or discharge of any obligation or of any price or sum of money whatsoever results from the instrument which itself establishes the obligation, no duty shall be charged on such acquittance or discharge.</i>		
Agreement for Dissolution Of Partnership	See Partnership	
Agreement to Divide	See Partition	

Agreement for Exchange	See Exchange of Property	
Agreement for Hire of Goods	See Hire Purchase and Instalment	
Agreement for Lease, Letting or Tenancy	See Lease	
Agreement for Partnership	See Partnership	
Agreement to sell property	See Transfer	
Agreement or any Memorandum of an Agreement not otherwise specifically charged with any duty	R.200	The person first executing
Annuity		
(a) Transfer in consideration of	See Transfer	
(b) Creation of, by way of security	See Mortgage	
(c) Purchase of	See Transfer.	
(d) Instrument relating to, upon any other occasion	See Bond Covenant	
<i>Note: The value on which duty is to be charged on annuities shall be as follows:</i> (i) on instruments for perpetual or life annuities by the capital affected for the service of the annuity; (ii) on instruments effecting the extinction or redemption of life annuities by the whole amount of the capital; (iii) on annuities created without mention of capital and on the redemption of the same by ten times the annual rent or sum of money to be paid provided that if the annuity is payable in kind the value thereof shall be assessed at the same rate on a declaration made by the parties of the value of the articles being the subject matter of the annuity; (iv) on any transfer of such annuities or pensions by the price of the transfer.		
Assignment		

(a) By way of security or of any security (not being a marketable security)	See Mortgage.	
(b) Upon a sale or otherwise	See Transfer.	
Attorney, Letter or Power of	See Power of Attorney.	
Bills of Exchange or Drafts Except cheques and inland sight drafts drawn on Banks	R10	All persons executing
Bill of Lading for any goods, merchandise or effects to be exported	For each part of every set R.10	All persons executing
Bonds, Covenant or Similar Instrument		
(a) Being the only or principal security for any sum or sums of money, not being interest for any principal sum secured by a duly stamped instrument nor rent reserved by a lease-		
(i) For a definite period so that the total amount to be ultimately payable can be ascertained	The same duty as a mortgage for the total amount.	The obligee, covenantee or other person taking the security.
(ii) For a term of life or any other indefinite period for every R.5,000 and also for any fractional part of R5,000 of the sum periodically payable	R.15	The obligee, covenantee or other person taking the security.
(b) Being collateral or auxiliary or additional or substituted security for any of the above mentioned purposes (where the primary or principal security is stamped)		

(i) Where the total amount to be ultimately payable can be ascertained	The same duty as the total amount	The obligee covenantee or other person taking the security.
(ii) in any other case for every R1,000 or fractional part thereof of the sum periodically payable	R.15	The obligee covenantee or mortgage for taking the security
(c) Being grant of a contract of payment of a super-annuation annuity i.e a deferred life annuity granted or secured to any person in consideration of annual premium payable until the person reaches a specified age and to commence on the person attaining that age, for every R.10,000 or fractional part thereof	R.10	The grantor.
(d) For security for performance of any contract (including building and civil engineering contracts)	R.200	The person giving the security.
(e) For security against any breach of law	R.200	The person giving the security.
(f) For security in a court of law for any purpose whatsoever	R.200	The person giving the security.
(g) For payment of trades tax dues or for the removal of warehoused goods or for exportation of goods and generally all trades tax bonds	R.200	The person giving the security.
(h) Bonds concerning respondential or bottomry, for every R1,000 or fractional part thereof	R.10	The person giving the security.
(i) Bonds of any other kind not hereinbefore described and not	R.200	The person giving the security.

specifically charged with any duty		
Cancellation , instruments and judgments cancelling a contract of sale of immovable property.	1/5 per centum of the amount expressed therein	The person responsible for stamping the original instrument.
Charter Party or any agreement or contract for the charter of any seagoing ship or vessel or any other instrument in the nature thereof, for each copy	R.250	
Child acknowledgement of	R.200	The person executing.
Contract of Pledge	See Mortgage	
Copy or Extract certified to be a true copy by or by the order of any public officer and not charged under any other written law.	R.50	The person for or on whose behalf the copy or extract is made.
Consent	R.200	The person executing.
Covenant. Any separate instrument of covenant (not being an instrument chargeable with duty as a transfer on sale or mortgage) made on the sale or mortgage of any property and relating solely to the transfer or enjoyment of the title to the property.	R.100	The covenantee.
Declaration	R.200	The person executing.
Debenture	See Mortgage	
Dock Warrant.	R.10	The person issuing.
Exchange of Property	The same duty as on a transfer for a consideration	All persons executing.

Executor, Appointment of	R.100	The person presenting
Extract	See Copy or Extract.	
Fiduciary, Appointment of	R.200	The person executing.
Further charge or further security	See Mortgage	
Guardian, appointment	R.200	The person executing.
Hire Purchase and Instalment Sales agreement of movable property	R.200	The hirer.
Judgments of Adjudication under the Immovable Property (Judicial Sales) Act	Rate of duty on the value of property or rights:	The person taking the property under the judgment.
	Value	Rate
	The first R50,000	4%
	The remainder	10%
Judgement , not otherwise specifically charged with	R.200	The person presenting.
Lease, Sub-Lease or Licence		
(a) For any definite term-		
(i) where the term does not exceed five years	5 per centum of the annual rent reserved	The lessee or licensee.
(ii) where the term does not exceed ten years	10 per centum of the annual rent reserved	The lessee or licensee.
(iii) where the term is for ten years or more	15 per centum of the annual rent reserved	The lessee or licensee.
(b) For an indefinite term	15 per centum of the annual rent reserved	The lessee or licensee.
(c) Assignment, cession or transfer of lease	See Transfer	

(d) Cancellation or surrender	1/5 per cent of the annual rent reserved but subject to a minimum duty in any case of R50	The person presenting.
<i>Note:</i> 1. An agreement for a lease, or in respect of any letting, shall be charged with the same duty as if it were an actual lease made for the term and consideration mentioned in the agreement. A lease made subsequently to and in conformity with such an agreement duly stamped shall be charged with the duty of R25. 2. A lease shall, so far as the consideration therefore consists of any premium or other consideration whatsoever other than rent, moving either to the lessor or to any other person, be charged with ad valorem stamp duty computed on that consideration, as if it were a transfer on sale for the amount of that consideration. 3. Where the consideration, or any part of the consideration, for which lease is granted or agreed to be granted, consists of any produce or goods shall the value of the produce or goods shall be deemed to a consideration in respect of which the lease or agreement is chargeable with ad valorem duty. 4. Where it is stipulated that the value of the produce or goods is to amount at least to, or is not to exceed, a given sum, or where the lessee is specially charged with or has the option to paying after any permanent rate of conversion, the value of the produce of goods shall, for the purpose of assessing the ad valorem duty, be estimated at the given sum, or according to the permanent rate. 5. The word 'rent' shall mean the annual rent or if the rent is variable the annual average rent		
Letter of Guarantee	See Agreement.	
Letter of Indemnity	See Agreement.	
Marketable Security		
Transfer, assignment, cession or disposition of a marketable security of any description (other than shares in the capital of a company)-		
(a) upon a sale thereof	3 per centum of the value of the marketable security.	The transferee, assignee etc.
(b) upon a mortgage thereof	See Mortgage	
(c) in any other case	R.50	The transferee, assignee etc.

Mortgage, charge, Debenture or Floating Charge (including all forms of inscription of privilege whether ex-officio or not) not being a marketable security otherwise specifically charged with duty-		
(a) being the only or principal security for the payment or repayment of, money	1/5 per centum of the sum secured by the mortgage, charge debenture or privilege	The mortgagee, chargee or debenture or privilege holder
(b) of any other kind	1/5 per centum of the sum secured by the mortgage, charge or privilege	The mortgagee, chargee or debenture or privilege holder
(c) transfer, assignment, cession of any mortgage, charge or privilege (except a marketable security)	NIL	The transferee or assignee, unless otherwise stipulated in the instrument
(d) release or erasure of inscription of mortgage, charge or privilege, debenture or floating charge		
	Up to SR500,000	SR200
	Over SR500,000	SR500
Negotiable Instruments not otherwise specifically charged	1/5 per centum of the value or consideration expressed.	All persons executing.
Option to purchase immovable property or rights	Rate of duty on the consideration for the grant of the option:	The person taking the option.
	Value	Rate
	the first R50,000	4%
<i>Note:</i>		

If the parties have expressly agreed that on the actual transfer the consideration for the grant of the option shall be regarded as a payment on account of the consideration for the transfer then the duty payable under the Head Transfer, Assignment or Cession shall be reduced by the amount of duty paid in respect of the instrument of option.

Partition, Instrument of Under articles 1075 and 1076 of the Civil Code -		
(i) movable property	5 per centum of the value of the property right or interest	All persons executing
(ii) Immovable property	Rate of duty on value of property or rights: 5%:	All persons executing
	Provided that if partition is consequent on a settlement in a divorce case or a transfer by a parent to a child, no duty shall be charged if value of property does not exceed R1,000,000.	

Note:

- For the purpose of computing the duty on an instrument of partition, the largest share remaining after any property has been divided (or, if there are more than two or more shares of equal and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated.*
- In case of partition in kind of property between co-owners under any title whatsoever if there is any sum of money, in accordance with the Head "Transfer, Assignment or Cession".*
- When an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such an agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than R.100.*

Partnership		
(a) Instrument of (including act de societe)	½ per centum on the capital as designated in the instrument, or in any case subject	All persons executing.
(b) Instrument of dissolution	R.150	All persons

without consideration		executing.
(c) Instrument of dissolution with consideration	See transfer	The transferee.
(d) Pledge of immovable property (antichrese)	See Mortgage	
Power or Letter of Attorney or other instrument in the nature thereof, other than the appointment of a proxy to vote at any meeting.	R.200	The person executing
Promissory Note.	See Bill of Exchange.	
Protest Maritime	R.100	
For each extension thereof	R.100	The protestor.
Receipt given for R.50 or upwards.	R.10	The person giving the receipt
Reconveyance, Release or Renunciation of any property or of any interest in any property-		
(a) upon a sale	See Transfer.	
(b) by way of security	See Mortgage.	
(c) in any other case	R.100	All persons executing.
Resumption of property sold a réméré within or before the period stipulated or agreed for resumption.	1/5 per centum of the value of the property	The person exercising the Right.
Right of Residence in Property (droit d'habitation)-		
(a) by way of sale	See Transfer.	
(b) by way of security	See Mortgage.	
(c) in any other case	R.200	The person

		taking the benefit.
Seizure, memorandum of	R200	The person making.
Servitude over land or right of use (droit d'usage)-		
(a) if any periodical payments reserved	The same duty for a lease.	The person taking the benefit
(b) in any other case including: 1. easement 2. permission to build 3. right to occupy house 4. right to repair or renovate 5. right to build 6. droit d'habitation 7. right of way 8. right to draw water	R.200	The person taking the benefit.
Statements of Auctioneers-		
(a) sale of movable property	5 per centum of the realized valued of the property.	The auctioneer.
(b) sale of immovable property.	Rate of duty on value of the property or rights:	The auctioneer.
	Value	Rate
	The first R50,000	4%
	The remainder	10%
Surrender of any land whatsoever not chargeable with duty as a sale or mortgage or not otherwise specially charged with any duty	R.200	The person making the seizure. the person taking the surrender.

Survey Reports on ships or goods – For each copy	R50	The Surveyor.
Temporary Occupation Licence	See Lease.	
Transfer, Assignment or Cession		
(a) Of immovable property or rights	Rate of duty on the value of property or rights: 5%	The transferee unless otherwise stipulated in the instrument.
	Provided that where a transfer is effected consequent on a divorce case or by a parent to a child no duty shall be charged if the value of the property does not exceed R1,000,000.	
(b) Of movable property or rights	5 per centum of the value of the property or rights	The transferee.
(c) Of shares in the capital of a company (whether by way of endorsement or otherwise)	5 per centum of the value of the shares	The transferee
(d) Assignment of lease of which the unexpired term does not exceed thirty-five years	5 per centum of the value of the property	The assignee.
Note: 1.(1) <i>Where the consideration, or any part of the consideration for a transfer on sale consists of money payable periodically for a definite period not exceeding twenty years, so that the total amount to be paid can be previously ascertained, the transfer shall be charged in respect of that consideration with ad valorem duty on such total amount.</i> (2) <i>Where the consideration, or any part of the consideration for a transfer on sale consists of money payable periodically for a definite period exceeding twenty years or in perpetuity, or for any indefinite period not terminable with life, the transfer 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</i>		

during the period of twenty years next after the day of the date of the instrument.

(3) Where the consideration, or any part of the consideration for a transfer on sale consists of money payable periodically during any life or lives, the transfer 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 twenty years next after the day of the date of the instrument.

(4) Notwithstanding the foregoing provisions, no transfer on sale chargeable with ad valorem duty in respect of any periodical payments and containing also provision for securing the payments shall be charged with any duty in respect of such provision, and no separate instrument made in that case for securing repayment shall be charged with any higher duty than R.75.

2. Where any property is transferred to any person in consideration, wholly or in part, of any debt due to the person or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or encumbrance or not, the debt, money or stock shall be deemed to be the whole or part, as the case may be, of the consideration in respect whereof the conveyance is chargeable with ad valorem duty.

3. Instruments by which any property is abandoned to creditors with a right of retaining such property or disposing thereof to other parties shall be liable to duty under this Head notwithstanding anything contained in this act or other written law, be paid at the end of one year from the date of such instrument on the value of such property which is still in the creditors' possession.

Ushers Memorandum of Sales

See Transfer.

Usufruct if reserved to Vendor

One half of the duty payable on sale, transfer or assignment.

The usufructuary.

Note:

In case the vendor reserves the usufruct, it shall be valued at half of the consideration expressed or stipulated in the deed, and the duty shall be levied on the total sum but no further duty shall be levied for the reunion of the usufruct with the bare ownership:

Provided that, if this takes place by means of an instrument of cession and if the consideration therein is higher than the valuation originally made, a supplementary duty shall be leviable on the excess of value.

Voluntary Dispositions and transfers
(including donations inter vivos)

See Transfer

The donee.

Warrants of Execution

Rs.100

The person

		executing.
Will/testament	R200	The person executing.

PART III – INSTRUMENTS CHARGEABLE WITH FIXED DUTY

S.I. 3/2006

A.-FIXED DUTY OF R300

Instrument	Person responding for stamping
1. Mention of filing of any cahier des charges	The person filing the instrument
2. Partition among heirs or co-proprietors of any succession or other common estate except as hereinbefore provided	All persons executing
3. Renunciation to or acceptance of any succession legacy or community or property	Each party renouncing or accepting
4. Inventories	The person making the inventory
5. Memoranda of survey by surveyors	The surveyor
6. Warrants for payment delivered under the Immovable Property (Judicial Sales) Act	The person whom the warrant is to be delivered
7. Memoranda of charges (cahier des charges) or other acts drawn up by an attorney except as herein before provided	The attorney
8. Ushers' returns and memoranda except memoranda of sales	The usher
9. Notarial deeds not subject to any other duty pursuant to this Act	The notary

CHAPTER 226

THE STAMP DUTY ACT

SUBSIDIARY LEGISLATION: SECTION 6: THE STAMP DUTY (PAYMENT OF DUTY BY ADHESIVE STAMPS) ORDER

[1st January, 1976]

Citation

1. This Order may be cited as the Stamp Duty (Payment of Duty by Adhesive Stamps) order.

Adhesive postage stamps may be used

2. The payment of stamp duties, not exceeding ten rupees, under Part II of the Schedule to the Act, may be made by affixing to any instrument requiring to be stamped one or more adhesive postage stamps in current use in Seychelles.

SUBSIDIARY LEGISLATION: SECTION 48: THE STAMP DUTY (STAMP AND DENOTATION) REGULATIONS

[1st January, 1976]

Citation

1. These Regulations may be cited as the Stamp Duty (Stamp and Denotation) Regulations.

Manner of stamping and denotation

2. For the purposes of section 6 and section 20 of the Act the manner in which instruments shall be stamped and the duty paid denoted shall be by means of a rubber stamp which, when impressed upon an instrument, shall cause the following words to appear on the instrument:-

“Stamp Duty Act

(Sections 6 and 20)

Revenue Stamp

Duty Paid.....

Signature of Commissioner or authorised officer required

3. No instrument which has been stamped in the manner provided for in regulation 2 shall be deemed to have been validly stamped unless the signature of the Stamp Duty Commissioner or an authorised officer also appears thereon.

SUBSIDIARY LEGISLATION: THE STAMP DUTY (DUPLICATES AND LOST INSTRUMENTS) (PRESCRIBED FEES) REGULATIONS.

[1st January, 1976]

Citation

1. These Regulations may be cited as the Stamp Duty (Duplicates and Lost Instruments) (Prescribed Fees) Regulations.

Prescribed fees under section 14(1) and (2) of the Act

2. The fee payable under subsections (1) and (2) of section 14 of the Act shall be five rupees.

SUBSIDIARY LEGISLATION: SECTIONS 47 AND 48: STAMP DUTY (EXEMPTION) ORDER

[11th September, 1995]

1. This Order may be cited as the Stamp Duty (Exemption) Order.

2. The transfer of any Central Bank of Seychelles Bond of the series FXM-T1 and TEX1 is exempt from stamp duty.
