



# LEGISLATIVE DIGEST

An overview and assessment of  
legislative framework on Stamp  
Duties in Ghana

## Contributors



**Richard Nunekpeku**  
Managing Partner

richard@sustineriattorneys.com



**Gafaru Ali**  
Senior Associate

gafaru@sustineriattorneys.com



**Cecilia Antwi  
Kyem**

Trainee Associate  
cecilia@sustineriattorneys.com



**Harold Kwabena  
Fearon**

Trainee Associate  
harold@sustineriattorneys.com

### Legislation

Stamp Duty Act, 2005 (Act 689)

### Purpose of the legislation

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

### Implementing institution

The Ghana Revenue Authority

### Application of the Act<sup>1</sup>

Stamp Duty assessable on instruments, documents, and agreements

## KEY DEFINITIONS UNDER THE ACT<sup>2</sup>

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

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

**Impressed stamp** includes an imprint authorised by the Commissioner that denotes the payment of the appropriate stamp duty;

**Instrument** includes a written or printed document;

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

**Mortgage** means a contract charging immovable property as security for the due repayment of debt and an interest accruing on the debt or for the performance of some obligation which is given in accordance with the terms of the

<sup>1</sup> Section 27, Stamp Duty Act 2005 (Act 689)

<sup>2</sup>Section 50 , Act 689

purposes of this Act includes an agreement or a bond accompanied with a deposit of title documents for making a mortgage of an immovable property comprised in the title documents;

**Write** includes a mode in which words or figures can be expressed on materials.

## **PROVISIONS APPLICABLE TO INSTRUMENTS GENERALLY**

### **A. Instruments to be separately charged with duty<sup>3</sup>**

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

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

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

### **2. Impressed and adhesive stamp<sup>4</sup>**

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

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

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

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

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

### **3. Instruments written on stamped material<sup>9</sup>**

An instrument which is

- a. written on material already stamped, or
- b. partly or wholly written on the material before being stamped,

---

<sup>3</sup>Section 2, Act 689

<sup>4</sup>Section 4, Act 689

<sup>5</sup>Section 4(1), Act 689

<sup>6</sup>Section 4(2), Act 689

<sup>7</sup>Section 4(3), Act 689

<sup>8</sup>Section 4(4), Act 689

<sup>9</sup>Section 5, Act 689

is to be stamped in a manner that the stamp may appear on the face of the instrument and cannot be used or applied to another instrument written on the same piece of material.<sup>10</sup>

If more than one instrument is written on the same piece of material, each one of the instruments is to be separately and distinctly stamped with the appropriate duty payable.<sup>11</sup>

#### **4. Circumstances affecting duty to be set out in instruments<sup>12</sup>**

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

#### **5. Mode of calculation of ad valorem duty in certain cases<sup>13</sup>**

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

- a. moneys in a foreign currency,
- b. a stock or marketable security,

the duty shall be calculated on the value of the money in Ghana currency according to the prevailing rate of exchange on the day of the date of the instrument or in the case of stock or security, according to the average price of the stock or security.<sup>14</sup>

*NB: The Commissioner is not bound to assess the duty in conformity with subsection (1) if unsatisfied with the evidence<sup>15</sup>*

#### **6. Cancellation of Adhesive Stamps<sup>16</sup>**

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

- a. the adhesive stamp is properly cancelled; or
- b. it is otherwise proved that the stamp that appears on the instrument was fixed to it at the proper time.<sup>17</sup>

An adhesive stamp is properly cancelled if the person required by law to cancel it writes on or across the stamp, the name or initials of that person or the name or initials of that person's firm together with the true date of the writing, or otherwise renders the stamp incapable of being used for another instrument or purpose.<sup>18</sup>

---

<sup>10</sup>Section 5(1), Act 689

<sup>11</sup>Section 5(2), Act 689

<sup>12</sup>Section 6, Act 689

<sup>13</sup>Section 7, Act 689

<sup>14</sup>Section 7(1), Act 689

<sup>15</sup>Section 7(2), Act 689

<sup>16</sup>Section 8, Act 689

<sup>17</sup>Section 8(1), Act 689

<sup>18</sup>Section 8(2), Act 689

Where two or more adhesive stamps are used to denote the stamp duty on an instrument, each of these stamps shall be cancelled in the manner provided by this section.<sup>19</sup>

## **7. Denoting Stamp<sup>20</sup>**

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

## **8. Commissioner may be required to express opinion<sup>21</sup>**

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

- a. whether the instrument is chargeable with duty, and
- b. the amount of duty with which the instrument is chargeable if duty is chargeable.<sup>22</sup>

The Commissioner may require a person to furnish the Commissioner with an abstract of the instrument and also with the necessary evidence in order to determine whether the facts and circumstances affecting the liability of the instrument to duty, or the amount of the duty chargeable on the instrument, are fully and truly set out.<sup>23</sup>

Where the Commissioner is of the opinion that the instrument is not chargeable with duty, the instrument may be stamped with a particular stamp denoting that it is not chargeable with duty.<sup>24</sup>

Where the Commissioner is of the opinion that the instrument is chargeable with duty, the duty shall be assessed, and the instrument shall be stamped in accordance with the assessment.<sup>25</sup>

This section does not extend to an instrument chargeable with ad valorem duty and made as a security for money or stock without limit and does not authorise the stamping after the execution of an instrument which by law cannot be stamped after execution.<sup>26</sup>

A statutory declaration made for the purpose of this section shall not be used against the person making the declaration in a proceeding, except in an inquiry as to the duty with which the instrument to which it relates is chargeable.<sup>27</sup>

<sup>19</sup>Section 8(3), Act 689

<sup>20</sup>Section 9, Act 689

<sup>21</sup>Section 10, Act 689

<sup>22</sup>Section 10(1), Act 689

<sup>23</sup>Section 10(2), Act 689

<sup>24</sup>Section 10(3), Act 689

<sup>25</sup>Section 10(4), Act 689

<sup>26</sup>Section 10(6), Act 689

<sup>27</sup>Section 10(7), Act 689

A person by whom a declaration is made shall, on payment of the duty chargeable on the instrument to which it relates, be relieved from any penalty or disability to which that person may be liable by reason of the omission to state truly in the instrument a fact or circumstance required by this Act to be stated.<sup>28</sup>

## **9. Instruments to be stamped as assessed<sup>29</sup>**

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

## **10. Stamping of Instruments after Execution<sup>30</sup>**

Except where express provision is made to the contrary by this Act, an unstamped or insufficiently stamped instrument may after its execution and on payment of the unpaid duty, be stamped with an impressed stamp at any time within two months.<sup>31</sup>

An instrument shall not be stamped after the time limit specified in subsection (1) except on payment of the unpaid duty in addition to a penalty of a value equivalent to two and a half penalty units.<sup>32</sup>

Where the unpaid duty exceeds the equivalent in value of two and a half penalty units, there shall be by way of further penalty an interest on the unpaid duty at the rate of five percent per annum from the day on which the instrument was first executed up to the time when the interest is equal in amount to the unpaid duty.<sup>33</sup>

An unstamped or insufficiently stamped instrument which has first been executed at a place outside Ghana may, on payment of the unpaid duty, be stamped at any time within two months after it has been first received in Ghana.<sup>34</sup>

The payment of a penalty under this Act shall be denoted on the instrument by a particular stamp.<sup>35</sup>

## **11. Particulars about land<sup>36</sup>**

An instrument relating to the creation or transfer of an estate or interest in land, submitted to the Commissioner for assessment of the chargeable stamp duty, shall be accompanied with a statement in the form set out in the Second Schedule.<sup>37</sup>

<sup>28</sup>Section 10(8), Act 689

<sup>29</sup>Section 11, Act 689

<sup>30</sup>Section 12, Act 689

<sup>31</sup>Section 12(1), Act 689

<sup>32</sup>Section 12(2), Act 689

<sup>33</sup>Section 12(3), Act 689

<sup>34</sup>Section 12(4), Act 689

<sup>35</sup>Section 12(5), Act 689

<sup>36</sup>Section 13, Act 689

<sup>37</sup>Section 13(1), Act 689

The statement shall be signed by the grantee, transferee or by a person authorised in writing to do so by the grantee or transferee.<sup>38</sup>

## **12. Instruments and Title Registered in the Land or Title Registry<sup>39</sup>**

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

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

## **PROVISIONS APPLICABLE TO PARTICULAR INSTRUMENTS**

### **13. Calculation of ad valorem duty in respect of stock and securities<sup>40</sup>**

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

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

### **14. Calculation of ad valorem duty on periodical payments<sup>41</sup>**

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

- a. not exceeding twenty years, so that the total amount to be paid can be previously ascertained, the conveyance shall be charged in respect of that consideration with ad valorem duty on the total amount; or
- b. exceeding twenty years or in perpetuity, or for an indefinite period not terminable with life, the conveyance shall be charged in respect of that consideration with ad valorem duty on the total amount which will or may, according to the terms of sale, be payable during the period of twenty years next after the day of the date of the instrument.<sup>42</sup>

Where the consideration, or a part of the consideration for a conveyance on sale consists of money payable periodically during any life or lives, the conveyance shall be charged in respect of that consideration with *ad valorem* duty on the amount which will or may, according to the terms of sale, be payable during the period of twelve years following after the day of the date of the instrument.<sup>43</sup>

---

<sup>38</sup>Section 13(2), Act 689

<sup>39</sup>Section 14, Act 689

<sup>40</sup>Section 15, Act 689

<sup>41</sup>Section 16, Act 689

<sup>42</sup>Section 16(1), Act 689

<sup>43</sup>Section 16(2), Act 689

A conveyance on sale chargeable with ad valorem duty in respect of periodical payments, and containing provision for securing the payments, shall be charged with a duty in respect of that provision, and a separate instrument made in that case for securing the payments shall not be charged with a duty exceeding one thousand cedis.<sup>44</sup>

### **15. Calculation of Ad Valorem Duty on Mortgage or Conveyance in respect of a Debt<sup>45</sup>**

Where property is mortgaged or conveyed to a person

- a. in consideration wholly or in part, of a debt due to that person, or
  - b. subject to the payment or transfer of money or stock, whether it is or constitutes a charge or incumbrance on the property or not,
- the debt, money, or stock as the case may be, is to be considered as the whole or part of the consideration in respect of which the mortgage or conveyance is chargeable with *ad valorem* duty.

### **16. Calculation of Ad Valorem Duty in Certain Cases<sup>46</sup>**

Where property contracted to be sold for one consideration for the whole is conveyed to the purchaser in separate parcels by different instruments, the consideration is to be apportioned in that manner as the parties consider appropriate so that a distinct consideration for each separate part or parcel is stated in the conveyance it relates and that conveyance is to be charged with ad valorem duty in respect of that distinct consideration.<sup>47</sup>

Where property contracted to be purchased for one consideration for the whole by<sup>48</sup>

- a. two or more persons jointly, or
  - b. a person for the person's use and others, or wholly for others,
- is conveyed in parts or parcels by separate instruments to the persons by whom or for whom the property was purchased for distinct parts of the consideration, the conveyance of each separate part or parcel is to be charged with ad valorem duty in respect of the distinct part of the consideration specified in it.<sup>49</sup>

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

---

<sup>44</sup>Section 16(3), Act 689

<sup>45</sup>Section 17, Act 689

<sup>46</sup>Section 18, Act 689

<sup>47</sup>Section 18(1), Act 689

<sup>48</sup>Section 18(2), Act 689

<sup>49</sup>Section 18(3), Act 689



Where a person having contracted for the purchase of a property has not obtained a conveyance of the property but contracts to sell the property to another person and the property is as a result conveyed directly to the sub-purchaser, the conveyance is to be charged with ad valorem duty in respect of the consideration moving from the sub purchaser.<sup>50</sup>

Where a person having contracted for the purchase of a property has not obtained a conveyance of the property but contracts to sell the whole or a part of it to another person and the property is as a result conveyed by the original seller to different persons in parts or parcels, the conveyance of each part or parcel is to be charged with ad valorem duty in respect only of the consideration moving from the respective sub-purchaser without regard to the amount or value of the original consideration.<sup>51</sup>

### **17. Conveyance other than a sale<sup>52</sup>**

An instrument and a decree or an order of a court by which property is transferred to or vested in a person, other than through a sale shall be charged with duty as a conveyance on sale or transfer on sale of that property for a consideration equal to the value of that property.<sup>53</sup>

A conveyance or transfer made as a result of the appointment of a new trustee or the retirement of a trustee, although a new trustee is not appointed, shall be charged with a duty not exceeding ten thousand cedis.<sup>54</sup>

### **18. Stamp Duty on Gifts Inter Vivos<sup>55</sup>**

A conveyance or transfer operating as a voluntary disposition inter vivos shall be chargeable with stamp duty as if it were a conveyance or transfer on sale, with the substitution in each of the value of the property conveyed or transferred, for the amount or value of the consideration for the value.<sup>56</sup>

A conveyance or transfer which is not a disposition made in favour of a purchaser, an encumbrancer or other person in good faith and for valuable consideration shall, for the purpose of this section, be considered as a conveyance or transfer operating as a voluntary disposition inter vivos.<sup>57</sup>

*NB: Except where marriage is the consideration, the consideration for a conveyance or transfer shall not, for the purpose of subsection (2) be considered to be valuable consideration where the Commissioner is of the opinion that by reason of the inadequacy of the sum paid as consideration or other circumstances, the conveyance or transfer confers a substantial benefit on the person to whom the property is conveyed or transferred.<sup>58</sup>*

---

<sup>50</sup>Section 18(4), Act 689

<sup>51</sup>Section 18(5), Act 689

<sup>52</sup>Section 19, Act 689

<sup>53</sup>Section 19(1), Act 689

<sup>54</sup>Section 19(2), Act 689

<sup>55</sup>Section 20, Act 689

<sup>56</sup>Section 20(1), Act 689

<sup>57</sup>Section 20(2), Act 689

<sup>58</sup>Section 20(3), Act 689

A mortgage or conveyance or transfer made<sup>59</sup>

- a. for nominal consideration for the purpose of securing the repayment of an advance or loan,
- b. to effect the appointment of a new trustee or the retirement of a trustee, whether the trust is expressed or implied,
- c. under which a beneficial interest does not pass in the property conveyed or transferred,
- d. to a beneficiary by a trustee or any other person in a fiduciary capacity under a trust, whether express or implied, shall not be charged with duty under this section.

Subsection (4) shall have effect despite the circumstances exempting the conveyance or transfer from charge under this section are not set out in the conveyance or transfer.<sup>60</sup>

## **19. Stamping of duplicates and counterparts<sup>61</sup>**

The duplicate or counterpart of an instrument chargeable with duty is not to be considered as stamped unless<sup>62</sup>

- a. it is stamped as an original instrument; or
- b. it appears from a certificate signed and sealed by the Commissioner that the full and proper duty has been paid on the instrument of which it is the duplicate or counterpart.

Subsection (1) does not apply to a counterpart of an instrument chargeable as a lease where the counterpart is not executed by or on behalf of a lessor or grantor.<sup>63</sup>

## **20. Agreement chargeable as lease<sup>64</sup>**

An agreement for a lease or with respect to the letting of land or a tenement, is to be charged with the same duty as if it were an actual lease made for the term and consideration mentioned in the agreement.<sup>65</sup>

A lease made subsequently to and in conformity with an agreement under subsection (1) is to be charged with the duty of five thousand cedis.<sup>66</sup>

## **21. Certain covenants not to increase duty<sup>67</sup>**

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

- a. the improvement of the property demised, or
- b. to the matter of the lease,

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

---

<sup>59</sup>Section 20(4), Act 689

<sup>60</sup>Section 20(5), Act 689

<sup>61</sup>Section 21, Act 689

<sup>62</sup>Section 21(1), Act 689

<sup>63</sup>Section 21(2), Act 689

<sup>64</sup>Section 22, Act 689

<sup>65</sup>Section 22(1), Act 689

<sup>66</sup>Section 22(2), Act 689

<sup>67</sup>Section 23, Act 689

## **22. Cancellation of stamps on memorandum of hypothecation<sup>68</sup>**

The duty on a memorandum of hypothecation shall be denoted by adhesive stamps which shall be cancelled at the time of execution by the persons executing it.<sup>69</sup>

A memorandum of hypothecation executed without being stamped may, within seven days after execution and on payment of the duty and a penalty equivalent of two and a half penalty units, be stamped with an impressed stamp.<sup>70</sup>

## **23. Stamping of Mortgages<sup>71</sup>**

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

## **24. Mortgages for Undefined Amounts<sup>72</sup>**

A security for the payment or repayment of money to be lent, advanced, paid or which may become due on an account current, either with or without money previously due is to be charged, where the total amount secured or to be ultimately recoverable is limited, with the same duty as a security for the amount so limited.<sup>73</sup>

Where the total amount is unlimited, the security shall be available for that amount only as the ad valorem duty impressed on the security extends to cover.<sup>74</sup>

## **OBJECTIONS AND APPEALS**

### **25. Objection to an assessment<sup>75</sup>**

A person who is dissatisfied with an assessment made under this Act may lodge an objection to the assessment with the Commissioner within thirty days after receipt of the assessment.<sup>76</sup>

The Commissioner shall make a determination on an objection lodged against an assessment within twenty-one days from the date of receipt of an objection to the assessment.<sup>77</sup>

The Commissioner may, in the determination of the objection, allow the objection in whole or in part and amend the assessment accordingly or disallow the objection.<sup>78</sup>

---

<sup>68</sup>Section 24, Act 689

<sup>69</sup>Section 24(1), Act 689

<sup>70</sup>Section 24(2), Act 689

<sup>71</sup>Section 25, Act 689

<sup>72</sup>Section 26, Act 689

<sup>73</sup>Section 26(1), Act 689

<sup>74</sup>Section 26(2), Act 689

<sup>75</sup>Section 30, Act 689

<sup>76</sup>Section 30(1), Act 689

<sup>77</sup>Section 30(2), Act 689

<sup>78</sup>Section 30(3), Act 689

## 26. Appeal against an assessment<sup>79</sup>

A person who is dissatisfied with the decision of the Commissioner on an objection may within thirty days from the date of the decision and after payment of the duty in conformity with the assessment, appeal against the decision to the High Court.<sup>80</sup>

The Commissioner or the appellant may appeal against the decision of the High Court to the Appeal Court on a matter of law only.<sup>81</sup>

*NB: Order 54 of the High Court Civil Procedure Rules shall apply to an appeal under subsection (1).*<sup>82</sup>

## 27. Admissibility of insufficiently stamped or unstamped instrument<sup>83</sup>

Where an instrument chargeable with a duty is produced as evidence<sup>84</sup>

- a. in a Court in a civil matter, or
- b. before an arbitration or referee,  
the judge, arbitrator or referee, shall take notice of an omission or insufficiency of the stamp on the instrument.

If the instrument is one which may legally be stamped after its execution, it may, on payment of the amount of the unpaid duty to the registrar of the Court or to the arbitrator or referee, and the penalty payable on stamping that instrument, be received in evidence subject to just exception on other grounds.<sup>85</sup>

An instrument which is sufficiently stamped under this Act shall be receivable in evidence although that instrument may not have been stamped or is insufficiently stamped according to the law in force in the place where that instrument was executed.<sup>86</sup>

The registrar, arbitrator or referee shall<sup>87</sup>

- a. give a receipt for moneys paid as duty or penalty;
- b. make an entry in a book kept for recording payment of stamp duty and any penalties; and
- c. communicate to the Commissioner, the
  - i) title of the proceeding in which, and
  - ii) name of the party from whom,the registrar, arbitrator or referee received the duty and penalty.

On the production to the Commissioner of an instrument in respect of which duty or a penalty has been paid under this section, together with the receipt of the registrar, arbitrator or referee, the payment of the duty shall be denoted on the instrument by an impressed stamp and the payment of the penalty shall also be denoted by a certificate signed and sealed by the Commissioner.<sup>88</sup>

<sup>79</sup>Section 31, Act 689

<sup>80</sup>Section 31(1), Act 689

<sup>81</sup>Section 31(3), Act 689

<sup>82</sup>Section 31(2), Act 689

<sup>83</sup>Section 32, Act 689

<sup>84</sup>Section 32(1), Act 689

<sup>85</sup>Section 32(2), Act 689

<sup>86</sup>Section 32(3), Act 689

<sup>87</sup>Section 32(4), Act 689

<sup>88</sup>Section 32(5), Act 689

Except as expressly provided in this section, an instrument<sup>89</sup>

- a. executed in Ghana, or
- b. executed outside Ghana but relating to property situate or to any matter or thing done or to be done in Ghana,

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

An instrument is admissible in evidence and shall be available for all purposes despite an objection relating to duty whether stamped with the particular stamp denoting that it is not chargeable with a duty or stamped as charged.<sup>90</sup>

## PROCEEDINGS

### 25. Compounding offences<sup>91</sup>

Where a person commits an offence under this Act, other than an offence referred to in section 42, the Commissioner may at any time prior to the commencement of court proceedings, compound the offence and order the person to pay a sum of money specified by the Commissioner but the sum shall not exceed the amount of the fine prescribed for the offence.<sup>92</sup>

The Commissioner may only compound an offence under subsection (1) if the person concerned admits in writing to the Commissioner of the commission of the offence.<sup>93</sup>

Where the Commissioner compounds an offence under subsection (1), the order<sup>94</sup>

- a. Shall
  - i) be in writing and specify the offence committed,
  - ii) state the sum of money to be paid
  - iii) state the date for payment; and,
  - iv) have attached, the written admission referred to in subsection (2),
- b. shall be served on the person who committed the offence,
- c. shall be final and not subject to an appeal, and
- d. may be enforced in the same manner as a decree of a court for the payment of the amount stated in the order or this Act.

Where the Commissioner compounds an offence under subsection (1), the person concerned is not liable to prosecution or a penalty under this Act in respect of that offence.<sup>95</sup>

---

<sup>89</sup>Section 32(6), Act 689

<sup>90</sup>Section 10(5), Act 689

<sup>91</sup>Section 33, Act 689

<sup>92</sup>Section 33(1), Act 689

<sup>93</sup>Section 33(2), Act 689

<sup>94</sup>Section 33(3), Act 689

<sup>95</sup>Section 33(4), Act 689

## 26. Venue for trial<sup>96</sup>

Any

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

## 27. Amounts payable<sup>97</sup>

The institution of proceeding for a penalty or fine or the imposition of a penalty or fine under this Act shall not relieve a person from liability to pay duty which may include an amount treated by this Act as duty, for which the person is or may become liable under this Act.<sup>98</sup>

In proceedings under this Act, the production of a certificate signed by the Commissioner stating the name and address of a person liable and the amount of duty due or due and payable by the person is sufficient evidence of the amount of duty due or due and payable by that person.<sup>99</sup>

## 28. Waiver or variation of duty<sup>100</sup>

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

## 29. Deferment of duty due<sup>101</sup>

Where the Commissioner is of the opinion that the whole or part of the duty which is due by a person, including an amount considered as duty by this Act, cannot be effectively recovered immediately by reason of the financial hardship that may be caused to the person, the Commissioner may on an application made to the Commissioner by the person,<sup>102</sup>

- a. defer payment of the whole or part of the duty, and
- b. arrange a satisfactory payment schedule not exceeding six months at any particular time, with that person.

The Commissioner shall denote on the instrument presented that either the whole or part of the duty due has been deferred and shall state the outstanding duty due.<sup>103</sup>

---

<sup>96</sup>Section 34, Act 689

<sup>97</sup>Section 35, Act 689

<sup>98</sup>Section 35(1), Act 689

<sup>99</sup>Section 35(2), Act 689

<sup>100</sup>Section 36, Act 689

<sup>101</sup>Section 37, Act 689

<sup>102</sup>Section 37(1), Act 689

<sup>103</sup>Section 37(2), Act 689

### **30. Refund of excess duty<sup>104</sup>**

Where the Commissioner is satisfied that duty has been paid by a person in excess of the duty payable the Commissioner shall, not more than five months from the date of an application by a person for a refund, refund the excess payment to the person on being notified in writing that duty has been paid by a person in excess of the person's liability to which the payment relates.<sup>105</sup>

A penalty paid by a person under this Act shall be refunded to that person to the extent that the duty to which the penalty relates is found not to have been due and payable.<sup>106</sup>

### **31. Remission of penalty<sup>107</sup>**

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

## **OFFENCES**

### **32. Failure to cancel adhesive stamps<sup>108</sup>**

A person required by law to cancel an adhesive stamp who wilfully neglects or refuses to do so commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units and not more than one thousand penalty units.<sup>109</sup>

Where a person<sup>110</sup>

- a. fraudulently removes or causes to be removed from an instrument an adhesive stamp, or affixes to an instrument or uses for some other purpose an adhesive stamp which has been previously used, with intent that the stamp may be used again, or
- b. sells or offers for sale, or alters, an adhesive stamp which has been removed, or alters an instrument that has an adhesive stamp on it which has to that person's knowledge been previously used,

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

### **33. Failure to disclose full facts about an instrument<sup>111</sup>**

A person who with intent to defraud the State,

- a. executes an instrument without stating fully and truly all the facts and circumstances referred to under section 6, or

---

<sup>104</sup>Section 38, Act 689

<sup>105</sup>Section 38(1), Act 689

<sup>106</sup>Section 38(2), Act 689

<sup>107</sup>Section 39, Act 689

<sup>108</sup>Section 40, Act 689

<sup>109</sup>Section 40(1), Act 689

<sup>110</sup>Section 40(2), Act 689

<sup>111</sup>Section 41, Act 689

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

### **34. Registering instruments not duly stamped<sup>112</sup>**

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

### **35. Impeding administration of Act<sup>113</sup>**

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

### **36. General penalty<sup>114</sup>**

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

## **MISCELLANEOUS PROVISIONS**

### **37. Recovery of penalties<sup>115</sup>**

The Commissioner shall make an assessment of the penalties for which a person is liable under this Act.<sup>116</sup>

Where an assessment is made under this section the Commissioner shall serve a notice of the assessment on the person in relation to whom the assessment is made of the amount of penalty payable.<sup>117</sup>

A penalty under this Act<sup>118</sup>

- a. is due and payable within thirty days from the day on which the person liable is served with a notice of assessment under subsection (2); and
- b. shall be treated for purposes of this Act as duty payable under this Act.

### **38. Registers, books, to be open to inspection<sup>119</sup>**

A public officer who has custody of a register, book, record, paper or proceeding, the inspection of which may tend to secure a duty or to prove or lead to the discovery of a fraud or omission in relation to a duty chargeable under this Act, shall at reasonable

---

<sup>112</sup>Section 42, Act 689

<sup>113</sup>Section 43, Act 689

<sup>114</sup>Section 44, Act 689

<sup>115</sup>Section 45, Act 689

<sup>116</sup>Section 45(1), Act 689

<sup>117</sup>Section 45(2), Act 689

<sup>118</sup>Section 45(3), Act 689

<sup>119</sup>Section 46, Act 689



times, permit a person authorised by the Commissioner to inspect the register, book, record, papers and proceeding and for the authorised person to take the notes and extracts that the person considers necessary without a fee or reward.

### **39. Duty as a debt due to the State<sup>120</sup>**

When duty becomes due and payable under an arrangement entered into with the Commissioner on deferment, is a debt due to the State and is payable to the Commissioner in the manner and at the place determined by the Commissioner.<sup>121</sup>

A duty and a penalty imposed under this Act that is not paid when it is due and payable may be sued by the Commissioner and recovered by action in a court.<sup>122</sup>

### **40. Electronic service of documents and assessments<sup>123</sup>**

The Commissioner may allow a person to submit particulars or extracts of an instrument which may assist in the assessment of duty under this Act to be sent by electronic means and the Commissioner on receipt of the particulars or extracts shall assess the duty payable and issue a stamp for the purpose of the instrument on payment of the duty.<sup>124</sup>

Where a person has provided the Commissioner with an electronic address the Commissioner may serve an assessment made under this Act through that address and the addressee, for purpose of this Act, is considered as served.<sup>125</sup>

For the purposes of this section, the Commissioner may authorise an imprint to denote the payment of appropriate duty.<sup>126</sup>

---

<sup>120</sup>Section 47, Act 689

<sup>121</sup>Section 47(1), Act 689

<sup>122</sup>Section 47(2), Act 689

<sup>123</sup>Section 48, Act 689

<sup>124</sup>Section 48(1), Act 689

<sup>125</sup>Section 48(2), Act 689

<sup>126</sup>Section 48(3), Act 689

## SCHEDULE 1 – APPLICABLE STAMP DUTIES

NATURE OF DOCUMENT	RATE (GHC)
<p>1. Agreement or memorandum of agreement not specifically charged with a duty, whether it is only evidence of a contract or obligatory on the parties from its being a written instrument</p> <p><i>Exemptions:-</i></p> <p><i>a. Agreement or memorandum the subject matter of which is valued less than GH¢50.00.</i></p> <p><i>b. Agreement or memorandum related to an employment or training of an individual.</i></p> <p><i>c. Agreement, letter or memorandum made for or related to the sale of any goods, wares or merchandise.</i></p> <p>2. Agreement for a sale or for letting.</p> <p>3. Appointment of a new trustee of property, or of any use, share, or interest in property by instrument not being a will</p>	<p>0.50</p> <p>2.5</p> <p>2.5</p>
<p>4. Conveyance or Transfer on sale of a property:</p> <p>a. Where the amount of the value of consideration for the sale is not more than GH¢10,000.00</p> <p>b. Where the amount of the value of consideration is more than GH¢10,000.00 but less than GH¢50,000.00</p> <p>c. Where the amount of the value of consideration is more than GH¢50,000.00</p> <p><i>Exemptions:-</i></p> <p><i>Certificate of purchase of land sold under any enactment.</i></p> <p><i>Conveyance or transfer of property which forms part of an intestate estate to the person entitled on intestacy.</i></p>	<p>0.25%</p> <p>0.5%</p> <p>1%</p>

NATURE OF DOCUMENT	RATE (GHC)
<p>5. Conveyance or Transfer operating as a voluntary disposition inter vivos –</p> <p>6. Conveyance or Transfer of a kind not described in this Schedule</p>	<p>the same duty as a conveyance on sale, the value of the property conveyed or transferred being taken as the amount of the consideration.</p> <p>1% of monetary consideration or GH¢10.00 whichever is the greater</p>
<p>7. Declaration of a trust concerning a property by a writing.</p> <p>8. Deposit of Title Documents (“Mortgage”)</p> <p>9. Duplicate or Counterpart of an instrument chargeable with duty <i>(Where the duty on the original instrument is less than 50Gp the same duty as the original instrument.)</i></p> <p>10. Indemnity, letter or other instrument of indemnity</p>	<p>2.00</p> <p>50Gp</p> <p>50Gp</p> <p>1.00</p>
<p>11. Lease:-</p> <p>a. For a definite term up to three years:</p> <p>i) where the rent for such term is not more than GH¢50.00</p> <p>ii) where the rent for such term is more than GH¢50.00</p> <p>b. For any other definite term:</p> <p>Where the consideration, or a part of the consideration, moving either to the lessor or to any other person, consists of any money, stock or security:</p> <p>in respect of such consideration – the same duty as a conveyance on sale for the same consideration, where the consideration or any part of the consideration is rent then in respect of</p>	<p>0.5%</p> <p>1%</p> <p>0.5%</p>

NATURE OF DOCUMENT	RATE (GHC)
<p>such rent:</p> <p>i) if the term is definite and is not more than 5 years</p> <p>ii) if the term is definite and is not more than 21 years</p>	<p>0.5%</p> <p>0.5%</p>
<p>iii) if the term is definite and is not more than 50 years</p> <p>iv) if the term is more than 50 years</p> <p>c. Lease of any other kind not described in this Schedule</p> <p><i>Exemptions:- Lease of land within the area of the former Tamale Urban Council at a peppercorn rent where the lessor is the Government.</i></p>	<p>1%</p> <p>1%</p>
<p>12. Mortgage, Bond, Debenture, Covenant, Guarantee, Lien or Instrument of Security of any other kind not described in this Schedule:-</p> <p>a. Being the only or principal security for the payment or repayment of money in respect of the amount secured</p> <p>b. Being a collateral, or auxiliary or additional or substituted security, or by way of further assurance, for the above mentioned purpose where the principal or primary security is stamped in respect of the amount secured</p> <p>c. Transfer or assignment of a mortgage, bond, debenture, covenant, guarantee, lien or of anything secured by any such instrument in respect of the amount transferred, assigned or disposed of</p> <p><i>Exemptions:- Release, discharge, or surrender of a security mentioned above or of the benefit of the security or the money secured by the security.</i></p> <p>13. Power of Attorney or other instrument in that nature</p>	<p>0.5%</p> <p>0.25%</p> <p>0.25%</p> <p>2.00</p>

<b>NATURE OF DOCUMENT</b>	<b>RATE (GHC)</b>
<p><i>Exemptions:-</i></p> <p><i>a. Appointment of a proxy to vote at a meeting.</i></p> <p><i>b. Authority given to a person to receive from the Controller and Accountant General's Department any money due to a person as public officer from the Government.</i></p> <p><i>c. Authority for the withdrawal of money deposited in any Savings Account in a Bank</i></p> <p><i>d. Authority which may be required by an agent transacting business with the Customs,</i></p>	

# Publisher's Notice or Disclaimer

The information provided in this document does not, and is not intended to, constitute legal advice; instead, all information, content, and materials are for general informational purposes only.

Readers should contact their lawyers to obtain advice with respect to any particular legal matter. No reader or user should act or refrain from acting on the basis of information in this document without first seeking legal advice from his or her lawyers.

The use of, and access to, this document or any other resources by the firm does not create an attorney-client relationship between the reader or user and the firm, key contacts, and contributors.

All liability with respect to actions taken or not taken based on the contents of this document is hereby expressly disclaimed. The content in this document is provided "as is" and no representations are made that the content is error-free or may be affected by subsequent changes in legislation on the subject matter.

**For more information,**

visit  
**[www.sustineriattorneys.com](http://www.sustineriattorneys.com)**

or follow us on  **@SustineriAttorneys**

or call **+233302553892**