

The Republic of the Sudan  
Ministry of Justice



**The Stamp Duty Act, 1986**



 *Sudan Currency Printing Press*

# **The Stamp Duty Act, 1986**

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*In the Name of Allah, the Gracious, the Merciful*

## **The Stamp Duty Act, 1986**

**(4/4/1986)**

### **Chapter I**

#### **Preliminary Provisions**

##### **Title**

1. This Act may be cited as the, "Stamp Duty Act, 1986".

##### **Interpretation**

2. In this Act, unless the context otherwise requires, :-<sup>1</sup>

"Bill of exchange, cheque or promissory note",	any of them means the same meaning assigned thereto, under sections 3, 76 and 86 of the Bills of Exchange Act, 1917, and includes any bill of exchange payable on demand, any transfer draft, letter of credit or any other instrument (except bank notes) entitling, or purporting to entitle any person, whether named therein, or not, to payment by any other person of, or
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<sup>1</sup> Act No.(40), 1974.

	draw upon any person, for any sum of money;
“Chamber”,	mean the Taxation Chamber;
“Duty”,	means the stamp duty prescribed, in accordance with the Schedule annexed hereto;
“Entertainment”,	means any show, play, party or the like thereof, as entering any one of them shall require payment of fee;
“Minister”,	means the Minister of Finance and Economic Planning;
“Proprietor”,	means the person responsible for entertainment;
“Schedule”,	means the Schedule hereto;
"Secretary General"	means the Secretary General of Taxation Chamber;
“Stamp Administration”,	means the Stamp Administration, at the Taxation Chamber;



## **Implementation of the Act**

3. The Secretary General shall implement the provisions of this Act, and collect the duty levied thereunder, and be responsible for all the matters relating thereto.

## **Chapter II**

### **Stamp Duty**

#### **Instruments chargeable with duty**

- 4.(1) Subject, to the provisions of this Act, the following instruments shall be chargeable with stamp duty, as set forth in the Schedule :-
  - (a) every instrument, set forth in the Schedule, as may not have previously been executed, executed, used, transferred, exchanged or presented, for acceptance, in the Sudan, upon the date of coming into force of this Act, or thereafter;
  - (b) every bill of exchange, cheque or promissory note, as may have been withdrawn, or made outside the Sudan, upon the date of coming into force of this Act, or after it, and thereafter is accepted, paid or presented, for acceptance, or payment, or endorsed, or negotiated, in the Sudan;
  - (c) every instrument, other than a bill of exchange, cheque or promissory note, set forth in the Schedule, as may not have previously been executed, and executed outside the Sudan, upon the date of coming into force of this Act, and relating to any property inside the

Sudan, or anything, done, inside the Sudan, and thereafter is received in the Sudan; provided that no duty shall be chargeable, under this Act, with respect to any instrument executed by, or to be executed in the name of the Government, or to the interest thereof, or executed by any of the units of the National Government, the states' governments, local government, or in the name, or to the interest thereof, or executed by any corporation, as the Government may own, or supervise, as the Secretary General may specify.<sup>2</sup>

- (2) Every person dealing, with the Government, shall bear the cost of the stamp duty.<sup>3</sup>

### **Instruments comprising several matters**

5. Where an instrument comprises several distinct matters, it shall be chargeable with the total of the duties, which would be chargeable, if every matter thereof were comprised in a separate instrument.

### **Instrument to which more than one description applies**

6. Subject, to the provisions of Section 5, where an instrument is framed, in such way, as more than one description, in the Schedule, may apply thereto, it shall not be chargeable, save

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<sup>2</sup> Act No. 40, 1974.

<sup>3</sup> Ibid.

with one duty only, which is the highest duty chargeable, under the Schedule.

### **Ways of collecting the duty**

- 7.(1) The duty due shall be collected, in accordance with the provisions of this Act; provided that collection of such duty shall be shown, on every instrument, by any of the following ways :-
- (a) placing the impressed, or prominent stamp;
  - (b) placing adhesive stamps;
  - (c) sending a list, or notification of the current account, after adding the value of the duty on the instrument , in such cases, as the Chamber may permit, and as to such conditions, as may be provided for;
  - (d) such devices, as may be validated, in lieu of stamps, by the permission of the Chamber.
- (2) Duty, on contracts and instruments, shall be collected, in accordance with the formalities thereof, regardless to the validity of the same, and the collected duty shall not be refunded, where it transpires that the instrument is of no legal effect, or the producer thereof does not obtain the purpose, for which the instrument has been produced.
- (3) Where an instrument is of several copies, there shall be due, on each copy of the instrument, the duty prescribed, under this Act, for the original, saving such cases, as the Secretary General may exclude.

## **Rounding off**

8. Upon collection of the proportionate stamp duty, fractions of a piastre which are not less than one half piastre shall be rounded off to one piastre, and any such fraction, as may be less than one half piastre shall be ignored.

## **Payment of duty**

9. A duty due on any instrument shall be paid; and there shall be shown there on
10. the occurrence of payment, by one of the ways, provided for in section 7.

## **Adhesive stamps**

- 10.(1) The Chamber shall prepare adhesive duty stamps of the various rates, and the regulations shall specify the forms, sizes and the colours thereof, and all such as may be required with respect thereto.
- (2) Adhesive stamps shall be sold, as the Secretary General may deem fit, by the Chamber, or any other body, as the Chamber may permit sale thereof, by a written permission, wherein there shall be shown the capacity of the seller, place of sale and the period of permission to such seller, and the body permitted to sell such stamps shall not sell the same, for a value less than their real value, and the Chamber may withdraw such permission, without expressing the reasons.

- (3) Whoever affixes an adhesive stamp shall effectively cancel the same, so that it cannot be used again; provided that any instrument, bearing an adhesive stamp which has not been properly cancelled, in accordance with the provisions of subsection (4), shall be deemed to be unstamped, and the stamp shall be deemed to be used, where any part thereof is not present, or is torn.
- (4) Adhesive stamps shall be cancelled, by writing the name of the cancelling person, the place and date of cancellation, by indelible ink, or copy pencil, on two lines covering the stamp, and transcending the same, from one side on the paper, or by a stamp bearing the date, and the name of the cancelling person, mixed with oily ink (stamp ink), in such way, as part thereof falls, on the stamp, and part of the same, upon the paper.<sup>4</sup>

### **Impressed stamps**

- 11.(1) Papers intended to be stamped shall be produced, to the Chamber, or the body authorized to stamp the same, by the Chamber, after being written, and in case of printed forms, they shall be produced after filling the spaces, signature and authentication; provided that the Department shall keep a copy thereof, where it deems the same necessary.
- (2) Every instrument, bearing an impressed stamp, shall be written, in such way, as the stamp may appear, on the written page .

- (3) No further instrument chargeable with duty, shall be written, on the paper stamped, in accordance with the provisions of Sub-section(2), other than an endorsement duly stamped, or not chargeable with duty, and relating to the transfer of any right, arising under, and evidenced, by the original instrument, or acknowledgement of receipt of any money, or any goods, for the security of payment, or delivery of which such instrument has been executed.
- (4) There shall be deemed unstamped every instrument written in contravention of the provisions of this Section.

### **Denoting the collection of duty**

12. Where the duty due, on an instrument, or the exemption therefrom, is consequential to the duty paid on another instrument, the first instrument shall be denoted with collection of such last duty, upon Submission of both instruments, to the Chamber, under an endorsement by the Chamber.

### **Time of stamping the instruments**

- 13.(1) Every instrument chargeable with duty executed in the Sudan, shall be stamped, at, or before the time of execution thereof.
- (2) Every instrument as aforesaid, executed outside the Sudan, other than a bill of exchange, cheque or promissory note, shall be stamped, within thirty days, of the time of first arrival thereof into the Sudan.

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<sup>4</sup> Act No.(40), 1974.

- (3) The first holder in the Sudan of any bill of exchange, cheque or promissory note, as may be withdrawn, or made outside the Sudan, shall affix thereto, and cancel, the proper stamp, before presenting the same, for acceptance, payment or negotiation in the Sudan.

### **Valuation of duty on instruments bearing value in foreign currency**

- 14.(1) Where an instrument is chargeable with advalorem duty, with respect to amounts expressed in foreign currency, the duty shall be calculated, on the basis of the value of such amounts in Sudanese currency, at such official rate of exchange, as the Bank of Sudan may specify, on the day of executing the instrument.<sup>5</sup>
- (2) Where an instrument is chargeable with advalorem duty, with respect to a marketable security, the duty shall be calculated, on the basis of the market price of such security, on the day of executing the instrument.
- (3) Where there has been provided, in the instrument itself, for the rate of exchange, or value, and it has accordingly been stamped, it shall be presumed, with respect to the subject of such provision, to have been duly stamped, until the contrary is proved.

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<sup>5</sup> Act No. (31) 2005.

## **Value of transactions provided for in the instrument**

- 15.(1) There shall be provided, in every instrument chargeable with duty, for the value of the transactions fully and accurately.
- (2) Where there has not been provided, in accordance with the provisions of Sub-section (1), for the real value of the transactions, the Chamber may specify the real value , or market value by itself, where calculation of the paid duty depends on specification of such value, and notify the person concerned of the specified value legally levied thereon.<sup>6</sup>
- (3) Appeals against the specified value shall be presented, to the Chamber, within one month, of the date of notification.

## **Obligation to pay duties**

- 16.(1) There shall be bound, to pay real expenses of the stamp, for every instrument, the person shown on Column III, of the Schedule, opposite such instrument, unless otherwise agreed.
- (2) The Chamber shall have the right to bind any person, who executes instruments chargeable with duty, and is not bound to pay the duty , as shown in Column III of the Schedule, to pay such duty, in advance to the Chamber, upon denoting such instruments; provided that they shall collect the same, after addition thereof to the value of the instrument, from the bound person.

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<sup>6</sup> Act No.(40) , 1974 .



## **Receipts and invoices**

- 17.(1) Every person, who receives an amount of money, or holds a bill of exchange, cheque or promissory note, of the value of 1 pounds  
500  
and more, shall give the person, who has made payment, or delivery, a receipt thereof, which is properly stamped.
- (2) Every person, who executes , or issues any of the instruments, set forth in the Schedule, shall produce, to the person in charge, or the Chamber, upon request, the required instrument properly stamped.<sup>7</sup>

### **Value of duty specified in case of doubt**

- 18.(1) Any person, who has doubt, as to the value of the duty, as set forth in the Schedule, and due on any instrument, whether executed, or non-executed and whether previously stamped, or unstamped, may present an application, for specifying the duty due on such instrument, in case of its being due.
- (2) The Chamber may require to be furnished with a summary of the instrument, and such evidence, as they may deem presentation thereof necessary, supported by oath or otherwise, to prove that all the facts having effect, on the instrument being chargeable with duty, or on the value of such duty, have been contained in such instrument, in a full and accurate way.

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<sup>7</sup> Act No. 40, 1974 .

- (3) Where the Chamber is of opinion, upon the aforesaid application, that the instrument is not chargeable with duty, they shall endorse a certificate thereon to this effect.
- (4) Where the Chamber is of opinion, upon the aforesaid application, that the instrument is chargeable with duty, they shall assess the total amount of the duty due for payment thereon; and upon payment of such amount, or any additional amount to the duty previously paid, to complete the total amount referred to, and the Chamber shall endorse a certificate on the instrument that it is the total duty due on the instrument, mention the amount and show that it has been paid .<sup>8</sup>
- (5) Any instrument, endorsed under this section, shall be deemed not chargeable with duty, or that it has been properly stamped, as the case may be; provided that no application, presented under this section, shall be considered in any of the following cases :-
- (a) any instrument, which has been executed, or executed primarily in the Sudan, more than one month, before the date of application;
  - (b) any instrument which is, after its execution, or execution primarily, outside the Sudan, and entered the Sudan, more than one month, before the date of application;
  - (c) any bill of exchange, cheque or money, which is drawn, or executed on an improperly stamped paper.

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<sup>8</sup> Act No. 40,1974..

## **Impounding of instruments**

- 19.(1) The Chamber, or any person authorized by law, or by the Secretary General, to receive instruments in evidence, and every public servant other than an officer, before whom an instrument is produced, shall impound such instrument, where he is of opinion that it is not duly stamped; provided that a magistrate, or any judge exercising criminal jurisdiction, shall not be bound to impound any instrument produced in the course of any criminal proceedings .
- (2) Where a receipt, which is not duly stamped is produced, in the course of the audit of any public account, the competent official, instead of impounding the instrument, may require a duly stamped receipt instead of the produced receipt.

## **Unduly stamped instruments inadmissible in evidence**

20. No person legally authorized, or authorized by the Secretary General, to receive instruments in evidence, shall admit, in evidence, any instrument chargeable, unless duly stamped, and such person, or any public servant shall not act upon, register, or authenticate it, provided that :-<sup>9</sup>
- (a) there shall be admissible, in evidence, any unduly stamped instrument, other than bills of exchange, a cheque or promissory note, whenever the duty thereon, or the balance of the duty thereon, is paid, together with

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<sup>9</sup> Act No.(40) 1974.

- a sanction of ten piastres, or tenfold the value of the paid amount, whichever of both sanctions is greater;
- (b) whenever the person is bound to deliver a stamped receipt, and gives an unstamped receipt, such receipt shall be admissible in evidence against him, where the person producing such receipt pays a sanction of 1 pounds; 1000
  - (c) unduly stamped instruments shall be admissible in evidence, with respect to any criminal proceedings;
  - (d) such instruments, as may be executed by, or in the name of the Government, or executed by a local council, or any other body, owned, or controlled by the Government, as the Secretary General may show, shall be admissible in evidence, with respect to any proceedings;
  - (e) there shall be admissible, in evidence, such instruments, as may be endorsed with a certificate, under the provisions of this Act, with respect to any proceedings.

### **Dealing with impounded instruments**

- 21.(1) (a) Where the instrument has been admitted in evidence, after payment of the sanction, under the provisions of impounded (a), or (b) of section 20, the person, who has impounded them shall Send a facsimile copy thereof, to the Chamber, accompanied by the value of the duty and sanction, collected thereon;

- (b) in any other case the person, who has impounded the instrument shall send the same instrument to the Chamber.
- (2) The Chamber, upon receipt thereby, of any impounded instrument, other than a cheque, a bill of exchange or a promissory note, as may be sent thereto under paragraph (a) of sub-Section (1), shall examine such instrument and conduct the following, either :-
- (a) certify, by endorsement thereon, that it is not chargeable with duty; or
  - (b) require the person bound thereby, to pay a sanction of one piaster,, or tenfold the value of the paid amount, whichever is greater; provided that the Chamber, where they deem that the person repeats his act, may increase the sanction, to be 2000 pounds (two thousand pounds) as a maximum, or tenfold the paid amount whichever is greater.<sup>10</sup>

### **Collection of duty by instituting a suit**

22.(1) Where the duty and sanction are not paid at the fixed date, the Secretary General may institute a civil suit, in his official capacity, to collect the required amount as a debt due to the Government.

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<sup>10</sup> Act No.(40), 1974.

- (2) In any suit under the provisions of this Section, production of a certificate signed by the Secretary General, containing the name and address of the defendant, and the value of the duty and sanction due, shall be sufficient evidence that such duty and sanction are due from such person, and sufficient authority for the court to pass its judgement for such amount.

### **Collection by distraint**

- 23.(1) In any case in which the duty, or sanction is due for collection, as shown in Section 22, the Chamber may, instead of suing for the said amount, issue a warrant under his hand to any official to distraint the goods, and chattels in possession of the person, and also any other possessions thereof, including his balances deposited with banks; provided that where the full value of the duty and sanction due has not been collected by such distraint, the Secretary General may forthwith collect the deficit as shown in Section <sup>22</sup>.
- (2) The person authorized by the Secretary General may break open, accompanied by such servants and agents, as he may deem their presence necessary, any places during work hours, and such person may require any police officer to be present at the fixed time and place, and the officer required to be present shall comply with such requirements.
- (3) The distraint levied by the authorized person, under such warrant shall remain for ten days, either at the place where the distraint has been levied, or any other place, as the authorized person, under such warrant, may deem fit, at the cost of the

person from whom the sanction, or duty is required to be collected .

- (4) Where the person, from whom the duty, or sanction is required to be collected does not pay the duty, or sanction, together with the costs of distraint, within the said ten days, the distrained goods and chattels shall be sold by auction, in satisfaction of the amount due and the costs; and the proceeds of sale shall be applied first towards the costs of taking, keeping and sale of such goods and chattels, then towards payment of the amount due, and thereafter any surplus arising from the proceeds of sale, shall be restored to the owner of the goods and chattels distrained.

### **Exemption of sanction on instrument not duly stamped due to mistake**

24. Where any person produces, to the Chamber, an instrument not duly stamped, within one year, of the date of its execution, or the date of validity thereof, whichever is earlier, and expresses his readiness to pay the duty, or balance of the duty due thereon, and proves, to the Chamber , that non-stamping such instrument is by reason of mistake, the Chamber may accept, from him, payment of the aforesaid, in satisfaction of the duty, and waive the sanction.

## **Endorsement of instruments on which duty is paid**

- 25.(1) Whenever the duty, or any sanction payable on any instrument, under the provisions of this Act, has been paid, the Chamber shall certify by endorsement that the duty, or sanction, in case of its being due, has been paid, together with specifying both of them.
- (2) Where the instrument endorsed as aforesaid is distrained, it shall be returned to the person, who produces the same, by the official, who has distrained it.<sup>11</sup>

### **Payment of sanction no bar to trial**

26. Payment of the sanction, under this Act shall not bar trial of any person, who has committed an offence in contravention of the provisions of this Act.

### **Recovery of duty from person liable**

27. The person, who pays any duty, or sanction, under the provisions of this Act, may recover what he has paid, where he himself is not primarily liable therefor, from the person so liable, under the provisions of section 16.<sup>12</sup>
28. Repealed

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<sup>11</sup> Act No.(40), 1974.

<sup>12</sup> Ibid.



## **Admission to entertainment after payment of duties**

29. Save as expressly provided for in this Act, no proprietor of any entertainment place shall admit any person into any part of the entertainment place, other than one who is assigned with work connected with the place of entertainment, or legally assigned with work therein, save after payment of the stamp duty, which has to be paid to the Government, as to such manner, as the Secretary General may prescribe.

### **Admission tickets stamped**

30. Every proprietor of an entertainment place shall satisfy the stamp duty levied on ticket in every place of entertainment, before selling the same, as the Chamber may specify, and also cancel it, before admitting the holder of ticket, in any part of the entertainment place.

### **Information to be submitted by**

#### **Entertainment place proprietor**

31. Whoever holds an entertainment place, after the coming into force of this Act, wherever it may be held, shall present, to the Chamber, a statement containing the following information one week at least, before the date of the party :-
- (a) the name, nationality and place of permanent residence of the holder;
  - (b) the address of the place wherein the entertainment is intended to be held;

- (c) the date and time of holding the entertainment;
- (d) the entrance fee and the maximum number of seats;
- (e) any other information, as the Chamber may specify.

## **Chapter III**

### **Appeal, Revision and Reference**

32.(1) A person aggrieved by the assessment issued by the Chamber, may present an appeal, to the Secretary General , against such assessment, as to the following conditions :-

- (a) the aggrieved person shall present his appeal, within two months, of the issue of assessment;
- (b) the appeal shall be written and such appeal shall not be valid, where it does not contain clear and reasonable grounds;
- (c) the aggrieved person shall pay 25% of the assessed amount, or as the Secretary General may deem fit.

(2) The decision of the Secretary General on the grievance shall be final.

### **Reference from the Stamp Administration to the Secretary General**

33. Where the Stamp Administration is doubtful, as to duty due for payment, on any instrument sent thereto, under Section 21(1),

it may refer the subject, to the Secretary General, to determine the same.

### **Revision**

- 34.(1) Any person, aggrieved by the decision of the Secretary General, may present thereto an application for revision of the decision, within one month, of the date of the decision.
- (2) The Chamber, pending the issue of the final judgement of assessment, shall be entitled to collect the duty, on the basis of the assessment, plus any delay sanction, or fine.

### **Reference by the Secretary General to courts**

35. The Secretary General may refer, to the competent court, any subject referred thereto for determination, as he may deem that it is inconsistent with the law, or order the formation of a competent committee, for grievances, to determine the matters relating to collection of stamp duties.

### **Printing of any instrument chargeable with duty prohibited**

36. The Secretary General may specify, from among the instruments chargeable with duty, under the provisions of this Act, the instruments which shall not be printed, save after his consent; and he may print any of the instruments set out in the Schedule and sell the same, to the public , at such price, as he may specify.<sup>13</sup>

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<sup>13</sup> Act No.(40), 1974.

## **Exemption**

37. The Secretary General, or whoever he may authorize, may by an order to be issued thereby, exempt any instrument, on which the stamp duty is levied, under the provisions of this Act, from, or reduce such duty.

## **Duty refunded**

- 38.(1) The Secretary General , upon a written application, presented within three months, of the date of payment, may refund any duty, or sanction paid, under the provisions of this Act in whole, or in part or refund part thereof, upon a memorandum from the competent official.
- (2) Subject to the provisions of Sub-section (1), the Secretary General may , upon a written application, refund any amount paid on any instrument as may have been cancelled, or in which there is what may avoid the validity thereof, for the purpose for which it has been executed, within one month, of the date of stamping the same.
- (3) Every person, who has used, by way of mistake, or as a result of inattention without negligence, or ill will on his part, a stamp, or a stamp seal shall be entitled to apply for the refund of its value from the Chamber, within a maximum period of two months, of the date of affixing the stamps, pressing the seal, or the date of executing the instrument, whichever is earlier .
- (4) The Secretary General may refund the value of defective stamps, or used by mistake, whether they are impressed, or adhesive, in kind, or in cash, after deduction any amount, as

he may deem fit, from the value of the defective, or used stamps.

- (5) The Secretary General shall be entitled to reject any application presented for the refund of the value of stamps used by way of mistake, or defective stamps, without expressing reasons, and his decision shall be final.

## **Chapter IV**

### **Miscellaneous Provisions**

#### **Information presented to the Chamber mandatory**

39. Every person, including the Government, shall :-
- (a) keep in his custody the books, records and other instruments, relating to payment of stamp duty;
  - (b) respond to whatever the Chamber may require of him, by presenting thereto, any information on any thing they inquire about, with respect to stamp duty, and also produce any books, records or otherwise, as may be in his custody and prove that he complies with the provisions of this Act;
  - (c) present all the necessary facilities, to the Chamber, upon exercise thereby, of the powers thereof, under the provisions of this Act.

## **Entry of places and perusal of documents**

- 40.(1) Every person, who is subject to the provisions of this Act, shall enable any stamp official from the Chamber, to enter his shop, at any time in the course of performing his duty, and peruse any account, books, lists of revenues or any other documents, and such person shall present any information required by such official from him, to help him perform his duty.
- (2) Any official belonging to the Chamber, upon his entry of the place of the person subject to the provisions of this Act, may impound any accounts, books, lists of revenues or documents, for any reasonable period to examine the same.
- (3) The Secretary General may require any person subject to the provisions of this Act, by a written notice, to appear at the time and place set forth in such notice, for the purpose of questioning him, with respect to implementation of the provisions of this Act, or any other matters relating thereto.

## **Assessment**

- 41.(1) The Secretary General, or whoever he may authorize may, upon detecting unduly stamped instruments, summarily assess such instruments, as to such bases, as he may deem fit, and bind the executor thereof, to pay the stamp duty due thereon.
- (2) Subject to the provisions of Sub-section (1), the Secretary General, or whoever he may authorize, may summarily assess the duty, where he deems that the accounts books, or

invoices do not show the real collected duty, or where the duty is not paid, after the period specified, in accordance with the provisions of Section 43 hereof.

### **Language of the instrument**

42. Every instrument chargeable with duty shall be written in the Arabic, or English language, or there shall be annexed thereto a translation, into Arabic, or English, approved by the Chamber.

### **Delay in depositing to Government of duty collected**

43. There shall be punished, with imprisonment, for a term , not exceeding six months, or with such fine, as the court may specify, every person, who collects, on behalf of the Government, the duty, or sanction and transfers the same, to his personal benefit, or the benefit of any other person, or delays its deposit, thereof to the Government, for a maximum period of fifteen days, of the date of receipt thereof.<sup>14</sup>

### **Sanction for production of unstamped instruments**

- 44.(1) There shall be deemed, to have committed an offence, every person who draws, executes, issues, endorses, transfers or signs in a capacity other than a witness, or presents for acceptance, payment, or accepts, pays, receives, accepts to

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<sup>14</sup> Act No. 2, 1992 .

pay, receive, be paid or transfer, note by any way, a bill of exchange, cheque or promissory note as may not be stamped, or executes, or signs in a capacity other than a witness any other instrument chargeable with duty, and not duly stamped, and be punished, with such fine, as the court may specify; provided that there shall be deducted, from such fine, the amount of any sanction, which is paid by any person.<sup>15</sup>

- (2) There shall be deemed, to have committed an offence, and be punished with such fine, as the court may specify, every company, which issues a share instrument, which is unduly stamped.<sup>16</sup>

### **Omission to cancel an adhesive stamp**

45. There shall be deemed, to have committed an offence, every person, to whom a stamped instrument is produced, and omits to cancel such adhesive stamp, and be punished, with such fine, as the court may specify.<sup>17</sup>

### **Omission to state the facts of the instrument**

46. There shall be deemed, to have committed an offence, every person who prepares, or executes any instrument, not containing accurately all the facts having effect on the duty

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<sup>15</sup> . Act No.2, 1992.

<sup>16</sup> *ibid.*

<sup>17</sup> *Ibid.*



being due, or the amount thereof, with intent to deprive the Government of the duty, and be punished, with such fine, as the court may specify.<sup>18</sup>

### **Omission to give a proper receipt**

47. There shall be deemed, to have committed an offence, every person, who omits to give such receipt, as he may be required to give, or gives, with intent to deprive the Government of the duty , a receipt for a value lower than the real value, or separate receipts, for various parts of one amount, and be punished, with such fine, as the court may specify.<sup>19</sup>

### **Offences in contravention of Sections 30, 31, 40 and 41**

48. Every person, who contravenes the provisions of Sections 30, 31, 40 and 41, or damages any book, record , stock or document as mentioned in Section 40 shall be punished, with imprisonment, for a term, not exceeding six months, or with such fine, as the court may specify, or with both; and in case of his delay in payment of the duty, as a result of contravention of the provisions of Section 41, shall be punished, with such additional fine, as the court may specify, for every day in which the contravention continues.<sup>20</sup>

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<sup>18</sup> Ibid.

<sup>19</sup> Act No.2, 1992

<sup>20</sup> Ibid.

## **Offences relating to bills of exchange .....etc.**

49. There shall be deemed, to have committed an offence, every person who :- <sup>21</sup>
- (a) draws, or executes any bill of exchange, or promissory note bearing a date subsequent to the actual date, at which the bill of exchange, or promissory note has been drawn, or executed, with intent to deprive the Government of the duty;
  - (b) knows that the date of such bill of exchange, or promissory note is subsequent to drawing, or execution, and notwithstanding the same endorses, negotiates, presents for acceptance, or payment, or accepting any of them, paying the value, or negotiating the same to any body, and shall be punished by paying a fine specified by the court such fine, as the court may specify.

## **Means of depriving the Government of the duty**

50. There shall be deemed, to have committed an offence, every person, who makes use of any mean, as may not have herein before been specified, with intent to deprive the Government of the duty, which he is duly bound to pay, or contravenes any of the provisions of this Act, and not expressly provided for a penalty therefor, and be punished, with such fine, as the court may specify.<sup>22</sup>

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<sup>21</sup>Ibid.

<sup>22</sup> Act No. 2, 1992.

## **Accomplices**

51. There shall be deemed, an accomplice in the committing of any offence, in contravention of the provisions of this Act, every person, who signs, accepts or uses a contract, or other instrument, as may be set out in the Schedule, and to whom the provisions of this Act apply, and has reason to believe that the stamp duty of such contract, or instrument is not paid, in accordance with the provisions of this Act, and be punished, with the penalty prescribed for the person committing such offence.

### **Penalty under this Chapter not to preclude collection of the duty**

52. No penalty inflicted, under the provisions of this Chapter, shall preclude collection of the stamp duty, or any sanctions levied by this Act.

### **Approval of the Secretary General to take criminal proceedings**

53. The Stamp Administration may not recourse to take criminal proceedings, save after approval of the Secretary General .

## **Power to amend the Schedule**

54. The Minister may amend the Schedule annexed hereto, by an order to be published in the Gazette. <sup>23</sup>

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<sup>23</sup> Act No. 100, 1990 .

