

LEGAL NOTICE No. 151

STAMP DUTY ACT

(Cap. 408)

**THE STAMP DUTY (VALUATION OF IMMOVABLE PROPERTY)
REGULATIONS, 2020**

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STAMP DUTY ACT

(Cap. 408)

IN EXERCISE of the powers conferred by section 119 of the Stamp Duty Act, the Cabinet Secretary for the National Treasury and Planning makes the following Regulations—

THE STAMP DUTY (VALUATION OF IMMOVABLE PROPERTY) REGULATIONS, 2020

1. These Regulations may be cited as the Stamp Duty (Valuation of Immovable Property) Regulations, 2020. Citation.

2. In these Regulations, unless the context otherwise requires— Interpretation.

“appointed valuer” means a private valuer appointed by the Chief Government Valuer under section 10A of the Act;

“immovable property” includes land, whether covered by water or not, any estate, right, intestate or easement on or over any land, and things attached to the earth or permanently fastened to anything attached to the earth;

“registered valuer” means a person whose name is for the time being entered in the register;

“register” means the register kept and maintained under section 6 (1) of the Valuers Act;

“transferee” means a person who receives immovable property through a transfer;

“market value” means the estimated value for which an immovable property should exchange on the date of its valuation between a willing buyer and willing seller in an arm’s length transaction; and

“Valuers Registration Board” means the Valuers Registration Board established under section 3 (1) of the Valuers Act.

3. (1) A person who wishes to be appointed a private valuer shall apply in writing to the Chief Government Valuer in the prescribed form. Appointment of private valuers.

(2) An applicant under paragraph (1) shall satisfy the following conditions—

(a) the applicant shall be registered in accordance with the Valuers Act;

(b) the applicant shall provide proof of a physical office address; and

- (c) the applicant shall provide a valid tax compliance certificate issued under the Tax Procedures Act, 2015.

(3) The Chief Government Valuer shall approve or reject the application within thirty days from the date of receipt thereof and notify the applicant of the decision in writing.

(4) Where the Chief Government Valuer rejects an application, the reasons thereof shall be specified in the notification given under paragraph (3).

(5) The Chief Government Valuer shall keep and maintain a list of appointed valuers appointed under these Regulations.

(6) An appointment of an appointed valuer under these Regulations shall be valid for a period of three years from the date of the appointment:

Provided that the appointment shall automatically cease where a valuer appointed under these Regulations ceases to comply with the provisions of paragraph (2).

(7) An appointed valuer whose appointment lapses on the expiry of the period specified in paragraph (6) may apply for reappointment in accordance with this regulation.

4. (1) A transferee of immovable property or the transferee's authorised representative shall apply to the Chief Government Valuer in writing for a valuation of the property.

Valuer to conduct valuation.

(2) The Chief Government Valuer may, if the transferee so elects, assign the application under paragraph (1) to a Government Valuer or an appointed valuer.

(3) Where the transferee elects to have the valuation of the property conducted by an appointed valuer, the Chief Government Valuer shall—

- (a) assign the valuation to an appointed valuer from the list kept and maintained under regulation 3 (5); and
- (b) within seven working days of the transferee's decision, notify the transferee of the name of the appointed valuer.

(4) The transferee shall bear the costs of the valuation where he or she elects to have the valuation conducted by an appointed valuer.

(5) The Government Valuer or appointed valuer shall submit a valuation report on the property within twenty-one days of the election by the transferee under paragraph (2) or, in the case of a valuation by an appointed valuer, immediately after payment has been made to him or her by the transferee.

5. (1) The Government Valuer or appointed valuer shall, on completion of a valuation, submit to the Chief Government Valuer a valuation report on immovable property transferred to a transferee which shall be accompanied by the following documents—

Valuation report.

- (a) a copy of the cadastral map indicating the location of the immovable property;
- (b) a copy of the title to the immovable property;
- (c) the Personal Identification Number (PIN) of the transferee issued under the Tax Procedures Act, 2015; and
- (d) any other relevant documents relating to the immovable property.

(2) The valuation report submitted under paragraph (1) shall include the following information—

- (a) the names and addresses of the registered owners of the immovable property;
- (b) the location of the immovable property;
- (c) the land reference number or land title number of the immovable property;
- (d) the tenure of the immovable property;
- (e) the details of the immovable property;
- (f) the valuation methodology used by the valuer;
- (g) the basis for the valuation of the immovable property;
- (h) the market value of the immovable property;
- (i) the date of the valuation of the immovable property;
- (j) any other relevant information obtained by the valuer during the valuation of the immovable property; and
- (k) the signature and seal of the valuer.

(3) The Chief Government Valuer shall review the valuation report on the immovable property and, if in agreement, approve the report.

(4) Where the Chief Government Valuer approves the valuation report, he shall notify the transferee and the Collector of Stamp Duty in writing of the approved market value of the property and the stamp duty payable thereon.

(5) Where the Chief Government Valuer so determines that a valuation report is deficient in any respect, he or she may revise the valuation report and notify in writing the valuer who conducted the valuation of the revision.

6. The Chief Government Valuer shall, with respect to a valuation conducted under these Regulations—

Monitoring and audit assessments of valuation services.

- (a) monitor the standard of valuation services offered by the valuer; and
- (b) conduct audit assessments of compliance with procedural and other requirements under the Act by the valuer.

7. Where a valuation of an immovable property is conducted under these Regulations, the value assigned to the property shall be its value on the date of the conveyance or transfer of the property.

Value of an immovable property.

8. A valuation report submitted under regulation 5 shall be valid for a period of twelve months from the date of the approval of the report by the Chief Government Valuer.

Validity of valuation report.

9. (1) A person aggrieved by the valuation of an immovable property under these Regulations may lodge an objection in writing to the Chief Government Valuer.

Objections.

(2) An objection under paragraph (1) shall state—

- (a) the grounds on which the objection is made; and
- (b) the value of the immovable property that person lodging the objection contends is the correct value of the immovable property.

(3) An objection under this regulation shall only be lodged by the person liable to pay the stamp duty in respect of the immovable property being transferred.

(4) An objection under this regulation shall be deemed to have been lodged at the time it is received by the Chief Government Valuer.

(5) The Chief Government Valuer shall, within twenty-one days of receiving an objection under this regulation—

- (a) dismiss the objection if he or she considers that an adjustment in the valuation of the immovable property is not justified; or
- (b) adjust the valuation of the immovable property if he or she considers that the adjustment is justified.

(6) The Chief Government Valuer shall notify the person who lodged the objection of the decision in writing, specifying the reasons for the decision.

10. An objection under regulation 9 shall be limited to the following matters—

Grounds for objection.

- (a) the value assigned to the immovable property;
- (b) the apportionment of the area, dimensions or description of the immovable property;
- (c) that the immovable property that should have been included in the valuation has been valued separately;
- (d) that the immovable property that should have been valued separately has been included in the valuation; or
- (e) the person named in the report is not the true transferee of the immovable property.

11. An objection under regulation 9 shall be lodged with the Chief Government Valuer within twenty-one days from the date the transferee receives written notification of the approved market value of the immovable property.

Time for lodging objection.

12. (1) The Chief Government Valuer may allow an application for extension of time to lodge an objection if the transferee was unable to lodge the objection within the period specified in regulation 11 on the grounds of being outside Kenya, sickness or other reasonable cause.

Objections lodged out of time.

(2) An extension granted under paragraph (1) shall not be for a period exceeding one year from the date of notification of the approved value of the immovable property.

(3) The Chief Government Valuer may allow an extension of time to lodge an objection with or without conditions.

(4) The Chief Government Valuer shall notify in writing the aggrieved party of the rejection of extension of time to lodge an objection and specify the reasons for the rejection in the notification.

13. An aggrieved person who has lodged an objection under regulation 9 may withdraw the objection by notice in writing to the Chief Government Valuer.

Withdrawal of objection.

14. Where a valuer commits professional malpractice in the course of rendering services under this Act, the person alleging the malpractice may report the matter to the Valuers Registration Board and, in case the malpractice is proven, the relevant sanctions specified in the Valuers Act shall apply.

Professional malpractice.

15. The Chief Government Valuer shall revoke the appointment of an appointed valuer if that valuer commits an offence under section 113 of the Act or ceases to satisfy the conditions specified in regulation 3 (2).

Revocation of appointment.

16. (1) Valuation fees and other expenses relating to the valuation of an immovable property under these Regulations shall be payable to the appointed valuer conducting the valuation.

Valuation fees and other expenses.

(2) The valuation fees and other expenses payable under paragraph (1) shall be charged in accordance with the provisions of the Valuers Act.

(3) The valuation fees and other expenses payable under paragraph (1) shall be paid by the transferee.

17. A person required to submit or lodge an application, notice, statement, report or other document with the Chief Government Valuer under these Regulations shall do so electronically unless authorised in writing by the Chief Government Valuer to submit or lodge the document in any other manner.

Submission of documents to Chief Government Valuer.

18. A notice or other document required to be served on or given to a person by the Chief Government Valuer under these Regulations may be served or given to that person by—

Notices by the Chief Government Valuer.

- (a) delivering it to the person or the person's representative;
- (b) leaving it at, or sending it by registered post, to the person's last known place of business or residence; or
- (c) transmitting it in electronic form.

Made on the 14th July, 2020.

UKUR YATANI,
Cabinet Secretary for National Treasury and Planning.