

Understanding the Stamp Duties Act: A Guide to Offences and Penalties

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Stamp duties are indirect taxes/charges for a stamp or seal applied on a written or electronic document which if executed, makes it a legal document and will be admissible in any court of law. These taxes are imposed on various types of documents including but are not limited to sale of land agreements, tenancy agreements, contracts, and documents such as cheques, letters, promissory notes, certificates of admission, and insurance policies etc. These taxes are usually paid to the Federal Inland Revenue Services at the federal level and by the State Internal Revenue Services at the state level.

The Stamp Duties Act ("SDA" or "Act")¹, which governs the administration of stamp duties in Nigeria, is one of Nigeria's oldest Acts, and has been significantly shaped by amendments through various Finance Acts. One peculiarity with the SDA is its approach to listing offences and penalties. Unlike other laws where offences and penalties are neatly categorized, the SDA integrates them throughout the Act.

Despite this, it primarily imposes monetary penalties for offences, which generally range from ₦20 (Twenty Naira) to ₦100 (One Hundred Naira), rather than terms of imprisonment found in other statutes. This article aims to outline the primary offences and penalties as specified in the amended SDA and to provide an overview of the general rates for stamp duties.

1. **Handling Adhesive Stamps Incorrectly (Section 13 of the SDA):** This provision addresses the misuse of adhesive stamps, a critical component in the validation of documents. If an individual engages in fraudulent activities, such as removing an adhesive stamp from one document to use on another, selling, or offering for sale a previously used adhesive stamp, they are committing a serious offence. The law is clear on the consequences: a conviction leads to a fine of ₦100 (One Hundred Naira).
2. **Dual Assessment of Same Document by Commissioners (Section 20 of the SDA):** The Act prohibits the scenario where two commissioners of Stamp Duty independently assess the same instrument, whether motivated by personal gain or other reasons. The offender shall be guilty of an offence and liable on conviction to a fine of ₦20 (Twenty Naira).

¹ Cap S8 Laws of the Federation Nigeria, 2004 (as amended)

3. **Failure to Properly Stamp Documents Ad Valorem (Section 23 (3) of the SDA):** This section mandates that all instruments subject to ad valorem duty—a tax based on the value of the document—must be properly stamped within 30 days from their first execution. Failure to comply with this requirement not only undermines the tax system but also renders the document legally vulnerable. Neglecting to do so, results in a fine of ₦20 (Twenty Naira) alongside any other penalties the Act may impose.
4. **Denying Access for Inspection (Section 25 of the SDA):** This section provides that any person who has in his possession any instrument chargeable with stamp duty, has an obligation to allow authorized inspectors to examine the document to ensure compliance with the Act. Denying or obstructing this access undermines the enforcement of the law. Such refusal is met with a penalty of ₦20 (Twenty Naira).
5. **Registering Unstamped Documents (Section 25 of the SDA):** The act of enrolling, registering, or entering any dutiable instrument into official records without the proper stamp is a clear violation of the SDA. This requirement ensures that all formal documents have undergone the necessary duty assessments. Offenders face a fine of ₦20, reinforcing the necessity of stamp duty compliance before official recognition of documents.
6. **Offences By Appraiser (Section 32 of the SDA):** Appraisers play a crucial role in valuing items for stamp duties. This section highlights two main offences:
 - Failure of an appraiser to write out or duly stamp any appraisal or valuation within 14 days is an offence, with a penalty of ₦100. This ensures appraisals are promptly and properly documented and taxed.
 - Individuals who receive or make payments for an appraisal or valuation without it being properly written out or stamped commit an offence and are liable to a fine of ₦40. This provision aims to maintain the integrity of financial transactions involving appraisals.
7. **Issuing Bank Notes in Nigeria (Section 35 of the SDA):** This section deals with the regulation of currency issuance. Any banker who issues bank notes in Nigeria without adhering to the proper legal procedures commits an offence and faces a penalty of ₦200. This provision is crucial for maintaining the integrity and stability of the national currency.

8. **Penalty for Issuing Unstamped Bill or Note (Section 42 of the SDA):** Issuing or dealing with unstamped financial instruments, such as bills or notes, results in a fine of ₦20. Moreover, the receiver of such an unstamped instrument loses the legal right to recover it.
9. **Offence for Unstamped Bills of Lading (Section 44 of the SDA):** A bill of lading, a vital document in shipping transactions, must be stamped to be legally valid. Failing to stamp a bill of lading incurs a fine of ₦100, ensuring that shipping and trade practices comply with tax laws.
10. **Obligation to Execute a Contract Note (Section 50 of the SDA):** In certain transactions, executing a contract note is legally required. Neglecting to execute or sign such a note as specified results in a ₦40 fine.
11. **Penalty for Issues with Insurance Policies (Section 87 of the SDA):** Creating an insurance policy without proper stamping, or failing to make out a policy at all, is an offence punishable by a ₦40 fine. This ensures that insurance contracts are duly recorded and taxed, upholding the legal and financial standards of insurance transactions.
12. **Offences in Reference to Receipts (Section 92 of the SDA):** Giving a receipt that is either not stamped or improperly stamped, or refusing to stamp a receipt that is liable for duty, attracts a ₦20 fine. This regulation ensures that receipts, as proof of transaction, comply with stamp duty requirements, aiding in tax collection and legal documentation.
13. **Issuing Share Warrant Not Duly Stamped (Section 96 of the SDA):** Companies and their officers (including managing directors, secretaries, or other principal officers) issuing share warrants without the proper stamp duty face a ₦100 fine. This provision ensures that share transactions are properly documented and taxed.
14. **Neglecting to Cancel Stock Certificate Upon Registration (Section 98 of the SDA):** Issuing a stock certificate without it being duly stamped, or failing to cancel such a certificate upon registration, results in a ₦100 (One Hundred Naira) fine. This rule is designed to maintain the integrity of stock transactions and the accuracy of company records.

Supporting Businesses in Navigating Stamp Duty Regulations

As businesses strive to remain compliant with evolving tax laws, understanding the provisions of the Stamp Duties Act (SDA) is key. While the penalties stipulated by the SDA for non-compliance may seem minimal and potentially outdated given the economic advancements over the years,

adhering to these regulations is essential not just from a financial standpoint but also for maintaining a company's integrity and reputation.

At SimmonsCooper Partners, our commitment goes beyond the mere interpretation of these regulations. Our approach is designed to deepen understanding, promote a culture of compliance, and uphold ethical business practices within the tax framework. In a time when fiscal responsibility and corporate accountability are under heightened scrutiny, our expert guidance is indispensable for individuals and businesses aiming to manage risks and successfully navigate the complexities of tax compliance. To further discuss your tax strategies or compliance, please reach out to - *Samuel Oyenitun*: samuel.oyenitun@scp-law.com; *Paul Ordam*: paul.ordam@scp-law.com.