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**A CONSOLIDATED VERSION OF
THE LAND (DUTIES AND TAXES) ACT 1984
(as at 22 August 2007)
(Act No. 17 of 2007)**

[Amended 56/85, 62/85, GN 109/85, 4/86, 19/86, 4/87, GN 24/87, 15/88, 20/88, 22/89, 28/90, 30/90, 17/91, 23/92, P 19/93, 23/93, 25/93, 25/94, 17/95, 13/96, 9/97, 10/98, 18/99, 25/2000, 14/2001, 23/2001, 20/2002, 17/2003, 18/2003, 28/2004, 14/2005, 15/2006, 17/2007]

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An Act

To amend and consolidate various Acts relating to the levy of duties and taxes in respect of immovable property

ENACTED by the Parliament of Mauritius, as follows -

PART I - PRELIMINARY

1. Short title

This Act may be cited as the Land (Duties and Taxes) Act 1984.

2. Interpretation

In this Act -

"consideration" means value in money or money's worth;

"Committee" means the Assessment Review Committee set up under section 8E of the Unified Revenue Act 1983;

"deed of transfer" -

- (i) "deed of transfer" means a deed witnessing the transfer of property for consideration or by way of donation, and includes -
 - (a) a deed witnessing a compulsory acquisition under the Land Acquisition Act;
 - (b) a deed (*acte de désintéressement*) by which a partner withdraws from a partnership without taking back the property (*apport*) which he originally brought into the partnership;
 - (c) a deed witnessing that property owned by a company is, on the winding up, liquidation or dissolution of the company or in any other manner, attributed to a shareholder of the company irrespective of the date on which such attribution takes place;
 - (d) a deed witnessing that property brought by way of an *apport* by a partner in a partnership either prior to its constitution and registration or thereafter is, on dissolution of the partnership or in any other manner, attributed to any person other than the one who brought that property into the partnership;
 - (e) a deed by which a purchaser of any property declares that he has purchased the property on behalf of another person and in the name of that person with money belonging to and provided by that person;

- (f) an instrument witnessing the distribution of a trust property by a trustee under the terms of a trust to a beneficiary other than a distribution to a beneficiary who is a heir or successor of the settlor;
- (g) a deed witnessing the transfer of an immovable property by way of *constatation par acte authentique de l'achèvement de l'immeuble* referred to in *Article 1601-2*, or by way of a *vente en l'état futur d'achèvement* under *Article 1601-3*, of the Code Civil Mauricien;
- (h) a deed by which a partner withdraws (*se désintéresse*) from a partnership owning property, or entitled to property either directly or indirectly by the constitution of successive partnerships, which another partner previously joined;
- (i) a deed witnessing that property acquired by a partnership either prior to its constitution and registration or thereafter is, on dissolution of the partnership or in any other manner, attributed to a person who became a partner of the partnership after the date of such acquisition unless that person has already paid tax under this Act and duty under the Registration Duty Act when he became partner in the partnership;
- (j) a transaction under article 2044 of the Code Civil Mauricien where property other than that in dispute is transferred;
- (k) a deed witnessing the transfer of an immovable property to a company holding a letter of approval for the implementation of a project under the Real Estate Development Scheme prescribed under the Investment Promotion Act, where the transferor holds shares in the company, the value of which is less than the value of the immovable property transferred. [*Repealed & replaced 17/2007*]

“infrastructure works” [*Repealed 15/2006*]

"Minister" means the Minister to whom responsibility for the subject of finance is assigned;

“morcellement” [*Repealed 15/2006*]

"open market value" means the value which a property might reasonably be expected to realise if sold on the open market by a prudent vendor;

"property" -

- (a) means any freehold or leasehold immovable property or any right or interest in any freehold or leasehold immovable property;

(b) includes -

- (i) any share in a partnership which owns any freehold or leasehold immovable property, any right or interest in any freehold or leasehold immovable property, any share in a partnership which itself reckons directly among its assets any freehold or leasehold immovable property or any right or interest in any freehold or leasehold immovable property or is indirectly entitled by the constitution of successive partnerships to such property;
- (ii) any freehold or leasehold immovable property brought into a partnership by a person who withdraws (se desinteresse) from the partnership without taking back the property (apport) which he originally brought into the partnership;
- (iii) any freehold or leasehold immovable property owned by a company which is attributed, on winding up, liquidation or dissolution of the company or in any other manner, to a shareholder of the company;
- (iv) any freehold or leasehold immovable property brought by way of an “apport” by a partner in a partnership either prior to its constitution and registration or thereafter is, on dissolution of the partnership or in any other manner, attributed to any person other than the one who brought that property into the partnership;
- (v) property transferred to a company holding a letter of approval for the implementation of a project under the Real Estate Development Scheme prescribed under the Investment Promotion Act, in respect of the difference in value of the property transferred and the value of the shares held in the company holding such letter of approval; *[Repealed & replaced 17/2007]*
- (vi) any freehold or leasehold immovable property distributed by a trustee under the terms of a trust to any beneficiary of that trust;

"stated amount" means the amount specified in a notice served by the Registrar-General under section 28;

"tax" -

- (a) means the tax payable under Parts III, Part V, Part VI and VIA;
- (b) includes any surcharge on tax and penalty or interest imposed under this Act;

"transaction" means any operation creating, transferring or extinguishing a right or obligation;

"transferor" includes -

- (a) the lessee of an immovable property;
- (b) in the case of an exchange, any party who transfers property;
- (c) in the case of a dissolution of a partnership, the party who brought the property into the partnership or his heirs and assigns;
- (d) in the case of any person withdrawing as a partner from a partnership, the person who so withdraws (*se desinteresse*) without taking back the property which he originally brought into the partnership;
- (e) in the case of a company the property of which is on winding up, liquidation or dissolution or in any other manner attributed to any of its shareholders, the company;
- (f) the purchaser of any property who declares that he has purchased the property on behalf of another person with money belonging to and provided by that person;
- (g) in the case of a distribution of a property by a trustee to a beneficiary under the terms of a trust other than a distribution to a beneficiary who is a heir or successor of the settlor, the settlor;
- (h) the partner who withdraws (*se désintéresse*) from a partnership owning property, which another partner previously joined;
- (i) in the case of a deed witnessing that property acquired by a partnership either prior to its constitution and registration or thereafter is, on dissolution of the partnership or in any other manner, attributed to a person who became a partner of the partnership after the date of such acquisition, the partnership;

"Valuer" -

- (a) means a Government Valuer or a valuer designated by the Registrar-General;
- (b) includes any person authorised in writing by the valuer.

[Amended 4/87, 20/88, 22/89, 30/90, 17/91, 23/92, 23/93, 17/95, 13/96, 9/97, 18/99]
 [P 19/93, 14/2001, 23/2001, 20/2002, 28/2004, 15/2006, 17/2007]

PART II - REGISTRATION DUTY

3. Duty leviable

(1) Notwithstanding any other enactment but subject to this Act, there shall be levied, on the registration of any deed witnessing a transfer of property irrespective of the date on which the transfer takes place or creating a mortgage or a fixed charge (*sûreté fixe*), the duty, at the rate in force at the time of registration, in accordance with the Registration Duty Act.

(2) *Repealed [15/2006]*

[Amended 17/91, 25/94, 18/99, 25/2000, 28/2004, 15/2006]

PART III - LAND TRANSFER TAX

4. Levy of land transfer tax

(1) Subject to a subsections (2) and (3) (4) and (5) there shall be levied, on the registration of a deed of transfer a tax, to be known as land transfer tax, on -

- (a) the value of any property transferred;
- (b) the value of any property allocated on the dissolution of a partnership or in any other manner to any person other than the one who brought the property into the partnership; or
- (c) where the property transferred is a share in a partnership or successive partnerships, the value of any freehold or leasehold immovable property comprised in the assets of the partnership or successive partnerships calculated in accordance with the First Schedule;
- (d) in the case of a distribution of property by a trustee to a beneficiary under the terms of the trust, the value of the property so distributed;
- (e) in the case of a transfer -
 - (i) following the *vente à terme* under *Article 1601-2* of the Code Civil Mauricien, the consideration stated in the deed; or
 - (ii) by way of a *vente en l'état futur d'achèvement* under *Article 1601-3*, of the Code Civil Mauricien, the consideration stated in the deed together with the value of the *immeuble à l'achèvement*;
- (f) in the case of the withdrawal (*désintéressement*) of a partner from a partnership which another partner previously joined, the value of any freehold or leasehold immovable property comprised in the assets of the partnership calculated in accordance with the First Schedule;

- (g) in the case of the withdrawal (*désintéressement*) of a partner from a partnership which another partner previously joined and which is entitled to shares, whether directly or indirectly, by the constitution of successive partnerships, in another partnership, the value of any freehold or leasehold immovable property comprised in the assets of that other partnership calculated in accordance with the First Schedule;
- (h) in the case where an immovable property is transferred to a company holding an investment certificate in respect of a project under the Integrated Resort Scheme prescribed under the Investment Promotion Act and the transferor holds shares in the company the value of which is less than the value of the immovable property transferred, the difference between the value of the immovable property transferred and the value of the shares held by the transferor in the company.

(2) Where a person withdraws from a partnership as a partner without taking back any property (apport) which he originally brought into the partnership, the deed witnessing his withdrawal (*acte de désintéressement*) shall be deemed to constitute sufficient evidence for the purposes of subsection (1) that he has transferred the property to the partnership on the date on which the withdrawal takes place.

(3) Notwithstanding any other enactment –

- (a) where property owned by a company is attributed on winding up, liquidation or dissolution, of the company or in any other manner, to any of its shareholders;
- (b) where property brought into a partnership by way of an “apport” by any of its partners either prior to its constitution and registration or thereafter, is attributed, on its dissolution or in any other manner, to any person other than the one who brought the property into the partnership;
- (c) where property acquired by a partnership either prior to its constitution and registration or thereafter is, on dissolution of the partnership or in any other manner, attributed to a person who joined the partnership after the date of such acquisition;
- (d) where a partner withdraws (*se désintéresse*) from a partnership owning property, which another partner previously joined;
- (e) where a partner withdraws (*se désintéresse*) from a partnership which another partner previously joined and which is entitled to shares, whether directly or indirectly, by the constitution of successive partnerships, in another partnership;
- (f) where property is distributed by a trustee under the terms of a trust to any beneficiary of that trust,

the deed witnessing such attribution, withdrawal or distribution shall be deemed to constitute sufficient evidence for the purposes of subsection (1) that the property owned by the company, partnership or trust has been duly transferred to that shareholder, other partner, partner that previously joined the partnership or beneficiary, as the case may be, irrespective of the date the attribution, withdrawal or distribution takes place.

- (4) The tax shall be -
- (a) paid by the transferor.
 - (b) at the rate specified in the Second Schedule.
- (5) *Repealed [15/2006]*
- (6) Where the transfer is made by way of -
- (a) a *vente à terme* under *Article 1601-2* of the Code Civil Mauricien by a company holding an investment certificate in respect of a project under the Integrated Resort Scheme prescribed under the Investment Promotion Act; or
 - (b) a *vente en l'état futur d'achèvement* under *Article 1601-3* of the Code Civil Mauricien,

the rate shall, notwithstanding subsection (4), be 5 per cent.

(7) Where the transfer is made by the owner of an immovable property under the Integrated Resort Scheme pursuant to subsection (6), the fixed amount of land transfer tax shall, notwithstanding subsections (4) and (6), be -

- (a) in the case of a non-citizen or a company registered as a foreign company under the Companies Act 2001, 50,000 US dollars or its equivalent in Euro or GB pounds sterling; or
- (b) in the case of a citizen of Mauritius or a company incorporated under the Companies Act 2001, 50,000 US dollars or its equivalent in Euro, GB pounds sterling or in Mauritius currency.

[Amended 20/88, 22/89, 17/91, 25/93, 18/99, 14/2001, 23/2001, 20/2002, 28/2004, 15/2006.]

- 5. [Repealed 28/2004]
- 6. [Repealed 28/2004]
- 7. [Repealed 28/2004]

[Amended 56/85, 4/87, 18/99]
[Amended 9/97]

PART IV – CAPITAL GAINS (MORCELLEMENT) TAX *[Repealed 15/2006]*

PART V –CAMPEMENT TAX

12. Interpretation

In this Part –

“authorised officer” has the same meaning as in section 16;

“campement” means any campement site together with any building or structure, or part thereof, flat or apartment, thereon used at any time for the purpose of residence;

“campement site” has the same meaning as in section 16;

“campement tax” –

- (a) means the tax leviable under section 13, and
- (b) includes the surcharge under section 15B;

“exempt owner” means an owner of a campement –

- (a) who uses the campement as his sole residence; and
- (b) the market value of which is less than the amount specified in Part IV of the Fifth Schedule;

“market value” means the open market value of the campement by reference to which the annual campement tax shall be calculated for a period of 3 years commencing on 1 July of every financial year;

“owner”, in relation to a campement, includes -

- (a) has the same meaning as in section 16; and
- (b) includes -
 - (i) in the case of a bungalow or a group of bungalows, or apartments, located on a leasehold campement site situate on *pas géométriques*, the holder of the title deed of each bungalow or apartment, as the case may be; or
 - (ii) in the case of a bungalow or a group of bungalows, or apartments, located on a campement site owned or leased by a *société* or partnership where the associate or partner does not hold the title deed of the bungalow or apartment, the associate or partner in proportion to his share in the *société* or partnership.

[Added 18/2003, 15/2006]

13. Campement tax

(1) Subject to the other provisions of this section, there shall be levied on every owner of a campement, an annual tax to be known as the campement tax.

(2) The campement tax shall be levied at the rate specified in Part III of the Fifth Schedule and shall be calculated by reference to the market value of the campement after deducting therefrom -

- (a) the campement site tax leviable under Part VI in respect of the campement site; and
- (b) the general rate, if any, leviable under the Local Government Act or any other enactment in respect of the immovable property.

(3) Where the aggregate of the campement site tax and the general rate or where the campement site tax or the general rate exceeds the campement tax leviable, no campement tax shall be payable in respect of the campement.

(4) Where a campement is sold or transferred after 1 July in any financial year, the campement tax leviable on the campement in respect of that financial year shall be levied on the seller or transferor of the campement and shall, in no circumstances, be refundable.

(5) No campement tax shall be leviable on an exempt owner.

(5A) Where a campement is situated on a campement site which is used for agricultural or grazing purposes, the value of the campement for the purposes of this section shall be computed by reference to the market value of the building or structure thereon together with the campement site on which it is situated, the extent of which shall be 1A 25 (0.5276 hectare).

(6) The campement tax shall, in respect of every financial year, be due on 1 July and shall be payable to the authorised officer in 2 equal instalments, the first on or before 31 July in that year and the second on or before 31 January next ensuing.

(7) The campement tax leviable in respect of the financial year ending 30 June 2003 shall be payable in 2 equal instalments, the first on or before 31 October 2002 and the second on or before 30 April 2003.

(8) The surcharge leviable under the Finance Act 1980 and the Finance Act 1981 shall not apply to this Part.

(9) For the removal of doubts, “used” in the definition of “campement” shall be construed as available for use.

[Added 18/2003]

14. Declaration of campement and payment of tax

- (1) Subject to the other provisions of this section, every owner of a campement shall, on or before 31 July in every financial year -
 - (a) submit a declaration in a form approved by the authorised officer; and
 - (b) at the same time, pay, if any, the campement tax leviable under this Part.

- (2) The declaration under subsection (1) shall include -
- (a) full name of the owner and precise address of the campement;
 - (b) zone of the campement site on which the campement is situated;
 - (c) market value of the campement as at 1 July; and
 - (d) such other particulars and information as may be specified in the form.

(3) The declaration of the campement under this section shall, in respect of the financial year 2002 – 2003, be submitted on or before 31 October 2002 and payment of the campement tax shall be made in 2 equal instalments, the first at the time the declaration is submitted and the second on or before 30 April 2003.

[Amended 15/2006]

15. Change in circumstances

Where –

- (a) there is a change in ownership of the campement;
- (b) the campement ceases to be used as sole residence by the owner, or
- (c) the market value of the campement being used as sole residence exceeds the amount specified in Part IV of the Fifth Schedule,

the new owner or the owner, as the case may be, shall give written notice thereof to the authorised officer within a period of 30 days from such change and do all such acts or things that are required to be done under this Part.

15A. Claims by authorised officer

- (1) Subject to subsection (2), where -
- (a) the authorised officer is not satisfied with the declaration made under section 14; or
 - (b) the owner has not submitted a declaration under section 14,

the authorised officer may make a claim of the amount of campement tax which, in his opinion, ought to be payable together with any surcharge under section 15B and that amount shall be the campement tax leviable on the owner under this Part.

(2) Any campement tax claimed under subsection (1) shall be paid within 28 days of the notification of the claim.

(3) Subject to subsection (4), no claim under this section shall be made where a declaration under section 14 in respect of a financial year -

- (a) is made in that financial year, after a period of 4 financial years from the end of the financial year in which the declaration is made; or
- (b) is made after that financial year, after a period of 4 financial years following the financial year in which the declaration is made.

(4) Where a declaration under section 14 in respect of a financial year is not made, the authorised officer may, at any time, make a claim of the amount of campement tax which, in his opinion, ought to be payable together with any surcharge under section 15B, for that financial year and that amount shall be the campement tax leviable on the owner under this Part.

15B. Surcharge

The owner of a campement who fails to pay the campement tax within the period specified in sections 13(6) or (7) and 15A(2) shall be liable, in addition to the campement tax, to a surcharge representing -

- (a) 10 per cent of the campement tax for the first month or part of the month during which the campement tax remains unpaid; and
- (b) 2 per cent of the campement tax excluding the surcharge for each subsequent month or part of the month during which the campement tax remains unpaid,

up to a maximum of 50 per cent of the campement tax.

15C. Application of sections 20, 24(1), 25, 26 and 28(6) and (7)

The provisions of sections 20, 24(1), 25, 26 and 28(6) and (7) shall apply to campements in the same way as they apply to campement sites.

[Repealed 18/9. Added 20/2002]

PART VI - CAMPEMENT SITE TAX

16. Interpretation

In this Part -

"authorised officer" means any public officer designated by the Minister;

"campement site" means any land which is situated wholly or partly within 81.21 metres from the high water mark;

"owner" means -

- (a) in respect of a campement site situate on pas geometriques, the lessee of the site;
- (b) in respect of any other campement site –
 - (i) the person who is the owner by acquisition, succession, donation, legacy or prescription, of the site;
 - (ii) where no such person can be found or ascertained, the occupier of the site;

"plan" means the plan specified in section 17.

"register" means the register established under section 18.

"zone" means any area designated by the letters A to E as specified in Part I of the Fifth Schedule and as shown on the plan.

[Amended 23/2001; 15/2006]

17. Plan

(1) The authorised officer shall prepare a plan indicating the various zones in which are situated campement sites.

(2) Any person may, on application to the authorised officer, inspect during office hours the plan.

18. Register

(1) There shall be established for the purposes of this Part a register in which the authorised officer shall enter the particulars of every campement site and of every declaration made under section 19.

(2) Any person may, on application made to the authorised officer, inspect during office hours the register.

19. Declaration

(1) Every owner of a campement site shall, within one month of the commencement of this Act, make a declaration in a form approved by the authorised officer.

(2) Every person shall, within one month of -

- (a) acquiring; or
- (b) becoming the lessee of a campement site, make a declaration in a form approved by the authorised officer.

(3) The declaration under subsection (2), shall in the case of inheritance, be made by the heirs or any one of them.

(4) Every person who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees.

[Amended 20/2002]

20. Powers of authorised officer

(1) The authorised officer or any person authorised by him in writing may, for the purpose of ascertaining whether any land is a campement site -

- (a) at all reasonable times and, if so required, on production of proof of his authority, enter on and inspect the land;
- (b) require by notice the owner or occupier of the land to furnish in writing, within such period as may be specified in the notice, such information relating to the land or to its ownership or occupation, as he may require.

(2) Any person who -

- (a) obstructs the authorised officer or any person authorised by him in writing in the exercise of his functions under subsections (1) (a);
- (b) being the owner or occupier of any land, fails, without reasonable excuse or justification, to comply with a notice under subsection (1)(b), or, in supplying information under that subsection makes any statement which is false, misleading or incomplete in a material particular, shall commit an offence, and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 3 months.

[Amended 23/92]

21. Notice of entry on register

Where the authorised officer is of opinion that any campement site in respect of which a declaration has not been made under section 19 ought to be entered on the register, he shall enter the campement site on the register and give notice to the owner or the occupier of the campement site of his decision, giving reasons for his decision.

22. Removal of entry on register

(1) Where any site which is entered on the register, is, in the opinion of its owner, no longer a campement site, the owner may, by notice, require the authorised officer to remove the site from the register.

(2) Where the authorised officer is of opinion that the site to which a notice under subsection (1) relates ought not to be removed, he shall give notice of his decision to the owner, giving reasons for the decision.

23. Campement site tax

(1) There shall be levied on every owner of a campement site situated in a zone specified in Part I of the Fifth Schedule an annual tax to be known as the campement site tax at the appropriate rate specified in Part II of the Schedule.

(2) Subject to section 51 (4) the tax shall be payable to the authorised officer on or before 31 July in every year.

(3) The owner of a campement site who fails to pay the tax within the period specified in subsection (2) or section 51 (4) shall be liable to, in addition to the tax, a surcharge representing -

- (a) 10 per cent of the campement site tax for the first month or part of the month during which the campement site tax remains unpaid; and
- (b) 2 per cent of the campement site tax excluding the surcharge for each subsequent month or part of the month during which the campement site tax remains unpaid,

up to a maximum of 50 per cent of the campement site tax.

(4) The tax shall be paid and may be recovered notwithstanding written representations lodged with the Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983 against the levy of the tax.

[Amended 23/92, 23/2001, 20/2002]

24. Written representations to Assessment Review Committee

(1) Any person who is aggrieved by a decision taken by the authorised officer under this Part may, within 28 days of the notification of the decision, lodge written representations with the Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983.

(2) Where the Assessment Review Committee cancels or amends a decision of the authorised officer, it shall order the authorised officer -

- (a) to refund to the appellant the amount of any tax paid together with interest at the legal rate on the amount of the refund from the date of payment;
- (b) to remove or amend any entry made in the register.

[Amended 23/2001]

25. Service of notice

(1) Any notice which is to be given to the authorised person may be sent to him by post.

(2) Any notice which is required to be given by the authorised officer to the owner of a campement site may be -

- (a) given to him personally or to his authorised agent;
- (b) sent by post to his last known address or that of his authorised agent; or
- (c) where the owner of his authorised agent cannot be found, or his address is not known, posted up in a conspicuous position on the site.

26. Burden of proof

Notwithstanding any other enactment, the burden of proof that any tax has been paid or any campement site is exempt from tax shall lie on the person -

- (a) liable to pay the tax;
- (b) claiming that the tax has been paid; or
- (c) claiming that the campement site is exempt from tax.

PART VI A - TAX ON TRANSFER OF LEASEHOLD RIGHTS IN STATE LAND

26A. Tax on transfer of leasehold rights in State land

(1) There shall be levied, on the registration of a deed of transfer -

- (a) of leasehold rights in State land;
- (b) of shares in a civil society or association which reckons among its assets any leasehold rights in State land;
[Deleted & replaced 17/2007]

[para.(c) repealed & replaced by para.(c) & (d) 17/2007]

- (c) of shares in a partnership which reckons among its assets –
 - (i) any leasehold rights in State land; or
 - (ii) any shares which the partnership holds in any other partnership, successive partnership, company or successive company which reckons among its assets such leasehold rights;
- (d) of shares in a company which reckons among its assets –
 - (i) any leasehold rights in State land; or
 - (ii) any shares which the company holds in any other partnership, successive partnership, company or successive company which reckons among its assets such leasehold rights;

irrespective of the date on which the transfer takes place, a tax on the open market value of the leasehold rights at the rate specified in the Seventh Schedule.

- (1A) (a) For the purposes of subsection (1)(c), transfer of shares in a company shall include any acquisition by a company of its own shares by way of redemption or share buy back or reduction in capital or in any other manner and issue of new shares to any person which results in a change of control of that company.
- (b) For the purposes of paragraph (a), “control” has the same meaning as in the Companies Act 2001.

(2) The tax under this section shall be paid by the transferor and the transferee in equal proportion.

(3) Where a transfer of shares referred to in subsection (1)(b) or (c) takes place, the tax shall be payable in such proportion as the number of shares transferred bears to the total number of shares issued by the company or to the total number of shares in the civil society, partnership or association, as the case may be.

(4) Notwithstanding subsection (1), no tax under this section shall be paid on the registration of a deed of transfer where -

- (a) in respect of leasehold rights in State land, the application to the Ministry of Housing and Land Development for the transfer was made before 9 June 1997; or
- (b) a transfer of shares in a company referred to in subsection (1) (b) or (c) takes place and no duty under the Registration Duty Act is leviable on the transfer by virtue of the exceptions specified in item 8 of paragraph J of Part I of the First Schedule to the Registration Duty Act.

(5) *[Repealed 15/2006]*

[Added 9/97, Amended 18/99, 23/2001, 15/2006, 17/2007]

PART VII - GENERAL

27. *[Repealed 15/2006]*

27A. Assessment of land and buildings

(1) Where no documentary evidence establishing that a building or any other fixture existing on a property belongs to, or has been erected by, a person, other than the transferor, is attached to a deed of transfer, the duty and tax leviable under this Act or the Registration Duty Act' shall, where applicable, be levied on -

- (a) the consideration mentioned in the deed; or
 - (b) the open market value of the property including the building or fixture existing on the property as determined in accordance with section 28 or in accordance with the decision of the Committee; whichever is the higher.
- (2) Subsection (1) shall not apply to a deed of transfer which contains -
- (a) a complete description of any building or fixture existing on the property;
 - (b) a statement by the transferor that he retains full ownership of the building or fixture;
 - (c) an undertaking by the transferor that he will not transfer the building or fixture otherwise than by an authentic deed.

[Added 19/86, Amended 23/93, P 19/93, 23/2001]

28. Valuation of property

- (1) (a) The value of any property that is transferred, as specified in paragraph (b) shall for the purposes of levying duty and taxes under this Act be determined in accordance with this section.
 - (b) The property referred to in paragraph (a) shall be the following -
 - (i) any property, including any immovable property which forms part of the assets of a partnership, successive partnership, company or successive company; *[Repealed & replaced 17/2007]*
 - (ii) any property which is deemed under subsections (2) and (3) of section 4 to have been transferred;
 - (iii) } *[Repealed 15/2006]*
 - (iv) }
 - (v) }
 - (vi) any immovable property which is the subject of a document attracting the proportional duty under any of items 10 to 13 of paragraph I or under any of items 10 to 14 of paragraph J of Part I of the First Schedule to the Registration Duty Act.
 - (vii) any property which is the subject matter of a deed by which a purchaser of the property declares that he has purchased the property on behalf of another person and in the name of that person with money belonging to and provided by that person.
- (2) Where the Registrar-General is dissatisfied with the value mentioned in any deed of transfer of any property, he may -

- (a) exercise a right of pre-exemption under section 20 of the Registration Duty Act, or
- (b) where he does not exercise the right of pre-emption, by notice in writing, make an assessment -
 - (i) in the case where there has been a transfer of shares in a partnership, of the value of the immovable property forming part of the assets of that partnership or of any other partnership, successive partnership, company or successive company in which that partnership holds shares for the purposes of determining the value of the shares transferred;
 - (ii) in the case where there has been a transfer of shares in a company, of the value of the immovable property forming part of the assets of that company or of any other company, successive company, partnership or successive partnership in which that company holds shares for the purposes of determining the value of the shares transferred; or
 - (iii) in any other case, of the value of the property being transferred stating the amount of duty or tax, if any.

[sub-para.(i) & (ii) repealed & replaced, 17/2007]

(2A) A notice under subsection 2(b) shall –

- (i) be in a form approved by the Registrar-General;
- (ii) give the basis of the assessment; and
- (iii) be forwarded to the transferee and the transferor and if there are several, to any of them, by registered post within 9 months from the date of the registration of the deed.

(3) Where the Registrar-General has given written notice under subsection (2) (b), the person to whom the notice has been given shall pay any duty or tax specified therein within 28 days of the date of the notice.

[Subsection 4: Repealed and Replaced, 17/2007]

(4) Any person who is aggrieved by a notice under subsection (2)(b) may lodge written representations with the Clerk to the Committee, in accordance with section 19 of the Mauritius Revenue Authority Act 2004.

(4A) Any person who lodges written representations pursuant to subsection (4) shall, at the time of lodging the representations, pay to the Registrar-General 30 per cent of the amount of duty or tax, excluding penalty, claimed in the notice under subsection (2)(b).

(4B) Where a person fails to pay the duty or tax under subsection (4A), section 37 shall apply.

(4C) Where the value assessed under subsection (2)(b) is reduced pursuant to a decision of the Committee or determination of an appeal to the Supreme Court, any amount of duty or tax paid in excess shall be refunded, together with the interest at the legal rate, free of income tax, from the date of payment is effected to the Registrar-General to the date it is refunded.

(5) (a) Where a notice under subsection (2) (b) is returned undelivered, the Registrar-General shall inscribe against the person liable to any additional duty or tax, on all properties belonging or which may subsequently belong to that person, a privilege for the additional duty or tax specified in the notice.

(b) Notwithstanding section 44, the additional duty or tax secured by the privilege inscribed under paragraph (a) may be claimed at any time.

(6) For the purposes of this section, the Valuer shall, not more than 7 months from the date of registration of the deed of transfer, advise the Registrar-General of the open market value of the property as at that date of registration. *[Repealed & Replaced, 17/2007]*

(7) The Valuer may -

(a) require, by letter forwarded by registered post, the transferee or transferor including the person who acquires by prescription or by inheritance or legacy and the partnership to which property has been brought or, if there are several, any one of them, to show and identify, within such time as may be specified in the letter, the property under reference and to furnish such information as to enable the valuer to make an accurate assessment of the open market value of the property,

(b) enter and inspect any property under reference after giving not less than 24 hours' written notice to the transferee or occupier of the property.

(8) A Valuer, other than a Government Valuer, shall in relation to any valuation made by him under this section be paid such fee as the Minister may determine.

(9) Subsection (2) shall not apply in relation to a deed witnessing the transfer of an immovable property from a company holding an investment certificate in respect of a project under the Integrated Resort Scheme prescribed under the Investment Promotion Act.

[Amended 15/88, 20/88, 22/89, 30/90, 23/92, 23/93, 23/2001, 20/2002, 28/2004, 15/2006, 17/2007] [P 19/93]

29. Transfer of immovable property between an ascendant and a descendant

(1) *[Repealed, 17/2007].*

(2) Where a descendant transfers to an ascendant or to an ascendant and his spouse married under the legal community of goods and property which was acquired by the

descendant from the ascendant, no tax under this Act and no duty under the Registration Duty Act shall be levied on the deed witnessing such transfer.

(3) Where an ascendant transfers to a descendant property which the ascendant acquired in the manner referred to in subsection (2), no tax under this Act and no duty under the Registration Duty Act shall be levied on the deed witnessing such transfer.

[Added 18/99] [Replaced 28/2004, Amended 14/2005, 15/2006, 17/2007.]

30 to 33 *[Repealed 23/93]*

34. Amendment of tax and duty

Where the value of any property is revised under section 28 or is determined by the Committee, any tax or duty payable in respect of the property shall be revised accordingly.

[Amended 23/93, P 19/93, 23/200; 15/2006]

35. Penalty for undervaluation

(1) Where the open market value of a property, as revised under section 28 or as determined by the Committee, exceeds the value of the property as specified in the deed of transfer, the Registrar-General shall, subject to subsection (2), impose and claim from the transferee or the transferor, as the case may be, in addition to the amount of the duty and taxes claimed, a penalty representing 100 per cent of that amount.

(2) Subsection (1) shall not apply where the transfer is made by a descendant or his spouse to an ascendant or his spouse or between brothers and sisters and their spouses.

35A. Power to waive penalty

(1) The Registrar-General may waive the whole or part of any penalty imposed under this Act where he is satisfied that failure to comply with this Act was attributable to a just or reasonable cause.

(2) In the exercise of his power under subsection (1), the Registrar-General shall record in writing the reasons for waiving the whole or part of the penalty.

[Amended 23/93, P 19/93, 9/97, 23/2001, 28/2004, 15/2006]

36. Payment of duty and tax

(1) Notwithstanding any other enactment, a notary shall, in respect of any deed drawn up by him, claim the duty and taxes leviable under Part II, Part III and Part VIA of the Act and pay them to the Registrar-General.

(2) Where land is acquired compulsorily, the amount representing the taxes leviable under Part III payable in respect of the land shall be withheld from the compensation payable to the transferor and shall be paid to the Registrar-General.

- (3) (a) Where land is disposed of by judicial sale, levy or limitation, the Registrar shall withhold from any deposit made at the time of adjudication, the amount representing the taxes leviable under Parts III and Part VIA and pay it to the Registrar-General.
- (b) The Registrar shall direct the adjudicatee to deduct from the purchase price and pay to the Registrar-General in preference to other creditors -
- (i) where no deposit has been made, an amount representing the taxes leviable under Part III of this Act;
- (ii) where a deposit has been made but is not sufficient to cover the tax leviable, an amount representing the difference between the amount of the taxes leviable under Part III and the amount of tax paid from the deposit.

(4) Any tax leviable under Part V or Part VI shall be paid to the authorised officer.

[Amended 9/97, 25/2000, 23/2001, 17/2003, 15/2006.]

37. Inscription of privilege

(1) The Registrar-General may, at any time, inscribe a privilege on all properties belonging or which may subsequently belong to the transferee or the transferor for any amount of duty or taxes remaining unpaid under Part II, Part III, Part VIA and section 36 as appropriate.

(2) The authorised officer may cause an inscription of privilege to be inscribed on all properties belonging or which may subsequently belong to a person for any amount of tax due under Part V and Part VI by that person.

- (3) (a) The inscription enrolled under subsection (1) shall be erased on payment of the duty or tax.
- (b) The inscription may be erased in respect of any property belonging to the debtor where the Registrar-General is satisfied that the value of his other properties is sufficient to secure payment of the amount due.

(4) The inscription of privilege under subsection (2) shall be erased upon a request in writing to that effect by the authorised officer.

[Amended 23/92, 9/97, 25/2000, 20/2002, 17/2003]

38. Abatement or deferment of duty or tax

No payment of duty or tax shall be abated or deferred on the ground that the amount of duty or tax payable is in dispute or on any other ground.

39. Anti-avoidance provisions

(1) Where the Registrar-General is satisfied that the sole or dominant purpose of any arrangement which involves one or more transactions on properties is to reduce or avoid any payment of duty or tax which would otherwise be payable under the Registration Duty Act or this Act, the Registrar-General may, without prejudice to the validity of such transactions, make an assessment of the amount of duty or tax that would otherwise be payable and claim such amount from the parties to the transaction.

(2) Any party who is aggrieved by a claim under subsection (1) may lodge written representations with the Clerk to the Committee in accordance with section 19 of the Mauritius Revenue Authority Act 2004.

(3) A notary shall inform the parties to every notarial deed of the provisions of this section and shall insert a clause in the deed stating that he has so informed the parties.

[Section 39 - Added, 17/2007]

40. *[Repealed 30/90]*

41. Validity of notice by post

A notice or letter under this Act shall be deemed to have been validly served on the transferor or transferee if the notice or letter has been sent by registered post to the address -

- (1) (a) of the transferor or transferee as indicated in the deed of transfer; or
- (b) where the transferor or transferee has elected domicile in the deed.

(2) Where the notice or letter is returned undelivered, the provision of subsection (1) shall apply to any notice or letter sent by registered post to the address of the transferor or transferee. *[Added, 17/2007]*

42. Recovery of duty

(1) Where any duty or tax is due under Part II, Part III, Part V and Part VI, Part VIA and section 36, the Registrar-General or the authorised officer as the case may be may apply to a Judge in Chambers for an order (contrainte) to issue against the debtor.

- (2) An order made under subsection (1) shall -
 - (a) be executory;
 - (b) be served on the debtor.

(3) Any debtor aggrieved by an order made under subsection (1) may within 10 days of the service of the order appeal to the Supreme Court.

- (4) No costs shall be awarded against unsuccessful party except disbursement for -
- (a) stamp duty;
 - (b) service of the order;
 - (c) execution of the order;

[Amended 23/92, 9/97, 25/2000, 20/2002, 15/2006]

43. Refund of duty or tax

(1) Where duty or tax has been properly levied on any document in accordance with Parts II, Part III and Part VIA the duty or tax shall not be refunded whatever may be the effect of any subsequent event or declaration on the transaction witnessed by the document.

- (2) Where duty has not been properly levied -
- (a) application may be made to the Registrar-General for a refund, and
 - (b) subject to section 44, the Registrar-General may refund the excess.

(3) Where the owner of a campement or campement site proves to the satisfaction of the authorised officer that he has paid tax under Part V or Part VI in excess, the authorised officer may, subject to section 44, refund the amount paid in excess.

[Amended 9/97, 23/2001, 20/2002, 15/2006]

44. Time limit for claims or refunds

(1) Subject to section 28 (5) (b), subsection (2) and to Article 2245 of the Code Napoleon, no claim for -

- (a) duty or tax not levied on a stipulation in a document;
- (b) any balance of duty or tax insufficiently levied;
- (c) any additional duty or tax leviable by reason of an incorrect or a false declaration;
- (d) refund of duty or tax; shall be receivable after the expiry of 5 years from the date on which the deed was registered.

(2) The time limit of 5 years specified in subsection (1) shall, where the open market value of the property has been decided by the Committee, be reckoned from the date of the decision.

(3) No claim for refund of tax under section 43(3) shall be receivable after the expiry of 5 years from the date on which the tax was paid.

[Amended 23/93, P 19/93, 23/2001, 15/2006]

45. Payment to be in multiples of 5 rupees

Any duty payable under this Act, which is less than a multiple of 5 rupees, shall be increased to the next higher figure which is a multiple of 5 rupees.

45A. Derogation

45A. Derogation

(1) Notwithstanding this Act or any other enactment, a deed of transfer, for the construction of a residential building, of a lot excised from a larger portion of land, or a portion of land on which exists a house, by a partnership or a company to a worker who is either employed or who, immediately before his retirement, was employed by the vendor shall, where the deed of transfer contains a declaration from -

- (a) the Fund that the partnership or company is registered with it;
- (b) the partnership or company that the transferee is, or was immediately before his retirement, in its employment and that it has not effected on or after 1 July 1986 any transfer of land to the worker;

be exempt from payment of the duty and taxes leviable under Part II, Part III and Part V of the Act and the duty leviable under the Transcription and Mortgage Act.

(2) The provisions of subsection (1) shall apply to –

- (a) the heirs of a deceased worker collectively (*les ayants droits*) as they would have applied to a worker referred to in that subsection; or
- (b) the transfer of land by a partnership or company forming part of the same group as the employer of the worker.

[Repealed and replaced 17/2007]

(3) A deed of transfer referred to in the Eighth Schedule shall be exempt from duty or taxes leviable under the appropriate Part or Parts specified in that Schedule.

(4) For the purposes of subsection (1) -

"Fund" means the Sugar Insurance Fund;

"Partnership or company" means a partnership or company engaged in the milling of sugar or the planting of sugar canes and which is registered with the Fund;

"residential building" includes a lot in a building which has been the subject of a duly registered and transcribed deed witnessing a *règlement de co-propriété*.

"worker" has the same meaning as in the Labour Act.

[Added 19/86, Amended 22/89, 30/90, 17/91, 25/93, 25/94, 17/95, 9/97, 10/98, 18/99, 18/2003, 28/2004, 15/2006, 17/2007]

46. Repealed [15/2006]

47. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Regulations made under subsection (1) may provide for the amendment of the Schedules and for exemption from tax leviable under this Act, including exemption in relation to any owner who occupies the campement site exclusively for the purpose of his one and only residence.

48. Consequential amendments [Not reproduced]

49. Repeal

(a) The following enactments are repealed -

- (i) the Land Transfer Tax Act 1983;
- (ii) the Capital Gains Tax (Morcellement) Act;
- (iii) the Land Development Tax Act 1983;
- (iv) the Campement Sites Tax Act 1983.

(b) Section 4 of the Registration Duty Act is repealed and, notwithstanding section 17 of the Interpretation and General Clauses Act, shall be deemed never to have been enacted in relation to any deed drawn up before, and not presented for registration within 10 days of, the commencement of this Act.

50. Application

This Act shall apply to the Island of Mauritius only.

51. Transitional provisions

(1) A deed referred to in paragraph (h) and (i) of the definition of "deed of transfer" is deemed not to be included in that definition where the deed is in respect of a *société civile immobilière d'attribution* duly registered prior to 26 August 2004 and holding a building permit under the Building Act relating to the construction for which the *société* has been constituted and which was issued prior to that date.

(2) Any remission of duty or tax granted under section 46 shall lapse on 1 October 2006.

[Amended 25/2000, 14/2005, 15/2006]

52. Commencement

This Act shall come into operation on 16 July 1984.

FIRST SCHEDULE

(section 4(1)(c))

Value: $N \times I$

C

Where:-

- (a) N is the nominal Value of the share transferred;
- (b) I is the Value of all the freehold or leasehold immovable properties comprised directly in the assets of the partnership or to which the partnership is entitled by the effect of the constitution of any successive partnership; and
- (c) C is the Capital of the partnership after deducting therefrom any capital brought to it by the transferee during the period of 3 years immediately preceding the date of the transfer.

[Replaced 28/2004]

SECOND SCHEDULE

(section 4(4))

Rate

Rate	
Where the transfer is made –	
(a) after a period not exceeding 5 years of the date of acquisition of the property;	10 per cent
(b) after a period exceeding 5 years of the date of acquisition of the property; or	5 per cent
(c) at a nominal price of one rupee to an “ <i>association syndicale</i> ” set up in accordance with Articles 664-95 and 664-96 of the Code Civil Mauricien, in respect of an area occupied by common amenities in a morcellement.	50 rupees in respect of every lot in the morcellement.

[Amended 30/90, 18/200]

THIRD SCHEDULE*[Repealed 15/2006]***FOURTH SCHEDULE***[Repealed 28/90]***SCHEDULE***(regulation 3(a))***FIFTH SCHEDULE**

(section 23(1))

PART 1

A	B	C	D	E
1. From the boundary separating Trou aux Biches Public beach declared under General Notice 206 of 1940 and the southern limit of Trou aux Biches Fish Landing Station to Anse La Raie Youth Camp	From Anse La Raie Youth Camp to Southern boundary of Bassin Faoulez		From Southern boundary of Bassin Faoulez to Mouth of Riviere du Rempart	
2. From Pointe de Flacq Cemetery to Limekiln Trou d'Eau Douce	From the mouth of Rivière du Rempart to Pointe de Flacq Cemetery			
3. From Pointe Jérôme Youth Camp to Public beach at La Cambuse declared under General Notice 2147 of 1996	From Limekiln Trou d'Eau Douce to Mouth of Riviere Seche	From Mouth of Riviere La ChauX to Pointe Jerome Youth Camp		From Mouth of Riviere Seche to Mouth of Riviere La ChauX
4.		From the mouth of Rivière Patates to St Martin Cemetery	From Mouth of Riviere Bain des Negresses to Mouth of Riviere Patates	From Public beach at La Cambuse declared under General Notice 2147 of 1996 to Mouth of Riviere Bain des Negresses

A	B	C	D	E
5. From Intersection P.G. L'Embrasure with Black River Savanne Coast Road (B9) to the boundary separating the industrial site leased as hotel and that of golf course at P.G. Le Morne Brabant		From the boundary separating the industrial site leased as hotel and that of golf course at P.G. Le Morne Brabant to Barachois Les Salines	From St Martin Cemetery to Intersection P.G. L'Embrasure with Black River Savanne Coast Road (B9)	
6. From Barachois Les Salines to Northern boundary of Part of P.G. Anna leased as a campement site having as its southern boundary Public beach P.G. Anna declared under General Notice 348 of 1881		From Northern boundary of Part of P.G. Anna leased as a campement site having as its southern boundary Public beach P.G. Anna declared under General Notice 348 of 1881 to Public beach at P.G. Mon Plaisir declared under General Notice 609 of 1991	From Public beach at P.G. Mon Plaisir declared under General Notice 609 of 1991 to Mouth of Grand River North West	From Mouth of Rivulet Terre Rouge to the boundary lying south of Rue des Aigles, at a distance of 74 m measured south along Baie du Tombeau Road (B29)
7.	From Junction of Japonais Rd with Pte aux Piments Mon Choisy Coast Road to the boundary separating Trou aux Biches Public beach declared under General Notice 206 of 1940 and the southern limit of Trou aux Biches Fish Landing Station		From the boundary lying south of Rue des Aigles, at a distance of 74 m measured south along Baie du Tombeau Rd (B29) to Junction of Japonais Road with Pte aux Piments Mon Choisy Coast Road	

PART II

Rate of Tax			Zones
6 rupees per square metre	...	...	A
5 rupees per square metre	...	...	B
4 rupees per square metre	...	...	C
3 rupees per square metre	...	...	D
2 rupees per square metre	E

PART III
(section 13)

Rate of campement tax	0.5 per cent
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PART IV
(sections 12 and 15)

Amount	5 million rupees
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*[Amended 4/86, 18/99, 20/2002]***SIXTH SCHEDULE**
*[Repealed 15/2006]***SEVENTH SCHEDULE**
(section 26A(1))

Rate of tax	20 per cent
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*[Added 9/97]***The Sugar Industry Efficiency Act 2001**
(Effective on 17 September 2001, Proclamation No. 15 of 2001)

Sections of the Act relating to duty and taxes under the Registration Duty Act, Stamp Duty Act and Land (Duties and Taxes) Act -

Sections 11 to 14, 26, 30 and 31

FIFTH SCHEDULE
(section 19(w))

EIGHTH SCHEDULE*(section 45A(3))*

Deed of transfer -	Exemption from payment of duty or tax under -
(a) witnessing the transfer of property for consideration or by way of donation -	
(i) by an ascendant on the one hand to a descendant or the latter's spouse or surviving spouse on the other hand;	Part II, Part III and Part VIA
(ii) <i>[Deleted – Government Notice No.129 of 2007]</i>	Part III
(iii) to a charitable trust under the Trusts Act 2001 or to a religious body under the Registration Duty Act;	Part II, Part III and Part VIA
(iv) between the heirs of a deceased person of property acquired by inheritance from that person; or	Part II, Part III and Part VIA
(v) between the heirs of a deceased person of property acquired by inheritance and acquisition, from other heirs, of undivided rights of the property from that person.	Part II, Part III and Part VIA
<i>[Added – Government Notice No.129 of 2007]</i>	
(b) witnessing the transfer of property between spouses	Part II, Part III and Part VIA
(c) where the transfer is made to a company holding an investment certificate in respect of a project under the Integrated Resort Scheme prescribed under the Investment Promotion Act, provided that the transferor holds shares in the company equivalent to at least the value of the land transferred.	Part II and Part III
(d) witnessing that property brought by way of an “apport” by a partner in a partnership either prior to its constitution and registration or thereafter is, on dissolution of the partnership or in any other manner, attributed to any person other than the one who brought that property into the partnership, if the person has, at the time of joining the partnership, paid taxes under this Act and proportional duty under the Registration Duty Act; or	Part II and Part III

where a deed by which a partner withdraws (*se désintéresse*) from a partnership owning property, or entitled to property either directly or indirectly by the constitution of successive partnerships, which another partner previously joined, if the partner who previously joined the partnership –

Part II and Part III

- (i) has, at the time of joining the partnership, paid taxes under this Act and proportional duty under the Registration Duty Act; and
- (ii) pays taxes under this Act and proportional duty under the Registration Duty Act on the value of his withdrawal from the partnership.

(e) where the transfer is made –

- (i) to the Government of Mauritius; Part III
- (ii) to diplomatic missions; Part II
- (iii) by diplomatic missions; Part III
- (iv) to local authorities; Part II
- (v) by local authorities; Part III
- (vi) by National Housing Development Company Ltd; Part III and Part VIA
[Added GN130 of 2006]
- (vii) by National Housing Development Company Ltd and the immovable property is subsequently acquired by the company; Part II, Part III and Part VIA
[Added GN130 of 2006]
- (viii) to Lois Lagesse Foundation; Part II
- (ix) by a lessee in respect of his leasehold rights in State land and on which stands a house constructed by the National Housing Development Company Part VIA

[Added – Government Notice No.129 of 2007]

(f) witnessing the transfer of assets or shares between companies forming part of a group of companies as defined in the Companies Act 2001 except that the transfer referred to in item (c) .

Part II, Part III and Part VIA

[Added GN130 of 2006]

- (g) witnessing the transfer of shares, where the transfer takes place between companies having the same shareholders for the sole purpose of achieving a merger. Part II and Part VIA
- (h) witnessing the transfer of undertaking by a partnership or société to a company where the partners or the associates of the partnership or société and the shareholders of the company are the same persons. Part II, Part III and Part VIA

[Amended 15/2006, 17/2007]