

South Africa

Transfer Duty Act, 1949

Act 40 of 1949

Legislation as at 28 June 1949

FRBR URI: /akn/za/act/1949/40/eng@1949-06-28

There may have been updates since this file was created.

PDF created on 21 February 2024 at 21:40.

[Check for updates](#)



About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from LawLibrary and is presented in collaboration with the African Legal Information Institute, the Judicial Institute for Africa and the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.lawlibrary.org.za | info@lawlibrary.org.za

www.laws.africa | info@laws.africa

There is no copyright on the legislative content of this document.

This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Transfer Duty Act, 1949

Contents

1. Definitions	1
2. Imposition of transfer duty	2
3. By whom, when and to whom duty payable	2
4. Penalty on late payments of duty	2
5. Value of property on which duty payable	2
6. Certain payments to be added to the consideration payable in respect of property	4
7. Certain payments excluded from the consideration payable in respect of property	4
8. Valuation of consideration payable by way of rent, royalty, share of profits or any other periodical payment, or otherwise than in cash	5
9. Exemptions from duty	5
10. Administration of Act	7
11. Powers of the Commissioner	7
12. Registration of acquisition of property prohibited where duty not paid	8
13. Commissioner to recover amount of duty underpaid	8
14. Declarations to be furnished to Commissioner	8
15. Records of certain sales of property to be kept	9
16. Persons who acquire property on behalf of others shall disclose names of their principals	9
17. Penalties	9
18. Appeals from decisions of the Commissioner	9
19. Hearing by judge in chambers of disputes regarding exemption from duty	10
20. Refunds	10
21. Repeal of laws	10
22. Short title and date of commencement	10
Schedule	11

South Africa

Transfer Duty Act, 1949

Act 40 of 1949

Published in Government Gazette 4193 on 28 June 1949

Assented to on 23 June 1949

Commenced on 1 January 1950

[This is the version of this document as it was from 28 June 1949 to 21 March 1951.]

(Afrikaans Text signed by the Governor-General.)

ACT

To consolidate and amend the laws relating to transfer duty.

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

1. Definitions

In this Act, unless the context otherwise indicates—

"**Commissioner**" means the Commissioner for Inland Revenue; (iv)

"**date of acquisition**" means, in the case of the acquisition of property by way of a transaction, the date on which the transaction was entered into, irrespective of whether the transaction was conditional or not or was entered into on behalf of a company already registered or still to be registered and, in the case of the acquisition of property otherwise than by way of a transaction, the date upon which the person who so acquired the property became entitled thereto: Provided that where property has been acquired by the exercise of an option to purchase or a right of pre-emption, the date of acquisition shall be the date upon which the option or right of pre-emption was exercised; (ii)

"**declared value**" in relation to property means the value of the property as declared in the declaration completed in terms of section fourteen by the person who has acquired the property; (viii)

"**deeds registry**" includes the office of the Registrar of Mining Titles and the Office of the Rand Townships Registrar; (vi)

"**fair value**" in relation to property means the fair market value of that property as at the date of acquisition thereof: Provided that where property has been acquired by the exercise of an option to purchase or a right of pre-emption, the fair value in relation to that property shall be the fair market value thereof as at the date upon which the option or right of pre-emption was acquired by the person who exercised the option or right of pre-emption; (i)

"**property**" means land and any fixtures thereon, and includes—

- (a) any real right in land but excluding any right under a mortgage bond or a lease of property other than a lease referred to in paragraph (b) or (c);
- (b) a lease or sub-lease of any lot or stand which is registrable in the office of the Rand Townships Registrar in terms of the Registration of Mining Rights Proclamation, 1902 ([Proclamation No. 35 of 1902](#), Transvaal) as read with section one of the Mining Titles Registration Act, 1908 ([Act No. 29 of 1908](#), Transvaal);
- (c) any right to minerals (including any right to mine for minerals) and a lease or sub-lease of such a right; (iii)

"**registration officer**" means the person who is in charge of a deeds registry; (v)

"**transaction**" means an agreement whereby one party thereto agrees to sell, grant, donate, cede, exchange, lease or otherwise dispose of property to another, or any act whereby any person renounces any interest in or restriction in his favour upon the use or disposal of property. (vii)

2. Imposition of transfer duty

Subject to the provisions of section nine, there shall be levied for the benefit of the Consolidated Revenue Fund a transfer duty (hereinafter referred to as the duty) of two pounds per centum on the value of any property (which value shall be determined in accordance with the provisions of sections, five, six, seven and eight) acquired by any person on or after the date of commencement of this Act by way of a transaction or in any other manner, or on the amount by which the value of any property is enhanced by the renunciation, on or after the said date of an interest in or restriction upon the use or disposal of that property.

3. By whom, when and to whom duty payable

- (1) The duty shall within six months of the date of acquisition be payable by the person who has acquired the property or in whose favour or for whose benefit any interest in or restriction upon the use or disposal of property has been renounced.
- (2) Pending the completion of the declarations referred to in section fourteen, or the determination of the amount of duty payable under this Act, a deposit on account of the duty payable may be made to the receiver of revenue to whom the duty is payable in terms of sub-section (3).
- (3) The duty and any penalty payable under section four shall be paid to the receiver of revenue for the district in which the property in question is situate or, if the property is situate in more than one district, to the receiver of revenue for any one of those districts.

4. Penalty on late payments of duty

- (1) If any duty remains unpaid at the expiration of the period referred to in section three, there shall, subject to the provisions of sub-section (3), in addition to the unpaid duty, be payable a penalty at the rate of twelve per centum per annum on the amount of the unpaid duty calculated from the date of the expiration of the said period to the date of payment.
- (2) For the purpose of sub-section (1) a deposit on account of duty shall be deemed to be a payment of duty.
- (3) Whenever a receiver of revenue to whom duty is payable is satisfied that the delay in the determination of the value on which the duty is payable cannot be ascribed to the person liable to pay the duty, he may allow a reasonable extension of time within which the duty may be paid without penalty if, within six months of the date of acquisition of the property—
 - (a) a deposit on account of the duty payable is made to the said receiver of an amount equal to the duty calculated on the amount of the consideration paid or payable or on the declared value, as the case may be, and
 - (b) application is made in writing to the said receiver for such extension of time.

5. Value of property on which duty payable

- (1) The value on which duty shall be payable shall, subject to the provisions of this section—
 - (a) where consideration is payable by the person who has acquired the property, be the amount of that consideration; and
 - (b) where no consideration is payable, be the declared value of the property.

- (2) (a) If a transaction whereby property has been acquired, is, before registration of the acquisition in a deeds registry, cancelled, or dissolved by the operation of a resolutive condition, duty shall be payable only on that part of the consideration which has been or is paid to and retained by the seller and on any consideration payable by either party to the transaction for or in respect of the cancellation thereof.
- (b) Upon the subsequent disposal of property referred to in paragraph (a), the person so disposing of it shall, in the declaration to be made by him in terms of section fourteen, set forth the circumstances of such previous transaction and of the cancellation thereof and shall furnish particulars relating to the payment of duty in connection therewith, and any duty payable in connection with such previous transaction but still unpaid shall be paid by the person so disposing of the property, who may thereupon recover the duty so paid from the person liable for the payment thereof in terms of section three.
- (3) Where a transaction provides for the payment of the whole or any part of the consideration by way of rent, royalty, share of profits or any other periodical payment, or otherwise than in cash, the value of such consideration shall be determined in accordance with the provisions of section eight.
- (4) In the case of a transaction whereby one property is exchanged for another, and—
 - (a) no additional consideration is payable by either party to the transaction, the value on which duty shall be payable in respect of the acquisition of each property shall, subject to the provisions of sub-sections (6) and (7), be the declared value of each property: Provided that if the properties exchanged are not of equal value, duty shall, subject to the said provisions, be paid in respect of the acquisition of each property on the declared value of the property which has the greater value;
 - (b) additional consideration is payable by either party to the transaction, the value on which duty shall be payable, shall, subject to the provisions of subsections (6) and (7), be—
 - (i) in respect of the acquisition of the property for which the additional consideration is payable, the declared value of that property, or the declared value of the property given in exchange for that property plus the additional consideration payable, whichever is the greater; and
 - (ii) in respect of the acquisition of the other property, the declared value thereof, or the declared value of the property given in exchange for that property less the additional consideration payable, whichever is the greater.
- (5) In the case of the cession of a lease or sub-lease referred to in paragraph (b) or (c) of the definition of "property" in section one, the value on which duty shall be payable shall be the amount of the consideration payable by the cessionary to the cedent in respect of the cession or, if no consideration is so payable, the declared value of the property acquired under the cession.
- (6) If the Commissioner is of opinion that the consideration payable or the declared value is less than the fair value of the property in question he may determine the fair value of that property, and thereupon the duty payable in respect of the acquisition of that property shall be calculated in accordance with the fair value as so determined or the consideration payable or the declared value whichever is the greatest.
- (7) In determining the fair value in terms of sub-section (6), the Commissioner shall have regard, according to the circumstances of the case, *inter alia* to—
 - (a) the nature of the real right in land and the period for which it has been acquired or, where it has been acquired for an indefinite period or for the natural life of any person, the period for which it is likely to be enjoyed;
 - (b) the municipal or divisional council valuation of the property concerned;
 - (c) any sworn valuation of the property concerned furnished by or on behalf of the person liable to pay the duty;

- (d) any valuation made by the Government Mining Engineer or by any other competent and disinterested person appointed by the Commissioner.
- (8) If the fair value of property as determined by the Commissioner—
 - (a) exceeds the amount of the consideration payable in respect of that property, or the declared value, as the case may be, by not less than one-third of the consideration payable or the declared value, as the case may be, the costs of any valuation made by a person referred to in paragraph (d) of sub-section (7) (other than the Government Mining Engineer) shall be paid by the person liable for the payment of the duty;
 - (b) does not exceed the said consideration or declared value as the case may be, to the extent set out in paragraph (a), the costs of the valuation shall be borne by the State.
- (9) The provisions of sub-sections (6) and (7) shall not apply in respect of the acquisition of property sold by public auction, unless the Commissioner is satisfied that the sale was not a *bona fide* sale by public auction, or that there was collusion between the seller and the purchaser or their agents.

6. Certain payments to be added to the consideration payable in respect of property

- (1) There shall for the purpose of the payment of duty be added to the consideration payable in respect of the acquisition of any property—
 - (a) any commission or fees paid or payable by the person who acquired the property in excess of five per centum of the amount of the consideration payable in respect of the property;
 - (b) if property has been acquired by the exercise of an option to purchase or a right of pre-emption, any consideration paid or payable by the person who has acquired the property to any person in respect of the said option or right of pre-emption;
 - (c) any consideration which the person who has acquired property has paid or agreed to pay to any person whatsoever in respect of or in connection with the acquisition of the property, over and above the consideration payable to the person from whom the property was acquired, other than any rent payable under a lease or sub-lease by the cessionary thereof.
- (2) Where the whole or any part of any commission, fees or consideration referred to in sub-section (1) is payable by way of rent, royalty, share of profits or any other periodical payment, or otherwise than in cash, the value thereof shall, for the purpose of the payment of duty, be determined *mutatis mutandis* in accordance with the provisions of section eight: Provided that the value of any such consideration referred to in paragraph (b) of sub-section (1) shall be so determined as at the date upon which the option or right of pre-emption was acquired by the person who exercised the option or right of pre-emption.

7. Certain payments excluded from the consideration payable in respect of property

There shall for the purpose of the payment of duty be excluded from the consideration payable in respect of the acquisition of any property—

- (a) transfer duty or any other duty or tax payable in respect of the acquisition of the property; and
- (b) the costs or fees payable in connection with the registration of the acquisition of the property.

8. Valuation of consideration payable by way of rent, royalty, share of profits or any other periodical payment, or otherwise than in cash

Where the whole or any part of the consideration in respect of the acquisition of any property is payable by way of rent, royalty, share of profits or any other periodical payment, or otherwise than in cash, the value of the consideration so payable shall, for the purpose of the payment of the duty, be—

- (a) where the consideration is in the form of rent, royalty, share of profits, or any other periodical payment—
 - (i) if the actual amounts of the periodical payments are fixed, the aggregate of the said amounts payable over the period (including renewal periods) for which the property has been acquired by the person liable to pay the duty or, where the property acquired is a lease or sub-lease and the said aggregate amount exceeds the fair value as determined by the Commissioner *mutatis mutandis* in accordance with the provisions of sub-section (7) of section five of the property which is the subject of the lease or sub-lease, such fair value;
 - (ii) if the actual amounts of the periodical payments are not fixed or if the property has been acquired for an indefinite or unlimited period or for the natural life of any person, a value which the Commissioner considers fair in the circumstances;
- (b) where the consideration is in the form of goods, services, rights or privileges, the current market value of such goods, services, rights or privileges at the date of the transaction or, where the market value of such goods, services, rights or privileges as at the date of the transaction is not ascertainable, a value which the Commissioner considers fair in the circumstances;
- (c) where the consideration is in the form of shares in or other securities of a company, whether already registered or still to be registered, or is in the form of rights to acquire such shares or securities, the value of such shares or securities or rights thereto, which value shall—
 - (i) in the case of shares or securities which are quoted on any recognised stock exchange on the date of the transaction, be their middle market price on that date; or
 - (ii) in the case of other shares or securities or rights thereto, be a value which the Commissioner considers fair in the circumstances.

9. Exemptions from duty

- (1) No duty shall be payable in respect of the acquisition of property by—
 - (a) the Union Government, including the railway administration and a provincial administration;
 - (b) any institution or body contemplated in paragraph (vi) of section eighty-five of the South Africa Act, 1909, as substituted by section one of the Provincial Powers Extension Act, 1947 ([Act No. 41 of 1947](#));
 - (c) an ecclesiastical, charitable or educational institution of a public character in respect of property acquired for ecclesiastical, charitable or educational purposes exclusively: Provided that if any such property or any portion thereof is subsequent to the acquisition thereof used for some purpose other than exclusively for ecclesiastical, charitable or educational purposes, duty shall become payable in respect of the acquisition of that property or of that portion thereof, and the date upon which that property or that portion thereof was first used for that other purpose shall for the purposes of sub-section (1) of section three and section four be deemed to be the date of acquisition thereof;
 - (d) any institution or body in respect of property acquired for the purpose of a public hospital, subject *mutatis mutandis* to the proviso to paragraph (c);

- (e) an heir or legatee in respect of—
 - (i) property acquired by *ab intestato* or testamentary succession or as a result of a re-distribution of the assets of a deceased estate in the process of liquidation; or
 - (ii) the amount by which the value of property so acquired is enhanced by the renunciation of an interest in or restriction upon the use or disposal of such property;
 - (f) a surviving spouse in respect of property acquired in any manner from the estate of the deceased spouse;
 - (g) a joint owner of property in respect of the acquisition and registration in his name of a defined portion of the property allotted to him upon partition of the property, but not in respect of any consideration payable by him in order to equalize the partition or for any other reason;
 - (h) a joint owner of property who acquires the sole ownership in the whole or a portion of the property, in respect of so much of the value of the property in which sole ownership is acquired as represents his share in the joint ownership of that property;
 - (i) a surviving or divorced spouse who acquires the sole ownership in the whole or any portion of property registered in the name of his deceased or divorced spouse to whom he was married in community of property, in respect of so much of the value of the property in which sole ownership is acquired as represents his share in that property by virtue of the marriage in community of property.
- (2) No duty shall be payable by a person who requires his ownership in property to be registered in his name in a deeds registry under any of the following circumstances:
- (i) where there has been an error in the registration of the acquisition of the property, provided the duty payable in respect of that acquisition has been duly paid;
 - (ii) where the registration is in consequence of the registration in terms of Law No. 22 of 1863 of Natal, as amended by Laws Nos. 17 of 1871 and 14 of 1882 of Natal, of a post-nuptial contract, provided the property concerned was acquired by such person prior to the marriage or during the subsistence of the marriage in community of property and the duty payable in respect of the acquisition thereof has been duly paid.
- (3) No duty shall be payable in respect of the registration jointly in the names of partners of any property which is registered in the name of the partnership carried on by such partners.
- (4) No duty shall be payable—
- (a) in respect of a change in the registration of property required as a result of the termination of the appointment of an administrator of a trust under a will or other written instrument or of a trustee of an insolvent estate; or
 - (b) where trust property is transferred by the administrator of a trust to the persons entitled thereto under the will or other written instrument in pursuance of which such administrator was appointed; or
 - (c) where property is restored by a trustee of an insolvent estate to the insolvent; or
 - (d) where property registered in the name of a person who holds it on behalf of another (whether a person born or to be born) is transferred to that other person.
- (5) No duty shall be payable in respect of the acquisition by any person from the Government of the Union, under the provisions of any law relating to the mining of minerals, of any real right in land or of any rights to minerals (including any rights to mine for minerals).

- (6) (a) No duty shall be payable by a person who, as surety for the payment of the consideration payable under a transaction, pays the consideration and seeks transfer of the property in question into his own name, provided—
 - (i) the duty has been paid in respect of the acquisition of the property under the transaction; and
 - (ii) no further consideration is payable by the surety to either party to the transaction.
- (b) If further consideration is payable by a surety referred to in paragraph (a) to either party to the transaction, duty shall be payable by him on the value of that further consideration.
- (7) No duty shall be payable in respect of the acquisition of property by way of a transaction, if the transaction—
 - (a) is declared void by a competent court;
 - (b) in terms of which the property is acquired from a person whose estate is sequestrated subsequent to the date of the transaction, becomes void by reason of the sequestration;
 - (c) in terms of which property is acquired by a person whose estate is sequestrated prior to the registration of the acquisition by him of the property, is abandoned by the trustee of his insolvent estate;
 - (d) is a transaction whereby portions of adjoining properties which are being worked or about to be worked for minerals and are held under claim licence, mynpacht or other mining title, are exchanged, provided the Government Mining Engineer issues a certificate stating that the exchange is made solely and *bona fide* for mining purposes and is necessary or instrumental to proper or more economic working: Provided that if any additional consideration is payable by either party to the exchange, duty shall be payable on the value of the additional consideration.

10. Administration of Act

- (1) The Commissioner shall be responsible for the administration of this Act.
- (2) The powers conferred and the duties imposed upon the Commissioner by this Act may be exercised or performed by the Commissioner personally or by any officer acting under a delegation from or under the control or direction of the Commissioner.

11. Powers of the Commissioner

- (1) The Commissioner may—
 - (a) call upon any person to furnish to him, under oath or not as he may direct, any information or to produce any documents which the Commissioner may consider necessary for the purpose of determining the amount of the duty payable in respect of the acquisition of any property;
 - (b) require the person liable to pay the duty or the Government Mining Engineer or any other person to appear before him for the purpose of clarifying any valuation made by any such person;
 - (c) decline to accept any payment of duty otherwise than as a deposit on account of duty until the appropriate declarations referred to in section fourteen are submitted to him.
- (2) If the Commissioner is satisfied that the declaration required to be completed by any one of the parties to a transaction or by a person who has acquired property otherwise than by way of a transaction, cannot be obtained, he may, notwithstanding the provisions of sub-section (1) of section fourteen, dispense with the production of such declaration or may accept in lieu thereof a

declaration by some other person whom he considers able to furnish the particulars required to be given.

- (3) (a) Where in terms of sub-section (2) of section three a deposit on account of the duty payable by any person is made pending the determination by the Commissioner of the fair value of the property concerned, of an amount equal to the duty calculated on the consideration paid or payable in respect of the acquisition of the property or on the declared value thereof, as the case may be, and there is given to the Commissioner security to his satisfaction for the payment of any balance of transfer duty or stamp duty which may still be payable, the Commissioner may in his discretion issue to the person liable to pay the duty a certificate that such deposit has been made and that such security has been given.
- (b) No fee shall be payable in respect of a certificate issued under paragraph (a).

12. Registration of acquisition of property prohibited where duty not paid

- (1) No registration officer shall make any record in his deeds registry of an acquisition of property acquired on or after the commencement of this Act—
 - (a) unless the receipt for payment of the duty payable in respect of the acquisition, other than a receipt for a deposit on account of duty, has been lodged with him, or unless he is satisfied that no duty is, under this Act or any other law, payable in respect of the acquisition; or
 - (b) if he has reason to believe that the amount of duty paid in respect of the acquisition is less than the amount of duty payable under this Act.
- (2) The provisions of sub-section (1) shall not apply with reference to an acquisition of property in respect of which there is lodged with the registration officer a certificate issued in terms of paragraph (a) of sub-section (3) of section eleven.
- (3) Any dispute as to any person's right to exemption from the payment of duty or as to the amount of duty payable under this Act shall be referred by the registration officer to the Commissioner.

13. Commissioner to recover amount of duty underpaid

- (1) Whenever the Commissioner is satisfied that the duty payable under this Act in respect of the acquisition of any property has not been paid in full, he shall, notwithstanding that the acquisition has already been registered in a deeds registry, recover the difference between the amount of the duty payable and the amount paid.
- (2) Any amount payable in terms of sub-section (1) shall be payable in accordance with and subject to the provisions of sections three and four.

14. Declarations to be furnished to Commissioner

- (1) Declarations appropriate to the manner of the acquisition of property in any particular case shall, in substance as near as possible to the forms prescribed by the Commissioner by notice in the *Gazette*, be completed by the parties to the transaction whereby the property has been acquired and, if the Commissioner so directs, also by the agent, auctioneer, broker or other person who acted for or on behalf of either party to the transaction or, if the property has been acquired otherwise than by way of a transaction, by the person who acquired the property.
- (2) Where no suitable form of declaration has been prescribed by the Commissioner for any particular kind of acquisition of property, he may require from any person concerned in the acquisition a declaration setting forth the material facts of the case and containing such other information as he may consider necessary.

15. Records of certain sales of property to be kept

- (1) Every auctioneer or other person who has effected a sale of property on behalf of some other person shall, for a period of five years from the date on which the sale was effected, keep a record of the sale including a description of the property sold, the person by whom and the person to whom the property has been sold and the price paid for the property.
- (2) Records kept in terms of sub-section (1) shall at all reasonable times be produced to the Commissioner on demand for his inspection.
- (3) Any person who fails to comply with any provision of this section shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five pounds or to imprisonment for a period not exceeding three months.

16. Persons who acquire property on behalf of others shall disclose names of their principals

- (1) Where property is sold to a person who is acting for some other person, the person so acting shall disclose to the seller or his agent the name and address of the principal for whom he acts—
 - (i) if the sale is by auction, immediately upon acceptance by the auctioneer of his offer; or
 - (ii) if the sale is otherwise than by auction, immediately upon conclusion of the agreement of sale.
- (2) Any person who fails to comply with the provisions of sub-section (1) shall, for the purpose of the payment of the duty payable in respect of the acquisition of the property in question, be presumed, unless the contrary is proved, to have acquired the property for himself.

17. Penalties

- (1) Any person who fails to comply with any requirement or demand by the Commissioner under this Act or who knowingly submits or causes to be submitted to the Commissioner a declaration referred to in section fourteen which fails to disclose any material fact relevant to the nature of the transaction by which property has been acquired or to the consideration payable in respect of any property or to the value on which duty is payable, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding one year.
- (2) Any person who makes in any declaration referred to in section fourteen a false statement knowing it to be false shall be guilty of an offence and liable on conviction to the penalties prescribed for the crime of perjury.

18. Appeals from decisions of the Commissioner

- (1) Any person who considers himself aggrieved by a decision of the Commissioner under sub-section (6) of section five or under section eight may, within thirty days after the decision became known to him, appeal against that decision by way of application on notice of motion to the provincial or local division of the Supreme Court of South Africa having jurisdiction in the area in which the property in question is situate, on giving security to the satisfaction of the registrar of that division for any costs that may be incurred by the Commissioner in connection with the appeal.
- (2) The division of the said Supreme Court to which appeal is made shall inquire into and consider the matter and shall confirm, vary or set aside the decision of the Commissioner or give such other decision as in its opinion the Commissioner ought to have given, and may make such order as to costs as it may deem fit.
- (3) Any judgment given or order made by a provincial or local division of the said Supreme Court in terms of sub-section (2) shall be subject to appeal to the Appellate Division of the Supreme Court of

South Africa in the same manner and on the same conditions as a judgment given or order made in a civil proceeding in that provincial or local division.

- (4) Any decision by the court in terms of sub-section (2) or (3) relating to the fair value of any property or to the value of any consideration payable in respect of the acquisition of any property, shall, for the purposes of this Act, be deemed to be the decision of the Commissioner.

19. Hearing by judge in chambers of disputes regarding exemption from duty

Any dispute between the Commissioner and any person who claims to be exempt from duty in respect of the acquisition of property may, on application by either party to the dispute, be determined by a judge of the Supreme Court sitting in chambers after hearing the Commissioner and such person or their respective representatives.

20. Refunds

If it is proved to the satisfaction of the Commissioner that duty has been paid in respect of an acquisition of property by a person who is or has become, in terms of this Act or any other law as in force on the date of the acquisition, exempt from the payment of duty in respect of that acquisition, or that the amount of duty which has been paid is in excess of the amount payable, he may authorize a refund of the duty paid or of so much of the duty as has been overpaid, as the case may be.

21. Repeal of laws

The laws specified in the Schedule are hereby repealed to the extent set out in the fourth column of the said Schedule: Provided that any duty which has at the date of commencement of this Act become payable under any law so repealed, but which has not at that date been paid, shall be recovered in accordance with and subject to the provisions of the said law.

22. Short title and date of commencement

This Act shall be called the Transfer Duty Act, 1949, and shall come into operation on the first day of January, 1950.

Schedule

Repeal of laws

Province or Union	Number and date of law	Title or Subject of Law	Extent of Repeal
Cape of Good Hope.	Ordinance No. 6 of 1844.	Ordinance for Regulating Sales.	So much as is unrepealed.
	Act No. 5 of 1884.	Transfer Duty Consolidation and Amendment Act, 1884.	The whole, except sections twenty-four, twenty-five, twenty-eight and thirty.
	Act No. 46 of 1902.	The Higher Educational Institutions Transfer Duty Exemption Act, 1902.	So much as relates to transfer duty.
	Ordinance No. 5 of 1921.	Consolidated Education Ordinance, 1921.	So much of sections three hundred and eighteen and three hundred and twenty as relates to transfer duty.
Transvaal	Proclamation No. 8 of 1902.	Transfer Duty Proclamation, 1902.	The whole, except sections twenty-two, twenty-three, twenty-six, twenty-eight, twenty-nine and thirty.
	Ordinance No. 14 of 1905.	Ordinance to amend the Transfer Duty Proclamation, 1902.	The whole.
Natal.	Law No. 5 of 1860.	To amend the Law for regulating the payment of Transfer Duty on the sale or transfer of Immovable Property.	The whole.
	Law No. 20 of 1865.	To exempt growing crops and Machinery from the payment of Transfer Duty on being sold along with the Lands on which	The whole.

		they are growing or to which they are attached.	
	Law No. 19 of 1883.	To amend Law No. 5 of 1860.	The whole.
	Law No. 19 of 1884.	To amend in certain respects the Law and Practice in reference to Registration.	So much as is unrepealed.
	Law No. 5 of 1890.	To amend in certain respects Law No. 5 of 1860 and Law No. 19 of 1883.	The whole.
	Law No. 6 of 1891.	To amend Law 19, 1884 entitled 'Law to amend in certain respects the Law and Practice in reference to Registration'.	The whole.
	Act No. 43 of 1899.	The Natal Mines Act, 1899.	Sections ninety and ninety-one.
	Act No. 7 of 1903.	To amend the Law relating to Sale and Purchase of Land.	Sections three, four and six and the Schedule.
	Act No. 23 of 1907.	To amend Law No. 5 of 1890 and Law No. 6 of 1891.	The whole.
	Act No. 31 of 1908.	To impose a cession fee upon unregistered Crown Leases.	The whole.
	Act No. 11 of 1909.	To amend the Transfer Duty Law No. 5 of 1860.	The whole.
	Act No. 12 of 1909.	To amend Law No. 19, 1884, relative to the registration of leases.	The whole.
Orange Free State.	Law Book Chapter CXVIII.	Transfer and Registration of Stands.	Sections six and eight.

	Law No. 14 of 1897.	To impose a tax on fixed property situate in but sold outside the Orange Free State by public auction.	The whole.
	Ordinance No. 12 of 1906.	Transfer Duty Ordinance, 1906.	The whole, except sections forty-one, forty-two, forty-five, forty-seven, forty-nine, fifty-one, fifty-two and fifty-three.
	Ordinance No. 18 of 1906.	Villages Management Amendment Ordinance, 1906.	Section five.
	Act No. 30 of 1908.	Transfer Duty Amendment Act, 1908.	The whole.
Union	Act No. 11 of 1913.	Transfer Duty Reduction Act, 1913.	The whole.
	Act No. 42 of 1917.	Financial Adjustment Act, 1917.	Section eight.
	Act No. 28 of 1919.	Transvaal Transfer Duty Amendment Act, 1919.	The whole.
	Act No. 43 of 1919.	Financial Adjustments Act, 1919.	Section three.