



ORARO & COMPANY  
ADVOCATES

## LEGAL ALERT

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

## STAMP DUTY REGULATIONS

On 5th August 2020, the Cabinet Secretary for National Treasury and Planning published the Stamp Duty (Valuation of Immovable Property) Regulations, 2020 (“the Regulations”). The Regulations expound on various issues including the appointment of private valuers, valuation of immovable property and objection of the ascertained value, where necessary. In this alert, we highlight the salient provisions of the Regulations, as follows:-

### 1. Appointment of Private Valuers

The Regulations provide that a person who wishes to be appointed as a private valuer is required to apply in writing to the Chief Government Valuer to be appointed as such. The applicant should be registered in accordance with the Valuers Act (Cap. 532) Laws of Kenya, and should provide proof of physical office address together with a valid tax compliance certificate.

Upon receipt of the application, the Chief Government Valuer is obliged by a written decision, to either approve or reject the application within thirty (30) days. If approved, the applicant is appointed for a period of three (3) years, after which he or she may apply for reappointment.

### 2. Valuation of Immovable Property

The transferee of the immovable property initiates the process by applying in writing to the Chief Government Valuer.

The transferee also elects whether the valuation should be undertaken by a Government Valuer or private valuer (“Appointed Valuer”). The Chief Government Valuer assigns the valuation to either a Government Valuer or an Appointed Valuer, as the case may be. Where the task is assigned to an Appointed Valuer, the Chief Government Valuer will notify the transferee within seven (7) days from the application date, details of the name of the Appointed Valuer.

Where a valuation is conducted by an Appointed Valuer, the related costs are to be borne by the transferee. No fee is however payable, for valuations conducted by the Government Valuer.

The Government Valuer is required to submit the valuation report to the Chief Government Valuer within twenty-one (21) days from the date of election by transferee. On the other hand, the Appointed Valuer has to submit the valuation report immediately after payment by the transferee.

The Regulations specify that the following documents should accompany the valuation report:

- a copy of the cadastral map indicating the location of the immovable property
- a copy of the title to the immovable property
- the KRA Personal Identification Number (PIN) of the transferee
- any other relevant documents relating to the immovable property

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The Chief Government Valuer is required to review the valuation report and upon approval, he should notify the transferee and the Collector of Stamp Duty of the market value of the property and the stamp duty payable. Where the Chief Government Valuer disagrees with the report, the report will be revised and the concerned valuer will be subsequently notified.

The Regulations are also specific that the report is valid for a period of twelve (12) months.

### 3. Lodging of Objections

If the transferee is aggrieved by the valuation, he or she can lodge an objection within twenty-one (21) days from the date of receiving the notification of the approved market value. The objection could be based on either of the following grounds:

- The value assigned to the immovable property
- The apportionment of the area, dimensions or description of immovable property
- Immoveable property that should have been included in the valuation has been valued separately
- Immoveable property that should have been valued separately has been included
- The person named in the valuation report is not the real transferee

However, the period within which one can lodge the objection may be extended, on the grounds that the

transferee is outside Kenya or is unwell or for any other reasonable reason. The extension will be for a period not exceeding one (1) year, from the date the approved value was communicated to the transferee.

### 4. Issuance of Notices and Documents by the Chief Government Valuer

All notices and documents to be issued by the Chief Government Valuer may either be delivered to the transferee or their representative, sending it to the last known address of the person or transmitting it in electronic form to the transferee's email address.

The Regulations signify a new approach by the Government, regarding valuation of immovable property in the country. People have been granted the much-needed freedom of choice, to determine who will undertake their valuations. Previously, all valuations for Stamp Duty were automatically conducted by Government Valuers.

Further, the inclusion of Appointed Valuers offers the Government extra manpower in the valuation exercise. This will have a domino effect of expediting valuations, as more valuers will undertake valuations, as and when required. This may signify a departure from earlier experiences of backlogs, when Government Valuers were inundated with numerous valuations to undertake.

It is our hope and expectation that both Government

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Valuers and Appointed Valuers will play their part in improving the overall turnaround time for property transactions in Kenya.

### Disclaimer

*This alert is for informational purposes only and should not be taken as or construed to be legal advice. If you have any queries or need clarifications, please do not hesitate to contact Pamella Ager, Partner (pamella@oraro.co.ke) or James Kituku, Senior Associate (james@oraro.co.ke) or your usual contact at our firm, for legal advice relating to the Regulations and how the same might affect you.*



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