

Stamp Duties (Amendment) Bill

Bill No. 28/99.

Read the first time on 3rd August 1999.

A BILL

intituled

An Act to amend the Stamp Duties Act (Chapter 312 of the 1997 Revised Edition) and to make consequential amendments to the Criminal Procedure Code (Chapter 68 of the 1985 Revised Edition), the Penal Code (Chapter 224 of the 1985 Revised Edition) and the Trustees Act (Chapter 337 of the 1999 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1.—(1) This Act may be cited as the Stamp Duties (Amendment)
5 Act 1999 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

(2) The Minister may appoint different dates for the coming into operation of the different provisions of this Act.

Amendment of section 2

2. Section 2 of the Stamp Duties Act (referred to in this Act as the principal Act) is amended —

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- (a) by deleting the definitions of “adhesive stamp”, “die” and “impressed stamp”;
- (b) by deleting the definitions of “continuation clause”, “policy of insurance” and “policy of sea insurance”;
- (c) by deleting the definition of “duly stamped” and substituting 10 the following definition:

“ “duly stamped”, as applied to an instrument chargeable with duty, means —

- (a) that the instrument bears an adhesive or impressed stamp of not less than the proper amount, and that stamp has been affixed in accordance with the provisions of this Act for the time being in force at the time of stamping; or 15
- (b) that the instrument, if stamped using the E-Stamping system, has attached to it a stamp certificate issued for the instrument by the Commissioner in accordance with the provisions of this Act for the time being in force at the time of stamping;”;
- (d) by inserting, immediately after the definition of “duty”, the following definition: 25

“ “E-Stamping system” means the computer service established under section 6B;”;

- (e) by inserting, immediately after the words “to impress stamps” in the definition of “proper officer”, the words “or to issue stamp certificates”; 30
- (f) by inserting, immediately after the definition of “proper officer”, the following definition:

“ “registered person” means a person approved under section 6B to be a registered user of the E-Stamping system;”;

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(g) by inserting, immediately after the definition of “settlement”, the following definition:

5 ““stamp certificate” means a certificate that is issued electronically in respect of any instrument chargeable with duty denoting the amount of duty payable in respect of that instrument or that the duty otherwise chargeable in respect of that instrument is remitted;”.

Amendment of section 3

10 **3.** Section 3 of the principal Act is amended by inserting, immediately after subsection (1), the following subsection:

15 “(1A) Every Deputy Commissioner of Stamp Duties shall have and may exercise all the powers of the Commissioner under the provisions of this Act except sections 3 (2), 40 (2) and 68 (1).”.

Repeal and re-enactment of section 4

4. Section 4 of the principal Act is repealed and the following section substituted therefor:

“Instrument chargeable with duty

20 **4.—**(1) Subject to the provisions of this Act and any other written law, every instrument mentioned in the First Schedule, being an instrument —

25 (a) which, not having been previously executed by any person, is executed in Singapore; or
 (b) which is executed outside Singapore, and relates to any property situate, or to any matter or thing done or to be done, in Singapore, and is received in Singapore,
 shall be chargeable with duty of the amount specified in that Schedule as the proper duty for that instrument.

30 (2) All instruments chargeable with duty shall be duly stamped.”.

New sections 6A to 6D

5. The principal Act is amended by inserting, immediately after section 6, the following sections:

“How duties are denoted

6A. Except where express provision is made to the contrary in this Act, all duties chargeable on any instrument shall be paid and denoted by attaching to the instrument a stamp certificate relating to the instrument. 5

E-Stamping system

6B.—(1) The Commissioner may establish or operate a computer service known as the E-Stamping system that enables a registered person, in accordance with the arrangements made under this section — 10

- (a) to obtain an assessment of stamp duty (and any penalty) on an instrument; 15
- (b) to pay stamp duty (and any penalty) on an instrument by electronic funds transfer in accordance with the assessment; and
- (c) to stamp the instrument by attaching a stamp certificate to it which bears an authorisation number issued for the instrument and such other particulars as are determined by the Commissioner, 20

without the need for the instrument to be presented to the Commissioner or a proper officer in charge of the stamp office.

(2) Any person may apply to the Commissioner to register to use the E-Stamping system. 25

(3) The Commissioner may refuse an application made under subsection (2) or approve the registration of the applicant subject to such terms as he thinks fit.

(4) An approval may be amended at any time by agreement between the Commissioner and the registered person or by written notice given by the Commissioner to the registered person. 30

(5) An approval granted under subsection (3) shall remain in force until it is cancelled by the Commissioner or until the registered person surrenders the approval. 35

(6) The Commissioner may, by written notice, cancel an approval at any time for any reason.

(7) The Commissioner may, with the approval of the Minister —

- 5 (a) determine the information and particulars that may be electronically transmitted under the E-Stamping system, including the form and manner they are to be transmitted;
- 10 (b) determine the procedure for use of the E-Stamping system, including the procedure in circumstances where there is a breakdown or interruption in the computer service; and
- (c) generally do such other things for the better provision of the computer service.

15 **Electronic assessment and stamping of instruments**

6C.—(1) For the purposes of this Act, the issue, using the E-Stamping system, of a stamp certificate for an instrument shall comprise an assessment of the duty (and any penalty) in relation to the instrument.

- 20 (2) A registered person must, on receipt of a stamp certificate issued for the instrument by the Commissioner, forthwith attach the stamp certificate to the instrument.

Electronic funds transfer of duty

25 **6D.**—(1) Every registered person shall, for the purposes of the E-Stamping system, open an electronic banking facility with a bank to enable the transfer of funds from his designated account with the bank to an account specified by the Commissioner.

- 30 (2) The Commissioner shall, on issuing to a registered person a stamp certificate in respect of any instrument that is chargeable with duty, forthwith deduct through electronic funds transfer the full amount of duty chargeable from the designated account of the registered person.

- 35 (3) Nothing in subsection (2) shall require the Commissioner to deduct any moneys from the designated account of the

registered person if the funds in that designated account are less than the full amount of duty chargeable on the instrument.”.

Amendment of section 7

6. Section 7 of the principal Act is amended —

- (a) by deleting the words “are to be” in the 2nd line of subsection (2) and substituting the words “may be”; 5
- (b) by deleting the words “requiring an impressed stamp” in the 3rd line of subsection (2) and substituting the words “, the duty upon which is permitted to be denoted by an impressed stamp,”; and 10
- (c) by deleting the word “No” in subsection (7) and substituting the words “Subject to section 6A, no”.

Amendment of section 8

7. Section 8 (1) of the principal Act is amended —

- (a) by deleting the words “a policy of insurance, contract note or any other” in the 3rd and 4th lines and substituting the word “any”; and 15
- (b) by deleting the words “which may from time to time be specified by the Minister by notification in the *Gazette*” in the 5th and 6th lines. 20

Repeal and re-enactment of section 9

8. Section 9 of the principal Act is repealed and the following section substituted therefor:

“Composition of duty

9.—(1) Where the Commissioner is of the opinion that it is impracticable or inexpedient to require that the duty payable under this Act should be charged and paid on each separate instrument, the Commissioner may by order authorise any person to compound the payment of duty on such instruments as may be specified in the order on the following conditions: 25 30

- (a) that the person delivers to the Commissioner accounts in respect of the instruments at a date to be specified by the Commissioner in such form and containing such particulars as the Commissioner may direct;

(b) that, on delivery of the accounts required under paragraph (a), the person pays to the Commissioner the amount of duty due on all the instruments;

5 (c) that the person endorses on each of the instruments specified in the order the words “Stamp Duty Paid” together with such other particulars as the Commissioner may specify; and

(d) that the person complies with such other requirements as the Commissioner may impose.

10 (2) The Commissioner may, if he thinks fit, waive any of the conditions in subsection (1).

(3) Instruments in respect of which payment of duty by way of composition has been made under this section shall, notwithstanding any other provision of this Act, be deemed to be duly stamped.

(4) The Commissioner may, by notice and for any reason he deems fit, cancel any authorisation granted under subsection (1) and shall, in such notice, specify the date from which the authorisation is cancelled.

20 (5) Where a person fails or neglects to pay the whole of the amount of duty within the time required by subsection (1), he shall be liable to pay, in addition to the unpaid amount of duty, a penalty under section 46.”.

Amendment of section 11

25 **9.** Section 11 of the principal Act is amended —

(a) by deleting the word “shall” in the 4th line and substituting the word “may”; and

(b) by deleting the words “by endorsement under the hand of the Commissioner or in such other manner, if any, as the Minister may by rules prescribe” in the 6th, 7th and 8th lines and substituting the words “in such manner as the Minister may by rules prescribe”.

Amendment of section 12

35 **10.** Section 12 of the principal Act is amended by deleting the words “by a certificate endorsed thereon by the Commissioner that

the full and proper duty has been paid upon the original instrument of which it is the duplicate or counterpart” in the 5th to 8th lines and substituting the words “from the stamp certificate for the instrument that the instrument is a duplicate or counterpart”.

Amendment of section 22

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11. Section 22 of the principal Act is amended —

- (a) by deleting the word “or” at the end of subsection (6) (b);
- (b) by deleting the full-stop at the end of subsection (6) (c) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:

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“(d) the purchase of the property is conditional upon permission by the competent authority to develop or subdivide the property and such permission is refused;

- (e) either vendor or purchaser fails to obtain the approval of any public authority to sell or purchase, as the case may be, the property;

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(f) the Commissioner of Building Control made an order under section 24 of the Building Control Act (Cap. 29) in respect of the property; or

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(g) a Strata Titles Board refused an application for the sale of the property under section 84A, 84D or 84E of the Land Titles (Strata) Act (Cap. 158).”;

- (c) by deleting the word “or” at the end of subsection (7) (a) (ii);

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- (d) by deleting sub-paragraph (iii) of subsection (7) (a) and substituting the following sub-paragraphs:

“(iii) in the case of a contract or agreement that is rescinded or annulled on the ground referred to in subsection (6) (g), 2 months after the refusal of a Strata Titles Board; or

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(iv) such further time as the Commissioner may deem reasonable when, in unavoidable circumstances, the instrument cannot be produced within that period; and”;

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(e) by deleting paragraph (b) of subsection (7) and substituting the following paragraph:

“(b) in the case of an executed instrument, the instrument is given up to be cancelled.”; and

5 (f) by inserting, immediately after subsection (8), the following subsection:

“(9) In this section —

“Commissioner of Building Control” has the same meaning as in the Building Control Act (Cap. 29);

10 “competent authority” has the same meaning as in the Planning Act (Cap. 232);

“public authority” means the Housing and Development Board constituted by the Housing and Development Act (Cap. 129) or the Jurong Town Corporation constituted under the Jurong Town Corporation Act (Cap. 150);

15 “Strata Titles Board” means a Strata Titles Board constituted under Part VI of the Land Titles (Strata) Act (Cap. 158).”.

20 **Amendment of section 25**

12. Section 25 of the principal Act is amended by deleting subsections (2) and (3) and substituting the following subsections:

“(2) If the rent or any other consideration payable by the lessee under a lease cannot be ascertained or estimated at the time that the lease is presented for stamping (whether because the consideration depends on some future contingency or for any other reason), the Commissioner may assess the duty payable based on the open market rent for the leased property as if the open market rent were the rate or average rate of rent per annum under the lease and there were no other consideration payable under the lease.

35 (3) If the consideration payable by the lessee under a lease can be ascertained or estimated at the time that the lease is presented for stamping but the duty that may be charged on the instrument (whether as a lease or a conveyance on sale or both)

apart from this section is less than the duty that would be payable based on the open market rent for the property, the Commissioner may assess the duty payable based on the open market rent as if the open market rent were the rate or average rate of rent per annum under the lease and there were no other consideration payable under the lease. 5

(4) For the purposes of this section, the Commissioner may cause a valuation to be made by the Chief Valuer of any property that is the subject of a lease for the purpose of determining the open market rent for the property. 10

(5) In this section, “open market rent” for property means the consideration (including rent, payment for the hire of any furniture, chattels, fittings or equipment or for the provision of services, facilities or other things in connection with the property, and any other form of valuable consideration) that a lessee might reasonably be expected to pay under a lease of the property, if it were unoccupied and offered for renting, expressed as a rate of rent per annum.”. 15

Amendment of section 29

13. Section 29 of the principal Act is amended by deleting subsection (3). 20

Amendment of section 30

14. Section 30 of the principal Act is amended by deleting subsection (4).

New section 33A

15. The principal Act is amended by inserting, immediately after section 33, the following section: 25

“Comptroller may disregard certain transactions and dispositions

33A.—(1) Where the Commissioner is satisfied that the purpose or effect of any arrangement is, directly or indirectly — 30

- (a) to alter the incidence of any duty which is payable or which would otherwise have been payable by any person;

(b) to relieve any person from any liability to pay duty; or
 (c) to reduce or avoid any liability imposed or which would otherwise have been imposed on any person by this Act,
 the Commissioner may, without prejudice to such validity as it
 5 may have in any other respect or for any other purpose, disregard or vary the arrangement and make such adjustments as he considers appropriate, including the amount of duty payable, or the imposition of liability to duty, so as to counteract any reduction in or avoidance of duty payable by that person from or
 10 under that arrangement.

(2) In this section, “arrangement” means any scheme, trust, grant, covenant, agreement, disposition, transaction and includes all steps by which it is carried into effect.

(3) This section shall not apply to —

- 15 (a) any arrangement made or entered into before the date of commencement of section 15 of the Stamp Duties (Amendment) Act 1999; or
- (b) any arrangement carried out for bona fide commercial reasons and had not as one of its main purpose the
 20 avoidance or reduction of duty.”.

Amendment of section 36

16. Section 36 of the principal Act is amended —

- (a) by deleting paragraphs (b), (g), (h) and (i) of subsection (1);
 (b) by inserting, at the end of paragraph (e) of subsection (1),
 25 the word “and”;
- (c) by deleting the word “society;” in the last line of paragraph (f) of subsection (1) and substituting the words “society unless the instrument relates to any immovable property where, but for this exemption, the purchaser of the property,
 30 not being a co-operative society would, in accordance with section 34, be the person liable to pay the duty chargeable on that instrument.”; and
- (d) by deleting subsection (2).

Amendment of section 37

17. Section 37 of the principal Act is amended —

- (a) by deleting subsection (1) and substituting the following subsection:

“(1) Where any instrument, whether executed or not 5
and whether previously stamped or not, is brought to the
Commissioner and the person bringing it applies to the
Commissioner as to whether the instrument is chargeable
with any duty and, if so, the amount of duty chargeable,
the Commissioner shall, upon payment of the relevant 10
adjudication fee prescribed in the Fourth Schedule,
adjudicate and assess the duty with which, in his judgment,
the instrument is chargeable.”;

- (b) by inserting, immediately after the word “conveyance,” in
subsection (3), the word “lease,”; 15

- (c) by deleting the words “a fee for such certification at the
following rates:” in the 6th line of subsection (4) and
substituting the words “a fee as specified in the Fifth
Schedule.”;

- (d) by deleting paragraphs (a), (b) and (c) of subsection (4); and 20

- (e) by deleting subsection (6).

Amendment of section 38

18. Section 38 of the principal Act is amended —

- (a) by deleting the words “by endorsement on the instrument
that the full duty, stating the amount,” in the 9th and 25
10th lines of subsection (1) and substituting the words “by
issuing and attaching to the instrument a certificate of
adjudication, stating that the full duty,”;

- (b) by deleting the words “upon which an endorsement has been
made” in the 1st line of subsection (3) and substituting the 30
words “in respect of and to which a certificate of adjudica-
tion has been issued and attached”; and

- (c) by inserting, immediately after the word “Certificate” in the
section heading, the words “of adjudication”.

New section 39A

19. The principal Act is amended by inserting, immediately after section 39, the following section:

“Notice of objection

5 **39A.**—(1) Any person who is dissatisfied with an assessment of the Commissioner under section 37 may, by written notice (referred to in this Act as a notice of objection), object to the assessment and apply to the Commissioner to review the assessment.

10 (2) Every notice of objection must state the grounds of objection to the Commissioner’s assessment and must be made within 30 days after the date of the assessment or such further period as the Commissioner may allow in any particular case.

15 (3) The person giving a notice of objection must furnish further particulars and information in relation to the grounds of the objection if required to do so by the Commissioner in writing.

 (4) The Commissioner shall, on receipt of a notice of objection and such further particulars and information as he may require under subsection (3), review the assessment.

20 (5) As soon as practicable after the objection is determined, the Commissioner must inform the person concerned in writing of the Commissioner’s decision on the objection and the reasons for his decision.

25 (6) Where, on review, it appears to the Commissioner that the amount of duty originally assessed is excessive, he may cancel the original assessment and make such other assessment in substitution thereof as he considers proper; and any reference in this Act to an assessment shall be construed as including such a substituted assessment.

30 (7) The Commissioner shall serve a notice of amended assessment on the person concerned of the assessment substituted in accordance with subsection (6).

 (8) The making of an objection shall not relieve the person of liability to pay the duty as required by this Act.”.

Amendment of section 40

20. Section 40 of the principal Act is amended —

- (a) by deleting the words “the assessment of the Commissioner may, within 21 days after the date of the assessment” in the 1st and 2nd lines of subsection (1) and substituting the words “the Commissioner’s decision under section 39A (5) on a notice of objection may, within 21 days after the person is informed of that decision”; 5
- (b) by inserting, immediately after subsection (1), the following subsection: 10

“(1A) Any appeal under subsection (1) shall not be effective unless written notice of the appeal is served on the Commissioner within 21 days of the person being informed of the Commissioner’s decision under section 39A (5) on the notice of objection.”; and 15
- (c) by deleting the word “assessment” wherever it appears in subsections (1), (4) and (5) and substituting the word “decision”.

Amendment of section 46

21. Section 46 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection: 20

- “(3) For the purposes of this section, an instrument shall be deemed to be unstamped or insufficiently stamped notwithstanding that a stamp certificate is attached thereto if, by reason of the circumstances mentioned in section 6D (3), the duty chargeable on the instrument was not deducted by the Commissioner from the designated account of a registered person.”. 25

Repeal and re-enactment of section 48

22. Section 48 of the principal Act is repealed and the following section substituted therefor: 30

“Denoting penalty

48. The payment of any penalty prescribed under section 46 shall be denoted —

- (a) on the instrument concerned by an impressed stamp and certification by the Commissioner; 35

- (b) by a receipt issued by the Commissioner; or
- (c) by notation on the stamp certificate relating to the instrument.”.

Repeal and re-enactment of section 50

- 5 **23.** Section 50 of the principal Act is repealed and the following section substituted therefor:

“Suit for recovery of duty, etc., by Commissioner

10 **50.**—(1) Notwithstanding the provisions of any other written law, all duty and penalty required to be paid under this Act may be sued for by way of a specially endorsed writ of summons.

(2) The Commissioner may, in his own name, sue for any such duty or penalty and shall be entitled to all costs allowed by law against the person liable thereto.

15 (3) The Commissioner may appear personally or by counsel in any suit instituted under this section.

20 (4) In any suit under this section, the production of a certificate signed by the Commissioner giving the name and address of the defendant and the amount of duty or penalty due by him shall be sufficient evidence of the amount so due and sufficient authority for the court to give judgment for that amount.

25 (5) Any penalty required to be paid under this Act shall be recoverable as if it were duly due and payable under this Act and accordingly, section 6 (4) of the Limitation Act (Cap. 163) shall not apply to such penalty.”.

Amendment of section 57

- 24.** Section 57 of the principal Act is amended —

- 30 (a) by deleting paragraphs (b) and (c) of subsection (1); and
 (b) by inserting, immediately after subsection (2), the following subsection:

“ (3) In this section and section 58, “stamp” includes a stamp certificate.”.

Repeal and re-enactment of sections 62 to 65 and new section 65A

25. Sections 62 to 65 of the principal Act are repealed and the following sections substituted therefor:

“Penalty for evasion of duty

62. Any person who with intent to evade the payment of duty —

- (a) executes any instrument in which all the facts and circumstances are not truly and fully set forth as required by section 5;
- (b) being employed or concerned in or about the preparation of any instrument, neglects or omits to set forth fully or truly in the instrument all those facts and circumstances; or
- (c) draws, makes, executes or signs, or otherwise than as a witness, any instrument whatsoever chargeable with duty without the instrument being duly stamped,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

Penalty for executing instruments not duly stamped, etc.

63. Any person who —

- (a) having drawn, made, executed or signed, otherwise than as a witness, any instrument that is chargeable with duty without the instrument being duly stamped and fails, without lawful excuse, to procure the due stamping of the instrument within the time within which the instrument may be stamped without penalty under this Act;
- (b) not being a person authorised under section 9 (1) or an employee of such person, makes an endorsement on any instrument in the manner described in section 9 (1) (c); or
- (c) being a person authorised under section 9 (1) —
 - (i) fails to deliver to the Commissioner accounts as required by section 9 (1) (a);

(ii) delivers to the Commissioner accounts which are false in any material particular; or

(iii) contravenes or fails to comply with any condition in section 9 (1) not waived by the Commissioner,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000.

Penalties relating to stamp certificates, etc.

64. Any person who —

(a) sells or offers for sale a stamp certificate or certificate of adjudication;

(b) fraudulently attaches a stamp certificate or certificate of adjudication to an instrument other than the instrument for which the stamp certificate or certificate of adjudication was issued;

(c) fraudulently detaches a stamp certificate or certificate of adjudication or fraudulently causes a stamp certificate or certificate of adjudication to be detached from an instrument;

(d) counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp certificate or certificate of adjudication issued by the Commissioner;

(e) sells or offers for sale any certificate which he knows or ought reasonably to know to be a counterfeit of any stamp certificate or certificate of adjudication issued by the Commissioner;

(f) has in his possession any certificate which he knows to be a counterfeit of any stamp certificate or certificate of adjudication, intending to use or dispose of it as a genuine stamp certificate or certificate of adjudication, or in order that it may be used as a genuine stamp certificate or certificate of adjudication; or

(g) uses as a genuine stamp certificate or certificate of adjudication, knowing it to be a counterfeit of any stamp certificate or certificate of adjudication,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

Penalty for obstructing Commissioner and similar offences

65.—(1) No person shall —

- (a) resist or obstruct the Commissioner or any officer in the performance of any duty or the exercise of any power under this Act or any rules made thereunder; or 5
- (b) wilfully mislead the Commissioner or any officer in any particular likely to affect the discharge of his duty.

(2) Subject to subsection (3), no person shall, being lawfully asked any question by the Commissioner or any officer under this Act or any rules made thereunder, give an answer (whether orally or in writing) to the question or, in furnishing information, make any statement or representation that is false or misleading in any material particular. 10

(3) Any person who contravenes or fails to comply with subsection (1) or (2) shall be guilty of an offence. 15

(4) It shall be a defence to a charge under subsection (2) to prove that, when the answer, statement or representation was given or made, the defendant believed on reasonable grounds that it was neither false nor misleading.

(5) In this section, “officer” means any Deputy Commissioner of Stamp Duties and any officer of the staff of the Commissioner assisting him in the administration of this Act. 20

General penalty

65A. Any person guilty of an offence under this Act for which no other penalty is provided shall be liable on conviction to a fine not exceeding \$1,000 and in default to imprisonment for a term not exceeding 6 months.”. 25

Amendment of section 66

26. Section 66 of the principal Act is amended by deleting “\$500” in the last line and substituting “\$1,000”. 30

Amendment of section 67

27. Section 67 of the principal Act is amended by deleting “\$1,000” and substituting the words “\$10,000 or to imprisonment for a term not exceeding 3 years or to both”.

Amendment of section 68

28. Section 68 of the principal Act is amended —

- (a) by deleting the words “the Commissioner” in subsection (1) and substituting the words “either the Commissioner or the Attorney-General”; and
- (b) by deleting subsections (2) and (3) and substituting the following subsections:

“(2) The Commissioner may, in his discretion, compound any offence under this Act or any rules made thereunder which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding \$2,000.

(3) The Minister may make rules to prescribe the offences which may be compounded.”.

New section 68A

29. The principal Act is amended by inserting, immediately after section 68, the following section:

“Service of summons

68A.—(1) Every summons issued by a court against any person in connection with any offence under this Act or any rules made thereunder may be served on the person —

- (a) by delivering the summons to the person or to some adult member or employee of his family at his usual or last known place of residence;
- (b) by leaving the summons at his usual or last known place of residence or business in an envelope addressed to the person;
- (c) by sending the summons by registered post addressed to the person at his usual or last known place of residence or business; or
- (d) where the person is a body of persons or a company —
 - (i) by delivering the summons to the secretary or other like officer of the body of persons or company at its registered office or principal place of business; or

- (ii) by sending the summons by registered post addressed to the body of persons or company at its registered office or principal place of business.

(2) Any summons sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person to whom the letter is addressed at the time when the letter would in the ordinary course of post be delivered. 5

(3) In proving service of the summons by registered post, it shall be sufficient to prove that the envelope containing the summons was properly addressed, stamped and posted by registered post.”. 10

New sections 70A, 70B and 70C

30. The principal Act is amended by inserting, immediately after section 70, the following sections: 15

“Recovery of duty from deceased individual

70A.—(1) Where, at the time of a person’s death, any duty or penalty is due from him under this Act and has not been paid, the Commissioner shall have the same powers and remedies for recovering the duty or penalty so payable from the person’s estate as the Commissioner would have in relation to the person if the person were alive; and such duty or penalty or both shall be payable by the executor or administrator in respect of the deceased person’s estate to the same extent as it would be payable by the person if he were alive. 20 25

(2) This section shall not apply if the duty is assessed after the end of the third year following that year in which the person died.

Company wound-up

70B. Where a company is being wound up, the liquidator of the company shall not distribute any of the assets of the company to the shareholders thereof unless he has made provision for the payment in full of any duty or penalty which may be found payable by the company. 30

Power to call for any instruments, books, accounts or other records

70C.—(1) For the purposes of this Act, the Commissioner may give notice in writing to any person requiring him to furnish within the time limited by such notice, not being less than 30 days from the date of service of such notice, to attend personally before him or to produce to him for examination any instruments, books, documents, accounts and other records which the Commissioner may consider necessary.

(2) Where records are maintained by computer the person required to make them available for examination shall provide all facilities necessary for obtaining the computer records.

(3) The Commissioner shall at all times have full and free access to all buildings, places, instruments, books, documents and other records for any of the purposes of this Act, and may, without fee or reward, inspect, copy or make extracts from any such instruments, books, documents, accounts or records.

(4) The Commissioner may take possession of any such instruments, books, documents, accounts or records where in his opinion —

- (a) the inspection, copying thereof or extraction wherefrom cannot reasonably be performed without taking possession;
- (b) the instruments, books, documents, accounts or records may be interfered with or destroyed unless possession is taken; or
- (c) the instruments, books, documents, accounts or records may be required as evidence in proceedings for an offence under this Act or in proceedings for the recovery of duty or penalty, or in proceedings by way of an appeal against the assessment.

(5) The Commissioner may require any person to give orally or in writing, as may be required, all such information, facts and circumstances affecting the liability of any instrument to duty.

(6) Any person who fails or neglects without reasonable excuse to comply with any notice issued by the Commissioner under this section shall be guilty of an offence.

(7) Any person who, for the purpose of evading any duty under this Act, falsifies or destroys any document, book or accounts, records or other instrument shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.”. 5

Amendment of section 73

31. Section 73 of the principal Act is amended by deleting the words “The Government shall not” in the 1st line and substituting the words “Neither the Government nor the Commissioner shall”. 10

Amendment of section 74

32. Section 74 of the principal Act is amended —

- (a) by deleting the words “, by rule or order published in the *Gazette*,” in the 1st line; and
- (b) by deleting the words “, remit or compound” in the section heading and substituting the words “or remit”. 15

Amendment of section 77

33. Section 77 of the principal Act is amended by deleting “\$200” and substituting “\$1,000”.

Amendment of section 78

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34. Section 78 of the principal Act is amended by deleting the words “or Third Schedule” and substituting the words “, Third, Fourth or Fifth Schedule”.

New Fourth and Fifth Schedules

35. The principal Act is amended by inserting, immediately after the Third Schedule, the following Schedules: 25

“FOURTH SCHEDULE

Section 37 (1)

ADJUDICATION FEES

<i>Subject-matter of Instrument</i>	<i>Fee</i>	
1. A scheme of reconstruction or amalgamation under section 15	\$150	30

FOURTH SCHEDULE — *continued*

	<i>Subject-matter of Instrument</i>	<i>Fee</i>
2.	Any immovable property that is sold under Part IV of the Housing and Development Act (Cap. 129)	\$30
5 3.	Any other immovable property	\$90
4.	All other transactions	\$90.

FIFTH SCHEDULE

Section 37 (4)

VALUATION FEES

	<i>Subject-matter of Instrument</i>	<i>Fee</i>
10 1.	Any immovable property sold under Part IV of the Housing and Development Act (Cap. 129)	\$30
2.	Any other immovable property —	
15 (a)	on the first \$10,000 of the difference between the certified value under section 37 (3) and the value on which, in the opinion of the applicant for adjudication, the duty was chargeable	1%
(b)	on the next \$90,000 of such difference	0.5%
20 (c)	on the excess where the difference is in excess of \$100,000	0.25% or \$105 for each certificate of adjudication, whichever is the higher.”.

Repeal of sections 7, 10, 59, 60, 61 and Second Schedule

- 25 **36.** Sections 7, 10, 59, 60, 61 and the Second Schedule of the principal Act are repealed.

Repeal of section 8

- 37.** Section 8 of the principal Act is repealed.

Repeal of sections 23, 28, 31 and 32

- 30 **38.** Sections 23, 28, 31 and 32 of the principal Act are repealed.

Consequential amendments

39.—(1) Any reference to a Government stamp or stamp in Schedule A to the Criminal Procedure Code (Cap. 68) and in sections 255 to 262 of the Penal Code (Cap. 224) shall be read as including a reference to a stamp certificate issued under the principal Act as amended by this Act. 5

(2) Section 73 of the Trustees Act (Cap. 337) is amended by deleting the words “a stamp denoting the payment of that duty shall be impressed or affixed upon such application” and substituting the words “the payment of that duty shall be denoted by a stamp certificate attached to the application”. 10

EXPLANATORY STATEMENT

This Bill seeks to amend the Stamp Duties Act (Cap. 312) for the following purposes:

- (a) to introduce stamping of dutiable documents and the payment of stamp duties by electronic means;
- (b) to introduce various anti-avoidance provisions;
- (c) to facilitate administration of the Act by empowering the Commissioner of Stamp Duties to conduct inquiries and investigations; and
- (d) to remove provisions made redundant by electronic stamping and by removal of tax liability for policies of sea and life insurance, etc.

Clause 1 relates to the short title and commencement. The Minister may bring the different provisions of the Bill into force on different dates in order to phase-out the use of adhesive or impressed stamps after electronic stamping is introduced.

Clause 2 amends section 2 by deleting redundant terms like “policy of insurance” and “policy of sea insurance” and by introducing new definitions of “stamp certificate” and “E-Stamping system” relating to electronic stamping of dutiable documents.

Clause 3 amends section 3 by empowering any Deputy Commissioner of Stamp Duties to exercise all powers of the Commissioner of Stamp Duties except that of delegation, stating a case on appeal to the High Court and sanctioning prosecutions.

Clause 4 repeals and re-enacts section 4 with improvements to the language.

Clause 5 introduces new sections 6A to 6D in connection with the introduction of electronic stamping. The new section 6A makes it clear that all dutiable instruments must be stamped electronically unless there is express requirement to the contrary. The new section 6B provides for the establishment of a computer service known as E-Stamping which (inter alia) will enable persons to pay their

stamp duties by electronic funds transfer and have their instruments stamped electronically. The new section 6B also provides for persons to be registered as users of the E-Stamping system. The new section 6C prescribes the duty of registered users to attach stamp certificates to the instruments once they have been issued and the new section 6D empowers the Commissioner to deduct the duty payable by electronic funds transfers from designated accounts of registered users.

Clause 6 amends section 7 to make it clear that stamping by impressed stamps is not mandatory once stamping by electronic means is introduced.

Clause 7 amends section 8 in connection with the licensing of persons operating postal franking machines.

Clause 8 repeals and re-enacts section 9 to enable any person (and not just statutory boards) to compound the payment of duty on any dutiable instrument (and not just receipts) if certain conditions prescribed are met, and to allow the Commissioner to waive any of these conditions if he thinks fit.

Clause 9 amends section 11 as a result of stamping by electronic means by removing the need to endorse on the instrument the duty paid on another. The payment of duty on that other instrument will be denoted on its stamp certificate.

Clause 10 amends section 12 as a result of stamping by electronic means by changing the procedure applicable for duplicates of dutiable instruments on stamping. A stamp certificate will instead be issued for the duplicate.

Clause 11 amends section 22 (6) to enable a refund of stamp duty when agreements stamped are rescinded on additional grounds like withholding of written permission to develop or subdivide, HDB or JTC withholding approval to sell, an order by the Commissioner of Building Control that a building is dangerous or a refusal by a Strata Titles Board to approve applications for en-bloc sales.

Clause 12 amends section 25 by empowering the Commissioner to assess a lease with regard to its open market rent where the rent is indeterminable or the rent is below open market rent.

Clause 13 amends section 29 since insurance policies and assignments of insurance policies ceased to be dutiable under the First Schedule since 1998.

Clause 14 amends section 30 by removing the exemption from stamp duty for releases or discharges for mortgages of stock since releases and discharges of mortgages are no longer dutiable.

Clause 15 introduces a new section 33A which is similar to section 33 of the Income Tax Act (Cap. 134). The provision will enable the Commissioner to disregard certain arrangements if he is satisfied that the effect of the arrangement is to alter the incidence of duty or to relieve liability to pay duty or to reduce or avoid liability to duty, and make adjustments.

Clause 16 amends section 36 firstly, to remove the exemption from buyer's duty on instruments if the purchaser is not a co-operative society and secondly, to delete provisions relating to offshore credit facilities since these are no longer dutiable.

Clause 17 amends section 37 (relating to adjudication of stamp duty) to allow the Commissioner to require a certificate of value from the Chief Valuer as regards leases of immovable properties and to provide for adjudication fees and valuation fees to be prescribed in the new Fourth and Fifth Schedules inserted by clause 35.

Clause 18 amends section 38 by changing the manner in which the Commissioner's decision on adjudication is denoted. Instead of endorsement on the instrument, the amendments provide for the issue of a certificate of adjudication.

Clause 19 introduces a new section 39A which allows a person aggrieved by any assessment of the Commissioner on adjudication to require, by notice of objection, the Commissioner to review his assessment.

Clause 20 amends section 40 by allowing a right of appeal against the Commissioner's decision on review under section 39A and to require anyone appealing to the High Court against any decision of the Commissioner on review to notify the Commissioner of his appeal.

Clause 21 amends section 46 to deem any instrument stamped by a registered person using the E-Stamping system to be unstamped or insufficiently stamped if no deductions by electronic funds transfer were made by the Commissioner from the account of the registered person on account of there being insufficient funds to meet full payment of the duty payable.

Clause 22 amends section 48 in consequence of electronic stamping to provide for denotation of penalties on a stamp certificate.

Clause 23 repeals and re-enacts section 50 to provide for the recovery of stamp duty by the Commissioner by way of a specially endorsed writ, similar to the procedure prescribed in section 90 of the Income Tax Act (Cap. 134).

Clause 24 amends section 57 (relating to allowance for spoiled stamps) by removing references to adhesive and impressed stamps and by extending the allowances to spoiled stamp certificates.

Clause 25 repeals and re-enacts sections 62 and 63 with higher penalties of a fine up to \$10,000 or imprisonment up to 3 years or both. The clause also repeals sections 64 and 65 as they relate to policies of life insurance and sea insurance and substitute new sections 64, 65 and 65A relating to offences concerning improper use and counterfeiting of stamp certificates and involving obstruction of and furnishing false information to the Commissioner and his officers.

Clauses 26 and 27 raise the penalties for offences in section 66 (relating to enrolment of unstamped instruments) and section 67 (concerning fraud in relation to duty), respectively.

Clause 28 amends section 68 to require the sanction of either the Commissioner or the Attorney-General before commencement of prosecution under the Act, and to empower the Commissioner to compound offences.

Clause 29 inserts a new section 68A dealing with the service of summons under the Act.

Clause 30 inserts new sections 70A, 70B and 70C. The new section 70A provides that duty payable by a deceased person is recoverable from his estate so long as the assessment is made within 3 years after his death. The new section 70B is modelled upon section 59 of the Income Tax Act (Cap. 134), and requires a company's liquidator to make full provision for the payment of duty before distributing the company's assets to shareholders. The new section 70C confers on the Commissioner powers similar to the Comptroller of Income Tax, enabling him to call for and have access to books, accounts and records.

Clause 31 amends section 73 by making it clear that the Government and Commissioner will not be responsible for any loss of or damage to instruments tendered for stamping in the absence of fraud, gross negligence or wilful causing of such loss or damage.

Clause 32 amends section 74 to enable the Minister to remit or reduce stamp duty without the need to publish rules or orders in the *Gazette*.

Clause 33 amends section 77 by raising the maximum fine permissible under the rules from \$200 to \$1,000.

Clause 34 amends section 78 to enable the Minister to vary the adjudication fees and valuation fees in the new Fourth and Fifth Schedules by notification in the *Gazette*.

Clause 36 repeals section 7 (relating to the use of adhesive and impressed stamps to denote payment of stamp duty), section 10 (relating to how dutiable instruments are to be written and stamped), section 59 (allowances for spoiled stamps through stamps of other denominations), section 60 (relating to repurchase of stamps) and section 61 (penalty for non-cancellation of adhesive stamps) which become irrelevant with the introduction of exclusive stamping of dutiable instruments by electronic means.

Clause 36 also repeals the Second Schedule which relates to instruments which must be stamped by impressed or adhesive stamps since these methods of stamping will be made redundant with electronic stamping.

Clause 37 repeals section 8 which relates to the use of postal franking machines for stamping of dutiable documents. This will also be redundant once electronic stamping is introduced.

Clause 38 repeals section 23 (relating to sale of annuities or inchoate rights), section 28 (relating to policies of life insurance) and sections 31 and 32 (concerning

policies of sea insurance) because these provisions relate to instruments that ceased to be dutiable under the First Schedule since 1998.

Clause 39 makes consequential amendments to the Criminal Procedure Code (Cap. 68), the Penal Code (Cap. 224) and the Trustees Act (Cap. 337) to reflect the new method of stamping using electronic means.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
