

Stamp Duties Act

Chapter 205 Laws of Fiji

Revised up to 30th January, 2013.

UPDATED BY: - LEGAL SECTION



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Stamp Duties (Amendment) Act	6 of 1996
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STAMP DUTIES ACT 1985

Part 1—Preliminary

Short Title and commencement

1. This Act may be cited as the Stamp Duties Act 1985.

Interpretation

2. In this Act, unless the context otherwise requires—

“Authority” means the Fiji Revenue and Customs Authority established under section 3 of the Fiji Revenue and Customs Authority Act 1998;

"banker" and "bank" include any corporation, society, partnership or person carrying on the business of banking in the Fiji Islands;

"bill of exchange" includes also draft, order, and letter of credit and any document or writing (except a bank-note) entitling or purporting to entitle any person whether named therein or not to payment by any other person or to draw upon any other person for any sum of money therein mentioned. An order for the payment of any sum of money by a bill of exchange or promissory note or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money or for the payment of any sum of money out of any particular fund which may or may not be available or on any condition or contingency which may or may not be performed or happen is to be deemed a bill of exchange for the payment of money on demand. An order for the payment of any sum of money weekly, monthly or at any other stated periods and also any order for the payment by any person at any time after the date thereof of any sum of money and sent or delivered by the person making the same to the person by whom the payment is to be made and not to the person or to any person on his or her behalf to whom the payment is to be made is to be deemed a bill of exchange for the payment of money on demand;

(Amended by Decree No.3 of 2012. Effective from 1st January, 2013. The word “cheque” is deleted from the definition of “bills of exchange”)

"charter-party" includes any agreement or contract for the charter of any vessel or any memorandum, letter or other writing between the captain, master, owner or agent of any vessel and any other person for or relating to the freight or conveyance beyond the Fiji Islands of any money, goods or effects on board of such vessel;

"Commissioner" means the Commissioner of Stamp Duties;

"die" means any plate, type, tool or implement whatsoever used for expressing or denoting any duty or the fact that any duty or fine has been paid or that an instrument is duly stamped or is- not chargeable with any duty and includes any part of any such plate, type, tool or implement;

"duty" means the stamp duty for the time being chargeable by law;

"executed" and "execution", with reference to instruments, mean signed and signature by any 1 or more of the parties thereto or, in the case of a corporation, sealed with its seal;

"fine" and references thereto include penalty;

"forge" and "forged" include counterfeit and counterfeited;

"instrument" includes every written document;

"lease" includes any agreement for a lease or any written document for the tenancy or occupancy of any land, but, where a lease is made subsequently to and in conformity with such an agreement duly stamped, such lease is to be charged with the duty of 50 cents only;

"marine insurance" means any insurance (except reinsurance) made on any vessel or on the machinery, tackle or furniture of any vessel or on any goods, merchandise or property of any description whatsoever on board any vessel or on the freight of or any other interest

which may be lawfully insured in or relating to any vessel, and "policy of marine insurance" means any instrument executed in the Fiji Islands whereby a contract or agreement for any marine insurance is made or entered into;

"marketable security" includes any stock, funds, shares, bonds or debentures of any Government, municipal or other corporation, company or society;

"material" includes every sort of material upon which words or figures can be expressed;

"money" includes all sums expressed in British or in any other currency;

"mortgage" means a security by way of mortgage for the payment of any definite and certain sum of money advanced or lent at any time, or previously due and owing or forborne to be paid, being payable, or for the repayment of money to be thereafter lent, advanced, or paid, or which may become due upon an account current, together with any sum already advanced or due, or without, as the case may be, and includes—

- (a) any conveyance of any lands, estate, or property whatsoever in trust to be sold or otherwise converted into money intended only as a security, and redeemable before the sale or other disposal thereof, either by express stipulation or otherwise, except where the conveyance is made for the benefit of creditors generally or for the benefit of creditors specified who accept the provision made for payment of their debts, in full satisfaction thereof; and
- (b) any defeasance, declaration, or other deed or writing for defeating, or making redeemable, or explaining, or qualifying any conveyance, transfer, or disposition of any lands, estate, or property whatsoever, apparently absolute, but intended only as a security; and
- (c) any agreement, contract, or bond, accompanied with a deposit of title-deeds for making a mortgage, or any other security or conveyance as aforesaid, of any lands, estate, or property comprised in the title-deeds, or for pledging or charging the same as security, and any instrument by which any property whatsoever is charged with or rendered liable as a security for the payment or the repayment of any sum of money; and
- (d) any instrument operating as a mortgage of any stock or marketable security, and any power or letter of attorney given upon the occasion of or relating to the deposit of any title-deeds or instruments constituting or being evidence of the title to any property whatsoever or creating a charge on such property; and
- (e) any deed of mortgage and trust for the purpose of securing debenture-holders, upon its execution in the Fiji Islands:

Provided that any legal mortgage afterwards executed in pursuance thereof shall be treated as collateral thereto;

"person" includes company, corporation and society;

"promissory note" means an unconditional promise in writing made by 1 person to another signed by the maker, engaging to pay, on demand or at a fixed or determinable future time, a sum certain in money, to, or to the order of, a specified person or to bearer but does not include a bank-note or fixed deposit receipt;

"property" includes all property, whether real or personal;

"stamp" means either a stamp impressed by means of a die or an adhesive stamp;

"stamped", with reference to instruments and material, applies as well to instruments and material impressed with stamps by means of a die as to instruments and material having adhesive stamps affixed thereto;

"stamp office" means the office of a deputy commissioner of stamp duties;

"transfer on sale" includes every instrument and every decree or order of any court or of any judge whereby any property or any estate or interest in any property upon the sale thereof is transferred to or vested in a purchaser or any other person on his or her behalf or by his or her direction;

"write", "written" and "writing" include every mode in which words or figures can be expressed upon material.

(The interpretation section was amended by Ordinances Nos. 13 of 1936, s. 2; 2 of 1944, s. 2; 7 of 1966, s. 21 and No. 41 of 1968, s. 2.)

Instruments on which duty shall be charged

3. Subject to the exemptions and provisions as to conditional exemptions contained in the Schedule, there shall be raised, levied, collected and paid unto the State for the public uses of the Fiji Islands upon and in respect of the several instruments specified in the column of Part I of the Schedule headed "Nature of Instrument" the several duties specified in the column of that Part of the Schedule headed "Amount of Duty".

(Substituted by Act 2 of 1982, s. 2.)

Waiver or refund of duty

4. Without prejudice to the provisions of sections 3 and 4; the Minister may, on the report of the Commissioner, and subject to such conditions as he or she may consider necessary, waive or refund the whole or any part of any duty payable or paid in respect of any instrument.

(Inserted by Act No.25 of 1979, s. 2.)

Duties and other moneys recoverable by action

5.—(1) All duties and other moneys payable under this Act shall, from and after the day on which the same become due and payable, be deemed to be debts due to the State from every person liable to the payment of the same and may be recovered in any court of competent jurisdiction.

(Amended by Ordinance No. 20 of 1951, s. 33.)

(2) Every person who, with respect to any instrument of the nature mentioned in the Schedule, comes within the description specified in the column thereof headed "persons primarily liable" is personally liable to the State for the payment of the duty so chargeable on such instrument immediately upon the execution thereof.

(3) Nothing herein shall be deemed to exonerate any other person from any liability imposed upon him or her by or under this Act or to exempt any instrument from any duty or disability to which it is liable under this Act.

(4) Nothing in this Act shall be deemed to interfere with or control the operation of any Act whereby any instruments are exempted from stamp duty.

Part 2—Administration

Commissioner

6. -(1) There shall be a Commissioner of Stamp Duties who shall be charged with the administration of this Act and the control of all matters and duties imposed upon him by this Act.

(Amended by Legal Notice No.112 of 1970.)

Other officers

7. -(1) The Commissioner of Stamp Duties shall appoint a Deputy Commissioner of Stamp Duties or other officers for the administration of the Act.

(Amended by Legal Notice No.112 of 1970.)

Regulations

8. The Minister may, from time to time, make regulations (not inconsistent with the provisions of this Act) for the due administration of this Act and for the conduct of all persons concerned in such administration and generally for carrying this Act into effect.

(Amended by Legal Notice No.112 of 1970.)

Commissioner's seal.

9. There shall be a die called the Commissioner's seal which may be impressed on any instrument to denote that all duty to which any such instrument is liable has been paid and any instrument which is so impressed with the Commissioner's seal shall be deemed to be duly stamped for all purposes whatsoever.

One form of stamp may be used for all purposes

10.—(1) All impressed stamps shall be created and impressed only at the Authority.

(2) One form of adhesive stamp of various denominations according to the money-value of each may be used either as postage labels or for any other purpose for which adhesive stamps are used or permitted to be used.

(3) This provision shall not be deemed to affect the operation of section 51.

Die may be discontinued

11. Where the Commissioner determines to discontinue the use of any die and to provide a new die in lieu thereof and gives public notice thereof in the Gazette, then, from and after a day to be fixed in the notice (not being within 3 months after the same is so published), the new die shall be the only lawful die for denoting the duty chargeable in any case in which the discontinued die would have been used, and every instrument bearing date after the day so named and stamped with the discontinued die shall be deemed to be not duly stamped.

The expression "instrument" in this section includes any postal packet as defined by the Post Office Act and the date borne by an instrument shall, in the case of a postal packet, be the date of posting thereof.

(Amended by Ordinance No. 25 of 1937, s. 2.)

Licence to sell stamps

12. For the convenience of the public and when deemed expedient, the Commissioner may, with the authority of the Minister, grant a licence without fee to any person to sell such stamps as may be specified in the licence. The form of licence shall be such as may from time to time be approved by the Minister. Any licence granted under this section may be cancelled at any time.

(Substituted by Ordinance No. 3 of 1931, s. 2; amended by Legal Notice No. 112 of 1970.)

Discount

13. Upon the sale of stamps to any licensed vendor such discount may be allowed as the Minister may from time to time direct.

(Amended by Legal Notice No. 112 of 1970.)

Allowance for spoiled stamps

14. The Commissioner may, in his or her discretion, subject to any regulations made under this Act, make allowance for stamps inadvertently and undesignedly spoiled, obliterated or rendered unfit for the purpose intended by giving in exchange other stamps of the same value or by giving the owner thereof an order on the Treasury for the same amount.

Search warrants for detection of forged dies

15.—(1) On information given before any magistrate on oath that there is just cause to suspect any person of being guilty of any offence relating to stamps, such magistrate may, by warrant under his or her hand, cause every dwelling-house, room, workshop, outhouse or other building or place belonging to or occupied by the suspected person or where or in relation to which he or she is suspected of being or having been in any way engaged or concerned in the commission of any such offence or of secreting any forged die or stamp or any machinery, implement or utensils applicable to the commission of any such offence to be searched.

(2) If, on such search, any of the said several matters or things are found, the same may be seized and carried away in order that they may be produced in evidence against any offender and shall afterwards, whether produced in evidence or not, by order of the court or judge before whom such offender is tried or, in case there is no such trial, by order of some magistrate, be delivered over to the Commissioner to be defaced or destroyed.

Further proceedings for the detection of forged stamps

16.—(1) Upon information given to a magistrate that there is reasonable cause to suspect that any person being or having been licensed to deal in stamps has in possession any forged stamps, such magistrate may, by warrant under his or her hand, authorise any police officer to enter between the hours of 9 in the morning and 7 in the evening into any dwelling-house, room, shop, warehouse, outhouse or other building of or belonging to or occupied by any such suspected person.

(2) If, on demand of admittance and notice of such warrant, the door of any such building or any inner door thereof is not opened, then such police officer may break open the same respectively and search for and seize any stamps that may be found in any such place as aforesaid or elsewhere in the custody or possession of such suspected person.

Resisting, obstructing or refusing to assist

- 17.** Every person is liable to a fine not exceeding \$100 who—
- (a) refuses to permit any search or seizure to be made as aforesaid; or
 - (b) assaults, opposes, molests or obstructs any police officer employed or acting in the execution or under the authority of any such warrant or aiding or assisting in the execution thereof.

Mode of proceeding when stamps are seized

18.—(1) The police officer who is entrusted with the execution of any such warrant as aforesaid shall, if required, give to the person in whose custody or possession any stamps are found and seized an acknowledgement of the number, particulars and amount of the stamps so seized and shall permit such last-mentioned person or any person employed by him or her to mark such stamps before the removal thereof.

(2) The person in whose custody or possession any stamps are so found and seized shall be entitled to claim and receive in money the amount of such of the stamps so seized as may be found to be genuine (deducting therefrom the proper discount) or, if the Commissioner thinks fit, such of the stamps so seized as may be found to be genuine may be returned to the person from whose custody or possession the same have been taken.

Detection of stamps stolen or obtained fraudulently

19.—(1) Any magistrate may, on reasonable suspicion that any stamps have been stolen or fraudulently obtained, issue his or her warrant for the seizure thereof and for apprehending and bringing before himself or herself or any other magistrate the person in whose possession or custody such stamps may be found to be dealt with according to law.

(2) If such person omits or refuses to account for the possession of such stamps or is unable satisfactorily to account for the possession thereof or if it does not appear that the same were purchased by him or her at a stamp office or from some person duly licensed or authorised to deal in stamps, such stamps shall be forfeited to the State and shall be by such magistrate delivered over to the Commissioner, and such stamps shall be kept by the Commissioner for the space of 6 months and shall afterwards be cancelled and destroyed.

(3) If, at any time within such 6 months, any person makes out to the satisfaction of the Commissioner that any such stamps were stolen or otherwise fraudulently obtained from him or her and were purchased by him or her at a stamp office or from some person duly licensed or authorised to deal in stamps, such stamps may be delivered up to him or her.

Defacement of adhesive stamps

20. Every person who, by any writing, in any manner defaces any adhesive stamp before it is used shall be guilty of an offence and liable to a fine not exceeding \$10:

Provided that any person may, with the express sanction of the Commissioner and in such manner as he or she prescribes, write upon an adhesive stamp before it is used for the purpose of identifying the same.

(Amended by Act No.14 of 1975, s. 49.)

Penalty for frauds in relation to adhesive stamps or to stamp duty

- 21.—**(1) If any person—
- (a) fraudulently removes or causes to be removed from any instrument any adhesive stamp or affixes to any other instrument or uses for any postal purpose any adhesive stamp which has been so removed with the intent that the stamp may be used again; or
 - (b) sells or offers for sale or utters any adhesive stamp which has been so removed

or utters any instrument having thereon any adhesive stamp which has to his or her knowledge been so removed as aforesaid, he or she shall be guilty of an offence and liable to a fine of \$40 over and above any other penalty to which he or she may be liable.

(2) The expression "instrument" in this section includes any postal article as defined by the Post Office Act and the cover of any postal article.

(Substituted by Ordinance No.3 of 1931, s. 3)

Felonies

22. Any person who is guilty of doing or causing or procuring to be done or knowingly aiding, abetting or assisting in doing any of the acts following, that is to say:—

- (a) fraudulently removing from any material any stamp with the intent that any use should be made of such stamp or of any part thereof;
- (b) fraudulently mutilating any stamp with intent that any use should be made of any part of such stamp;
- (c) fraudulently fixing upon any material or upon any stamp any stamp or part of a stamp which, whether fraudulently or not, has been removed from any other material or from any other stamp; .
- (d) fraudulently erasing or otherwise either really or apparently removing from any stamped material any name, sum, date or other matter or thing whatsoever thereon written with the intent that any use should be made of the stamp upon such material;
- (e) knowingly and without lawful excuse, the proof of which lawful excuse lies on the person accused, having in possession any stamp or part of a stamp which has been fraudulently mutilated or any stamped material out of which any name, sum, date or other matter or thing has been fraudulently erased or otherwise either really or apparently removed; or
- (f) fraudulently impressing any genuine stamp upon any material, is guilty of felony and, upon being convicted, shall be liable to imprisonment for a term not exceeding 4 years.

(Amended by Ordinances No 28 of 1929, s. 27 and No. 37 of 1966, s. 57.)

Imprisonment in default of payment of fine

23. In cases in which a money penalty without any alternative of imprisonment is imposed by this Act, the magistrate may, in default of payment of the penalty inflicted, inflict punishment of imprisonment not exceeding 3 months:

Provided always that the Minister may, at his or her discretion, stay or compound proceedings for any penalty and may reward any person who informs of any offence against this Act or assists in the recovery of any penalty.

(Amended by Ordinance No.2 of 1945, s. 59; Legal Notice No.112 of 1970.)

Affidavits and declarations

24.—(1) Any oath, affidavit or declaration to be taken or made in pursuance or for the purposes of this Act may be made before the Commissioner or any magistrate or any commissioner of oaths or, at any place out of the Fiji Islands, before any person duly authorised to administer oaths thereat.

(2) Every person who knowingly and wilfully makes a false oath or declaration concerning any matter in this Act commits perjury.

Inquiries by Commissioner

25.—(1) For the purpose of obtaining information respecting the liability of any person in respect of duty under this Act or respecting the entitlement of any person the exemption or conditional exemption of any instrument in respect such duty, the Commissioner may summon

before him or her and examine any person whom the Commissioner deems capable of giving information as aforesaid.

(Amended by Act No.2 of 1982, s. 4.)

(2) On an inquiry under this section, the Commissioner shall be deemed to be vested with all the powers that may be conferred on Commissioners by the Commissions of Inquiry Act, and the provisions of that Act shall apply accordingly.

(Amended by Ordinance No.9 of 1955, s. 17.)

Production of instrument for stamping

26. If the Commissioner or a deputy commissioner has reason to believe that any instrument chargeable with duty has been executed and has not been presented for stamping, he or she may, by notice in writing under his or her hand, require any person whom he or she believes to be liable for the payment of duty on that instrument forthwith to present the same for stamping, and any person upon whom such notice is served who fails without reasonable cause (the proof whereof shall lie on him or her) to comply with the requirements of such notice shall be guilty of an offence and shall be liable to a fine of \$100.

Chief Accountant to pay moneys

27. The Chief Accountant may, without further appropriation, issue and pay out of the Consolidated Fund any moneys payable to any person under the provisions of this Act.

Part 3—Duties on Instruments

Division 1—General Provisions

How instruments are to be written and stamped

28.—(1) Every instrument written on stamped material is to be written in such manner, and every instrument partly or wholly written before being stamped is to be so stamped, that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument written on the same piece of material.

(2) If more than 1 instrument is written on the same piece of material, every 1 of such instruments is to be separately and distinctly stamped with the duty with which it is chargeable.

Instruments to be separately charged with duty in certain cases

29.—(1) Except where express provision to the contrary is made by this or any other Act, an instrument containing or relating to several distinct matters is to be separately and distinctly charged with duty in respect of each of such matters as if each matter were expressed in a separate instrument.

(2) An instrument made for more than 1 consideration is to be charged with duty in respect of each such consideration according to the rate with which each is chargeable as though each consideration were expressed in a separate instrument.

Use of appropriated stamps

30.—(1) A stamp which, by any word or words on the face of it, is appropriated to any particular description of instrument is not to be used or available for any instrument of any other description.

(2) An instrument falling under the particular description to which any stamp is so appropriated as aforesaid is not to be deemed duly stamped unless it is stamped with the stamp so appropriated.

Circumstances affecting duty to be set forth in instruments

31.—(1) All the facts and circumstances affecting the liability of any instrument to *ad valorem* duty or the amount of the *ad valorem* duty with which it is chargeable are to be fully and truly set forth in such instrument.

(2) This provision shall not prevent the Commissioner exercising the powers conferred

upon him or her by section 32 and, if the facts justify it, charging or assessing a greater amount of duty than would appear to be chargeable or assessable by a reference to the language and contents of such instrument.

Commissioner may call for evidence

32.—(1) On any application to the Commissioner with reference to any instrument, he or she may require to be furnished with such evidence on oath or otherwise as he or she deems necessary in order to show to his or her satisfaction whether all the facts and circumstances affecting the liability of the instrument to duty or the amount of the duty chargeable thereon are fully and truly set forth therein, and may refuse to proceed on any such application until such evidence has been furnished accordingly.

(2) No oath, affidavit or statutory declaration made in pursuance of this section shall be used against any person making the same in any proceeding whatsoever, except in an inquiry as to the duty with which the instrument to which it relates is chargeable and, except as provided by section 33, every person by whom any such oath, affidavit or declaration is made shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any fine, forfeiture or disability he or she may have incurred by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

Penalty for not fully setting forth facts

33. Every person who with intent to defraud the State—

(a) executes any instrument in which all the said facts and circumstances are not fully and truly set forth; or

(b) being employed or concerned in or about the preparation of any instrument neglects or omits fully and truly to set forth therein all the said facts and circumstances,

shall be guilty of an offence and liable to a fine of \$100 in addition to the amount of duty of which the State has been deprived by any such fraudulent act as aforesaid.

(Amended by Act No.14 of 1975, s. 49.)

Money in foreign currency to be valued

34. Where an instrument is chargeable with *ad valorem* duty in respect of any money in any foreign currency, such duty shall be calculated on the value of such money in the Fiji Islands currency according to the current rate of exchange on the day of the date of the instrument.

(Amended by Ordinance No. 2 of 1945, s. 59 and Act No.14 of 1975, s. 49.)

Marketable securities to be valued

35. Where an instrument is chargeable with *ad valorem* duty in respect of any marketable security, such duty shall be calculated on the average value according to the best evidence that can be obtained of such security on the day of the date of the instrument.

Effect of statement of value

36.—(1) Where an instrument contains a statement of current rate of exchange or quoted price or average value and is stamped in accordance with such statement, it is, so far as regards the subject matter of such statement, to be deemed duly stamped.

(2) If such statement is proved to be untrue, the deficient duty and fine may be recovered.

Terms upon which instruments may be stamped after execution

37.—(1) Except where express provision to the contrary is made by this or any other Act, any unstamped or insufficiently stamped instrument may be stamped or further stamped by the Commissioner after the first execution thereof on payment of the unpaid duty and a fine in addition to the duty as follows:—

(a) where such instrument is presented to be stamped more than 2 months and not more than 3 months after execution, a fine of 25 per cent on the amount of duty payable, but in no case shall the fine be less than \$2;

(b) where such instrument is not presented to be stamped within 3 months after

execution, a fine of 50 per cent on the amount of the duty payable, but in no case shall the last-mentioned fine be less than \$4:

Provided that—

- (a) any unstamped or insufficiently stamped instrument which has been first executed at any place out of the Fiji Islands may be stamped at any time within 1 month after it has been first received in the Fiji Islands on payment of the unpaid duty only;
- (b) the Commissioner may, on good cause shown, at any time, remit or reduce any fine payable under this section.

(2) The payment of any fine shall be denoted on the instrument by a particular stamp.

(3) The fine provided for by this section in respect of any instrument shall constitute a debt due to the State by the person primarily liable for payment of the duty on that instrument and may be recovered from that person by action in the same manner as duty. Where there are 2 or more persons so liable, their liabilities shall be joint and several.

(4) The fine provided for by subsection (1)(a) shall become due on the presentation of the instrument for stamping and the fine provided for by subsection (1)(b) shall, whether the instrument is presented for stamping or not, become due on the expiration of 3 months after the execution of the instrument or, in the case of an instrument first executed out of the Fiji Islands, on the expiration of 3 months after it has been first received in the Fiji Islands.

On presentation of instrument amount of duty to be tendered

38.—(1) No instrument shall be deemed presented to be stamped, when tendered to the Commissioner, unless the duty payable on it is capable of being at once assessed and until the amount of duty so assessed is paid.

(2) But in special cases where the Commissioner's assessment is disputed, a sum on account of duty as fixed by the Commissioner may be paid to him or her and no fine shall accrue in respect of such instrument until after such dispute has been settled in the manner provided by this Act.

Terms on which unstamped or insufficiently stamped instruments may be received in evidence

39.—(1) On the production of an instrument chargeable with stamp duty as evidence in any court of civil judicature, the officer whose duty it is to read the instrument shall call the attention of the judge or magistrate to any omission or insufficiency of the stamp thereon and, if the instrument is one which may legally be stamped after execution, it may, on payment to such officer of the amount of the unpaid duty and the fine payable by law, be received in evidence, saving all just exceptions on other grounds.

(2) Such officer shall detain and immediately transmit to the Commissioner the instrument, together with the duty and fine so paid thereon and the payment thereof shall be denoted on such instrument accordingly.

When evidence of contents of lost unstamped instruments may be given

40.—(1) If an instrument chargeable with duty and which may legally be stamped after execution is lost before the same is stamped, secondary evidence may be given of such instrument and of the contents thereof in any court, but the person adducing such evidence shall first pay to the officer of the court whose duty it would be to read such instrument in court if the same had not been lost such unpaid duty and fine as the judge or magistrate assesses to be the duty and fine that would be payable on such instrument had such instrument itself been tendered in evidence.

(2) If such duty and fine are not paid on assessment being made as aforesaid, the evidence shall be rejected.

Instruments not duly stamped inadmissible

41. Except as aforesaid, no instrument executed in the Fiji Islands or relating (wheresoever

executed) to any property situate or to any matter or thing done or to be done in any part of the Fiji Islands shall, except in criminal proceedings, be pleaded or given in evidence or admitted to be good, useful or available in law or equity, unless it is duly stamped in accordance with the law in force at the time when it was first executed.

Rule as to instruments executed out of the Fiji Islands

42.—(1) No instrument executed out of the Fiji Islands and which, by the law of the country in which it was executed, is inadmissible in evidence in such country by reason of not having been stamped shall be, for such reason, inadmissible in evidence in the Fiji Islands, unless it is proved that such instrument is, by the statute law of such country, expressly made void if made or executed without being stamped.

(2) Nothing herein shall be deemed to render valid in the Fiji Islands any instrument executed out of the Fiji Islands which is void by the law of the place in which the same was executed for any other reason than that the same was not duly stamped.

Commissioner to assess duty

43. Where an instrument is brought to the Authority for assessment, the Commissioner shall state whether it is liable to duty and if he or she is of the opinion that—

- (a) it is not so liable, he or she shall impress thereon the Commissioner's seal and the particular stamp denoting that it is not so liable; or
- (b) it is liable to duty or fine, he or she shall assess the duty or fine with which it is in his or her opinion chargeable and, on payment of the amount so assessed, shall stamp the instrument with the Commissioner's seal and a particular stamp denoting the amount of duty or fine so paid.

Instruments may be impounded till duty paid

44. Any instrument presented at the Authority or at any stamp office for assessment or otherwise may be impounded and detained until the duty or fine or both have been paid in respect thereof.

Reference to the High Court

45.—(1) If the Commissioner is in any doubt as to whether an instrument is liable to duty or as to the amount of duty or fine with which it is chargeable or if the person presenting the instrument is dissatisfied with the assessment of the Commissioner thereon, the matter, upon payment of the duty so assessed, shall be summarily referred to the High Court and its decision thereon shall be final, and the High Court may, for that purpose, require the Commissioner to state and sign a case setting forth the question upon which his or her opinion was required and the assessment made by him or her.

(2) The Commissioner shall thereupon state and sign a case accordingly and deliver the same to the appellant by whom it is required and on the application such case may be set down for hearing in the High Court.

(3) Upon the hearing of such case (due notice of which is to be given to the Commissioner), the Court shall determine the question submitted and, if the instrument in question is in the opinion of the Court chargeable with any duty, shall state the duty with which it is chargeable.

Deficient duty may be recovered

46.—(1) If it appears that a deputy commissioner has stamped an instrument having assessed an insufficient amount of duty or fine thereon or erroneously or improperly put on the same a stamp denoting that it is not liable to duty, the Commissioner may, at any time within 6 months after the date of stamping such instrument, call upon the person by whom the instrument was presented for assessment to pay the amount with which, in his or her opinion, such instrument was properly chargeable in respect of duty or fine or both duty and fine at the time of stamping the same.

(2) The aforesaid amount shall be a debt due to the State and may be recovered from such person accordingly:

Provided that—

- (a) such person, if dissatisfied, may appeal to the High Court against the decision of the Commissioner made under the provisions of section 45, in which case such provisions shall *mutatis mutandis* be applied;
- (b) the instrument so stamped shall be as good and available for all purposes as though full duty and fine had been paid thereon.

(Amended by Ordinance No.37 of 1966, s. 57.)

Commissioner may inspect books, registers, etc.

47.—(1) All public officers and all other persons having in their custody or possession any rolls, books, records, registers, papers or other documents the inspection whereof may tend to secure the payment of any duty under this Act or to the proof or discovery of any fraud or omission in relation to any such duty shall, at all reasonable times, notwithstanding anything to the contrary in any other Act, permit any person thereunto authorised by the Commissioner to inspect all such documents and to take such notes, copies or extracts thereof or therefrom as he or she may deem necessary without fee or reward.

(2) Every person who refuses to permit or obstructs any such inspection or any such taking of notes, copies or extracts shall be guilty of an offence and liable to a fine not exceeding \$100.

(Amended by Ordinance No.2 of 1945, s. 59 (2) and Act No.14 of 1975, s. 49.)

Knowingly enrolling any instrument not duly stamped,

48. Every person whose office it is to enroll, register or enter in or upon any rolls, books or records any instrument chargeable with any duty who knowingly enrolls, registers or enters any such instrument not being duly stamped shall be guilty of an offence and liable to a fine not exceeding \$20.

(Amended by Act No.14 of 1975, s. 49.)

How duties to be denoted

49. Except where express provision is made to the contrary, all duties are to be denoted by impressed stamps only:

Provided that, where an instrument is stamped at a stamp office, a deputy commissioner may use adhesive stamps to denote the duty paid thereon but shall forthwith obliterate every stamp so used.

Cancellation of adhesive stamps

50.—(1) An instrument the duty on which is required or permitted by law to be denoted by an adhesive stamp is not to be deemed duly stamped with an adhesive stamp, unless such adhesive stamp is obliterated by the Commissioner or deputy commissioner or unless the person required by law to cancel such adhesive stamp cancels the same at the time of the execution of the instrument by him or her by writing or impressing or marking in ink on or across the stamp his or her name or initials or the name or initials of his or her firm, together with the true date of his or her so writing so that the stamp may be effectually cancelled and rendered incapable of being used for any other instrument or unless it is otherwise proved that the stamp appearing on the instrument was affixed thereto at the proper time.

(2) If there are several parties to any such instrument, the cancellation shall be deemed effectual if made in manner aforesaid by such one of the parties as first executes the same.

(3) If the instrument is executed by any corporate body or *quasi* corporate body, the cancellation shall be deemed effectual if made in manner hereinbefore provided and by impressing or marking in ink the full name of such body or the initial letters of such name or the initial letters of the name of the manager, secretary or other person executing such instrument on behalf of such body together with such date as aforesaid.

Neglect or refusal to cancel adhesive stamps

51. Every person who, being required by law to cancel an adhesive stamp, neglects or refuses duly and effectually to do so in manner aforesaid shall be guilty of an offence and liable to a fine not exceeding \$20.

(Amended by Act No.14 of 1975, s. 49.)

Division 2—Special Provisions Subdivision A—Agreements

Duty on agreements under hand

52. The duty on an agreement under hand may be denoted by an adhesive stamp which is to be cancelled by either of the parties to the agreement signing the same.

Subdivision B—Bills of Exchange and Promissory Notes

Bills and notes payable at sight to be deemed payable on demand

53. Every bill of exchange or promissory note drawn and purporting to be payable at sight or on presentation shall, for the purposes of this Act, be deemed to be a bill of exchange or promissory note payable on demand.

Duties on bills and notes—how denoted

54.—(1) The duties imposed on bills of exchange and promissory notes may, subject to the provisions of subsection (2), be denoted by adhesive stamps affixed thereto or may be partly denoted by adhesive stamps and partly by impressed stamps.

(2) Notwithstanding the provisions of subsection (1), all promissory notes made within the Fiji Islands shall be on paper duly stamped with the stamp duty for the time being chargeable by law duly impressed thereon:

Provided that, in the case of a promissory note for any sum over \$50, the stamp duty payable on any amount exceeding \$50 may be denoted by adhesive stamps. Every such adhesive stamp shall be cancelled by the person by whom the note is signed before he or she delivers it out of his or her hand, custody or power.

(Amended by Ordinance No.3 of 1931, s. 4 and No. 7 of 1966, s. 21.)

Affixing and cancelling of stamps on bills

55.—(1) Where an adhesive stamp is used for denoting the payment of such stamp duties, such adhesive stamp shall be affixed by the maker, payee, drawer, acceptor or endorser thereof, as the case may be, and, if such maker, payee, drawer, acceptor or endorser fails to affix and cancel any such stamp at the time of making, endorsing, drawing or accepting any such bill of exchange or note in the manner provided by section 50, he or she shall be guilty of an offence and liable to a fine not exceeding \$100.

(Amended by Act No.14 of 1975, s. 49.)

(2) But if a bill of exchange for the payment of money on demand liable only to the duty of 2 cents is presented for payment unstamped, the person to whom it is so presented may affix thereto a proper adhesive stamp and cancel the same as if he or she had been the drawer of the bill and such bill shall thereupon be deemed to be duly stamped.

(3) Subsection (2) is not to relieve any person from any penalty he or she may have incurred in relation to such bill.

Former cancellation validated

56. An adhesive stamp on any note or bill of exchange heretofore obliterated or cancelled as provided by this Act shall be deemed to be duly obliterated and cancelled.

Payment of duty on cheques and insurance policies

57. The Minister shall have power to exempt cheques supplied or issued by any bank or policies issued by any insurance company from being stamped in accordance with the provisions of this Act in consideration of the periodical payment by the bank or by the insurance company, as the case may be, to the Commissioner of the amount of duty payable in respect of cheques supplied or

issued by the bank or policies issued by the insurance company. Such exemption and payments shall be in accordance with regulations made under section 8.
(Substituted by Act No.20 of 1978, s. 2.)

Ad valorem duties—how denoted

58.—(1) The *ad valorem* duties upon bills of exchange and promissory notes drawn or made out of the Fiji Islands may be denoted by adhesive stamps.

(2) A bill of exchange or promissory note purporting to be drawn or made out of the Fiji Islands is, for the purposes of this Act, to be deemed to have been so drawn or made, although it may in fact have been drawn or made within the Fiji Islands.

Provisions for the protection of bona fide holders

59.—(1) Every person into whose hands any bill of exchange or promissory note comes before it is stamped shall, before he or she presents for payment or endorses, transfers or in any manner negotiates or pays such bill or note, affix thereto a proper adhesive stamp denoting the duty payable on the amount named therein, whether such bill be single or drawn as 1 of a set, and shall cancel every stamp so affixed.

(2) If, at the time when any such bill or note comes into the hands of any *bona fide* holder thereof, there is affixed thereto an adhesive stamp appearing to be duly cancelled, such stamp shall so far as relates to such holder, be deemed to be duly affixed and cancelled.

(3) If, at the time when any such bill or note comes into the hands of any *bona fide* holder thereof, there is affixed thereto an adhesive stamp not duly cancelled, it shall be competent for such holder to cancel such stamp and such bill or note shall thereupon be as valid and available as if the stamp had been duly cancelled by the person by whom it was affixed.

(4) Neither of subsections (2) and (3) is to relieve any person from any fine incurred by him or her for not cancelling any adhesive stamp.

(5) This section applies to bills or notes drawn or made within or out of the Fiji Islands.

No stamping after execution

60. Except as aforesaid, no bill of exchange or promissory note shall be stamped after the execution thereof.

Offences

61.—(1) Any person who—

(a) draws up or prepares for another or any person who makes within the Fiji Islands a promissory note other than on paper stamped in accordance with the provisions of section 54 (2); or

(b) knowingly and willfully issues, endorses, transfers, negotiates, presents for payment or pays any bill of exchange or promissory note liable to duty and not being duly stamped, shall be guilty of an offence and liable to a fine not exceeding \$100.

(2) A complaint for any offence against the provisions of this section may be made at any time within 1 year next after the date when such offence was committed.

(Substituted by Ordinance No.7 of 1966, s. 21.)

Bill of exchange drawn in a set

62. When a bill of exchange is drawn in a set according to the custom of merchants and 1 of the set is duly stamped, the other or others of the set shall, unless issued in some manner or negotiated apart from such duly stamped bill, be exempt from duty and, upon proof of the loss or destruction of a duly stamped bill forming 1 of a set, any other bill of the set which has not been issued or in any manner negotiated apart from such lost or destroyed bill may, although unstamped, be admitted in evidence to prove the contents of such lost or destroyed bill.

Bills not to be noted or protested unless stamped

63. Every notary public or other person shall be guilty of an offence and liable to a fine of \$40

who knowingly and willfully notes or protests, otherwise than for non-acceptance, any bill of exchange or promissory note liable to duty not appearing to be duly stamped.

(Amended by Act No.14 of 1975, s. 49.)

Subdivision C—Bills of Lading

Bills of lading not to be stamped after execution

64.—(1) A bill of lading includes also any receipt given in lieu thereof from the master, mate, owner or agent of any vessel and is not to be stamped after the execution thereof.

(2) Every person shall be guilty of an offence and liable to a fine not exceeding \$100 who makes or executes any bill of lading not duly stamped.

(Amended by Act No.14 of 1975, s. 49.)

(3) The duty on a bill of lading may be denoted by an adhesive stamp.

Subdivision D—Bonds and Debentures

Paying interest on unstamped bonds

65. Every person shall be liable to a fine not exceeding \$40 who knowingly and willfully delivers, assigns, transfers or negotiates in the Fiji Islands any bond, debenture or other security chargeable with stamp duty or pays any principal money, interest or dividend accrued due in respect of any such instrument before the same is duly stamped.

Subdivision E—Charter-parties

Adhesive stamp may be used

66. The duty on a charter-party may be denoted by an adhesive stamp which is to be affixed and cancelled at the time of execution by the person by whom the instrument is first executed.

As to charter-parties executed abroad

67. Where a charter-party not being duly stamped is first executed out of the Fiji Islands, any party thereto may, within 7 days after it has been first received and before it has been executed by any person in the Fiji Islands, affix thereto an adhesive stamp denoting the duty chargeable thereon and, at the same time, cancel such adhesive stamp, and the instrument shall thereupon be deemed duly stamped.

Terms upon which charter-parties may be stamped after execution

68. A charter-party may be stamped after execution only by the Commissioner or a deputy commissioner and then only—

(a) within 7 days after the first execution thereof on payment of the duty and a fine of \$1;

(b) after 7 days after the first execution thereof on payment of the duty and a fine of \$20.

Subdivision F—Attested Copies or Extracts

Attested copies or extracts

69. An attested or otherwise authenticated copy or extract may be denoted by an adhesive stamp which is to be cancelled by an officer signing the same.

Subdivision G—Duplicates or Counterparts

As to duplicates or counterparts

70. The duplicate or counterpart of an instrument chargeable with duty is not to be stamped as such, unless it is proved to the satisfaction of the Commissioner that the full and proper duty has been paid on the original instrument of which it is the duplicate or counterpart.

Subdivision H—Exchange

Instruments of exchange to be deemed transfers on sale

71.—(1) Any instrument by which any property is legally or equitably transferred to or vested in any other person by way of exchange shall be deemed to be a transfer on sale of that property and stamp duty shall be assessed and paid thereon accordingly.

(2) In all the provisions of this Act relating to transfer on sale, every reference to sale or purchase shall be construed as extending to exchanges accordingly.

(3) Whenever land or any interest in land constitutes the consideration or part of the consideration for a transfer on sale, the value of that land or interest shall be deemed and taken to be the capital value thereof or any other value which may be stated as the value thereof in the transfer or in any agreement or other instrument executed by any party to the transfer as preliminary thereto or otherwise in relation thereto, whichever value is the greatest.

(4) If the value so stated in any such transfer, agreement or instrument includes, without apportionment, the value of any property other than the said land or interest therein, the Commissioner shall apportion the said value in such manner as he or she thinks fit between such land or interest and such other property, and stamp duty shall be assessed and payable accordingly.

(5) The Commissioner may require any party to any such transfer on sale to produce to him or her any such agreement or instrument as is referred to in subsection (3) or to make a statutory declaration disclosing the existence and contents of any such agreement or instrument and, until such requirement is complied with to the satisfaction of the Commissioner, he or she may impound the transfer on sale.

(6) Whenever any land or interest in land constituting the consideration or part of the consideration for a transfer on sale is not separately valued, the Commissioner may cause a valuation of that land or interest to be made for the purposes of this section and stamp duty shall be assessed and payable by reference to the valuation so made.

Subdivision I—Leases

Leases how to be charged in respect of produce, etc.

72.

(Amended by Decree No. 3 of 2013. Deleted “Where the consideration or any part of the consideration for which any lease is granted or agreed to be granted does not consist of money but of any produce or other goods, the duty is to be calculated on the value of such produce or goods at the average market price thereof on the day of the date of the instrument.”)

Duty not to be charged on penal rents

73.

(Amended by Decree No.3 of 2013. Deleted “A lease is not to be charged with duty in respect of any penal rent or increased rent in the nature of a penal rent thereby reserved or by reason of being made in consideration of the surrender or abandonment of any existing lease of or relating to the same subject matter.”)

Leases how to be charged in respect of royalty

74.

(Amended by Decree No.3 of 2012. Deleted “—(1) Where the consideration for a lease is wholly or partly a royalty payable either in money, produce or goods or any other consideration whatsoever other than a fixed sum of money, then, if it is stipulated that the amount of such money, or the value of such produce or goods is to amount at least to or not to exceed a given sum or where the lessee is specially charged with or has the option of paying after any permanent rate of conversion, the yearly amount of such money and value of such produce or goods is to be estimated at such given sum or according to such given rate.

(2) In the case of a lease at a specified rental for a specified period or series of periods, with provision for the rent subsequent to the last such period being fixed by valuation or otherwise, the duty shall be assessed on the highest fixed rental specified in such lease, and, if the new rental, when fixed by valuation or otherwise as aforesaid, exceeds the rental upon which the duty was originally assessed, duty on the excess shall then be payable and the instrument of lease shall then be presented for assessment accordingly in like manner and subject to the like provisions as to fine and otherwise as in the case of the original assessment.

(3) *Where there is no possible means of discovering what is the maximum value of the consideration dealt with under a lease then, subject to the provisions of subsection (2), the duty payable in respect of such lease shall be a fixed sum of \$10. “)*

Duty not to be charged on improvements

75. No lease made for any consideration in respect whereof it is chargeable with *ad valorem* duty and in further consideration either of a covenant by the lessee to make or of his or her having previously made any substantial improvement of or any addition to the property demised to him or her or of any covenant relating to the matter of the lease is to be charged with any duty in respect of such further consideration.

Subdivision J—Mortgages

Duty payable on transfers of mortgages, on appointment of trustees, etc.

76.—(1) The following provisions shall apply in assessing the amount of stamp duty payable in respect of the transfer of mortgages in the cases hereinafter mentioned:—

- (a) where any transfer of a mortgage or of mortgages is made pursuant to the appointment of a trustee or of trustees under any will, settlement or other instrument or by order of the High Court or a judge thereof, the duty on such transfer shall be \$1.50, unless the substantive duty on such transfer would be less than \$1.50, in which case the substantive duty only shall be payable;
- (b) where any transfer of a mortgage or of mortgages discloses that such transfer is made or executed only by way of completion or confirmation of title and for no other reason or where such transfer discloses that no benefit accrues to the person in whose favour such transfer is made or executed or that no greater benefit so accrues than such person had or was entitled to have by law or by virtue of some other instrument, the duty on such transfer shall be \$1.50, unless the substantive duty on such transfer would be less than \$1.50, in which case the substantive duty only shall be payable.

(2) Nothing in this section shall be deemed to exempt any transfer of a mortgage from liability to any other duty to which it is or may be liable under this or any other Act relating to stamp duties.

Subdivision K—Notarial Acts

Duty on notarial act

77. The duty upon a notarial act may be denoted by an adhesive stamp which is to be cancelled by the notary.

Deeds, etc., not to be notarially attested unless stamped

78.—(1) Every notary public who knowingly and wilfully by any notarial act attests or certifies the due execution of any instrument liable to duty and not appearing to be duly stamped shall be guilty of an offence and liable to a fine of \$40.

(Amended by Act No.14 of 1975, s. 49.)

(2) Nothing in this Act shall extend to render any notary public liable to a fine by reason of his or her attesting the execution of any instrument merely as a witness and without attaching, annexing or subscribing any notarial act.

Subdivision L—Partition or Division

As to exchange and partition

79.—(1) Where, on the partition or division of any real property, any consideration exceeding in amount or value \$200 is paid or given or agreed to be paid or given for equality, the principal or only instrument whereby such partition or division is effected is to be charged with the same *ad valorem* duty as a sale for such consideration and with such duty only.

(2) For the purposes of this section, "real property" includes leaseholds.

Subdivision M—Policies of Marine Insurance

Adhesive stamps may be used for policies

80. The duty on any policy of marine insurance may be denoted by an adhesive stamp which is to be cancelled by the person by whom the instrument is executed at the time of execution.

Policies not to be stamped after making except on certain conditions

81. A policy of marine insurance, after it is signed or underwritten, may be stamped only by the Commissioner or a deputy commissioner and then only—

- (a) within 14 days after the same bears date and was executed by the person first executing the same on payment of the duty without any fine;
- (b) after the expiration of the said 14 days on payment of the duty and a fine of \$20.

Insurance for voyage and time to bear duties for both voyage and time

82. Where any marine insurance is made for a voyage and also for time or to extend to or cover any time beyond 30 days after the ship arrives at her destination and is there moored at anchor in good safety, the policy shall be chargeable with duty as a policy for a voyage and also with duty as a policy for time.

Policy for insurance of separate interests to be charged separately

83. Where the separate and distinct interests of 2 or more persons are insured by 1 policy for a voyage or for time, such policy shall be liable to duty as a separate policy for each of such interests.

Subdivision N—Settlements

As to settlement of security

84. Where any money which may become due or payable on any security, not being a marketable security, is settled or agreed to be settled, the instrument whereby such settlement is made or agreed to be made is to be charged with *ad valorem* duty in respect of such money and, in the case of a marketable security, is to be charged with the *ad valorem* duty on the value of such security.

Where several instruments one only to be charged with ad valorem duty

85.—(1) Where several instruments are executed for effecting the settlement of the same property and the *ad valorem* duty chargeable in respect of such settlement exceeds \$1.50, 1 only of such instruments is to be charged with the *ad valorem* duty.

(2) A settlement made in pursuance of any previous agreement or articles upon which any *ad valorem* settlement duty exceeding \$1.50 has been paid in respect of the same property is not to be charged with any *ad valorem* settlement duty.

(3) In each of the aforesaid cases, the instruments not chargeable with *ad valorem* duty are to be charged with the duty of \$1.50.

Instrument in favour of object of power of appointment in certain cases not liable to duty

86. Where any person is specially named or described as the object of a power of appointment in a settlement on which *ad valorem* duty has been paid or in a will in respect of property on which duty under any Act imposing duties on the estates of deceased persons has been paid, an instrument of appointment in favour of such person in respect of such property is not liable to duty.

(Amended by Ordinance No.37 of 1966, s. 57.)

Mortgage debt or charge to be deducted when assessing duty or value of property settled

87.—(1) Where the property comprised in any deed of settlement is subject to any mortgage debt or certain charge annual or otherwise created prior to the execution of the deed of settlement, such deed is liable to the duty payable on the amount or value of such property after a reduction has been made of the amount of such mortgage debt or charge.

(2) No such deduction shall be made unless the deed of settlement is expressly made subject to such mortgage debt or charge and the amount or nature thereof is stated in such deed of settlement or in a schedule thereto.

(3) Where such charge consists of money payable periodically for a definite period or periodically in perpetuity or for an indefinite period or periodically during any life or lives, the amount of such charge in respect of which such deduction shall be made shall be calculated in the same manner as provided by section 90 in the case of the consideration on conveyances on sale payable periodically.

Subdivision O—Transfers of Shares

Transfers of shares not to be registered unless duly stamped

88.—(1) No transfer of any share or shares of or in the stock or funds of any corporation, company or society whatsoever shall be registered, recorded or entered in the books of such corporation, company or society in the Fiji Islands, unless such transfer is duly stamped and every such transfer shall be retained in the registered office of the corporation, company or society for a period of not less than 12 months from the date of such transfer.

(Amended by Ordinance No.1 of 1970, s. 2.)

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding \$200.

(Substituted by Ordinance No.1 of 1970, s. 2.)

Duty to be payable on exchange of shares in same manner as on sale of shares

89. A transfer of shares by way of exchange for shares or for any other property shall be subject to the same *ad valorem* stamp duty in respect of the consideration for such transfer as if the transfer were by way of sale.

Subdivision P—Transfer on Sale

How ad valorem duty to be calculated

90.—(1) Where the consideration or any part of the consideration for a transfer on sale consists of—

- (a) any marketable security, such conveyance is to be charged with *ad valorem* duty in respect of the value of such security;
- (b) any security not being a marketable security, such transfer is to be charged with *ad valorem* duty in respect of the amount due on the day of the date thereof for principal and interest;
- (c) money payable periodically for a definite period so that the total amount to be paid can be previously ascertained, such transfer is to be charged in respect of such consideration with *ad valorem* duty on such total amount;
- (d) money payable periodically in perpetuity or for any indefinite period not terminable with life, such transfer is to be charged in respect of such consideration with *ad valorem* duty on the total amount which will or may according to the terms of sale be payable during the period of 15 years next after the day of the date of such instrument;
- (e) money payable periodically during any life or lives, such transfer is to be charged in respect of such consideration with *ad valorem* duty on the amount which will or may according to the terms of sale be payable during the period of 9 years next after the day of the date of such instrument.

(2) No transfer on sale chargeable with *ad valorem* duty in respect of periodical payments and containing also provision for securing such periodical payments is to be charged with any duty

whatsoever in respect of such provision, and no separate instrument made in any such case for securing such periodical payments is to be charged with any higher duty than \$1.50.

How transfer in consideration of a debt or subject to future payment to be charged

91.—(1) Where property is conveyed to any person in consideration wholly or in part of any debt due to him or her or subject either certainly or contingently to the payment or transfer of any money or marketable security, whether being or constituting a charge or encumbrance upon the property or not, such debt, money or marketable security is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the conveyance is chargeable with *ad valorem* duty.

(2) Where there is more than one owner of property and one of such owners sells his or her share or interest therein in consideration of any such debt or subject as mentioned in subsection (1), then the duty shall be assessed and paid on or in respect of the share or interest of the vendor in such debt, money or marketable security as aforesaid and any further or other consideration, if any, and not on the full amount or value of such debt, money or marketable security, as the case may be.

How consideration to be charged where property is transferred by separate instruments

92. Where any property has been contracted to be sold for one consideration for the whole and is conveyed to the purchaser in separate parts or parcels by different instruments, the consideration is to be apportioned in such manner as the parties think fit so that a distinct consideration for each separate part or parcel is set forth in the transfer relating thereto and such transfer is to be charged with *ad valorem* duty in respect of such distinct consideration.

Where property transferred separately on distinct parts of consideration

93. Where property contracted to be purchased for one consideration for the whole by two or more persons jointly or by any person for himself or herself and others or wholly for others is conveyed in parts or parcels by separate instruments to the persons by or for whom the same was purchased for distinct parts of the consideration, the transfer of each separate part or parcel is to be charged with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

Where property transferred direct to sub-purchaser

94. Where a person having contracted for the purchase of any property, but not having obtained a transfer thereof, contracts to sell the same to any other person, and the property is in consequence transferred directly from the first vendor of the property to a sub-purchaser, the transfer shall, for the purposes of this Act, be deemed to be a transfer on sale of the estate or interest in the property of each purchaser and sub-purchaser of the property, and shall be chargeable with *ad valorem* duty in respect of the consideration moving from the purchaser and each sub-purchaser respectively. In any such case, the original purchaser and each sub-purchaser shall, respectively, be liable to pay the *ad valorem* duty payable in respect of the consideration moving from him or her, and such duty may be recovered from him or her by the Commissioner or the last sub-purchaser who pays the same.

(Substituted by Ordinance 2 of 1944, s. 4.)

Where property transferred direct to separate sub-purchasers

95. Where a person having contracted for the purchase of any property but not having obtained a transfer contracts to sell the whole or any part or parts thereof to any other person or persons and the property is in consequence, conveyed by the original seller to different persons in parts or parcels, the transfer of each part or parcel is to be charged with *ad valorem* duty in respect only of the consideration moving from the sub-purchaser thereof without regard to the amount or value of the original consideration.

As to sale of annuity or other right not before in existence

96. Where, upon the sale of any annuity or other right not before in existence, such annuity or other right is not created by actual grant or conveyance but is only secured by bond, warrant of attorney, covenant, contract or otherwise, the bond or other instrument, or some 1 of such instruments if there is more than 1 is to be charged with the same duty as a transfer on sale.

Duty on transfer on sale when consideration cannot be determined

97. When the value of the consideration or any part of the consideration for a transfer on sale is, in the opinion of the Commissioner, incapable of estimation and there is no express provision in this Act applicable to the case, the Commissioner may assess the value of such consideration or of such part thereof at such sum as he or she thinks fit, but so that the duty or additional duty payable in respect of such a valuation shall, in no case, exceed \$10, and the valuation so made by the Commissioner shall be final and conclusive.

Certain agreements chargeable as transfers on sale

98.—(1) Any contract or agreement—

(a) for the sale of any equitable estate or interest in any property whatsoever; or

(b) for the sale of any estate or interest in any property, except—

(i) property locally situated out of the Fiji Islands;

(ii) solely of any goods, livestock, wares or merchandise;

(iii) shares, stock or marketable securities;

(iv) any ship or vessel or any part, interest, share, or property of or in any ship or vessel,

shall be charged with the same *ad valorem* duty to be paid by the purchaser as if it were an actual transfer on sale of the estate, interest or property contracted or agreed to be sold.

(2) Where duty has been duly paid in conformity with the foregoing provisions, the transfer made to the purchaser or sub-purchaser or any other person on his or her behalf or by his or her direction shall not be chargeable with any duty, and the Commissioner, upon application, either shall denote the payment of the *ad valorem* duty upon the transfer, or shall transfer the *ad valorem* duty thereto upon production of the contract or agreement, or contracts or agreements, duly stamped.

(3) *Ad valorem* duty paid on any such contract or agreement of sale, together with any mortgage duty which may have been paid in respect of any agreement to mortgage that may be contained in the contract or agreement of sale for the purpose of securing any balance of purchase money payable by the purchaser to the seller, shall be refunded, if and so far as the Commissioner is satisfied that the contract or agreement of sale was unenforceable by reason of fraud, misrepresentation, or defect of title, and has been rescinded accordingly, or has not been substantially performed or carried into effect, whether directly or indirectly, in favour of the purchaser or of any other person claiming under him or her or otherwise, and that application for such refund has been made by the person entitled thereto within 12 months after the execution of the instrument or earliest instrument of agreement of sale.

(Substituted by Ordinance No.2 of 1944, s. 5.)

Part 4—Stamp Fees

Minister may appoint fees, etc., to be collected by means of stamps only

99.—(1) The Minister may, from time to time, by notice in the Gazette, direct that, after the time specified in such notice, all or any of the duties, fees, fines or penalties for the time being payable in money in any public department or office connected with the public service or to the officers thereof shall be collected by means of adhesive stamps.

(Amended by Legal Notice No.112 of 1970.)

(2) After the time so specified, the duties, fees, fines and penalties therein mentioned shall be received by stamps denoting the sums payable and not in money.

(3) Where any sum comprised in any such notice is payable—

(a) in respect of a document, the stamps denoting such sum shall be affixed to such document or such other document, book or record as may be prescribed by regulations;

(b) otherwise than in respect of a document, the stamps denoting such sum shall be

affixed to such document, book or record as may be prescribed by regulations.

Document invalid until properly stamped

100.—(1) Any document which ought to bear a stamp under the provisions of this Part shall not be of any validity unless and until it is properly stamped nor shall any judge, magistrate or officer of any court allow such document to be used, although no exception be raised thereto, until such document has been first duly stamped.

(2) But if any such document is through mistake or inadvertence received, filed or used without being properly stamped, the court in which the same is so received, filed or used may, if it thinks fit, order that the same be stamped, and thereupon such document shall be as valid as if it had been properly stamped in the first instance.

Duties of officer who receives payment in stamps

101. Every officer whose duty it is to receive any fee or sum of money for any matter or thing to be done or performed and for which payment is to be made by stamps shall, before doing or performing such matter or thing, see that there is affixed to the document, instrument, matter or thing in respect whereof the fee or sum of money is payable or to such other document to which it is required by regulations that the stamp in respect of the said fee shall be affixed, a stamp of value not less than the fee or sum of money payable for the performance of such matter or thing.

Cancellation of stamps

102. Every such officer shall see that such stamp is effectually cancelled or, if such stamp is not effectually cancelled, shall immediately cancel the same by punching a hole in its centre adding his or her name or initials and the date thereof so as not to admit of its being used again.

(Substituted by Ordinance No.13 of 1936, s. 4.)

Issuing unstamped documents, writs or processes

103. Every person shall be guilty of an offence and liable to a fine not exceeding \$40 who without lawful excuse (the proof whereof shall be upon him or her)—

- (a) files, issues, procures or delivers any document or serves or executes any writ, rule, order, matter or proceeding in respect of which a stamp has not been affixed in the manner prescribed by regulations; or
- (b) does or performs or permits to be done or performed any act, matter or thing in respect whereof a stamp should be used without using such stamp or fails or omits to cancel or obliterate any adhesive stamp at the time and in the manner prescribed by regulations.

Provisions of this Act to apply

104. All the preceding provisions of this Act so far as applicable shall extend and apply to the stamps to be used under this Part.

Schedule¹

RATES AND AMOUNTS OF, AND EXEMPTIONS FROM, STAMP DUTY

(Section 3)

Part 1

RATES AND AMOUNTS OF STAMP DUTY

Nature of Instrument	Amount of duty	Persons Primarily Liable
AGREEMENT OR MEMORANDUM OF AN AGREEMENT (other than an agreement for a lease) under hand only and not otherwise specifically charged with any duty, whether the same be only evidence of a contract or obligatory upon the parties from its being a written instrument, including every receipt or other matter put or endorsed or annexed Exemption Any agreement made in pursuance of the provisions of section 16 of the Workmen's Compensation Act.	\$10.00	The Parties
APPOINTMENT in execution of a power over any property or of any use, share or interest therein by any instrument not being a will.	\$50.00	The person making or executing the appointment
APPOINTMENT AS NOTARY PUBLIC	\$1000.00	The appointee

<i>Exemption</i> Legal practitioners employed by the State		
APPOINTMENT OF TRUSTEE (including new trustees)-For every appointment of a trustee by any instrument or by order of the High Court	\$50.00	The person making or executing the appointment.
<i>Exemptions</i> (a) the appointment of a trustee by or pursuant to a will; (b) every instrument or order appointing the Public Trustee as trustee; (c) every instrument for the appointment of a trustee or trustees of property held in trust for any corporation or body of persons associated for religious, charitable, or educational purposes.		
ASSIGNMENTS OR ORDERS for payment of the proceeds of crops or other agricultural or pastoral produce— EXEMPT		
BILL OF EXCHANGE AND PROMISSORY NOTE of any kind (except a bank-note or cheque) drawn or expressed to be payable or actually paid or endorsed or in any manner negotiated in Fiji (Amended by Decree No.3 of 2013.inserting “cheque”)	\$100.00	The drawer or acceptor
BILL OF LADING for any goods, merchandise, or effects to be exported from Fiji	\$10.00	The person by whom the goods are consigned
BILL OF SALE	The like duty as for mortgage The like duty as for discharge of mortgage	The assignor or lienor
Discharge of —		The assignor or lienor
BOND <i>Exemption</i> Any bond issued by the Government of Fiji for the purposes of bonding students on Government scholarship	\$50.00	The obligor
CHARTER-PARTY, or any agreement or contract for the charter of any ship or vessel (including aeroplanes) for conveyance outside Fiji	\$500.00	The charterer
CHEQUES (means personal cheques, bank cheques, company cheques and bank drafts)	\$0.05	The drawer

COPY OR EXTRACT (attested or in any manner authenticated) of or from an instrument chargeable with any duty	\$5.00	The charter
DEBENTURE OR DEBENTURE STOCK	The like duty as in the case of a mortgage	The person issuing
<i>Exemption</i> Any debenture issued by the Government or by any municipal authority or a refinancing or reconveyance of the stamped amount of a mortgage		
DEED of any kind whatsoever not otherwise charged in this Schedule	\$50.00	The person executing the deed
DUPLICATE OR COUNTERPART of any instrument charged with any duty where such duty does not amount to \$1	The like duty as on the original instrument	The person chargeable in the original instrument
In any other case	\$5.00	
DECLARATION OF TRUST—	\$30.00	The person declaring
EASEMENT with consideration	The like duty as on transfer on sale	The grantor
EASEMENT without consideration	\$5.00	The grantee
ENCUMBRANCE under the Land Transfer Act, securing annuity, rent-charge or money, other than mortgage	The like duty as in the case of a mortgage of same amount	The encumbrancer
EXCHANGE See Sec. 71 of Act	The like duty as on transfer on sale on each property passing	
INSTRUMENT—otherwise exempt—on any instrument exempt from duty and required to be so stamped “exempt” by any person—denoting duty	\$5.00	The person requiring
GUARANTEE	\$100.00	The guarantor

<p>LEASE OR agreement for a lease or any written document for the tenancy or occupancy of any lands for:</p> <p>(a) agricultural purposes (including dairy)—</p> <p>(i) where lease is for land less than 100 acres - EXEMPT; and</p> <p>(ii) where land is 100 acres and above.</p> <p>For all or any leases issued for agricultural purposes on or after the 1st of February, 2013.</p> <p>(b) commercial purposes;</p> <p>(c) residential purposes:</p> <p>(d) tourism/audio visual purposes.</p> <p>Any other type of lease</p>	<p>\$100.00</p> <p>\$1000.00</p> <p>\$500.00</p> <p>\$1500.00</p> <p>\$500.00</p>	<p>The lessee or tenant</p>
LEASE-Surrender of	\$10.00	The lessee or tenant
LEASE, VARIATION OF	\$10.00	The lessee or tenant
LETTERS OF CREDIT —See Bills of Exchange.		
MORTGAGE—		
(1) Being the only or principal or primary security for the payment or repayment of money—For every \$100 or part of \$100 principal moneys	\$1.75	The mortgagor
or		
Where such a mortgage secures further or future advances or moneys due on account current-For every \$100 or part of \$100 of the principal indebtedness at any time owing....Where the principal indebtedness under such a mortgage at any time exceeds the amount covered by ad valorem duty already paid, the mortgage shall be liable to further duty as if it were a new instrument in respect of the amount of such excess.	\$1.75	The mortgagor
(2) Being a collateral, auxiliary or additional or substituted security or by way of further assurance where the principal or primary security is duly stamped	\$10.00	The mortgagor

NOTE: In determining whether an instrument is the only principal or primary security for the payment or repayment or money within the meaning of paragraph (1) of this Head no account shall be taken of any other instrument which is a security for the same sum or sums or for the payment or repayment as the case may be, of any part thereof, unless that other instrument is chargeable with stamp duty under paragraph (1) above and is duly stamped.		
(3) Transfer or assignment—For every \$100 or part of \$100 principal moneys owing	\$1.75	The transferee
(4) Reconveyance, release, or discharge of any such security as aforesaid, or of the benefit thereof, or of the money thereby secured	\$10.00	The mortgagor
<i>Exemption (Amended Decree No.3 of 2013)</i> The transfer of a mortgage or mortgages to or in trust for any corporation or body of persons associated solely for religious, charitable, or educational purposes or any refinancing or reconveyance of the stamped amount of mortgage..		
NOTARIAL ACT		
(1) For every notarial act of any kind (except protests on injury to ship or cargo)	\$5.00	The person requiring the act
(2) For every maritime protest for or in respect of any injury or damage to any ship or vessel or the cargo or loading thereof or for any purpose that such protest may be required for and whether noted only or extended in due form	\$5.00	
ORDER FOR PAYMENT See Bills of Exchange.		
PARTITION OR DIVISION—		
(1) For any instrument effecting a partition of any lands	The like duty as on a transfer	The person making the partition
POLICY OF LIFE ASSURANCE OR INSURANCE—		
For every equitable assignment thereof to secure the payment or repayment of money for all local and overseas insurance transaction fees	The like duty as on a mortgage	The assignor

On re-assignment of the same	Like duty as in discharge of mortgage	The assignor
POLICY OF ASSURANCE OR INSURANCE on any and all insurance policies issued on or after the 1st of February, 2013.	15% on gross premium payable. <i>(Amended by Decree No.3 of 2013)</i>	The policy holder
The foregoing duty (hereinafter called the basic duty) under this item shall be payable in respect of a policy or instrument of which the term or period does not exceed one year. Where the term or period of any policy or instrument referred to in this item exceeds one year the duty payable shall be the basic duty multiplied by the number of years covered by the policy or instrument and for this purpose an incomplete year shall be reckoned as one year.		
On any renewal of any policy or instrument referred to in this item duty shall be payable in accordance with the period for which the policy or instrument is renewed as on an original issue for that period		
<i>Exemptions</i> (a) any agreement made in pursuance of the provisions of section 16 of the Workmen's Compensation Act; (b) compulsory third party; and (c) medical insurance		
POLICY OF MARINE INSURANCE	10%	The policy holder
POLICY OF MOTOR VEHICLE INSURANCE	5%	The policy holder
POLICY OF TRAVEL INSURANCE	15%	The policy holder
POWER OF ATTORNEY— Upon every power or letter of attorney whether executed in or out of Fiji	\$100.00	The person executing
PROMISSORY NOTES See Bills of Exchange.		
RENT, VARIATION OF	\$5.00	The lessee or the tenant
SETTLEMENT, Deed of	\$50.00	The person making the settlement
TRANSFER (other than any transfer otherwise specifically charged)—		The transferee

- | | |
|---|--------|
| (1) Of a share, or any stock, or the like,
in or of any corporation or limited
liability company for every \$100 or part
thereof of the purchase or consideration
price | \$3.00 |
| (2) Of any property (or interest
therein) for every \$100 or
part thereof of the purchase or
consideration price | \$3.00 |

Provided that—

- (i) No instrument appointing any new trustee or trustees under any will, settlement, or other instrument, or any transfer to any devisee, or any appointee under a deed or will not valuable consideration or to any next-of-kin by any executor, administrator, or trustee shall be liable to the duty under this or any other Act relating to duties.

Exemptions—

- (a) Any instrument dedicating a road, street or free and perpetual right-of-way to the use of the public, or dedicating or transferring to any municipality land reserved as open space in a sub-division, and not containing any provision by which such instrument could otherwise become liable to duty;
- (b) Any transfer of property to or in trust for any corporation or body of persons associated for religious, charitable, or educational purposes; and any instrument for declaring or defining the trust or for appointing new trustees in respect of such property;
- (c) Transfer pursuant to Court Order—
exempt only if Court Order stipulates

(Amended by Decree No.84 of 2012. Effective from 1st January, 2013. Part 1 of Schedule was deleted and replaced with a new Schedule of stamp duties)

Part 2

GENERAL EXEMPTIONS FROM STAMP DUTY

- (1) Every instrument for effecting the payment or transmission of money to or for acknowledging any such payment to or receipt by or on behalf of the Government.
- (2) Every instrument for the conveyance of any property or any interest therein to the Government.
- (3) Every instrument whereby any contract is made by the Government or any other person or authority on its behalf, with any other person.
- (4) Every contract or instrument made or executed by any responsible officer of the Government under the authority of any Act.
- (5) Letters of registration and letters patent granted under the Patents Act, and all instruments issued under the seal of the Fiji Islands other than those specifically charged under this Act.
- (6) Every policy of insurance on the life of the person effecting the same.
- (7) All bonds to the Government including bonds of administrators and executors.
- (8) Generally any instrument expressly exempted under any Act.
- (9) Every contract or instrument made or executed by or on behalf of the Imperial War Graves Commission.
- (10) Every instrument for the conveyance of any interest therein to a foreign Government for the use of any agency of such foreign Government where—
 - (a) stamp duty if charged would be borne directly by such foreign Government; and
 - (b) such foreign Government gives reciprocal exemption from stamp duty to the Government.
- (11) Every agreement, whether creating a mortgage, pledge, lien or other security over property or not, whereby a member of his or her surety agrees to repay to a credit union a loan not exceeding \$200 by the credit union to the member.
- (12) Every agreement, whether creating a mortgage, pledge, lien or other security over property or not, whereby the Housing Authority, constituted under the Housing Act, agrees to repay a loan raised by it for the purpose of carrying out its statutory functions.
- (13) Every instrument whereby a mortgage or bill of sale securing moneys advanced by the Government of the Fiji Islands to a civil servant under the Civil Servants Housing Loan Scheme is transferred by the Government to the Home Finance Company Limited.
- (14) Every instrument executed by or on behalf of the Housing Authority, constituted under the Housing Act, where the other party, or one of the other parties, thereto is a worker within the meaning of that Act.
- (15) Every instrument required to be made under the provisions of the the Fiji Islands National Provident Fund Act.
- (16) Every instrument whereby the the Fiji Islands Development Bank raises and secures the repayment of moneys to be used for the purpose of the granting of loans by such Bank and every transfer of any such instrument.
- (17) Every registrable instrument involved in the surrender of leases to facilitate re-parceling or boundary re-arrangement and the issue of new grants or leases where the registration of such instrument is in the interest of Government.
- (18) Every instrument for the transfer of land or of any estate or interest therein to the Housing Authority.
- (19) Every contract or instrument made or executed by or on behalf of Nadi International Airport Property Company Limited on or after 27 June 1975.
- (20) Every instrument relating to those borrowings of the Home Finance Company Limited which are for the specific purpose of providing finance for house purchase or construction.
- (21) Contracts for sale, purchase, transfer or encashments of units in the Unit Trust of the Fiji Islands.
- (22) Every instrument whereby the Fiji Islands Electricity Authority raises and secures the repayment of moneys for the purpose of developing the generation, transmission and distribution of electricity by the issue of bonds available for public subscription and every transfer of such instrument.

(23) Every agreement, whether creating a mortgage, pledge, lien or other security over property or not, whether by the Public Rental Board, constituted under the Housing Act as amended by Section 5 of the Housing (Amendment) Decree, 1989, agrees to repay a loan raised by it for the purposes of carrying out statutory functions.

(Inserted by Decree No. 8 of 1991 s. 3)

(24) Every instrument executed by or on behalf of the Public Rental Board constituted under the Housing Act as amended by Section 5 of the Housing (Amendment) Decree 1989 when the other party, or one of the other parties, thereto is a worker within the meaning of the Housing Act.

(Inserted by Decree No. 8 of 1991 s. 3)

(25) Every instrument for the transfer of land or of any estate or interest therein to the Public Rental Board.

(Inserted by Decree No. 8 of 1991 s. 3)

(26) Every issue, transfer, exchange, sale, or purchase, of any marketable security quoted on and traded through the Suva Stock Exchange.

(Inserted Act No. 3 of 1996 s. 3)

Part 3

CONDITIONAL EXEMPTION FROM STAMP DUTY

Conditional exemption from stamp duty to be granted by the Commissioner in certain cases

1.—(1) The instruments in respect of which conditional exemption from stamp duty shall be granted under and in accordance with this paragraph are instruments of any of the following descriptions executed on or after 1 January 1982, that is to say—

- (a) a lease of land granted for a term exceeding 50 years;
- (b) a mortgage which is the only or principal or primary security for the payment or repayment of moneys, or which secures further or future advances of moneys due on account current;
- (c) a transfer on sale of an estate in fee simple in any land; and
- (d) a transfer on sale of a lease of land granted for a term exceeding 50 years, the unexpired portion of which, at the date of the execution of the transfer, exceeds 5 years.

(2) Subject to the following provisions of this Part and without prejudice to the provisions as to exemptions contained in Parts 1 and 2, an instrument of any of the descriptions set out in sub-paragraph (1) shall be conditionally exempted from stamp duty by the Commissioner under this paragraph, if—

- (a) an application is made to the Commissioner, in such form as he or she shall determine, for the instrument to be so exempted and the application is made—
 - (i) in the case where there is only 1 lessee, mortgagor or transferee, as the case may be, by him or her;
 - (ii) in any other case, by 1 of the lessees, mortgagors or transferees, as the case may be;
- (b) such application is accompanied by a declaration—
 - (i) made by the applicant, in such form as the Commissioner shall determine, before a commissioner for oaths or, at any place outside the Fiji Islands, before a person duly authorised to administer oaths at that place; and
 - (ii) stating that the appropriate conditions of entitlement specified in paragraph 2 of this Part are satisfied in relation to him or her;
- (c) such application and declaration, together with the instrument in respect of which the application is made, are produced to the Commissioner within the 6 months commencing on the date on which the instrument was executed or within such longer period as the Minister may, in any particular case, allow by reason of any special circumstances; and
- (d) the Commissioner is satisfied, having regard to such application and declaration and the instrument to which they relate, and having regard to such other evidence as he or she may think proper to take into account, that the appropriate conditions of entitlement specified as aforesaid are satisfied in relation to the applicant.

(3) Where more than 1 lessee, mortgagor or transferee are parties to any lease, mortgage or transfer and the Commissioner is satisfied, in accordance with sub-paragraph (2)(d), that the appropriate conditions specified as aforesaid are satisfied in relation to 1 of them, being the applicant for the conditional exemption from stamp duty under this paragraph of the lease, mortgage or transfer, as the case may be, he or she shall grant such exemption, irrespective of whether or not any of the other such parties to the lease, mortgage or transfer are eligible to make a

declaration in accordance with sub-paragraph (2)(b).

(4) Any person, who for the first time, purchases a residential property, shall be conditionally exempted from paying stamp duty. (*Amended by Decree No.84 of 2012*)

Conditions of entitlement to conditional exemption

2. The conditions of entitlement to the conditional exemption from stamp duty under paragraph 1 of this Part of the instruments described in sub-paragraph (1) of that paragraph shall be as follows, that is to say—

- (a) in the case of a lease of land—
 - (i) that the land comprises not more than 1 dwelling and no other residential property, and that the applicant is occupying or intends to occupy such dwelling in whole or in part;
 - (ii) that there is no dwelling or other residential property on the land at the time of the grant of the lease, and that a dwelling (but no other residential property) is intended to be built thereon for occupation by the applicant in whole or in part;
 - or
 - (iii) that there is only 1 residential property on the land at the time of the grant of the lease, that it is intended to rebuild such property as a dwelling for occupation by the applicant in whole or in part, and that no other dwelling or other residential property is intended to be built on the land;
- (b) in the case of a mortgage, that the mortgage is exclusively for the purpose of enabling the applicant, alone or jointly with any other person—
 - (i) to meet all or some of the cost of building a dwelling which the applicant intends to occupy in whole or in part, or to meet all or some of the cost of rebuilding a residential property as a dwelling which he or she intends to occupy in whole or in part;
 - (ii) to pay all or some of the consideration for the purchase of an estate in fee simple in land which comprises not more than 1 dwelling and no other residential property, which dwelling the applicant is occupying or intends to occupy in whole or in part;
 - (iii) to pay all or some of the consideration for the purchase of an estate in fee simple in land on which there is no dwelling or other residential property and on which a dwelling (but no other residential property) is intended to be built for occupation by the applicant in whole or in part;
 - (iv) to pay all or some of the premium or other consideration payable upon the grant to him or her of a lease of land granted for a term exceeding 50 years, or upon the transfer to him or her of such a lease where the unexpired portion of the term of the lease at the date of the execution of the transfer exceeds 5 years, where the land comprises not more than 1 dwelling and no other residential property, which dwelling the applicant is occupying or intends to occupy in whole or in part; or
 - (v) to pay all or some of the premium or other consideration payable upon the grant or transfer to him or her of such lease of land as mentioned in sub-paragraph (b) (iv) on which there is no dwelling or other residential property and on which a dwelling (but no other residential property) is intended to be built for occupation by the applicant in whole or in part; and
- (c) in the case of a transfer on sale relating to any land—
 - (i) that the land comprises not more than 1 dwelling and no other residential property, and that the applicant is occupying or intends to occupy such dwelling in whole or in part;
 - (ii) that there is no dwelling or other residential property on the land at the time of the transfer, and that a dwelling (but no other residential property) is intended to be built thereon for occupation by the applicant in whole or in part; or
 - (iii) that there is only 1 residential property on the land at the time of the transfer, that it is intended to rebuild such property as a dwelling for occupation by the applicant in whole or in part, and that no other dwelling or other residential

property is intended to be built on the land.

*liability of applicant in certain cases to pay an amount equivalent to the amount of stamp duty
in respect of which conditional exemption has been granted*

3.—(1) Subject to sub-paragraph (2), where any instrument has been conditionally exempted from stamp duty under paragraph 1 of this Part and—

- (a) the applicant has not, for any reason, occupied any part of the dwelling which he or she had stated in the declaration accompanying his or her application for such exemption to be occupying or intending to occupy, for at least 5 years in the aggregate during the period of 10 years commencing on the date of the execution of such instrument;
 - (b) such declaration was false and in consequence thereof the applicant has been convicted of perjury in pursuance of section 24;
 - (c) the applicant has voluntarily parted with the possession of the whole of his or her interest in such dwelling, or in the land on which it was intended to be built, within the 5 years commencing on the said date;
 - (d) the instrument is an agreement for a lease and the applicant is not a party to the lease, as lessee or 1 of the lessees, made subsequently and in conformity with that agreement; or
 - (e) the instrument is an agreement for the purchase of an estate in fee simple or of a lease and the applicant, not having obtained a transfer thereof, has agreed to sell the same to any other person and such estate or lease is in consequence transferred directly from the first vendor of the estate or lease to a sub-purchaser;
- the applicant shall be liable to pay an amount equivalent to the amount of that stamp duty, together with compound interest thereon at the rate of 5 per cent per annum.

(2) A person shall not be liable to pay any sum under sub-paragraph (1) by reason of his or her failure to occupy or continue to occupy a dwelling if the Minister is satisfied that such failure was unavoidable by that person by reason of a material change in his or her circumstances.

Interpretation

4. In this Part—

- (a) "applicant" means, in relation to any instrument, the person making, or who has made, the application for the conditional exemption of that instrument from stamp duty under paragraph 1 of this Part;
- (b) "dwelling" means a building designed or adapted for use for human habitation, including its appurtenances, but does not include such a building which is divided into more than 2 parts each of which is occupied or intended to be occupied as a separate dwelling; and
- (c) "to occupy" means in relation to the occupation or intended occupation by any person of the whole or any part of a dwelling, to inhabit that dwelling or part thereof as that person's only settled place of abode.

Controlled by Ministry of Finance

SECTION 8—STAMP DUTIES (DUTY ON CHEQUES) REGULATIONS

Regulations of 26th September 1928

TABLE OF PROVISIONS

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Schedule—Quarterly Statement by a Bank in Respect of Cheques Exempted from Stamp Duty

Short title

1. These Regulations may be cited as the Stamp Duties (Duty on Cheques) Regulations.

Interpretation

2. In these Regulations, unless the context otherwise requires—
"bank" means the Bank of New Zealand, Westpac Banking Corporation, and any other bank carrying on business in the Fiji Islands that may hereafter be approved by the Minister;
"licence or permission" means licence or permission granted as provided in regulation 3;
"quarter" means any 1 of the periods of 3 months ending on 31 March, 30 June, 30 September, and 31 December in any year.
(Amended by Regulations of 27th November, 1928; 19th April 1955 and Legal Notice No.112 of 1970.)

Licence to supply and negotiate unstamped cheques

3. Subject as hereinafter provided, the Commissioner may, upon receiving such security as he or she may require for the due payment of stamp duty, grant to any bank, on application made on its behalf by its manager or attorney for the Fiji Islands, a licence or permission to supply to its customers unstamped cheques and to pay or negotiate unstamped cheques so supplied by it or any other bank to which a similar licence or permission has been granted and also to issue on its own behalf unstamped cheques.

Quarterly statement of cheques supplied, etc.

4. Within 21 days after the expiration of each quarter, any bank to which a licence or permission has been granted shall forward to the Commissioner a statement in the form contained in the Schedule, verified by its manager or attorney for the Fiji Islands, showing the dutiable value of unstamped cheques supplied by it to its customers or issued by it on its own behalf during such quarter, the dutiable value of unstamped cheques received from its printer or printers during such quarter, and the dutiable value of unstamped cheques remaining in its possession at the end of such quarter.

² *These Regulations were made through Regulations of 26th September 1928 and subsequently amended by Regulations of 27th November 1928, 19th April 1955 and Legal Notice No. 112 of 1970*

Stamp Duties

Subsidiary Legislation

Payment of stamp duty

5. The said statement shall be accompanied by the amount of stamp duty payable in respect of the unstamped cheques supplied to its customers or issued by it on its own behalf during the quarter to which it refers.

Inspection of records, etc.

6. Any bank to which a licence or permission has been granted shall, at all reasonable times, permit the Commissioner or any person authorised by him or her in that behalf to inspect its books, records and documents which have reference to unstamped cheques.

Notification of grant of licence

7. Whenever the Commissioner grants a licence or permission to any bank, he or she shall, by registered letter, communicate the fact to every other bank to which a subsisting licence or permission has been granted as aforesaid.

Cancellation of licence

8. The Commissioner may, by notice in writing under his or her hand, cancel the licence or permission granted to any bank. Such notice shall be forwarded by registered letter to the manager or attorney for the Fiji Islands of such bank and, on the expiration of 3 months from the posting of such notice, the licence or permission granted to such bank shall cease to have any force or effect.

Notification of cancellation of licence

9. Immediately any licence or permission granted to any bank has been cancelled, the fact shall be communicated by the Commissioner to every other bank to which a subsisting licence or permission has been granted, together with the date upon which such cancellation is to take effect.

Provisions of s. 14 of Act to apply to unstamped cheques

10. The provisions of section 14 of the Act shall apply to unstamped cheques the stamp duty on which has been paid by a bank, but no allowance shall be made in respect of the duty paid on any such cheques, unless the application therefor is made by the bank which paid the stamp duty sought to be recovered or is accompanied by a certificate by a responsible officer of such bank setting forth that the stamp duty sought to be recovered has been duly paid.

Penalty

11. If any bank to which a licence or permission has been granted fails to surrender the statement required by these Regulations or fails to comply with any of the provisions thereof, it shall be liable, on conviction, to a fine not exceeding \$100.

Schedule

STAMP DUTIES ACT

**QUARTERLY STATEMENT BY A BANK IN RESPECT OF CHEQUES EXEMPTED
FROM STAMP DUTY IN CONSIDERATION OF THE PAYMENT OF A SUM BY WAY OF
COMMUTATION OF SUCH DUTY**

(Regulation 4)

Name of Bank:

Quarter ended the day of , 20 .

Dutiable value of exempted cheque forms on hand at the
commencement of the said quarter\$

Dutiable value of exempted cheque forms received from printers
during the said quarter\$

\$

Dutiable value of exempted cheque forms supplied to customers
or issued during the quarter\$

Dutiable value of exempted cheque forms remaining on hand at
the close of the said quarter\$

\$

I, [*name and designation of certifying officer and name of bank*], do hereby
certify that the foregoing statement is true and correct in every particular, and that
there was owing by the said bank at the close of business on the day of
 , 20 , by way of commutation of stamp duty on cheques exempted
from such duty in pursuance of Regulations made under the provisions of the
Stamp Duties Act, the sum of \$.

Dated at this day of , 20 .

**SECTION 8—STAMP DUTIES (DUTY ON POLICIES OF INSURANCE)
REGULATIONS**

Legal Notice No. 162 of 1979

TABLE OF PROVISIONS
REGULATION .

1. Short title
2. Interpretation
3. Authority to issue unstamped policies
4. Quarterly statement of policies issued
5. Inspection of records, etc.
6. Cancellation of permission

Subsidiary Legislation

7. Penalty

Short title

1. These Regulations may be cited as the Stamp Duties (Duty on Policies of Insurance) Regulations.

Interpretation

2. In these Regulations, unless the context otherwise requires—

"appropriate form" means a form approved by the Minister for use in any particular case pursuant to these Regulations;

"insurance company" means a body corporate registered as an insurer under Part 3 of the Insurance Act;

"permission" means permission in writing under regulation 3;

"policies" means policies of assurance or insurance (including policies of marine insurance) in respect of which duty is payable in terms of the Schedule to the Act and includes renewals of, and endorsements on, such policies;

"quarter" means any one of the periods of 3 months ending on 31st March, 30th June, 30th September and 31st December in any year.

Authority to issue unstamped policies

3. Subject to these Regulations, the Commissioner may grant to any insurance company, upon receipt of an application in the appropriate form, permission to issue unstamped policies.

Quarterly statement of policies issued

4. Within 21 days after the expiration of each quarter, any insurance company to which permission has been granted shall forward to the Commissioner a statement in the appropriate form, showing the dutiable value of unstamped policies issued by it during such quarter, together with the amount of duty payable in respect of the unstamped policies so issued.

Inspection of records, etc.

5. Any insurance company to which permission has been granted shall, at all reasonable times, permit the Commissioner or any person authorised by him or her in that behalf to inspect its books, records and documents which have reference to unstamped policies.

Cancellation of permission

6. The Commissioner may, by notice in writing, cancel the permission granted to any insurance company. Such notice shall be forwarded, by registered letter, to the principal officer for the Fiji Islands of such insurance company and the cancellation shall be effective on the expiration of 3 months from the date of posting of such notice.

Penalty

7. Any insurance company to which permission has been granted which fails to comply with any of the provisions of these Regulations shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding \$100.

Controlled by Ministry of Finance