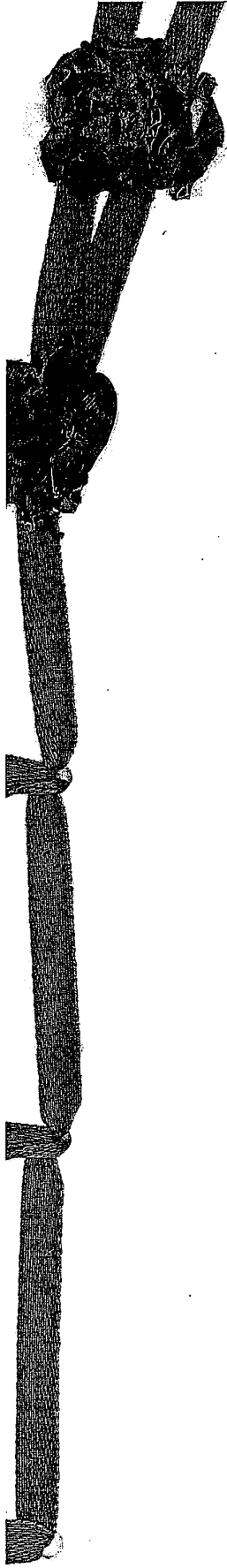


THE STAMP DUTIES (AMENDMENT) BILL 1993

(NAME OF BILL)

CONTENTS:

	Bill	
	Objects and Reasons	
	Notice of Presentation	
	Covering letter from Minister to Clerk to Parliament	
	(Authorisation from Minister of Finance under s.60 of Constitution)	
✓	FROM:	Attorney General's Chambers <i>W. J. J. 6/11/93</i>
✓	TO:	Minister (for signing Objects & Reasons, Notice of Presentation and covering letter to Clerk)
	TO:	Minister of Finance (for signing of letter to Clerk signifying Cabinet approval under s.60 of Constitution)
✓	TO:	Clerk to National Parliament (for certificate by Speaker) <i>Stanhurst 6.12.93</i>
✓	TO:	Attorney General's Chambers (for printing) <i>W. J. J.</i>
✓	TO:	Clerk to National Parliament (for reference during 1st, 2nd and 3rd Readings) (Date passed: <i>8/12/93</i> Act No <i>4</i>) <i>Stanhurst 8/12/93</i>
✓	TO:	Attorney General's Chambers (for checking before Assent) <i>W. J. J. 17/12/93</i>
✓	TO:	Governor-General (for Assent) <i>W. J. J. 17/12/93</i>
	TO:	Clerk to National Parliament (for distribution: 1 copy Attorney General's Chambers 1 copy Ministry 1 copy Parliament Office 1 copy Registrar of the High Court)



THE STAMP DUTIES (AMENDMENT) ACT 1993

(NO. 4 OF 1993)



THE STAMP DUTIES (AMENDMENT) ACT 1993

(NO. 4 OF 1993)

Passed by the National Parliament this eighth day of December 1993.

This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true and correct copy of the said Bill.

A handwritten signature in cursive script, appearing to read 'Tuhaika'.

*J.M. Tuhaika
Clerk to National Parliament*

Assented to in Her Majesty's name and on Her Majesty's behalf this seventeenth day of December 1993.

A handwritten signature in cursive script, appearing to read 'Lepping'.

*G.G.D. Lepping
Governor-General*

Date of commencement: see section 1.

AN ACT To Amend the Stamp Duties Act.

ENACTED by the National Parliament of Solomon Islands.

THE STAMP DUTIES (AMENDMENT) ACT 1993

ARRANGEMENT OF SECTIONS

Section:

1. Short title and commencement.
2. Amendment of section 2 of Cap. 64.
3. Insertion of new section 4A.
4. Insertion of new sections 5A and 5B.
5. Insertion of new sections 6A, 6B, 6C, 6D, 6E and 6F.
6. Amendment of section 7.
7. Repeal and replacement of section 11.
8. Amendment of section 13.
9. Insertion of new section 13A.

Short title
and commence-
ment.

1. This Act may be cited as the Stamp Duties (Amendment) Act, 1993, and shall come into force on such date as the Minister may appoint, by notice published in the Gazette.

Amendment of
section 2 of
Cap. 64.

2. Section 2 of the Stamp Duties Act (hereinafter referred to as the "principal Act") is hereby amended by deleting the figure "4" that appears in the definition of "collector" and substituting therefor the figure "4A".

Insertion of
new section
4A.

3. The principal Act is hereby amended by inserting therein next after section 4 the following new section as section 4A -

"Designation "4A.(1) The Chief Collector may for the proper administration of the Act, designate any officer appointed under section 4 to be a Collector of Stamp Duties.

(2) An officer designated as a Collector of Stamp Duties pursuant to subsection (1) shall in exercising, performing or discharging any power, duty or function conferred or imposed on or assigned to the Chief Collector by any provision of this Act be deemed for all purposes to be authorised to exercise, perform or discharge that power, duty or function until the contrary is proved."

4. The principal Act is hereby amended by inserting therein next after section 5 the following new sections as sections 5A and 5B respectively -

Insertion of
new sections
5A and 5B.

“Collection of duty by distraint, etc. 5A. In any case in which stamp duty is recoverable in the manner provided in section 5, the Chief Collector may, instead of suing for such stamp duty authorise in writing any collector or other person designated for the purpose to distrain upon the goods and chattels of the person liable to payment and the provisions of section 76 of the Income Tax Act shall with such modifications and adaptations as may be necessary be applicable in respect of such recovery of stamp duty.

Power to declare agent. 5B. (1) For the purposes of the collection and recovery of stamp duty due by a person, the Chief Collector may in his discretion by notice in writing to any person declare him to be the agent of the other person.

(2) Where the Chief Collector pursuant to subsection (1), declares a person the agent of another person for the collection and recovery of stamp duty due under this Act, the provisions of section 72 of the Income Tax Act shall with such modifications and adaptations apply to such process of collection and recovery of stamp duty.”

5. The principal Act is hereby amended by inserting therein next after section 6 the following new sections as sections 6A, 6B, 6C, 6D, 6E and 6F respectively -

Insertion of
new sections
6A, 6B, 6C,
6D, 6E and
6F.

“Every document chargeable to duty to be duly stamped. 6A. (1) Every document executed which is chargeable to duty under this Act shall be duly stamped irrespective of whether or not that document is required by law to be registered.

(2) All the facts and circumstances affecting the liability of any instrument to duty or the amount of the duty with which any instrument is chargeable are to be fully and truly set forth in the instrument and the Chief Collector shall refuse to stamp such document unless he is satisfied that such evidence as he may deem necessary to prove that all such facts

and circumstances are truly set forth in it.

(3) Subject to the provisions of section 6B, where, for the purpose of evading or reducing any duty payable under this Act, the parties to any dealings in property, instead of executing a proper document, enter into a verbal agreement, the Chief Collector shall for the purpose of ascertaining the duty payable, determine the value on which the duty is to be assessed as -

- (i) in the case of a lease, sublease, underlease or tenancy agreement, the annual rental value of the land or building, as the case may be;
- (ii) in the case of a transfer of property, the Chief Collector shall require a valuation from a certified valuer in respect of the value of the property transferred.

Chief Collector shall require valuation from certified valuer.

6B. (1) Notwithstanding the provisions of section 6A or any other provisions of this Act, every document which affect a transfer of property shall accompany a valuation certificate from a certified valuer, and the Chief Collector shall refuse to stamp any documents under this section unless he is satisfied that the value stated in the document is the certified value thereof.

(2) Notwithstanding the provisions of section 6A, and this section, or any other provisions of this Act, the Chief Collector may, where he deems it necessary require a valuation from a certified valuer in respect of any other dealings in property which is subject to stamp duties under this Act, and the value so ascertained shall be the value thereof for the purposes of calculating the stamp duty payable under this Act.

(3) For the purpose of calculating the stamp duty payable under this Act, the basis for arriving at the valuation of shares transferred shall be fully and truly documented and be forwarded to the Chief Collector with the instrument affecting such transfer:

Provided, however, that nothing in this Act shall prevent the Chief Collector from engaging an independent valuer, for the purpose of ascertaining

the true value of the shares transferred, where he has reasons to doubt the accuracy of the value so stated.

Assessment
of duty,
etc.

6C. Where -

- (a) a person refuses or fails to deliver or lodge with the Chief Collector as and when he is required to do so by or under this Act, a statement, return, instrument or other document on or in relation to which duty is chargeable under this Act;
- (b) the Chief Collector is not satisfied with a statement, return, instrument or other document delivered or lodged with him and on which duty is chargeable under this Act; or
- (c) the Chief Collector has reason to believe or suspect that a person is liable to pay any fee, duty or other amount under this Act,

the chief Collector may assess such duty or such penalty as in his opinion is chargeable under this Act.

Objections
against
amendment.

6D. (1) Within thirty days after the receipt of notice of an assessment made under section 6C, a person who is dissatisfied with the amendment may object in writing to the Chief Collector stating in detail the grounds for the objection.

(2) The Chief Collector shall consider the objection and serve notice in writing of his decision on the person who lodged the objection.

Refund on
application
of overpaid
stamp duty.

6E. Where the Chief Collector finds that by reason of an appeal or reassessment, the amount payable by way of stamp duties is reduced, the Chief Collector shall -

- (a) refund the amount of any stamp duties overpaid; or
- (b) apply the amount of any stamp duty against any liability of the person to the Solomon Islands Government, being liability arising under, or by virtue of, an Act of which the Commissioner of Inland

Revenue has general administration, and refund any part of the amount that is not so applied.

Objection
and
appeals.

6F. (1) Where in relation to an objection under section 6D, a person is dissatisfied with the decision of the objection, he may within thirty days of receipt of the notice referred to in subsection (2) of section 6D and on payment of the duty mentioned therein appeal to the High Court against the amendment and for the purpose require the Chief Collector to state and sign a case setting out the basis of the amendment.

(2) The Chief Collector shall thereupon state and sign a case accordingly and deliver it to the appellant.

(3) On the application of the appellant, the appeal shall be set down for hearing.

(4) On hearing the appeal, the High Court shall -

- (a) determine the question at issue; and
- (b) assess the duty and penalty (if any) that the court consider chargeable.

(5) Where the Court's assessment is less than the Chief Collector's assessment, the Court shall order the Chief Collector to pay to the appellant -

- (a) the amount of duty or penalty paid by the appellant in excess of the amount assessed by the court; and
- (b) the costs incurred by the appellant in relation to the appeal.

(6) Where the court's assessment is greater than the assessment of the Chief Collector, the Court shall order the appellant to pay to the Chief Collector -

- (a) the amount of duty or penalty by which the Court's assessment exceeds the amount paid by the appellant; and
- (b) the costs incurred by the Chief Collector in relation to the appeal.

(7) Where the Court confirms the assessment of the Chief Collector, the Court shall order the appellant to pay to the Chief Collector the costs

incurred by the Chief Collector in relation to the appeal.”

6. Subsection 2 of section 7 is hereby amended by deleting the word “twenty” and substituting therefor the word “fifty”.

Amendment of section 7.

7. Section 11 of the principal Act is hereby repealed and the following new section substituted therefor -

Repeal and replacement of section 11.

“Penalty for late stamping. 11. If any document, required by this Act to be stamped, is not duly stamped within two months of the execution thereof, it shall only be stamped upon payment to a Collector of the following penalty, that is to say a penalty of ten per centum or ten dollars, whichever is greater if stamped within two months of the execution thereof, or if not stamped within two months of the execution thereof, a penalty of twenty-five per centum of the duty payable or ten dollars whichever is greater for each period of three months that the duty remains unpaid after the expiration of the said period of three months”.

8. Section 13 of the principal Act is hereby amended by deleting the words “two hundred” and substituting therefor the words “one thousand”.

Amendment of section 13.

9. The principal Act is hereby amended by inserting therein next after section 13 the following new section as section 13A -

Insertion of new section 13A.

“Power to obtain information and evidence. 13A.(1) Every person including every public officer having in his custody any registers, books, records, papers, documents or proceedings the inspection of which may lead to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit the Chief Collector or any officer authorised by him to inspect for such purpose the registers, books, records, papers, documents or proceedings and to take such notes and extracts as he may deem necessary without fee or charge.

(2) The Chief Collector or any other authorised officer may for the purposes of any investigation under this section, require any person

having connections with the matter under investigation to give him all reasonable assistance in the investigation and to answer all proper questions relating to any such investigation either orally or, if the Chief Collector or officer so requires, in writing, require such person to attend at the premises with him.

(3) Any person who hinders or interferes with the Chief Collector or any collector doing anything that he is authorised by this section to do shall be guilty of an offence and liable on conviction to a penalty of five hundred dollars or imprisonment for two years''.