



Stamp Duties (Budget Amendment) Bill 2017

Bill No. 23 of 2017

Introduction

The *Stamp Duties Act 1920* ('Act') was enacted to impose charges on certain documents and transactions. Stamp duty is charged based on the value of the transaction depending on the particular document and Schedule to the Act lists these documents upon which stamp duties are required by the Act to be charged is listed in the Schedule of the Act (refer Annexure A).

Objectives, scope and intent of the Bill

The objectives of the Bill is to:

- a. Increase the threshold of waiver or refund of stamp duties
- b. Increase certain penalties for offences committed under the Act to be consistent with the tax laws of Fiji
- c. Include Air Waybills in the documents required to be charged with stamp duty
- d. Exempt stamp duty charged on a transfer through a will or transfer of certain properties between nuclear family members including grandparents and grandchildren, if such transfer is done out of love and affection.

Summary of provisions

Clause 1 provides that this Bill, when it becomes law be called '*Stamp Duties (Budget Amendment) Act 2017*' and will come into force on **1 August 2017** if passed by the Parliament.

Clause 2 amends **section 4A** of the Act to **increase the threshold for waiver or refund** of stamp duties from **\$10,000 to \$25,000**.

Clause 3 amends **section 17** of the Act by **increasing the fine** for "Resisting, obstruction or refusing to assist" from **\$100 to \$25,000**.

Clause 4 amends **section 20** of the Act by **increasing the fine** for "Defacement of adhesive stamps" from **\$10 to \$25,000**.

Clause 5 amends **section 21(1)** of the Act by **increasing the fine** for "Frauds in relation to adhesive stamps or to stamp duty" from **\$40 to \$25,000**.

Clause 6 amends **section 22** of the Act by **increasing the imprisonment term** from **4 years to 10 years** for the felonies listed in this section.

Clause 7 amends **section 23** of the Act by **increasing the imprisonment term** from **3 months to 10 years** for default of payment of fine.

Clause 8 amends **section 26** of the Act by **increasing the fine** from **\$100 to \$25,000**, for failure to produce instrument for stamping after notice served from the Commissioner.

Clause 9 amends **section 33** of the Act by **increasing the fine** from **\$100 to \$2,500** for non-disclosure of full facts with intent to defraud the State.



Clause 10 amends:

- **Section 37(1)(a)** of the Act by **increasing the fine** from **\$2 to \$500** for “failure to present an instrument for stamp after 2 months and not more than 3 months after execution”
- **Section 37(1)(b)** of the Act by **increasing the fine** from **\$4 to \$1,000** for “failure to present an instrument for stamp within 3 months after execution.”

Clause 11 amends **section 47(2)** of the Act by **increasing the fine** from **\$100 to \$25,000** for refusing to permit or obstructs the Commissioner from making inspections, taking notes or extracts of records

Clause 12 amends **section 48** of the Act by **increasing the fine** for “Knowingly enrolling any instrument not duly stamped”, from **\$20 to \$25,000**.

Clause 13 amends **section 51** of the Act by **increasing the fine** for “Neglect or refusal to cancel adhesive stamps”, from **\$20 to \$25,000**.

Clause 14 amends **section 55(1)** of the Act by **increasing the fine** for “Failure to affix and cancel stamp on bills” from **\$100 to \$25,000**.

Clause 15 amends **section 61(1)** of the Act by **increasing the fine** for the two offences listed in in this section, from **\$100 to \$25,000**.

Clause 16 amends **section 63** of the Act by **increasing the fine** for “Knowingly and wilfully notes or protests any bill or promissory note” from **\$40 to \$25,000**.

Clause 17 amends the **heading of Part 3, Division 2, Subdivision C** by **inserting “and Air Waybills”** after “Bills of Lading”. This is done to accommodate the extension **to include air waybills** in the Act.

Clause 18 amends **section 64(2)** of the Act by **increasing the fine** for “Makes or execute bill of lading not duly stamped” from **\$100 to \$25,000**.

Clause 19 amends **section 64** of the Act by **inserting a new section 64A** to provide that **stamp duty be charged on air waybills**. The new section 64A is as follow:

“Air waybills

- 64A.—(1) An air waybill includes any receipt given in lieu thereof from the master or agent of an aircraft and is not to be stamped after execution.
- (2) Every person shall be guilty of an offence and is liable to a fine not exceeding \$25,000 who makes or executes an air waybill not duly stamped.
- (3) The duty on an air waybill may be denoted by an adhesive stamp.”

Clause 20 amends **section 65** of the Act by **increasing the fine** for knowingly and wilfully delivers, assigns ... in Fiji any bond, debenture ... or any principle money, interest or dividend accrued ... before the instrument is stamped, from **\$40 to \$25,000**.

Clause 21 amends:

- **section 68(a)** of the Act by **increasing the fine** from **\$1 to “not exceeding \$1000”** for failure to stamp a charter-party within 7 days after its first execution.
- **section 68(b)** of the Act by **increasing the fine** from **\$20 to “not exceeding \$2000”** for failure to stamp a charter-party after 7 days from its first execution.

Clause 22 amends **section 78(1)** of the Act by **increasing the fine** from **\$40 to \$25,000** for a notary public who knowingly and wilfully attests or certifies the execution of any instrument liable to



duty and not appearing to be duly stamped.

Clause 23 is to amend **section 88**. [Research Services noted that Section 88 was repealed in 1968 Ordinance 41.]

Clause 24 amends **section 103** of the Act by **increasing the fine** from **\$40 to \$25,000** for issuing unstamped documents, writs or processes.

Clause 25 amends **the Schedule** to the Act to provide for the stamp duty fee to be charged on air waybills. **Clause 25** also amends the Schedule to the Act to provide for exemptions for the charging of stamp duty on a transfer through a will or the transfer of a principal place of residence, first residential property, an interest in a capital asset, or shares in a company between spouses, parents and children and grandparents and grandchildren where the transfer is done out of love and affection.

Gender analysis

The Bill does not have any disproportionate impact on women and men.

Further Information

- Pensions (Budget Amendment) Bill 2017, can be seen here:
<http://www.parliament.gov.fj/wp-content/uploads/2017/03/Bill-No.-23-Stamp-Duties-Budget-Amentment.pdf> [Accessed on 04 July 2017]

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