



Bill Summary

Stamp Duties (Budget Amendment) Bill 2016

Bill No. 43 of 2016

Introduction

The *Stamp Duties (Budget Amendment) Bill 2016* ('**Bill**') seeks to amend the *Stamp Duties Act (Cap. 205)* ('**Act**').

Stamp duties are taxes on legal documents. Such documents are termed "instruments". Some examples of such documents are Lease/Tenancy Agreements, Sale & Purchase Agreements and Share Transfer Documents.

In this Act, the *Stamp Duties Act (Cap. 205)* is referred to as the "Principal Act".

According to the explanatory note, this Bill intends to *amend section 98 and Part 1 of the Schedule* to the Act as stated in the "Bill Summary of provisions".

This act comes into force on 1 August 2016.

Objectives, scope and intent of the Bill

The main purpose of the bill is to amend the *Stamp Duties Act (Cap 205)*.

Bill Summary of provisions

Short title and commencement

Clause 1 (1) – this Act may be cited as the *Stamp Duties (Budget Amendment) Act 2016*

Clause 1 (2) – the Act comes into force on 1 August 2016

Clause 1 (3) – in this Act, the Stamp Duties Act (Cap. 205) is referred to as the "Principal Act".

Section 98 amended

Clause 2 - Section 98 of the Principal Act is amended by—

(a) in subsection (1), inserting ", instrument" after "contract";

(b) in subsection (1)(a) and (b), inserting "or transfer" after "sale"; and

(c) inserting the following new subsection after subsection (3)—

"(4) Notwithstanding anything in this Act and for the avoidance of doubt, any instrument of nomination, novation or assignment, howsoever titled, of any—

(a) equitable estate or interest in or involving property whatsoever; or

(b) estate or interest in or involving property, except—

(c) (i) property locally situated out of Fiji;

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

(e) (iii) shares, stock or marketable securities; and

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

(g) shall be charged with the same *ad valorem* duty as a transfer on sale."

Schedule amended



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Clause 3 amends Part 1 of the Schedule to the Act by inserting “including any instrument of nomination, howsoever titled” after “TRANSFER” in Column 1 in the row following the row containing “SETTLEMENT, Deed of”.

Ministerial Responsibility - The explanatory notes says that the Act comes under the responsibility of the Minister responsible for Finance.

International comparisons

Victoria

The Stamp Duties (Budget Amendment) bill is similar to section 7(1)(b) of the *Duties Act 2000* (Vic), which imposes a duty on dispositions that are not transfers, including:

- (i) a declaration of trust
- (ii) a surrender of dutiable property
- (iia) a disclaimer of an interest or a right in respect of dutiable property
- (iib) vesting of land by statute
- (iii) vesting of land by court order of the Registrar of Titles
- (iv) vesting by enlargement of a term into a fee-simple
- (v) granting of a lease for which any consideration other than rent reserved is paid or agreed to be paid
- (vi) the transfer or assignment of a lease
- (vii) any other transaction that results in a change in beneficial ownership of dutiable property.¹

New South Wales

Similarly, section 9 of the *Duties Act 1997* (NSW) also provides for the imposition of duty on transactions that are not transfers. This includes:

- (i) declaration of trust
- (ii) surrender
- (iii) foreclosure
- (iv) vesting by court order
- (v) enlargement of a term in land into a fee simple
- (vi) vesting by statute law
- (vii) lease.²

Gender analysis

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

Further information

- *Stamp Duties (Budget Amendment) Bill 2016* – No. 43 of 2016 Available at: [http://www.parliament.gov.fj/getattachment/Parliament-Business/Bills/2016-Bills/Bill-No-43-Stamp-Duties-\(Budget-Amendment\).pdf](http://www.parliament.gov.fj/getattachment/Parliament-Business/Bills/2016-Bills/Bill-No-43-Stamp-Duties-(Budget-Amendment).pdf).
- *The Stamp Duties Act (Cap. 205)* Available at: http://www.paclii.org/cgi-bin/sinodisp/fj/legis/consol_act_OK/sda157/sda157.html?stem=&synonyms=&query=stamp%20duties%20act%20cap%20205
- *Victorian Duties Act 2000* Available at: http://www.austlii.edu.au/au/legis/vic/consol_act/da200093/s7.html

¹ *Victorian Duties Act 2000* http://www.austlii.edu.au/au/legis/vic/consol_act/da200093/s7.html

² *NSW Duties Act 1997* http://www.austlii.edu.au/au/legis/nsw/consol_act/da199793/



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- *NSW Duties Act 1997* Available at:
http://www.austlii.edu.au/au/legis/nsw/consol_act/da199793/

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